

CODE OF IOWA

CONTAINING

ALL THE LAWS OF A GENERAL NATURE
OF THE STATE OF IOWA

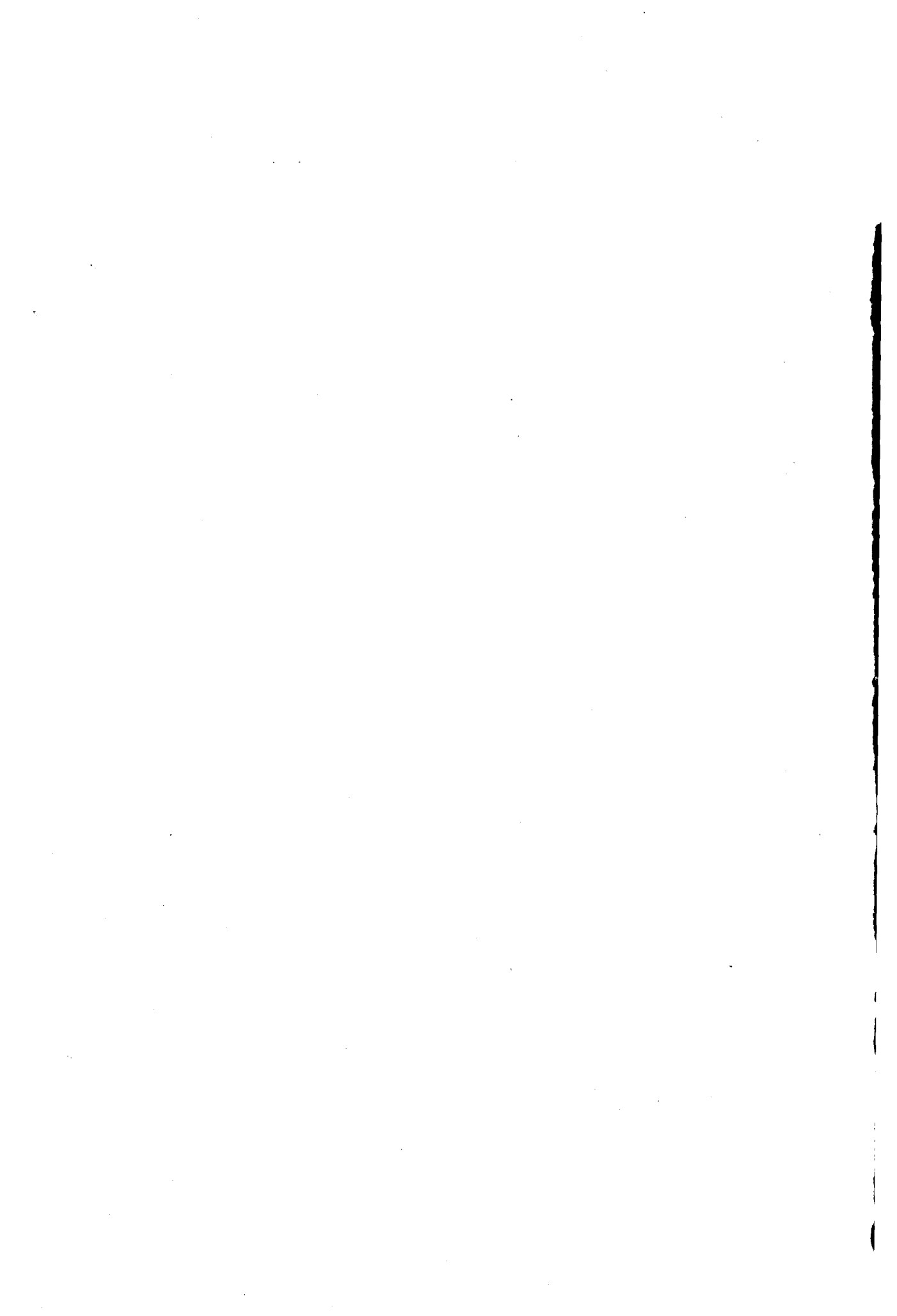
AS COMPILED BY

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Code Commissioners

Under the Provisions of Chapter Fifty,
Acts Thirty-eighth General Assembly

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INTRODUCTORY STATEMENT.

To the Governor and Members of the Thirty-eighth General Assembly:

In accordance with the provisions of chapter fifty, acts of the thirty-eighth general assembly, the code commission has prepared a compilation of the laws of the state of a general and public nature, and the same is herewith submitted.

Many changes in arrangement have been necessary in order to bring related matters together. These are shown by the topical index. Several new title and many new chapter headings have been introduced, in the belief that such separation will not only lessen the tendency to confusion by future amendments, but will also greatly facilitate consideration of the series of bills for amendment, revision and codification of certain of the laws which will be presented as a part of the report of the commission.

By use of the historical references following the sections the same matter can be found in the code, the supplements, and the laws of the thirty-seventh and thirty-eighth general assemblies. By use of the table of corresponding sections, found at the end of the compiled code, the matter in any given section of the code or supplements or the chapters of the acts of the thirty-seventh and thirty-eighth general assemblies may be found in the compiled code.

The commission obtained the advice of experts as to the index, and after careful consideration employed Mr. Jacob Van der Zee of the state university to prepare it. We believe the simplified and shortened index which he has produced will be satisfactory. This index, moreover, can be utilized in preparing the index of the permanent code.

The compilation has been indispensable in the preparation of the bills to be proposed by the commission, and will greatly facilitate the work of the general assembly in their consideration.

The preparation of the compilation, table of corresponding sections and index involved a great amount of labor, and has been done with painstaking care.

Respectfully,

J. H. TREWIN,
J. C. MABRY,
U. G. WHITNEY,
Code Commissioners.

Dated December 1, 1919.

ABBREVIATIONS

C., '51.....	Code of 1851.
R., '60.....	Revision of 1860.
C., '73.....	Code of 1873.
C., '97.....	Code of 1897.
S., '13.....	Supplement 1913.
S. S., '15.....	Supplemental Supplement 1915.
G. A.....	General Assembly.
C. C.....	Compiled Code.
§ or Sec.....	Section.
Ch.....	Chapter.

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The Code of Iowa

CONTAINING ALL THE LAWS OF A GENERAL NATURE,
AS COMPILED BY THE CODE COMMISSION
UNDER THE PROVISIONS OF CHAPTER
50, ACTS OF THE THIRTY-EIGHTH
GENERAL ASSEMBLY.

TITLE I.

SOVEREIGNTY AND JURISDICTION OF THE STATE, AND THE
LEGISLATIVE DEPARTMENT.

CHAPTER 1.

SOVEREIGNTY AND JURISDICTION OF THE STATE.

SECTION 1. State boundaries.

1 The boundaries of the state are as defined in the preamble of the
2 constitution.

[C., '51, § 1; R., '60, § 1; C., '73, § 1; C., '97, § 1.]

SEC. 2. Sovereignty.

1 The state possesses sovereignty coextensive with the boundaries
2 referred to in the preceding section, subject to such rights as may at
3 any time exist in the United States in relation to public lands, or to
4 any establishment of the national government.

[C., '51, § 2; R., '60, § 2; C., '73, § 2; C., '97, § 2.]

SEC. 3. Concurrent jurisdiction.

1 The state has concurrent jurisdiction on the waters of any river
2 or lake which forms a common boundary between this and any other
3 state.

[C., '51, § 3; R., '60, § 3; C., '73, § 3; C., '97, § 3.]

SEC. 4. Lands of United States—jurisdiction—taxation—process.

1 Exclusive jurisdiction over all lands situate in the state now or
2 hereafter purchased by the United States, on which buildings for
3 public use are or shall be erected, is hereby ceded to the United States,
4 and the same shall be exempt from taxation so long as owned by the
5 United States; subject to the right of service of any judicial process
6 issued from or returnable to any court of this state or judge thereof,
7 and the exercise by such courts of jurisdiction of crimes committed
8 thereon; and further subject to the enforcement of quarantine and
9 health regulations of the state.

[R., '60, §§ 2197, 2198; C., '73, § 4; C., '97, § 4.]

SEC. 5. Jurisdiction of military lands ceded to United States.

1 Whenever the title to any real property situated within the state
2 of Iowa shall become vested in the United States of America, to be
3 used as a barracks, drill ground, or fort, or for other military pur-
4 poses, the full, exclusive, and complete jurisdiction is hereby granted
5 and ceded to the United States of America over such real property,
6 and full consent to the acquisition of such real property is hereby
7 given and granted by the state of Iowa to the United States, and all
8 jurisdiction of the state of Iowa over such real property is hereby
9 ceded and surrendered. All claims or right to levy taxes against said
10 real property are also hereby fully released and surrendered.

[S., '13, § 4-a.]

SEC. 6. Consent to acquisition of lands by United States.

1 The consent of the state of Iowa is hereby given, in accordance
2 with the seventeenth clause, eighth section, of the first article of the
3 constitution of the United States, to the acquisition by the United
4 States, by purchase, condemnation, or otherwise, of any land in this
5 state required for sites for customhouses, courthouses, postoffices,
6 arsenals, or other public buildings whatever, or for any other pur-
7 poses of the government.

[S., '13, § 4-b.]

SEC. 7. Exclusive jurisdiction.

1 Exclusive jurisdiction in and over any land so acquired by the
2 United States shall be, and the same is hereby, ceded to the United
3 States, for all purposes except the service upon such sites of all civil
4 and criminal process of the courts of this state; but the jurisdiction
5 so ceded shall continue no longer than the said United States shall
6 own such lands.

[S., '13, § 4-c.]

SEC. 8. Exempt from taxation.

1 The jurisdiction ceded shall not vest until the United States shall
2 have acquired the title to the said lands by purchase, condemnation
3 or otherwise; and so long as the said lands shall remain the property

4 of the United States when acquired as aforesaid, and no longer, the
 5 same shall be and continue exempt and exonerated from all state,
 6 county and municipal taxation, assessment or other charges which
 7 may be levied or imposed under the authority of this state.

[S., '13, § 4-d.]

CHAPTER 2.

GENERAL ASSEMBLY.

SECTION 9. Sessions—place.

1 The sessions of the general assembly shall be held at the seat of
 2 government, unless the governor shall convene them at some other
 3 place in times of pestilence or public danger.

[C., '51, § 4; R., '60, § 13; C., '73, § 5; C., '97, § 5.]

SEC. 10. Temporary organization.

1 At ten o'clock in the forenoon of the day on which the general
 2 assembly shall convene, and at the place of convening the houses
 3 respectively, the president of the senate, or in his absence some person
 4 claiming to be a member, shall call the senate to order.— If necessary,
 5 a temporary president shall be chosen from their own number by the
 6 persons claiming to be elected senators; and some person claiming to
 7 be elected a member of the house of representatives shall call the house
 8 to order, and the persons present claiming to be elected to the senate
 9 shall choose a secretary, and those of the house of representatives, a
 10 clerk for the time being.

[C., '51, § 5; R., '60, § 14; C., '73, § 6; C., '97, § 6.]

SEC. 11. Certificates of election.

1 Such secretary and clerk shall receive and file the certificates of
 2 election presented, each for his own house, and make a list therefrom
 3 of the persons who appear to have been elected members of the respec-
 4 tive houses.

[C., '51, § 6; R., '60, § 15; C., '73, § 7; C., '97, § 7.]

SEC. 12. Temporary officers—committee on credentials.

1 The persons so appearing to be members shall proceed to elect
 2 such other officers for the time being as may be requisite; and when
 3 so temporarily organized shall choose a committee of five, who shall
 4 examine and report upon the credentials of the persons claiming to
 5 be members.

[C., '51, § 7; R., '60, § 4; C., '73, § 8; C., '97, § 8.]

SEC. 13. Permanent organization.

1 The members reported by the committee as holding certificates of
 2 election from the proper authority shall proceed to the permanent
 3 organization of their respective houses by the election of officers.

[C., '51, § 8; R., '60, § 5; C., '73, § 9; C., '97, § 9.]

SEC. 14. Officers—tenure.

1 The speaker of the house of representatives shall hold his office
 2 until the first day of the meeting of the regular session next after that
 3 at which he was elected. All other officers elected by either house
 4 shall hold their offices only during the session at which they were
 5 elected, unless sooner removed.

[R., '60, § 16; C., '73, § 13; C., '97, § 17.]

SEC. 15. Oaths.

1 Any member may administer oaths necessary in the course of
 2 business of the house of which he is a member, and, while acting on a
 3 committee, in the course of business of such committee.

[C., '51, § 10; R., '60, § 7; C., '73, § 10; C., '97, § 10.]

SEC. 16. Parliamentary rules.

1 In the absence of other rules, those of parliamentary practice
 2 comprised in Cushing's Manual shall govern.

[R., '60, § 686; C., '73, § 27; C., '97, § 31.]

SEC. 17. Journals.

1 The secretary of the senate and the clerk of the house of repre-
 2 sentatives shall preserve copies of the printed daily journals of their
 3 respective bodies, as corrected, certify to their correctness, and file
 4 them with the secretary of state at the adjournment of the legislature.
 5 The secretary of state shall cause the same to be bound and preserved
 6 as the original journals of the senate and the house.

[C., '97, § 132.]

SEC. 18. Compensation of members.

1 The compensation of the members of the general assembly shall
 2 be: To every member, for each full regular session, one thousand
 3 dollars, and for each extra session the same compensation per day
 4 while in session, to be ascertained by the rate per day of the compen-
 5 sation of the members of the general assembly at the preceding regular
 6 session; and in going to and returning from the place where the gen-
 7 eral assembly is held, five cents per mile, by the nearest traveled route;
 8 but in no case shall the compensation for any extra session exceed ten
 9 dollars per day, exclusive of mileage. When a vacancy occurs during
 10 the session of the general assembly, and by reason thereof the term
 11 of office of any member does not cover the entire session, such member
 12 shall be paid as follows: To members whose term of office covers
 13 fifteen session days, or less, three hundred dollars; to members whose
 14 term of office covers more than fifteen session days, and less than
 15 thirty-one such days, five hundred dollars; to members whose term of
 16 office covers more than thirty session days, and less than fifty-one
 17 such days, seven hundred dollars; and to members whose term of office
 18 covers more than fifty session days, one thousand dollars.

[C., '51, § 11; R., '60, § 18; C., '73, § 12; C., '97, § 12; S., '13,
 § 12.]

SEC. 19. Payment of members.

1 Within thirty days after the convening of the general assembly,
 2 the presiding officers of the two houses shall jointly certify to the audi-

3 tor of state the names of the members, officers and employees of their
 4 respective houses, and the amount of mileage due each member,
 5 respectively, who shall thereupon draw a warrant upon the state
 6 treasurer for the amount due each member for mileage, as above certi-
 7 fied, and shall also issue to each member of the general assembly, at
 8 the end of said thirty days, a warrant for one-half the salary due him
 9 for the session, and the remaining one-half at the close of the session.
 10 At the close of any extra or adjourned session, the compensation of
 11 the members shall be paid upon certificate of the presiding officer of
 12 each house, showing the number of days of allowance, and the compen-
 13 sation as provided by law.

[C., '97, § 14.]

SEC. 20. Officers and employees.

1 Either house of the general assembly may employ such officers and
 2 janitors as it shall deem necessary for the conduct of its business.

[C., '97, § 152; S., '13, § 152.]

SEC. 21. Compensation of officers and employees.

1 The compensation of the officers and employees of the general
 2 assembly shall be fixed by joint action of the house and senate by
 3 resolution at the opening of the session, or as soon thereafter as
 4 conveniently can be done, and no other or greater compensation shall
 5 be allowed such officers and employees, except that they shall be fur-
 6 nished by the state such stationery and supplies as may be necessary
 7 for the proper discharge of their duties.

[C., '73, § 12; C., '97, § 13; 38 G. A., ch. 1, § 1.]

SEC. 22. Issue of warrants.

1 The auditor shall also issue to each officer and employee of the
 2 general assembly, from time to time, upon certificates signed by the
 3 president of the senate and the speaker of the house, warrants for the
 4 amount due for services rendered.

[C., '97, § 15.]

SEC. 23. Payment of warrants.

1 Said warrants shall be paid out of any moneys in the treasury
 2 not otherwise appropriated.

[C., '97, § 16.]

SEC. 24. Freedom of speech.

1 No member shall be questioned in any other place for any speech
 2 or debate in either house.

[C., '51, § 9; R., '60, § 6; C., '73, § 11; C., '97, § 11.]

SEC. 25. Contempt.

1 Each house has authority to punish as for a contempt, by fine or
 2 imprisonment or both, any person who commits any of the following
 3 offenses against its privileges, dignity or authority:

4 1. Arresting a member, knowing him to be such, in violation of
 5 his privilege, or assaulting, or threatening to assault, or threatening
 6 any harm to the person or property of, a member, knowing him to be

7 such, for anything said or done by him in such house as a member
8 thereof.

9 2. Attempting by menace, or by force, or by any corrupt means,
10 to control or influence a member in giving his vote, or to prevent his
11 giving it.

12 3. Disorderly or contemptuous conduct tending to disturb its
13 proceedings.

14 4. Refusal to attend, or to be sworn, or to affirm, or to be exam-
15 ined, as a witness before it, or before a committee thereof, when duly
16 subpoenaed.

17 5. Assaulting or preventing any person going before it, or before
18 any of its committees, by its order, the offender knowing such fact.

19 6. Rescuing or attempting to rescue any person arrested by its
20 order, the offender knowing of such arrest.

21 7. Impeding any officer of such house in the discharge of his
22 duties as such, the offender knowing his official character.

[C., '51, § 12; R., '60, § 8; C., '73, § 14; C., '97, § 18.]

SEC. 26. Punishment for contempt.

1 Fines and imprisonment for contempt shall be only by virtue of
2 an order of the proper house, entered on its journals, stating the
3 grounds thereof. Imprisonment shall be effected by a warrant, under
4 the hand of the presiding officer, for the time being, of the house
5 ordering it, countersigned by the acting secretary or clerk, running in
6 the name of the state, and directed to the sheriff or jailer of the proper
7 county. Under such warrant, the proper officer will be authorized
8 to commit and detain the person. Fines shall be collected by a
9 similar warrant, directed to any proper officer of any county in which
10 the offender has property, and executed in the same manner as
11 executions for fines issued from courts of record, and the proceeds
12 paid into the state treasury.

[C., '51, § 14; R., '60, § 10; C., '73, § 15; C., '97, § 19.]

SEC. 27. Punishment for—how limited.

1 Imprisonment for contempt shall not extend beyond the session at
2 which it is ordered, and shall be in the jail of the county in which
3 the general assembly is then sitting; or, if there be no such jail, then
4 in one of the nearest county jails. Punishment for contempt shall
5 not constitute a bar to any other proceeding, civil or criminal, for the
6 same act.

[C., '51, §§ 13, 15; R., '60, §§ 9, 11; C., '73, § 16; C., '97, § 20.]

SEC. 28. Witnesses—attendance compulsory.

1 Whenever a committee of either house, or a joint committee of
2 both, is charged with an investigation requiring the personal attend-
3 ance of witnesses, any person may be compelled to appear before
4 such committee as a witness, by serving an order upon him, which
5 service shall be made in the manner required in case of a subpoena
6 in a civil action in the district court, such order stating the time
7 and place he is required to appear, signed by the presiding officer of
8 the house appointing the committee, and attested by its acting secre-
9 tary or clerk; or, in case of a joint committee, signed and attested
10 by such officers of either house. No witness called before such com-
11 mittee shall be excused from giving testimony upon the ground that

12 his testimony would tend to render him criminally liable or expose
13 him to public ignominy; but any matter so elicited shall not be used
14 against him.

[C., '73, § 17; C., '97, § 21; 38 G. A., ch. 79, § 1.]

SEC. 29. Witnesses—compensation.

1 Witnesses shall be entitled to the same compensation for attend-
2 ance under the preceding section as before the district court, but shall
3 not have the right to demand payment of their fees in advance.

[C., '73, § 18; C., '97, § 22.]

SEC. 30. Joint conventions.

1 Joint conventions of the general assembly shall meet in the hall
2 of the house of representatives for such purposes as are or shall be
3 provided by law. The president of the senate, or, in his absence, the
4 speaker of the house of representatives, shall preside, or, in the
5 absence of both, a temporary president shall be appointed by a joint
6 vote.

[R., '60, §§ 674, 675; C., '73, § 19; C., '97, § 23.]

SEC. 31. Tellers.

1 After the time for the meeting of the joint convention has been
2 designated and prior thereto, each house shall appoint one teller, and
3 the two shall act as judges of the election.

[R., '60, § 676; C., '73, § 20; C., '97, § 24.]

SEC. 32. Secretary—record.

1 The clerk of the house of representatives shall act as secretary of
2 the convention, and he and the secretary of the senate shall keep a
3 fair and correct record of the proceedings of the convention, which
4 shall be entered on the journal of each house.

[R., '60, § 677; C., '73, § 21; C., '97, § 25.]

SEC. 33. Election—vote—how taken.

1 When any officer is to be elected by joint convention, the names of
2 the members shall be arranged in alphabetical order by the secre-
3 taries, and each member shall vote in the order in which his name
4 stands when thus arranged. The name of the person voted for, and
5 of the members voting, shall be entered in writing by the tellers, who,
6 after the secretary shall have called the names of the members a
7 second time, and the name of the person for whom each member has
8 voted, shall report to the president of the convention the number of
9 votes given for each candidate.

[R., '60, §§ 678, 679; C., '73, § 22; C., '97, § 26.]

SEC. 34. Second poll.

1 If no person shall receive the votes of a majority of the members
2 present, a second poll may be taken, and so on from time to time until
3 some person receives such majority.

[R., '60, § 680; C., '73, § 23; C., '97, § 27.]

SEC. 35. Adjournment.

1 If the purpose for which the joint convention is assembled is not
 2 concluded, the president shall adjourn the same from time to time as
 3 the members present may determine.

[R., '60, § 681; C., '73, § 24; C., '97, § 28.]

SEC. 36. Certificates of election.

1 When any person shall have received a majority of the votes as
 2 aforesaid, the president shall declare him to be elected, and shall, in
 3 the presence of the convention, sign two certificates of such election,
 4 attested by the tellers, one of which he shall transmit to the governor,
 5 and the other shall be preserved among the records of the conven-
 6 tion and entered at length on the journal of each house. The gov-
 7 ernor shall issue a commission to the person so elected.

[R., '60, § 682; C., '73, § 25; C., '97, § 29.]

SEC. 37. Canvass of votes—oath—message of governor.

1 The general assembly shall meet in joint session on the second
 2 Tuesday of January, or as soon thereafter as both houses have been
 3 organized after the biennial election, and canvass the votes cast for
 4 governor and lieutenant governor and determine the election; and
 5 when the canvass is completed, the oath of office shall be administered
 6 to the persons so declared elected and the governor shall deliver to
 7 the joint assembly any message he may deem expedient.

[S., '13, § 30-a.]

SEC. 38. Canvassing vote.

1 Canvassing the votes for governor and lieutenant governor shall
 2 be conducted according to the foregoing provisions, so far as
 3 applicable.

[C., '73, § 26; C., '97, § 30; 37 G. A., ch. 401, § 1.]

SEC. 39. Committee on retrenchment and reform.

1 The chairmen of the committees on ways and means, judiciary,
 2 and appropriations, of the senate and house, respectively, and two
 3 members of the minority party from the senate and two members of
 4 the minority party from the house, at each regular session, shall consti-
 5 tute a standing committee, to be known as the joint committee on
 6 retrenchment and reform. The minority members hereinbefore pro-
 7 vided for shall be appointed by the president of the senate and the
 8 speaker of the house, respectively, and if there be more than one
 9 minority party represented in either the house or senate, consisting
 10 of five or more members, one member shall be appointed from each
 11 of said minority parties, and if there be more than two such minority
 12 parties, the appointment shall be from the two minority parties hav-
 13 ing the greatest representation. The authority granted by law to
 14 the joint committee on retrenchment and reform shall continue after
 15 adjournment of the legislature and until the succeeding legislature
 16 shall reconvene and organize, with the same force and effect as is
 17 now granted by law to such committee during the period the legisla-
 18 ture is in session. Said committee shall organize by the election of
 19 one of its members as chairman and another of its members as secre-
 20 tary, and may meet at such times and places as may be ordered by

21 resolution or upon call of the chairman and three other members of
 22 said committee, and the actual expenses of attendance at meetings
 23 other than those held during the time the legislature is in session
 24 shall be presented to and audited by the state board of audit and paid
 25 from any funds in the state treasury not otherwise appropriated, and
 26 said committee shall make a record of its meetings and transactions,
 27 which record shall be kept in the office of the secretary of state and
 28 shall be open to public inspection.

[C., '97, § 181; S., '13, § 181.]

SEC. 40. Duties.

1 Said committee shall examine into the reports and official acts of
 2 the executive council and of each officer, board, commission and
 3 department of the state at the seat of government, in respect to the
 4 conduct and expenditures thereof, and the receipts and disbursements
 5 of public funds thereby. It shall report to the general assembly a
 6 joint resolution fixing the number of employees, and the salary of
 7 each, for the several offices, boards, commissions and departments
 8 for the ensuing biennial period, and recommend such appropriations
 9 and legislation as shall promote public interests and an efficient and
 10 economical administration of the affairs of the state.

[C., '97, § 182.]

SEC. 41. May take evidence.

1 Said committee shall have the same power to summon and exam-
 2 ine witnesses, administer oaths, compel the production of books,
 3 papers and evidence, and to punish for contempt, as the district court.

[C., '97, § 183.]

CHAPTER 3.

STATUTES.

SECTION 42. Amendatory and repealing acts—how drawn.

1 Every act passed in amendment, modification or repeal of a law,
 2 shall, in its title and in the body of the act itself, refer to the law so
 3 amended, modified or repealed, as follows:
 4 1. An act which amends, modifies or repeals a law which appears
 5 as a section or sections of the code, shall refer to such section or sec-
 6 tions of the code.
 7 2. An act which amends, modifies or repeals a law which appears
 8 as a chapter of the code, shall refer to such chapter and title of the
 9 code.
 10 3. An act which amends, modifies or repeals a law which appears
 11 as a section or sections of the supplement to the code, shall refer to
 12 the section or sections of the said supplement to the code, as numbered
 13 therein.
 14 4. An act which amends, modifies or repeals a law which appears
 15 as a chapter of the supplement to the code, shall refer to the chapter
 16 and title of such supplement to the code, as numbered therein.
 17 5. An act which amends, modifies or repeals any part or all of any
 18 act of the general assembly, not contained in the code or supplement

19 to the code, shall refer to the chapter of the act, and number of the
20 general assembly which passed the act so amended, modified or
21 repealed.

22 6. If such reference be omitted in the title, the reporter of the
23 supreme court shall, in preparing such act for publication, supply
24 the omission.

25 7. Whenever reference is made to any section, chapter or title, as
26 hereinbefore provided, the number of the same shall be expressed in
27 words followed by the figures in parentheses.

[C., '73, § 38; C., '97, § 41; S., '13, § 41-a.]

SEC. 43. Applicable to future acts.

1 The provisions of paragraphs three and four of the preceding sec-
2 tion shall be applicable to the passage of any act that may be passed
3 after any further compilation and publication of a supplement to the
4 code that may be made by the authority of, and as provided by, law.

[S., '13, § 41-b.]

SEC. 44. Bills—approval—passage over veto—certificate.

1 If the governor approves a bill, he shall sign and date it; if he
2 returns it with his objections and it afterwards passes as provided
3 in the constitution, a certificate, signed by the presiding officer of
4 each house in the following form, shall be indorsed thereon or attached
5 thereto: "This bill, having been returned by the governor, with his
6 objections, to the house in which it originated, and, after reconsidera-
7 tion, having again passed both houses by yeas and nays by a vote of
8 two-thirds of the members of each house, has become a law this
9 day of"

[C., '51, §§ 16, 17; R., '60, §§ 19, 20; C., '73, §§ 28, 29; C.,
'97, § 32.]

SEC. 45. Bills retained—certificate.

1 When a bill has passed the general assembly, and is not returned
2 by the governor within three days as provided in the constitution, it
3 shall be authenticated by the secretary of state indorsing thereon:
4 "This bill, having remained with the governor three days (Sunday
5 excepted), the general assembly being in session, has become a law
6 this day of"

7 "....."
8 "Secretary of State."

[C., '51, § 18; R., '60, § 21; C., '73, § 30; C., '97, § 33.]

SEC. 46. Acts—where deposited.

1 The original acts of the general assembly shall be deposited with
2 and kept by the secretary of state.

[C., '51, § 19; R., '60, § 22; C., '73, § 31; C., '97, § 34.]

SEC. 47. Acts of public nature—when take effect.

1 All acts and resolutions of a public nature passed at regular ses-
2 sions of the general assembly shall take effect on the fourth day of
3 July following their passage, unless some specified time is provided
4 in the act, or they have sooner taken effect by publication.

[C., '51, § 22; R., '60, § 25; C., '73, § 34; C., '97, § 37.]

SEC. 48. Acts taking effect by publication—secretary of state may designate papers.

1 Acts which are to take effect from and after publication in news-
 2 papers shall be published in two or more papers, one at least of them
 3 at the seat of government, and in case either or both of the papers
 4 named in the act should fail or decline to publish said act as required
 5 therein, the secretary of state may designate another paper or papers
 6 in which publication shall be made, and if such papers are not desig-
 7 nated in the act, the same may be designated by the secretary of
 8 state, and the act published accordingly. All such acts shall take
 9 effect from and after the date of the last publication, and the secre-
 10 tary of state shall make and sign, on the original roll of each of such
 11 acts, a certificate, stating in what papers it was published, and the
 12 date of the last publication in each of them, which certificate and the
 13 printing thereof at the foot of the act shall be presumptive evidence
 14 of the facts therein stated.

[C., '51, § 21; R., '60, § 24; C., '73, § 33; C., '97, § 36; S., '13, § 36.]

SEC. 49. Private acts—when take effect.

1 Acts of a private nature, which do not prescribe the time when
 2 they take effect, shall do so on the thirtieth day next after they have
 3 been approved by the governor, or indorsed as provided in this chap-
 4 ter.

[C., '51, § 20; R., '60, § 23; C., '73, § 32; C., '97, § 35.]

SEC. 50. Appropriation acts—when effective.

1 All annual appropriations shall be for the fiscal year beginning
 2 with July first and ending with June thirtieth of the succeeding year,
 3 and when such appropriations are made payable quarterly, the quar-
 4 ters shall end with September thirtieth, December thirty-first, March
 5 thirty-first and June thirtieth, but nothing in this section shall be con-
 6 strued as increasing the amount of any annual appropriation.

[S., '13, § 116-a.]

SEC. 51. Pro rata effect.

1 Annual appropriations shall be disbursed in accordance with the
 2 provisions of the acts granting the same pro rata from the time such
 3 acts shall take effect up to the first day of the succeeding quarter as
 4 provided in the preceding section.

[S., '13, § 116-b.]

SEC. 52. Certain appropriations prohibited.

1 No appropriations shall be made to any institution not wholly
 2 under the control of the state.

[S., '13, § 116-c1.]

SEC. 53. Certified copies of published acts.

1 Whenever an act of the general assembly of a general nature shall
 2 take effect by publication, the secretary of state shall forthwith send
 3 by mail to each clerk of the district court a certified copy thereof.
 4 Upon the receipt of such copies of such laws the clerk shall file the
 5 same in his office and preserve same for a period of not less than six

6 months. All persons shall have access to such copies of laws when so filed, and the clerk shall furnish copies thereof on request, and may charge and receive therefor ten cents for every one hundred words.

[S. S., '15, § 36-a.]

SEC. 54. Cost of publishing.

The compensation for the publication of laws which are ordered by the general assembly to take effect by publication, unless otherwise fixed, shall be audited and paid by the state, and shall be one-third the rates of legal advertisements allowed by law.

[C., '73, § 44; C., '97, § 47.]

SEC. 55. Construction.

In the construction of the statutes, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the general assembly, or repugnant to the context of the statute:

1. *Repeal—effect of.* The repeal of a statute does not revive a statute previously repealed, nor affect any right which has accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the statute repealed.

2. *Words and phrases.* Words and phrases shall be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed according to such meaning.

3. *Number and gender.* Words importing the singular number may be extended to several persons or things, and words importing the plural number may be applied to one person or thing, and words importing the masculine gender only may be extended to females.

4. *Joint authority.* Words giving a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of them, unless it be otherwise expressed in the act giving the authority.

5. *Highway—road.* The words "highway" and "road" include public bridges, and may be held equivalent to the words "county way," "county road," "common road," and "state road."

6. *Insane.* The words "insane person" include idiots, lunatics, distracted persons, and persons of unsound mind.

7. *Issue.* The word "issue" as applied to descent of estates includes all lawful lineal descendants.

8. *Land—real estate.* The word "land" and the phrases "real estate" and "real property" include lands, tenements, hereditaments, and all rights thereto and interests therein, equitable as well as legal.

9. *Personal property.* The words "personal property" include money, goods, chattels, evidences of debt, and things in action.

10. *Property.* The word "property" includes personal and real property.

11. *Month—year—A. D.* The word "month" means a calendar month, and the word "year" and the abbreviation "A. D." are equivalent to the expression "year of our Lord."

12. *Oath—affirmation.* The word "oath" includes affirmation in all cases where an affirmation may be substituted for an oath, and in like cases the word "swear" includes "affirm."

42 13. *Person.* The word "person" may be extended to bodies cor-
43 porate.

44 14. *Seal.* Where the seal of a court, public office or officer, or
45 public or private corporation, may be required to be affixed to any
46 paper, the word "seal" shall include an impression upon the paper
47 alone, as well as upon wax or a wafer affixed thereto.

48 15. *State.* The word "state," when applied to the different parts
49 of the United States, includes the District of Columbia and the terri-
50 tories, and the words "United States" may include the said district
51 and territories.

52 16. *Town.* The word "town" means an incorporated town, and
53 may include cities.

54 17. *Will.* The word "will" includes codicils.

55 18. *Written—in writing.* The words "written" and "in writing"
56 may include any mode of representing words and letters in general
57 use, except that signatures, when required by law, must be made by
58 the writing or mark of the person.

59 19. *Sheriff.* The term "sheriff" may be extended to any person
60 performing the duties of the sheriff, either generally or in special
61 cases.

62 20. *Deed—bond—indenture—undertaking.* The word "deed" is
63 applied to an instrument conveying lands, but does not imply a sealed
64 instrument; and the words "bond" and "indenture" do not necessarily
65 imply a seal, and the word "undertaking" means a promise or security
66 in any form.

67 21. *Executor—administrator.* The term "executor" includes ad-
68 ministrator, and the term "administrator" includes executor, where
69 the subject matter justifies such use.

70 22. *Numerals—figures.* The Roman numerals and the Arabic
71 figures are to be taken as parts of the English language.

72 23. *Computing time.* In computing time, the first day shall be
73 excluded and the last included, unless the last falls on Sunday, in
74 which case the time prescribed shall be extended so as to include the
75 whole of the following Monday.

76 24. *Consanguinity and affinity.* Degrees of consanguinity and
77 affinity shall be computed according to the civil law.

78 25. *Clerk—clerk's office.* The word "clerk" means clerk of the
79 court in which the action or proceeding is brought or is pending; and
80 the words "clerk's office" mean his office.

81 26. *Population.* The word "population," where used in this code
82 or any statute hereafter passed, shall be taken to be that as shown
83 by the last preceding state or national census, unless otherwise spe-
84 cially provided.

[C., '51, §§ 26, 2513; R., '60, §§ 29, 4121, 4123, 4124; C., '73,
§ 45; C., '97, § 48.]

CHAPTER 4.

PUBLICATION OF SESSION LAWS.

SECTION 56. Publication of session laws—duties of officers.

1 At the beginning of each legislative session, the reporter of the
2 supreme court, under the direction of the judges of the supreme court,
3 shall commence and continue throughout the session, and thereafter

4 as far as necessary, the preparation of manuscript copy of all laws,
 5 acts, joint resolutions and memorials passed thereat, arranging the
 6 same in chapters, in the order in which they are filed in the office of
 7 the secretary of state, and indicating on each the number of the house
 8 or senate file. The printer shall print the same as fast as manuscript
 9 is furnished to him by the reporter, and in the same size, style, type
 10 and appearance as the official edition of the code, except that each
 11 line of each section of each act shall be consecutively numbered on
 12 the left-hand margin thereof, and, with all possible dispatch, shall
 13 deliver a copy of the final corrected volume to the said reporter, who
 14 shall prepare and cause to be printed therewith an index thereto.

[C., '51, § 46; R., '60, §§ 62, 144; C., '73, § 35; C., '97, § 38;
 37 G. A., ch. 5, § 1.]

SEC. 57. Original rolls.

1 In the preparation of said volume, the reporter shall have the
 2 right to the possession of the original rolls and the right to necessary
 3 supplies.

[37 G. A., ch. 5, § 2.]

SEC. 58. Duty of secretary of state and auditor of state.

1 The secretary of state shall prepare and deliver to said reporter,
 2 for insertion in said volume, a correct list of state officers, judges of
 3 the supreme, district, superior and municipal courts, members of the
 4 general assembly, and commissioners for this state in other states.
 5 There shall also be inserted therein the statement of the condition of
 6 the state treasury, as provided by the constitution, which statement
 7 shall be furnished by the state auditor.

[37 G. A., ch. 5, § 3.]

SEC. 59. Certificate.

1 To each volume shall be attached the certificate of said reporter
 2 that the acts, laws, joint resolutions and memorials therein contained
 3 have been prepared from the original rolls in the office of the secre-
 4 tary of state, and are correct, which certificate shall be presumptive
 5 evidence of their correctness.

[C., '51, § 47; R., '60, § 63; C., '73, § 35; C., '97, § 38; 37 G.
 A., ch. 5, § 4.]

SEC. 60. Number authorized.

1 Six thousand copies of said volume shall be printed, and shall be
 2 bound in board covers. All volumes shall be sold to residents of this
 3 state at fifty cents per volume, and to all others at one dollar per
 4 volume.

[C., '73, §§ 37, 41; C., '97, §§ 40, 44; S., '13, § 44; 37 G. A.,
 ch. 5, § 5; 38 G. A., ch. 14, § 1.]

SEC. 61. Appropriation.

1 There is hereby appropriated out of any funds in the state treas-
 2 ury not otherwise appropriated, for the purpose of providing the nec-
 3 ecessary clerical assistance in preparing the volume, the sum of one
 4 thousand two hundred dollars, or so much thereof as may be neces-
 5 sary, for each special or regular session of the general assembly,
 6 which amount shall be wholly available for each session immediately

7 upon its legal organization. Said appropriations shall be expended
8 under the direction of the judges of the supreme court. The proper
9 bills for printing and binding said volumes shall be paid as provided
10 by law.

[37 G. A., ch. 5, § 9.]

CHAPTER 5.

DISTRIBUTION OF SESSION LAWS.

SECTION 62. Distribution of laws by secretary of state.

1 The secretary of state shall distribute the laws aforesaid as fol-
2 lows: To the state library for exchange purposes, one hundred fifty
3 copies; to the law library of the state university for exchange purposes
4 with the law libraries of other state and territorial universities or col-
5 leges, fifty copies; to the state historical department and the state his-
6 torical society, each ten copies; to all judges of the supreme, district,
7 and superior courts of Iowa and judges of the United States district
8 courts in Iowa, one copy each; to each municipal judge, one copy; to
9 the clerk of the supreme court of Iowa and to each clerk of the United
10 States district court in Iowa, one copy; to the state institutions and
11 state officers, two copies each; to the separate departments of the prin-
12 cipal state offices, members of permanent state boards or commissions,
13 offices of permanent state boards or commissions, when maintained
14 at the seat of government, members of the general assembly, chief
15 clerk of the house, secretary of the senate, colleges and public libraries
16 within the state, each one copy; to each county officer, one copy; to
17 each of the following officers, one copy, on written request only: jus-
18 tices of the peace, township clerks, and mayors of cities or towns.

[C., '73, § 39; C., '97, § 42; S., '13, § 42; 37 G. A., ch. 5, § 6.]

SEC. 63. Requisitions by county auditors.

1 The county auditor shall make requisition upon the secretary of
2 state for the number of copies needed for gratuitous distribution and
3 for sale purposes, and the secretary of state shall deliver to the county
4 auditor the number so ordered, charging him therewith upon the
5 books of his office. Upon receipt thereof, the county auditor shall
6 execute his receipt in duplicate therefor, one of which shall be filed
7 in his office and the other immediately forwarded to the secretary of
8 state. The county auditor shall, in delivering copies, take receipts in
9 duplicate therefor, one of which shall be filed in his office and the other
10 forwarded to the secretary of state, along with the annual report
11 provided for in section sixty-five.

[C., '73, § 40; C., '97, § 43; S., '13, § 43; 37 G. A., ch. 5, § 7.]

SEC. 64. Duty of officers to account.

1 The secretary of state shall pay the proceeds arising from all such
2 sales made by him into the state treasury each month. The county
3 auditor shall pay the proceeds arising from all such sales made by
4 him into the county treasury for the use of the state revenue, on or
5 before the first Monday of January in each year, taking a receipt in

6 duplicate therefor, one of which shall be immediately forwarded to
7 the secretary of state.

[C., '73, § 41; C., '97, § 44; S., '13, § 44; 37 G. A., ch. 5, § 8.]

SEC. 65. Accounting—reports.

1 The county auditor shall keep an accurate account of the laws
2 received, sold and distributed, and shall annually, on or before the
3 first Monday of January in each year, make out in writing, under oath,
4 a report, showing the number of laws on hand at the beginning of the
5 annual period, the number received, the number sold and the number
6 gratuitously distributed during the year, and the number on hand at
7 the date of the report, and the amount paid into the county treasury,
8 and transmit said report to the secretary of state, who in turn shall
9 certify to the auditor of state on or before the fifteenth day of January
10 in each year the amount paid to the county treasurer by the county
11 auditor as shown by said report and the receipt of the county treas-
12 urer. The auditor of state shall thereupon charge the county treas-
13 urer with the amount so certified. The secretary of state shall credit
14 the county auditor with the number of laws sold and otherwise
15 disposed of as shown by the said report and by the receipts accom-
16 panying it.

[C., '73, § 42; C., '97, § 45; S., '13, § 45.]

SEC. 66. Copies to be delivered to successors.

1 When a secretary of state goes out of office, having any copies of
2 the laws remaining, he shall deliver them to his successor, taking his
3 receipt therefor in duplicate, one of which shall be filed in the office
4 of the secretary of state, which shall be his sufficient discharge for
5 the same. When a county auditor goes out of office, having any such
6 copies remaining, he shall deliver them to his successor, taking his
7 receipt in duplicate therefor, one of which shall be immediately for-
8 warded to the secretary of state, which shall be his sufficient discharge
9 for the same; and every county officer, justice of the peace, mayor
10 of city or town, and township clerk, receiving a copy shall give his
11 receipt in duplicate therefor, and shall pass the copy to his successor,
12 or deliver it to the county auditor for the use of subsequent officers,
13 and each shall be liable therefor on his official bond.

[C., '73, § 43; C., '97, § 46; S., '13, § 46.]

SEC. 67. Not applicable to earlier laws—gratuitous distribution.

1 The provisions of the law relative to the sale of and accounting for
2 the session laws shall not be applicable to the session laws of the
3 twenty-sixth and preceding general assemblies. The secretary of
4 state and the county auditors are hereby authorized to distribute
5 gratuitously to attorneys, libraries and other interested persons or
6 associations the session laws of the twenty-sixth and previous general
7 assemblies, provided that the secretary of state shall maintain the
8 number of copies of the acts of each of said general assemblies in
9 reserve as may be fixed by the executive council in accordance with
10 the provisions of section two hundred twenty-one.

[S., '13, § 46-a.]

CHAPTER 6.

DISTRIBUTION OF CODES.

SECTION 68. Custodian of code.

1 The secretary of state shall be the custodian of the code and shall
 2 distribute the same as follows: To the state library for exchange
 3 purposes, one hundred fifty copies; to the law library of the state
 4 university for exchange purposes with the law libraries of other state
 5 and territorial universities or colleges, fifty copies; to the state his-
 6 torical department and the state historical society, each ten copies;
 7 to all judges of the supreme and district courts of Iowa and judges
 8 of the United States circuit and district courts in Iowa, one copy each;
 9 to the clerk of the supreme court of Iowa, to each clerk of the district
 10 court of Iowa, and to each clerk of the United States circuit and dis-
 11 trict courts in Iowa, one copy each for use in term time; to the state
 12 institutions and state officers, two copies each; to the separate depart-
 13 ments of the principal state offices, members of the permanent state
 14 boards and commissions, offices of the permanent state boards and
 15 commissions when maintained at the seat of government, members of
 16 the general assembly, chief clerk of the house, secretary of the senate,
 17 judges of the superior courts, college and public libraries within the
 18 state, state or territorial libraries in the United States, county officers,
 19 mayor of each city or town, justices of the peace, and township clerks,
 20 each one copy. Said code shall be sold to the public generally at the
 21 uniform price of not more than five dollars per copy, the price to be
 22 fixed by the executive council.

[C., '97, p. 4; S., '13, p. 1.]

SEC. 69. Requisition for codes.

1 For the convenience of distribution, the county auditor shall make
 2 requisition on the secretary of state for the number of copies needed
 3 for sale and gratuitous distribution in his county, and the secretary
 4 of state shall deliver to the county auditor the number so ordered,
 5 charging him therewith on the books of his office. Upon receipt
 6 thereof, the county auditor shall execute his receipt in duplicate there-
 7 for, one of which shall be filed in his office and the other immediately
 8 forwarded to the secretary of state. The county auditor shall deliver
 9 a copy to each of the county, township and city or town officers entitled
 10 thereto under the provisions of section sixty-eight and take receipts
 11 in duplicate therefor, one of which shall be filed in his office and the
 12 other forwarded to the secretary of state along with the annual report
 13 provided for in section seventy-one.

[C., '97, p. 4; S., '13, p. 1.]

SEC. 70. Proceeds of sales.

1 The secretary of state and the county auditor shall sell copies of
 2 the code at the price fixed under the provisions of section sixty-eight,
 3 at not more than five dollars per copy. The secretary of state shall
 4 pay the proceeds arising from all such sales made by him into the
 5 state treasury each month. The county auditor shall pay the proceeds
 6 arising from such sales made by him into the county treasury for the
 7 use of the state revenue, on or before the first Monday of January
 8 in each year, taking receipt in duplicate therefor, one of which shall
 9 be immediately forwarded to the secretary of state.

[C., '97, p. 4; S., '13, p. 2.]

SEC. 71. Reports by auditor.

1 The county auditor shall keep an accurate account of the codes
2 received, sold and distributed, and shall annually, on or before the
3 first Monday of January of each year, make out in writing under oath
4 a report, showing the number of codes on hand at the beginning of
5 the annual period, the number received, the number sold and the
6 number gratuitously distributed during the year, the number on hand
7 at the date of the report and the amount paid into the county treasury,
8 and transmit said report to the secretary of state, who in turn shall
9 certify to the auditor of state on or before the fifteenth day of January
10 in each year the amount paid into the county treasury by the county
11 auditor as shown by said report and the receipt of the county treas-
12 urer. The auditor of state shall thereupon charge the county treas-
13 urer with the amount so certified. The secretary of state shall credit
14 the county auditor with the number sold and otherwise disposed of
15 during the year as shown by said report and the receipts accom-
16 panying it.

[C., '97, p. 4; S., '13, p. 2.]

SEC. 72. Officers to surrender copies.

1 When a secretary of state goes out of office, having any such copies
2 remaining, he shall deliver them to his successor, taking his receipt
3 therefor in duplicate, one of which shall be filed in the office of the
4 secretary of state, which shall be his sufficient discharge for the same.
5 When a county auditor goes out of office having any such copies
6 remaining, he shall deliver them to his successor, taking his receipt
7 in duplicate therefor, one of which shall be forwarded to the secretary
8 of state, which shall be his sufficient discharge for the same; and every
9 county officer, justice of the peace, mayor of city or town and town-
10 ship clerk, receiving a copy shall give his receipt in duplicate therefor,
11 and shall pass the copy to his successor, or deliver it to the county
12 auditor for the use of subsequent officers, and each shall be liable
13 therefor on his official bond.

[C., '97, p. 4; S., '13, p. 2.]

SEC. 73. Official code.

1 The code, as herein provided to be published and distributed, shall
2 be the official edition and the only authoritative publication of the
3 existing laws of the state, and no other publication of the laws of the
4 state shall be used in the courts or referred to in the decisions, by
5 title, chapter or section, in the reports of the same, and the code or
6 any part thereof shall be published only in the manner herein or here-
7 after provided by the general assembly; and the rules of the supreme
8 court providing for the citations of sections of the laws of this state
9 shall designate the same as contained and numbered in the code. No
10 public money shall be paid or expended for any publication of the laws
11 of the state except for those published by authority of the state, and
12 any such purchase or publication herein prohibited shall be a misde-
13 meanor. But this section shall not prohibit the publication by the
14 several state officers and commissions in their annual or biennial
15 reports of extracts from the laws pertaining to their respective depart-
16 ments. Such extracts may be published in pamphlet form by such
17 officers or commissions with the consent of the executive council and
18 the same shall be paid for under the provisions of section two hundred

19 fifteen. The executive council may also authorize the publication by
20 private individuals of extracts from the laws.

[C., '97, p. 5; S., '13, p. 3.]

SEC. 74. Exchange of statutes.

1 The secretary of state is hereby authorized to distribute copies of
2 the code and the supplement thereto, the publication of which has
3 heretofore been authorized by law, to any foreign country or prov-
4 ince, in exchange for similar publications by such country or province,
5 and all publications received as the result of such exchange shall be
6 deposited in the state library, and shall become a part of such library.

[S., '13, p. 3.]

SEC. 75. Distribution to libraries.

1 It shall be the duty of the secretary of state, upon approval of the
2 executive council, to forward to the librarian of any duly incorporated
3 college within this state, copies of the code and laws, together with
4 sets of the bound state documents, as the same are issued.

[S., '13, p. 3.]

SEC. 76. Former statutes.

1 Upon application, in writing, from the librarian or chief executive
2 officer of any incorporated college in this state, the secretary of state
3 shall, upon the approval of the executive council, forward to said
4 applicant, without charge, bound volumes of the laws heretofore
5 enacted.

[S., '13, p. 3.]

CHAPTER 7.

THE CODE AND ITS OPERATION.

SECTION 77. Citations—repeal of prior statutes.

1 In citations, this revision of the laws shall be given as the "Code,"
2 adding chapter or section, as required. All public and general stat-
3 utes adopted prior to the present extra session of the general assem-
4 bly, except acts appropriating money when the same has not been
5 fully paid out, and all public and special acts the subjects whereof
6 are herein revised or which are repugnant hereto, are repealed, sub-
7 ject to the limitations and exceptions hereinafter expressed, but local
8 acts are repealed only by express terms or on account of repugnancy.

[C., '51, §§ 27-29; R., '60, §§ 30-32; C., '73, §§ 46-48; C., '97,
§ 49.]

SEC. 78. Code—when take effect—publication.

1 The code shall take effect ninety days after the final adjournment
2 of the extra session of the twenty-sixth general assembly, until which
3 time existing statutes continue in force, and nothing contained in this
4 title in relation to the preparation and publication of the statutes
5 shall be construed as including the code.

[C., '51, § 30; R., '60, § 33; C., '73, § 49; C., '97, § 50.]

SEC. 79. Existing rights not affected.

1 This repeal of existing statutes shall not affect any act done, any
 2 right accruing or which has accrued or been established, nor any suit
 3 or proceeding had or commenced in any civil cause before the time
 4 when such repeal takes effect; but the proceedings in such cases shall
 5 be conformed to the provisions of the code as far as consistent.

[C., '51, §§ 31, 2514; R., '60, § 34; C., '73, § 50; C., '97, § 51.]

SEC. 80. Crimes, penalties and forfeitures.

1 No offense committed, and no penalty or forfeiture incurred under
 2 any statute hereby repealed and before the repeal takes effect,
 3 shall be affected by the repeal; except that, when a punishment, penalty
 4 or forfeiture is mitigated by the provisions herein contained, such
 5 provisions shall be applied to a judgment to be pronounced after the
 6 repeal.

[C., '51, § 32; R., '60, § 35; C., '73, § 51; C., '97, § 52.]

SEC. 81. Pending actions.

1 No suit or prosecution pending when this repeal takes effect, for
 2 an offense committed, or for the recovery of a penalty or forfeiture
 3 incurred, shall be affected by the repeal, but the proceedings may be
 4 conformed to the provisions of the code as far as consistent.

[C., '51, § 33; R., '60, § 36; C., '73, § 52; C., '97, § 53.]

SEC. 82. Heretofore and hereafter.

1 The terms "heretofore" and "hereafter," as used in the code, have
 2 relation to the time when the same takes effect.

[C., '51, § 35; R., '60, § 38; C., '73, § 53; C., '97, § 54.]

CHAPTER 8.
SUBMISSION OF CONSTITUTIONAL AMENDMENTS.
SECTION 83. Publication—record kept.

1 Whenever any proposition to amend the constitution has passed
 2 the general assembly and been referred to the next succeeding legisla-
 3 ture, the secretary of state shall cause the same to be published, once
 4 each week, in two newspapers of general circulation in each congress-
 5 sional district in the state, for the time required by the constitution;
 6 and proof of the publication shall be made by the affidavits of the pub-
 7 lishers thereof, and such affidavits, with the certificate of the secre-
 8 tary of state of the selection of such newspapers therefor, shall be
 9 filed in his office, recorded in a book kept for that purpose, and pre-
 10 served, and he shall report to the following legislature his action in
 11 the premises.

[C., '97, § 55; S., '13, § 55.]

SEC. 84. Submission to vote—results declared—record.

1 Whenever a proposition to amend the constitution shall have been
 2 adopted by two succeeding general assemblies, if no other time is
 3 fixed by the last general assembly adopting the same for its submis-
 4 sion to the people, it shall be done at the ensuing general election, in

5 the manner required by law, and the board of state canvassers shall
6 declare the result and enter the same of record in the book mentioned
7 in the preceding section, immediately following and in connection
8 with the proofs of publication.

[C., '97, § 56.]

SEC. 85. Proclamation of submission.

1 Whenever a proposition to amend the constitution is submitted to
2 a vote of the electors, the governor shall include such proposed amend-
3 ment in his election proclamation.

[C., '97, § 57.]

SEC. 86. Submission at special election.

1 The general assembly may provide for the submission of consti-
2 tutional amendments to the people at a special election for that pur-
3 pose, at such time as it may prescribe, proclamation for which election
4 shall be made by the governor, and the same shall in all respects be
5 governed and conducted as prescribed by law for the submission of
6 constitutional amendments at a general election.

[C., '97, § 58.]

SEC. 87. Expense.

1 Expenses incurred under the provisions of this chapter shall be
2 audited and allowed by the state board of audit, and paid out of any
3 money in the state treasury not otherwise appropriated.

[C., '97, § 59.]

TITLE II.

EXECUTIVE DEPARTMENT.

CHAPTER 1.

GOVERNOR.

SECTION 88. Office—secretary.

1 The governor shall keep his office at the seat of government, in
2 which shall be transacted the business of the executive department
3 of the state, and he shall keep a secretary at said office during his
4 absence.

[C., '73, § 55; C., '97, § 60.]

SEC. 89. Must keep journal.

1 He shall cause a journal to be kept in the executive office, in
2 which a record shall be made of each official act as done, except if in
3 cases of emergency an act is done away from the office, such entry
4 shall be made as soon thereafter as may be; and he shall cause a like
5 military record to be kept of his acts done as commander-in-chief.

[C., '73, §§ 56, 57; C., '97, § 61.]

SEC. 90. May employ counsel.

1 Whenever the governor is satisfied that an action or proceeding
2 has been commenced which may affect the rights or interests of the
3 state, he may employ counsel to protect such rights or interests; and
4 when any civil action or proceeding has been or is about to be com-
5 menced by the proper officer in behalf of the state, he may employ
6 additional counsel to assist in the cause.

[C., '51, § 40; R., '60, § 44; C., '73, § 59; C., '97, § 63.]

SEC. 91. Expenses.

1 The expenses thus incurred, and those caused in executing the
2 laws, may be allowed by him and paid from the contingent fund.

[C., '51, § 41; R., '60, § 45; C., '73, § 60; C., '97, § 64.]

SEC. 92. May direct attorney general to appear—validity of bridge patents.

1 The governor, whenever he deems such action to be in the interest
2 of the public, shall have power to direct the attorney general to appear
3 for and on behalf of any county, city, town or other municipality of
4 this state or for and on behalf of any officer thereof or contractor
5 therewith, whenever any such county, city, town or other municipality
6 or officer or contractor is a party to any action or proceeding in any
7 court wherein is involved the validity of any alleged patent on any
8 matter or thing entering into highway, bridge or culvert construction,
9 or on any parts thereof, and may employ such legal assistance in addi-

10 tion to the attorney general as he may deem necessary and may pay
 11 for the same out of any fund in the state treasury not otherwise appro-
 12 priated. Whenever the attorney general is so directed by the gover-
 13 nor it shall be his duty to comply therewith.

[S., '13, § 64-a.]

SEC. 93. May offer rewards for arrests.

1 Whenever the governor is satisfied that a crime has been com-
 2 mitted within the state, punishable by death or by imprisonment in
 3 the penitentiary for a term of ten years or more, and that the person
 4 charged therewith has not been arrested or has escaped from arrest,
 5 he may, in his discretion, offer a reward not exceeding five hundred
 6 dollars for the arrest and delivery to the proper authorities of the
 7 person so charged, which reward, upon the certificate of the governor
 8 that the same has been earned, shall be audited and paid by the state.

[R., '60, § 57; C., '73, § 58; C., '97, § 62.]

SEC. 94. Governor to submit budget.

1 On the day fixed by law for the governor to present to the general
 2 assembly his official message, he shall at the same time submit to the
 3 general assembly a budget which shall contain in detail general
 4 information and in general form his recommendations to the general
 5 assembly for appropriations for all the different departments and
 6 boards and state officials, together with such explanation thereof as
 7 he may desire to present. The governor shall not be required to read
 8 this, but it shall be printed in the journal as a part of his message to
 9 the general assembly and shall be officially known as the budget.

[S. S., '15, § 191-b.]

SEC. 95. Governor to account for fees.

1 All fees paid to the governor shall be turned over to the treasurer
 2 of state.

[S. S., '15, § 4-e.]

SEC. 96. Salaries.

1 The salary of the governor shall be five thousand dollars per
 2 annum; and that of his secretary, eighteen hundred dollars per annum.

[C., '51, § 37; R., '60, § 41; C., '73, § 3755; C., '97, § 65; S.,
 '13, § 65.]

CHAPTER 2.

SECRETARY OF STATE.

SECTION 97. Duties—records to be kept.

1 The secretary of state shall keep his office at the seat of govern-
 2 ment, and perform all duties required of him by law; he shall have
 3 charge of and keep all the acts and resolutions of the territorial legis-
 4 lature and of the general assembly of the state, the enrolled copy of
 5 the constitutions of the state, and all bonds, books, records, maps,
 6 registers and papers which are now or may hereafter be deposited

7 to be kept in his office, including all books, records, papers and prop-
8 erty pertaining to the state land office.

[C., '51, § 43; R., '60, § 59; C., '73, § 61; C., '97, § 66.]

SEC. 98. Records relating to cities and towns.

1 He shall receive and preserve in his office all papers transmitted
2 to him in relation to the incorporation of cities and towns, or the
3 annexation of territory thereto, or the consolidation or abandonment
4 of municipal corporations; and shall keep an alphabetical list of said
5 cities and towns in a book provided for that purpose, in which shall
6 be entered the name of the town or city, the character of the same,
7 whether town or city, the county in which situated, and the date of
8 organization.

[R., '60, § 1046; C., '73, § 65; C., '97, § 67.]

SEC. 99. Must countersign and register commissions.

1 All commissions issued by the governor shall be countersigned by
2 the secretary, who shall register each commission in a book to be
3 kept for that purpose, specifying the office, name of officer, date of
4 commission, and tenure of office; provided, however, that notarial
5 commissions shall be registered only in the office of the governor.

[C., '51, § 44; R., '60, § 60; C., '73, § 62; C., '97, § 68; S., '13,
§ 68.]

SEC. 100. Iowa official register.

1 He is hereby authorized and directed to compile and publish,
2 biennially, in the odd-numbered years, forty thousand copies of the
3 Iowa official register, to contain historical, political and other statis-
4 tics and facts of general value, but nothing of a partisan character.

[C., '97, § 70; S., '13, § 70.]

SEC. 101. Distribution of register.

1 The distribution shall be as follows: To members of the general
2 assembly last elected, sixty copies each; the balance to be distributed
3 to the newspapers of the state, to county officers, each school library,
4 public libraries, colleges, seminaries and state institutions, and other
5 citizens or institutions, either private or public, at the discretion of
6 the secretary of state.

[C., '97, § 71; S., '13, § 71.]

SEC. 102. Fees.

1 He shall collect the following fees for services: For each com-
2 mission to commissioners in other states, and to notaries public, five
3 dollars; for certificate, with seal attached, one dollar; for a copy of
4 any law or record, upon the request of any private person or corpora-
5 tion, for every hundred words, ten cents; he shall also collect such
6 other fees as directed by law.

[C., '51, § 2524; R., '60, § 4133; C., '73, § 3756; C., '97, § 85.]

SEC. 103. Salary.

1 The salary of the secretary of state shall be thirty-six hundred
2 dollars per annum.

[C., '51, § 42; R., '60, § 58; C., '73, § 3756; C., '97, § 86; S.,
'13, § 86.]

CHAPTER 3.**LAND OFFICE.****SECTION 104. Records of land office.**

1 The books and records of the land office shall be so kept as to
2 show and preserve an accurate chain of title from the general govern-
3 ment to the purchaser of each smallest subdivision of land; to pre-
4 serve a permanent record, in books suitably indexed, of all correspond-
5 ence with any of the departments of the general government in rela-
6 tion to state lands; to preserve, by proper records, copies of the orig-
7 inal lists furnished by the selecting agents of the state, and of all
8 other papers in relation to such lands which are of permanent interest.
[R., '60, §§ 92, 95; C., '73, § 83; C., '97, § 72.]

SEC. 105. Separate grants.

1 Separate tract books shall be kept for the university lands, the
2 saline lands, the half million acre grant, the sixteenth sections, the
3 swamp lands, and such other lands as the state now owns or may
4 hereafter own, so that each description of state lands shall be kept
5 separate from all others, and each set of tract books shall be a com-
6 plete record of all the lands to which they relate.
[R., '60, § 94; C., '73, § 84; C., '97, § 73.]

SEC. 106. Tract books.

1 Said tract books shall be ruled in a manner similar to those used
2 in the United States land offices, so as to record each tract by its
3 smallest legal subdivisions, its section, township and range, to whom
4 sold, and when, the price per acre, to whom patented, and when.
[R., '60, § 93; C., '73, § 85; C., '97, § 74.]

SEC. 107. Land office—how kept—clerk—copies.

1 The land office shall be kept open during business hours, and
2 shall have the personal supervision of the clerk thereof; the documents
3 and records therein shall be subject to inspection, in his presence, by
4 parties having an interest therein, and certified copies thereof, signed
5 by the secretary, with the seal of his office attached, shall be deemed
6 presumptive evidence of the facts to which they relate, and on request
7 they shall be furnished by him for a reasonable compensation.
[R., '60, § 101; C., '73, § 86; C., '97, § 75.]

SEC. 108. Patents.

1 Patents for lands shall issue from the land office, shall be signed
2 by the governor and recorded by the secretary; and each patent shall
3 contain therein a marginal certificate of the book and page on which
4 it is recorded, which certificate shall be signed by the secretary, and
5 all patents shall be delivered free of charge.
[R., '60, § 97; C., '73, § 87; C., '97, § 76.]

SEC. 109. Patents.

1 No patents shall be issued for any lands belonging to the state,
2 except upon the certificate of the person or officer specially charged
3 with the custody of the same, setting forth the appraised value per
4 acre, name of person to whom sold, date of sale, price per acre, amount

5 paid, name of person making final payment, and of person who is
6 entitled to the patent, and, if thus entitled by assignment from the
7 original purchaser, setting forth fully such assignment, which cer-
8 tificate shall be filed and preserved in the land office.

[R., '60, §§ 98, 99; C., '73, § 88; C., '97, § 77.]

SEC. 110. Secretary to make corrections.

1 The secretary is authorized and required to correct all clerical
2 errors of his office in name of grantee and description of tract of land
3 conveyed by the state, found upon the records of such office; he shall
4 attach his official certificate to each conveyance so corrected, giving
5 the reasons therefor; record the same with the record of the original
6 conveyance, and make the necessary corrections in the tract and plat
7 books of his office. Such corrections, when made in accordance with
8 the foregoing provisions, shall have the force and effect of a deed
9 originally correct, subject to prior rights accrued without notice.

[C., '73, § 89; C., '97, § 78.]

SEC. 111. Maps, field notes, records, papers.

1 The secretary of state shall receive and safely keep in his office,
2 as public records, any field notes, maps, records or other papers relat-
3 ing to the public survey of this state, whenever turned over to the
4 state in pursuance of law; the United States at all times to have free
5 access thereto for the purpose of taking extracts therefrom or making
6 copies thereof.

[C., '73, § 90; C., '97, § 79.]

SEC. 112. Governor to relinquish color of title.

1 Whenever the governor is satisfied by the commissioner of the
2 general land office that the title to any lands which may have been
3 certified to the state under any of the several grants is inferior to the
4 rights of any valid interfering preemptor or claimant, he is authorized
5 and required to release by deed of relinquishment such color of title
6 to the United States, to the end that the requirements of the interior
7 department may be complied with, and that such tract or tracts of
8 land may be patented by the general government to the legal claimants.

[C., '73, § 91; C., '97, § 80.]

SEC. 113. Governor to correct errors.

1 Whenever the governor is satisfied by proper record evidence
2 that any tract of land which may have been deeded by virtue of any
3 donation or sale to the state is not the land intended to have been
4 described, and that an error has been committed in making out the
5 transfers, in order that such error may be corrected, he is authorized
6 to quitclaim the same to the proper owner thereof, and to receive a
7 deed or deeds for the lands intended to have been deeded to the state
8 originally.

[C., '73, § 92; C., '97, § 81.]

SEC. 114. Secretary to make lists of lands.

1 In cases where lands have been granted to the state of Iowa by
2 act of congress, and certified lists of lands inuring under the grant
3 have been made to the state by the commissioner of the general land
4 office, as required by act of congress, and such lands have been

5 granted, by act of the general assembly, to any person or company,
 6 and such person or company shall have complied with and fulfilled the
 7 conditions of the grant, the secretary of state is hereby authorized
 8 to prepare, on the application of such person or company, or on the
 9 application of a party claiming title to any land through such person
 10 or company, a list or lists of lands situated in each county inuring to
 11 such applicant, from the lists certified by the commissioner of the
 12 general land office, as aforesaid, which shall be signed by the governor
 13 of the state, and attested by the secretary of state, with the state seal,
 14 and then be certified to by the secretary to be true and correct copies
 15 of the lists made to this state, and deliver them to such applicant, who
 16 is hereby authorized to have them recorded in the proper county, and
 17 when so recorded they shall be notice to all persons the same as deeds
 18 now are, and shall be evidence of title in such grantee, or his or its
 19 assigns, to the lands therein described, under the grant of congress
 20 by which the lands were certified to the state, so far as the certified
 21 lists made by the commissioner aforesaid conferred title to the state;
 22 but where lands embraced in such lists are not of the character
 23 embraced by such acts of congress or the acts of the general assembly
 24 of the state, and are not intended to be granted thereby, the lists, so
 25 far as these lands are concerned, shall be void; but lands in litigation
 26 shall not be included in such lists until the actions are determined and
 27 such lands adjudged to be the property of the company; nor shall the
 28 secretary include, in any of the lists so certified to the state, lands
 29 which have been adjudicated by the proper courts to belong to any
 30 other grant, or adjudicated to belong to any county or individual under
 31 the swamp-land grant, or any homestead or preemption settlement;
 32 nor shall said certificate so issued confer any right or title as against
 33 any person or company having any vested right, either legal or equit-
 34 able, to any of the lands so certified.

[C., '73, § 93; C., '97, § 82.]

SEC. 115. University lands.

1 The secretary of state is hereby authorized to issue patents for
 2 lands, the legal title to which is vested in the state university, in cases
 3 wherein it is shown to the satisfaction of the governor and attorney
 4 general that such lands have been in fact sold by the authority of the
 5 state and paid for, and that the certificates of purchase have been lost
 6 or destroyed.

[C., '97, § 83.]

SEC. 116. Effect of patents.

1 The patents thus issued shall inure to the benefit of the original
 2 purchaser and his grantees only, and a clause to this effect shall be
 3 inserted in the patent.

[C., '97, § 84.]

SEC. 117. Clerk for land department.

1 He shall be allowed one clerk to perform the work pertaining to
 2 the land department and such other duties as he may direct, whose
 3 salary shall be fifteen hundred dollars per annum.

[C., '97, § 88; S., '13, § 88.]

CHAPTER 4.

THE AUDITOR OF STATE.

SECTION 118. Office—duties.

- 1 The auditor shall keep his office at the seat of government. He
 2 is the general accountant of the state, and it is his duty:
- 3 1. *To keep accounts with others.* To keep and state all accounts
 4 between the state and the United States, or any other state, or any
 5 public officer of the state, or person indebted to the state or intrusted
 6 with the collection, disbursement or management of funds belonging
 7 to the same, when they are payable to or from the state treasury.
- 8 2. *To make settlements with officers.* To settle the accounts of
 9 all county treasurers and receivers of state revenues payable into the
 10 state treasury, for each of their official terms, separately.
- 11 3. *To keep accounts of revenues.* To keep fair, clear and sep-
 12 arate accounts of all the revenue, funds and incomes of the state
 13 payable into the state treasury, and of all disbursements and invest-
 14 ments thereof, showing the particulars of the same.
- 15 4. *To settle with debtors.* To settle the accounts of all public
 16 debtors for debts due the state treasury, and to require such persons,
 17 or their legal representatives, who have not accounted, to settle their
 18 accounts.
- 19 5. *To settle with creditors.* To settle all claims against the treas-
 20 ury, and, when a claim is recognized by law for which no appropri-
 21 ation has been made, to give the claimant a certificate thereof, and
 22 report the same to the general assembly.
- 23 6. *To superintend and enforce collections.* To direct and super-
 24 intend the payment of all money payable into the state treasury, and
 25 cause to be instituted and prosecuted the proper actions for the re-
 26 covery of debts and other moneys so payable.
- 27 7. *To superintend fiscal affairs—furnish forms to officers.* To
 28 superintend the fiscal affairs of the state, and secure their manage-
 29 ment as required by law; to furnish proper instructions, directions
 30 and forms to the county auditors and treasurers, in compliance with
 31 which they shall severally keep their accounts relating to the revenue
 32 of the state, and perform the duties of their several offices; also forms
 33 for the reports required to be made by said officers to such auditor,
 34 and of receipts to be given by such treasurers to the taxpayers, and
 35 such officers shall conform in all respects to the forms and directions
 36 thus prescribed.
- 37 8. *To draw warrants—form of—report to treasurer.* To draw
 38 warrants on the treasurer for money directed by law to be paid out
 39 of the treasury, as the same may become payable. Each warrant shall
 40 bear on the face thereof its proper number, date, amount, name of
 41 payee, and a reference to the law under which it is drawn, and a
 42 statement indicating the purpose for which warrant is issued, whether
 43 for salaries or wages, services or supplies, and what kind of supplies,
 44 and for what office or department, or for any other general or special
 45 purpose whatsoever, which particulars shall be entered in a book kept
 46 for that purpose, in the order of issuance; and, as soon as practicable
 47 after issuing such warrant, he shall certify the above particulars to
 48 the treasurer.
- 49 9. *To have custody of securities.* To have the custody of all
 50 books, papers, records, documents, vouchers, conveyances, leases,
 51 mortgages, bonds and other securities appertaining to the fiscal affairs

52 and property of the state, which are not required to be kept in some
53 other office.

54 10. *To furnish information.* To furnish the governor, on his
55 requisition, information in writing upon any subject connected with
56 his office, and to suggest to the general assembly plans for the im-
57 provement and management of the public revenue and property.

58 11. *To report fiscal condition of state.* To report to the governor
59 before each regular session of the general assembly a complete state-
60 ment of the revenue, funds, income, taxable property and other
61 resources and property of the state, and of the public revenues and
62 expenditures since his last report, with a detailed statement of the
63 expenditures to be defrayed from the treasury for the term following
64 that covered by his report, specifying each object of expenditure, and
65 distinguishing between such as are provided for by appropriations
66 and such as are not, and showing the probable deficiency of any
67 former appropriations.

68 12. *To apportion school fund interest.* He shall, on the first
69 Monday of March and September of each year, apportion the interest
70 of the permanent school fund among the several counties in propor-
71 tion to the number of persons between five and twenty-one years of
72 age in each, as shown by the last report filed with him by the super-
73 intendent of public instruction.

[C., '51, § 50; R., '60, §§ 71, 1967; C., '73, § 66; C., '97, § 89;
S., '13, § 89.]

SEC. 119. To divide warrants on request.

1 When the amount due from the state to any person exceeds
2 twenty dollars, the auditor shall, if requested, divide the amount into
3 parcels of not less than ten dollars, and issue warrants therefor.

[C., '51, § 51; R., '60, § 72; C., '73, § 67; C., '97, § 90.]

SEC. 120. May require statements.

1 The auditor may at any time require any person receiving money,
2 securities or property belonging to the state, or having the manage-
3 ment, disbursement or other disposition of the same, an account of
4 which is kept in his office, to render statements thereof and informa-
5 tion in reference thereto. Any such person refusing or neglecting
6 to render such statement or information shall forfeit twenty-five
7 dollars, to be recovered by civil action in the name of the state.

[C., '51, § 52; R., '60, § 73; C., '73, § 68; C., '97, § 91.]

SEC. 121. Officers failing to account.

1 If any officer who is accountable to the treasury for any money
2 or property neglects to render an account to the auditor within the
3 time prescribed by law, or, if no time is so prescribed, then, within
4 twenty days after being required so to do by the auditor, the auditor
5 shall state an account against him from the books of the auditor's
6 office, charging ten per cent damages on the whole sum appearing due,
7 and interest at the rate of six per cent per annum on the aggregate
8 from the time when the account should have been rendered; all of
9 which may be recovered by an action brought on such account, or on
10 the official bond of such officer.

[C., '51, § 54; R., '60, § 75; C., '73, § 70; C., '97, § 93.]

SEC. 122. Officers failing to pay.

1 If any such officer fails to pay into the treasury the amount
 2 received by him within the time prescribed by law, or, having settled
 3 with the auditor, fails to pay the amount found due, the auditor shall
 4 charge such officer with twenty per cent damages on the amount due,
 5 with interest on the aggregate from the time the same became due at
 6 the rate of six per cent per annum, and the whole may be recovered
 7 by an action brought on such account, or on the official bond of such
 8 officer, and he shall forfeit his commission.

[C., '51, § 55; R., '60, § 76; C., '73, § 71; C., '97, § 94.]

SEC. 123. Officers may defend—costs.

1 The penal provisions in the two preceding sections are subject
 2 to any legal defense which the officer may have against the account
 3 as stated by the auditor, but judgment for costs shall be rendered
 4 against the officer in the action, whatever be its result, unless he
 5 rendered an account within the time named in the two preceding
 6 sections.

[C., '51, § 56; R., '60, § 77; C., '73, § 72; C., '97, § 95.]

SEC. 124. County treasurers seeking credit.

1 When a county treasurer or other receiver of public money seeks
 2 to obtain credit on the books of the auditor's office for payment made
 3 to the treasurer, before giving such credit, the auditor shall require
 4 him to take and subscribe an oath that he has not used, loaned or
 5 appropriated any of the public money for his private benefit, nor the
 6 benefit of any other person.

[C., '51, § 57; R., '60, § 78; C., '73, § 73; C., '97, § 96.]

SEC. 125. Requisitions for accounts.

1 In those cases where the auditor is authorized to call upon persons
 2 or officers for information, or statements, or accounts, he may issue
 3 his requisition therefor in writing to the person or officer called upon,
 4 allowing reasonable time, which, having been served and return made
 5 thereon to the auditor as a notice in a civil action, shall be evidence
 6 of the making of the requisition therein expressed.

[C., '51, § 58; R., '60, § 79; C., '73, § 74; C., '97, § 97.]

SEC. 126. Fees.

1 He shall collect such fees as are provided for in the chapter on
 2 building and loan associations.

[C., '97, § 100.]

**SEC. 127. Uniform system of accounts—auditor to prescribe—
advisory committee.**

1 That uniformity in the methods of accounting for and reporting
 2 the financial transactions of municipalities may be secured, the audi-
 3 tor of state is authorized and he is hereby directed to formulate and
 4 prescribe a system of municipal accounts and method of presenting
 5 departmental and general reports, which shall be adopted and com-
 6 plied with in the administration of all cities or towns. To insure
 7 careful consideration of the merits and defects of existing methods
 8 in local accounting, the auditor of state shall appoint an advisory

9 committee of not less than five nor more than seven persons familiar
 10 with municipal accounts, a majority of whom shall be city accounting
 11 officers; said committee shall serve without compensation except that
 12 their necessary traveling and hotel expenses for a period not to exceed
 13 thirty days shall be allowed them, and for such expense the auditor
 14 of state is authorized to issue warrants upon the treasurer of state.
 15 In the system to be devised as herein contemplated, the officer and
 16 persons charged therewith shall adopt so far as practicable the latest
 17 and most approved methods in municipal accounting, especially the
 18 classifications and definitions of municipal finance in use in the
 19 national census office.

[S., '13, § 1056-a10.]

**SEC. 128. Auditor of state to prescribe system of accounts—
 advisory committee.**

1 The auditor of state is hereby authorized and directed to formu-
 2 late and prescribe a system of books, blanks, records, vouchers,
 3 receipts, etc., for use of county auditors, county treasurers and clerks
 4 of the district court, which system shall be adopted and used by all
 5 county auditors, county treasurers and clerks of the district court of
 6 the state. To assist in the preparation of the forms above contem-
 7 plated, the auditor of state is hereby authorized to appoint a committee
 8 of not less than five nor more than seven persons, each of whom shall
 9 have had at least one term's experience either as county auditor, county
 10 treasurer or clerk of the district court, or who shall be an expert
 11 accountant. The committee thus appointed shall serve without com-
 12 pensation except that the necessary traveling, hotel and other expenses
 13 of the members for a period of not more than thirty days shall be
 14 paid by the state, and the auditor of state is hereby authorized to
 15 draw warrants upon the treasurer of state for the payment of such
 16 expenses upon receipt of vouchers therefor properly filed with and
 17 approved by the executive council.

[S., '13, § 550-a.]

SEC. 129. Forms furnished—expenses—how paid.

1 The auditor of state shall, as soon as practicable after the same
 2 have been prepared, furnish each county auditor, county treasurer
 3 and clerk of the district court with a complete set of all forms pre-
 4 scribed under the provisions of the preceding section pertaining to
 5 the affairs of his office, and the expense thereof shall be paid in the
 6 same manner as other like expenses of the office of the auditor of
 7 state.

[S., '13, § 550-b.]

SEC. 130. Uniform system of accounting.

1 The auditor of state shall formulate, prescribe, approve, and
 2 install a system of books, blanks, records, vouchers, receipts, and all
 3 other forms necessary to secure a complete system of accounting for
 4 county officers, which system shall be uniform for all accounts of the
 5 same class, and they shall, from time to time, formulate, prescribe,
 6 and install such changes in the system of bookkeeping and accounting
 7 as shall be necessary in order to conform to changes in the law; and
 8 it is hereby made the express duty of the examiners to assist the

9 respective officers in installing such systems in each of the counties
10 throughout the state.

[S., '13, § 100-b.]

SEC. 131. Adoption—refusal—penalty—mandamus.

1 In order to secure uniformity, all county officers are hereby
2 directed to adopt the system formulated for said county office by the
3 state auditor, and in case of refusal or neglect to comply with this
4 provision of the law within thirty days after request from the auditor
5 of state, the official so delinquent shall forfeit to the state the sum of
6 one hundred dollars, to be recovered by the state of Iowa in an action
7 brought against the delinquent official and his bondsmen by the county
8 attorney of said county; and one-half of said penalty when recovered
9 shall be paid into the treasury of the county, and the other half into
10 the treasury of the state of Iowa. An action in mandamus may be
11 brought by the county attorney, or by any citizen of the county, to
12 secure a compliance with the provisions of sections one hundred
13 thirty, one hundred thirty-one, one hundred thirty-two, one hundred
14 thirty-three and one hundred thirty-four.

[S., '13, § 100-c.]

SEC. 132. State examiners for counties — qualifications — compensation.

1 The auditor of state shall appoint not less than four nor more
2 than eight state examiners for counties, hereinafter referred to as
3 "examiners," who shall be suitable persons of recognized skill, famil-
4 iar with the system of accounting used in county offices, and versed
5 in the laws relating to county affairs, who shall, at all times, be sub-
6 ject to the control and under the direction and supervision of the
7 auditor of state. They shall hold office for a term of four years, and
8 be subject to removal for cause by the auditor of state. They shall
9 receive as compensation the sum of six dollars per day when actually
10 employed, and shall be paid, in addition, their actual and necessary
11 expenses incurred in the performance of the duties of their office.
12 The auditor of state shall appoint such additional clerks and assist-
13 ants as are needed, and shall fix a reasonable compensation therefor,
14 and he may contract such other expenses as shall be necessary in the
15 performance of the duties provided herein, but the total amount to
16 be expended for all purposes incurred hereunder shall not exceed
17 twenty thousand dollars annually. Such compensation and other
18 expenses as indicated herein shall be paid by warrants drawn by the
19 auditor of state upon the state treasurer, and there is hereby appro-
20 priated out of any money in the state treasury, and not otherwise
21 appropriated, the sum of five thousand dollars, or so much thereof as
22 may be necessary. Before the compensation or expenses of any exam-
23 iner, clerk or assistant, shall be paid, a detailed and itemized state-
24 ment shall be prepared by said examiner, and duly verified, which
25 verification shall aver that the account is just, reasonable, and wholly
26 unpaid. Said claims shall be approved by the auditor of state and
27 afterwards presented and allowed by the state board of audit. As
28 soon as an examination for any county has been completed, and the
29 expenses thereof paid by the state, the auditor of state shall forth-
30 with file with the auditor of the county so examined a claim for the
31 full amount so paid by the state; which claim, when so filed, shall
32 become a legal and valid claim against the county, payable from its

33 general funds, as all other claims are paid. Before entering upon the
 34 discharge of the duties of his office, each examiner shall give a bond
 35 in the penal sum of two thousand dollars conditioned as provided in
 36 section six hundred twelve, the same to be approved and filed as are
 37 the bonds of other state officers.

[S., '13, § 100-a.]

SEC. 133. Examination of offices and accounts—powers of examiners—reports—removal.

1 It shall be the duty of the auditor of state to examine or cause
 2 to be examined, at least once each year, and oftener if in his judgment
 3 conditions require, all county officers and offices receiving or disbursing
 4 public funds, and he is hereby given full power to examine personally,
 5 or through his examiners, all accounts and all official affairs of every
 6 county office and officer receiving or disbursing public funds.
 7 On every such examination, inquiry shall be made as to the financial
 8 condition and resources of each county; whether the first cost prices
 9 paid for improvements, materials, supplies, merchandise, etc., are in
 10 excess of the first cost prices paid for the same character of improve-
 11 ments, materials, supplies and merchandise by other counties of the
 12 state; whether the laws of the state and the requirements of the
 13 auditor of state have been complied with; also into the methods and
 14 accuracy of the accounts and reports of the office so examined. Such
 15 examination shall be made without notice. The auditor of state, or
 16 any examiner, when engaged in making any examination provided
 17 for in sections one hundred thirty, one hundred thirty-one, one hun-
 18 dred thirty-two, one hundred thirty-three, and one hundred thirty-
 19 four, or when engaged in any official duty devolving upon him as such,
 20 shall have, for the purpose of making an examination or inventory,
 21 the right to enter into any county office and examine any books,
 22 papers, or documents contained therein, or belonging thereto, and
 23 shall have access, in the presence of the custodian thereof or his
 24 deputy, to the cash drawers and cash in the custody of such officer,
 25 and they shall also have the right, during business hours, to examine
 26 the public accounts of the municipality under examination, in any
 27 depository which has such public funds in its custody pursuant to the
 28 laws of this state. The state auditor, or any of his examiners, when
 29 engaged in making any examination of any office, officer, board, or
 30 institution, or any other examination authorized by sections one hun-
 31 dred thirty, one hundred thirty-one, one hundred thirty-two, one
 32 hundred thirty-three, and one hundred thirty-four is hereby empow-
 33 ered to issue subpoenas for witnesses to appear before him in person,
 34 or to produce books and papers before him for inspection and exam-
 35 ination. Such subpoena shall be served by any person authorized to
 36 serve civil process from any court in this state. In case any witness
 37 duly subpoenaed refuses to attend, or refuses to produce documents,
 38 books and papers as required in subpoena, or shall attend and refuse
 39 to make oath or affirmation, or being sworn or affirmed and shall
 40 refuse to testify when called upon so to do, then the state auditor or
 41 the examiner may apply to the district court, or any judge of said
 42 district having jurisdiction thereof, for the enforcement of attend-
 43 ance and answers to questions as provided by law in the matter of
 44 taking depositions. They shall also have the authority to administer
 45 oaths and to examine such witnesses under oath orally, or by inter-
 46 rogatories propounded, touching the matters under investigation and

47 examination, and such oral examination may be taken in shorthand,
48 and transcribed, and the reasonable expense thereof shall be paid in
49 the same manner as the expenses of the examiner are paid. Wilful
50 false swearing in such examination shall be perjury, and shall be
51 punishable as such. A report of such examination shall be made in
52 triplicate, signed, and verified under oath by the officer making the
53 examination, one copy to be filed with the auditor of state, one copy
54 with the officer under investigation, and one copy with the auditor of
55 the county whose officer is under investigation. In the event that
56 such examination discloses any of the grounds of removal mentioned
57 in section six hundred forty-nine, a fourth copy shall be provided and
58 filed by the auditor of state in the office of the attorney general of
59 the state, and the attorney general shall thereupon take such action
60 as, in his judgment, the facts and circumstances warrant. It shall
61 be unlawful for any examiner to make any disclosure of the result of
62 any investigation, except as he shall make the same to the auditor of
63 state, county auditor or to any court, and a violation of this provision
64 shall be ground for removal.

[S., '13, § 100-d.]

SEC. 134. Examination upon petition.

1 Any township, school or municipal corporation may secure an
2 examination of its financial transactions and the condition of its
3 funds, and a report thereon by the auditor of state or one of his exam-
4 iners, upon application to the auditor of state, provided said applica-
5 tion is accompanied by a petition signed by twenty-five or more tax-
6 payers of the township, school or municipal corporation desiring an
7 investigation and requesting such an examination and setting forth
8 facts which, in the opinion of the state auditor, shall justify such
9 action. As soon as examination for any such municipal corporation
10 has been completed, and the expenses thereof paid by the state, the
11 auditor of state shall forthwith file a claim against the municipal
12 corporation so examined; which claim, when so filed, shall become a
13 legal and valid claim against said municipal corporation, payable
14 from its general funds as all other claims are paid.

[S., '13, § 100-e.]

SEC. 135. Examiners of municipal accounts—compensation.

1 The auditor of state shall appoint one or more examiners of
2 municipal accounts whose duty it shall be at least once in two years
3 to examine into, audit and report upon the financial condition and
4 transactions of all cities having a population of three thousand or
5 more. Said examiners shall have power to compel the attendance of
6 witnesses and to administer oaths and shall have access to all books,
7 papers or records essential in a thoroughgoing examination. The
8 examiner in charge of an investigation shall, on the conclusion thereof,
9 file a written report of his findings with the mayor and council and
10 with the auditor of state, including his criticisms of any faults found
11 and his recommendations respecting improvements desirable. Any
12 and all reports thus made and filed shall be open to public inspection.
13 The compensation of said examiners shall be six dollars for each day
14 actually employed, together with their necessary traveling expenses;
15 the sum so due in any case shall be paid by the auditor of state upon
16 the presentation of proper bills therefor, by warrants on the treas-

17 urer of state; thereupon the auditor of state shall file a claim for the
18 full amount so allowed with the auditor or clerk of the city or town
19 examined, and the council thereof shall provide for its payment.

[S., '13, § 1056-a11; 38 G. A., ch. 301, § 1.]

SEC. 136. Application for examination.

1 Any city or town with a population of less than three thousand
2 may secure an examination of its financial transactions and the con-
3 dition of its funds and a report thereon by a state examiner upon
4 application by either the mayor or the council to the auditor of state.
5 Further, upon petition of fifty or more taxpayers of any city or town
6 setting forth facts that in the opinion of the state auditor justify
7 action, the auditor of state shall send an examiner to inspect and
8 report upon the financial administration and condition of the munici-
9 pality in question.

[S., '13, § 1056-a12; 38 G. A., ch. 301, § 2.]

SEC. 137. Salary of auditor.

1 The salary of the auditor of state shall be thirty-six hundred
2 dollars per annum.

[C., '51, § 49; R., '60, § 70; C., '73, § 3757; C., '97, § 98; S.,
'13, § 98.]

CHAPTER 5.

TREASURER OF STATE.

SECTION 138. Office—accounts.

1 The treasurer shall keep his office at the seat of government, and
2 shall keep an accurate account of the receipts and disbursements at
3 the treasury in books kept for that purpose, in which he shall specify
4 the names of the persons from whom money is received, and on what
5 account, and the time thereof.

[C., '51, § 62; R., '60, § 83; C., '73, § 75; C., '97, § 101.]

SEC. 139. Record and payment of warrants.

1 He shall enter in a book the memorandum of warrants issued as
2 certified to him by the auditor, and receive in payment of public dues
3 the warrants so issued in conformity with law, and redeem the same,
4 if there be money in the treasury not otherwise appropriated, and on
5 receiving any such warrant shall cause the person presenting it to
6 indorse it, and shall write on the face thereof "redeemed," and enter
7 in the book containing the auditor's memoranda, in appropriate col-
8 umns, the name of the person to whom paid, date of payment, and
9 amount of interest paid.

[C., '51, § 63; R., '60, § 84; C., '73, § 76; C., '97, § 102.]

SEC. 140. To give receipts.

1 When money is paid him, the treasurer shall execute receipts in
2 duplicate therefor, stating the fund to which it belongs, one of which

3 must be delivered to the auditor in order to obtain the proper credit,
4 and the treasurer must be charged therewith.

[C., '51, § 64; R., '60, § 85; C., '73, § 77; C., '97, § 103.]

SEC. 141. Payment of warrants—interest on, when no funds.

1 He shall pay no money from the treasury but upon the warrants
2 of the auditor, and only in the order of their presentation; or, if there
3 is no money in the treasury from which such warrants can be paid,
4 he shall, upon request of the holder, indorse upon the warrant the
5 date of its presentation, and sign it, from which time the warrant
6 shall bear interest at the rate of five per cent per annum until the
7 time directed in the next section.

[C., '51, § 65; R., '60, § 86; C., '73, § 78; C., '97, § 104; S.,
'13, § 104.]

SEC. 142. Record of unpaid warrants—notice to stop interest.

1 He shall keep a record of the number and amount of the warrants
2 so presented and indorsed for nonpayment, and, when there are funds
3 in the treasury for their payment to an amount sufficient to render
4 it advisable, he shall give notice to what number of warrants the
5 funds will extend, or the number which he will pay, by three inser-
6 tions in a newspaper printed at the seat of government. At the expi-
7 ration of thirty days from the day of the last publication, interest on
8 the warrants so named as being payable shall cease.

[C., '51, § 66; R., '60, § 87; C., '73, § 79; C., '97, § 105.]

SEC. 143. Must report to and account with auditor.

1 Once in each week he shall certify to the auditor the number, date,
2 amount and payee of each warrant taken up by him, with the date
3 when taken up, and the amount of interest allowed; and on the first
4 Monday of January, and the first day of April, July and October,
5 annually, he is directed to account with the auditor and deposit in
6 his office all such warrants received at the treasury, and take the
7 auditor's receipt therefor.

[C., '51, § 67; R., '60, § 88; C., '73, § 80; C., '97, § 106; S.,
'13, § 106.]

SEC. 144. Must report to governor.

1 As soon as practicable after the first Monday of November pre-
2 ceding the regular session of the general assembly, he shall report to
3 the governor the state of the treasury up to the first day of July pre-
4 ceding, exhibiting the amount received and paid out by the treasurer
5 since his last report, and the balance remaining in the treasury.

[C., '51, § 68; R., '60, § 89; C., '73, § 81; C., '97, § 107.]

SEC. 145. Interest on bonds—how payable.

1 When interest on any bonds of the state becomes due, the treas-
2 urer shall provide funds for the payment thereof on the day and at
3 the place where payable; and persons holding such bonds are required
4 to present the same at such place within ten days from such day, at
5 the expiration of which time the funds remaining unexpended and
6 vouchers for interest paid shall be returned to the treasury.

[C., '73, § 82; C., '97, § 108.]

SEC. 146. Moneys appropriated—how drawn—limitations.

1 All moneys now or hereafter appropriated by general or special
2 act shall be drawn in accordance with the provisions of such act, and
3 in no case shall such money or any part thereof be drawn until the
4 same is needed for use within thirty days from the date of the requisition,
5 for the purpose for which the appropriation was made. If a
6 larger sum is thus drawn than is needed for use within such thirty
7 days, the amount not needed shall be forthwith returned to the state
8 treasury.

[C., '97, § 109.]

SEC. 147. Duties of officers drawing appropriations.

1 The treasurer, or other officer of any state institution authorized
2 to draw any appropriation made by the general assembly, shall forward
3 with the requisition for the same a certified statement of the
4 amount of funds then in his hands, and the sum or sums required for
5 expenditure as provided by the act making such appropriation, within
6 thirty days from the time of making such requisition, and such treasurer
7 or other officer shall, in the printed report made by the board or
8 other body in charge of such institution to the general assembly, governor
9 or other officer to whom a report is required to be made, make
10 a verified statement, showing the dates and sums drawn by such
11 requisitions, and the total amount of such money actually paid out
12 by him for each month of the biennial period.

[C., '97, § 110.]

SEC. 148. Banks as depositories.

1 The treasurer of state, with the advice and approval of the executive
2 council, may designate one or more banks in the city of Des
3 Moines as a depository for the collection of any drafts, checks and
4 certificates of deposit that may be received by him on account of any
5 claim due the state.

[C., '97, § 111.]

SEC. 149. Security required.

1 The bank or banks designated as such depository shall be required
2 to give security to the state, to be approved by the executive
3 council, for the prompt collection of all drafts, checks, certificates of
4 deposit or coupons that may be delivered to such depository by the
5 treasurer of state for collection; and also for the safe keeping and
6 prompt payment, on the treasurer's order, of the proceeds of all such
7 collections; also, for the payment of all drafts that may be issued to
8 said treasurer by such depository.

[C., '97, § 112.]

SEC. 150. Collections through depositories—interest on deposits.

1 The treasurer of state, on the receipt of any draft, check or certificate
2 of deposit on account of state dues, may place the same in
3 such depository for collection, and it shall be the duty of such depository
4 to collect the same without delay, and charge no greater per cent
5 for such collection than the minimum per cent charged to other
6 parties, and notify the treasurer when collected. On the receipt of
7 such notice, the treasurer shall issue his receipt to the party entitled

8 thereto, as now required by law. On the moneys remaining on
 9 deposit, such depository shall pay to the treasurer of state, for the
 10 use of the state, interest at such rate, and at such times, as shall be
 11 agreed upon between said treasurer and the depository aforesaid,
 12 with the approval of the executive council.

[C., '97, § 113; S., '13, § 113.]

SEC. 151. Treasurer not released.

1 The provisions of the three preceding sections in no way release
 2 the treasurer of state or his bondsmen, or any county treasurer or
 3 his bondsmen, from any liabilities now imposed by law.

[C., '97, § 114.]

SEC. 152. Salary of treasurer.

1 The salary of the treasurer of state shall be thirty-six hundred
 2 dollars per annum.

[C., '51, § 61; R., '60, § 82; C., '73, § 3758; C., '97, § 115;
 S., '13, § 115.]

SEC. 153. Defense—appeal.

1 Whenever any taxes or fees have been collected by the treasurer
 2 of state of this state, acting under the authority of the code, or any
 3 act of the general assembly, and covered into the state treasury, and
 4 any suit or action is brought against said treasurer, either as such,
 5 or as an individual, to recover back such taxes or fees so collected
 6 and covered into the treasury of the state, whether the term of office
 7 of such treasurer has expired or not, it shall be the duty of the attor-
 8 ney general, upon the request of the defendant, to appear and make
 9 defense to such action. If upon final hearing of such suit or action it
 10 shall be determined that such taxes or fees were wrongfully collected
 11 and covered into the state treasury, it shall be the duty of the attor-
 12 ney general to appeal said suit or action to the supreme court, unless
 13 in his opinion such appeal would be useless, in which case he shall
 14 render his opinion, with a copy of the proceedings had in court, to the
 15 executive council, who may either order the appeal to be taken and
 16 that the attorney general shall proceed therewith, or accept the deci-
 17 sion, and their order shall be final. If appeal be taken by the
 18 defendant it shall supersede execution, without bond.

[S., '13, § 116-g.]

SEC. 154. Satisfaction of judgment.

1 In case the executive council shall decide that no appeal shall be
 2 taken, or in case an appeal shall be taken and result in an affirmance,
 3 then the attorney general shall prepare and present before the execu-
 4 tive council a transcript of the judgment with costs, under the seal of
 5 the court in which the same is rendered, and the said council shall
 6 cause the same to be entered of record, and shall by order duly entered
 7 of record direct the auditor of state to draw his warrant on the treas-
 8 urer of state for a sum sufficient to satisfy the said judgment, which
 9 said warrant shall by the treasurer of state be paid to the attorney
 10 general, who shall therewith satisfy said judgment, taking duplicate
 11 receipts from the clerk of the court in which the final judgment is

12 had, and he shall file one of said receipts with the executive council
13 and one with the treasurer of state.

[S., '13, § 116-h.]

SEC. 155. Plaintiff—rights not extended.

1 Nothing herein contained shall be construed to give the plaintiff
2 in such action any other or greater rights than he might have if the
3 two preceding sections were not in existence.

[S., '13, § 116-i.]

SEC. 156. Retroactive—expiration of office.

1 The three preceding sections are hereby made to apply to suits
2 brought or that may be brought, as defined in section one hundred
3 fifty-three, against any treasurer of state whose term of office has
4 expired prior to the enactment hereof.

[S., '13, § 116-j.]

SEC. 157. Appropriation.

1 There is hereby appropriated out of any funds not otherwise
2 appropriated sufficient to pay all such judgments as may come within
3 the provisions of the four preceding sections.

[S., '13, § 116-k.]

SEC. 158. Treasurer of state to notify county auditor and county treasurer of receipt.

1 Whenever the treasurer of state receives money known as
2 swamp-land indemnity, which is paid to the state of Iowa by the
3 United States government under the provisions of acts of congress
4 approved March second, eighteen hundred forty-nine, March second,
5 eighteen hundred fifty-five, and March third, eighteen hundred fifty-
6 seven, or other acts of congress relating thereto, the same being pur-
7 chase money for swamp lands situated in the state of Iowa which
8 were duly claimed by the state but subsequently disposed of by the
9 United States, the treasurer of state shall duly notify in writing the
10 auditor and treasurer of the county wherein such swamp land was
11 situated and in whose favor the commissioner of the general land
12 office of the United States awarded such swamp-land indemnity, of
13 the receipt of the same.

[S., '13, § 116-d.]

SEC. 159. Duties of county authorities.

1 Upon receipt of such information, the county auditor as clerk
2 of the board of supervisors shall communicate such information to
3 the supervisors of his county at their first regular meeting there-
4 after; and the board of supervisors shall thereupon authorize by reso-
5 lution the county treasurer to present an order to the treasurer of
6 state for the aforesaid money belonging to their county. Upon the
7 presentation of such order, accompanied by a copy of the resolution
8 of the board duly certified to by the clerk of the board under the seal
9 of said county, together with receipts therefor in duplicate, the treas-
10 urer of state shall issue his check payable to said county treasurer
11 for the amount of the swamp-land indemnity fund awarded to said
12 county by the land commissioner of the government of the United
13 States, the proceeds thereof to be applied by the authorities of the

14 county receiving the same as directed by the provisions of chapter one
 15 hundred sixty, acts of the ninth general assembly, and chapter seventy-
 16 nine of the acts of the eleventh general assembly, or other acts relat-
 17 ing thereto.

[S., '13, § 116-e.]

SEC. 160. Treasurer to pay direct to county authorities.

1 The provisions of section nine, chapter one hundred sixty of the
 2 acts of the ninth general assembly, providing for the appointment of
 3 an agent by the county receiving swamp-land indemnity money, who
 4 shall go to Des Moines and obtain the same, are hereby repealed, and
 5 the treasurer of state is hereby directed to disburse swamp-land
 6 indemnity money received from the national government under the
 7 provisions of the acts of congress aforesaid, direct to the county au-
 8 thorities, as hereinbefore prescribed.

[S., '13, § 116-f.]

CHAPTER 6.

ATTORNEY GENERAL.

SECTION 161. Department of justice—attorney general at head of.

1 There shall be at the seat of government a department to be
 2 known as the department of justice, and the attorney general shall be
 3 the head thereof.

[R., '60, § 124; C., '73, § 150; C., '97, § 208; S., '13, § 208.]

SEC. 162. Duties of attorney general.

1 It shall be the duty of the attorney general:

2 1. To appear for the state, prosecute and defend all causes in the
 3 supreme court in which the state is a party or interested.

4 2. When requested to do so by the governor, executive council,
 5 or general assembly, or when in his judgment the interests of the
 6 state require it, he shall appear for the state before any other court
 7 or tribunal, prosecute or defend all actions and proceedings, civil or
 8 criminal, in which the state may be a party or interested.

9 3. When requested, he shall give his opinion in writing upon all
 10 questions of law submitted to him by the general assembly or either
 11 house thereof, the governor, lieutenant governor, speaker of the
 12 house, auditor, secretary of state, treasurer, superintendent of public
 13 instruction, executive council, board of control, chairman railroad
 14 commissioners, dairy and food commissioner, commissioner bureau
 15 labor statistics, adjutant general, president and secretary department
 16 of agriculture, president commission of pharmacy, state librarian,
 17 state mine inspector, secretary state board of health, state veterinary
 18 surgeon, president state board of dental examiners, state fish and
 19 game warden, and to the heads of any other state departments now
 20 existing, or hereafter created.

21 4. He shall, when required, prepare drafts for contracts, forms
 22 and other writings which may be required for the use of the state;
 23 and shall report to the governor, preceding each general assembly,

24 the condition of his office, opinions rendered, and business transacted
25 of public interest.

26 5. To exercise supervisory powers over county attorneys in all
27 matters pertaining to the duties of their offices, and from time to
28 time require of them reports as to the condition of public business
29 intrusted to their charge.

30 6. To prosecute and defend all actions and proceedings brought
31 by or against any state officer in his official capacity.

32 7. To promptly account for all moneys received by him belong-
33 ing to the people of the state, or received in his official capacity, and
34 pay the same into the state treasury.

35 8. To keep in proper books a record of all official opinions, and a
36 register of all actions prosecuted and defended by him, and of all pro-
37 ceedings had in relation thereto, which books shall be delivered to
38 his successor.

39 9. To perform all such other and further duties as are now or
40 may hereafter be enjoined upon him by law.

[R., '60, §§ 124-127, 130, 131; C., '73, §§ 150-153; C., '97,
§§ 208-210; S., '13, § 208-a.]

SEC. 163. No compensation for other counsel unless specially authorized.

1 No compensation shall hereafter be allowed to any person for
2 services as an attorney or counselor to any department of the state
3 government, or the heads thereof, or to any state boards or commis-
4 sions, except in cases specially authorized by law, and then only on
5 the certificate of the attorney general that such services were actu-
6 ally rendered, and that the same could not be performed by the offi-
7 cers of the department of justice; provided, however, that in any case
8 where the attorney general is an interested party, the executive coun-
9 cil may employ special counsel and audit and pay a reasonable com-
10 pensation for legal services rendered by him.

[S., '13, § 208-b.]

SEC. 164. Compensation.

1 The attorney general shall be provided with an office in the capi-
2 tol building. His salary shall be five thousand dollars per annum, as
3 full compensation; and whenever he is required by the duties of his
4 office, or by direction of the governor or general assembly, to attend
5 any of the courts of this state, or any of the federal courts, or trans-
6 act other business for the state, he shall receive his actual expenses
7 when so engaged elsewhere than at the seat of government.

[C., '73, § 3770; C., '97, § 211; S., '13, § 211.]

SEC. 165. Assistants attorney general.

1 He may appoint four assistants, who shall be required to devote
2 their entire time to the duties of the office, and who shall have the
3 same power and authority as the attorney general. Such assistants
4 shall receive an annual salary to be fixed by law.

[C., '97, § 212; S., '13, § 212; 37 G. A., ch. 350, § 1.]

CHAPTER 7.

REPORTER OF THE SUPREME COURT.

SECTION 166. Office—supplies—use of law library.

1 The reporter of the supreme court shall keep his office at the seat
 2 of government in rooms to be provided by the state, and shall devote
 3 his entire time to the discharge of the duties hereinafter prescribed.
 4 He shall be provided by the executive council with suitable room or
 5 rooms convenient to the state law library, necessary office furniture,
 6 supplies, stationery, books, periodicals, and postage, and in the use
 7 of the state law library he shall be subject to the general control of the
 8 trustees and the librarian.

[C., '97, § 213; S. S., '15, § 224-a.]

SEC. 167. May take opinions.

1 When the opinions of the supreme court are filed, recorded by
 2 the clerk, and released, he may take and retain the same for a period
 3 not to exceed four months, to prepare a report therefrom, but within
 4 said time shall return the same to the clerk of said court in whose
 5 office they shall remain.

[R., '60, § 112; C., '73, § 154; C., '97, § 213; S. S., '15,
 § 224-b.]

**SEC. 168. Preparation of reports—index—proof sheets—correc-
 tions.**

1 Whenever such opinions are sufficient to make a volume he shall
 2 forthwith deliver at his office, to the person, persons or corporation
 3 having the contract with the state for publishing the same, copies of
 4 such opinions, and with each opinion, a syllabus, and a brief state-
 5 ment of the facts involved. Within twenty days after the proof
 6 sheets for a volume have been furnished to him by the publishers at
 7 his office, he shall furnish to such publishers an index and table of
 8 cases to such volume. The publishers shall furnish to the reporter
 9 without delay, as soon as they shall be issued, ten copies of the revised
 10 proof sheets of the opinions, head notes, index and table of cases of
 11 each volume for correction and approval by the reporter and judges
 12 of the supreme court, and shall cause such corrections to be made
 13 therein as shall be indicated by the reporter or said judges. The
 14 reporter shall have no pecuniary interest in said reports.

[R., '60, §§ 113, 115; C., '73, §§ 155, 156; C., '97, § 216;
 S. S., '15, § 224-c.]

SEC. 169. Publishing reports—contract—judges to control.

1 The supreme court reports shall be published under contract
 2 entered into in the name of the state of Iowa under such terms, stipu-
 3 lations and conditions as a majority of the judges of the supreme
 4 court, acting through the chief justice, shall prescribe, provided that
 5 every such contract shall provide that the three hundred fifty copies
 6 first issued shall be delivered by the publisher to the secretary of state
 7 free of all cost to the state. The present contract for the printing and
 8 publication of the reports of the supreme court is hereby transferred
 9 to the jurisdiction of said judges for the sole use and benefit of the
 10 state, which shall have the same power and rights in reference thereto

11 as now possessed by the executive council. Provided that a majority
 12 of the judges of the supreme court may, if they deem it advisable,
 13 make the state its own publisher of the reports, causing the same to
 14 be printed and bound in the same manner and for the same compensa-
 15 tion as is provided by law for other state printing and binding and, in
 16 event the state becomes its own publisher, such reports shall be sold
 17 and distributed through the office of the secretary of state.

[C., '97, §§ 218-224; S. S., '15, § 224-d.]

SEC. 170. Distribution of reports.

1 The copies received by the secretary of state shall be disposed
 2 of by him as follows: Two copies of each volume to the library of
 3 congress and the library of the supreme court of the United States;
 4 one copy to each judge of the supreme, district and superior courts,
 5 including United States district judges whose districts lie within
 6 this state, the clerk of the supreme court and attorney general; one
 7 hundred copies to the state library, one copy to each county in the
 8 state, two copies to each county where the district court is held in
 9 more than one place; one copy to the supreme court reporter; twenty
 10 copies to the law department of the state university; twenty copies
 11 to the state historical society for exchange in such manner as the
 12 proper officers thereof think advisable; two copies to the library of
 13 the Iowa state college of agriculture and mechanic arts. The remain-
 14 ing copies shall be used by the trustees of the state library in exchange
 15 for such books on law or equity or reports of other states as they may
 16 select. All books received by such exchange shall be deposited in and
 17 become a part of the state library. In the event the state becomes its
 18 own publisher of the reports, the distribution and exchange provided
 19 for in this section shall be held to apply.

[R., '60, § 119; C., '73, § 159; C., '97, § 215; S. S., '15, § 224-e;
 37 G. A., ch. 402, § 1.]

SEC. 171. New edition of reports.

1 The supreme court may order the publication of a new edition
 2 of any volume of its reports of which the copyright is owned by the
 3 reporter, when the public interest requires it, and may require com-
 4 pliance therewith within six months by an order entered of record;
 5 and if the reporter neglects or refuses to comply with said order, then
 6 such copyright shall be forfeited to the state.

[R., '60, § 120; C., '73, § 158; C., '97, § 214; S. S., '15, §
 224-f.]

SEC. 172. Copyrights secured—rights of contractor.

1 The copyrights of all the supreme court reports hereafter pub-
 2 lished shall be taken out by and vest in the secretary of state, for the
 3 benefit of the people of the state; but this shall not be construed to
 4 prevent the contractor by whom any volume is published, his repre-
 5 sentatives, or assigns, from continuing the exclusive publication and
 6 sale of such volume so long as he or they shall, in all respects, comply
 7 with the requirements of this chapter in respect to the character,
 8 sale and price of such volume.

[C., '97, § 217; S. S., '15, § 224-g.]

SEC. 173. Ex-officio editor code—duty to classify statutes—to furnish copies.

1 The reporter of the supreme court shall be ex-officio editor of
2 the code and his duties shall be:

3 To arrange and classify, numerically, each section of the general
4 statutory law of Iowa upon cards, and to keep said cards filed in their
5 proper order in fireproof cabinets. Said classification of sections shall
6 be instituted upon the same plan as the code supplement of 1913.

7 To place, beneath such sections of statutory law, annotations of
8 all decisions of the Iowa supreme court, the federal courts, citing the
9 title, volume and page of the said reports from which the annotation
10 is taken, and the volume and page of every series of reports, where
11 the case from which the annotation is taken is reported.

12 To place, beneath the material called for in the preceding subdivi-
13 sion of this section, such other annotations as may be required by the
14 supreme court.

15 When any section of Iowa law is repealed or amended, the law
16 reporter shall withdraw the card or cards containing said section
17 from the files, and replace the same by a card of a different color. If
18 the section is repealed, such fact shall be noted on the card placed in
19 the file, and the card withdrawn will be placed in its proper place in
20 the files of repealed and amended sections. In case the section is
21 amended, the editor shall place on the new card the section as amended
22 and file the old card as in the case of a repealed section.

23 The law reporter shall be required to furnish a copy of any sec-
24 tion of Iowa law, with all matter relating thereto, to any state or
25 county officer upon request, and to all other parties upon payment of
26 a fee of seventy-five cents.

[S. S., '15, § 224-h.]

SEC. 174. Duty of enrolling clerks.

1 The enrolling clerks of the house and senate shall, in the prepara-
2 tion of each enrolled bill or resolution, prepare a clear and distinct
3 carbon copy thereof, and immediately deliver the same to the reporter
4 of the supreme court.

[S. S., '15, § 224-i; 37 G. A., ch. 5, § 11; 37 G. A., ch. 20, § 1.]

SEC. 175. Salary—assistants—appropriation.

1 The law reporter shall receive a salary of thirty-five hundred dol-
2 lars per annum payable by the state. He may, by and with the con-
3 sent of the supreme court, employ assistants and clerical help at such
4 compensation as may be fixed by the supreme court, and there is
5 appropriated out of the treasury of Iowa from moneys not otherwise
6 appropriated the sum of eight thousand dollars per annum to be used
7 for the purpose of carrying out the provisions of this chapter.

[C., '97, § 224; S. S., '15, § 224-m.]

CHAPTER 8.

DOCUMENT EDITOR.

SECTION 176. Document editor—appointment—approval by senate.

1 The governor shall appoint, on or before the first day of July,
 2 nineteen hundred fifteen, and every four years thereafter, a document
 3 editor whose term of office shall begin on the first day of July, nine-
 4 teen hundred fifteen, and continue for four years and until his suc-
 5 cessor is elected and qualified. All appointments for said office subse-
 6 quent to the one first appointed must be approved by the members of
 7 the state senate in executive session, by two-thirds vote, before it shall
 8 become effective.

[S. S., '15, § 144-e; 38 G. A., ch. 413.]

SEC. 177. Place of office—office supplies.

1 The state document editor shall have an office in the city of Des
 2 Moines, to be provided by the executive council, and shall be supplied
 3 by the executive council with the necessary office equipment and sup-
 4 plies.

[S. S., '15, § 144-f.]

SEC. 178. Salary—oath—bond.

1 The state document editor shall receive a salary of two thousand
 2 dollars per year. He shall subscribe to the constitutional oath of
 3 office, and shall execute a bond in the sum of five thousand dollars,
 4 said bond to be approved by the executive council.

[S. S., '15, § 144-g.]

SEC. 179. Duties.

1 It shall be the duty of the state document editor to receive and
 2 receipt for all reports, documents and publications received from
 3 those having such printing and binding in charge; to examine and
 4 certify all bills for the same to the executive council.

[S. S., '15, § 144-h.]

SEC. 180. Heads of departments to furnish manuscript—editor to revise—notice—approval of governor.

1 The heads of all departments of the state government and soci-
 2 eties, associations and institutions required to make reports shall
 3 deliver to the state document editor the completed manuscripts for
 4 all reports, documents and publications of whatever kind to be issued.
 5 It shall be the duty of the state document editor to edit, revise and
 6 prepare such manuscripts for the printer's use; he shall have the
 7 authority, and it shall be his duty, to condense said reports or publi-
 8 cations, to eliminate duplications and to simplify the typographical
 9 arrangement of the same, when such condensation, elimination or
 10 simplification will not, in his judgment, lessen the public value of
 11 such document, report or publication; notice of any elimination or
 12 condensation to be given the head of the department making the
 13 report; his acts in such cases to be at all times subject to the approval
 14 of the governor should written objection be filed by the head of the
 15 department concerned.

16 The right here given to edit, revise, condense and eliminate por-
 17 tions of reports published by the state or at state expense shall apply
 18 notwithstanding the existence of any statute specifying that such
 19 report shall contain certain definite matters, and where tables or other
 20 matters are once printed in any report of any department, it shall
 21 be sufficient to refer to such table or other matters as it appears in
 22 the previously published state document.

[S. S., '15, § 144-i.]

SEC. 181. Editor to supervise printing—number of documents issued—indexing journals.

1 It shall be the duty of the state document editor to supervise the
 2 printing, binding and distribution of all reports, documents and pub-
 3 lications, and for the purpose of distribution he shall maintain a
 4 classified mailing list; he shall fix the number of each report, docu-
 5 ment or publication to be issued, consideration being given to the
 6 needs and demands for the same, and allowance being made for rea-
 7 sonable reserve supply; notice of any changes in the number to be
 8 issued to be given the head of the department concerned previous to
 9 placing the order with the printer; his orders fixing such num-
 10 ber to be issued to be subject to approval by the governor, should
 11 written objection be filed by the head of the department concerned;
 12 he shall supervise the publication of the senate journal, house journal,
 13 senate files and house files during and following the sessions of the
 14 general assembly, and shall prepare indexes of the journals of the
 15 senate and the house.

[S. S., '15, § 144-j.]

SEC. 182. Documents to be delivered to editor.

1 Those having such printing and binding in charge shall deliver
 2 all completed reports, documents and publications to the state docu-
 3 ment editor and shall receive his receipt therefor.

[S. S., '15, § 144-k.]

SEC. 183. Biennial reports.

1 The state document editor shall file biennially with the governor
 2 a report showing the number and kind of each report, document or
 3 publication issued, the number remaining on hand, the number dis-
 4 tributed and the number otherwise disposed of, and shall recommend
 5 such changes as he shall deem advisable in the statutes relating to the
 6 various reports, documents or publications to be issued, methods of
 7 economy in the issuance of publications, and make such other recom-
 8 mendations as he may deem advisable.

[S. S., '15, § 144-l.]

SEC. 184. Document department transferred to document editor.

1 The printing and binding document department, now under the
 2 direction of the secretary of state, is hereby discontinued and all the
 3 duties and requirements pertaining thereto are made a part of the
 4 duties of the state document editor, except that the secretary of state
 5 shall remain custodian of documents and other publications the same
 6 as of the laws.

[S. S., '15, § 144-m.]

SEC. 185. Distribution of documents.

1 The document editor shall biennially require the several state
 2 officers, boards, commissions, departments, institutions and societies
 3 required to make reports for publication to prepare and submit to
 4 him for approval and use a mailing list for the several reports, which
 5 list shall include such libraries, institutions, companies, public officers
 6 and persons as have actual use for the report or that request the same.
 7 To this list the state document editor shall add such names as he finds
 8 proper; and to determine who has actual need of the state reports,
 9 documents and publications, he shall take such steps as will advise the
 10 public generally of the reports published by the state and the nature
 11 of the material therein made available.

[S. S., '15, § 144-n.]

SEC. 186. Executive council may furnish assistance.

1 The executive council shall have authority to supply the state
 2 document editor with such assistance as in its opinion may be neces-
 3 sary from time to time.

[S. S., '15, § 144-o.]

SEC. 187. Classified indexes—duty of document editor—appropriation.

1 It is hereby made the duty of the document editor, at the direc-
 2 tion of the committee on printing of either house, to prepare a classi-
 3 fied index of bills, giving detailed information as to the status of all
 4 pending legislation, and to have same printed in concise pamphlet
 5 form at such intervals and in such numbers as such committee shall
 6 designate, the same to contain such information and data, arranged
 7 under both serial number and subject, as will give to the members of
 8 the legislature the status of each bill. The said index shall be
 9 promptly printed and bound by the printer and binder, respectively,
 10 under the direction of the document editor. Subsequent editions
 11 of said index during the same session shall be issued in a cumulative
 12 form, and the separate index of senate and house bills may be bound
 13 in one volume. For the purpose of the employment of such assistance
 14 as may be required by the document editor in the preparation of said
 15 index, there is hereby appropriated out of any money in the state
 16 treasury not otherwise appropriated the sum of eighty dollars per
 17 month during each legislative session. Said appropriation for the
 18 work attending the preparation of the index shall be available im-
 19 mediately upon the legal organization of the two houses.

[37 G. A., ch. 9, § 2.]

CHAPTER 9.
STATE BOARD OF PRINTING AND BINDING.**SECTION 188. Board of public printing and binding—duties—scope of contract.**

1 There is hereby created and established a board of public print-
 2 ing and binding, the members of which shall be the governor, the sec-
 3 retary of state, the auditor of state and the treasurer of state; and it

4 shall be the duty of said board to enter into contracts for and on behalf
 5 of the state of Iowa, as hereinafter provided, for all printing for the
 6 use of the state or its officers, boards, commissions and departments,
 7 or to be done at state expense, unless otherwise provided by law.
 8 The contracts herein authorized shall be for the procuring or purchase
 9 of everything pertaining to the printing and publication of all books,
 10 pamphlets, circulars, leaflets, blanks, cards, envelopes, letterheads,
 11 schedules, and all stationery, including the composition, engraving,
 12 stitching, ruling, presswork, paper stock, lettering, numbering and
 13 binding.

[37 G. A., ch. 183, § 1.]

SEC. 189. Document editor—duties—qualifications.

1 The state document editor shall be secretary of the state board of
 2 printing and binding and shall perform such duties in connection
 3 therewith, under the provisions of this chapter, as the board of print-
 4 ing and binding shall delegate and direct. All requisitions for print-
 5 ing and binding shall be filed with him, and he shall have immediate
 6 charge of the work. He shall attend to the proofs, examine and pass
 7 on the quality and quantity of the delivered product, give directions
 8 as to the place of delivery, and figure and check all bills for printing
 9 and binding. Wherever the term document editor is used in this
 10 chapter, it is used synonymously with secretary of the board of print-
 11 ing and binding, and the bond of five thousand dollars now required
 12 of the document editor shall apply to his duties, both as document
 13 editor and secretary of the board of printing and binding. It is also
 14 provided that said document editor and secretary of the board of
 15 printing and binding shall be a practical printer with at least five
 16 years' experience.

[37 G. A., ch. 183, § 2.]

SEC. 190. Department heads to file estimates.

1 On or before the first day of November of each year the officers
 2 of the different departments of state coming under the provisions of
 3 this chapter shall file with the document editor, for the following
 4 year, an estimate of the probable amount and kind needed of bulletins,
 5 circulars, folders, pamphlets, booklets, catalogues, books, reports,
 6 blank books, record books, blanks, envelopes, letterheads, cards, labels,
 7 invoices, receipts, postal cards, court dockets, briefs, abstracts, cuts,
 8 plates, engravings, half tones, illustrations, and all other printing and
 9 binding work, of any nature whatsoever, now or hereafter required
 10 for the above period.

[37 G. A., ch. 183, § 3.]

SEC. 191. Classifications.

1 All printing and binding designated in section one hundred ninety
 2 and all other printing and binding coming under the provisions of
 3 this chapter shall be classified in a general way by the board of print-
 4 ing and binding, as follows:

- 5 1. Bulletins, circulars, folders, pamphlets, booklets, catalogues,
 6 small books, reports, blank books, and all printing and binding of this
 7 nature, on which there is general competition in the state.
- 8 2. Codes, code supplements, session laws, record books, official
 9 register, census, geological survey, year book of agriculture, horti-

10 cultural report, railroad commissioners' report, expense report, Iowa
11 documents, large books, and any other publication or printing and
12 binding work on which there is not general competition in the state.

13 3. Commercial work, such as envelopes, letterheads, cards, sched-
14 ules, blanks, invoices, bills, labels, slips, postal cards, and all kinds of
15 small jobs, commonly known as job printing.

16 4. General assembly journals, bills, resolutions, calendars, mes-
17 sages, bill indexes, manuals, and all other printing in connection with
18 the legislature.

19 5. Supreme court dockets, briefs, abstracts, and all other print-
20 ing in connection with the supreme court, not otherwise provided for
21 by law.

22 6. Engravings, plates, cuts, half tones, and all other illustrations
23 used in state printing and binding.

[37 G. A., ch. 183, § 4.]

SEC. 192. Regulations governing classifications.

1 Under the classification of section one hundred ninety-one, the
2 contracts for class four shall be open only to bidders in the city of
3 Des Moines, Iowa, and the house and senate journals and the bound
4 volumes of same shall be let to one contractor, the purpose being to
5 eliminate extra cost of composition: Classes one, three, five and six.
6 shall be open to bidders of the entire state of Iowa, but not to bidders
7 outside of the state. Class two shall be open to bidders of the state, but
8 may be opened to bidders outside of the state if the board of printing
9 and binding finds that the competition is too limited to get reasonable
10 prices. The board of printing and binding may estimate the prob-
11 able total amount needed for a year of the various kinds of work in
12 class six, and let the contract under the provisions of this chapter for
13 the total work of each kind, or of all kinds, or may let it by individual
14 pieces. The board of printing and binding may estimate, so far as
15 practicable, the probable total amount of letterheads, envelopes,
16 cards, labels, blanks, or any other subdivision under class three, and
17 let the contract under the provisions of this chapter for the total work
18 of each kind, or may let it by individual pieces.

[37 G. A., ch. 183, § 5.]

SEC. 193. Paper and stock—bids.

1 Paper and stock shall be furnished by the contractor and all bids
2 shall be upon each completed product separately, except as is other-
3 wise provided in this chapter, and shall be awarded in like manner to
4 the lowest bidder, but the board of printing and binding shall have
5 the power to reject any or all bids and advertise for new bids.

[37 G. A., ch. 183, § 6.]

SEC. 194. Bids—advertisement—submission.

1 On or before the third Monday of November of each year the
2 board of printing and binding shall cause to be printed for three con-
3 secutive issues in at least one daily paper in each of the seven largest
4 cities in the state, as shown by the last state or federal census, an
5 advertisement that sealed bids will be received until the second Mon-
6 day in December for all printing and binding coming under the pro-
7 visions of this chapter for the year following, beginning with the
8 first day of January. All bids shall be submitted in sealed envelopes

9 and shall be opened in the office of the board of printing and binding
10 at ten o'clock a. m. on the second Monday of December of each year,
11 and the contracts shall be awarded in accordance with the provisions
12 of this chapter. Said advertisement for bids shall specify that blank
13 schedule and specifications in detail for bids may be obtained from
14 the document editor, Des Moines, Iowa.

[37 G. A., ch. 183, § 7.]

SEC. 195. Blank schedules—specifications—deposit—bond.

1 The board of printing and binding shall prepare a blank schedule
2 and specifications in detail upon which all bids shall be made, enumer-
3 ating the number, kind, form, style, size and quality of each article,
4 the size, form, weight, and quality of paper or stock to be used; the
5 size and style of type; the quality and style of binding, design, or
6 monogram; the probable number of pages in each volume, and the
7 probable number of pages of each style of composition in each vol-
8 ume; and all other details entering into and forming a part of the
9 work, stock, and completed product to be furnished. Said board of
10 printing and binding, when requested to do so, shall have mailed to
11 any printing or binding plant, entitled to bid under the provisions of
12 this chapter, a copy of said blank schedule and specifications and,
13 when possible, shall furnish to the prospective bidder a sample of the
14 job or jobs upon which he proposes to bid. Each bid shall be accom-
15 panied by a certified check in the sum of ten per cent of such bid.
16 Within ten days after notice of being awarded the contract, the con-
17 tractor shall furnish a bond, with sureties, to be approved by the
18 board of printing and binding, in the total sum of the contract and
19 conditioned that the contractor shall indemnify and save harmless
20 the state of Iowa for any and all damages or injury arising out of his
21 failure to fulfill and perform all the conditions of his contract.

[37 G. A., ch. 183, § 8.]

SEC. 196. Contract—default—forfeiture.

1 Upon the acceptance of a proposed bid, the board of printing and
2 binding shall at once notify the successful bidder that his proposal
3 has been accepted, and within ten days thereafter such successful
4 bidder shall enter into a contract with the state, under bond as here-
5 inbefore provided, to furnish such printing or binding work and stock
6 in accordance with the schedule and specifications. Should any bid-
7 der fail or neglect to enter into a contract within the time herein
8 specified, the board of printing and binding shall award the contract
9 in the same manner as herein specified to the next lowest bidder. Any
10 successful bidder's failure to enter into contract shall forfeit to the
11 state the certified check accompanying his bid. Any bidder not suc-
12 cessful in securing an award of contract for which he has submitted
13 his bid, accompanied by a check, shall be entitled to a return of said
14 check, and the certified check of the successful bidder shall be returned
15 to him upon the approval of his bond and contract.

[37 G. A., ch. 183, § 9.]

SEC. 197. Execution of contract—union wages.

1 It shall be the duty of the attorney general to draw forms for
2 contracts and bonds under the provisions of this chapter, and each
3 contract shall be signed by the document editor, under the direction

4 of the board of printing and binding on behalf of the state, and by
5 the party to whom said contract has been awarded, and such contracts
6 and the bonds as hereinbefore provided shall be filed with the board
7 of printing and binding. The contracts for printing and binding let
8 under this chapter shall provide that, as an assurance of satisfactory
9 work being performed, those offices doing work for the state shall
10 pay the wages and work the hours established by the typographical
11 union in the city where said work is done.

[37 G. A., ch. 183, § 10.]

SEC. 198. Proofs—correction—final delivery.

1 Each contractor shall furnish the document editor, or such officer
2 as the document editor may direct, duplicate proofs of work being
3 done under the contract. Such proofs shall be corrected and one
4 copy returned to the contractor within five days. The other corrected
5 proof shall be filed by the document editor with the contract. The
6 contractor shall not be responsible for errors not marked on the proof
7 and shall receive additional pay, at the maximum rates provided for
8 in this chapter, for changes and alterations made in the original copy.
9 Proofs shall be furnished upon the kind of stock that is to be used.
10 Work completed under a contract, in accordance with the specifica-
11 tions, shall be delivered at the risk of the contractor and without
12 expense to the state to the office of the document editor or to such
13 officer, board, commission, or institution as the document editor may
14 designate.

[37 G. A., ch. 183, § 11.]

SEC. 199. Bills—verification—payment.

1 Upon the completion and delivery of any particular job of print-
2 ing or binding done under the provisions of this chapter, the contractor
3 shall file with the document editor a sworn invoice or bill of the same,
4 which invoice or bill the document editor shall figure and check as to
5 number, quality, and compliance with contract and specifications. The
6 board of printing and binding shall then pass upon the claim, and if
7 it is found to be correct, payment shall be made to the contractor at
8 the contract price, upon vouchers certified to as approved by the board
9 of printing and binding, in the manner that other accounts against
10 the state are paid.

[37 G. A., ch. 183, § 12.]

SEC. 200. Time limit—penalty.

1 The board of printing and binding shall state in its specifications
2 for printing and binding the time requirements with reference to all
3 such work and shall fix in the specifications and contract the penalty
4 for failing to comply with the provisions of the specifications and con-
5 tract; provided, however, that no contractor shall be held accountable
6 for delay occasioned by holding proofs or any other nonconformance
7 to contract or specifications for which said contractor is in no way
8 responsible.

[37 G. A., ch. 183, § 13.]

SEC. 201. Copy to be in duplicate.

1 All copy for printing and binding shall be made in duplicate and
2 one copy furnished the contractor and one copy retained on file by the
3 document editor.

[37 G. A., ch. 183, § 14.]

SEC. 202. Maximum schedule of rates.

1 The board of printing and binding shall adopt a maximum
2 schedule of rates for printing and binding, not including stock, which
3 schedule shall be the existing statutory schedule. No contract for
4 printing and binding shall be let for a greater price than the maxi-
5 mum of rates fixed.

[37 G. A., ch. 183, § 15.]

SEC. 203. Complaints.

1 Any complaints with reference to any action of the document
2 editor shall be heard and finally determined by the board of printing
3 and binding.

[37 G. A., ch. 183, § 16.]

SEC. 204. Extra copies.

1 In the publication of reports that are to be bound together as
2 Iowa documents, the board of printing and binding shall have a suffi-
3 ciently extra number printed for use in said documents, in order that
4 the extra expense of reprinting may be saved, and said extra reports
5 shall be filed with the document editor for use at the proper time.

[37 G. A., ch. 183, § 17.]

SEC. 205. Emergency work.

1 All printing and binding of every kind and of any nature what-
2 soever, coming under the provisions of this chapter, shall pass through
3 the hands of and shall be purchased by the board of printing and
4 binding in the manner herein provided; except, when an emergency
5 arises for the immediate furnishing of any printing or binding, the
6 cost of which shall not exceed one hundred dollars, the board of print-
7 ing and binding shall have the power, if, in their judgment, the same
8 can not be deferred, to purchase such printing or binding at the lowest
9 and best competitive price at any time between the letting of con-
10 tracts; provided, however, that such price shall not be greater than
11 is allowed by the schedule of maximum rates.

[37 G. A., ch. 183, § 18.]

SEC. 206. Custody of records.

1 All requisitions for printing or binding, bids, certified checks,
2 bonds, contracts, specifications, schedules, records of the acts and
3 proceedings of the board of printing and binding, and all other papers
4 and documents executed under the provisions of this chapter shall be
5 kept on file in the office of the document editor.

[37 G. A., ch. 183, § 19.]

SEC. 207. Annual reports.

1 The board of printing and binding shall prepare and file in the
2 office of the governor, on or before the first day of February of each

3 year, an annual report for the preceding year ending on the thirty-
4 first day of December; provided that no report shall be required until
5 one year has been completed under the provisions of this chapter.
6 Such report shall contain a full disclosure of all financial transactions
7 of the board of printing and binding, including in tabulated form every
8 requisition for printing and binding, the cost thereof, and the name
9 of the contractor, for the year which it covers.

[37 G. A., ch. 183, § 20.]

SEC. 208. Bids per page—duplication of charges.

1 All contracts for senate and house journals, bills, circulars,
2 pamphlets, catalogues, reports, booklets, books, and similar publica-
3 tions, shall be let by bids per page, and contractors shall not charge
4 for original composition where the type has not been reset, and the
5 board of printing and binding shall not issue a voucher for any such
6 duplication of charges. There shall be no charge for blank pages,
7 but part pages shall be figured as full pages.

[37 G. A., ch. 183, § 21.]

SEC. 209. State may furnish stock.

1 If, in the judgment of the board of printing and binding, better
2 service and cheaper rates can be had by the state furnishing paper
3 and stock for printing and binding, then the said paper and stock may
4 be bought in the manner now provided by law and the contracts for
5 printing and binding let as herein provided, except that the paper and
6 stock shall be furnished by the state. The paper and stock furnished
7 the contractor shall be charged to him by the document editor, less
8 five per cent for waste, and said contractor shall return to the docu-
9 ment editor any unused paper or stock upon completion of contract.

[37 G. A., ch. 183, § 22.]

SEC. 210. Stock on hand.

1 Paper and stock on hand with the state executive council at the
2 time of the taking effect of this chapter shall be sold to the highest
3 bidder, unless the board of printing and binding shall decide that the
4 state shall furnish paper and stock for printing and binding, in which
5 event said paper and stock shall be used in printing and binding.

[37 G. A., ch. 183, § 23.]

SEC. 211. Apportioning work to institution for deaf and dumb.

1 The board of printing and binding may apportion so much of the
2 public printing and binding as it may deem advisable to the institu-
3 tion for the deaf and dumb.

[37 G. A., ch. 183, § 24.]

SEC. 212. Award to state institutions.

1 The state board of printing and binding may also enter into con-
2 tracts with the state board of control, or the heads of any of the state
3 institutions, for any of the printing coming under its control, at rates
4 not to exceed the maximum rates indicated in this chapter; and in
5 all matters of bidding and contract for printing, the board of control
6 or state institutions where printing plants are or may be established
7 shall have the same rights as others.

[37 G. A., ch. 183, § 25.]

CHAPTER 10.

PUBLIC PRINTING AND BINDING.

SECTION 213. How work to be delivered.

1 The printer shall promptly deliver to the binder the printed sheets
 2 of laws, journals, and other publications, as the work progresses, as
 3 well as all other work requiring stitching, or binding, and the binder
 4 shall, upon the completion of the work as required, deliver to the
 5 secretary of state, at the document room, all documents, journals,
 6 reports, official registers, laws, and all other publications which the
 7 secretary of state is or may hereafter be required by law to distribute,
 8 taking his duplicate receipt for the same, one copy of which shall be
 9 delivered to the secretary of the executive council, who shall give the
 10 printer credit for the paper necessarily used in the manufacture of
 11 said publication; and it is the duty of the secretary of state to see
 12 that the proper number of copies is so delivered. All other printing
 13 shall be promptly delivered to the secretary of the executive council,
 14 at the supply department, by the printer and binder. The printer
 15 shall make certificate to the secretary of the executive council of the
 16 paper necessarily used in the printing of each and every job or publi-
 17 cation, upon the presentation of the same, and, after delivery of the
 18 work, the secretary of the executive council shall credit the printer
 19 with the paper necessarily so used.

[C., '97, § 118; S., '13, § 118.]

SEC. 214. Printing—how ordered and delivered.

1 No work shall be ordered of the printer except upon a regular
 2 form of blank furnished by the secretary of executive council and
 3 kept in his office. Whenever printing is ordered by either house of
 4 the general assembly, the secretary or clerk thereof shall immedi-
 5 ately notify the secretary of executive council of such order, and when
 6 such printing is done, the same shall be delivered to the secretary of
 7 executive council for distribution, subject to the instructions of the
 8 house ordering the printing.

[C., '73, § 100; C., '97, § 119; S., '13, § 119.]

SEC. 215. Secretary of state to examine and certify work.

1 The secretary of state, upon the completion of any printing or
 2 binding for the state, or the presentation of any bill for such printing
 3 or binding, shall make examination of the work done and ascertain
 4 whether it has been done in accordance with the provisions of this
 5 chapter. If he finds there has been a compliance herewith, he shall
 6 certify the same, stating the amount to which the officer presenting
 7 the bill is entitled. In case such work has not been properly done,
 8 or any item of said bill has not in his judgment been earned, he shall
 9 refuse to certify as to such item, or shall state what reduced amount,
 10 if any, the officer is entitled to as compensation for such defective
 11 work. The secretary of state shall certify quarterly to each state
 12 department, board or commission the character of the printing and
 13 binding ordered and completed during that quarter for such depart-
 14 ment, board or commission, giving the amounts paid therefor to the
 15 printer for composition, presswork and stock, and to the binder for
 16 binding and extras; which certificate shall be official notice to such
 17 department, board or commission of its expenditures for printing and

18 binding, and shall be used by such department, board or commission
 19 in preparing the biennial report of expenditures to the executive council
 20 in accordance with the provisions of sections two hundred seventy-
 21 four and two hundred seventy-five. The secretary of state shall make
 22 a certified report to each department of the cost of printing and binding
 23 done from and after July first, nineteen hundred one, to the date
 24 this enactment becomes operative.

[R., '60, § 141; C., '73, § 98; C., '97, § 120; S., '13, § 120.]

SEC. 216. What to be printed—style of work.

1 The governor shall cause the reports specified in section two hun-
 2 dred ninety-six, and all others required by law to be made, to be
 3 printed. He shall, however, cause all reports to be carefully exam-
 4 ined before being printed, and shall omit from the printed copy all
 5 matters he may deem not of sufficient importance to warrant publica-
 6 tion thereof at the state's expense. Such parts of the reports as emanate
 7 from boards or officers directly required by law to report may
 8 be leaded with six-to-pica leads. All extracts copied therein, as well
 9 as reports and papers submitted therewith, shall be set in brier or
 10 nonpareil type, with six-to-pica leads. No tables of any character
 11 shall be leaded, and all tables, rule and figure work and matter of
 12 three or more justifications shall be set in solid brier or nonpareil
 13 type, and in as compact a form as practicable. But when any of the
 14 above work is quadded or spaced between the lines, by order of the
 15 executive council, all such quadded lines or spaces shall be deducted
 16 from the measurement. Itemized accounts of receipts and disburse-
 17 ments, together with inventories, accompanying the reports, shall be
 18 omitted from the printed report, unless the governor deems the same
 19 of sufficient importance to warrant their publication.

[C., '97, § 124.]

SEC. 217. Reports—number of copies to be printed.

1 There shall be printed of the various public documents the num-
 2 ber of copies hereinafter designated, to wit: Of the biennial message,
 3 twenty-five hundred copies; of the inaugural address, two thousand
 4 copies; of the biennial report of the auditor of state, twenty-five
 5 hundred copies; of the biennial report of the treasurer of state, two
 6 thousand copies; of the report of the superintendent of public instruc-
 7 tion, four thousand copies; of the report of the agricultural college
 8 and of the report of the state board of health, twenty-five hundred
 9 copies each; of the report of the bureau of labor statistics, thirty-
 10 five hundred copies; of the annual reports of the auditor of state upon
 11 insurance, forty-five hundred copies each; of the report of the com-
 12 missioners of pharmacy, twenty-five hundred copies; of the report
 13 of the railroad commissioners, three thousand copies, of which two
 14 thousand copies shall be bound in cloth; of the report of the board of
 15 control, three thousand copies, of which two thousand copies shall be
 16 bound in cloth; of the annual report of the geological survey, three
 17 thousand copies, of which twenty-two hundred copies shall be bound
 18 in cloth; of the report of the annual assessment of railway property,
 19 two thousand copies; of the report of the secretary of state pertaining
 20 to lands, of the report of the secretary of state pertaining to the
 21 inspection of oils, of the state dairy commissioner's report, four thou-
 22 sand copies, to be bound in paper covers, and of the report of the
 23 state board of dental examiners, fifteen hundred copies each; of the

24 proceedings of the pioneer lawmakers' association, twelve hundred
 25 copies, of which five hundred copies shall be delivered to the associa-
 26 tion; of the auditor's report pertaining to the financial statements of
 27 cities and towns, two thousand copies, of which five hundred copies
 28 shall be bound in cloth; and of all other reports not herein or other-
 29 wise specified, fifteen hundred copies each, unless the executive council
 30 shall direct a greater number to be printed, not exceeding four thou-
 31 sand. The executive council shall reduce the number of copies of any
 32 report herein provided, whenever the books of the document account-
 33 ant in the office of the secretary of state show that a less number will
 34 supply all the necessary needs for such publication. Of said reports,
 35 five hundred copies each of the biennial message, inaugural address,
 36 auditor's biennial report, treasurer's biennial report, attorney gen-
 37 eral's biennial report, the report of the superintendent of public
 38 instruction, agricultural college, board of health, commissioners of
 39 pharmacy, secretary of state pertaining to lands, secretary of state's
 40 report of criminal convictions, the auditor's annual reports pertaining
 41 to insurance, the report of the bureau of labor statistics, the report
 42 of the state librarian and the report of the adjutant general, shall be
 43 bound in cloth; all other reports shall be bound in paper covers.

[C., '73, § 130; C., '97, § 125; S., '13, § 125.]

SEC. 218. Distribution of reports and documents — by and to whom.

1 The secretary of state shall make distribution of the various pub-
 2 lic documents turned over to him as follows:
 3 1. The secretary of state shall distribute to each member of the
 4 general assembly one copy of the various public documents and upon
 5 request such additional number as the secretary of state may provide
 6 for, and such remaining number as is not necessary to be retained
 7 for future general assemblies shall be distributed upon the requisition
 8 of the reporting officer or department under the provisions of chapter
 9 five, acts of the thirtieth general assembly. The entire edition of the
 10 reports of the geological survey shall be distributed only upon requi-
 11 sition of the state geologist.
 12 2. Ten hundred copies shall be stitched and bound in half sheep,
 13 containing a copy of each report, to be arranged in the necessary
 14 number of volumes under the direction of the secretary of state.
 15 Each volume shall contain a table of contents of all the volumes, and
 16 the various reports are to be arranged in the order they appear in
 17 the table of contents.
 18 3. The foregoing ten hundred copies shall be distributed as fol-
 19 lows: One copy to the lieutenant governor, to the speaker, to each
 20 member of the general assembly, to the secretary of the senate and
 21 to the clerk of the house of representatives; one copy each to the
 22 governor of the state, and his private secretary, the secretary of state,
 23 the auditor of state, the treasurer of state, the attorney general, the
 24 superintendent of public instruction, the clerk and the reporter of the
 25 supreme court and each of their deputies, the commissioner of labor
 26 statistics, the adjutant general, the custodian of the capitol, and the
 27 fish and game warden; one copy to each judge of the supreme court;
 28 one copy to each railroad commissioner, mine inspector, and commis-
 29 sioner of pharmacy; one copy to the state librarian, and the secretary
 30 of the board of health, respectively; one copy to each state institution,
 31 to remain therein; one copy to the office of each county auditor, to

32 remain therein; forty copies to the historical society; one copy to
 33 each of the other states and each territory reciprocating the same,
 34 and to each foreign nation or province desiring to exchange like
 35 reports; twenty-five copies to the state library; one copy to each
 36 public library and one copy to each college library within the state;
 37 the remaining copies to be placed under the control of the secretary
 38 of state, for distribution under the provisions of chapter five, acts of
 39 the thirtieth general assembly. The transportation charges on all
 40 matter distributed under this section shall be paid by the state.

41 4. He shall furnish to the library of congress two copies of all
 42 legislative journals and reports of state officers, immediately upon
 43 their publication.

[C., '97, § 126; S., '13, § 126.]

SEC. 219. Secretary of state to act as custodian.

1 It shall be the duty of the secretary of state to act as custodian
 2 of all state documents and publications. He shall receive the same
 3 in the manner provided in section two hundred thirteen, at the state
 4 storage building or at such other places as the executive council may
 5 direct, charging himself with the number of each publication received,
 6 in books provided for the purpose by the executive council, and credit-
 7 ing himself with the number of books distributed, under the provisions
 8 of the statutes or upon the requisitions of the reporting officers, com-
 9 missioners, boards and societies.

[S., '13, § 126-a.]

SEC. 220. Classified and catalogued—distribution.

1 All state documents and other state publications shall be by the
 2 secretary of state systematically arranged, classified and placed in
 3 convenient and orderly position in such place as the executive council
 4 may provide, and catalogued according to the arrangement and order
 5 of the "check list of state publications of nineteen hundred four," so
 6 far as possible, and shall be distributed as provided by existing stat-
 7 utes, and upon the requisitions of the reporting officers, commission-
 8 ers, boards and societies.

[S., '13, § 126-b.]

SEC. 221. Report—reserve list—biennial report.

1 The secretary of state shall, when the systematic arrangement
 2 is completed as contemplated in the preceding section, make a full
 3 and complete report to the executive council showing number, kind
 4 and date of all publications on hand. The executive council may fix
 5 the number of all documents, reports and publications that are now
 6 on hand or are hereafter published, that shall be known as the reserve
 7 list, to be thereafter distributed only upon requisition approved by
 8 the executive council. The secretary of state shall on January first
 9 preceding the convening of the legislature make a biennial report to
 10 the governor of all documents, reports and publications on hand.

[S., '13, § 126-d.]

SEC. 222. Daily legislative proceedings to be printed.

1 The printer shall be furnished daily, during the sessions of the
 2 general assembly, with a copy of the journal of each house thereof,
 3 at such hours and by such officers as may be directed by the houses,

4 respectively, who shall thereupon print and number the pages con-
 5 secutively through each session, and, after the same are properly
 6 stitched at the bindery, deliver for the use of the senate and house,
 7 respectively, on the following legislative day, at such hours as may
 8 be prescribed by the proper officer, two hundred copies of the pro-
 9 ceedings of the senate, and three hundred copies of those of the house
 10 of representatives. When a session is held after seven o'clock p. m.,
 11 the proceedings thereof shall be furnished the printer as soon after
 12 the close of such session as practicable.

[C., '97, § 127.]

SEC. 223. Corrections.

1 Upon the return to the printer, by the proper officer of each body,
 2 of the daily proceedings, corrected as shall be directed by the house
 3 to which they pertain, the printer shall correct the same, the secretary
 4 and clerk correcting the written journal, when necessary, to corre-
 5 spond.

[C., '97, § 128.]

SEC. 224. Stitching and distribution.

1 He shall forthwith make the corrections indicated, print three
 2 hundred copies of the senate proceedings, and five hundred copies of
 3 the house proceedings, and deliver them to the binder sufficiently
 4 early to permit the latter to fold, stitch and deliver them to the secre-
 5 tary of the senate and clerk of the house, respectively, not later than
 6 noon of the third day following that to which the proceedings pertain.
 7 Of the printed proceedings of the senate, one hundred and twenty-
 8 five copies shall be delivered to the sergeant-at-arms of the house for
 9 distribution therein, and seventy-five copies of the proceedings of the
 10 house shall be delivered to the sergeant-at-arms of the senate for dis-
 11 tribution therein. The remaining copies shall be under the control
 12 of the respective houses for distribution.

[C., '97, § 129.]

SEC. 225. Journals to be printed and bound.

1 He shall thereupon proceed to print two thousand copies of each
 2 of the journals. Within fifteen days after the adjournment of the
 3 general assembly, a complete and thorough index of each journal shall
 4 be delivered to the printer, who shall forthwith print the same, and
 5 within fifteen days thereafter deliver the sheets complete to the binder,
 6 who shall, within thirty days thereafter, bind one thousand copies of
 7 each journal in half sheep, and one thousand in paper covers, and
 8 deliver the same to the secretary of state.

[C., '97, § 130.]

SEC. 226. Distribution by secretary of state.

1 The secretary of state shall make distribution of the journals of
 2 the respective houses as follows:
 3 1. Of the bound journals of the respective houses, two copies of
 4 each shall be distributed to each member thereof; one copy each to
 5 the secretary of the senate and clerk of the house, respectively.
 6 2. The remaining copies shall be distributed as follows: One
 7 copy each to the governor, lieutenant governor, the state officers and
 8 deputies, as provided for the distribution of documents; also one copy
 9 of each journal to each newspaper of general circulation in the state.

4 tional words shall be printed on the front page of each journal and
5 the subscription price fixed accordingly:

6 "Both journals to one address, one dollar and fifty cents."

[S. S., '15, § 132-d.]

SEC. 231. Size of type, and how set, for public printing.

1 The laws, journals and all other printing in book form shall be
2 set in long primer, brevier or nonpareil type; the titles to the laws
3 and resolutions, all indexes, all messages, all reports and resolutions
4 copied in the journals, to be in brevier; rule and figure work, in either
5 brevier or nonpareil, as may be directed by the officer ordering the
6 work; all other matter to be in long primer, except when otherwise
7 ordered by the officers under whose direction the work is done. Each
8 printed page shall be paid for at actual measurement. Whenever a
9 subject is begun, whether it be the name of member or otherwise, the
10 subject matter shall follow in the same line, unless such line is filled
11 by such word. The report of each motion or resolution shall be em-
12 braced in one paragraph, and, where the yeas and nays are given,
13 each division list shall be in one paragraph, with the names set in
14 alphabetical order, and the result in the last line.

[R., '60, § 156; C., '73, § 102; C., '97, § 134.]

SEC. 232. Paper-receipt book and samples of work to be kept.

1 The secretary of state shall provide a state paper-receipt book,
2 and, whenever he shall deliver to the printer paper for any kind of
3 printing, a receipt therefor shall be entered in said book, which
4 receipt shall describe the kind and quality of paper, and the purpose
5 for which it is delivered. Upon return of the work for which any
6 paper has been delivered, he shall enter the date thereof, and the quan-
7 tity so returned. He shall also preserve for not less than two years
8 a sample of each kind of work done, together with a memorandum of
9 the measurement of composition, the quantity of presswork, price
10 paid and date of delivery.

[R., '60, § 157; C., '73, § 103; C., '97, § 135.]

SEC. 233. Report of academy of sciences—distribution.

1 There shall be published, with necessary illustrations and bound
2 in boards, in the same form as the acts of the general assembly are,
3 by the state and under the supervision of the Iowa academy of sciences,
4 one thousand copies of its annual report, to be distributed as follows:
5 To the governor, lieutenant governor, secretary of state, auditor of
6 state, state treasurer, each member of the general assembly, horticul-
7 tural society, agricultural society, state library, university, agricul-
8 tural college and the normal school, one copy each; to each public
9 library and each incorporated college of the state, one copy; the
10 remainder to be distributed by the secretary of state as directed by
11 the secretary of said academy, for exchange and such other purposes
12 as the academy may specify, the exchanges and reports received to be
13 preserved in the state library for the benefit of the state at large.

[C., '97, § 136; S. S., '15, § 136.]

SEC. 234. Proceedings of state teachers' association—distribution.

1 There shall be published annually by the state, under the super-
2 vision of the superintendent of public instruction, a sufficient number

3 of copies, such number to be fixed by the executive council, of not to
 4 exceed three hundred pages each, of the proceedings of the state
 5 teachers' association, to be distributed as follows: One copy each to
 6 the governor, lieutenant governor, auditor of state, secretary of state,
 7 treasurer of state, each member of the general assembly, each enrolled
 8 member of the state teachers' association, each public library in the
 9 state; one hundred copies for the executive council for reserve and
 10 one hundred copies for distribution by the superintendent of public
 11 instruction.

[C., '97, § 137; S., '13, § 137.]

SEC. 235. Illustration of publications—how paid.

1 The executive council of Iowa is authorized to procure, purchase
 2 or authorize the purchase, when in its judgment the use of the same
 3 is expedient, the necessary engravings, plates, or cuts required to
 4 illustrate any publication authorized to be printed under the general
 5 printing statutes of the state and the cost of the said engravings,
 6 plates or cuts shall be audited and paid in the same manner as claims
 7 for state printing.

[S., '13, § 137-a.]

SEC. 236. Prices for state printing.

1 The printer shall be paid the following prices for all work done for
 2 the state in an acceptable manner, as provided by law, and no more:

3 1. For plain composition on laws, journals and reports and on
 4 bulletins and circulars and all other printed matter except as other-
 5 wise provided, forty-six cents per thousand ems; for composition
 6 requiring three or more justifications, sixty cents per thousand ems,
 7 and for rule and figure work, seventy-five cents per thousand ems.

8 2. For book presswork, the compensation shall be two dollars
 9 for the first one thousand impressions from a form of sixteen pages,
 10 document size, or its equivalent, and one dollar and twenty-five cents
 11 per thousand for each additional one thousand impressions from the
 12 same form. If in finishing a job of presswork it shall be necessary
 13 to print an eight-page form, the compensation shall be the same as
 14 for a sixteen-page form, and if there shall be printed less than one
 15 thousand impressions from any one form, the compensation shall be
 16 the same as for one thousand.

17 3. For printing blanks, including composition and presswork,
 18 on a sheet of folio post or larger paper, three dollars and fifty cents
 19 for the first one hundred copies; for the next four hundred copies,
 20 forty cents for each hundred; for each one hundred copies above five
 21 hundred and up to one thousand copies, twenty cents, and for all
 22 above one thousand copies from the same form, ten cents per hun-
 23 dred. For blanks on paper smaller than folio post and for circulars
 24 of a single page not larger than eight and one-half by eleven inches,
 25 including composition and presswork, three dollars for the first one
 26 hundred copies, for the next four hundred copies thirty cents for each
 27 hundred, for each one hundred copies above five hundred and up to
 28 one thousand, fifteen cents, and for all above one thousand copies from
 29 the same form, nine cents per hundred. Only when it is impracticable
 30 to print both sides at one impression on the press shall double rate
 31 be allowed for blanks printed on two sides; provided that for blanks
 32 in excess of ten thousand copies of any single job the officer auditing
 33 the printing bills shall allow only such amount as he shall deem equit-

34 able, subject to the approval of the state board of audit, and in no
35 case in excess of the rates herein provided. Composition and press-
36 work on circulars and bulletins consisting of more than one page, or
37 if only one page and larger than eight and a half by eleven inches,
38 shall be paid for the same as for bookwork as provided by subdivisions
39 one and two of this section.

40 4. For printing twelve hundred copies or less of the docket for
41 the supreme court, including presswork and composition, the docket
42 page to conform in size and form with the dockets of nineteen hun-
43 dred fourteen, two dollars for each printed page contained in a single
44 volume thereof. For briefs to the supreme court, fifty copies, or less,
45 of a size and form prescribed by the rules of the supreme court, eighty
46 cents per printed page contained in a single volume. For letterheads,
47 including composition and presswork, one dollar and fifty cents for
48 the first one thousand impressions or less; for each additional one
49 thousand up to five thousand, one dollar per thousand; all over five
50 thousand, seventy-five cents for each thousand.

51 For envelopes and labels, including composition and presswork,
52 one dollar for the first one thousand impressions or less, and for each
53 additional one thousand or less, seventy-five cents; provided that,
54 where more than five thousand labels, printed forms, cards or sched-
55 ules are desired, the price shall be fixed by the document editor.

56 For postal cards, including presswork and composition, one
57 dollar and fifty cents for the first one thousand impressions, or less,
58 and for each additional one thousand or fraction thereof, seventy-five
59 cents; and when postal cards are printed upon both sides, two press-
60 works shall be paid for.

61 5. All senate and house bills shall be printed on the lightest possi-
62 ble paper suitable for such purpose, to be determined by the state
63 document editor. The size of the paper shall be approximately eight
64 inches by ten inches, so as to cut with the minimum amount of waste
65 from standard stock size. The type used shall be ten point, and of
66 the largest face practicable, as directed by the document editor. The
67 lines shall be leaded with pica slugs. Each line of each section shall,
68 on the left margin thereof, be consecutively numbered, commencing
69 with the numeral one for each section. Said bills shall be so printed
70 that each line of the typewritten original bill shall constitute a line of
71 the printed bill. For printing house and senate bills, five hundred
72 or less, the printer may charge one dollar and twenty-five cents
73 per page, said charge to include composition and presswork, and
74 twenty cents for each additional one hundred copies for each form of
75 eight pages or less. When the printer is advised by the docu-
76 ment editor that a bill issuing from one house of the general assembly
77 may also issue from the other, he shall keep the type standing for a
78 period of three days after the printing of the same is completed, and
79 the second order for copies thereof shall be treated as additional copies
80 and charged for accordingly, save that, for each form of four pages
81 or less, a reimposition fee of forty cents shall be allowed. No tem-
82 porarily bound copies of either the journal or of the bills shall be fur-
83 nished except to the members of the general assembly, the governor,
84 the lieutenant governor, the law librarian, the curator of the historical
85 building, the attorney general and the law reporter, secretary of the
86 senate and chief clerk of the house, and to such other state officers or
87 employees as the chairman of the committee on printing of either
88 house may in writing during the session designate to the document
89 editor.

90 6. For ruling necessary to be done on blanks the same shall be
91 done by the printer, for which the compensation shall be seventy-five
92 cents per hour for actual time employed.

93 7. For making alterations from original copy after matter has
94 been put into type, the compensation shall be for machine work one
95 dollar per hour and for hand work sixty cents per hour for actual
96 time employed.

[R., '60, §§ 148-153; C., '73, § 3764; C., '97, § 138; S. S., '15,
§ 138; 37 G. A., ch. 9, § 1.]

SEC. 237. Compensation of binder.

1 The binder shall be paid the following prices for all work done
2 for the state in an acceptable manner as in this chapter provided:

3 1. For folding and trimming all documents not stitched, ten cents
4 per hundred copies.

5 2. For folding, trimming and stitching documents not covered,
6 twenty cents per one hundred copies of the first form of sixteen pages
7 or less, and twelve cents per one hundred copies of each additional six-
8 teen pages or less.

9 3. For folding, saddle stitching and binding in paper covers, bul-
10 letins, messages, reports and other documents, forty cents per one hun-
11 dred copies of the first form of sixteen pages or less, and twelve cents
12 per one hundred copies for each additional sixteen pages or less, the
13 cover not to be counted.

14 4. For folding, side stitching and binding in paper covers, bul-
15 letins, messages, reports and other documents, sixty cents per one hun-
16 dred copies of the first form of sixteen pages or less, and twelve cents
17 per one hundred copies of each additional form of sixteen pages or
18 less, the cover not to be counted.

19 5. For folding, sewing and binding in paper covers with cloth
20 backs the complete house and senate journals, twenty-five cents per
21 copy for a book of two thousand pages or less, and two cents additional
22 per copy for each additional one hundred pages or fraction thereof.

23 6. For folding, sewing and binding in cloth or cases, with gilt
24 letters, the lettering and general style of the books to be the same as
25 reports heretofore published, twenty cents per copy for a book of three
26 hundred pages or less, and two cents additional per copy for each addi-
27 tional one hundred pages or fraction thereof.

28 7. For folding, sewing and binding in half sheep, with gilt letters
29 for title, gilt lettering and general style of the books to be the same as
30 documents heretofore published, or for same bound in buckram, thirty-
31 five cents per copy for a book of six hundred pages or less, and three
32 cents additional per copy for each additional one hundred pages or
33 fraction thereof.

34 8. For folding, stitching and binding the acts and resolutions of
35 each general assembly in boards, with muslin backs and paper sides,
36 same as the laws of the thirty-fifth general assembly, twelve cents per
37 copy for a book of four hundred pages or less, and two cents additional
38 per copy for each additional one hundred pages or fraction thereof.

39 9. For folding, sewing and binding in law sheep, same style as the
40 session laws of the thirty-fifth general assembly, sixty cents per copy
41 for a book of five hundred pages or less and three cents additional per
42 copy for each additional one hundred pages or fraction thereof.

43 10. For folding, sewing and binding the Iowa official register in
44 cloth or cases, regular document size, with gilt letters on the back

45 thereof, the kind and quality of the cloth and style of lettering to be
 46 directed by the secretary of state, sixteen and one-half cents per copy
 47 for a book of six hundred pages or less, and two cents additional per
 48 copy for each additional one hundred pages or fraction thereof.

49 11. For folding, sewing and binding in cloth or cases, with head
 50 bands and beveled edges, with gilt lettering on the back, the annual
 51 reports of the geological survey and other similar publications, twenty-
 52 five cents per copy for a book of four hundred pages or less and three
 53 cents additional per copy for each additional one hundred pages or
 54 fraction thereof.

[R., '60, § 170; C., '73, § 3767; C., '97, § 141; S. S., '15, § 141.]

SEC. 238. "Sheep" construed.

1 Wherever in this chapter the word sheep is used, it shall be con-
 2 strued to mean law sheep.

[C., '97, § 142.]

SEC. 239. List of useless documents or laws.

1 The secretary of state shall accompany any report of state docu-
 2 ments, publications or laws he may be required by law to make to the
 3 executive council or governor of the state of Iowa, with a list of any of
 4 said documents, publications or laws, that he may deem not required
 5 for the future public uses. Said list shall show the entire number of
 6 each of said documents, publications or laws in his custody and the
 7 number he may deem not required for public uses.

[S., '13, § 144-b.]

SEC. 240. Committee to determine.

1 Upon the receipt of any list of state documents, publications or
 2 laws not required for future public uses, as provided in the preceding
 3 section, by the governor or executive council, the same shall be by the
 4 executive council referred to a committee consisting of the state
 5 librarian, the curator of the state law library and the curator of the
 6 historical department, who shall examine the said list and determine
 7 by majority vote of said committee what part, if any, of said docu-
 8 ments, publications or laws are not required for the public uses and
 9 report their findings to the executive council.

[S., '13, § 144-c.]

SEC. 241. Disposition by executive council.

1 The executive council is empowered to dispose of any state docu-
 2 ments, publications or laws that the committee named in the preceding
 3 section may recommend for disposition. It shall be unlawful for any
 4 state officer to sell, destroy or otherwise dispose of state documents,
 5 publications or laws, except as provided in this section or other laws
 6 providing for the sale or disposition of the same.

[S., '13, § 144-d.]

CHAPTER 11.

CUSTODIAN OF PUBLIC BUILDINGS.

SECTION 242. Duties specified.

1 It shall be the duty of the adjutant general to take charge of and
 2 protect the capitol building, together with all the grounds and prem-
 3 ises appurtenant thereto and all other state buildings, now or here-
 4 after erected thereon except the Iowa historical, memorial and art
 5 building and grounds, and all furniture and other property connected
 6 therewith; to preserve the same from injury; at all proper times to
 7 open and ventilate the several apartments, and constantly to keep
 8 every part thereof cleansed and in proper order, and at all suitable
 9 hours to personally or by proper escort attend visitors who may wish
 10 to view the same, or any part thereof entrusted to his care, free of
 11 expense; to control and take care of the capitol grounds, walks, fences,
 12 trees, shrubbery, statuary and other property of the state on or about
 13 the capitol grounds or premises, and to keep the same clean and in
 14 good order; to have charge and control of all buildings and grounds
 15 belonging to the state at the seat of government, not by law placed
 16 in charge of some other person, and to protect and care for the same.
 17 Before entering upon the discharge of his duties he shall execute and
 18 file with the secretary of state a bond in the penal sum of one thousand
 19 dollars, conditioned on the faithful discharge of his duties, with sure-
 20 ties thereto to be approved by the governor, and shall appoint from
 21 among his subordinates and employees the required number of police-
 22 men, including a chief of police.

[C., '73, § 120; C., '97, § 147; S. S., '15, § 147.]

SEC. 243. May employ and discharge assistants—actions for injuries.

1 He is hereby authorized and empowered, subject to the limita-
 2 tions contained in this title, to employ such labor as shall be required
 3 in carrying out the duties imposed by this chapter; to have, at all
 4 times, charge of and supervision over the police and janitors in and
 5 about the capitol, not otherwise provided for, and to employ and dis-
 6 charge the same as the public interest may demand, and, with the
 7 advice and consent of the attorney general, to institute in the name
 8 of the state civil or criminal proceedings against any person for injury
 9 or threatened injury to any public property under his control.

[C., '97, § 148.]

SEC. 244. Number and compensation of employees—report—pay.

1 The persons employed by him, as above authorized, shall at no
 2 time exceed the maximum number, and their compensation shall not
 3 exceed the maximum amount allowed by law. At the end of each
 4 month he shall make out a list of the expenses incurred under this
 5 chapter, specifying the names of the persons employed, the time
 6 employed, the kind of labor performed, and the amount due to each,
 7 which report shall be subscribed and sworn to by him and filed with
 8 the state board of audit, and, when approved by it, the auditor shall
 9 issue a warrant to each person for the amount to which he is entitled.

[C., '97, § 149.]

SEC. 245. Record to be kept—contents—report.

1 He shall keep in his office a complete record containing an item-
 2 ized list of all property of the state under his care and control, with
 3 accurate plans and surveys of the public grounds at the seat of gov-
 4 ernment. He shall make a report to the governor on or before the
 5 last day of September preceding each regular session of the general
 6 assembly, which report shall cover all transactions for the preceding
 7 biennial period. He shall perform all other duties imposed by law,
 8 or order of the executive council.

[C., '97, § 150; S., '13, § 150.]

SEC. 246. Contents of report.

1 Said report shall show in detail all expenditures made on account
 2 of the department of public buildings and property; an itemized
 3 statement of all money received for property sold or collections made;
 4 the condition of all real and personal property of the state under his
 5 care or control, together with a report of any loss or destruction, or
 6 injury to any such property, with the causes thereof, and measures
 7 necessary for the care and preservation of the same, and recommenda-
 8 tions as to methods which would tend to render the service more effi-
 9 cient and economical. Said report shall also embrace any other
 10 matter ordered by the executive council, and shall contain an inventory
 11 of all state property under his control. All reports of the custodian
 12 shall be subscribed and sworn to by him.

[C., '97, § 151; S., '13, § 151.]

SEC. 247. No interest in contracts.

1 It shall be unlawful for the custodian to have any pecuniary
 2 interest, directly or indirectly, in any contract for supplies or labor
 3 provided for by this chapter, or any business enterprise involving any
 4 expenditure by the state; and a violation of the provisions of this sec-
 5 tion shall be deemed a misdemeanor, and on conviction thereof he
 6 shall be fined in any sum not exceeding one thousand dollars, and be
 7 removed from office.

[C., '97, § 153.]

CHAPTER 12.
EXECUTIVE COUNCIL.**SECTION 248. How constituted.**

1 The governor, secretary, auditor and treasurer of state shall con-
 2 stitute the executive council, and any three of them shall constitute
 3 a quorum. No deputy of either of such officers shall act in said coun-
 4 cil for his principal.

[R., '60, § 993; C., '73, § 111; C., '97, § 155.]

SEC. 249. Secretary—how chosen.

1 The executive council shall choose a secretary who shall hold
 2 office during its pleasure.

[R., '60, § 999; C., '73, § 119; C., '97, § 156; S., '13, § 156.]

SEC. 250. Secretary—duties.

1 The secretary of the executive council shall perform the following
2 duties and such others as are now or may hereafter be prescribed by
3 law or directed by the executive council:

4 1. *Record of proceedings—certified statements.* He shall keep
5 a complete record of the proceedings of the executive council and of
6 the state board of review, and shall, upon the completion of the work
7 of said board of review, immediately transmit to the auditor of state
8 a certified statement of the percentage to be added to or deducted
9 from the valuation of each kind or class of property in the several
10 counties of the state, and to each county auditor of the state a like
11 statement for his county.

12 2. *Assessment record.* He shall keep an assessment record,
13 wherein shall be recorded the detailed proceedings relating to, and all
14 valuations and assessments of properties made, taxes levied and levies
15 determined by the executive council, and shall certify to the several
16 county auditors all property assessments and levies so made by the
17 executive council, that by law are required to be certified to the said
18 county auditors.

19 3. *Register of claims.* He shall keep a register of all claims
20 required by law to be approved by the state board of audit, upon which
21 register shall be shown the name of each claimant, or in the case of
22 pay rolls the name of the department, or where there are several
23 claimants the first name on the list, the amount claimed and the
24 amount allowed with the date of the allowance and a citation of the
25 statute under which the same is allowed.

26 4. *System of accounts.* He shall keep the following systems of
27 accounts:

28 *a* A system of ledger accounts with all appropriations against
29 which the state board of audit is, by law, authorized to audit claims.

30 *b* Accounts showing in detail all items of printing materials
31 delivered by the state to the printer and all credits due said printer
32 for the materials used in printing done for the state.

33 *c* A stock book record and ledger accounts of all supplies and
34 postage received and issued by the supply department.

35 *d* Such further accounts as may be prescribed by the executive
36 council.

37 5. *Vouchers and forms.* He shall prepare and maintain, under
38 the direction of the executive council, the following systems of vouch-
39 ers and forms:

40 *a* For the various claims required to be approved by the state
41 board of audit.

42 *b* For the requisitions for supplies for state officers and mem-
43 bers of the general assembly and paper for the printer and contrac-
44 tors.

45 *c* For official orders for printing done by the printer and con-
46 tractors.

47 *d* For vouchers between the printer, binder, contractors and the
48 state, for printing or binding done for the state.

49 *e* For forms for the expense reports to be made by state officers
50 to the executive council.

51 *f* For forms for reports of railways, express, equipment and
52 sleeping car, telegraph, telephone and all other companies required by
53 law to report to the executive council.

54 *g* All vouchers or forms that may be prescribed by the executive
55 council.

56 6. *Report for publication in Iowa official register.* He shall, on
57 or before the fifteenth day of January in each odd-numbered year,
58 prepare a report of the doings of the executive council for the two
59 preceding calendar years; which report shall include a statement of
60 the assessments of railroads, sleeping and dining cars, express com-
61 panies' property, equipment cars and telegraph property by companies
62 or lines; the aggregate assessment of telephone properties by classes;
63 the official canvass of the votes cast at the last general election; a
64 statement of the cities and towns the class of which may have been
65 changed; and a classified and condensed statement of the expenditures
66 made or approved by the executive council and a condensed statement
67 of all other acts of the said council that are of general interest. This
68 report so made and approved by the executive council shall be pub-
69 lished in the Iowa official register.

70 7. *Biennial report of itemized expenses.* He shall, under the
71 direction of the executive council, compile and have published as
72 required by law the biennial reports of the itemized expenses of all
73 state officers, boards and commissions.

74 8. *Annual assessment reports.* He shall, under the direction of
75 the executive council, annually compile and have printed detailed re-
76 ports of the assessment of railways; sleeping, dining and equipment
77 cars; express properties, telegraph and telephone properties.

78 9. *Supplies, postage and printing.* He shall have charge of the
79 supplies, postage and printing papers purchased for state uses and
80 shall account for the same.

81 10. *Bond.* He shall give a bond to the state, in an amount to be
82 determined and approved by the executive council, for the faithful
83 discharge of his duties.

[C., '73, §§ 119, 120; C., '97, § 157; S., '13, § 157.]

SEC. 251. Warrants on contingent fund—for what purposes.

1 The executive council is authorized to draw warrants upon any
2 contingent fund set apart for its use for the purpose of paying the
3 expenses of suppressing any insurrection or riot, actual or threatened,
4 when state aid has been rendered by order of the governor, and for
5 repairing, rebuilding or restoring any state property injured, de-
6 stroyed or lost by fire, storm, theft or unavoidable cause, and for no
7 other purpose whatever.

[C., '73, § 120; C., '97, § 170.]

SEC. 252. Auditor's warrants.

1 The executive council shall have power and authority to issue
2 and negotiate warrants, bearing interest not to exceed five per cent
3 per annum, in anticipation of the general revenues of the state for
4 the fiscal year in which such warrants are issued; but the aggregate
5 amount of such warrants shall not exceed the estimated revenue of
6 the state for said year. Said executive council shall issue and nego-
7 tiate such warrants only at such times as current revenues may be
8 insufficient to pay all warrants issued by the auditor of state. When-
9 ever it becomes necessary to sell such warrants, the executive council
10 shall advertise for sealed bids and shall dispose of the warrants to

11 the highest bidder or bidders, and shall keep the bids on file and a rec-
12 ord of the same and of the parties purchasing the warrants.

[S., '13, § 170-a.]

SEC. 253. Proposal for compromise of state claims—adjustment by attorney general.

1 Whenever, in the judgment of the attorney general, the strict
2 enforcement by the state of a demand for money or other property
3 against any person, partnership, corporation or joint stock associa-
4 tion is impracticable or inequitable, he may submit to the executive
5 council a written proposal for a compromise thereof, made by the
6 party against whom the demand is asserted, with his opinion and
7 advice thereon. The executive council shall thereupon consider the
8 equities of the case, the situation and financial ability of the debtors,
9 and the interests of the state and determine in writing upon what
10 terms the demand in question should be settled as against all or any
11 of the parties thereto. Its report shall be filed with the governor,
12 and thereupon the attorney general may adjust the claim in accord-
13 ance with such determination and may execute on behalf of the state
14 all papers necessary and proper to carry the compromise into effect,
15 and to release from such claim any and all parties thereto who shall
16 seasonably comply with the conditions of the settlement so author-
17 ized.

[S., '13, § 170-h.]

SEC. 254. Payment of costs taxed against state.

1 The executive council of the state of Iowa is hereby authorized
2 to allow and pay any costs taxed to the state of Iowa or other expenses
3 incurred in any suit or proceeding brought by or against any of the
4 state departments or in which the state is a party or interested, to be
5 paid out of any moneys in the state treasury not otherwise appropri-
6 ated.

[S., '13, § 170-i.]

SEC. 255. Unexpended balances.

1 All commissions, boards, officers or persons placed in charge, by
2 statute, of special work for which a specific appropriation of state
3 funds has been made, shall biennially report to the executive council
4 of the state the progress of such special work, the balance still on
5 hand in such fund, a list of all unpaid bills then outstanding, together
6 with the amount of each, and shall furnish said executive council with
7 such other information as it shall from time to time require; and
8 whenever the said executive council is satisfied that the work for
9 which such special fund was created has been completed, or aban-
10 doned, it shall fix a day for hearing upon the question of whether the
11 unexpended balance then on hand in said fund should be transferred
12 to the general revenue fund of the state, and shall cause a ten days'
13 notice of such hearing to be given such commission, board, officer, or
14 person, having charge of such work, at which hearing the said com-
15 mission, board, officer, or person, may show cause, if any there be,
16 why such unexpended balance should not be so transferred to the gen-
17 eral revenue fund, and if after such hearing the executive council
18 shall find that said special work has been completed, or abandoned,
19 and that there is no good reason why such transfer should not then
20 be made, such findings shall be made a matter of record in the min-

21 utes of its proceedings, and the secretary of such executive council
 22 shall notify the treasurer of the state of Iowa and the auditor of the
 23 state of Iowa in writing of such finding, accompanying such notice
 24 with a copy of the minutes of such proceeding, and the said treasurer
 25 shall thereupon transfer such unexpended balance to the general rev-
 26 enue fund of the state, and the auditor shall make the necessary
 27 changes upon his books to show such transfer.

[S. S., '15, § 170-q.]

SEC. 256. Use and control of apartments in capitol—rooms for board of control.

1 Every officer, board, court or commission may control the official
 2 apartments assigned to them by the executive council, but shall have
 3 no right to employ any janitor, clerk or person, except as authorized
 4 by joint resolution as provided in this title. The senate chamber,
 5 the hall of the house of representatives and the committee rooms shall
 6 be used only for legislative purposes, and official apartments shall be
 7 used only for the purpose of conducting the business of the state. The
 8 executive council be and they are hereby authorized to permit the
 9 board of control to use such of the committee rooms of the capitol
 10 for office purposes as in their judgment can be used advantageously;
 11 provided, however, said committee rooms shall not be used for such
 12 purposes during any session of the general assembly.

[C., '97, § 152; S., '13, § 152.]

SEC. 257. Assignment of rooms at statehouse.

1 The rooms in the capitol building, numbers eleven and twelve, on
 2 the first floor, now occupied by the state department of agriculture,
 3 room number eleven as a library and exhibition room, and room num-
 4 ber twelve as a business room, be and the same are hereby assigned to
 5 the said state department of agriculture for its permanent use and
 6 occupation, subject only to the action of the general assembly of the
 7 state of Iowa.

[S., '13, § 152-a.]

SEC. 258. Supervision of capitol—contracts—auditing of bills.

1 The executive council is empowered to assign apartments in the
 2 capitol building to the several state officers, commissions and boards;
 3 and such assignment shall be subject to change by it, from time to
 4 time, when required in the interest of the public service. It shall
 5 also make for the state all contracts for lighting and repairing the
 6 capitol building and other buildings belonging to the state situate in
 7 the city of Des Moines, and grounds connected therewith, and for the
 8 necessary telephone, telegraph and water service therein; but the cost
 9 of such service shall not exceed the minimum amounts paid by private
 10 parties for like service. The bills for such service shall be itemized,
 11 subscribed and sworn to by the persons entitled thereto, and filed with
 12 the state board of audit, who shall audit the same and order a war-
 13 rant drawn upon the treasury therefor, payable out of the amount
 14 appropriated by the general assembly for that purpose, and not other-
 15 wise.

[C., '73, § 120; C., '97, § 164; S., '13, § 164.]

SEC. 259. Purchase of supplies—authority to sell.

1 The council is also empowered and authorized to purchase the
 2 necessary furniture, fuel, stores and supplies for the capitol building
 3 and other buildings belonging to the state situate in the city of Des
 4 Moines, and grounds connected therewith, and for the use of the gen-
 5 eral assembly, public offices at the seat of government, and the supreme
 6 court, and all paper needed for the public printing. All paper pur-
 7 chased for the use of the state shall have a distinguishing mark or
 8 water line by which it can be identified, and all furniture, stores or
 9 supplies for use in and about the capitol shall, when practicable, be
 10 marked with the word "Iowa." The executive council shall have
 11 authority to sell, exchange or otherwise dispose of any article of fur-
 12 niture, stores or supplies when the same have become, for any reason,
 13 unfit for further use by the state.

[C., '51, §§ 45, 60; R., '60, §§ 61, 81, 2170; C., '73, § 121;
 C., '97, § 165; S., '13, § 165.]

SEC. 260. Advertise for sealed proposals.

1 The council shall, from time to time, make estimates of the kind,
 2 quantity and quality of the articles needed and authorized to be pur-
 3 chased by it, as provided in the preceding section, and shall cause the
 4 secretary thereof to advertise for sealed proposals therefor in two
 5 newspapers published at the seat of government, and such others as
 6 it may deem expedient, except that postage stamps, postal cards, and
 7 stamped envelopes may be purchased without advertising, at the gov-
 8 ernment prices, and the state board of audit may audit bills for post-
 9 age, necessarily required for state purposes, at the time the same is
 10 ordered. When so audited the auditor of state shall draw warrants
 11 for the same upon the proper fund, which the treasurer of state shall
 12 pay upon presentation. Such advertisement shall state the kind,
 13 quantity and quality, and time and place of delivery, of the articles
 14 to be purchased, and that such proposals shall be filed with the sec-
 15 retary of the council, the time and place where all bids will be opened,
 16 and such other matters as the council may direct. Bills for such
 17 advertising shall be subscribed and sworn to by the persons entitled
 18 thereto, and, when the same are audited by the state board of audit,
 19 the auditor shall draw warrants therefor.

[R., '60, § 2169; C., '73, § 121; C., '97, § 166; S., '13, § 166.]

SEC. 261. Award contracts—security—auditing bills.

1 All bids shall be opened by the council at the time and place fixed
 2 in the advertisement, and it shall award the contracts to the lowest
 3 responsible bidder therefor, who shall give security, to be approved
 4 by it, for the performance of such contracts; or it may reject any or
 5 all bids and advertise anew. Upon the delivery of the articles con-
 6 tracted for in compliance with the terms of the contract, the person
 7 so furnishing the articles shall file with the council an itemized bill
 8 therefor, and the state board of audit shall thereupon audit the same,
 9 and order a warrant drawn upon the treasury for the amount due,
 10 payable out of the sum appropriated by the general assembly for that
 11 purpose, and not otherwise.

[R., '60, § 2169; C., '73, § 121; C., '97, § 167.]

SEC. 262. Supplies and postage—to whom furnished.

1 The executive council shall take charge of all property purchased
 2 under the provisions of this chapter, and shall keep a full, accurate,
 3 complete and itemized account of all such property, with the cost and
 4 disposition thereof. The council shall supply the governor, secre-
 5 tary, auditor, treasurer, judges of the supreme court and clerk
 6 thereof, attorney general, supreme court reporter, superintendent of
 7 public instruction, railroad commissioners, adjutant general, the dairy
 8 and food commissioner, the historical department, the mine inspec-
 9 tors, the labor commissioner, the horticultural department, traveling
 10 library and Iowa library commission, the educational board of exam-
 11 iners and other officers entitled thereto by law, the general assembly,
 12 its committees, and the clerks, secretaries and special and standing
 13 committees of either house thereof, with all such articles required
 14 for the public use, and necessary to enable them to perform the duties
 15 imposed upon them by law. Postage shall not be furnished to the
 16 general assembly, its officers, employees, or to any committee of either
 17 branch thereof. Supplies, including postage and stationery, shall be
 18 furnished to the officers and persons entitled thereto by law, only in
 19 the manner provided in this chapter.

[R., '60, § 2170; C., '73, § 122; C., '97, § 168; S., '13, § 168.]

SEC. 263. Supplies—how drawn—accounts to be kept.

1 In order to draw supplies, each officer or person entitled thereto,
 2 or the chairmen of the respective committees, shall make a written
 3 requisition on the secretary of the council, specifying the amount and
 4 kind that is necessary; and, upon presentation thereof to said secre-
 5 tary, he shall deliver the articles to the person entitled thereto, taking
 6 a receipt therefor, to be filed and preserved with the records of the
 7 council. The council shall keep an account so as to show the amount,
 8 cost and kind of supplies purchased, the amount and kind on hand,
 9 and the disposition of the balance. It shall keep an accurate item-
 10 ized account with each office, board, commission, or person drawing
 11 supplies, charging thereto the several articles furnished at the cost
 12 price. The council shall also keep an account with the public printer,
 13 charging him with all paper drawn for public use at the cost price.
 14 All printed matter shall be returned to the secretary of the council
 15 for distribution, and the printer shall be credited with the cost price
 16 of the paper so returned, and required to account for the balance.

[C., '97, § 169.]

SEC. 264. Authorized to incur expense of investigations.

1 The executive council is authorized to incur such expense as it
 2 may find necessary to make investigations to determine the facts
 3 affecting or relating to any duty that is now or may hereafter be
 4 imposed upon said council by law. Its authority shall extend to and
 5 include the procuring of data for the determination of the value at
 6 which property may be accepted by corporations in payment for issues
 7 of capital stock; the investigation of property values for the purpose
 8 of assessment and taxation and for the purpose of adjusting the valu-
 9 ation of property of taxing districts and counties; matters relating
 10 to the census to be made under chapter fourteen, title two, or amend-
 11 ments thereto; matters relating to official expenses and expense
 12 accounts; matters relating to public revenues or to procure anything

13 not otherwise provided, necessary to enable said executive council to
 14 properly or adequately perform any duty imposed by law. It may
 15 also incur the necessary expenditure to perform or to cause to be per-
 16 formed any duty imposed by law upon the executive council which
 17 the members or its regular employees are unable to perform, or for
 18 which the statute imposing the duty fails to make the necessary pro-
 19 vision for the execution thereof.

[S., '13, § 170-l.]

SEC. 265. Maximum sum fixed in each case.

1 Before incurring any expenditure authorized in the preceding
 2 section, an order shall be made and recorded in the records of the
 3 executive council setting forth the necessity for incurring the same
 4 and fixing the maximum amount that may be so expended in each
 5 such case.

[S., '13, § 170-m.]

**SEC. 266. Members or regular employees to act when possible—
 requisite vote on employment.**

1 No expenditure for personal service, per diem or salaries, shall
 2 be authorized for the employment of any person for a duty that may
 3 be performed by a member of the council or its regular employees
 4 without neglect of the usual duties of the members or said employees.
 5 Expenditures authorized for personal service, per diem or salaries,
 6 shall be made only upon the unanimous, affirmative vote of all mem-
 7 bers of the executive council, and before any person shall be employed
 8 the rate of compensation of salary shall be determined and the aggre-
 9 gate amount that may be expended in each case shall be determined
 10 and recorded in the records of the executive council. Any person so
 11 employed shall be selected on account of especial fitness for the labor
 12 to be performed, and the record of employment shall contain a state-
 13 ment of the peculiar fitness of such employee for the special duty
 14 to be performed.

[S., '13, § 170-n.]

**SEC. 267. No additional compensation to members or employees
 for special service—traveling expenses.**

1 Members of the executive council and its regular employees shall
 2 be paid no additional salary or compensation for special service, but
 3 shall receive their necessary traveling expense, including subsistence,
 4 when absent from the seat of government.

[S., '13, § 170-o.]

SEC. 268. Appropriation.

1 There is hereby appropriated out of any money in the state
 2 treasury not otherwise appropriated an amount sufficient to pay the
 3 expenditures authorized by the four preceding sections.

[S., '13, § 170-p.]

SEC. 269. Accounts of state institutions controlled.

1 In addition to the duties provided by law, the executive council
 2 shall direct the manner in which the accounts of all transactions of
 3 the several state institutions shall be kept, and the various items

4 thereof, and such method shall be subject to change by them from time
5 to time, as occasion may require. All officers or persons having charge
6 of or supervision over said institutions shall keep accounts as directed
7 by the executive council, which shall at all times be open for the inspec-
8 tion of the governor or any examiner appointed under the provisions
9 of this code. A failure to so keep such accounts shall be ground for
10 suspension from office.

[C., '97, § 158.]

SEC. 270. Annual examination.

1 At least once each year, and oftener if deemed expedient, the
2 executive council shall cause the books, accounts, vouchers, expendi-
3 tures and conduct of each of the state institutions to be examined into
4 by a skilled accountant and examiner not otherwise in the employ of
5 the state, who shall make report to the executive council of such mat-
6 ters and in such form as it may prescribe.

[C., '97, § 159.]

SEC. 271. Compensation of examiner.

1 Such examiner shall receive actual necessary expenses, and such
2 compensation as the executive council may allow, not to exceed six
3 dollars per day for each calendar day actually employed. The exam-
4 iner shall itemize his bills for expenses and services, and they shall be
5 subscribed and sworn to by him.

[C., '97, § 160.]

**SEC. 272. Settlement with state officers — expert accountant —
assistant—powers of executive council.**

1 The executive council shall, annually, and oftener in its discretion,
2 make a full settlement between the state of Iowa and all state officers,
3 commissioners, boards, associations, societies, organizations, depart-
4 ments and all persons receiving, handling or expending state funds.

5 For that purpose an expert accountant and assistants, the number
6 to be fixed by the executive council, at such annual salaries as shall
7 be fixed by law, shall be employed to examine the methods of account-
8 ing, the books and accounts, of all state officers, commissions, boards,
9 associations, societies, organizations, persons and departments.

10 The expert accountant so appointed shall report in writing, to the
11 executive council, the facts and conditions found, with his suggestions
12 and recommendations, as to improvements in methods of conducting
13 the business of the department, the improvements in the method of
14 bookkeeping and any other change which, in his judgment, would tend
15 to lessen the costs of operation, or increase the efficiency of the depart-
16 ment, and shall also report the facts as to any practices in administra-
17 tion not authorized by statute, or contrary to good business methods.

18 For the purpose of ascertaining the best methods of conducting
19 the business of any department, should a change be deemed expedient,
20 the expert accountant may, with the consent of and authority of the
21 executive council, call to his assistance a specialist in the methods
22 sought to be established in any department. The expert accountant
23 and specialist shall report in writing, to the executive council, their
24 findings and recommendations, which, if approved by the executive
25 council, shall be adopted by such department, officer, board, associa-
26 tion, society, organization, or commission, at such time as fixed by the

27 executive council, and provided further, that should the executive
 28 council deem it advisable, it shall send the expert accountant to exam-
 29 ine the records and methods of conducting the business in other states,
 30 or business institutions. The executive council shall have, at all
 31 times, authority to direct the methods of accounting, the manner in
 32 which the records and accounts of state departments shall be kept,
 33 when the statute does not specifically prescribe the same; to require
 34 a compliance with their orders and the provisions of law when the
 35 statute prescribes duties as to methods and accounts, and to require
 36 the keeping of the necessary records and accounts to enable said
 37 officers to make all reports required of them by law.

38 Provided that nothing herein shall be construed so as to interfere
 39 with the system of taking care and management of the institutions
 40 under the charge of the board of control or the state board of
 41 education.

[C., '97, § 161; S., '13, § 161-a; 38 G. A., ch. 409, § 1.]

SEC. 273. Appropriation.

1 There is hereby appropriated out of any money in the state
 2 treasury not otherwise appropriated an amount sufficient to pay the
 3 expenditures authorized by the preceding section.

[38 G. A., ch. 409, § 2.]

SEC. 274. Biennial reports of expenditures by state officers.

1 Biennially, on or before the first day of September of each year
 2 prior to the convening of the general assembly, the executive council
 3 shall cause to be compiled a complete report of the expenditures of
 4 the several state offices, boards, commissions and institutions, except
 5 those institutions under the management of the board of control, or
 6 the state board of education, in such manner as will show the amount
 7 and nature of all expenditures reported; the price paid for things or
 8 commodities purchased or furnished for said departments or institu-
 9 tions; the rates paid as salaries or per diem with the names of the
 10 officers, clerks or employees receiving compensation or payment for
 11 expenses; a statement of supplies and paper drawn from the supply
 12 department; a statement of printing and binding done for the several
 13 departments; a statement of fees collected and the disposition made
 14 thereof by each of said offices, boards, commissions and institutions.
 15 All bills against the state of Iowa of any kind or character, including
 16 personal per diem and expense accounts, now or hereafter required
 17 by law to be examined and approved by the executive council or the
 18 state board of audit before payment is made therefor, shall be made
 19 out in duplicate and filed in the office of the secretary of the executive
 20 council. A copy of all the reports required to be filed with the several
 21 state departments, boards or commissions, by the secretary of state,
 22 under the provisions of section two hundred fifteen shall be filed with
 23 the executive council. All other data required for this report shall
 24 be reported by the several state officers, departments or institutions
 25 to the executive council at such times and in such form as the execu-
 26 tive council may direct. For the keeping of the necessary accounts,
 27 preparing the data thus to be reported and preparing the report
 28 required the executive council may employ a competent clerk at not
 29 to exceed three dollars per day for the time actually and necessarily

30 employed, the expense thereof to be paid from the state treasury upon
31 verified vouchers certified by the executive council.

[S., '13, § 163-a.]

SEC. 275. How published—distribution.

1 The report required by the preceding section shall be published
2 by the executive council in an edition of five thousand copies, five
3 hundred of which shall be bound in cloth and the balance in paper
4 covers, and shall be distributed as follows: One copy bound in cloth
5 and fifteen copies in paper covers to each member of the general
6 assembly; one copy bound in cloth to each state officer, member of
7 board and commission; one copy bound in cloth to each public, free
8 and college library in the state; ten copies bound in cloth to the state
9 library; five copies bound in cloth to the state historical department;
10 one copy bound in paper to each county auditor, treasurer, clerk of
11 the district court, and each newspaper in the state; the remaining
12 copies in excess of the reserve list to be distributed on order of the
13 executive council.

[S., '13, § 163-b.]

CHAPTER 13.

STATE BOARD OF AUDIT.

SECTION 276. State board of audit created—how constituted—duties.

1 There is hereby created the state board of audit, to consist of the
2 auditor of state, the attorney general or one of his authorized assist-
3 ants to be designated by him for this service, and the secretary of the
4 executive council or his first assistant, who shall also be secretary of
5 this board and who shall make a record of all claims approved in the
6 executive council record and in the claim register required to be kept
7 by the secretary of the executive council.

[S. S., '15, § 170-r.]

SEC. 277. Board of audit to audit all claims—salaries.

1 All bills and claims for money due from the state of Iowa, to
2 be paid from the state treasury, for expenses incurred, services
3 rendered or for things furnished for or purchased by any state em-
4 ployee, officer, commissioner, board or department, on account of any
5 state department, except the salaries of the various officers whose
6 salaries are fixed by law, shall be approved and certified by the state
7 board of audit before warrants in payment of the same are drawn
8 by the auditor of state. The power existing in or conferred upon the
9 executive council, the board of trustees of the state library and the
10 historical department of Iowa, or upon other state officers, boards or
11 commissions, to approve or certify claims or vouchers for any state
12 department or purpose is hereby transferred to the state board of
13 audit, but nothing herein contained shall be so interpreted as to relieve
14 the executive council of any duty imposed upon it by law, except that
15 of auditing and passing upon claims as provided in this chapter.

[S. S., '15, § 170-s.]

SEC. 278. Duties of board in auditing claims.

1 Before approving a claim or voucher, the state board of audit
 2 shall determine that the following conditions exist, to wit:
 3 1. That the creation of the claim is fully and clearly authorized
 4 in law.
 5 2. That the officer, board, commission, department or executive
 6 council empowered to authorize the creation of the claim has granted
 7 or authorized the same and has certified the fact to the board of audit.
 8 3. That all the legal requirements have been observed, including
 9 notice and competition, if required by law.
 10 4. That the claim is in proper form and duly verified.
 11 5. That the charges are reasonable, proper and correct. The
 12 state board of audit shall have no authority to authorize the creation
 13 of a bill against the state.

[S. S., '15, § 170-t.]

SEC. 279. To establish rules.

1 The board of audit is hereby authorized and directed to formulate
 2 and publish such rules and regulations as it may deem necessary and
 3 which will enable it to determine whether any service for which claim
 4 is made was actually performed, the time necessarily devoted to such
 5 service and the exact and necessary expenses incurred in the per-
 6 formance of said service. And requiring information relative to any
 7 and all other matters which will aid said board in performing its
 8 duties and protecting the interests of the state, and the board may
 9 require a strict compliance with these rules before auditing any claim.

[S. S., '15, § 170-u.]

SEC. 280. Members of board to qualify.

1 Before entering upon his official duties each member of said state
 2 board of audit shall take and sign the usual official oath and file the
 3 same with the secretary of state.

[S. S., '15, § 170-v.]

SEC. 281. Presentation of claims — limitation — examination of claimant.

1 Every claim against the state shall be presented to the auditor
 2 for settlement within two years after it accrues, and, if thereafter
 3 presented, the same shall not be audited. When a claim is presented,
 4 the auditor is authorized to examine the claimant and any other per-
 5 sons, under oath, touching such claim, or cause them to verify the same
 6 by affidavit or deposition.

[C., '51, § 53; R., '60, § 74; C., '73, § 69; C., '97, § 92.]

SEC. 282. Itemized statements required.

1 All officers of the state, members of boards or commissions, offi-
 2 cers of state institutions and all persons drawing funds from the
 3 treasury of the state shall file with the auditor of state duplicate
 4 itemized vouchers, showing in detail the items of service, expense
 5 things furnished or contracts upon which payment is sought, before
 6 a warrant is issued upon the state treasury. Duplicate vouchers
 7 shall not be required to be filed for disbursements made on account
 8 of institutions under the management of the board of control or the
 9 state board of education. All warrants shall be drawn in the name

10 of the person, firm or contractor entitled to payment or compensation
11 and in no case shall warrants be drawn in the name of the certifying
12 office, department, board or institution or in the name of an employee
13 of the same except for personal service rendered or expense incurred
14 by said employee unless there be express statutory authority therefor,
15 except that when goods or material are purchased in foreign coun-
16 tries, warrants may be drawn upon the state treasurer, payable to
17 bearer for net amount of invoice and current exchange, and the state
18 treasurer shall furnish such foreign draft payable to order of person,
19 firm or corporation from whom purchase is made. When the law
20 permits the drawing of funds in advance of their expenditure the
21 person or persons drawing such funds shall file the itemized vouchers
22 above required one hundred days after the issuance of any such war-
23 rant, each voucher to show by proper reference that it was paid out
24 of the funds drawn on the date of the issuance of the warrant
25 before mentioned. Duplicate copies of vouchers above required to
26 be filed with the auditor of state shall be filed by him with the execu-
27 tive council at the end of each month and by the executive council
28 made available for the use of the expert accountant, named under
29 the provisions of section two hundred seventy-two.

[C., '97, § 162; S., '13, § 162.]

CHAPTER 14.

CENSUS.

SECTION 283. Executive council to provide blank forms—schedules.

1 The executive council shall cause to be prepared and printed,
2 blank forms, suitable for the purpose of taking the census, to enable
3 the assessors to make uniform returns of population and agriculture
4 for the census. The schedules relating to the population shall com-
5 prehend, for each inhabitant, the name, age, color, sex, conjugal con-
6 dition, place of birth, and place of birth of parents, whether alien or
7 naturalized, number of years in the United States and in the state
8 of Iowa, occupation, months unemployed, literacy, school attendance,
9 and ownership of farms and homes; and the executive council may
10 use its discretion as to the construction and form and number of
11 inquiries necessary to secure information under the topics aforesaid.
12 The schedules relating to agriculture shall comprehend the following
13 topics: Name of occupant of each farm, color of occupant, tenure,
14 acreage, value of farm and improvements, acreage of different prod-
15 ucts, quantity and value of products and number and value of live
16 stock. All questions as to quantity and value of crops shall relate to
17 the year ending December thirty-first next preceding the enumeration.
18 The specific form and division of inquiries necessary to secure
19 information under the foregoing topics shall be in the discretion of
20 the executive council. Such blanks must be furnished to the respec-
21 tive county auditors, and by them to the township assessors, on or
22 before the first Monday in January of the year in which the census
23 is to be taken. In addition to the matters specified to be enumerated
24 in this bill, there shall be blanks for the ex-soldiers of the United
25 States living in Iowa, which shall contain the name, company and

26 regiment to which the soldier belonged, and his present place of
27 residence.

[C., '51, §§ 614-617; R., '60, §§ 991-994; C., '73, §§ 112-115;
C., '97, § 171; S. S., '15, § 171.]

SEC. 284. Assessor to fill and return blanks—census in cities of first class — enumerators — compensation — checking clerks—refusal to answer—procedure.

1 The assessor shall, in the year nineteen hundred five, and every
2 ten years thereafter, take such census in his township, municipality,
3 or division thereof, and make entry upon such blanks of all matters
4 therein required to be enumerated or returned, and return the same
5 to the county auditor on or before the first day of June of the census
6 year; provided, however, that in cities of the first class the assessor
7 shall, in addition to his other duties, act as supervisor of the census
8 and may appoint one enumerator for each two thousand population
9 as shown by the last preceding federal census. Such enumerators
10 shall qualify in the same manner as assessors and be subject to the
11 same provisions as assessors in so far as the same relates to the census.
12 They shall receive pay at not to exceed three dollars and fifty cents
13 per day for each full day of eight hours actually employed in such
14 work, but shall not be so employed for a longer period than sixty days.
15 The assessor in such cities shall also have authority to appoint not
16 more than three clerks who shall be employed in checking the daily
17 work of the enumerators. Said clerks shall receive pay at not to
18 exceed three dollars and fifty cents per day and shall not be employed
19 for a longer period than thirty days. Said enumerators and clerks
20 shall be chosen upon competitive civil service examinations; the rules,
21 blanks and questions for said examination to be provided by the execu-
22 tive council and said enumerators and clerks when selected shall only
23 be removed for cause. If any assessor, enumerator or clerk shall be
24 found guilty of making false returns of any character, he shall forfeit
25 any and all compensation which shall have accrued to his credit and
26 be immediately discharged. If any person shall refuse to make
27 answer to any of the questions appearing on the blanks furnished the
28 assessors and enumerators, such person shall be warned that he is
29 acting in contravention of law, and, upon further refusal, it shall be
30 the duty of the assessor or enumerator to file an information, under
31 oath, against such person before any magistrate in the county, who
32 shall thereupon issue a warrant for the arrest of the accused. If the
33 person complained against upon hearing shall answer the questions
34 required by law to be propounded by the assessor, the action shall
35 be dismissed by the magistrate at the costs of the accused. If the
36 accused be found guilty as charged, he shall be fined not less than
37 five dollars and not more than one hundred dollars, and in default
38 of payment of such fine shall be imprisoned in the county jail for
39 not to exceed thirty days. Every such refusal to answer shall be
40 deemed a separate offense.

[C., '51, § 618; R., '60, § 992; C., '73, § 114; C., '97, § 172;
S. S., '15, § 172.]

SEC. 285. When assessor fails.

1 When any assessor fails to perform the duties required in this
2 chapter by June first in a satisfactory manner, such auditor shall

3 appoint some suitable person to take the census, as provided herein,
4 at as early a day as practicable, at the expense of the county.

[R., '60, § 997; C., '73, § 117; C., '97, § 173; S. S., '15, § 173.]

SEC. 286. Returns to be forwarded—provision for failure.

1 The county auditor shall forward such return to the executive
2 council as soon as possible, and not later than the first day of July
3 following. If such returns or any of them are not received by the
4 fifteenth day of July, the executive council may cause such census to
5 be made in said county, or any township, municipality, or division
6 thereof, or the returns brought up, at the expense of the delinquent
7 county. All of such returns shall be filed and preserved by the
8 secretary of state.

[R., '60, §§ 992, 996, 998; C., '73, §§ 114, 116, 118; C., '97,
§ 174; S. S., '15, § 174.]

SEC. 287. Abstracts to be made and recorded.

1 The executive council shall cause abstracts or compilations of
2 said census to be prepared, which shall be recorded by the secretary
3 of state in a book to be kept by him for that purpose. The executive
4 council may add to such compilation such other statistics in reference
5 to banking, railroads, insurance, manufactures, education and other
6 matters of public interest as they may be able to procure from the
7 heads of the various departments of the state, and other sources, and
8 which they may consider of sufficient value to be included in the census.

[C., '51, § 619; R., '60, § 996; C., '73, § 116; C., '97, § 175;
S., '13, § 175.]

SEC. 288. Stenographers and accountants.

1 In preparing said abstracts, the executive council shall employ
2 only such persons as are fully qualified by their education and skill
3 to rapidly and accurately perform the duties assigned them. All
4 employees shall be selected on their merits, after competitive exam-
5 inations, and shall be subject to removal at the pleasure of the execu-
6 tive council.

[S. S., '15, § 175-a.]

SEC. 289. Publication of census.

1 It shall be the duty of the executive council, when said census
2 shall have been compiled as aforesaid, to cause the same to be pub-
3 lished in a book to be known as the Census of Iowa; and when the
4 printing is completed, the secretary of state shall certify that the
5 same includes the census publication required by law, and such cer-
6 tificate, with the date and signature, shall be printed on the page
7 following the title page thereof.

[C., '51, § 619; R., '60, § 996; C., '73, § 116; C., '97, § 176;
S., '13, § 176.]

SEC. 290. Census publication to be evidence.

1 Wherever in the code or the supplement to the code, the popu-
2 lation of any county, city or town is referred to, it shall be determined

3 by the publication above provided for as of the date of said certificate,
4 and such census publication shall be evidence of all matters therein
5 contained, and of said certificate thereto.

[C., '97, § 177; S., '13, § 177.]

SEC. 291. Cooperation with United States census bureau.

1 So far as practicable, the executive council is authorized to co-
2 operate with the census bureau of the United States in the gathering,
3 compilation and publication of census statistics.

[S., '13, § 177-a.]

**SEC. 292. Report of national census for state—publication—
evidence.**

1 Whenever a general census is taken by the national government,
2 it shall be the duty of the secretary of state to procure from the super-
3 visor of such census, or other proper federal official, a copy of such
4 part of said census as gives the population of the state of Iowa, by
5 counties, and the population of the cities and towns of Iowa, and file
6 same in his office. He shall then, at once, cause such census report,
7 giving the population of the state by counties, and the population of
8 the cities and towns of Iowa, to be published once in each of two daily
9 newspapers of the state having general circulation, and from and
10 after the date of such publication said census shall be in full force
11 and effect throughout the state. On request and payment of a fee
12 of two dollars he shall furnish a certified copy of the whole or any
13 part of such census report; he shall also publish same in full, in each
14 copy of the official register until a census is taken under authority
15 of the state, and he shall certify that such published census report
16 is a true copy of the report furnished him by the federal official from
17 whom he obtains it, and publish such certificate in connection with
18 said census report; and such certified copy, and such published copy
19 of the census, with published certificate, shall be evidence of all
20 matters therein contained. Wherever in the code, or any supplement
21 to the code, or any copy of the session laws prior to this date, the
22 population of any county, city or town is referred to, it shall be
23 determined by the last certified, or certified and published, official
24 census, whether the same be state or national.

[S., '13, § 177-c.]

CHAPTER 15.

DEPUTIES OF STATE OFFICERS.

SECTION 293. Deputy secretary of state—bond—duties—salary.

1 The secretary of state may appoint, in writing, any person,
2 except one holding a state office, as deputy, for whose acts he shall
3 be responsible, and from whom he shall require bonds, which appoint-
4 ment and bond must be approved by the officer having the approval
5 of the principal's bond, and such appointment may be revoked in the
6 same manner; both the appointment and revocation to be filed with
7 and kept by such officer. The deputy shall qualify by taking the oath
8 of the principal, to be indorsed upon and filed with the certificate of

9 appointment, and when so qualified he shall, in the absence or disa-
 10 bility of the secretary, perform all the duties of the secretary per-
 11 taining to his office, and shall receive a salary of eighteen hundred
 12 dollars a year.

[C., '51, §§ 411-413, 416; R., '60, §§ 642-644, 647; C., '73,
 §§ 766-768, 770, 3756; C., '97, § 87; S., '13, § 87.]

SEC. 294. Deputy auditor of state—bond—duties—salary.

1 The auditor of state may appoint, in writing, any person, except
 2 one holding a state office, as deputy, for whose acts he shall be held
 3 responsible, and from whom he shall require bond, which appoint-
 4 ment and bond must be approved by the officer having the approval
 5 of the principal's bond, and such appointment may be revoked in the
 6 same manner; both the appointment and revocation to be filed and
 7 kept in the office of the secretary of state. The deputy shall qualify
 8 by taking the oath of the principal, to be indorsed upon and filed with
 9 the certificate of appointment, and when so qualified he shall, in the
 10 absence or disability of the auditor, perform all the duties of the
 11 auditor pertaining to his office, and receive a salary of eighteen hun-
 12 dred dollars a year.

[C., '51, §§ 411-413, 416; R., '60, §§ 642-644, 647; C., '73,
 §§ 766-768, 770, 3757; C., '97, § 99; S., '13, § 99.]

SEC. 295. Deputy treasurer—bond—duties—salary.

1 The treasurer of state may appoint, in writing, any person, except
 2 one holding a state office, as deputy, for whose acts he shall be held
 3 responsible, and from whom he shall require bond, which appoint-
 4 ment and bond must be approved by the officer having the approval
 5 of the principal's bond, and such appointment may be revoked in the
 6 same manner; both the appointment and revocation to be filed and
 7 kept in the office of the secretary of state. The deputy shall qualify
 8 by taking the oath of the principal, to be indorsed upon and filed with
 9 the certificate of appointment, and when so qualified, he shall, in the
 10 absence or disability of the treasurer, perform all of the duties of the
 11 treasurer pertaining to his office, and receive a salary of eighteen
 12 hundred dollars a year.

[C., '51, §§ 411-413, 416; R., '60, §§ 642-644, 647; C., '73,
 §§ 766-768, 770, 3758; C., '97, § 116; S., '13, § 116.]

CHAPTER 16.

REPORTS OF OFFICERS.

SECTION 296. Biennial reports of officers—when made.

1 The regular biennial reports of the various officers, inspectors,
 2 commissions, boards or other bodies required to be made by law shall
 3 be laid before the governor of the state, in the even-numbered years,
 4 at the following times:

- 5 1. On or before August fifteenth, those of all boards of trustees
 6 of state institutions, except the agricultural college.
- 7 2. On or before September fifteenth, those of the fish commis-
 8 sioner, the board of health, the commission of pharmacy, the oil

9 inspector, the mine inspectors, the state veterinary surgeon, and the
10 board of curators of the historical society.

11 3. On or before October first, those of the state librarian, and
12 the commissioner of labor statistics, and that of the secretary of
13 state pertaining to the land office.

14 4. On or before November first, those of the auditor of state, the
15 treasurer of state, the superintendent of public instruction, the uni-
16 versity and the state teachers college.

17 5. On or before November fifteenth, that of the board of dental
18 examiners.

19 6. On or before December first, that of the board of trustees of
20 the agricultural college, that of the adjutant general, and that of the
21 secretary of state pertaining to criminal convictions.

[C., '73, § 125; C., '97, § 122; S., '13, § 122.]

SEC. 297. Biennial fiscal term—reports to cover.

1 The biennial fiscal term of the state ends on the thirtieth day of
2 June in each odd-numbered year, and the succeeding fiscal term
3 begins on the day following; and the reports required in the preceding
4 section shall cover the period thus indicated, except when otherwise
5 provided by law, and shall show the condition of such offices and
6 institutions, respectively, on that day. The maximum amount named
7 as appropriations made for the support of inmates or for pay of
8 officers or teachers or for any other purpose whatever connected with
9 the operating of any state institution under the control of the board
10 of control of state institutions shall be available until used for the pur-
11 pose for which said appropriation was made, and no part of the same
12 shall be by the auditor of state or treasurer of state charged off as an
13 unexpended balance unless said officers shall be notified in writing by
14 said board that said balance so unexpended will not be needed, and any
15 sums charged off as unexpended balance by the auditor or treasurer
16 of state, since chapter one hundred eighteen, acts of the twenty-
17 seventh general assembly, took effect, shall still be available and sub-
18 ject to the provisions of this section.

[C., '73, § 129; C., '97, § 123; S., '13, § 123.]

SEC. 298. Officers and boards to report appropriations and expenditures and file estimates.

1 Every officer, board, commission or committee having charge of
2 any department, institution or undertaking which receives an annual
3 appropriation of money, from the treasury of the state, including
4 appropriations to be made by assessment, shall, biennially, on or
5 before the fifteenth day of November, immediately prior to the con-
6 vening of the general assembly, in regular session, submit to the
7 governor statements showing in detail the amounts appropriated for
8 the current biennial period, estimates of the amounts required for
9 the ensuing biennial period, with an explanation of the reason for
10 any increased appropriation, and all receipts (giving the source
11 thereof) and expenditures for the current biennial period tabulated.

[S. S., '15, § 191-a.]

TITLE III.

MILITARY CODE AND RELATED MATTERS.

CHAPTER 1.

MILITARY CODE.

SECTION 299. Military force — who constitutes — enumeration — exemption.

1 The military force of the state of Iowa shall consist of every able-
 2 bodied male citizen, and every able-bodied male of foreign birth, who
 3 has declared his intention to become a citizen, who is between the ages
 4 of eighteen and forty-five years, not exempt from such service under
 5 the laws of the United States, except honorably discharged soldiers,
 6 sailors and marines of the United States, who shall be exempt from
 7 military service in this state at their option. The assessors shall
 8 return to the auditor with the annual assessment a complete enumera-
 9 tion of such persons, which may be revised and corrected by the board
 10 of supervisors at its June session in each even-numbered year, or at
 11 such other time as the governor may direct, and the auditor shall cer-
 12 tify to the adjutant general a true copy of such corrected list, and in
 13 each odd-numbered year he shall certify the number of names on the
 14 list. But no person having conscientious scruples against bearing
 15 arms shall be compelled to do military duty in time of peace.

[C., '51, § 621; R., '60, § 1002; C., '73, § 1039; C., '97, § 2167; S., '13, § 2215-f1.]

SEC. 300. Iowa national guard—how recruited—soldier and company defined.

1 The organized militia shall be designated as the “national guard
 2 of the United States and of the state of Iowa”, hereinafter referred
 3 to as “the guard”, and it shall be recruited by volunteer enlistments,
 4 from persons of the state eligible to military duty. In this chapter
 5 the word “soldier” shall include musicians and all persons in the guard
 6 or in the militia when called into service, except commissioned officers;
 7 and the word “company” shall include battery, troop, band, signal
 8 corps and hospital corps except as herein otherwise provided.

[C., '97, § 2168; S., '13, § 2215-f2; 37 G. A., ch. 314, § 1.]

SEC. 301. Organization—armament—equipment—discipline.

1 The organization, armament, equipment and discipline of the
 2 guard, except as hereinafter specifically provided, shall be the same as
 3 that which is now or may be hereafter prescribed under the provisions
 4 of the act of congress approved January twenty-first, nineteen hundred
 5 three, as amended May twenty-seventh, nineteen hundred eight,
 6 relating to the militia or any subsequent amendments thereto or sub-
 7 stitutes therefor; and as to those requirements which are mandatory

8 therein as may be prescribed by the regulations of the war department
 9 published in pursuance therewith, and so far as the governor may
 10 prescribe as to those things which are optional therein; and any
 11 change hereafter made shall become effective as to the guard when an
 12 order or regulation to that effect shall have been promulgated by the
 13 governor.

[C., '51, §§ 623-631; R., '60, §§ 1004-1015; C., '73, §§ 1038-1057; C., '97, § 2186; S., '13, § 2215-f3.]

SEC. 302. Composition of national guard.

1 The guard shall consist of such organizations as may be specified
 2 by the war department, in accordance with the act of congress
 3 approved June third, nineteen hundred sixteen, or any amendments
 4 thereto or substitutes therefor.

[C., '73, § 1045; C., '97, § 2168; S. S., '15, § 2215-f4; 37 G. A., ch. 314, § 2.]

SEC. 303. Other organizations prohibited without permission of governor.

1 It shall be unlawful for any body of men, other than the guard of
 2 this state and the troops of the United States, to associate themselves
 3 together as a military company or organization within the limits of
 4 this state without the written permission of the governor, which he
 5 may at any time revoke; but this provision shall not prevent civic,
 6 social or benevolent organizations from wearing uniforms and swords
 7 not in conflict with the other provisions of this chapter.

[C., '97, § 2200; S., '13, § 2215-f5.]

SEC. 304. Regulations and orders—publication of.

1 The governor is authorized to make and publish regulations and
 2 orders for the government and discipline and uniforming of the guard
 3 not in conflict with existing laws.

[C., '51, § 631; R., '60, § 1012; C., '73, § 1044; C., '97, § 2205; S., '13, § 2215-f6.]

SEC. 305. Subject to military code—other regulations.

1 The guard shall be subject to the military code of Iowa and all
 2 regulations and orders made and published in pursuance therewith,
 3 and in all matters not specifically covered thereby it shall be subject
 4 to the regulations of the war department governing the national guard
 5 of the United States, the articles of war, the army regulations, and
 6 such regulations and orders as may be made and published in pursuance
 7 therewith.

[S., '13, § 2215-f7; 37 G. A., ch. 314, § 3.]

SEC. 306. Incorporation of companies.

1 Companies may incorporate under chapter six, title seventeen.
 2 The articles of incorporation may provide for the methods of admin-
 3 istration of civil business, and may provide for such officers as may
 4 be deemed necessary. The articles of incorporation shall be approved
 5 by the regimental commander and the adjutant general, and such ap-
 6 proval indorsed thereon, before the same are recorded. They must
 7 provide, among other things, that the name of the corporation shall be

8 identical with the military designation of the organization, and that
9 the officers of the company shall be officers of the corporation.

[S., '13, § 2215-f8.]

SEC. 307. Rules and by-laws—subject to approval—capacity to sue.

1 Each company may make rules and by-laws for its own govern-
2 ment, not in conflict with existing laws and regulations and orders,
3 subject to the approval of the regimental commander. Any person
4 who is by such rules and by-laws made the custodian of any funds,
5 whether originally derived from federal, state or other sources, shall
6 have legal capacity to sue for the collection thereof or an accounting
7 therefor.

[C., '97, § 2182; S., '13, § 2215-f9.]

SEC. 308. Officers—terms—resignations—elections.

1 Commissioned officers of the guard shall hereafter be selected
2 under such regulations as may be issued by the governor in con-
3 formity with the requirements of the act of congress approved June
4 third, nineteen hundred sixteen, or any amendments thereto or substi-
5 tutes therefor, and when once commissioned shall hold their offices
6 until they are sixty-four years of age unless they shall sooner resign,
7 be dismissed or discharged as provided by the act of congress
8 approved June third, nineteen hundred sixteen, or any amendments
9 thereto or substitutes therefor. Nothing in this chapter shall be con-
10 strued to vacate the commission of any officer now in the guard before
11 he has reached the age of sixty-four years unless he sooner resigns,
12 is discharged, or dismissed. And the terms of officers who have here-
13 tofore been commissioned for definite periods and who are now serving
14 under said commissions are hereby extended to conform to the require-
15 ments of this chapter. Any officer permanently removing from this
16 state and any company officer permanently removing his place of resi-
17 dence from his company station shall resign his commission upon
18 request of the governor or make application to be placed upon the
19 officers' reserve list, and upon failure to do so, his commission shall be
20 revoked by the governor.

[C., '51, §§ 624, 626-628; R., '60, §§ 1005, 1007-1009; C., '73,
§§ 1047, 1048; C., '97, §§ 2176-2180; S., '13, § 2215-f10;
37 G. A., ch. 314, § 4.]

SEC. 309. Officers—general fitness—examination—discharge.

1 At any time the moral character, capacity, and general fitness for
2 the service of any guard officer may be determined by an efficiency
3 board of three commissioned officers, senior in rank to the officer
4 whose fitness for service shall be under investigation, and if the
5 findings of such board be unfavorable to such officer and be approved
6 by the official authorized to appoint such officer, he shall be discharged.
7 Commissions of officers of the guard may be vacated upon resignation,
8 absence without leave for three months, upon the recommendation of
9 an efficiency board, or pursuant to sentence of a court-martial. Officers
10 of the guard rendered surplus by the disbandment of their organiza-

11 tions shall be placed in the national guard reserve. Officers may, upon
12 their own application, be placed in the said reserve.

[C., '97, §§ 2183, 2199; S., '13, § 2215-f11; 37 G. A., ch. 314,
§ 5.]

SEC. 310. Bonds of officers—action upon.

1 All officers to whom shall be issued, or who shall be accountable
2 for arms, equipment, uniforms and any other state or United States
3 property for military uses, or who shall have the control, custody or
4 disbursement of funds as provided for in this chapter, shall, before
5 the delivery to them of such arms, equipment, uniforms and other
6 state or United States property, and the receipt of such funds, be
7 required to execute and deliver to the adjutant general a bond
8 therefor, with sureties to be approved by the governor and payable to
9 the state, in such amount as may be fixed by the governor, conditioned
10 according to law, for the proper care, use and return in good order,
11 wear, use and unavoidable loss and damage excepted, of all such state
12 and United States property, and the proper care and faithful disburse-
13 ment and accounting of all funds coming into the hands of such
14 officer; upon the violation of any of the conditions of such bond, action
15 thereon shall be brought by the adjutant general upon behalf of the
16 state of Iowa, and any recovery thereon shall be credited to the guard
17 funds of the state. It shall be the duty of the attorney general of the
18 state to prosecute all actions upon such bonds.

[R., '60, § 1013; C., '73, § 1050; C., '97, § 2190; S., '13, §
2215-f12.]

SEC. 311. Enlistments.

1 All enlistments in the guard shall be for such time and in such
2 form as may be specified by regulations or orders issued by the
3 governor in conformity with the act of congress approved June third,
4 nineteen hundred sixteen, or amendments thereto, or substitutes
5 therefor.

[C., '97, § 2173; S., '13, § 2215-f13; 37 G. A., ch. 314, § 6.]

SEC. 312. Staff of governor—how appointed—rank of members.

1 The staff of the governor shall consist of an adjutant general, who
2 shall be chief of staff, an assistant adjutant general, both of whom
3 shall have served honorably in the regular or volunteer service of the
4 United States, or for not less than one year in the guard, and twelve
5 aids. The adjutant general and assistant adjutant general shall be
6 appointed and commissioned by the governor, and shall hold office for
7 a period of four years, which said first four-year period shall begin
8 July fourth, nineteen hundred fifteen, and until their successors are
9 appointed and commissioned. The assistant adjutant general shall be
10 appointed upon the recommendation of the adjutant general. The
11 aids may, at the discretion of the governor, be appointed and com-
12 missioned by him or detailed for such service from the active mem-
13 bership of the guard, or their duties may be performed by United
14 States army officers regularly or specially detailed by the war depart-
15 ment for service with the guard. The adjutant general shall have the
16 rank of brigadier general and the assistant adjutant general that of
17 major. The aids shall have the rank of lieutenant colonel, except that
18 any person so appointed, who has held a higher rank for a period of

19 one year or more in the guard, may be appointed with the rank of the
 20 highest grade so held by him, and those detailed from the active mem-
 21 bership of the guard shall retain their rank in the guard and shall not
 22 be relieved from their regular duties by reason of such detail. United
 23 States army officers, regularly or specially detailed for service with
 24 the guard or stationed in the state, may be assigned positions on the
 25 staff with their rank in the United States service or such higher rank,
 26 not above that of lieutenant colonel, as the governor may designate.

[C., '73, § 1054; C., '97, § 2174; S. S., '15, § 2215-f14.]

SEC. 313. Adjutant general—duties—report—assistant.

1 The adjutant general shall issue and transmit all orders of the
 2 governor, and shall keep a record of appointments, of all officers com-
 3 missioned by the governor, of all the general and special orders and
 4 regulations, and of such matters as pertain to the organization of the
 5 military force and his duties. He shall reside at the capital. He shall
 6 have charge of the state arsenal and grounds and all other property of
 7 the state kept or used for military purposes, and receive and issue all
 8 quartermaster and ordnance stores and camp equipage upon the order
 9 of the governor. The adjutant general shall furnish, at the expense
 10 of the state, such blanks and forms as shall be approved by the gov-
 11 ernor. He shall, in each year preceding a regular session of the gen-
 12 eral assembly, make out a detailed report of the transactions of his
 13 office, the expenses thereof and such other matters as shall be required
 14 by the governor for the period since the last preceding report, and the
 15 governor may, at any time, require a similar report. The assistant
 16 adjutant general shall be on duty with the adjutant general, and shall
 17 perform such duties under his direction as may be prescribed, and in
 18 the absence of the adjutant general shall perform the duties of that
 19 officer as acting adjutant general.

[C., '73, §§ 1054, 1055; C., '97, § 2175; S. S., '15, § 2215-f15.]

SEC. 314. Salaries—assistants.

1 The adjutant general shall receive an annual salary of twenty-
 2 seven hundred dollars in time of peace, and the assistant adjutant gen-
 3 eral shall receive an annual salary of fifteen hundred dollars, and there
 4 shall be appointed a record clerk in the adjutant general's office who
 5 shall have charge of the war records under direction of the adjutant
 6 general, who shall receive a salary of twelve hundred dollars per
 7 annum; and such assistants shall be employed in the adjutant gen-
 8 eral's and quartermaster's departments as shall, in the opinion of the
 9 governor, be actually necessary, and any person so employed shall
 10 receive for the time actually and necessarily on duty such compensa-
 11 tion as the governor may prescribe.

[C., '73, § 3761; C., '97, § 2211; S. S., '15, § 2215-f16; 37
 G. A., ch. 314, § 7.]

SEC. 315. Salary.

1 The salary of the adjutant general of the state of Iowa is hereby
 2 fixed at three thousand dollars.

[C., '73, § 3761; C., '97, § 2211; 37 G. A., ch. 374, § 1.]

SEC. 316. Call by president—term of service—other troops—draft.

1 Whenever the United States is invaded or in danger of invasion
 2 from any foreign nation, or of rebellion against the authority of the
 3 government of the United States, or the president is unable, with the
 4 regular forces at his command, to execute the laws of the Union, it
 5 shall be lawful for the president to call forth such number of the
 6 national guard of Iowa as he may deem necessary to assist in repelling
 7 such invasion, suppressing such rebellion or to assist in enabling him
 8 to execute such laws, and to issue his orders for that purpose, through
 9 the governor, to such officers of the national guard of Iowa as he may
 10 think proper; and the president may specify, in his call, the period for
 11 which such service is required, and the guard so called forth shall con-
 12 tinue to serve during the term so specified, either within or without
 13 the territory of the United States, unless sooner relieved by order of
 14 the president; provided that no commissioned officer or enlisted man of
 15 the guard shall be held to service beyond the term of his existing com-
 16 mission or enlistment. And whenever the president shall require, in
 17 any of the designated instances, more troops than can be supplied by
 18 the guard of the state, the governor shall, in his discretion, organize
 19 forthwith such other national guard forces as he may deem necessary,
 20 or order into the service of the United States so many of the unor-
 21 ganized militia of the state as is required, designating the same by
 22 draft if a sufficient number do not volunteer, and shall commission
 23 officers therefor.

[C., '97, § 2169; S., '13, § 2215-f18.]

SEC. 317. Governor may order out troops.

1 The governor shall have the power, in cases of insurrection, inva-
 2 sion or breaches of the peace, or imminent danger thereof, to order
 3 into the service of the state such of its military forces as he may think
 4 proper, under the command of the senior officer thereof.

[C., '51, § 623; R., '60, § 1004; C., '73, § 1051; C., '97, §§ 2169,
 2170; S., '13, § 2215-f19.]

SEC. 318. Encampment—target practice—school of instruction—transportation.

1 The guard may parade for encampment or drill annually, by
 2 division, brigade, regiment, battalion or company, as ordered by the
 3 governor, and the members thereof or assignments of details there-
 4 from, at the discretion of the governor, may be called out or detailed
 5 for target practice, school of instruction or other practice or instruc-
 6 tion. In lieu of the encampments provided herein, the governor may,
 7 in his discretion, order part or all of the guard to participate in field
 8 maneuvers or other exercises for instruction in conjunction with
 9 troops of the United States army. Transportation shall be furnished
 10 for all military purposes.

[C., '73, § 1049; C., '97, §§ 2184, 2185; S., '13, § 2215-f21.]

SEC. 319. Inspections—school of instruction—disbanding.

1 The governor shall require such inspections of the different
 2 organizations of the guard, and such schools of instruction for officers
 3 and enlisted men, as he may deem proper and necessary. The inspec-
 4 tions shall be made by United States army officers, either on regular

5 or special detail with the guard or in the state, where such officers
6 are available for that purpose, and if made by other officers, the gov-
7 ernor shall fix their compensation therefor in the orders for such
8 inspections. The governor shall disband any company of the guard
9 when it shall fall below a proper standard of efficiency, and he may
10 order special inspections with a view of determining such efficiency.
11 Schools of instruction may be ordered when sufficient funds are avail-
12 able beyond other requirements of this chapter.

[C., '73, § 1049; C., '97, § 2191; S., '13, § 2215-f22.]

SEC. 320. Compensation and allowance while on duty—stoppage of pay.

1 The military force, when in active service of the state upon the
2 call of the governor, and the guard when paraded for drill, encamp-
3 ment, target practice, school of instruction, or other duty under orders
4 of the governor, shall be paid the following compensation for time
5 actually on duty: each commissioned officer shall receive for such
6 service the pay of his rank in the United States army, without allow-
7 ances, increase or additions on account of length of service, and with-
8 out subsistence or other allowances other than transportation and
9 quarters, except as herein otherwise provided. Enlisted men shall
10 be furnished transportation, subsistence and quarters, and in addition
11 thereto shall receive the following per diem: chief musician, three
12 dollars; principal musician, drum major, first class sergeant, regi-
13 mental sergeant major, commissary sergeant, quartermaster sergeant,
14 color sergeant, first sergeant, two dollars; battalion sergeant major,
15 company quartermaster sergeant, sergeant and cook, one dollar and
16 seventy-five cents; corporal, farrier, saddler, blacksmith, one dollar
17 and fifty cents; private, one dollar and twenty-five cents. Enlisted
18 men who have served continuously for three years and not more than
19 five years, shall receive an added amount of fifteen per cent of the
20 above per diem, and those who have served continuously five years
21 or more, an added amount of twenty-five per cent of the above per
22 diem. When in actual service of the state, pursuant to the order of
23 the governor, the compensation of the military force shall be paid
24 out of any funds in the state treasury, not otherwise appropriated,
25 upon warrants drawn by the auditor of state. The claims for such
26 services shall be audited and allowed by the governor. Should any
27 part of the compensation above provided be paid by the United States,
28 there shall be paid from the state treasury only that part thereof not
29 paid by the United States. When on duty on rifle practice, range
30 competition, or schools of instruction, officers shall receive such com-
31 pensation or allowances as the governor shall designate in orders with
32 reference thereto. Compensation, subject to payment by the state of
33 Iowa, to the officers and enlisted men of the guard for military service,
34 shall be subject to stoppage of payment for loss or damage to public
35 property issued them for military uses.

[C., '51, § 625; R., '60, § 1006; C., '73, § 1051; C., '97, §§
2189, 2212, 2213; S., '13, § 2215-f23.]

SEC. 321. Annual allowance for office expense.

1 There shall be allowed annually to each division, brigade, regi-
2 mental, separate battalion or separate squadron commander the sum
3 of three hundred dollars, which shall be paid in full in lieu of office

4 rent, clerk hire, and for postage, stationery, issuing orders, making
 5 official records and all other papers or clerical work of such head-
 6 quarters; and there shall be allowed annually to each company com-
 7 mander the sum of one hundred dollars, to each inspector of small
 8 arms practice, to the chief surgeon, to each major surgeon, and to
 9 each chief musician of bands, the sum of fifty dollars, for postage,
 10 stationery, issuing orders, making official returns, copying official
 11 records, and all other paper work required by regulations, which sum
 12 shall be payment in full for such services. All payments shall be
 13 made semiannually and in the amounts as herein provided.

[C., '97, § 2214; S. S., '15, § 2215-f24.]

SEC. 322. Armory rent—storage facilities.

1 There shall be allowed annually to each company of infantry,
 2 headquarters company, machine gun company, radio company, supply
 3 company, battery of field or horse artillery, troop of cavalry, engineer
 4 company, signal company, ambulance company, field hospital com-
 5 pany, and each detachment of the hospital corps, for armory rent,
 6 storage facilities, heat, light, janitor service and stables for horses
 7 for organizations to which horses are issued and for like necessary
 8 expenses, not to exceed the sum which is set opposite such organiza-
 9 tion in the following list:

10 Company of infantry, one thousand five hundred dollars; head-
 11 quarters company, one thousand dollars; machine gun company, one
 12 thousand dollars; radio company, one thousand five hundred dollars;
 13 supply company, eight hundred dollars; battery of field or horse artil-
 14 lery, four thousand two hundred dollars; troop of cavalry, two thou-
 15 sand one hundred dollars; engineer company, one thousand six hun-
 16 dred dollars; signal company, one thousand six hundred dollars; am-
 17 bulance company, one thousand five hundred dollars; field hospital
 18 company, eight hundred dollars; detachment hospital corps, three hun-
 19 dred dollars.

20 All of said amounts to be paid in so much as may be necessary,
 21 either in part or in whole, in such amounts and under such regula-
 22 tions as a board of officers appointed by the governor shall prescribe,
 23 after approval by him.

[C., '97, §§ 2203, 2204; S. S., '15, § 2215-f25; 37 G. A., ch.
 314, § 9; 38 G. A., ch. 362.]

SEC. 323. Rifle ranges—allowances.

1 The governor may designate the location of four regimental rifle
 2 ranges, and the expenditure of the sum of two thousand dollars, or so
 3 much thereof as may be necessary, is hereby allowed for the acqui-
 4 sition and construction thereof, such sums to be expended under the
 5 direction of such officer or board of officers as the governor may
 6 direct; and the sum of two hundred dollars, or so much thereof as
 7 may be necessary, shall be allowed annually for expenditure in like
 8 manner for the rental and maintenance of each of said ranges; and
 9 the sum of one hundred dollars annually for each company, or so much
 10 thereof as may be necessary, shall be allowed upon such conditions as
 11 the governor may prescribe for the procurement, construction and
 12 maintenance of company rifle ranges; these payments to be made when
 13 sufficient funds are available beyond other requirements of this
 14 chapter.

[S., '13, § 2215-f26.]

SEC. 324. Miscellaneous expenses for drill.

1 There shall be allowed annually to each company for miscel-
 2 laneous military uses not otherwise provided for by the state, not to
 3 exceed the sum of five hundred dollars, the same to be paid semian-
 4 nually; companies showing full attendance and actual drill of those
 5 present of two hours each week shall be entitled to the full sum of
 6 five hundred dollars, and companies showing lesser attendance at drill
 7 shall be paid proportionately, provided that when a company's attend-
 8 ance at drill falls below fifty per cent it shall be deemed inefficient and
 9 forfeit its right to any allowance under this section; and for like
 10 purpose and under like requirements, to each battery of field or horse
 11 artillery not to exceed the sum of ten hundred dollars; to each field
 12 hospital or ambulance company not to exceed the sum of three hun-
 13 dred fifty dollars; to each regimental band the sum of two hundred
 14 fifty dollars, and to each detachment of the hospital corps under like
 15 requirements the sum of one hundred twenty-five dollars; the same
 16 to be paid under such regulations as the governor shall prescribe.

[S. S., '15, § 2215-f27.]

SEC. 325. Accounting to adjutant general.

1 No further payments shall be made under any provision of this
 2 chapter to the accountable officer of any organization who does not
 3 fully and satisfactorily account to the adjutant general for all moneys
 4 theretofore paid to him under any provision of this chapter.

[S., '13, § 2215-f28.]

SEC. 326. Trespass—sale of intoxicating liquors—penalty.

1 Any person who shall trespass upon the encampment grounds or
 2 the camp grounds of the military force of the state in active service
 3 or of the guard called out for encampment, drill, target practice or
 4 other duty, or interrupt, molest or interfere with any member of the
 5 guard in the discharge of his duty, or sell any malt or spirituous or
 6 other intoxicating liquor within one mile of such encampment, camp
 7 or station, except a person engaged in the business prior to the estab-
 8 lishment of such encampment, camp or station under permit issued
 9 by lawful authority, shall be guilty of a misdemeanor and punishable
 10 therefor, and the commanding officer of such force may order the
 11 arrest of such person and cause him to be delivered to a peace officer
 12 or magistrate as soon as practicable.

[C., '97, § 2188; S., '13, § 2215-f29.]

SEC. 327. False certificate or return—misuse of funds—penalty.

1 Any officer or soldier of the guard knowingly making any false
 2 certificate of muster or false return of state property or funds in his
 3 hands, or wilfully neglecting or refusing to apply all money drawn
 4 from the state treasury for the purpose named in the requisition
 5 therefor, shall be punished by imprisonment in the penitentiary not
 6 exceeding five years, or by fine in the amount of money not so applied,
 7 or both such fine and imprisonment, and all costs of prosecution.

[C., '97, § 2192; S., '13, § 2215-f30.]

SEC. 328. Military stores property of state — failure to account for—penalty.

1 All arms, uniforms, equipments and other military property fur-
 2 nished or issued by the state, or for which an allowance has been
 3 made, shall belong to the state, and shall be used for military purposes
 4 only, and each officer and soldier, upon receiving a discharge, or other-
 5 wise leaving the military service of the state, or upon demand of his
 6 commanding officer, shall forthwith surrender such state military
 7 property in his possession to said commanding officer. Every member
 8 of the guard who shall neglect to return to the armory of the com-
 9 pany, or place in charge of the commanding officer of the company to
 10 which he belongs, any arms, uniforms, equipments or other military
 11 property, or portion thereof, belonging to the state within six days
 12 after being notified by said commanding officer to do so, shall be fined
 13 not more than fifty dollars or imprisoned not more than thirty days.

[C., '51, § 629; R., '60, § 1010; C., '73, § 1050; C., '97, § 2190;
 S. S., '15, § 2215-f31.]

SEC. 329. Destruction or injury of military property—penalty.

1 Every person who shall wilfully or wantonly injure or destroy
 2 any article of uniform, arms, equipment or other military property
 3 furnished or issued by the state, and refuses to make good such injury
 4 or loss, or who shall sell, dispose of, secrete or remove the same with
 5 intent to sell or dispose of it, shall be punished by a fine not less than
 6 one hundred dollars, nor more than five hundred dollars, or be impris-
 7 oned in the county jail for not more than four months or by both such
 8 fine and imprisonment.

[R., '60, § 1014; C., '73, § 1050; C., '97, § 2194; S., '13,
 § 2215-f32.]

SEC. 330. Exemptions.

1 Every officer and soldier of the guard shall be exempt from jury
 2 duty and labor on the road on account of poll tax during his term of
 3 service, and, except in cases of treason, felony or breach of the peace,
 4 be privileged from arrest during his attendance at drill, parades,
 5 encampments, active service, election of officers, and in going to and
 6 returning from the same. The uniform, arms and equipments of
 7 every member of the guard shall be exempt from attachment, execu-
 8 tion or sale for debt or taxes. Every member of the guard who has
 9 served the full term of his commission or enlistment, shall, upon
 10 application, be entitled to an honorable discharge, exempting him from
 11 military duty, except in time of war or public danger.

[C., '97, § 2209; S., '13, § 2215-f33.]

SEC. 331. Service badges.

1 The adjutant general, from the available funds at his disposal,
 2 shall procure and issue to the officers and men of the guard entitled
 3 thereto service badges according to the design and pattern thereof
 4 as may be determined upon by the adjutant general and kept on file
 5 at the office of the adjutant general.

[S., '13, § 2215-f34.]

SEC. 332. Uniform—by whom worn—when—penalty.

1 Every person who at any time wears a uniform of the United
2 States army, navy, marine corps or the guard, or any part of such
3 uniform or a uniform, or a part of a uniform similar thereto, within
4 the bounds of the state of Iowa, is guilty of a misdemeanor, and if
5 found guilty of such offense, he shall be punished by a fine of not less
6 than fifty dollars and not more than one hundred dollars, or by impris-
7 onment in the county jail not exceeding thirty days, or by both such
8 fine and imprisonment; provided that nothing in this chapter shall
9 be construed as prohibiting officers or enlisted men of the guard of the
10 state of Iowa, or any other state, or of the United States army, navy,
11 marine corps or revenue service, or forest service, or cadets at any
12 university, college or school, from wearing such uniform or parts of
13 uniform, while on military duty or duty connected therewith; and
14 provided further that nothing in this chapter shall be construed as
15 prohibiting inmates of any veterans' or soldiers' home, or members
16 of any war veterans' or sons of veterans' association from wearing
17 their uniform; and provided further that nothing in this chapter
18 shall be construed as prohibiting persons of the theatrical profession
19 from wearing such uniforms in any playhouse or theater while actually
20 engaged in following their profession; and provided further that
21 nothing in this chapter shall be construed as prohibiting the uniformed
22 ranks of civic societies parading or traveling in a body or being in
23 encampments, or going to or from their place of meeting or when
24 assembled in a lodge room in their adopted uniform.

[S., '13, § 2215-f35.]

SEC. 333. Courts-martial.

1 Courts-martial for officers and enlisted men of the guard will be
2 such as shall be prescribed by regulations and orders issued by the
3 governor in compliance with the act of congress approved June third,
4 nineteen hundred sixteen, or any amendments thereto or substitutes
5 therefor.

[C., '97, §§ 2196-2198; S. S., '15, § 2215-f36; 37 G. A., ch.
314, § 10.]

SEC. 334. Tax exemptions—use of public utilities.

1 It shall be lawful for the boards of supervisors of the several
2 counties and for the city councils of the several cities and towns of
3 the state to exempt from taxation all personal and real property held
4 and used for armory or military purposes; and it shall be lawful for
5 any county or city or town which owns public utilities to grant to any
6 organization of the guard which is stationed in such place the free
7 use of such public utilities.

[S., '13, § 2215-f40.]

SEC. 335. Building and camp ground improvements.

1 The governor is authorized to expend from the funds appro-
2 priated for the support and maintenance of the guard such amounts
3 as may be necessary in the purchase of additional land, erection of
4 buildings and other improvements on the permanent camp grounds
5 and rifle ranges purchased by the state for the use of the guard, or
6 purchased by the United States for the uses of the guard of this state,

7 when in his judgment such buildings and improvements will be for
8 the permanent good of the guard.

[S., '13, § 2215-f41; 37 G. A., ch. 314, § 14.]

SEC. 336. Appropriation.

1 There is appropriated out of any moneys in the treasury not
2 otherwise appropriated the sum of two hundred sixty-five thousand
3 dollars per annum, or so much thereof as may be necessary, for the
4 support of the guard under the provisions of this chapter not applying
5 to active service, which shall be drawn by a warrant, drawn by the
6 auditor of state on the state treasurer, upon the certificate of the
7 adjutant general approved by the governor, showing for what pur-
8 pose each draft is to be or has been used, and no indebtedness shall be
9 created in excess of such annual appropriation.

[C., '97, § 2214; S. S., '15, § 2215-f42; 37 G. A., ch. 314, § 15.]

SEC. 337. Term of service—rank of officers—contracts.

1 The term of service and rank of officers, other than the adjutant
2 general, and the grades of enlisted men in the guard at the time of
3 taking effect of this chapter, shall not be affected thereby, unless
4 especially mentioned therein, but all officers and enlisted men shall
5 be held to service for the full period of the commission or enlistment
6 under which they are then serving; provided, however, that the gov-
7 ernor may change the rank of such officers, or may terminate the en-
8 listments of such enlisted men in the guard, or may transfer any such
9 officers or such enlisted men to any organizations of the guard when
10 necessary to conform to the regulations of the war department gov-
11 erning the organized militia of the United States; and provided that
12 the provisions of this chapter shall not be construed to affect any con-
13 tracts made by the guard or by any of its organizations.

[S. S., '15, § 2215-f43.]

CHAPTER 2.

GRAND ARMY OF THE REPUBLIC.

SECTION 338. Appropriation for grand army of the republic.

1 There is hereby appropriated out of any funds in the state treas-
2 ury not otherwise appropriated the sum of seven hundred fifty
3 dollars, annually, or so much thereof as may be necessary, for the use
4 of the headquarters, department of Iowa, grand army of the republic,
5 for the payment of incidental office expenses, including postage, print-
6 ing, telegraph and telephone charges, and other expenses incident to
7 the maintenance of said headquarters.

[30 G. A., ch. 178, § 1.]

SEC. 339. Payment.

1 The auditor of state is hereby authorized to draw warrants upon
2 the treasurer of the state for such sums, or such portions thereof, as
3 may be needed from time to time, the same to be certified to the
4 state board of audit in the form of itemized bills, by the department

5 commander, or assistant adjutant general of the department of Iowa,
6 grand army of the republic.

[30 G. A., ch. 178, § 2.]

SEC. 340. Distribution of annual reports.

1 The department of Iowa, grand army of the republic, shall fur-
2 nish to the secretary of state, for distribution to state institutions,
3 fifty copies of the annual reports of the department.

[30 G. A., ch. 178, § 3.]

CHAPTER 3.

PENSIONS.

SECTION 341. Pensions authorized—conditions.

1 The survivors of the northern border brigade, as shown by the
2 roster of Iowa soldiers, volume six, pages one hundred eighty-one to
3 two hundred seven, inclusive, shall receive a monthly pension of
4 twenty dollars, during the lifetime of each such survivor, to be paid
5 from the state treasury on the proper voucher being made, and out
6 of funds not otherwise appropriated; provided that in cases where the
7 said survivors are now receiving pensions from the federal govern-
8 ment this section shall not apply.

[37 G. A., ch. 164.]

CHAPTER 4.

REGISTRATION OF ALIENS.

**SECTION 342. Registration of aliens—duty of householders—
penalty.**

1 When a state of war exists between the United States and a
2 foreign country, or, in the judgment of the governor, public safety or
3 necessity requires such action, the governor may, by proclamation,
4 direct every subject or citizen of such foreign countries as the gov-
5 ernor may designate in such proclamation, who are in this state, or
6 who may from time to time come into the state, to appear within
7 twenty-four hours after the date specified in such proclamation or
8 after arrival within the state, before such public authorities as the
9 governor may designate in such proclamation, and personally register
10 his or her name, residence, business, length of stay and such other
11 information as the governor may require. Such proclamation shall
12 be published in such newspapers as the governor may designate.
13 Every person to whom such proclamation is applicable shall also com-
14 ply with such rules of personal identification as the governor shall
15 from time to time prescribe. The occupant of every private resi-
16 dence, and the owner, lessee or proprietor, operating or managing
17 every hotel, inn, boarding or rooming house, shall, within twenty-four
18 hours after the date specified in such proclamation, notify such public
19 authorities of the presence therein of every subject or citizen of a

20 foreign country to whom such proclamation is applicable, and shall
21 each day thereafter notify such public authorities of the arrival
22 thereat or departure therefrom of every such subject or citizen. A
23 failure to comply with any such proclamation or to perform any act
24 required by this section shall be a misdemeanor, and punishable by
25 a fine not exceeding one thousand dollars, or imprisonment for one
26 year, or both.

[37 G. A., ch. 378, § 1.]

TITLE IV.

ELECTIONS AND OFFICERS.

CHAPTER 1.

TIME OF ELECTION AND TERM OF OFFICE.

SECTION 343. General election.

1 The general election for state, district, county and township
2 officers shall be held throughout the state on Tuesday, next after the
3 first Monday in November in the year nineteen hundred six and each
4 two years thereafter.

[C., '51, § 239; R., '60, § 459; C., '73, § 573; C., '97, § 1057;
S., '13, § 1057-a.]

SEC. 344. Special election.

1 Special elections authorized by any law, or held to supply vacan-
2 cies in any office to be filled by the vote of the qualified voters of the
3 entire state, or of any district, county or township, may be held at the
4 time designated by such law, or by the officer authorized to order such
5 election.

[C., '51, § 237; R., '60, § 460; C., '73, § 574; C., '97, § 1058.]

SEC. 345. Proclamation concerning election.

1 At least thirty days before any general election, the governor
2 shall issue his proclamation, designating all the offices to be filled by
3 the vote of all the electors of the state, or by those of any congress-
4 sional, legislative or judicial district, and, in the years required by
5 article ten, section three, of the constitution, submitting the question:
6 "Shall there be a convention to revise the constitution and amend the
7 same?" and transmit a copy thereof to the sheriff of each county.
8 Said proclamation shall designate by number the several districts in
9 which congressional and judicial officers are to be chosen without
10 other description. The office of senator in the state legislature shall
11 be designated substantially as follows:

12 "In the senatorial districts numbered (giving the number of each
13 senatorial district in which a senator is to be chosen), each one
14 senator."

15 The office of representative in the state legislature shall be desig-
16 nated as follows:

17 "In the districts numbered (giving the number of each district in
18 which two representatives are to be chosen), each two representatives.
19 In all other representative districts of the state, each one repre-
20 sentative."

[R., '60, § 462; C., '73, § 577; C., '97, § 1061; S. S., '15,
§ 1061.]

SEC. 346. Notice of election.

1 The sheriff shall give at least ten days' notice thereof, by causing
2 a copy of such proclamation to be published in some newspaper printed
3 in the county; or, if there be no such paper, by posting such a copy in
4 at least five of the most public places in the county.

[R., '60, § 463; C., '73, § 578; C., '97, § 1062.]

SEC. 347. Notice of special election.

1 A similar proclamation shall be issued before any special election
2 ordered by the governor, designating the time at which such special
3 election shall be held; and the sheriff of each county in which such
4 election is to be held shall give notice thereof, as provided in the
5 preceding section.

[R., '60, § 464; C., '73, § 579; C., '97, § 1063.]

SEC. 348. Time of choosing officer.

1 At the general election next preceding the expiration of the term
2 of any officer his successor shall be elected.

[R., '60, § 461; C., '73, § 575; C., '97, § 1059.]

SEC. 349. Term of office.

1 The term of office of all officers chosen at a general election for a
2 full term shall commence on the second secular day of January next
3 thereafter, except when otherwise provided by the constitution or by
4 statute; that of an officer chosen to fill a vacancy shall commence as
5 soon as he has qualified therefor.

[R., '60, § 462; C., '73, § 576; C., '97, § 1060; S., '13, § 1060.]

SEC. 350. State officers.

1 The governor, lieutenant governor, secretary of state, auditor of
2 state, treasurer of state and attorney general shall be chosen at the
3 general election in each even-numbered year and their terms of office
4 shall be for two years.

[C., '51, § 239; R., '60, §§ 465, 466; C., '73, §§ 580, 581; C.,
'97, §§ 1064, 1065; S., '13, § 1065.]

SEC. 351. Judges of the supreme court.

1 Two judges of the supreme court shall be chosen at the general
2 election in the year nineteen hundred six and two shall be chosen at
3 each general election thereafter, whose terms of office shall continue
4 for six years.

[R., '60, § 467; C., '73, § 582; C., '97, § 1066; S., '13, § 1066.]

SEC. 352. Superintendent of public instruction.

1 The office of superintendent of public instruction is hereby made
2 elective, and the election of said officer shall be submitted to the
3 qualified voters of Iowa at the general election of nineteen hundred
4 eighteen and every four years thereafter. The term of such officer so
5 elected shall commence at the expiration of the term of the superin-

6 tendent of public instruction now in office, and continue until his suc-
7 cessor is elected and qualified.

[C., '73, § 580; C., '97, § 1064; S., '13, § 2627-a; 37 G. A., ch. 318, § 1.]

SEC. 353. Railroad commissioners.

1 At the general election in the year nineteen hundred six, and
2 every four years thereafter, there shall be elected two railroad com-
3 missioners, whose term of office shall be for a period of four years;
4 and at the general election in the year nineteen hundred eight, and
5 every four years thereafter, there shall be elected one railroad com-
6 missioner, whose term of office shall be for a period of four years; and
7 the present incumbents of the office of railroad commissioner shall
8 continue in office until their successors are elected and qualified, as
9 in this section provided.

[C., '97, § 1068; S., '13, § 1068.]

SEC. 354. Judges of district court.

1 The judges of the district court shall be elected in each judicial
2 district at a general election, and shall hold office for four years, except
3 when elected to fill a vacancy, in which case it shall be only for the
4 unexpired term.

[C., '51, § 239; R., '60, § 468; C., '73, §§ 584, 585; C., '97, § 1069.]

SEC. 355. Senators.

1 Senators in the general assembly, to succeed those whose terms
2 are about to expire, shall be elected in the respective senatorial dis-
3 tricts in each even-numbered year, and shall hold office for the term
4 of four years.

[C., '51, § 239; R., '60, § 471; C., '73, § 588; C., '97, § 1071; S., '13, § 1071.]

SEC. 356. Representatives.

1 Members of the house of representatives shall be elected in the
2 respective representative districts in each even-numbered year, and
3 hold office for the term of two years.

[C., '51, § 239; R., '60, § 470; C., '73, § 587; C., '97, § 1070; S., '13, § 1070.]

SEC. 357. County officers.

1 There shall be elected in each county, at the general election in
2 each even-numbered year, an auditor, a treasurer, a clerk of the dis-
3 trict court, a sheriff, a recorder of deeds, a county attorney, and a
4 coroner, who shall hold office for the term of two years or until their
5 successors are elected and qualified.

6 There shall be elected, biennially, members of the board of super-
7 visors for a term of three years to succeed those whose terms of office
8 will expire on the second secular day in January following said elec-
9 tion; there shall also be elected members for a term of three years to
10 succeed those whose terms will expire on the second secular day in
11 January one year later than the aforesaid date. It shall be specified
12 on the ballot when each shall begin his term of office. No member

13 shall be elected who is a resident of the same township with either
 14 of the members holding over (but a member-elect may be a resident
 15 of the same township as the member he is elected to succeed), except
 16 that, in counties having five or seven supervisors, and having therein
 17 a township embracing an entire city of thirty-five thousand inhabi-
 18 tants or over, he may be a resident of the same township; and in no
 19 case shall there be more than two supervisors from such township.

[C., '51, §§ 96, 239; R., '60, §§ 224, 472, 473; C., '73, §§ 295,
 589; C., '97, §§ 411, 1072; S., '13, § 1072; S. S., '15,
 § 411.]

SEC. 358. Township trustees.

1 At the general election in the year nineteen hundred twenty and
 2 biennially thereafter, there shall be elected a township trustee for a
 3 term of three years to succeed the one whose term will expire on the
 4 second secular day in January following said election; there shall also
 5 be elected a township trustee for a term of three years to succeed the
 6 one whose term expires on the second secular day of January one year
 7 later than the aforesaid date. It shall be specified on the ballot when
 8 each shall begin his term.

[C., '51, § 239; R., '60, § 475; C., '73, § 591; C., '97, § 1074;
 S., '13, § 1074; 37 G. A., ch. 204, § 1.]

SEC. 359. Justices and constables.

1 In all townships, except such as are included in the territorial
 2 limits of municipal courts, there shall be elected, by the voters at the
 3 general election, two justices of the peace and two constables, who
 4 shall hold office two years and be county officers.

[C., '51, §§ 221, 243; R., '60, §§ 443, 474, 477, 478; C., '73,
 §§ 389, 590, 592, 593; C., '97, § 1073; S. S., '15, § 1073.]

SEC. 360. Township clerk—assessor.

1 At the general election in each even-numbered year, there shall
 2 be elected in each civil township one township clerk, and, where not
 3 otherwise provided, one assessor, to be elected by the voters of such
 4 district, who shall hold their offices for the term of two years.

5 In each even-numbered year there shall be elected in each town-
 6 ship, a part of which is included within the corporate limits of any
 7 city or town, by the voters of such township residing without the
 8 corporate limits of such city or town, one assessor who shall be a resi-
 9 dent of said territory outside of said city or town.

[C., '51, § 239; R., '60, § 475; C., '73, §§ 390, 591; C., '97,
 §§ 565, 1075; S., '13, §§ 565, 1075.]

SEC. 361. Special election in new townships.

1 At any time when a new township has been created in a year in
 2 which no general election is held by law, the county board of super-
 3 visors of the county affected shall call a special election for the elec-
 4 tion of three trustees and other township officers of the new township,
 5 which officers shall continue in office until their successors are elected
 6 and qualified.

[S., '13, § 1074-a.]

CHAPTER 2.

NOMINATIONS BY PRIMARY ELECTION.

SECTION 362. Primary election defined.

1 The term "primary election" as used in this chapter shall be
 2 construed to apply to an election by the members of various political
 3 parties for the purpose of placing in nomination candidates for public
 4 office, for selecting delegates to conventions, and for the selection of
 5 party committeemen.

[S., '13, § 1087-a2.]

SEC. 363. Political party defined.

1 The title "political party" shall mean a party which, at the last
 2 preceding general election, cast for its candidate for governor at least
 3 two per centum of the total vote cast at said election, provided that
 4 such other political organizations as may, under sections three hun-
 5 dred ninety-six and three hundred ninety-seven, nominate and certify
 6 candidates and have their names placed upon the ballot for the Novem-
 7 ber election, shall have the right so to do in the manner and under
 8 the conditions therein prescribed.

[S., '13, § 1087-a3.]

SEC. 364. Primary elections authorized—offices affected.

1 The candidates of political parties for all offices which under the
 2 law are filled by the direct vote of the voters of this state at the gen-
 3 eral election in November (except candidates for the office of judge
 4 of the supreme and district courts), for the office of senator in the
 5 congress of the United States, and for the office of elector of the presi-
 6 dent and vice president of the United States, shall be nominated by a
 7 primary election, and delegates to the county conventions of said polit-
 8 ical parties or organizations and party county committeemen shall be
 9 elected at said primary election, at the times and in the manner here-
 10 inafter provided. The provisions of chapters three, six and seven
 11 of this title, and chapter fifty-three, of title thirty-three, shall apply
 12 so far as applicable to all such primary elections, the same as general
 13 elections, except as hereinafter provided.

[S., '13, § 1087-a1.]

SEC. 365. Nomination and election of United States senator.

1 In the year preceding the expiration of the term of office of United
 2 States senator, or in case of a vacancy in said office, candidates for
 3 the different parties for United States senator shall be nominated as
 4 provided by law and the United States senator or senators, as the
 5 case may be, shall be elected at the general election in the same manner
 6 as state officers are elected.

[R., '60, § 674; C., '73, § 26; C., '97, § 30; S., '13, § 1087-c;
 37 G. A., ch. 401, § 1; 38 G. A., ch. 86, § 9.]

SEC. 366. Time of holding.

1 The primary election herein provided for shall consist of an elec-
 2 tion by all political parties and shall be held at the usual voting places
 3 of the several precincts on the first Monday in June, in the year nine-
 4 teen hundred twelve, and biennially thereafter, for the nomination of

5 candidates for such offices as are to be filled at the general election in
 6 November next ensuing (except candidates for the office of judge of
 7 the supreme and district courts), for senator in the congress of the
 8 United States in the next year preceding the filling of that office, and
 9 for the electors of the president and the vice president of the United
 10 States, in the year in which a president and vice president are to be
 11 elected.

[S., '13, § 1087-a4.]

SEC. 367. Blank nomination papers.

1 The secretary of state shall cause to be printed and keep on hand
 2 a sufficient quantity of nomination paper blanks in form as provided
 3 for in this chapter and shall furnish the same on application to any
 4 qualified elector in the state desiring to petition for the nomination
 5 of any candidate, or to a person who intends to be a candidate, for
 6 any office whose nomination paper is required to be filed in his office;
 7 and the county auditor of each county shall likewise cause to be printed
 8 and keep on hand a sufficient quantity of such nomination paper
 9 blanks and furnish the same on application to any qualified elector
 10 in his county desiring to petition for the nomination of any candidate,
 11 or to a person who intends to be a candidate, for any office whose
 12 nomination paper is required to be filed in his office.

[S., '13, § 1087-a11.]

SEC. 368. Nomination papers—candidates—affidavit.

1 No candidate for an elective county office shall have his name
 2 printed upon the official primary ballot of his party unless at least
 3 thirty days prior to the day fixed for holding the primary election a
 4 nomination paper shall have been filed in his behalf in the office of the
 5 county auditor; and no candidate for nomination for an elective state
 6 office, or for representative in the congress of the United States, or
 7 member of the general assembly, shall have his name printed upon the
 8 official primary ballot of his party unless at least forty days prior to
 9 such primary election a nomination paper shall have been filed in his
 10 behalf in the office of the secretary of state; and no member of a polit-
 11 ical party desiring or intending to be a candidate for the office of
 12 senator in the congress of the United States, or a candidate for the
 13 office of elector of the president and the vice president of the United
 14 States, shall have his name printed upon the official primary ballot of
 15 his party in any election precinct unless at least forty days prior to
 16 such primary election a nomination paper shall have been filed in his
 17 behalf in the office of the secretary of state. A candidate for an office
 18 to be filled by the voters of any subdivision of a county, or a candi-
 19 date for party committeeman, shall not be required to file any nom-
 20 ination paper or papers. All nomination papers shall be in substan-
 21 tially the following form:

22 "I, the undersigned, a qualified elector of
 23 county, and state of Iowa, and a member of the
 24 party, hereby nominate
 25 of county, state of Iowa, who has affili-
 26 ated with and is a member of the
 27 party, as a candidate for the office of to be voted for at
 28 the primary election to be held in June, 19.....," and shall consist of
 29 sheets of uniform size about eight and one-half by thirteen inches.
 30 No signatures shall be counted unless they are on sheets each having

31 such form written or printed at the top thereof. Each signer of a
 32 nomination paper shall sign but one such nomination paper for the
 33 same office, except where more than one officer is to be elected to the
 34 same office, in which case he may sign as many nomination papers as
 35 there are officers to be elected, and only one candidate shall be peti-
 36 tioned for or nominated in the same nomination paper. Each signer
 37 of a nomination paper shall add his residence with street and number,
 38 if any, and the date of signing. For all nominations, all signers of
 39 each separate part of a nomination paper shall reside in the same
 40 county. When more than one sheet is used for any nomination paper,
 41 the sheets shall be laid one upon the other and neatly, evenly, and
 42 securely fastened together before filing, and shall be considered as one
 43 nomination paper only. A nomination paper, when filed, shall not
 44 be withdrawn nor added to, nor any signature thereon revoked. The
 45 affidavit of a qualified elector shall be appended to each such nomina-
 46 tion paper, or papers, if more than one for any candidate, stating
 47 that he is personally acquainted with all the persons who have signed
 48 the same; that he knows them to be electors of that county and be-
 49 lieves them to be affiliated with the party named therein; that he
 50 knows that they signed the same with full knowledge of the contents
 51 thereof; that their respective residences are truly stated therein; and
 52 that each signer signed the same on the date stated opposite his name,
 53 but such affidavit shall not be made by the candidate. Each and every
 54 candidate shall make and file his affidavit stating that he is eligible
 55 to the office for the township, county, district or state in which he is
 56 and will be a bona fide candidate for nomination for said office, and
 57 shall file such affidavit with the said nomination paper or papers,
 58 when such paper or papers are required. If no such paper or papers
 59 are required, then he shall file such affidavit alone, or there shall be
 60 filed a nomination paper signed by ten qualified voters of any sub-
 61 division of a county, with the county auditor, at least fifteen days
 62 prior to such primary election, and the filing of such affidavit or such
 63 nomination paper shall entitle such candidate to have his name printed
 64 on the official primary ballot of his party. Such affidavit shall be in
 65 form and substance as follows:

66 "I,, being duly sworn, say that I reside at
 67 street, (city or town) of county of
 68 in the state of Iowa; that I am eligible to the office for
 69 which I am a candidate, and that the political party with which I
 70 affiliate is the party; that I am a candidate for nomina-
 71 tion to the office of to be made at the primary election
 72 to be held in June, 19....., and hereby request that my name be printed
 73 upon the official primary ballot as provided by law, as a candidate of
 74 the party. I furthermore declare that if I am nom-
 75 inated and elected I will qualify as such officer.

76 [Signed] "
 77 "Subscribed and sworn to (or affirmed) before me
 78 by on this day of, 19.....
 79 "....."

80 The nomination papers above required shall be signed as follows:

81 1. If for a state office, United States senator, or elector at large,
 82 by at least one per centum of the voters of the party (as shown by the
 83 returns of the last general election) of such candidates, in each of at
 84 least ten counties of the state, and in the aggregate not less than one-
 85 half of one per centum of the total vote of his party in the state, as
 86 shown by the last general election.

87 2. If for a representative in congress, district elector, or senator
 88 in the general assembly in districts composed of more than one county,
 89 by at least two per centum of the voters of his party, as shown by the
 90 last general election, in at least one-half of the counties of the district,
 91 and in the aggregate not less than one per centum of the total vote
 92 of his party in such district, as shown by the last general election.

93 3. If for an office to be filled by the voters of the county, by at
 94 least two per centum of the party vote in the county, as shown by the
 95 last general election.

96 In each of the above cases, the vote to be taken for the purpose of
 97 computing the percentage shall be the vote cast for the head of the
 98 ticket.

99 All nomination papers shall be destroyed at the same time and in
 100 the manner in which the primary election ballots are destroyed.

[S., '13, § 1087-a10.]

SEC. 369. Nominations certified to county auditor—order on ballot designated—notice published.

1 At least thirty days before any such primary election, the sec-
 2 retary of state shall transmit to each county auditor a certified list
 3 containing the name and postoffice address of each person for whom
 4 a nomination paper has been filed in his office, in accordance with the
 5 provisions of section three hundred sixty-eight of this chapter and
 6 entitled to be voted for at such primary election by the voters of such
 7 county, together with a designation of the office for which he is a
 8 candidate, and the party from which he seeks a nomination. Such
 9 lists shall also designate the order in which the names of all candi-
 10 dates for the office of senator in the congress of the United States
 11 and for offices to be filled by the voters of the entire state shall be
 12 arranged and printed upon the primary election ballots in each county,
 13 in the following manner, to wit: The secretary of state shall pre-
 14 pare a list of the counties of the state for each political party by
 15 arranging the various counties in the order of the vote cast by each
 16 political party in each county for its candidate for governor at the
 17 last preceding general election, or for the head of the ticket of any
 18 political party when it had no candidate for governor at such election,
 19 numbering the counties consecutively on each list from one to ninety-
 20 nine, both inclusive, beginning with the county which cast the largest
 21 vote, which shall be numbered "1". He shall then arrange the sur-
 22 names of such candidates in alphabetical order for the respective
 23 offices for the several political parties for the first county on the re-
 24 spective lists; thereafter, for each succeeding county, the names ap-
 25 pearing first for the respective offices in the last preceding county
 26 shall be placed last, so that the names that occupied second position
 27 before the change shall occupy first position after the change. Such
 28 auditor shall forthwith publish a proclamation of the time of holding
 29 the primary election, the hours during which the polls will be open,
 30 the offices for which candidates are to be nominated and that the
 31 primary election will be held in the regular polling places in each pre-
 32 cinct. Such notice shall be published once each week for two con-
 33 secutive weeks before the primary election, in not to exceed two news-
 34 papers of general circulation in such county. One of such newspapers
 35 shall represent the political party which cast the largest vote in such
 36 county at the last preceding general election, and the other, if any,
 37 that shall represent the political party which cast the next largest
 38 vote in such county at such general election. The county auditor

39 shall correct any errors or omissions in the names of candidates and
40 any other errors brought to his knowledge before the printing of the
41 ballots.

[S., '13, § 1087-a12.]

SEC. 370. Ballot—form.

1 The official primary election ballot shall be prepared, arranged
2 and printed substantially in the following form:

3 PRIMARY ELECTION BALLOT

4 (Name of Party)

5 of

6 Township or Precinct, Ward, City or Town
7 of County of, State of Iowa.

8 Primary election held on the day of June, 19.....

9 FOR UNITED STATES SENATOR.

10 (Vote for one.)

11 William K. Brown

12 J. R. Wayne

13

14 FOR GOVERNOR.

15 (Vote for one.)

16 Howard Collins

17 William Longley

18

19 (Followed by other elective state and district officers in order.)

20 FOR COUNTY AUDITOR.

21 (Vote for one.)

22 William Strong

23 Robert Thompson

24

25 (Followed by other elective county officers in order.)

26 FOR DELEGATES TO COUNTY CONVENTION.

27 (Vote for)

28

29

30

31

32

33 FOR TOWNSHIP CLERK.

34 (Vote for one.)

35 John H. Black

36 Joseph Raymond

37

38 FOR TOWNSHIP TRUSTEES.

39 (Vote for two.)

40 Clarence Foster

41 William Jones

42 H. S. Wilson

43

44 (Followed by other elective township officers in order.)

45 FOR PARTY COMMITTEEMAN.

46 (Vote for one.)

47 John Doe

48 Richard Roe

49

[S., '13, § 1087-a14.]

SEC. 371. Printing—order of names on ballot.

1 The names of the candidates of each political party for nomination
 2 for the several offices, and for party committeemen, and blank
 3 spaces for the delegates to the county convention shall be printed in
 4 black ink on separate sheets of paper, uniform in color, quality, texture
 5 and size, with the name of the political party printed at the head
 6 of said ballots, which ballots shall be prepared by the county auditor
 7 in the same manner as for the general election, except as in this chapter
 8 otherwise provided. The names of candidates for the office of
 9 senator in the congress of the United States and for offices to be filled
 10 by the voters of the entire state shall be arranged and printed on the
 11 primary election ballots in the order in which they are certified by
 12 the secretary of state. The names of candidates for offices to be filled
 13 by the voters of a county, and by the voters of any district of the
 14 state composed of more than one county, shall be arranged and printed
 15 upon the primary election ballots in the following manner, to wit:
 16 The county auditor shall prepare a list of the election precincts of
 17 his county, by arranging the various townships, towns and cities in
 18 the county in alphabetical order and the wards or precincts of each
 19 city, town or township in numerical order under the name of such
 20 city, town or township. He shall then arrange the surnames of all
 21 candidates for such offices alphabetically for the respective offices for
 22 the first precinct in the list; thereafter, for each succeeding precinct,
 23 the names appearing first for the respective offices in the last preceding
 24 precinct shall be placed last, so that the names that were second
 25 before the change shall be first after the change. The names of candidates
 26 for all offices to be filled by the voters of a territory smaller
 27 than a county shall be arranged and printed alphabetically according
 28 to the surnames for the respective offices.

[S., '13, § 1087-a13.]

SEC. 372. Sample ballots.

1 After the printing of the official ballots, the county auditor shall
 2 change a sufficient number thereof to supply each voting precinct in
 3 the county with ten sample ballots of each political party. The auditor
 4 shall change the same by writing or stamping the words "sample
 5 ballot" in red ink near the top of such ballots, and by signing his name
 6 or stamping a facsimile thereof and his title of office immediately
 7 thereunder. Such sample ballots shall not be voted, received or
 8 counted in any primary election. The county auditor shall distribute
 9 such sample ballots with the official ballots, and it shall be the duty
 10 of the judges of election to see that such sample ballots are posted in
 11 and about the polling places upon the day of the primary election and
 12 before the opening of the polls.

[S., '13, § 1087-a15.]

SEC. 373. Judges and clerks—how selected—oath—expenses.

1 The judges and clerks of all primary elections under this chapter
 2 shall be made up and selected and appointed in the same manner
 3 as for the general election held in November, and they shall take the
 4 same oath and the judges are hereby authorized to administer oaths as
 5 hereinafter provided. Vacancies shall be filled as provided for the
 6 judges and clerks of the general election. The expenses of the primary
 7 election shall be audited by the board of supervisors of each

8 county and be paid the same as the expenses of the general election.
 9 The compensation of the judges and clerks of the primary election
 10 shall be the sum of thirty cents per hour for all official services ren-
 11 dered by any such judge or clerk at any such election.

[S. S., '15, § 1087-a5.]

SEC. 374. Supplies—poll books.

1 All necessary election supplies, including poll books as provided
 2 by law, for the general election, together with a sufficient number of
 3 official primary ballots of each party, shall be furnished for the pri-
 4 mary election board for each precinct by the county auditor, and such
 5 poll books shall contain blank spaces for the names of the candidates
 6 of the several parties for the different offices to be written in, and
 7 blank spaces for entering by the clerks the names of the electors vot-
 8 ing at said primary election; and upon the pages provided for enter-
 9 ing the names of said voters there shall be ruled spaces for the list-
 10 ing of the names of said voters and for the designation of the party
 11 ticket voted by said elector in manner and form substantially as fol-
 12 lows:

No.	Name	Republican	Democrat	Prohibitionist	Socialist
1	James Smith ----	X			
2	Tom Jones .....	.....	X		
3	Dan Brown .....	.....	.....	X	
4	George White .....	.....	.....	.....	X

18 It shall be the duty of the clerks of the primary election when
 19 entering the name of a voter to place in the poll books a cross, thus
 20 (X), in the column designating the party ticket which was given to
 21 said voter upon his application for a ticket.

[S., '13, § 1087-a16.]

SEC. 375. Australian ballot—polls open—ballots.

1 The Australian ballot system as now used in this state, except
 2 as hereinafter provided, shall be used at said primary election in all
 3 precincts. The voter shall in all cases mark the ballot in the square
 4 before the name of each person for whom he desires to vote. In
 5 cities where registration is required by law, the polls shall be open
 6 from seven o'clock a. m. to eight o'clock p. m., and in all other pre-
 7 cincts from nine o'clock a. m. to eight o'clock p. m. The elector vot-
 8 ing at said primary election shall be allowed to vote for candidates
 9 for nomination on the ticket of only one political party, and that shall
 10 be the party with which he is registered as affiliated. The indorse-
 11 ment of the judges of election and the facsimile of the auditor's sig-
 12 nature shall appear upon the ballots as provided by law for the bal-
 13 lots used for the November election. The voter shall return the ballot,
 14 folded, to one of the judges of election who shall deposit it in the ballot
 15 box. If any primary elector write upon his ticket the name of any
 16 person who is a candidate for the same office upon some other party
 17 ticket than that upon which his name shall be so written, such ballot
 18 shall be so counted for such person only as a candidate of the party
 19 upon whose ballot his name is written, and shall in no case be counted
 20 for such person as a candidate upon any other ticket. In case the
 21 person is nominated upon more than one ticket, he shall forthwith
 22 file with the proper officer a written declaration indicating the party

23 designation under which his name is to be printed on the official bal-
24 lot for the general election following such primary election.

[S., '13, § 1087-a6.]

SEC. 376. First declaration of party affiliation—record.

1 At the primary election to be held in June in the year nineteen
2 hundred eight any person shall be entitled to participate therein who
3 is a qualified elector in such precinct at the time of said primary elec-
4 tion, and when the voter seeks to pass the guard rail he shall indicate
5 the party ballot he desires, and one of the judges of the primary elec-
6 tion board shall give him such primary ballot (unless challenged, and
7 if so challenged, then only in the event that the challenge is determined
8 in favor of the voter), and such person shall thereupon be allowed to
9 vote. The voter's selection shall constitute his declaration of party
10 affiliation, and it shall be the duty of the primary election board to
11 record his name and check his declaration of party affiliation on the
12 poll books used by the clerks of the primary election board, and said
13 list properly certified to by said primary election board shall be re-
14 turned to the county auditor for preservation. Copies of the names
15 and party entries on such list, together with the changes of party
16 affiliation as hereinafter provided, arranged alphabetically by sur-
17 names, shall be used at subsequent primaries for determining with
18 what party the voter has been enrolled, and no voter enrolled under
19 the provisions of this chapter shall be allowed to receive the ballot
20 of any political party except that with which he is enrolled, but he
21 may change his enrollment as hereinafter provided. The county au-
22 ditor shall prepare for each voting precinct two of the above men-
23 tioned lists duly certified by him, and taken from the poll books of the
24 last preceding primary election, which he shall deliver to the succeed-
25 ing primary election boards at least one day prior to the day of the
26 primary election, and which lists, together with the poll books of the
27 primary election, shall be returned to the said auditor in good condi-
28 tion within twenty-four hours after the primary election, to be pre-
29 served by him.

[S., '13, § 1087-a7.]

SEC. 377. Change of affiliation—first voter—removal.

1 Any person who has thus declared his party affiliation shall
2 thereafter be listed on the poll books as a member of that political
3 party, and such person while a resident of the same voting precinct
4 need not declare his party affiliation at succeeding primary elections
5 unless he desires to change his party affiliation. Any elector, who,
6 having declared his party affiliation, desires to change the same, may,
7 not less than ten days prior to the date of any primary election, file
8 a written declaration with the county auditor stating his change of
9 party affiliation, and the auditor shall enter a record of such change
10 on the poll books of the last preceding primary election in the proper
11 column opposite the voter's name and on the voting list. Any elec-
12 tor whose party affiliation has for any reason not been registered or
13 any elector who has changed his residence to another precinct, or a
14 first voter or citizen of this state casting his first vote in this state,
15 shall be entitled to vote at any subsequent primary election in the
16 same manner and upon the same terms as provided in section three
17 hundred seventy-six, and the clerks of the primary election shall
18 record his party affiliation and the county auditor shall add his name

19 to the alphabetical lists for use in subsequent primary elections as
20 provided for in section three hundred seventy-six.

[S., '13, § 1087-a8.]

SEC. 378. Challengers—affidavit.

1 Each political party shall be entitled to have two party challengers
2 present at each polling place, to be appointed by the respective party
3 committeemen. Any judge or clerk of the primary election or any
4 party challenger may challenge any voter upon the grounds mentioned
5 in section four hundred forty-three, and such challenge shall be de-
6 termined as there provided. Any elector whose party affiliation has
7 been recorded as provided by this chapter and who desires to change
8 his party affiliation on the primary election day, shall be subject to
9 challenge. If the person challenged insists that he is entitled to vote
10 the ticket of the political party to which he has transferred his polit-
11 ical affiliation and the challenge is not withdrawn, one of the judges
12 shall tender to him the following oath: "You do solemnly swear (or
13 affirm) that you have in good faith changed your party affiliation to
14 and desire to be a member of the party." And if he
15 take such oath he shall thereupon be given a ticket of such political
16 party and the clerks of the primary election shall change his enroll-
17 ment of party affiliation accordingly.

[S., '13, § 1087-a9.]

SEC. 379. Ballots counted—returns.

1 Upon the closing of the polls the clerks and judges shall imme-
2 diately open the ballot box and proceed to take therefrom the ballots.
3 Said officers shall count the number of ballots cast for each party, at
4 the same time bunching the tickets cast for each party, in separate
5 piles. As soon as the clerks and judges shall have sorted the ballots
6 of each party, separately, they shall take the tally sheets provided in
7 the poll books and shall count all the ballots for each party separately
8 until the count is completed, and shall certify to the number of votes
9 cast for each candidate for each office upon the ticket of each party.
10 After all have been counted and certified to by the clerks and judges,
11 they shall seal the ballots cast by each of the parties in separate en-
12 velopes, on the outside of which shall be printed or written the names
13 of that party's candidates for the different offices, and opposite each
14 candidate's name shall be placed the number of votes cast for such
15 candidate in said precinct, and then seal the envelopes containing the
16 votes of the different political parties, in one large envelope, on the
17 outside of which, or on a paper attached thereto, shall be printed or
18 written, in perpendicular columns, the names of the several political
19 parties with the names of the candidates for the different offices under
20 their respective party headings, and opposite each candidate's name
21 shall be placed the number of votes cast for such candidate in said
22 precinct, and at the bottom the total vote cast by each political party
23 in said precinct, and such envelopes shall be returned to the county
24 auditor, who shall carefully preserve the same in said condition and
25 deliver them to the county board of canvassers. But any elector of
26 the county shall have the right, before the day fixed for canvassing
27 the returns, to ascertain the vote cast for any candidate in any pre-
28 cinct in the county, as shown on the outside of the large envelope.
29 Said judges of election shall deliver the returns so made, together
30 with the poll books, including tally sheets and certificates of the

31 judges and clerks written thereon, to the county auditor within
 32 twenty-four hours after the primary election has closed; and if the
 33 returns from any precinct be not so delivered within the said time,
 34 the county auditor shall forthwith send a messenger for any such
 35 missing returns, and said messenger shall be paid, as provided by
 36 law, for the general election.

[S., '13, § 1087-a17.]

SEC. 380. Canvass by board of supervisors—certificates.

1 On the second Tuesday next following the primary election in
 2 June, the board of supervisors shall meet, open, and canvass the re-
 3 turns from each voting precinct in the county, and make abstracts
 4 thereof, stating in words written at length the number of ballots cast
 5 in the county by each political party, separately, for each office, the
 6 name of each person voted for and the number of votes given to each
 7 person for each different office and shall sign and certify thereto and
 8 file the same with the county auditor. Such canvass and certificate
 9 shall be final as to all candidates for nomination to any elective county
 10 office or office of a subdivision of a county; and the candidate or candi-
 11 dates of each political party for each office to be filled by the voters
 12 of any subdivision of a county having received the highest number of
 13 votes shall be duly and legally nominated as the candidate of his party
 14 for such office; provided, however, that no candidate whose name is
 15 not printed on the official primary ballot, who received less than five
 16 per centum of the votes cast in such subdivision for governor on the
 17 party ticket with which he affiliates, at the last general election, nor
 18 less than five votes, shall be declared to have been nominated to any
 19 such office; and the candidate or candidates of each political party
 20 for each office to be filled by the voters of the county having received
 21 the highest number of votes, and not less than thirty-five per centum
 22 of all the votes cast by the party for such office, shall be duly and
 23 legally nominated as the candidate of his party for such office; pro-
 24 vided, however, that no candidate whose name is not printed on the
 25 official ballot who receives less than ten per centum of the whole num-
 26 ber of votes cast in the county for governor on the party ticket with
 27 which he affiliates, at the last general election shall be declared to
 28 have been nominated to any such office; and each candidate so nomi-
 29 nated shall be entitled to have his name printed on the official ballot
 30 to be voted for at the general election without other certificate, and the
 31 board shall prepare and certify a list of the candidates of each party
 32 so nominated, separately, and deliver to the chairman of each party
 33 central committee for the county a copy of the list of candidates nomi-
 34 nated by the party he represents; and shall also prepare, certify and
 35 deliver to such chairman a list of the offices to be filled by the voters
 36 of a county for which no candidate of his party was nominated, to-
 37 gether with the names of the candidate for each of such offices voted
 38 for at the primary election and the number of votes received by each
 39 of such candidates.

[S., '13, § 1087-a19.]

SEC. 381. Recount of ballots.

1 Any candidate whose name appears upon the official primary bal-
 2 lot of any voting precinct may require the board of supervisors of the
 3 county in which such precinct is situated to recount the ballots cast
 4 in any such precinct as to the office for which he was a candidate, at

5 the time fixed for canvassing the returns of the judges of election,
 6 by filing with the county auditor not later than the day before such
 7 meeting, a showing in writing, duly sworn to by such candidate, that
 8 fraud was committed, or error or mistake made, in counting or return-
 9 ing the votes cast in any such precinct as to the office for which he was
 10 a candidate. The showing must be specific and from it there must
 11 appear reasonable ground to believe that a recount of the ballots
 12 would produce a result as to his candidacy different from the returns
 13 made by the judges. If such showing is made to the satisfaction of
 14 the board, it shall thereupon recount the ballots cast in any such pre-
 15 cinct for the office for which the contestant was a candidate, and if
 16 the result reached by the board on the recount of the ballots as to such
 17 office be different from that returned by the judges of election it shall
 18 be substituted therefor as the true and correct return and so regarded
 19 in all subsequent proceedings. The action of the board shall be final
 20 and no other contest of any kind shall be permitted. The term "can-
 21 didate" as used in this section shall include and apply to persons voted
 22 for for delegates and party committeemen.

[S., '13, § 1087-a18.]

SEC. 382. Abstracts forwarded to secretary of state.

1 The county board of canvassers shall also make a separate ab-
 2 stract of the canvass as to the following offices and certify to the same
 3 and forthwith forward it to the secretary of state, viz.:

4 United States senator,

5 Electors of the president and the vice president of the United
 6 States,

7 All state offices,

8 Representative in congress,

9 Senators and representatives in the general assembly.

[S., '13, § 1087-a20.]

**SEC. 383. County returns filed—published proceedings of can-
 vassing board.**

1 When the canvass is concluded, the board shall deliver the orig-
 2 inal returns to the auditor, who shall file the same and record each of
 3 the abstracts above mentioned in the election book. The published
 4 proceedings of the board of supervisors as a canvassing board shall
 5 contain only a brief statement of the names of the candidates nom-
 6 inated by the electors of any county or subdivision thereof under the
 7 title of the office for which they are nominated, and a statement of
 8 the title of the county offices, if any, for which no nomination was
 9 made by any political party participating in the primary election for
 10 the failure of any one of its candidates for any office to receive thirty-
 11 five per centum of all the votes cast by the party for such office.

[S. S., '15, § 1087-a21.]

SEC. 384. Canvass by state board—certificates.

1 On the second Monday after the June primary election, the execu-
 2 tive council shall meet as a canvassing board, and open and canvass
 3 the abstract returns received from each county in the state. If re-
 4 turns are not received from all the counties, the secretary of state
 5 shall immediately send a messenger after the abstract returns and
 6 the board may adjourn from day to day until they are received. The

7 board shall make an abstract of its canvass, stating in words written
8 at length, the number of ballots cast by each political party, sep-
9 arately, for each office designated in section three hundred eighty-two,
10 the names of all the persons voted for, and the number of votes re-
11 ceived by each person for each office, and shall sign and certify
12 thereto. Such canvass and certificates shall be final as to all candi-
13 dates named therein; and the candidate of each political party for
14 each office to be filled by vote of the people, including the office of sen-
15 ator in the congress of the United States, having received the high-
16 est number of votes in the state or district of the state, as the case
17 may be, provided he received not less than thirty-five per centum of all
18 the votes cast by the party for such office, shall be duly and legally nom-
19 inated as the candidate of his party for such office; provided, how-
20 ever, that no candidate whose name is not printed on the official bal-
21 lot who receives less than ten per centum of the whole number of
22 votes cast in the state or district of the state, as the case may be, for
23 governor on the party ticket with which he affiliates, at the last gen-
24 eral election shall be declared to have been nominated to any such
25 office, and each candidate so nominated shall be entitled to have his
26 name printed on the official ballot to be voted at the general election
27 without other certificate; and the board shall prepare and certify a
28 list of the candidates of each party so nominated, separately, and
29 deliver to the chairman of each party central committee for the state
30 a copy of the list of candidates nominated by the party he represents;
31 and shall also forthwith prepare a certificate as to each office, sep-
32 arately, for which no candidate was nominated, by reason of the
33 failure of any candidate for any such office to receive thirty-five per
34 centum of all votes cast by such party for such office, together with
35 the names of the several candidates for each of such offices voted for
36 at the primary election and the number of votes received by each of
37 such candidates and send such certificate to the chairman of the
38 party central committee for the state, in case of offices to be filled by
39 the voters of the entire state, and to the chairman of the party central
40 committee for a district of the state, if known, in case of offices to be
41 filled by the voters of any such district of the state composed of more
42 than one county, and to the county auditor of each county in any
43 such district, and to the county auditor and the chairman of the party
44 central committee for the county, in case any such district is composed
45 of one county. The candidate of any party for the office of senator in
46 the congress of the United States having received the highest num-
47 ber of votes of his party in the state, shall be the nominee of his party
48 for such office.

[S., '13, § 1087-a22; 38 G. A., ch. 253, § 1.]

SEC. 385. State returns filed—nominations certified to county auditor.

1 When the canvass is concluded, the board shall deliver the orig-
2 inal abstract returns to the secretary of state, who shall file the same
3 in his office and record the abstracts of the canvass of the state board
4 and certificates attached thereto in the book kept by him known as
5 the election book; and not less than fifteen days before the general
6 election he shall certify to the auditor of each county, under separate
7 party headings, the name of each person nominated as shown by the
8 official canvass made by the executive council, or as certified to him by
9 the proper persons when any person has been nominated by a conven-

10 tion or party committee, his place of residence, the office to which he is
 11 nominated, and the order in which the tickets of the several political
 12 parties shall appear on the official ballot. Should a vacancy in the
 13 nominations occur and be filled after such certificate has been for-
 14 warded, a like certificate shall at once be made and sent to the proper
 15 officer, together with a statement showing the reason for its subse-
 16 quent issue.

[S., '13, § 1087-a23.]

SEC. 386. Tie vote—vacancies.

1 In case of a tie vote resulting in no nomination for any office, or
 2 election of delegates or party committeeman, the tie shall forthwith
 3 be determined by lot by the board of canvassers, or judges of elec-
 4 tion, as the case may be. Vacancies occurring in nominations made
 5 in the primary election before the holding of the county, district or
 6 state convention, shall be filled by the county convention if the office
 7 in which the vacancy in nomination occurs is to be filled by the voters
 8 of the county; by a district convention if the office in which the va-
 9 cancy in nomination occurs is to be filled by the voters of a district
 10 composed of more than one county; by the state convention if the
 11 office in which the vacancy occurs is to be filled by the voters of the
 12 entire state. Vacancies in nominations in such offices occurring
 13 after the holding of a county, district or state convention, or on fail-
 14 ure of any such convention to fill a vacancy in a nomination, as afore-
 15 said, then it shall be filled by the party committee for the county,
 16 district or state, as the case may be. If a vacancy shall occur in any
 17 such office too late for the filing of nomination papers for candidates
 18 therefor in the primary election and before the holding of a county,
 19 district or state convention, as the case may be, then the convention
 20 having jurisdiction shall make nomination for such office; and if a
 21 vacancy in any such office shall occur after the holding of a county,
 22 district or state convention, then nomination for such office may be
 23 made by the party committee for the county, district or state, as the
 24 case may be. Vacancies in nominations for offices to be filled by the
 25 voters of a territory smaller than a county shall be filled by the mem-
 26 bers of the party committee for the county from such subdivision.
 27 Nominations made as above provided, and as provided in section three
 28 hundred eighty-eight, three hundred eighty-nine, and three hundred
 29 ninety, shall be certified forthwith to the proper officer by the chair-
 30 man and secretary of the convention or committee, as the case may be,
 31 and if received in time shall be printed upon the official ballots the
 32 same as if the nomination had been made in the primary election.
 33 Such certificate of nomination shall state the name, place of resi-
 34 dence and postoffice address of the person nominated, the office to
 35 which he is nominated and the name of the political party making the
 36 nomination.

[S., '13, § 1087-a24.]

SEC. 387. United States senator—vacancy—nomination.

1 In case of death, withdrawal, or inability to act, for any cause,
 2 of a party's candidate for senator in the congress of the United States,
 3 as expressed in the regular June primary, such vacancy shall be filled
 4 by the state convention of said party, held in accordance with the
 5 provisions of section three hundred ninety; provided that if such
 6 vacancy occurs after the holding of said convention and thirty days

7 prior to the holding of the regular November election, said delegates
 8 to said convention shall be reconvened within ten days after such
 9 vacancy has occurred, by the chairman of said party's state central
 10 committee, and a party candidate shall be named in said convention
 11 to fill such vacancy.

[S., '13, § 1087-a24a.]

SEC. 388. County convention—delegates—committeemen.

1 In each county there shall be held in each year in which a gen-
 2 eral election in November is to take place a county convention of each
 3 political party. Said county convention shall be composed of dele-
 4 gates elected at the last preceding primary election, and shall be held
 5 on the fourth Saturday following the primary election, convening at
 6 eleven o'clock a. m. The number of delegates from each voting pre-
 7 cinct shall be determined by a ratio adopted by the respective party
 8 county central committees, and shall be thus determined and a state-
 9 ment designating the number from each voting precinct in the county
 10 filed in the office of the county auditor at least thirty days before the
 11 primary election; if not so done, the auditor shall fix the number.
 12 The requisite number of names of candidates of his choice for dele-
 13 gates to the county convention to which each precinct is entitled shall
 14 be written, or pasted with uniform white pasters, on the blank lines
 15 upon the ballot by the voter while in the booth, or by some one
 16 designated by a voter unable to write, after the ballots are received
 17 and before they are deposited, and the requisite number of persons
 18 from each precinct who receive the highest number of votes shall be
 19 the delegates from the precinct to the county convention. The term of
 20 office of such delegate shall begin on the day following the final canvass
 21 of the votes by the board of supervisors, and shall continue for two
 22 years and until their successors are elected. One member of the
 23 county central committee for each political party from each precinct
 24 shall be elected. His term of office shall begin on the day of the
 25 county convention and immediately following the adjournment thereof
 26 and shall continue for two years and until his successor is elected
 27 and qualified, unless such committeeman shall be removed by the
 28 county central committee for inattention to the duties of his position,
 29 incompetency or failure to support the ticket nominated by the party
 30 which elected him to such position. The county central committee
 31 elected in the primary election shall organize on the day of the con-
 32 vention, immediately following the same. Vacancies in such commit-
 33 tee may be filled by majority vote of the committee. Returns shall
 34 be made by the judges of election respecting delegates and members
 35 of the county central committee in the same manner as for other
 36 offices, except that the judges of election shall canvass the returns
 37 as to delegates and members of the county central committee, and
 38 certify the result to the auditor with the returns. The auditor shall,
 39 immediately after the final count and canvass of the votes and returns
 40 by the board of supervisors, notify the delegates and members of the
 41 county central committee who have thus been elected, of their election,
 42 and of the time and place of holding the county convention, and shall,
 43 on the second Thursday following the primary election, deliver a
 44 certified list thereof to the chairmen of the respective party central
 45 committees for the county. When the delegates, or a majority thereof,
 46 or when delegates representing a majority of the precincts, thus
 47 elected, shall have assembled in the county convention at the time

48 herein prescribed and at the county seat, the convention shall be called
49 to order by the chairman of the county central committee, who shall
50 present the certified list of delegates and members of the county central
51 committee, and a list of the offices for which no nomination was made
52 at the primary election, by reason of the failure of any candidate for
53 any such office to receive thirty-five per centum of all votes cast by
54 such party therefor. If any precinct shall not be fully represented the
55 delegates present from such precinct shall cast the full vote thereof,
56 but there shall be no proxies. The said county convention shall make
57 nominations of candidates for the party for any office to be filled by
58 the voters of a county when no candidate for such office has been nomi-
59 nated at the preceding primary election by reason of the failure of
60 any candidate for any such office to receive thirty-five per centum of
61 all votes cast by such party therefor, as shown by the canvass of the
62 returns provided for in section three hundred eighty, and shall select
63 delegates to the next ensuing state and district conventions of that
64 year upon such ratio of representation as may be determined by the
65 party organization for the state, district or districts of the state, as
66 the case may be, but no delegates shall be so selected to any of the dis-
67 trict conventions referred to in section three hundred eighty-nine, un-
68 less a call therefor has been issued as therein provided. The said
69 county convention shall also elect a member of the party central com-
70 mittee for the senatorial and congressional districts composed of more
71 than one county. But in no case shall the county convention make a
72 nomination for an office for which no person was voted for in the pri-
73 mary election of such party.

[S., '13, § 1087-a25.]

SEC. 389. District convention.

1 In any senatorial or congressional district composed of more than
2 one county, in any year in which a senator in the general assembly or a
3 representative in the congress of the United States is to be elected, a
4 senatorial or congressional convention may be held. Not less than ten
5 days and not more than sixty days before the day fixed for holding the
6 county convention a call for such senatorial and congressional conven-
7 tion to be held shall be issued by the party central committee for any
8 such district and published in at least one newspaper of general circu-
9 lation of each county composing any such district, and which call shall
10 state among other things the number of delegates each county of the
11 district shall be entitled to and the time and place of holding the con-
12 vention. Any such call shall be signed by the chairman of the party
13 central committee for any such district, and be filed by him with the
14 county auditor not less than five days before the county convention,
15 and the county auditor shall attach a true copy thereof to the certified
16 list of delegates required to be delivered by him to the chairmen of the
17 respective party county central committees. In case no nomination
18 was made in the primary election for the office of senator in the gen-
19 eral assembly in any district composed of more than one county, or for
20 the office of representative in congress of the United States, by reason
21 of the failure of any candidate for any office to receive thirty-five per
22 centum of all votes cast by his party therefor, as shown by the certifi-
23 cate issued by the state board of canvassers provided for in this chap-
24 ter, then in any such district the chairman of the party central com-
25 mittee therefor shall forthwith issue such call for a convention in such
26 district and deliver the same to the county auditor of each county in

27 the district, and in such case said call need not be published. No such
 28 district convention shall be held earlier than the first Thursday or
 29 later than the fifth Thursday following the county convention. The
 30 convention when organized shall make nominations of candidates for
 31 the party for any such district office when no candidate for such office
 32 has been nominated at the preceding primary election, by reason of
 33 the failure of any candidate for any such office to receive thirty-five per
 34 centum of all votes cast by such party therefor, as shown by the can-
 35 vass of the votes provided for in section three hundred eighty-four.
 36 The organization of and procedure in any such district convention shall
 37 be the same as in the state convention. Such district conventions may
 38 adopt party platforms and transact such other business as may prop-
 39 erly be brought before them. But in no case shall any such convention
 40 of a party make a nomination for an office for which no person was
 41 voted for in the primary election of such party.

[S., '13, § 1087-a26.]

SEC. 390. State convention—state central committee.

1 A state convention of each political party, composed of delegates
 2 chosen in the manner herein provided, shall be held not earlier than
 3 the first Wednesday and not later than the fifth Wednesday following
 4 the county convention, in the year nineteen hundred eight, and bien-
 5 nially thereafter, convening at such time and place as may be deter-
 6 mined upon by the party organization. The convention shall be called
 7 to order by the chairman of the state central committee, who shall
 8 thereupon present a list of delegates, as certified by the various county
 9 conventions, and effect a temporary organization. If any county shall
 10 not be fully represented, the delegates present from such county shall
 11 cast the full vote thereof, but there shall be no proxies. Such conven-
 12 tion when permanently organized shall formulate and adopt the state
 13 platform of the party it represents, and shall make nominations of can-
 14 didates for the party for any state office to be filled by the voters of
 15 the entire state, including the office of senator in the congress of the
 16 United States, when no candidate for such office has been nominated
 17 at the preceding primary election, by reason of the failure of any can-
 18 didate for any such office to receive thirty-five per centum of all votes
 19 cast by such party therefor, as shown by the canvass of the returns
 20 provided for in section three hundred eighty-four. It shall also elect
 21 a state central committee consisting of not less than one member from
 22 each congressional district and transact such other business as may
 23 properly be brought before it. The state central committee elected at
 24 said state convention may organize at pleasure for political work as is
 25 usual and customary with such committees and shall continue to act
 26 until succeeded by another committee duly elected. But in no case shall
 27 the state convention of a party make a nomination for an office for
 28 which no person was voted for in the primary election of such party.

[S., '13, § 1087-a27.]

SEC. 391. Primary elections in certain cities.

1 The provisions of this chapter shall, so far as applicable, govern
 2 the nominations of candidates by political parties for all offices to be
 3 filled by a direct vote of the people in cities of the first class and cities
 4 acting under a special charter having a population of over fifteen thou-
 5 sand, except all such special charter cities and cities of the first class
 6 as have by vote of the people adopted a plan of municipal government

7 which specifically provides for a nonpartisan primary election. The
 8 duties devolving upon the county auditor, by the foregoing provisions
 9 of this chapter shall, in municipal elections, devolve upon the city audi-
 10 tor, and the duties devolving upon the board of supervisors by the fore-
 11 going provisions of this chapter shall devolve upon the city council,
 12 which shall meet to perform said duties within two days next follow-
 13 ing the primary election. The date of the municipal primary election
 14 shall be the last Monday in February of each year in which a municipal
 15 election is held in said cities, and the percentage of voters signing peti-
 16 tions required for printing the name of a candidate upon the official
 17 primary ballot shall be the same as is required of a candidate for a
 18 county office and shall be based upon the vote cast for mayor by the
 19 respective parties in the preceding city election. The names of candi-
 20 dates for ward aldermen, for city precinct committeemen and for dele-
 21 gates to the city convention, shall not be printed upon the official pri-
 22 mary ballot, but in each case a blank line or lines shall be provided
 23 therefor. A plurality shall nominate the party candidate for alderman
 24 and a plurality shall elect the precinct committeemen and delegates to
 25 the city convention. The entire expense of conducting a primary elec-
 26 tion provided for in this section shall be audited by the city council and
 27 paid by the city. This section shall not be held to repeal any law which
 28 provides for the adoption of a plan of municipal government by vote
 29 of the people and which embraces a nonpartisan primary election.

[S., '13, § 1087-a34.]

SEC. 392. Misconduct of election officials—penalty.

1 Any party committeeman or any primary election or other public
 2 officer upon whom a duty is imposed by this chapter or by chapters
 3 herein made applicable to primary elections, who shall wilfully neglect
 4 to perform any such duty, or who shall wilfully perform it in such a
 5 way as to hinder the objects thereof, or shall disclose to anyone, ex-
 6 cept as may be ordered by any court of justice, the contents of any
 7 ballot or any part thereof, as to the manner in which the same may
 8 have been voted, shall be punished by a fine of not less than one hun-
 9 dred dollars nor more than one thousand dollars, or by imprisonment
 10 in the penitentiary not to exceed five years, or by both such fine and
 11 imprisonment.

[S., '13, § 1087-a31.]

SEC. 393. Bribery—illegal voting—penalty.

1 Any person offering or giving a bribe, either in money or other
 2 consideration, to any elector for the purpose of influencing his vote at
 3 a primary election, or any elector entitled to vote at such primary
 4 election receiving and accepting such bribe; any person making false
 5 answer to any of the provisions of this chapter relative to his qualifi-
 6 cations and party affiliations; any person wilfully voting or offering to
 7 vote at a primary election who has not been a resident of this state
 8 for six months next preceding said primary election; or who, at the
 9 primary election, is not twenty-one years of age, or is not a citizen of
 10 the United States; or knowing himself not to be a qualified elector of
 11 such precinct where he offers to vote; or any person violating any of
 12 the provisions of this chapter, or of any provisions of the code as may
 13 be hereto applied, and any person knowingly procuring, aiding or
 14 abetting such violation, shall be deemed guilty of a misdemeanor, and,
 15 upon conviction, shall be fined not less than one hundred dollars nor

16 more than five hundred dollars, or be imprisoned in the county jail not
17 less than thirty days nor more than six months.

[S., '13, § 1087-a33.]

SEC. 394. Nomination by petition.

1 Nothing contained in this chapter shall be construed so as to pro-
2 hibit nomination of candidates for office by petition as now authorized
3 by law; but no person so nominated shall be permitted to use the name
4 of any political party authorized or entitled under this chapter to nom-
5 inate a ticket by primary vote or that has nominated a ticket by pri-
6 mary vote under the provisions of this chapter.

[S., '13, § 1087-a29.]

SEC. 395. Special elections.

1 This chapter shall not apply to special elections to fill vacancies.

[S., '13, § 1087-a30.]

CHAPTER 3.

NOMINATIONS BY CONVENTION, OR PETITION.

SECTION 396. Nomination by convention.

1 Any convention of delegates, and any primary, caucus or meet-
2 ing of qualified electors, representing a political party which, at the
3 general election next preceding, polled at least two per cent of the
4 entire vote cast in the state, may, for the state, or any division or
5 municipality thereof for which the same is held, make one nomination
6 of a candidate for each office therein to be filled at the election, and
7 any such convention, primary, caucus or meeting, representing a polit-
8 ical party which, at the general election next preceding, polled at least
9 two per cent of the entire vote cast in any division or municipality of
10 the state, may, for such division or municipality, or for any political
11 subdivision thereof for which the same is held, make one such nomina-
12 tion for each office therein to be filled at the election.

[C., '97, § 1098.]

SEC. 397. Certificates.

1 Certificates of nominations, made as provided in the preceding
2 section, shall, besides containing the names of candidates, specify as to
3 each:

- 4 1. The office to which he is nominated.
- 5 2. The party making such nomination, or political principle which
6 he represents, expressed in not more than five words.
- 7 3. His place of residence, with the street and number thereof, if
8 any.

9 In case of electors for president and vice president of the United
10 States, the names of the candidates for president and vice president
11 shall be added to the party or political name. Every such certificate of
12 nomination shall be signed by the presiding officer and secretary of
13 the convention, caucus or meeting of qualified electors, or by the board
14 of canvassers to which the returns of such primary election are made,
15 each of whom shall add to his signature his place of residence, and

16 shall be sworn to by each signer thereof to be true to the best of his
 17 knowledge and belief, and a certificate of the oath shall be annexed to
 18 the certificate of nomination. The presiding officer and secretary of
 19 each convention, primary, caucus or meeting shall also certify, to the
 20 officer with whom the nomination certificates are filed, the names and
 21 addresses of each of the members of the executive or central com-
 22 mittee appointed or elected by or representing it, and the provisions,
 23 if any, made by it for filling vacancies in nominations; and this may
 24 be done in the nomination certificate, or by a separate certificate.

[C., '97, § 1099; 38 G. A., ch. 86, § 1.]

SEC. 398. Objections.

1 All objections or other questions arising in relation to certificates
 2 of nomination or nomination papers shall be filed with the officer with
 3 whom the certificate of nomination or nomination papers to which
 4 objection is made are filed. Those with the secretary of state shall
 5 be filed not less than twenty days, and those with other officers not
 6 less than eight days, before the day of election, except that nomi-
 7 nations to fill vacancies occurring after said time, or in case of nomi-
 8 nation made to be voted on at a special election, objections shall be
 9 filed within three days after the filing of the certificate or nomination
 10 papers. Objections filed with the secretary of state shall be consid-
 11 ered by the secretary and auditor of state and attorney general, and
 12 a majority decision shall be final; but if the objection is to the cer-
 13 tificate or nomination papers of one or more of the above named
 14 officers, said officer or officers so objected to shall not pass upon the
 15 same, but their places shall be filled, respectively, by the treasurer
 16 of state, the governor, and the superintendent of public instruction.
 17 Objections filed with the county auditor shall be considered by the
 18 county auditor, clerk of the district court and county attorney, and a
 19 majority decision shall be final; but if the objection is to the cer-
 20 tificate or nomination papers of one or more of the above named county
 21 officers, said officer or officers so objected to shall not pass upon such
 22 objection, but their places shall be filled, respectively, by the county
 23 treasurer, the sheriff and county superintendent. Objections filed with
 24 the city or town clerk shall be considered by the mayor and clerk and
 25 one member of the council chosen by the council by ballot, and a
 26 majority decision shall be final; but if the objection is to the cer-
 27 tificate or nomination papers of either of said city or town officials,
 28 he shall not pass upon said objection, but his place shall be filled by
 29 a member of the council against whom no such objection exists, chosen
 30 as above provided. When any of the above objections are made,
 31 notice shall forthwith be given to the candidate affected thereby,
 32 addressed to his place of residence as given in the certificate or nomi-
 33 nation papers, stating that objections have been made to his certificate
 34 or nomination papers, also stating the time and place such objections
 35 will be considered.

[C., '97, § 1103.]

SEC. 399. Nominations by petition.

1 Nominations for candidates for state offices may also be made
 2 by nomination paper or papers signed by not less than five hundred
 3 qualified voters of the state; for county, district or other division,
 4 not less than a county, by such paper or papers signed by not less
 5 than twenty-five qualified voters, residents of such county, district

6 or division; and for township, city, town or ward, by such paper or
 7 papers signed by not less than ten qualified voters, residents of such
 8 township, city, town or ward; but the name of a candidate placed
 9 upon the ballot by any other method shall not be added by petition
 10 for the same office. Each elector so petitioning shall add to his sig-
 11 nature his place of business and postoffice address.

[C., '97, § 1100.]

SEC. 400. Withdrawals.

1 Any candidate named by either of the methods authorized in this
 2 chapter may withdraw his nomination by a written request, signed
 3 and acknowledged by him before any officer empowered to take the
 4 acknowledgment of deeds, and filed in the office of the secretary of
 5 state thirty days, or the proper auditor fifteen or clerk twelve days
 6 before the day of election, and no name so withdrawn shall be printed
 7 upon the ballot. In case of a special election to fill vacancies in office,
 8 such withdrawal papers shall be filed with the secretary of state six-
 9 teen days, and with the proper auditor or clerk twelve days, before
 10 the day of such special election.

[C., '97, § 1101; S. S., '15, § 1101; 38 G. A., ch. 100, § 1.]

SEC. 401. Vacancies filled.

1 If a candidate declines a nomination, or dies before election day,
 2 or should any certificate of nomination or nomination paper be held
 3 insufficient or inoperative by the officer with whom it may be filed,
 4 or in case any objection made to any certificate of nomination, nomi-
 5 nation paper, or to the eligibility of any candidate therein named, is
 6 sustained by the board appointed to determine such questions as here-
 7 tofore provided, the vacancy or vacancies thus occasioned may be
 8 filled by the convention, caucus, meeting or primary, or other persons
 9 making the original nominations, or in such a manner as such con-
 10 vention, caucus, meeting or primary has previously provided. If the
 11 time is insufficient for again holding such convention, caucus, meeting
 12 or primary, or in case no such previous provisions being made, such
 13 vacancy shall be filled by the regularly elected or appointed executive
 14 or central committee of the particular division or district representing
 15 the political party or persons holding such convention, primary, meet-
 16 ing or caucus, and certified as hereinbefore provided. The certificates
 17 of nominations made to supply such vacancies shall state, in addition
 18 to the facts hereinbefore required, the name of the original nominee,
 19 the date of his death or declination of nomination, or the fact that
 20 the former nomination has been held insufficient or inoperative, and
 21 the measures taken in accordance with the above requirements for
 22 filling a vacancy, and shall be signed and sworn to by the presiding
 23 officer and secretary of the convention, caucus, meeting or primary,
 24 or by the chairman and secretary of the committee, as the case may be.

[C., '97, § 1102.]

SEC. 402. Filing certificates and petitions.

1 Certificates of nomination and nomination papers of candidates
 2 for state, congressional, judicial and legislative offices shall be filed
 3 with the secretary of state, not more than sixty nor less than forty
 4 days; those for all other officers, except for cities and towns, with the
 5 county auditors of the respective counties, not more than sixty nor

6 less than thirty days; and for the offices in the cities and towns, with
 7 the clerks thereof, not more than forty nor less than fifteen days,
 8 before the day fixed by law for the holding of the election. Such cer-
 9 tificates and nomination papers thus filed, and being apparently in
 10 conformity with law, shall be regarded as valid, unless objection in
 11 writing thereto shall be made, and, under proper regulations, shall be
 12 open to public inspection, and preserved by the receiving officer for
 13 not less than six months after the election is had. Any error found
 14 in such papers may be corrected by the substitution of another, exe-
 15 cuted as is required for an original nomination certificate or paper.
 16 In case of special election to fill vacancies in office, certificates of nomi-
 17 nation or nomination papers, for nomination of candidates for office
 18 to be filled by the electors of a larger district than a county, may be
 19 filed with the secretary of state, not later than fifteen days before
 20 the time of election. Certificates of nomination or nomination papers,
 21 nominating candidates for office to be filled by the electors of a county,
 22 may be filed with the county auditor at any time not less than twelve
 23 days before the election.

[C., '97, § 1104; S. S., '15, § 1104.]

CHAPTER 4.

NOMINATION AND ELECTION OF JUDGES.

SECTION 403. State judicial convention—judges supreme court.

1 A state judicial convention of each political party shall be held
 2 not less than one, nor more than two weeks, after the regular state
 3 convention of such party. Such state judicial convention shall con-
 4 vene at a time and place to be fixed by the state party committee, which
 5 shall issue a call therefor in the same manner that the call for the
 6 regular state convention is issued.

7 Delegates to the state judicial convention shall be elected at, and
 8 certified by, the county conventions at the same time and in the same
 9 manner as delegates to the regular state convention; provided, how-
 10 ever, that no person shall be elected to act as delegate to both con-
 11 ventions; and each county shall be entitled to the same number of
 12 delegates at the state judicial convention as it is entitled to have at
 13 the regular state convention.

14 The state judicial convention shall proceed to organize for the
 15 transaction of business in the same manner as is provided by law
 16 for the organization of the regular state convention, and upon organ-
 17 ization shall nominate candidates for the office of judge of the supreme
 18 court, and may transact such other business as is proper. The
 19 method of procedure, organization and voting of delegates shall be
 20 the same in the state judicial convention as is provided for the regular
 21 state party convention. Judges of the supreme court shall be elected
 22 at the general election in November in the same manner as the gov-
 23 ernor of the state is elected.

[38 G. A., ch. 63, § 2.]

SEC. 404. Central committee—district convention—judges district court.

1 In each judicial district there shall be a district central committee
 2 composed of one member from each county of such district; provided,

3 however, that in districts composed wholly of one county there shall
4 be three members of such committee, and in districts composed of
5 two counties there shall be two members of such committee from the
6 county having the larger population. Such committeemen shall be
7 selected by the county convention in each county held in accordance
8 with the provisions of section three hundred eighty-eight. Until such
9 conventions are held, the chairman of the county central committee
10 of each political party shall act as committeeman from his county for
11 such judicial district, and in counties having more than one such com-
12 mitteeman such additional committeeman shall be selected by the
13 county central committee in said county. Vacancies in any such dis-
14 trict committee shall be filled by the county central committee of the
15 county where such vacancy occurs.

16 In each judicial district in which a judge, or judges, of the dis-
17 trict court therein is to be elected, a judicial convention shall be held
18 by each political party participating in the primary election of that
19 year. Not less than ten days nor more than forty days before the
20 day fixed for holding the county convention, a call for such judicial
21 convention to be held shall be issued by the party central committee
22 for such district, and published in at least one newspaper of general
23 circulation in each county in the district which shall state, among
24 other things, the number of delegates each county in the district shall
25 be entitled to, and the time and place of holding the convention. Such
26 call shall be filed with the county auditor in each county in the district
27 not less than five days before the date of holding the county conven-
28 tion as now fixed by law, and the county auditor shall attach a copy
29 thereof to the certified list of delegates required to be delivered by
30 him to the chairman of the county central committee of the respective
31 political parties.

32 Each county convention held in such judicial district shall select
33 such a number of delegates to the judicial convention as is specified
34 in the call for such judicial convention. Such district convention shall
35 not be held earlier than the first Thursday, nor later than the fifth
36 Thursday following the date of holding the county convention.

37 The convention may nominate as many candidates for the office
38 of judge of the district court in said district as there are judges in
39 said district to be elected at the general election to be held in the year
40 in which such convention is held. The organization and the pro-
41 cedure in such judicial district convention shall be the same as in the
42 state convention. Such convention may transact such other business
43 as may properly be brought before it. Judges of the district court
44 shall be elected at the general election in the same manner as state
45 senators are elected.

[38 G. A., ch. 63, § 3.]

SEC. 405. Certification of nominations.

1 All nominations for the office of supreme and district judge shall
2 be certified to the secretary of state, as near as may be, in the same
3 manner that nominations for other state offices are now certified
4 under existing law. The names of candidates for the office of supreme
5 and district judge nominated and certified to the secretary of state,
6 as provided in this chapter, shall be certified by the secretary of state,
7 to the officer having charge of the printing of the ballots, and the
8 names of such candidates shall be printed on the ballot under the
9 proper party designation in the same manner as required by law for

10 the printing of the names of candidates for state and district officers
11 therein.

[38 G. A., ch. 63, § 4.]

SEC. 406. Judge superior court.

1 In any city in which a superior court has been or may hereafter
2 be established, the judge of said court shall be nominated and elected
3 in the same manner now provided by law for the nomination and
4 election of other elective officers in such city.

[38 G. A., ch. 63, § 5.]

SEC. 407. General election laws applicable.

1 All the laws relating to the certificates of nomination, filing the
2 same, certifying nominations to the officers having charge of the
3 printing of the ballots, printing of the names of candidates on the
4 official ballot, the method of withdrawal, filling vacancies, conducting
5 general elections, of canvassing the ballot, of announcing the result,
6 of recounting the ballot, of publishing notice of nomination and elec-
7 tion, contesting the election, and the penalty for illegal voting, mis-
8 conduct of the election officials, and the making of the sworn return,
9 shall, so far as applicable, be the same for the election of supreme,
10 district and superior judges as is now provided by the general elec-
11 tion laws of Iowa for the election of state, district, county and city
12 officers.

[38 G. A., ch. 63, § 7.]

SEC. 408. Nomination by petition.

1 Nothing contained in this chapter shall be construed so as to
2 prohibit the nominations of candidates for the office of supreme, dis-
3 trict or superior judge, by petition as provided by section three hun-
4 dred ninety-nine and amendments thereto, but no person so nominated
5 shall be permitted to use the name of any political party authorized
6 or entitled under this chapter to nominate candidates for such office.

[38 G. A., ch. 63, § 6.]

CHAPTER 5.

REGISTRATION OF VOTERS.

SECTION 409. Board of registers—village precincts.

1 In cities having a population of six thousand or more, not includ-
2 ing the inmates of any state institution, the council, on or before the
3 sixth Monday preceding each general election, shall appoint one suit-
4 able person from each of the two political parties which cast the great-
5 est number of votes at the last general election, from three names
6 presented by each chairman of the city central political committee
7 of such parties, to be registers in each election precinct in the city
8 for the registration of voters therein, who shall be electors of the
9 precinct in which they are to serve, of good clerical ability, speaking
10 the English language understandingly, temperate, of good habits and
11 reputation, who shall qualify by taking an oath or affirmation to the
12 effect that they will well and truly discharge all of the duties required

13 of them by law. They shall hold their office for two years and receive
 14 compensation at the rate of three dollars for each day of eight hours
 15 engaged in the discharge of their duties, to be paid by the county,
 16 except in case of city elections, when they shall be paid by the city.
 17 If for any cause such registers, or any of them, shall not be appointed
 18 at or before the time above mentioned, or, if appointed, shall be unable
 19 for any cause to discharge the duties of such office, the mayor of such
 20 city shall forthwith, on similar recommendation, make such appoint-
 21 ments and fill all vacancies. Should the mayor, upon the request of
 22 five freehold electors, fail for a period of three days to perform the
 23 duties aforesaid, he shall forfeit and pay, at the action of any such
 24 elector, the sum of one hundred dollars per day, for the equal benefit
 25 of the city and plaintiff. The provisions of this title shall apply to
 26 cities acting under special charters with like effect as though said
 27 cities were acting under the general incorporation laws of the state;
 28 provided, further, that all cities in which registration is required,
 29 including cities under special charter, may, by resolution passed not
 30 less than thirty days or more than sixty days preceding any general,
 31 city or special election, consolidate the voting precincts of the city
 32 into registration districts for the purpose of registration only, and
 33 appoint registers for such registration districts; but such registers
 34 must be residents and electors of the registration district in which
 35 they are to serve.

[C., '73, § 599; C., '97, § 1076; S. S., '15, § 1076; 37 G. A., ch.
 41, § 1; 38 G. A., ch. 180.]

SEC. 410. Notice of registration.

1 The times and places of making registration of voters shall be
 2 published by the mayor in the two leading political party papers pub-
 3 lished in such city, except no publication shall be required for a special
 4 election. If there be but one such paper published in the city, publi-
 5 cation of notice therein shall be sufficient. The publication shall be
 6 made for a period of three days prior to the opening of the registry
 7 book, if the paper is a daily paper, and for one week, if a weekly
 8 paper, and shall call the attention of the voters to the necessity of
 9 complying with the laws with reference to registration, in order to
 10 be entitled to vote at the ensuing election.

[C., '73, § 597; C., '97, § 1085.]

SEC. 411. Registration.

1 The registers shall meet on the second Thursday prior to any
 2 general, city, or special election, at the usual voting place in the pre-
 3 cinct in which they have been appointed, and shall hold continuous
 4 sessions for two consecutive days, from eight o'clock in the forenoon
 5 until nine o'clock in the afternoon, and, in presidential years, such
 6 sessions shall be held for three days. Any person claiming to be a
 7 voter, or that he will be on election day, including women entitled to
 8 vote for president, vice president and presidential electors, may appear
 9 before them in the election precinct where he claims he is or will be
 10 entitled to vote, and make and subscribe, under oath, a statement in
 11 a registry book, to be provided by the clerk and furnished the regis-
 12 ters, at the equal expense of the city and county, and kept open for
 13 public inspection and examination during the time fixed for the regis-
 14 tration, which statement shall be in the following form and contain
 15 the following matter:

REGISTER OF VOTERS											PRECINCT	WARD				
Number.	Residence.	Name.	Age.	Nativity.	Color.	Term of Residence			Naturalized.	Date of papers.	Court.	By act of Congress.	Qualified voter.	Date of application.	Last preceding place of residence.	SIGNATURE.
						Precinct, street number.	County.	State.								

16 The signature of the applicant shall be made at the right-hand
17 end of the line under the column "Signature," one of the registers
18 having first administered to him this form of oath: "You do sol-
19 emnly swear (or affirm) that you will fully and truly answer all such
20 questions as shall be put to you touching your place of residence,
21 name, place of birth, your qualifications as an elector, and your right
22 as such to register and vote under the laws of this state"; after which,
23 the registers, or either of them, shall propound questions to the appli-
24 cant for registration in relation to his name; his then place of resi-
25 dence, street and number; how long he has resided in the precinct
26 where the vote is claimed; the last place of his residence before coming
27 into that precinct; and also as to his citizenship, whether native or
28 naturalized; if the latter, when, where, and in what court, or before
29 what officer, or whether by act of congress; whether he came into the
30 precinct for the purpose of voting at that election; how long he con-
31 templates residing in the precinct; and such other questions as may
32 tend to test his qualifications as a resident of the precinct, citizenship
33 and right to vote at the poll; then, if the applicant appears to have
34 the right to be registered, the registers shall fill out the above pre-
35 scribed form of statement, which the applicant shall sign and swear
36 to, as above provided.

[C., '73, §§ 595-597; C., '97, § 1077; S., '13, § 1077; 38 G. A., ch. 353, § 4.]

SEC. 412. Statements—registry books—school elections.

1 The statements thus made shall be dated and consecutively num-
2 bered, commencing with number one at each registration. At the
3 close of each day's registration, the registry book shall be ruled off
4 so as to prevent further entries, and, when not in use by the registers,
5 shall be kept in the custody of the clerk until disposed of as provided
6 by law. No person shall register at any other place or time than is
7 designated in this chapter, and no registration of voters for school
8 elections shall be required.

[C., '97, § 1078.]

SEC. 413. List of voters.

1 The registers shall, within three days after the registration made
2 in the second week preceding the election, prepare two alphabetical

3 lists, for their respective voting precincts, of the names of all persons
 4 registered, their residences, their last preceding places of residence,
 5 the dates of removal when removals occur within one year, nativity,
 6 color, term of residence in precinct, county and state, whether natural-
 7 ized, date of papers, the naturalizing court, or place of naturalization
 8 if court is not known, whether naturalized by act of congress, date
 9 of application for registration; one of which lists they shall forthwith
 10 conspicuously post or cause to be posted at the usual place of holding
 11 elections in such precinct for inspection of the public, and retain the
 12 other one in their possession.

[C., '73, § 599; C., '97, § 1079.]

SEC. 414. Correction of registry—lists delivered to judges.

1 On the Saturday before any election at which registration is
 2 required, the registers shall meet at the place where registration was
 3 last made, and hold a continuous session, from eight o'clock in the
 4 forenoon until nine o'clock in the afternoon, at which they shall revise
 5 and correct the registry book of voters, adding thereto, consecutively
 6 numbering them, the names of all applying for registration who on
 7 election day will be entitled to vote in that precinct, and by striking
 8 therefrom the name of anyone not entitled to vote thereat. The reg-
 9 isters shall revise and correct the alphabetical list in their possession
 10 to correspond therewith. When thus revised and corrected, it shall
 11 be certified and copied by the registers, who shall deliver, or cause
 12 to be delivered, such list and copy to the judges of the election of the
 13 proper precinct, and which delivery shall be made on election day,
 14 and before the opening of the polls. The copy thus delivered shall
 15 be preserved by the judges, and returned with the vote from that
 16 precinct, and the original to the clerk. At the opening of the polls
 17 and before any ballot shall be received, the judges of the election
 18 shall appoint one of their number, or one of the clerks, to check the
 19 name of each voter whose name is on the alphabetical lists, to whom
 20 a ballot is delivered.

[C., '73, §§ 599, 600; C., '97, § 1080.]

SEC. 415. Appearance and hearing.

1 All proceedings of registers shall be public, and any person
 2 entitled to vote in a precinct shall have the right to be heard before
 3 them in reference to corrections of or additions to the lists of such
 4 precinct. No person shall be admitted to registry unless he appears
 5 in person, except as in this chapter provided, and, if demanded, he
 6 shall furnish to the registers such proofs of his right thereto as may
 7 by law be required by judges of election of any person offering to
 8 vote. If an elector is, by reason of sickness, unable to go to the place
 9 of registry on any day the registers may be in session, the registers
 10 shall, upon the filing before them, by a registered elector, of an affi-
 11 davit to that effect, visit such sick elector at his place of residence
 12 on any day when not in session, and place his name on the registry
 13 book and alphabetical list, if found entitled thereto; at which time
 14 and place the registers may administer the oath hereinbefore pro-
 15 vided to be taken by applicants for registry.

[C., '97, § 1081.]

SEC. 416. Registration on election day.

1 The registers shall also be in session on the day for the holding
2 of each election, at some place convenient to, but not within one hun-
3 dred feet of, the voting place, and during all the hours in which by
4 law the polls are required to be kept open, for the purpose only of
5 granting certificates of registration to persons who, being electors,
6 are not registered. Such registration shall be allowed and certificate
7 thereof granted only to a person who was absent from the city during
8 all the days fixed for registration of voters for that election, or to a
9 person who, being a foreigner, has received his final papers since the
10 last preceding day for the registration of voters for that election, or
11 to a person whose name was, on the preceding Saturday, and in the
12 absence of such person, stricken from registration, and who, on said
13 day of election, shall prove to the satisfaction of said registers that
14 he is a lawfully qualified elector of said voting precinct. These cer-
15 tificates of registration shall contain all the data showing the quali-
16 fications of the voter as shown by the registration, and, in addition,
17 the special matter showing the voter's right to such certificate under
18 this section, and, before delivery to the applicant, shall be indorsed
19 by the registers, to the effect that the person therein named is a quali-
20 fied voter in that precinct, and that he is entitled to be registered as
21 such. The proper statement shall be signed and sworn to by the
22 voter before one of the registers, supported by the affidavit of a free-
23 holder who is a registered voter in that precinct, who shall make oath
24 to the qualification of the applicant as a voter in that precinct; and
25 if the applicant be one whose name was stricken from registration,
26 such affidavit of said freeholder shall contain the facts showing the
27 right of said applicant to vote in that precinct. Registration in such
28 cases shall be made in the manner required for regular registration.
29 The certificate of registration shall be handed in to the judges of elec-
30 tion when a ballot is delivered to him. The data therefrom, showing
31 the voter's name and his qualifications as a voter, shall be entered on
32 the alphabetical lists by the judges and clerks of the election, under
33 the appropriate headings, and the original certificate shall be returned
34 to the city clerk, who shall carefully preserve it in the same manner
35 and for the same time as the alphabetical list and poll book.

[C., '97, § 1082.]

SEC. 417. Striking off names.

1 The registers, prior to each election except presidential elections,
2 and after completing their registration, shall certify the names of all
3 persons by them registered to the registers of the ward or precinct
4 of the same city, which the registration shows such persons gave as
5 their last place of residence, and the names of such persons so certified
6 shall be stricken from the registry lists of the ward or precinct in
7 which they last resided, if found thereon.

[C., '97, § 1083.]

SEC. 418. New registry—how often.

1 A new registry of voters shall be taken in each year of a presi-
2 dential election. For all other state or municipal elections, general
3 or special, the registers shall prepare a new registry book in each
4 year, by copying from the poll book of the preceding general election
5 all the names found therein, adding thereto those of all persons regis-

6 tered and voting at any subsequent election, which new registry book
 7 shall show all the facts of qualification of each voter as they appear
 8 on the last preceding registry book, which, when thus made up, shall
 9 be used at each election until a new registry book is prepared as
 10 required by law. Every person thus registered shall be considered
 11 as entitled to vote at any election at which said registry book may
 12 be used, unless his name shall be dropped by the correction of regis-
 13 tration, as authorized by law.

[C., '73, § 594; C., '97, § 1084.]

SEC. 419. Duties of city clerk.

1 The city clerk shall carefully preserve all registry books and
 2 alphabetical lists and other papers pertaining to the registration, until
 3 destroyed as provided in the chapter on the canvass of votes. He
 4 shall, on the application of the registers, deliver to them, prior to their
 5 first meeting for each election, the registry book, alphabetical list and
 6 poll book, which they require in order to properly prepare the neces-
 7 sary registry book for the next ensuing election; all of which shall
 8 be returned to him when they have completed their work for such
 9 election.

[C., '73, § 599; C., '97, § 1086.]

SEC. 420. Penalty.

1 If any register shall fail to perform any duty required of him
 2 in this chapter, he shall forfeit the sum of one hundred dollars, to
 3 be recovered by any person in any court having jurisdiction; and if
 4 any register or judge of election shall wilfully neglect or disregard
 5 any duty imposed, or shall make, or permit to be made, any registra-
 6 tion, statement or list, except at the time and place and in the manner
 7 herein authorized and prescribed, or shall knowingly make, or permit
 8 to be made, any false statement as aforesaid, or if any person shall
 9 wilfully make, or authorize to be made, any statement required to be
 10 made, false in any particular, or shall violate any of the provisions
 11 of this chapter, every such register or judge of election, person or
 12 persons, shall be guilty of a misdemeanor, and, upon conviction, fined
 13 in a sum not less than fifty nor more than two hundred dollars, or
 14 be imprisoned in the county jail not less than twenty days, nor more
 15 than six months, or both, at the discretion of the court.

[C., '97, § 1087.]

CHAPTER 6.

METHOD OF CONDUCTING ELECTIONS.

SECTION 421. Elections included.

1 The provisions of this chapter shall apply to all elections known
 2 to the laws of the state, except school elections.

[C., '97, § 1088.]

SEC. 422. General, city and special.

1 The term "general election," as used in this chapter, shall apply
 2 to any election held for the choice of national, state, judicial, district,
 3 county or township officers; that of "city election" shall apply to any

4 municipal election held in a city or town; and that of "special elec-
5 tion" shall apply to any other election held for any purpose authorized
6 or required by law.

[C., '97, § 1089.]

SEC. 423. Election precincts.

1 Each township, or, in case a township contains a city or a portion
2 thereof, such portion of the township as is outside the limits of the
3 city, and each ward of a city, shall, respectively, constitute an election
4 precinct. But the board of supervisors or the council, as the case
5 may be, shall have power to divide a township or part thereof, or a
6 ward, into two or more precincts, or to change or abolish the same;
7 or the board of supervisors and the council of any city of less than
8 thirty-five hundred inhabitants, not including the inmates of any state
9 institution, may combine any part of the township outside of such city
10 with any or all the wards thereof as one election precinct, or change
11 or abolish such precinct; or the council of such city may combine the
12 several wards into one or more precincts. No precinct shall contain
13 different townships or parts thereof, except where by reason of the
14 existence of a village or incorporated town on or near a township line,
15 the board of supervisors may, for the convenience of electors, create
16 a voting precinct in compact form, from said town or village, and
17 may include therein territory adjoining and adjacent to said village
18 or town, which is situated in two or more townships. The board of
19 supervisors in the order establishing such precinct shall define its
20 boundaries and may change same if in their judgment occasion arises.
21 In such cases, separate ballots and ballot boxes shall be provided for
22 voting for township officers only. Each incorporated town shall con-
23 stitute a precinct for town elections. No person shall vote in any
24 precinct but that of his residence.

[C., '51, § 245; R., '60, § 480; C., '73, §§ 501, 603, 605; C.,
'97, § 1090; S., '13, § 1090; 37 G. A., ch. 66, § 1.]

SEC. 424. Polling places for country precincts.

1 Polling places for precincts outside the limits of a city, but within
2 the township, or originally within and set off as a separate township
3 from the township in which the city is in whole or in part situated,
4 may, for the convenience of the voters, be fixed at some room or rooms
5 in the courthouse or in some other building within the limits of the
6 city as the board of supervisors may provide.

[C., '97, § 1091; S., '13, § 1091.]

SEC. 425. Notice of boundaries of precincts.

1 The board of supervisors or council shall number or name the
2 several precincts established, and cause the boundaries of each to be
3 recorded in the records of said board of supervisors or council, as
4 the case may be, and publish notice thereof in some newspaper of
5 general circulation, published in such county or city, once each week
6 for three consecutive weeks, the last to be made at least thirty days
7 before the next general election. The precincts thus established shall
8 continue until changed.

[C., '73, § 604; C., '97, § 1092.]

SEC. 426. Election boards.

1 Election boards shall consist of three judges and two clerks and
 2 their compensation shall be thirty cents per hour while engaged in the
 3 discharge of their duties. Not more than two judges and not more
 4 than one clerk shall belong to the same political party or organization,
 5 if there be one or more electors qualified and willing to act as such
 6 judge or clerk, and a member or members of opposite parties. In
 7 cities and towns, the councilmen shall be judges of election; but in
 8 case more than two councilmen belonging to the same political party
 9 or organization are residents of the same election precinct, the county
 10 board of supervisors may designate which of them shall serve as
 11 judges. In township precincts, the clerk of the township shall be a
 12 clerk of election of the precinct in which he resides, and the trustees
 13 of the township shall be judges of election, except that, in townships
 14 not divided into election precincts, if all the trustees be of the same
 15 political party, the board of supervisors shall determine by lot which
 16 two of the three trustees shall be judges of such precinct. The mem-
 17 bership of such election board shall be made up or completed by the
 18 board of supervisors from the parties which cast the largest and next
 19 largest number of votes in said precinct at the last general election, or
 20 that one which is unrepresented; but, in city and town elections, the
 21 powers given in this chapter and duties herein made incumbent upon
 22 the board of supervisors shall be performed by the council. If, at the
 23 opening of the polls in any precinct, there shall be a vacancy in the
 24 office of clerk or judge of election, the same shall be filled by the mem-
 25 bers of the board present, and from the political party which is entitled
 26 to such vacant office under the provisions of this chapter. The elec-
 27 tion board at any special election shall be the same as at the last pre-
 28 ceding general election. In case of vacancies happening therein, the
 29 county auditor may make the appointments to fill the same when the
 30 board of supervisors is not in session; provided, however, that the
 31 election board in precincts using only one voting machine shall con-
 32 sist of three judges, only two of whom shall be of the same political
 33 party, and two of whom shall also act as clerks.

[C., '51, §§ 246-248; R., '60, §§ 481-483; C., '73, §§ 606-608;
 C., '97, § 1093; S. S., '15, § 1093; 38 G. A., ch. 69, § 1.]

SEC. 427. Polling places—voting booths.

1 In townships the trustees, and in cities and towns the mayor and
 2 clerk, shall provide suitable places in which to hold all elections pro-
 3 vided for in this chapter, and see that the same are warmed, lighted,
 4 and furnished with proper supplies and conveniences, including a
 5 sufficient number or supply of booths, shelves, pens, penholders, ink,
 6 blotters and pencils to enable the voter to prepare his ballot for voting,
 7 screened from all observation as to the manner in which he does so.
 8 A guard rail shall be so constructed and placed that only such persons
 9 as are inside such rail can approach within six feet of the ballot box,
 10 or of the booths. The voting booths shall be so arranged that they
 11 can only be reached by passing within said guard rail, and so that they
 12 shall be in plain view of the election officers, and both booths and
 13 ballot boxes shall be in plain view of persons outside of the guard rail.
 14 Each booth shall be at least three feet square, and have three sides
 15 inclosed, the side in front to open and shut by a door swinging out-
 16 ward, or closed with a curtain. Each side of the booth shall be seven

17 feet high, and the door or curtain shall extend to within two feet of
 18 the floor, and shall be closed while the voter is preparing his ballot.
 19 Each booth shall contain a shelf at least one foot wide, at a convenient
 20 height for writing, and shall be well lighted. The booths and com-
 21 partments shall be so built and arranged, if possible, as to be perma-
 22 nent, so that after the election they may be taken down and deposited
 23 with the township, city or town clerk, as the case may be, for safe
 24 keeping and for future use. The number of voting booths shall not be
 25 less than one to every sixty voters or fraction thereof who voted at
 26 the last preceding election in the precinct. In precincts outside of
 27 cities and towns the election shall, if practicable, be held in the public
 28 school building, for the use of which there shall be no charge, but all
 29 damage to the building or furniture shall be paid by the county.

[C., '51, § 245; R., '60, § 480; C., '73, § 603; C., '97, § 1113.]

SEC. 428. Ballot boxes.

1 The board of supervisors shall provide for each precinct in the
 2 county, for the purpose of elections, one box, with lock and key. When
 3 any township precinct includes a town or part thereof, together with
 4 territory outside the limits of such town, the township trustees shall
 5 prepare a separate ballot box to receive the votes for township
 6 assessor, which shall be on separate ballots, and only the ballots of
 7 persons living outside of the limits of such town shall be placed in said
 8 ballot box. The judges of election shall place each ballot in its proper
 9 ballot box. The judges of election shall have the right to administer
 10 an oath to any voter, and to examine him under oath as to the assessor
 11 for whom such elector is entitled to vote.

[C., '51, § 254; R., '60, § 489; C., '73, § 614; C., '97, § 1130;
 S., '13, § 1130.]

SEC. 429. Registry and poll books.

1 The county auditor shall prepare and furnish to each precinct two
 2 poll books, having each of them a sufficient column for the names of
 3 the voters, a column for the number, and sufficient printed blank
 4 leaves to contain the entries of the oaths, certificates and returns; and
 5 also all books, blanks and materials necessary to carry out the pro-
 6 visions of the chapter on registration of voters.

[C., '51, § 255; R., '60, § 490; C., '73, § 615; C., '97, § 1132.]

SEC. 430. Voting by ballot.

1 In all elections regulated by this chapter, the voting shall be by
 2 ballots printed and distributed as hereinafter provided, except as may
 3 be otherwise specially directed by law.

[C., '97, § 1097.]

SEC. 431. Nominations transmitted to county auditor.

1 Not less than twenty days before the election, the secretary of
 2 state must certify to the auditor of each county in which any of the
 3 electors have the right to vote for any candidate or candidates, the
 4 name and residence of each person nominated, whether an original
 5 nomination or to fill a vacancy, to be voted for at such election, and the
 6 order in which the tickets shall appear on the ballot. Should a vacancy

7 in the nominations occur and be filled after this certificate has been
 8 forwarded, a like certificate shall at once issue and be sent the proper
 9 officer. In case of special election to fill vacancy in office, the certificate
 10 by the secretary of state to the county auditor may be made at any
 11 time not later than fifteen days before the election.

[C., '97, § 1105; S. S., '15, § 1105.]

**SEC. 432. Ballot—form—presidential electors—United States
 senator—district judge—constitutional amendments—ballot
 for women.**

1 The names of all candidates to be voted for in such election
 2 precinct, except electors of president and vice president of the United
 3 States, shall be printed on one ballot, all nominations of any political
 4 party or group of petitioners being placed under the party name or
 5 title of such party or group, as designated by them in their certificates
 6 of nomination or petitions, or if none be designated, then under some
 7 suitable title, and the ballot shall contain no other names; provided,
 8 however, that the candidates for electors of president and vice
 9 president of any political party or group of petitioners shall not be
 10 placed on the ballot, but in the years in which they are elected the
 11 names of candidates for president and vice president respectively of
 12 such parties or group of petitioners shall be placed on the ballot simi-
 13 larly as the names of candidates for United States senators are placed
 14 thereon under their respective party, petition or adopted titles for
 15 each political party or group of petitioners nominating a set of candi-
 16 dates for electors, and upon the left-hand margin of each separate
 17 column of the ballot, immediately opposite the names of said candi-
 18 dates for president and vice president, a single square shall be printed
 19 in front of a bracket inclosing the names of the said candidates for
 20 president and vice president, and the votes for which candidates shall
 21 be counted and certified to by the election judges in the same manner
 22 as the votes for other candidates.

23 At all general elections next preceding the expiration of the term
 24 of office of United States senator in the congress of the United States
 25 there shall be placed upon the official ballot in the proper place the
 26 names of candidates for all parties or group of petitioners for the
 27 office of United States senator that have been nominated by law and
 28 the votes for which candidates shall be counted and certified to by the
 29 election judges in the same manner as votes for other candidates.

30 Each list of candidates for the several parties and groups of peti-
 31 tioners shall be placed in a separate column on the ballot, in such order
 32 as the authorities charged with the printing of the ballots shall decide,
 33 except as otherwise provided, and be called a ticket. But the name of
 34 no candidate shall appear upon the ballot in more than one place for
 35 the same office, whether nominated by convention, primary, caucus or
 36 petition, except as hereinafter provided.

37 Where two or more conventions, primaries or caucuses, or any
 38 two of them, may nominate the same candidate for any office, the
 39 name of such candidate shall be printed under the name of the
 40 party first filing nomination papers bearing such name, unless the
 41 candidate himself shall, in writing duly verified, request the officer
 42 with whom the nomination papers are filed to cause the name to
 43 be printed upon some other ticket; provided that, in any judicial
 44 district of the state in which the bar association, or a convention

45 of attorneys of the district nominates or recommends candidate
 46 or candidates for the office of district judge, and such candidates
 47 are also nominated or indorsed by any political party, in preparing
 48 the ballots for the general election, the names of such candidate
 49 or candidates shall be printed as candidate or candidates for each
 50 party by whom they are nominated, whether by primary, conven-
 51 tion or petition. Each of the columns containing the list of candi-
 52 dates, including the party name, shall be separated by a distance
 53 line.

54 Said ballot shall be substantially in the following form:

55	<input type="radio"/> REPUBLICAN	<input type="radio"/> DEMOCRATIC	<input type="radio"/> PROHIBITION	<input type="radio"/> UNION LABOR
56	<input type="checkbox"/> For President,	<input type="checkbox"/> For President,	<input type="checkbox"/> For President,	<input type="checkbox"/> For President,
57	<input type="checkbox"/> A..... B.....,	<input type="checkbox"/> N..... O.....,	<input type="checkbox"/> A..... B.....,	<input type="checkbox"/> N..... O.....,
58	<input type="checkbox"/> of Ohio.	<input type="checkbox"/> of Virginia.	<input type="checkbox"/> of Maine.	<input type="checkbox"/> of Idaho.
59	<input type="checkbox"/> For Vice Pres-	<input type="checkbox"/> For Vice Pres-	<input type="checkbox"/> For Vice Pres-	<input type="checkbox"/> For Vice Pres-
60	<input type="checkbox"/> ident,	<input type="checkbox"/> ident,	<input type="checkbox"/> ident,	<input type="checkbox"/> ident,
61	<input type="checkbox"/> C..... D.....,	<input type="checkbox"/> P..... Q.....,	<input type="checkbox"/> C..... D.....,	<input type="checkbox"/> P..... Q.....,
62	<input type="checkbox"/> of New York.	<input type="checkbox"/> of Indiana.	<input type="checkbox"/> of Illinois.	<input type="checkbox"/> of Ohio.
63	<input type="checkbox"/> For United	<input type="checkbox"/> For United	<input type="checkbox"/> For United	<input type="checkbox"/> For United
64	<input type="checkbox"/> States	<input type="checkbox"/> States	<input type="checkbox"/> States	<input type="checkbox"/> States
65	<input type="checkbox"/> Senator,	<input type="checkbox"/> Senator,	<input type="checkbox"/> Senator,	<input type="checkbox"/> Senator,
66	<input type="checkbox"/> E..... F.....,	<input type="checkbox"/> R..... S.....,	<input type="checkbox"/> E..... F.....,	<input type="checkbox"/> R..... S.....,
67	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.
68	<input type="checkbox"/> For Governor,	<input type="checkbox"/> For Governor,	<input type="checkbox"/> For Governor,	<input type="checkbox"/> For Governor,
69	<input type="checkbox"/> G..... H.....,	<input type="checkbox"/> T..... U.....,	<input type="checkbox"/> G..... H.....,	<input type="checkbox"/> T..... U.....,
70	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.
71	<input type="checkbox"/> For Lieutenant	<input type="checkbox"/> For Lieutenant	<input type="checkbox"/> For Lieutenant	<input type="checkbox"/> For Lieutenant
72	<input type="checkbox"/> Governor,	<input type="checkbox"/> Governor,	<input type="checkbox"/> Governor.	<input type="checkbox"/> Governor,
73	<input type="checkbox"/> I..... J.....,	<input type="checkbox"/> V..... W.....,	<input type="checkbox"/> I..... J.....,	<input type="checkbox"/> V..... W.....,
74	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.
75	<input type="checkbox"/> For Judge of	<input type="checkbox"/> For Judge of	<input type="checkbox"/> For Judge of	<input type="checkbox"/> For Judge of
76	<input type="checkbox"/> Supreme Court,	<input type="checkbox"/> Supreme Court,	<input type="checkbox"/> Supreme Court,	<input type="checkbox"/> Supreme Court,
77	<input type="checkbox"/> L..... M.....,	<input type="checkbox"/> X..... Y.....,	<input type="checkbox"/> L..... M.....,	<input type="checkbox"/> X..... Y.....,
78	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.	<input type="checkbox"/> of.....County.

79 When a constitutional amendment or other public measure is to
 80 be voted upon by the electors, it shall be printed in full upon a separate
 81 ballot, preceded by the words, "Shall the following amendment to the
 82 constitution (or public measure) be adopted?" and upon the right-
 83 hand margin, opposite these words, two spaces shall be left, one for
 84 votes favoring such amendment or public measure, and the other for
 85 votes opposing the same. In one of these spaces the word "Yes" or
 86 other word required by law shall be printed; in the other, the word
 87 "No" or other word required, and to the right of each space a square
 88 shall be printed to receive the voting cross, all of which shall be sub-
 89 stantially in the following form:

90 "Shall the following amendment to the constitution (or public
 91 measure) be adopted?"

92 (Here insert in full the proposed constitutional amend-
 93 ment or public measure.)

Yes.	<input type="checkbox"/>
No.	<input type="checkbox"/>

94 The elector shall designate his vote by a cross mark, thus, X,
 95 placed in the proper square. At the top of such ballots shall be printed
 96 the following words, inclosed in brackets: [Notice to voters. For
 97 an affirmative vote upon any question submitted upon this ballot make
 98 a cross [x] mark in the square after the word "Yes." For a negative
 99 vote make a similar mark in the square following the word "No."]

100 If more than one constitutional amendment or public measure is to
 101 be voted upon, they shall be printed upon the same ballot, one below
 102 the other, with one inch space between each constitutional amend-
 103 ment or public measure that is to be submitted. All of such ballots
 104 for the same polling place shall be of the same size, similarly printed,
 105 upon yellow colored paper. On the back of each such ballot shall
 106 be printed appropriate words, showing that such ballot relates to a
 107 constitutional or other question to be submitted to the electors, so
 108 as to distinguish the said ballots from the official ballot for candi-
 109 dates for office, and a facsimile of the signature of the auditor or
 110 other officer who has caused the ballot to be printed. Such ballots
 111 shall be indorsed and given to each voter by the judges of election,
 112 as provided in section four hundred forty-four, and shall be subject
 113 to all other laws governing ballots for candidates, so far as the same
 114 shall be applicable.

115 At any general election hereafter held for the election of presi-
 116 dential electors a separate ballot shall be provided for women, sub-
 117 stantially in the following form:

118	○ REPUBLICAN	○ DEMOCRATIC	○ PROHIBITION	○ UNION LABOR
119	{ For President,	{ For President,	{ For President,	{ For President,
120	A..... B.....,	N..... O.....,	A..... B.....,	N..... O.....,
121	of Ohio.	of Virginia.	of Maine.	of Idaho.
122	□ { For Vice Pres- □	□ { For Vice Pres- □	□ { For Vice Pres- □	□ { For Vice Pres- □
123	ident,	ident,	ident,	ident,
124	C..... D.....,	P..... Q.....,	C..... D.....,	P..... Q.....,
125	of New York.	of Indiana.	of Illinois.	of Ohio.

126 And said ballot may be voted by them in the manner provided
 127 for the government of elections of said officers and shall be counted
 128 the same as other ballots cast at such elections.

[C., '51, § 256; R., '60, § 491; C., '73, § 616; C., '97, § 1106;
 S., '13, § 1106; 38 G. A., ch. 86, § 2; 38 G. A., ch. 353,
 § 2.]

SEC. 433. Printing.

1 For all elections held under this chapter, except those of cities
 2 or towns, the county auditor shall have charge of the printing of
 3 ballots in his county, and shall cause to be placed thereon the names
 4 of all candidates which have been certified to him by the secretary of
 5 state, in the order the same appear upon the certificate issued by the
 6 secretary of state, together with those of all other candidates to be
 7 voted for thereat, whose nominations have been made in conformity
 8 with law. If a township election precinct includes a town or any part
 9 thereof, the names of nominees for township assessors shall not be
 10 placed upon the official ballot for that precinct. In no case shall the
 11 cost of printing the official ballot exceed twenty-five dollars per thou-
 12 sand ballots, except in presidential years, when it shall not exceed
 13 thirty dollars per thousand ballots. In city or town elections, the
 14 clerk shall have charge of the printing of the ballots, and shall cause
 15 to be placed thereon the names of all candidates to be voted for
 16 thereat, whose nominations have been made as provided in this chap-
 17 ter; and in either case such ballots shall be furnished the election
 18 judges at the polling place in each precinct not less than twelve hours
 19 before the opening of the polls on the morning of the election.

[C., '97, § 1107; S. S., '15, § 1107.]

SEC. 434. Method of printing.

1 The ballot shall be on plain white paper, through which the
2 printing or writing can not be read. The party name or title shall be
3 printed in capital letters, not less than one-fourth of an inch in height.
4 The names of candidates shall be printed in capital letters not less
5 than one-eighth nor more than one-fourth of an inch in height, and, at
6 the beginning of each line in which the name of a candidate is printed,
7 a square shall be printed, the sides of which shall not be less than
8 one-fourth of an inch in length. On the back or outside of the ballot,
9 so as to appear when folded, shall be printed the words "Official Bal-
10 lot," followed by the designation of the polling place for which the
11 ballot is prepared, the date of the election, and a facsimile of the sig-
12 nature of the auditor or other officer who has caused the ballot to be
13 printed.

[C., '97, § 1109; S., '13, § 1109.]

SEC. 435. Vacancies filled.

1 The name supplied for a vacancy by the certificate of the secre-
2 tary of state, or by nomination certificates or papers for a vacancy
3 filed with the county auditor, or city or town clerk, shall, if the ballots
4 are not already printed, be placed on the ballots in place of the name
5 of the original nominee, or, if the ballots have been printed, new
6 ballots, whenever practicable, shall be furnished. Whenever it may
7 not be practicable to have new ballots printed, the election officers
8 having charge of them shall place the name supplied for the vacancy
9 upon each ballot used before delivering it to the judges of election.
10 If said ballots have already been delivered to the judges of election,
11 said auditor or clerk shall immediately furnish the name of such sub-
12 stituted nominee to all judges of election within the territory in which
13 said nominee may be a candidate, and such election officer having
14 charge of the ballots shall place the name supplied for the vacancy
15 upon each ballot issued before delivering it to the voter, by affixing a
16 paster, or by writing or stamping the name thereon.

[C., '97, § 1108.]

SEC. 436. Delivery of official ballots to judges.

1 Ballots shall be printed and in the possession of the officer
2 charged with their distribution at least two days before the election,
3 and subject to the inspection of candidates and their agents. If mis-
4 takes are discovered, they shall be corrected without delay, in the
5 manner provided in this chapter. The officers charged with the
6 printing of the ballots shall cause to be delivered to the judges of
7 election seventy-five ballots, of the kind to be voted in such precinct,
8 for every fifty votes or fraction thereof cast therein at the last pre-
9 ceding election of state officers. Such ballots shall be put up in sep-
10 arate sealed packages, with marks on the outside, clearly designating
11 the polling place for which they are intended and the number of
12 ballots inclosed, and receipt therefor shall be given by the judge or
13 judges of election to whom they are delivered, which receipt shall be
14 preserved by the officer charged with the printing of the ballots. Any
15 officer charged with the printing and distribution of ballots shall pro-
16 vide and retain at his office an ample supply of ballots, in addition to
17 those distributed to the several voting precincts, and if at any time
18 the ballots furnished to any precinct shall be lost, destroyed or
19 exhausted before the polls are closed, on written application, signed

20 by a majority of the judges of such precinct, or signed and sworn to
 21 by one of such judges, he shall immediately cause to be delivered to
 22 such judges, at the polling place, such additional supply of ballots as
 23 may be required, and sufficient to comply with the provisions of this
 24 chapter. For general elections, the supply of ballots so retained shall
 25 only equal the number provided for the precinct casting the largest
 26 vote at the preceding general election, and shall include only the
 27 portions of the various tickets to be voted for throughout the entire
 28 county, with blank spaces in which the names of candidates omitted
 29 may be written by the voter, and with blank spaces in the indorse-
 30 ment upon the back of such ballots, in which the name of the precinct
 31 shall be written by the judges of election.

[C., '97, § 1110.]

SEC. 437. Card of instructions.

1 The officer whose duty it is to have the ballots printed shall cause
 2 to be copied upon cards in large, clear type, under the heading "Card
 3 of Instructions," the following matters for the guidance of the voters:
 4 1. The manner of obtaining ballots.
 5 2. The manner of marking ballots.
 6 3. That unmarked or improperly marked ballots will not be counted.
 7 4. The method of gaining assistance in marking ballots.
 8 5. That any erasures or identification marks, or otherwise spoiling
 9 or defacing a ballot, will render it invalid.
 10 6. Not to vote a spoiled or defaced ballot.
 11 7. How to obtain a new ballot in place of a spoiled or defaced one.
 12 8. Upon the right of an employee to absent himself for two hours
 13 for the purpose of voting, by application for leave so to do made before
 14 the day of election, without deduction from his salary or wages.
 15 9. Any other matters thought necessary.

16 Such instructions shall be prepared by the attorney general and
 17 delivered to the secretary of state, who shall cause copies of the same
 18 to be furnished to the county auditor of each county. New or amended
 19 instructions may be so prepared from time to time, if thought neces-
 20 sary, and copies thereof furnished to the county auditors, who shall
 21 furnish to the judges of election a sufficient number of such cards of
 22 instruction as will enable them to comply with the provisions of this
 23 chapter.

[C., '97, § 1111.]

SEC. 438. Cards posted—publication of ballot.

1 The judges of election shall cause at least one of each of such
 2 cards to be posted in each voting booth or apartment provided for the
 3 preparation of ballots, and not less than four, with an equal number
 4 of sample ballots, in and about the polling place, upon the day of
 5 election before the opening of the polls. The county auditor shall
 6 cause to be published, prior to the day of election, in two newspapers,
 7 if there be so many published in such county, selecting, if possible,
 8 papers representing the political parties which cast at the preceding
 9 general election the largest number and the next largest number of
 10 votes, a list of all the nominations made, as herein provided, and to be
 11 voted for at such election, as near as may be in the form in which they
 12 shall appear upon the general ballot, but such publication shall not
 13 include portions of the ballot relating to township, city or town
 14 officers.

[C., '97, § 1112.]

SEC. 439. Polls open.

1 At all elections the polls shall be opened at eight o'clock in the
 2 forenoon, except in cities where registration is required, when the
 3 polls shall be opened at seven o'clock in the forenoon, or in each case
 4 as soon thereafter as vacancies in the places of judges or clerks of
 5 election have been filled. In all cases the polls shall be closed at seven
 6 o'clock in the evening.

[C., '51, § 251; R., '60, § 486; C., '73, § 611; C., '97, § 1096;
 S., '13, § 1096.]

SEC. 440. Oath.

1 Before opening the polls, each of the judges and clerks shall take
 2 the following oath: "I, A. B., do solemnly swear that I will impartially,
 3 and to the best of my knowledge and ability, perform the duties of
 4 judge (or clerk) of this election, and will studiously endeavor to pre-
 5 vent fraud, deceit and abuse in conducting the same."

[C., '51, § 249; R., '60, § 484; C., '73, § 609; C., '97, § 1094.]

SEC. 441. How administered.

1 Any one of the judges or clerks present may administer the oath
 2 to the others, and it shall be entered in the poll books, subscribed by
 3 the person taking it, and certified by the officer administering it.

[C., '51, § 250; R., '60, § 485; C., '73, § 610; C., '97, § 1095.]

SEC. 442. Ballot furnished to voter.

1 The judges of election of their respective precincts shall have
 2 charge of the ballots and furnish them to the voters. Any person
 3 desiring to vote shall give his name, and, if required, his residence, to
 4 such judges, one of whom shall thereupon announce the same in a loud
 5 and distinct tone of voice, clear and audible. In precincts where regis-
 6 tration is required, if such name is found on the register of voters by
 7 the officer having charge thereof, he shall likewise repeat such name
 8 in the same manner; if the name of the person desiring to vote is not
 9 found on the register of voters, his ballot shall not be received until
 10 he shall have complied with the law prescribing the manner and condi-
 11 tions of voting by unregistered voters.

[C., '97, § 1114.]

SEC. 443. Challenges.

1 Any person offering to vote may be challenged as unqualified by
 2 any judge or elector; and it is the duty of each of the judges to chal-
 3 lenge any person offering to vote whom he knows or suspects not to
 4 be duly qualified; and he shall not receive a ballot from a voter who
 5 is challenged, until such voter shall have established his right to vote.
 6 When any person is so challenged, the judges shall explain to him the
 7 qualifications of an elector, and may examine him under oath touching
 8 his qualifications as a voter. In all precincts where registration is not
 9 required, and in other precincts where the name of such voter is
 10 entered upon the registration lists, if the person challenged insists
 11 that he is qualified, and the challenge is not withdrawn, one of the
 12 judges shall tender to him the following oath: "You do solemnly
 13 swear that you are a citizen of the United States, that you are a resi-
 14 dent in good faith of this precinct, that you are twenty-one years of

15 age as you verily believe, that you have been a resident of this county
 16 sixty days, and of this state six months next preceding this election,
 17 and that you have not voted at this election," and if he takes such
 18 oath, his vote shall be received.

[C., '51, §§ 258, 259; R., '60, §§ 493, 494; C., '73, §§ 619, 620;
 C., '97, § 1115.]

SEC. 444. Method of voting.

1 Any voter entitled to receive a ballot under the provisions of this
 2 chapter shall be allowed to enter the space inclosed by the guard rail.
 3 One of the judges shall give him one, and only one, ballot, on the back
 4 of which such judge shall indorse his initials, in such manner that
 5 they may be seen when the ballot is properly folded, and the voter's
 6 name shall immediately be checked on the registry list. The name of
 7 each person, when a ballot is delivered to him, shall be entered by each
 8 of the clerks of election in the poll book kept by him, in the place
 9 provided therefor.

[C., '51, § 260; R., '60, § 495; C., '73, § 621; C., '97, § 1116.]

SEC. 445. Depositing ballot.

1 On receipt of the ballot, the voter shall, without leaving the
 2 inclosed space, retire alone to one of the voting booths, and without
 3 delay mark his ballot, and, before leaving the voting booth, shall fold
 4 the same in such manner as to conceal the marks thereon, and deliver
 5 the same to one of the judges of election, but the number of the voter
 6 on the poll books or register lists shall not be indorsed on the back of
 7 his ballot. One of the judges of election shall thereupon, in the pres-
 8 ence of the voter, deposit such ballot in the ballot box, but no ballot
 9 without the official indorsement shall be allowed to be deposited
 10 therein. The voter shall quit said inclosed space as soon as he has
 11 voted. Any voter who, after receiving an official ballot, decides not
 12 to vote, shall, before retiring from within the guard rail, surrender to
 13 the election officers the official ballot which has been given him, and
 14 such fact shall be noted on each of the poll lists. A refusal to sur-
 15 render such ballot shall subject the person so offending to immediate
 16 arrest and the penalties provided in this chapter. No voter shall vote
 17 or offer to vote any ballot except such as he has received from the
 18 judges of election in charge of the ballots. No person shall take or
 19 remove any ballot from the polling place before the close of the poll.
 20 No voter shall be allowed to occupy a voting booth already occupied
 21 by another nor remain within said inclosed space more than ten min-
 22 utes, nor to occupy a voting booth more than five minutes, in case all
 23 of said voting booths are in use and other voters waiting to occupy the
 24 same, nor to again enter the inclosed space after having voted; nor
 25 shall more than two voters in excess of the whole number of voting
 26 booths provided be allowed at any one time in such inclosed space,
 27 except by the authority of the election officers to keep order and
 28 enforce the law.

[C., '51, § 257; R., '60, § 492; C., '73, § 617; C., '97, § 1117.]

SEC. 446. Assistance to vote.

1 Any voter who may declare upon oath that he can not read the
 2 English language, or that, by reason of any physical disability, he is
 3 unable to mark his ballot, shall, upon request, be assisted in marking

4 the same by two of the election officers of different political parties,
 5 to be selected from the judges and clerks of the precinct in which they
 6 are to act, to be designated by the judges of election of each precinct
 7 at the opening of the polls. Such officers shall mark the ballot as
 8 directed by the voter, and shall thereafter give no information regard-
 9 ing the same. The clerks of election shall enter upon the poll lists,
 10 after the name of any elector who received such assistance in marking
 11 his ballot, a memorandum of the fact. Intoxication shall not be
 12 regarded as a physical disability, and no intoxicated person shall be
 13 entitled to assistance in marking his ballot.

[C., '97, § 1118.]

SEC. 447. Marking the ballot.

1 Upon retiring to the voting booth the voter shall mark his ballot.
 2 He may place a cross, if he desires, in the circle at the head of one
 3 ticket on the ballot, and the voter may place a cross in the square oppo-
 4 site the name of any candidate for whom he desires to vote, whether
 5 he has put a cross in the circle or not.

6 If the voter does not wish to vote for all the candidates of his
 7 party to an office where more than one candidate is to be elected, the
 8 cross in the circle at the top of his ticket shall not apply to said office,
 9 but the voter must mark crosses in the squares opposite the names of
 10 the candidates for whom he intends to vote. The voter may also
 11 insert in writing in the proper place the name of any person for whom
 12 he desires to vote, making a cross opposite thereto. The writing of
 13 such name without making a cross opposite thereto, or the making
 14 of a cross in a square opposite a blank without writing a name therein,
 15 shall not affect the validity of the vote.

[C., '97, § 1119; S., '13, § 1119; 38 G. A., ch. 86, § 7.]

SEC. 448. How counted.

1 When a circle is marked the ballot shall be counted for all the
 2 candidates upon the ticket beneath said circle, except those offices
 3 for which some candidate has been voted for by marking a square.
 4 A cross placed in a square shall be counted for the candidate before
 5 whose name the square is so marked.

6 When a square in front of any candidate has been marked, a
 7 mark in the circle shall not count for any candidate for that particular
 8 office. When more candidates than the number to be elected to the
 9 same office are voted for by marking the squares opposite their names
 10 the vote shall not be counted for any candidate for that office. If less
 11 than the whole number of candidates to be elected are voted for by
 12 marking the squares opposite their names the vote shall be counted
 13 only for those marked in the square and the mark in the circle shall
 14 not apply. If for any reason it is impossible to determine the voter's
 15 choice for any office, his ballot shall not be counted for such office, but
 16 a mark in the circle of any ticket on the ballot shall not be held to
 17 make it impossible to determine the voter's choice. Any ballot marked
 18 by the voter in any other manner than as authorized in this chapter,
 19 and so that such mark may be used for the purpose of identifying
 20 such ballot, shall be rejected.

[C., '97, § 1120; S., '13, § 1120; 38 G. A., ch. 86, § 8.]

SEC. 449. Voting mark—spoiled ballots.

1 The voting mark shall be a cross in the square opposite to the
 2 name of the candidate for whom the voter desires to vote. Any voter
 3 who shall spoil his ballot may, on returning the same to the judges,
 4 receive another in place thereof, but no voter shall receive more than
 5 three ballots, including the one first delivered to him. None but bal-
 6 lots provided in accordance with the provisions of this chapter shall
 7 be counted.

[C., '97, § 1121; S., '13, § 1121.]

SEC. 450. Defects in printed ballot.

1 No ballot properly marked by the voter shall be rejected because
 2 of any discrepancy between the printed ballot and the nomination
 3 paper or certificate of nomination, and it shall be counted for the
 4 candidate or candidates for such offices named in the nomination paper
 5 or certificate of nomination. No ballot furnished by the proper officer
 6 shall be rejected for any error in stamping or writing the indorse-
 7 ments thereon by the officials charged with such duties, nor because
 8 of any error on the part of the officer charged with such duty in deliv-
 9 ering the wrong ballots at any precinct or polling place, but any ballot
 10 delivered by the proper official to any voter shall, if properly marked
 11 by the voter, be counted as cast for all candidates for whom the voter
 12 had the right to vote, and for whom he has voted.

[C., '97, § 1122.]

SEC. 451. Voting by women.

1 At all elections where women may vote, no registration of women
 2 shall be required; separate ballots shall be furnished for the question
 3 on which they are entitled to vote; a separate ballot box shall be pro-
 4 vided in which all ballots cast by them shall be deposited, and a sep-
 5 arate canvass thereof made by the judges of the election, and the
 6 returns thereof shall show such vote; except that in elections for
 7 president, vice president and presidential electors, women shall be
 8 required to register as provided in chapter five of this title, and acts
 9 amendatory thereto, and separate ballot box shall not be used for
 10 women's ballots at such elections. The right of any citizen to vote
 11 at any city, town or school election, on the question of issuing any
 12 bonds for municipal or school purposes, and for the purpose of bor-
 13 rowing money, or on the question of increasing the tax levy, shall not
 14 be denied or abridged on account of sex.

[C., '97, § 1131; 38 G. A., ch. 353, § 3.]

SEC. 452. Persons at polling place.

1 No persons shall, during the receiving and counting of the ballots
 2 at any polling place, loiter, or congregate, or do any electioneering
 3 or soliciting of votes, within one hundred feet of any outside door
 4 of any building affording access to any room where the polls are held,
 5 or of any outside door of any building affording access to any hallway,
 6 corridor, or stairway, or other means of reaching such room, nor shall
 7 any person interrupt, hinder or oppose any voter while approaching
 8 or leaving the polling place for the purpose of voting; but any person
 9 who is by law authorized to perform or is charged with the perform-
 10 ance of official duties at the election, and any number of persons, not
 11 exceeding three from each political party having candidates to be

12 voted for at such election, to act as challenging committees, who are
 13 appointed and accredited by the executive or central committee of such
 14 political party or organization, respectively, or of persons not exceed-
 15 ing three from each of such political parties, appointed and accredited
 16 in the same manner as above prescribed for challenging committees,
 17 to witness the counting of ballots, may be present at the polling place.
 [C., '97, § 1124.]

SEC. 453. Arrest of disorderly persons.

1 If any person conducts himself in a noisy, riotous, tumultuous or
 2 disorderly manner at or about the polls, so as to disturb the election,
 3 or insults or abuses the judges or clerks of election, or commits a
 4 breach of the peace, or violates any of the provisions of this chapter,
 5 the judges or clerks of the election, or any of them, shall order the
 6 arrest of any such person, and the constable or any special policeman
 7 may forthwith arrest him and bring him before the judges of election,
 8 and they, by a warrant under their hands, may commit him to the
 9 jail of the county for a term not exceeding twenty-four hours, but
 10 they shall permit him to vote.

[C., '51, § 253; R., '60, § 488; C., '73, § 613; C., '97, § 1128.]

SEC. 454. Interference with voters.

1 No person shall on election day do any electioneering or solicit
 2 votes within any polling place, or within one hundred feet therefrom,
 3 as defined in this chapter, or interrupt, hinder or oppose any voter
 4 while approaching the polling place for the purpose of voting; nor
 5 shall any voter, except as provided by law, allow his ballot to be seen
 6 by any person, or make a false statement as to his inability to mark
 7 his ballot; nor shall any person interfere or attempt to interfere with
 8 any voter when inside the inclosed space, or when marking his ballot,
 9 or endeavor to induce any voter, before voting, to show how he marks
 10 or has marked his ballot; nor shall any person mark, or cause in any
 11 manner to be marked, on any ballot any character for the purpose of
 12 identifying such ballot. Any violation of the provisions of this sec-
 13 tion shall be punished by a fine of not less than five nor more than
 14 one hundred dollars, or by imprisonment for not less than ten days
 15 nor more than thirty days in the county jail, or by both fine and
 16 imprisonment.

[C., '97, § 1134.]

SEC. 455. Employees.

1 Any person entitled to vote at a general election shall, on the
 2 day of such election, be entitled to absent himself from any services
 3 in which he is then employed for a period of two hours, between the
 4 time of opening and closing the polls, which period may be designated
 5 by the employer, and such voter shall not be liable to any penalty, nor
 6 shall any deduction be made from his usual salary or wages, on account
 7 of such absence, but application for such absence shall be made prior
 8 to the day of election. Any employer who shall refuse to an employee
 9 the privilege conferred by this section, or shall subject such employee
 10 to a penalty or reduction of wages because of the exercise of such
 11 privilege, or shall in any manner attempt to influence or control such
 12 employee as to how he shall vote, by offering any reward, or threat-
 13 ening discharge from employment, or otherwise intimidating or

14 attempting to intimidate such employee from exercising his right to
 15 vote, shall be punished by a fine of not less than five nor more than
 16 one hundred dollars.

[C., '97, § 1123.]

SEC. 456. Defacing posted lists or cards.

1 Any person who shall, prior to any election, wilfully destroy or
 2 deface any list of candidates posted in accordance with the provisions
 3 of this chapter, or who, during an election, shall wilfully deface, tear
 4 down, remove or destroy any card of instruction or specimen ballot
 5 printed and posted for the instruction of voters, or who shall, during
 6 an election, wilfully remove or destroy any of the supplies or con-
 7 veniences furnished to enable voters to prepare their ballots, or shall
 8 wilfully hinder the voting of others, shall be punished by a fine of not
 9 less than ten nor more than one hundred dollars, or imprisonment
 10 for not less than ten nor more than thirty days, or by both fine and
 11 imprisonment.

[C., '97, § 1135.]

SEC. 457. Official neglect or misconduct.

1 Any public officer upon whom a duty is imposed by this chapter,
 2 who shall wilfully neglect to perform such duty, or who shall wilfully
 3 perform it in such a way as to hinder the object thereof, or shall dis-
 4 close to anyone, except as may be ordered by any court of justice, the
 5 contents of any ballot, as to the manner in which the same may
 6 have been voted, shall be punished by a fine of not less than five nor
 7 more than one thousand dollars, or by imprisonment in the peniten-
 8 tiary for not less than one nor more than five years, or by both fine
 9 and imprisonment.

[C., '97, § 1137.]

SEC. 458. Special policemen.

1 The city council shall detail and employ, on the nomination of the
 2 principal political committee of each political party recognized as the
 3 two leading parties, from citizens, or the police force of the city, from
 4 two to four special policemen for each precinct, and fully empower
 5 them for the special occasion of each election, who shall be men of
 6 good character and reputation, in equal numbers from each of the
 7 leading political parties, to prevent the violation of any of the terms,
 8 provisions or requirements of this chapter, or of any other command
 9 made in pursuance of any provisions hereof, and no other peace officer
 10 than those above named shall exercise his authority for preserving
 11 order at or within one hundred feet of such voting places, unless called
 12 in by an emergency. If no policeman be in attendance, the judges
 13 of election may appoint one or more specially, by writing, who shall
 14 have all the powers of such special policeman.

[C., '97, § 1125.]

SEC. 459. Constables.

1 Except in voting precincts within any city, any constable of the
 2 township, who may be designated by the judges of election, shall attend
 3 at the place of election; if none attend, the judges of the election may,

4 in writing, specially appoint one or more, who shall have all the powers
5 of a regular constable.

[C., '51, § 252; R., '60, § 487; C., '73, § 612; C., '97, § 1126.]

SEC. 460. Preserving order.

1 All special policemen and constables are authorized and required
2 to preserve order and peace at all places of election, and such special
3 policemen, constables, and all other persons are authorized and
4 required to obey the lawful orders and commands of said judges of
5 election given to prevent violations of this chapter.

[C., '51, § 252; R., '60, § 487; C., '73, § 612; C., '97, § 1127.]

SEC. 461. Expenses—special policemen—compensation.

1 The special policemen appointed under the provisions of this
2 chapter shall be entitled to receive two dollars a day as compensation
3 for their services, which with the expense of providing booths, guard
4 rails, and other things required in this chapter, shall be paid in the
5 same manner as other election expenses. The printing and distribut-
6 ing of ballots and cards of instruction to the voters, described in this
7 chapter, for any general election, shall be at the expense of the county,
8 and shall be provided for in the same manner as other county election
9 expenses. The printing and distribution of ballots for use in city
10 elections shall be at the expense of the city or town in which the elec-
11 tion shall be held.

[C., '97, § 1129; S., '13, § 1129.]

SEC. 462. Penalty.

1 Any person violating or attempting to violate any provisions or
2 requirements of this chapter, or failing or refusing to comply with
3 any order or command of an election officer, made in pursuance of
4 the provisions of this chapter, shall be punished by a fine of not less
5 than fifty, nor more than two hundred dollars, or by imprisonment
6 of not less than twenty days, nor more than six months, in the county
7 jail.

[C., '97, § 1133.]

SEC. 463. Promise of position prohibited.

1 It shall be unlawful for any candidate for any office to be voted
2 for at any primary, municipal or general election, prior to his nomi-
3 nation or election, to promise, either directly or indirectly, to support
4 or use his influence in behalf of any person or persons for any posi-
5 tion, place or office, or to promise directly or indirectly to name or
6 appoint any person or persons to any place, position or office in con-
7 sideration of any person or persons supporting him or using his, her
8 or their influence in securing his or her nomination, election or
9 appointment.

[S., '13, § 1134-a.]

SEC. 464. Promise of influence prohibited.

1 It shall be unlawful for any person to solicit from any candidate
2 for any office to be voted for at any primary, municipal or general
3 election, or any candidate for appointment to any public office, prior
4 to his nomination, election or appointment, to promise, directly or
5 indirectly, to support or use his or her influence in behalf of any

6 person or persons for any position, place or office, or to promise either
 7 directly or indirectly to name or appoint any person or persons to any
 8 place, position or office in consideration of any person or persons sup-
 9 porting him or her, or using his, her or their influence in securing his
 10 or her nomination, election or appointment.

[S., '13, § 1134-b.]

SEC. 465. Penalty.

1 Any person violating any of the provisions of the two preceding
 2 sections shall be deemed guilty of a misdemeanor and punished as
 3 provided in section five hundred forty-five.

[S., '13, § 1134-c.]

CHAPTER 7.

CANVASS OF VOTES.

SECTION 466. By judges.

1 When the poll is closed, the judges of election shall forthwith,
 2 and without adjournment, canvass the vote and ascertain the result
 3 of it, comparing the poll lists and correcting errors therein. Each
 4 clerk shall keep a tally list of the count. The canvass shall be public,
 5 and each candidate shall receive credit for the number of votes counted
 6 for him. The candidate receiving the highest number of votes, if for
 7 an office in that precinct alone, shall be declared elected, and judges
 8 shall issue certificates accordingly.

[C., '51, §§ 261, 262, 266; R., '60, §§ 496, 497, 501; C., '73,
 §§ 622, 623, 626; C., '97, § 1138.]

SEC. 467. Defective ballots.

1 If two or more marked ballots are so folded together as to appear
 2 to be cast as one, the judges shall indorse thereon "rejected as double."
 3 Such ballots shall not be counted, but shall be folded together and
 4 kept as hereinafter directed. Every ballot not counted shall be
 5 indorsed "defective" on the back thereof. Every ballot objected to
 6 by a judge or challenger, but counted, shall be indorsed on the back
 7 thereof "objected to," and there shall also be indorsed thereon, and
 8 signed by the judges, a statement as to how it was counted. All bal-
 9 lots indorsed as required by this section shall be inclosed and securely
 10 sealed in an envelope, on which the judges shall indorse "disputed
 11 ballots," with a statement of the precinct in which, and date of the
 12 election at which, they were cast, signed by the judges.

[C., '51, § 262; R., '60, § 497; C., '73, § 623; C., '97, § 1139.]

SEC. 468. Excess of ballots.

1 If the ballots for any officer exceed the number of the voters in
 2 the poll lists, such fact shall be certified, with the number of the
 3 excess, in the return, and if the vote of the precinct where the error
 4 occurred would change the result as to a county officer, if the person
 5 appearing to be elected were deprived of so many votes, then the elec-
 6 tion shall be set aside as to him in that precinct, and a new election
 7 ordered therein; but no person residing in another precinct at the

8 time of the general election shall be allowed to vote at such special
 9 election. If the error occurs in relation to a township officer, the
 10 trustees may order a new election or not, in their discretion. If the
 11 error be in relation to a district or state officer, it, with the number
 12 of the excess, shall be certified to the state canvassers, and if the error
 13 would affect the result, a new vote shall be ordered in the precinct
 14 where the error happened, and the canvass be suspended until such
 15 new vote is taken and returned. When there is a tie vote and such
 16 an excess, there shall be a new election.

[C., '51, § 263; R., '60, § 498; C., '73, § 627; C., '97, § 1140.]

SEC. 469. Return of ballots not voted.

1 Ballots not voted, or spoiled by voters while attempting to vote,
 2 shall be returned by the judges of election to the officer or authorities
 3 charged with their printing and distribution, and a receipt taken
 4 therefor, and they shall be preserved for six months. Such officer
 5 shall keep a record of the number of ballots delivered from each poll-
 6 ing place, the name of the person to whom, and the time when, deliv-
 7 ered, and enter upon such record the number and character of the
 8 ballots returned, with the time when and the person by whom they
 9 are returned.

[C., '51, § 269; R., '60, § 504; C., '73, § 630; C., '97, § 1141.]

SEC. 470. Proclamation of result—preservation of ballots.

1 When the canvass is completed, the clerks shall announce to the
 2 judges the total number of votes received by each candidate. One or
 3 more of their number shall then proclaim in a loud voice the total
 4 number of votes received by each of the persons voted for, and the
 5 office for which he is designated, as announced by said clerks, and
 6 the number of votes for, and the number of votes against, any propo-
 7 sition which shall have been submitted to a vote of the people.
 8 Immediately after making such proclamation, and before separating,
 9 the judges shall fold in two folds, and string closely upon a single piece
 10 of flexible wire, all ballots which have been counted by them, except
 11 those indorsed "rejected as double," "defective," or "objected to,"
 12 unite the ends of such wire in a firm knot, seal the knot in such a
 13 manner that it cannot be untied without breaking the seal, inclose the
 14 ballots so strung in an envelope, and securely seal such envelope. The
 15 judges shall at once return all the ballots to the officer from whom they
 16 were received, who shall carefully preserve them for six months.

[C., '51, § 269; R., '60, § 504; C., '73, § 630; C., '97, § 1142.]

SEC. 471. Destruction of ballots.

1 If at the expiration of six months no contest is pending, the officer
 2 having the ballots in custody, without opening the package in which
 3 they have been inclosed, shall, in the presence of two electors to be
 4 designated by the chairman of the board of supervisors, one each from
 5 the two leading political parties, or, in municipal elections, by the
 6 mayor of the city or town in which they are kept, destroy the same
 7 by burning; provided, however, that the ballots cast at a primary
 8 election shall, where no contest is pending, be destroyed ten days prior
 9 to the holding of the general election following the primary election
 10 at which said ballots were cast. If a contest is pending, the ballots

11 shall be kept until the same is finally determined, and then so
12 destroyed.

[C., '97, § 1143; S., '13, § 1143.]

SEC. 472. Return of board.

1 A return shall be made in each poll book, giving, in words written
2 at length, the whole number of ballots cast for each officer, except
3 those rejected, the name of each person voted for, and the number
4 of votes given to each person for each different office; which return
5 shall be signed by the judges, and be substantially as follows:

6 At an election at.....in.....township, or in.....
7 precinct of.....township, in.....county, state of Iowa, on the.....
8 day of.....A. D., there were.....ballots cast for the office of
9 (governor), of which

10 A.....B.....had.....votes.
11 C.....D.....had.....votes.

12 (and in the same manner for any other officer).

13 A true return. L.....M..... }
14 N.....O..... } Judges of Election.
15 P.....Q..... }

16 Attest: R.....S..... }
17 T.....U..... } Clerks of Election.

[C., '51, §§ 267, 303; R., '60, §§ 502, 537; C., '73, §§ 628, 661; C., '97, § 1144.]

SEC. 473. Poll books returned and preserved.

1 One of the poll books containing such return, with the register
2 of election attached thereto, shall be delivered by one of the judges
3 of election, within two days, to the county auditor. In township pre-
4 cincts, the other of said poll books, with the register of election
5 attached, shall be delivered by one of the judges of election to the
6 township clerk. In city precincts, the other of said poll books, with
7 register of election attached, shall be delivered by one of the judges
8 of election to the city clerk. In town elections, the other of said poll
9 books, with register of election attached, shall be delivered by one of
10 the judges of election to the town clerk. In each case, the receiving
11 officer shall file said books, and the registry books and lists and other
12 papers pertaining to registration, in his office, and preserve the same
13 for eighteen months, or until the determination of any contest then
14 pending, after which they shall be destroyed.

[C., '51, § 268; R., '60, §§ 333, 503, 1131; C., '73, §§ 503, 629; C., '97, § 1145.]

SEC. 474. Canvass of returns from precincts.

1 If there are two or more precincts in any township, city or ward,
2 the trustees and clerk, or the mayor and clerk, as the case may be,
3 shall, on the day after the election, meet and canvass the returns from
4 all precincts for votes cast for officers to be elected by such township,
5 city or ward. The returns shall be opened in the presence of all the
6 canvassers, and an abstract of votes made and signed by them, and
7 the result declared, and a certificate of election signed by them given
8 the candidates elected. If the mayor shall have been a candidate at
9 such election, a justice of the peace of the county, selected by the
10 clerk, shall act with him in making the canvass.

[R., '60, § 1131; C., '73, §§ 502, 503, 631; C., '97, § 1146.]

SEC. 475. Township, city and town officers notified.

1 Notice of the result of the election of the township, city and town
 2 officers shall be given by the township, city or town clerk, as the case
 3 may be, within five days thereafter, by posting, in three public places
 4 in the township, town or city, notices containing the names of persons
 5 declared elected, and requiring each of them to appear before the
 6 proper officer and qualify according to law.

[C., '51, § 317; R., '60, § 548; C., '73, § 633; C., '97, § 1147.]

SEC. 476. Returns from precincts secured.

1 If the returns from all the precincts are not made to the county
 2 auditor by the third day after the election, on the fourth he shall send
 3 messengers to obtain such of them as are wanting, the expense of
 4 which shall be paid by the county.

[C., '51, § 270; R., '60, § 505; C., '73, § 634; C., '97, § 1148.]

SEC. 477. Canvass by board of supervisors.

1 At their meeting on the Monday after the general election, at
 2 twelve o'clock, noon, the board of supervisors shall open and canvass
 3 the returns, and make abstracts, stating, in words written at length,
 4 the number of ballots cast in the county for each office, the name of
 5 each person voted for, and the number of votes given to each person
 6 for each different office.

[C., '51, §§ 271, 304, 305; R., '60, §§ 335, 506, 538, 539; C.,
 '73, §§ 635, 662; C., '97, § 1149.]

SEC. 478. Abstract of votes.

1 The abstract of the votes for each of the following classes shall
 2 be made on a different sheet:

- 3 1. President and vice president of the United States.
- 4 2. Governor and lieutenant governor.
- 5 3. All state officers not otherwise provided for.
- 6 4. Representatives in congress.
- 7 5. Senators and representatives in the general assembly for the
- 8 county alone.
- 9 6. Senators in the general assembly by districts comprising more
- 10 than one county.
- 11 7. Judges of the district court.
- 12 8. County officers.
- 13 9. Senators in the congress of the United States.

[C., '51, §§ 272, 304, 305; R., '60, §§ 507, 538, 539; C., '73,
 §§ 636, 662; C., '97, § 1150; S., '13, § 1150; 38 G. A.,
 ch. 86, § 3.]

SEC. 479. Duplicate abstracts.

1 Abstracts of all the votes cast for senators in the congress of the
 2 United States, congressmen, president and vice president of the
 3 United States, state or judicial district officers, shall be made in dupli-
 4 cate, and signed by the board of county canvassers, one of which
 5 shall be forwarded to the secretary of state, and the other filed by the
 6 county auditor.

[C., '51, §§ 272, 304, 305; R., '60, §§ 507, 538, 539; C., '73,
 §§ 637, 662; C., '97, § 1151; S., '13, § 1151; 38 G. A., ch.
 86, § 4.]

SEC. 480. Declaration of election.

1 Each abstract of the votes for such officers as the county alone
 2 elects shall contain a declaration of whom the canvassers determine
 3 to be elected, except when two or more persons receive an equal and
 4 the greatest number of votes.

[C., '51, § 275; R., '60, § 509; C., '73, § 639; C., '97, § 1152.]

SEC. 481. For senator or representative for district.

1 When a senator in the general assembly is elected by a district
 2 composed of two or more counties, the several boards of canvassers
 3 therein shall, after the canvass of the vote, make and certify as many
 4 copies of the abstract of the votes for such office as there are counties
 5 in such senatorial district, and one additional, and the auditor in each
 6 county shall seal up, direct and transmit one copy to the secretary of
 7 state, and one to the auditor of each other county in the district, who
 8 shall file the same in their respective offices, and he shall preserve one
 9 in his office.

[C., '51, § 296; R., '60, § 530; C., '73, § 646; C., '97, § 1153.]

SEC. 482. Returns filed.

1 When the canvass is concluded, the board shall deliver the orig-
 2 inal returns to the auditor, who shall file the same, and record each
 3 of the abstracts above mentioned in the election book.

[C., '51, § 276; R., '60, §§ 335, 510; C., '73, § 640; C., '97,
 § 1154.]

SEC. 483. Certificate of election.

1 When any person is thus declared elected, there shall be delivered
 2 him a certificate of election, under the official seal of the county, in
 3 substance as follows:

4 STATE OF IOWA, }
 5 County. }

6 At an election holden in said county on the day of
 7, A. D., A..... B..... was elected to the
 8 office of of the said county for the term of
 9 years from the day of, A. D.
 10 (or if he was elected to fill a vacancy, say for the residue of the term
 11 ending on the day of, A. D.),
 12 and until his successor is elected and qualified.

13 C..... D.....,
 14 President of Board of Canvassers.

15 Witness, E..... F, County Auditor (clerk).
 16 which certificate shall be presumptive evidence of his election and
 17 qualification.

[C., '51, § 277; R., '60, §§ 511, 514; C., '73, § 641; C., '97,
 § 1155.]

SEC. 484. Of senators and representatives.

1 The certificate of election of senators and representatives shall
 2 be in duplicate, and substantially in the form given, with such changes
 3 only as are necessary, one of which shall be delivered to the person
 4 entitled thereto, and the other forwarded to the secretary of state.

[C., '51, § 278; R., '60, § 512; C., '73, § 642; C., '97, § 1156.]

SEC. 485. Abstracts forwarded to secretary of state.

1 Within ten days after the election, one of the abstracts of votes
 2 for governor and lieutenant governor shall be sealed up by the audi-
 3 tor, indorsed "Abstract of votes for governor and lieutenant governor
 4 from county" (naming the county), and be by
 5 him forwarded to the speaker of the house of representatives; those
 6 for president and vice president of the United States, senators and
 7 representatives in congress, and all other state and district officers,
 8 shall be separately sealed up, indorsed in like manner, with necessary
 9 changes, and then all placed in one package and forwarded to the sec-
 10 retary of state. Abstracts of votes cast at special elections to fill
 11 vacancies in office shall be forwarded as soon as canvassed.

[C., '51, §§ 283, 284, 304, 305; R., '60, §§ 517, 518, 538, 539;
 C., '73, §§ 645, 662; C., '97, § 1157; S., '13, § 1157; 38
 G. A., ch. 86, § 5.]

SEC. 486. Returns procured from counties.

1 If the abstracts from any county are not received at the office of
 2 the secretary of state within fifteen days after the day of election, he
 3 shall send a messenger to the auditor of such county, who shall fur-
 4 nish him with them, or, if they have been sent, with a copy thereof,
 5 and he shall return them to the secretary without delay.

[C., '51, § 285; R., '60, § 519; C., '73, § 649; C., '97, § 1158.]

SEC. 487. Abstracts opened.

1 The abstracts received by the secretary of state shall be kept by
 2 him until the day fixed for their opening, and shall then be opened
 3 only in the presence of the state board of canvassers.

[C., '51, § 286; R., '60, § 520; C., '73, § 650; C., '97, § 1159.]

SEC. 488. State board of canvassers.

1 The executive council constitutes a board of canvassers for the
 2 state, but no member thereof shall take part in canvassing the votes
 3 for any office for which he himself is a candidate.

[C., '51, § 287; R., '60, § 521; C., '73, § 651; C., '97, § 1160.]

SEC. 489. Time of state canvass.

1 On the twentieth day after the day of election, the board of state
 2 canvassers shall open and examine all of the returns. If they are not
 3 received from all the counties, it may adjourn, not exceeding twenty
 4 days, for the purpose of obtaining them, and, when received, shall
 5 proceed with the canvass. Returns of elections to fill vacancies in
 6 office shall be canvassed as soon as received.

[C., '51, §§ 288, 306; R., '60, §§ 522, 540; C., '73, §§ 652,
 663; C., '97, § 1161.]

SEC. 490. Canvass by state board including votes for United States senator.

1 The board of state canvassers shall open the abstracts for state
 2 senators and representatives transmitted to the secretary of state,
 3 and canvass the votes therein returned, at the time and in the manner
 4 of canvassing the state vote, or at such other time as they may fix,
 5 at least twenty days prior to the time fixed by law for the meeting

6 of the next general assembly, and in case of a special election, within
 7 five days after the receipt of such abstracts, and shall immediately
 8 make out, certify, and transmit by mail to the county auditor of each
 9 county in the district, to be by him filed in his office, a copy of the
 10 abstract of such canvass required in the next section, which shall be
 11 recorded by him in the election book. The said board shall at the same
 12 time and in the same manner open the abstracts of the vote for sena-
 13 tor in the congress of the United States, transmitted to the secretary
 14 of state, and canvass the vote therein returned.

[C., '73, § 647; C., '97, § 1162; S., '13, § 1162.]

SEC. 491. Abstract of result.

1 It shall make an abstract stating, in words written at length, the
 2 number of ballots cast for each office, the names of all the persons
 3 voted for, for what office, the number of votes each received, and
 4 whom they declare to be elected; which abstract shall be signed by
 5 the canvassers in their official capacity and as state canvassers, and
 6 have the seal of the state affixed.

[C., '51, §§ 289, 306; R., '60, §§ 523, 540; C., '73, §§ 653,
 663; C., '97, § 1163.]

SEC. 492. Record of canvass.

1 The secretary of state shall file the abstracts when received and
 2 shall have the same bound in book form to be kept by him as a record
 3 of the result of said state election, to be known as the state election
 4 book.

[C., '51, § 290; R., '60, § 524; C., '73, § 654; C., '97, § 1164;
 S., '13, § 1164.]

SEC. 493. Certificate of election.

1 Each person declared elected by the state board of canvassers
 2 shall receive a certificate thereof, signed by the governor, or, in his
 3 absence, by the secretary of state, with the seal of state affixed, at-
 4 tested by the other canvassers, to be in substance as follows:

5 STATE OF IOWA:

6 To A B, Greeting: It is hereby certified that,
 7 at an election holden on the day of,
 8 you were elected to the office of of said state, for the
 9 term of years, from and after the day of
 10 (or if to fill a vacancy, for the residue of the
 11 term, ending on the day of).

12 Given at the seat of government this day of,
 13 If the governor be absent, the certificate of the election of the sec-
 14 retary of state shall be signed by the auditor. The certificate to mem-
 15 bers of the legislature shall describe, by the number, the district from
 16 which the member is elected.

[C., '51, §§ 288, 306; R., '60, §§ 522, 540; C., '73, §§ 652, 663;
 657; C., '97, § 1165.]

SEC. 494. Certificates mailed.

1 The secretary of state shall deliver or mail certificates of elec-
 2 tion to the persons declared elected.

[C., '51, §§ 292, 294; R., '60, §§ 526, 528; C., '73, §§ 648,
 656, 658; C., '97, § 1167.]

SEC. 495. Representative in congress.

1 The certificate of the election of a representative in congress
2 shall be signed by the governor, with the seal of the state affixed, and
3 be countersigned by the secretary of state.

[C., '51, § 294; R., '60, § 528; C., '73, § 658; C., '97, § 1166.]

SEC. 496. Tie vote.

1 If more than the requisite number of persons, including presi-
2 dential electors, are found to have an equal and the highest number
3 of votes, the election of one of them shall be determined by lot. The
4 name of each of such candidates shall be written on separate pieces
5 of paper, as nearly uniform in size and material as possible, and
6 placed in a receptacle so that the names can not be seen. In the pres-
7 ence of the board of canvassers, one of them shall publicly draw one
8 of such names, and such person shall be declared elected. The result
9 of such drawing shall be entered upon the abstract of votes and duly
10 recorded, and a certificate of election issued to such person, as pro-
11 vided in this chapter.

[C., '51, §§ 281, 282, 307, 316; R., '60, §§ 515, 516, 541, 547;
C., '73, §§ 632, 643, 644, 664; C., '97, § 1169.]

SEC. 497. Canvass public—result determined.

1 All canvasses of returns shall be public, and the persons having
2 the greatest number of votes shall be declared elected.

[C., '51, §§ 262, 273, 307; R., '60, §§ 497, 508, 541; C., '73,
§§ 623, 638, 664; C., '97, § 1170.]

SEC. 498. Special elections—canvass and certificate.

1 In case a special election has been held, the board of county can-
2 vassers shall meet at one o'clock in the afternoon of the second day
3 thereafter, and canvass the votes cast thereat. The county auditor,
4 as soon as the canvass is completed, shall transmit to the secretary of
5 state an abstract of the votes so canvassed, and the state board, within
6 five days after receiving such abstracts, shall canvass the returns. A
7 certificate of election shall be issued by the county or state board of
8 canvassers, as in other cases. All the provisions regulating elections,
9 obtaining returns, and canvass of votes at general elections, except
10 as to time, shall apply to special elections.

[R., '60, § 673; C., '73, §§ 791-793; C., '97, § 1171.]

SEC. 499. Messengers for election returns.

1 Messengers sent for the returns of elections shall be paid from
2 the state or county treasury, as the case may be, ten cents a mile going
3 and returning.

[C., '51, § 295; R., '60, § 529; C., '73, § 3827; C., '97, § 1172.]

CHAPTER 8.

VOTING MACHINES.

SECTION 500. Use of voting machines authorized.

1 At all state, county, city, town, primary and township elections
2 held in the state of Iowa, ballots or votes may be cast, registered, re-
3 corded, and counted by means of voting machines, as hereinafter pro-
4 vided.

[S., '13, § 1137-a7.]

SEC. 501. Board of supervisors to purchase.

1 The board of county supervisors of any county, or the council of
2 any incorporated city or town in the state of Iowa may, by a two-
3 thirds vote, authorize, purchase, and order the use of voting machines
4 in any one or more voting precincts within said county, city, or town,
5 until otherwise ordered by said board of county supervisors or city
6 or town council.

[S., '13, § 1137-a8.]

SEC. 502. Bonds—certificates of indebtedness.

1 The local authorities, on the adoption and purchase of a voting
2 machine, may provide for the payment therefor in such manner as
3 they may deem for the best interest of the locality, and may for that
4 purpose issue bonds, certificates of indebtedness, or other obligations,
5 which shall be a charge on the county, city, or town. Such bonds,
6 certificates or other obligations may be issued with or without inter-
7 est, payable at such time or times as the authorities may determine,
8 but shall not be issued or sold at less than par.

[S., '13, § 1137-a14.]

SEC. 503. Commissioners—term—removal.

1 The governor shall appoint three commissioners, and not more
2 than two of whom shall be from the same political party. The said
3 commissioners shall hold office for the term of five years, subject to
4 removal at the pleasure of the governor.

[S., '13, § 1137-a9.]

**SEC. 504. Examination of machine—report of commissioners—
compensation.**

1 Any person or corporation owning or being interested in any vot-
2 ing machine may call upon the said commissioners to examine the said
3 machine, and make report to the secretary of state upon the capacity
4 of the said machine to register the will of voters, its accuracy and
5 efficiency, and with respect to its mechanical perfections and imper-
6 fections. Their report shall be filed in the office of the secretary of
7 state and shall state whether in their opinion the kind of machine so
8 examined can be safely used by such voters at elections under the
9 conditions prescribed in this chapter. If the report states that the
10 machine can be so used, it shall be deemed approved by the commis-
11 sioners, and machines of its kind may be adopted for use at elections
12 as herein provided. Any form of voting machine not so approved
13 can not be used at any election. Each commissioner is entitled to one
14 hundred fifty dollars for his compensation and expenses in making

15 such examination and report, to be paid by the person or corporation
 16 applying for such examination. No commissioner shall have any in-
 17 terest whatever in any machine reported upon. Provided that said
 18 commissioner shall not receive to exceed fifteen hundred dollars and
 19 reasonable expenses in any one year; and all sums collected for such
 20 examinations over and above said maximum salaries and expenses
 21 shall be turned into the state treasury.

[S., '13, § 1137-a10.]

SEC. 505. Construction of machine approved.

1 A voting machine approved by the state board of voting machine
 2 commissioners must be so constructed as to provide facilities for vot-
 3 ing for the candidates of at least seven different parties or organiza-
 4 tions, must permit a voter to vote for any person for any office
 5 although not nominated as a candidate by any party or organization,
 6 and must permit voting in absolute secrecy. It must also be so con-
 7 structed as to prevent voting for more than one person for the same
 8 office, except where the voter is lawfully entitled to vote for more than
 9 one person for that office; and it must afford him an opportunity to
 10 vote for any or all persons for that office as he is by law entitled to
 11 vote for and no more, at the same time preventing his voting for the
 12 same person twice. It may also be provided with one ballot in each
 13 party column or row containing only the words "presidential elect-
 14 ors," preceded by the party name, and a vote for such ballot shall
 15 operate as a vote for all the candidates of such party for presidential
 16 electors. Such machine shall be so constructed as to accurately ac-
 17 count for every vote cast upon it.

[S., '13, § 1137-a11.]

SEC. 506. Experimental use.

1 The board of supervisors of any county, the council of any city
 2 or town, may provide for the experimental use at an election in one
 3 or more districts, of a machine which it might lawfully adopt, with-
 4 out a formal adoption thereof; and its use at such election shall be
 5 as valid for all purposes as if it had been lawfully adopted.

[S., '13, § 1137-a12.]

SEC. 507. Duties of local authorities.

1 The local authorities adopting a voting machine shall, as soon as
 2 practicable thereafter, provide for each polling place one or more vot-
 3 ing machines in complete working order, and shall thereafter keep
 4 them in repair, and shall have the custody thereof and of the furniture
 5 and equipment of the polling place when not in use at an election. If it
 6 shall be impracticable to supply each and every election district with
 7 a voting machine or voting machines at any election following such
 8 adoption, as many may be supplied as it is practicable to procure, and
 9 the same may be used in such election district or districts within the
 10 county, city, or town as the officers adopting the same may direct.

[S., '13, § 1137-a13.]

SEC. 508. Ballots—form.

1 All ballots shall be printed in black ink on clear, white material,
 2 of such size as will fit the ballot frame, and in as plain, clear type as the
 3 space will reasonably permit. The party name for each political

4 party represented on the machine shall be prefixed to the list of candi-
 5 dates of such party. The order of the list of candidates of the several
 6 parties or organizations shall be arranged as provided in section four
 7 hundred thirty-two, except that the lists may be arranged in horizon-
 8 tal rows or vertical columns.

[S., '13, § 1137-a15.]

SEC. 509. Sample ballots.

1 The officers or board charged with the duty of providing ballots
 2 for any polling place shall provide therefor two sample ballots, which
 3 shall be arranged in the form of a diagram showing the entire front
 4 of the voting machine as it will appear after the official ballots are
 5 arranged for voting on election day. Such sample ballots shall be
 6 open to public inspection at such polling place during the day of elec-
 7 tion and the day next preceding election day.

[S., '13, § 1137-a16.]

SEC. 510. Two sets of ballots.

1 Two sets of ballots shall be provided for each polling place for
 2 each election for use in the voting machine.

[S., '13, § 1137-a17.]

SEC. 511. Delivery of ballots.

1 The ballots and stationery shall be delivered to the election board
 2 of each election district before ten o'clock in the forenoon of the day
 3 next preceding the election.

[S., '13, § 1137-a18.]

SEC. 512. Duties of election officers—-independent ballots.

1 The judges of election and clerks of each district shall meet at
 2 the polling place therein, at least three-quarters of an hour before
 3 the time set for the opening of the polls at each election, and shall
 4 proceed to arrange within the guard rail the furniture, stationery
 5 and voting machines for the conduct of the election. The judges
 6 of election shall then and there have the voting machine, bal-
 7 lots and stationery required to be delivered to them for such elec-
 8 tion; and, if it be an election at which registered voters only can vote,
 9 the registry of such electors required to be made and kept therefor.
 10 The judges shall thereupon cause at least two instruction cards to be
 11 posted conspicuously within the polling place. If not previously
 12 done, they shall arrange, in their proper place on the voting machine,
 13 the ballots containing the names of the offices to be filled at such elec-
 14 tion, and the names of the candidates nominated therefor. If not
 15 previously done, the machine shall be so arranged as to show that no
 16 vote has been cast, and the same shall not be thereafter operated, ex-
 17 cept by electors in voting. Before the polls are open for election,
 18 each judge shall carefully examine every machine and see that no
 19 vote has been cast, and the same shall be subject to inspection of
 20 the election officers. Ballots voted for any person, whose name does
 21 not appear on the machine as a nominated candidate for office, are
 22 herein referred to as independent ballots. When two or more per-
 23 sons are to be elected to the same office, and the machine requires that
 24 all independent ballots voted for that office be deposited in a single
 25 receptacle or device, an elector may vote in or by such receptacle or

26 device for one or more persons whose names do not appear upon the
27 machine with or without the names of one or more persons whose
28 names do so appear. With that exception, and except for presidential
29 electors, no independent ballot shall be voted for any person for any
30 office whose name appears on the machine as a nominated candidate
31 for that office; any independent ballot so voted shall not be counted.
32 An independent ballot must be cast in its appropriate place on the
33 machine, or it shall be void and not counted.

[S., '13, § 1137-a19.]

SEC. 513. Voting machine in plain view—guard rail.

1 The exterior of the voting machine and every part of the polling
2 place shall be in plain view of the election officers. The voting ma-
3 chine shall be placed at least three feet from every wall and partition
4 of the polling place, and at least three feet from the guard rail, and
5 at least four feet from the clerk's table. A guard rail shall be con-
6 structed at least three feet from the machine, with openings to admit
7 electors to and from the machine.

[S., '13, § 1137-a20.]

SEC. 514. Method of voting.

1 After the opening of the polls, the judges shall not allow any
2 voter to pass within the guard rail until they ascertain that he is
3 duly entitled to vote. Only one voter at a time shall be permitted to
4 pass within the guard rail to vote. The operating of the voting ma-
5 chine by the elector while voting shall be secret and obscured from
6 all other persons except as provided by this chapter in cases of voting
7 by assisted electors. No voter shall remain within the voting ma-
8 chine booth longer than one minute, and if he shall refuse to leave it
9 after the lapse of one minute, he shall be removed by the judges.

[S., '13, § 1137-a21.]

SEC. 515. Additional instructions.

1 In case any elector after entering the voting machine booth shall
2 ask for further instructions concerning the manner of voting, two
3 judges of opposite political parties shall give such instructions to him;
4 but no judge or other election officer or person assisting an elector
5 shall in any manner request, suggest, or seek to persuade or induce
6 any such elector to vote any particular ticket, or for any particular
7 candidate, or for or against any particular amendment, question, or
8 proposition. After receiving such instructions, such elector shall vote
9 as in the case of an unassisted voter.

[S., '13, § 1137-a22.]

SEC. 516. Injury to machine.

1 No voter, or other person, shall deface or injure the voting ma-
2 chine or the ballot thereon. It shall be the duty of the judges to en-
3 force the provisions of this section. During the entire period of an
4 election, at least one of their number, designated by them from time
5 to time, shall be stationed beside the entrance to the booth and shall
6 see that it is properly closed after a voter has entered it to vote. He
7 shall also, at such intervals as he may deem proper or necessary, ex-

8 amine the face of the machine to ascertain whether it has been de-
9 faced, or injured, to detect the wrongdoer and to repair any injury.
[S., '13, § 1137-a23.]

SEC. 517. Canvass of vote.

1 As soon as the polls of the election are closed, the judges of the
2 election thereat shall immediately lock the voting machine against
3 voting and open the counting compartments in the presence of all
4 persons who may be lawfully within the polling place, and proceed
5 to canvass the vote.
[S., '13, § 1137-a24.]

SEC. 518. Judges to lock machine.

1 The judges of election shall, as soon as the count is completed
2 and fully ascertained as in this chapter required, lock the machine
3 against voting, and it shall so remain for the period of thirty days.
4 Whenever independent ballots have been voted, the judges shall re-
5 turn all of such ballots properly secured in a sealed package as pre-
6 scribed by section four hundred seventy.
[S., '13, § 1137-a25.]

SEC. 519. Written statements of election.

1 After the total vote for each candidate has been ascertained, and
2 before leaving the room or voting place, the judges shall make and
3 sign written statements of election, as required by the election laws
4 now in force, except that such statements of the canvass need not con-
5 tain any ballots except the independent ballots as herein provided.
[S., '13, § 1137-a26.]

SEC. 520. What statutes apply—separate ballots.

1 All of the provisions of the election law now in force and not
2 inconsistent with the provisions of this chapter shall apply with full
3 force to all counties, cities, and towns adopting the use of voting ma-
4 chines. Nothing in this chapter shall be construed as prohibiting
5 the use of a separate ballot for constitutional amendments and other
6 public measures.
[S., '13, § 1137-a27.]

CHAPTER 9.

ABSENT VOTERS' LAW.

SECTION 521. Voters absent from county may vote.

1 Any qualified elector of the state of Iowa, having duly registered
2 where such registration is required, who, through the nature of his
3 business, is absent or expects in the course of said business to be ab-
4 sent from the county in which he is a qualified elector on the day of
5 holding any general, special, primary, county, city or town election,
6 or any qualified elector of the state of Iowa, having duly registered
7 where such registration is required, who through illness or injury
8 resulting in physical disability is prevented from voting in person on

9 the day of holding any such election, may vote at any such election as
10 hereinafter provided.

[S. S., '15, § 1137-b; 37 G. A., ch. 419, § 3.]

SEC. 522. Application for official ballot.

1 Any elector, as defined in the foregoing section, expecting to be
2 absent from the county of his residence on the day of any such elec-
3 tion, or any elector physically unable to go to the polls on the day of
4 such election, may, not more than fifteen nor less than three days
5 prior to the date of such election, make application to the county
6 auditor of such county, or the clerk of the city or town, as the case
7 may be, for an official ballot to be voted at such election.

[S. S., '15, § 1137-c; 37 G. A., ch. 419, § 4.]

SEC. 523. Form of application.

1 Application for such ballot shall be made on a blank to be fur-
2 nished by the county auditor or clerk of the city or town, as the case
3 may be, in which the applicant is an elector, and shall be substantially
4 in the following form:

5 APPLICATION FOR BALLOT TO BE VOTED AT THE
6 ELECTION ON

7 State of }
8 } ss.
9 County of

10 I,, do solemnly swear that I have been a
11 resident of the state of Iowa for six months, of the county of
12 for sixty days and of the
13 precinct of ward of the city or town of
14 ten days next preceding this election, and that I am a duly qualified
15 elector entitled to vote at said election. That I am

(Stating business)

17 and because of the nature of my business expect to be absent from
18 said county on, the date of said election, or
19 because of physical inability to attend the polls, and I hereby make
20 application for an official ballot or ballots to be voted by me at such
21 election, and that I will return said ballot or ballots to the officer
22 issuing same, on or before the day of said election.

23 Date

24 Signed.....

25 Residence, (street and number)

26 (City) P. O. Address

27 Subscribed and sworn to before me this day of

28 A. D. 19.....

29

(Penalty clause set out in full.)

31 Provided that if the application be made for a primary election
32 ballot, such application shall designate the name of the political party
33 with which the applicant is affiliated.

[S. S., '15, § 1137-d; 37 G. A., ch. 419, § 5.]

SEC. 524. Auditor or clerk to deliver or mail ballot.

1 Upon receipt of such application, and not more than ten nor less
2 than three days prior to such election, it shall be the duty of such
3 auditor or clerk, as the case may be, to mail, postage prepaid, an

4 official ballot or ballots, if more than one are to be voted at said elec-
 5 tion, or such officer shall deliver said ballot or ballots to any qualified
 6 elector applying in person at the office of such auditor or clerk, as the
 7 case may be, and subscribing to the foregoing application, not more
 8 than ten days nor less than one secular day before said election.

[S. S., '15, § 1137-e.]

SEC. 525. Duty of auditor—form of affidavit.

1 It shall be the duty of said auditor or clerk, as the case may be,
 2 to fold the ballot or ballots in the manner specified in section four
 3 hundred forty-four and he shall inclose such ballot or ballots in an
 4 envelope unsealed to be furnished by him, which envelope shall bear
 5 upon the face thereof the name, official title and postoffice address of
 6 such auditor or clerk, and upon the other side a printed affidavit in
 7 substantially the following form:

8 State of }
 9 } ss.
 10 County of

11 I,, do solemnly swear that the following
 12 matters stated in this affidavit relating to my qualifications for reg-
 13 istration and voting are true; residence number
 14 street, city, village or township of,
 15 county, Iowa. Age years. Nativity Color
 16 Term of residence in precinct Term of residence in county
 17 Term of residence in state Naturalized
 18 Date of naturalization papers Court in
 19 which naturalized; whether by act of Congress
 20 Whether qualified voter; date of application
 21 Last preceding place of residence, number
 22 street, city, village or township,
 23 county, Iowa. That I am engaged in the business or work of
 24; that I will be absent from the county of my resi-
 25 dence or that my physical condition is such to prevent my attending
 26 the polls on the day of election, and that I have marked the inclosed
 27 ballot in secret.

28 Signed
 29 Subscribed and sworn to before me this day of,
 30 A. D., and I hereby certify that the affiant exhibited the in-
 31 closed ballot to me unmarked; that he then in my presence and in the
 32 presence of no other person, and in such manner that I could not see
 33 his vote, marked such ballot and inclosed and sealed the same in this
 34 envelope; that the affiant was not solicited or advised by me for or
 35 against any candidate or measure.

36
 37
 38 Provided that if the ballot inclosed is to be voted at a primary
 39 election, the affidavit shall designate the name of the political party
 40 with which the voter is affiliated.

[S. S., '15, § 1137-f; 37 G. A., ch. 419, § 1.]

**SEC. 526. Affidavit—marking ballot—ballot deposited in envel-
 ope—mailing or delivering envelope.**

1 Such absent or disabled voter shall make and subscribe to the
 2 said affidavit before an officer authorized by law to administer oaths,
 3 and such voter shall thereupon, in the presence of such officer and of

4 no other person, mark such ballot or ballots, but in such manner that
 5 such officer can not know how such ballot is marked, and such ballot
 6 or ballots shall then in the presence of such officer be folded by such
 7 voter so that each ballot will be separate and so as to conceal the mark-
 8 ing and be in the presence of such officer deposited in such envelope
 9 and the envelope securely sealed. Said envelope shall be mailed by
 10 such voter, by registered mail, postage prepaid, to the officer issuing
 11 the ballot, or if more convenient it may be delivered in person.

[S. S., '15, § 1137-g; 37 G. A., ch. 419, § 6.]

SEC. 527. Custody of ballot by auditor or clerk.

1 Upon receipt of such absent voter's ballot, the auditor or clerk, as
 2 the case may be, shall forthwith inclose the same, unopened, together
 3 with the application made by said absent voter, in a larger or carrier
 4 envelope which shall be securely sealed and indorsed with the name
 5 and official title of such auditor or clerk, and the words, "This envelope
 6 contains an absent voter's ballot, or disabled voter's ballot, as the case
 7 may be, and must be opened only at the polls on election day while
 8 said polls are open," and such auditor or clerk shall thereafter safely
 9 keep the same in his office until delivered by him as provided in the
 10 next section.

[S. S., '15, § 1137-h; 37 G. A., ch. 419, § 7.]

SEC. 528. Envelopes—delivery to judges of election.

1 In case an absent or disabled voter's ballot is received by the
 2 auditor or clerk, as the case may be, prior to the delivery of the offi-
 3 cial ballots to the judges of election of the precinct in which said
 4 elector resides, such ballot envelope and application, sealed in the car-
 5 rier envelope, shall be inclosed in such package and therewith deliv-
 6 ered to the judges of such precinct.

7 In case the official ballots for such precinct have been delivered
 8 to the judges of election at the time of the receipt by the auditor or
 9 clerk of such absent or disabled voter's ballot, such official shall imme-
 10 diately inclose said envelope containing the absent or disabled voter's
 11 ballot, together with his application therefor, in a larger or carrier
 12 envelope which shall be securely sealed and indorsed on the face to
 13 the judges of election, giving the name or number of precinct, street
 14 and number of the polling place, city or town in which such absent
 15 or disabled voter is a qualified elector and the words "This envelope
 16 contains an absent voter's ballot, or disabled voter's ballot, as the case
 17 may be, and must be opened only on election day at the polls while
 18 the polls are open", mailing the same, postage prepaid, to such judges
 19 of election; or, if more convenient, such auditor or clerk may deliver
 20 such absent or disabled voter's ballot to the judges of election in per-
 21 son or by duly deputized agent, said auditor, clerk or agent to secure
 22 his receipt for delivery of such ballot or ballots; provided, however,
 23 that such delivery of ballots by person is to be made without expense
 24 to the county, city or town, as the case may be.

[S. S., '15, § 1137-i; 37 G. A., ch. 419, § 8.]

SEC. 529. Opening envelope—depositing ballot—rejecting ballot.

1 At any time between the opening and closing of the polls on such
 2 election day the judges of election of said precinct shall open the
 3 outer or carrier envelope only, announce the absent or disabled voter's

4 name and compare the signature upon the application with the sig-
 5 nature upon the affidavit on the ballot envelope. In case the judges
 6 find the affidavits executed, that the signatures correspond, the ap-
 7 plicant a duly qualified elector of the precinct, and that the applicant
 8 has not voted in person at said election, they shall open the envelope
 9 containing the absent or disabled voter's ballot in such manner as not
 10 to deface or destroy the affidavit thereon and take out the ballot or
 11 ballots therein contained without unfolding or permitting the same
 12 to be unfolded or examined and, having indorsed the ballot in like
 13 manner as other ballots are required to be indorsed, deposit the same
 14 in the proper ballot box or boxes and enter the absent or disabled
 15 voter's name in the poll book, the same as if he had been present and
 16 voted in person.

17 In case such affidavit is found to be insufficient, or that the sig-
 18 natures do not correspond, or that the applicant is not a duly qualified
 19 elector in such precinct, or that the ballot envelope is open, or has
 20 been opened and resealed, or that the ballot envelope contains more
 21 than one ballot of any one kind, such vote shall not be accepted or
 22 counted. Every ballot not counted shall be indorsed on the back
 23 thereof "Rejected (giving reason therefor)".

24 All rejected ballots shall be inclosed and securely sealed in an
 25 envelope on which the judges shall indorse "Defective ballots" with a
 26 statement of the precinct in which and the date of the election at
 27 which they were cast, signed by the judges and returned to the same
 28 officer and in the same manner as by law provided for the return and
 29 preservation of official ballots voted at such election.

30 The affidavit upon the ballot envelope shall constitute a sufficient
 31 registration of the voter in precincts where registration is required
 32 and shall be treated like and have the same force and effect as a cer-
 33 tificate issued by the registers of election on election day in all cases
 34 where the voter is not already registered and where his name does
 35 not appear upon the alphabetical lists, and if the ballot be deposited
 36 and the absent or disabled voter's name be entered on the poll books
 37 as herein provided, the judges of election shall enter the absent or
 38 disabled voter's name on the alphabetical lists with the same data as
 39 is entered when a certificate of registration is filed, and the ballot en-
 40 velope having the absent or disabled voter's affidavit thereon shall be
 41 preserved and returned with the certificates of registration, poll book
 42 and alphabetical lists to the city clerk, who shall preserve the same,
 43 and it shall be used by the registers of election, in precincts where
 44 registration is required, in making up the new registry lists from the
 45 poll books, and such affidavit shall serve as the registration record of
 46 the voter for the new registry books and lists.

47 If the ballot is rejected and the vote of the absent or disabled
 48 voter not accepted or counted as provided herein, said ballot envelope
 49 with the affidavit of the absent or disabled voter indorsed thereon
 50 shall be returned with said rejected ballot in the envelope indorsed
 51 "Defective ballots."

[S. S., '15, § 1137-j; 37 G. A., ch. 419, § 2.]

SEC. 530. Challenges.

1 The vote of any absent or disabled voter may be challenged for
 2 cause and the judges of election shall have all the power and authority
 3 given by law to hear and determine the legality of such ballot.

[S. S., '15, § 1137-k; 37 G. A., ch. 419, § 9.]

SEC. 531. Ballot of deceased voter.

1 Whenever it shall be made to appear by due proof to the judges
 2 of election that any elector who has marked and forwarded his ballot
 3 as provided in this chapter has died, then the ballot of such deceased
 4 voter shall be returned by the judges of election with the unused bal-
 5 lots to the official issuing it; however, the casting of the ballot of a
 6 deceased voter shall not invalidate the election.

[S. S., '15, § 1137-l.]

SEC. 532. Laws made applicable.

1 All the provisions of the election laws now in force, and not incon-
 2 sistent with the provisions of this chapter, shall apply with full force
 3 and effect to all counties, cities and towns in which voting machines
 4 are used, relative to the furnishing of ballot boxes; the printing and
 5 furnishing of official ballots in such number as the auditor or clerk,
 6 as the case may be, may deem necessary; the canvassing of the ballots
 7 and making the proper return of the result of the election.

[S. S., '15, § 1137-m.]

SEC. 533. Penalty clause.

1 If any person shall wilfully swear falsely to any such affidavit,
 2 he shall, upon conviction thereof, be guilty of perjury and shall be
 3 punished as in such cases by law provided. If any person who, having
 4 procured an official ballot or ballots as heretofore provided, shall wil-
 5 fully neglect or refuse to cast or return same in the manner heretofore
 6 provided, or shall wilfully violate any provision of this chapter, he
 7 shall be guilty of a misdemeanor and shall be fined not to exceed one
 8 hundred dollars, or imprisoned in the county jail not to exceed thirty
 9 days. If any county auditor, city or town clerk or any election officer,
 10 shall refuse or neglect to perform any of the duties prescribed by this
 11 chapter, or shall violate any of the provisions thereof, he shall upon
 12 conviction be fined not less than one hundred dollars nor more than
 13 one thousand dollars, or imprisoned in the county jail not to exceed
 14 ninety days.

[S. S., '15, § 1137-n.]

SEC. 534. Construction of statute.

1 This chapter shall be deemed to provide a method of voting in
 2 addition to the method now provided by statute, and, to such extent,
 3 as amendatory of existing statutes relating to the manner and method
 4 of voting.

[S. S., '15, § 1137-o.]

CHAPTER 10.
PRESIDENTIAL ELECTORS.**SECTION 535. Election—canvass—women entitled to vote.**

1 At the general election in the years of the presidential election,
 2 or at such other times as the congress of the United States may direct,
 3 there shall be elected by the electors of the state one person from

4 each congressional district into which the state is divided, as elector
5 of president and vice president, and two from the state at large, no
6 one of whom shall be a person holding the office of senator or repre-
7 sentative in congress, or any office of trust or profit under the United
8 States.

9 Each elector of each congressional district and each elector at
10 large nominated by any party or group of petitioners shall receive the
11 combined vote of the electors of the state for the candidates for presi-
12 dent and vice president of such party or group of petitioners, and a
13 vote cast for the candidates for president and vice president of the
14 United States shall be the votes of the voter for the electors of the re-
15 spective party or group of petitioners.

16 The canvass of the votes for candidates for president and vice
17 president of the United States and the returns thereof shall be a can-
18 vass and return of the votes cast for the electors of the same party
19 or group of petitioners respectively, and the certificate of such election
20 made by the governor shall be in accord with such return; provided,
21 however, that the right to vote for presidential electors shall not be
22 denied or abridged on account of sex, and that every woman who has
23 attained the age of twenty-one years and who possesses all other
24 qualifications requisite to a male voter, shall be entitled to vote, the
25 same as men, at any election held for the purpose of electing presiden-
26 tial electors.

[C., '51, §§ 301, 302; R., '60, §§ 535, 536; C., '73, §§ 659,
.660; C., '97, § 1173; S., '13, § 1173; 38 G. A., ch. 86, § 6;
38 G. A., ch. 353, § 1.]

SEC. 536. Certificate to electors.

1 The governor, at the expiration of ten days from the completed
2 canvass, shall issue to each presidential elector declared elected a cer-
3 tificate of his election, under his hand and the seal of state, the same,
4 in substance, as required in other cases, and shall notify him to at-
5 tend at the seat of government at noon on the second Monday in Janu-
6 ary following his election, reporting his attendance to him. If there
7 be a contest of the election, no certificate shall issue until it is deter-
8 mined.

[C., '51, § 308; R., '60, § 542; C., '73, § 665; C., '97, § 1163.]

SEC. 537. Meeting—certificate.

1 The presidential electors shall meet in the capitol, at the seat of
2 government, at noon of the second Monday in January after their
3 election, or so soon thereafter as practicable. If, at the time of such
4 meeting, any elector for any cause is absent, those present shall at
5 once proceed to elect, from the citizens of the state, a substitute elec-
6 tor or electors, and certify the choice so made to the governor, and he
7 shall immediately cause the person or persons so selected to be notified
8 thereof.

[C., '51, §§ 308-310; R., '60, §§ 542-544; C., '73, §§ 665-667;
C., '97, § 1174.]

SEC. 538. Certificate of governor.

1 When so met, the said electors shall proceed, in the manner
2 pointed out by law, with the election, and the governor shall duly cer-
3 tify the result thereof, under the seal of the state, to the United States

4 secretary of state, and as required by act of congress relating to such
5 elections.

[C., '51, § 311; R., '60, § 545; C., '73, § 668; C., '97, § 1175.]

SEC. 539. Compensation.

1 The electors shall each receive a compensation of five dollars for
2 every day's attendance, and the same mileage as members of the gen-
3 eral assembly.

[C., '51, § 312; R., '60, § 546; C., '73, § 669; C., '97, § 1176.]

CHAPTER 11.

STATEMENT OF EXPENSES.

SECTION 540. Statement of election expenses.

1 Every candidate for any office to be voted for at any primary,
2 municipal or general election shall, within ten days after the holding
3 of such primary, municipal or general election, file a true, correct,
4 detailed, sworn statement showing each and all sums of money or
5 other things of value disbursed, expended or promised directly or
6 indirectly by him, and to the best of his knowledge and belief by any
7 other person or persons in his behalf for the purpose of aiding or
8 securing his nomination or election. If the person be a candidate for
9 a municipal or a county office, such statement shall be filed with the
10 county auditor; if for a state office, or any other office to be voted for
11 by the electors of more than one county, such statement shall be filed
12 with the secretary of state. Such statement shall show the dates,
13 amounts, and from whom such sums of money or other things of value
14 were received, and the dates, amounts, purposes and to whom paid or
15 disbursed, and shall include the assessment of any person, commit-
16 tee, or organization in charge of the campaign of such candidate.

[S., '13, § 1137-a1.]

SEC. 541. Testimony—immunity from prosecution.

1 In prosecutions under this chapter, no witness shall be excused
2 from giving testimony on the ground that his testimony would tend to
3 render him criminally liable or expose him to public ignominy, but
4 any matter so elicited shall not be used against him, and said witness
5 shall not be prosecuted for any crime connected with or growing out
6 of the act on which the prosecution is based in the cause in which his
7 evidence is used for the state, under the provisions of this section.

[S., '13, § 1137-a2.]

SEC. 542. Statements by committee chairmen.

1 The chairman of each party central committee for the state, dis-
2 trict or county, shall file a statement of receipts and expenditures
3 within ten days after the general election. The chairmen of state and
4 district central committees shall file said statements with the secretary
5 of state; and the chairmen of county central committees, with the
6 county auditor. Such statements shall contain all the information re-
7 quired to be filed by candidates as set forth in section five hundred
8 forty, and in addition thereto shall state the amounts or balances re-

9 maining on hand. The person filing the same shall make oath that
10 it is a full, true and correct statement.

[S., '13, § 1137-a3.]

SEC. 543. Statements open to public inspection.

1 The statements provided for in this chapter shall be open at all
2 times to the inspection of the public, and remain on file and become
3 a part of the permanent records in the office where filed.

[S., '13, § 1137-a4.]

SEC. 544. Treating near the polls.

1 It shall be the duty of the judges and clerks of all municipal, gen-
2 eral and primary elections to prohibit the placing, keeping, and giv-
3 ing to the voters by any person of any cigars, food or other refresh-
4 ments or treats, in or about the polling place.

[S., '13, § 1137-a5.]

SEC. 545. Penalty.

1 Any person violating any of the provisions of the last five pre-
2 ceeding sections shall be deemed guilty of a misdemeanor, and upon
3 conviction thereof shall be punished by a fine of not less than fifty
4 dollars nor more than three hundred dollars, or by imprisonment in
5 the county jail not less than thirty days nor more than six months.

[S., '13, § 1137-a6.]

CHAPTER 12.

CONTESTING ELECTIONS: GENERAL PROVISIONS.

SECTION 546. Grounds of contest.

1 The election of any person to any county office, or to a seat in
2 either branch of the general assembly, may be contested by any per-
3 son eligible to such office; and the election of any person to a state
4 office, or to the office of presidential elector, by any eligible person
5 who received votes for the same office; and the grounds therefor shall
6 be as follows:

7 1. Misconduct, fraud or corruption on the part of judges of elec-
8 tion in any precinct, or of any board of canvassers, or any member
9 of either board, sufficient to change the result.

10 2. That the incumbent was not eligible to the office at the time of
11 election.

12 3. That the incumbent has been duly convicted of an infamous
13 crime before the election, and the judgment has not been reversed,
14 annulled or set aside, nor the incumbent pardoned, at the time of elec-
15 tion.

16 4. That the incumbent has given or offered to any elector, or any
17 judge, clerk or canvasser of the election, any bribe or reward in
18 money, property or thing of value, for the purpose of procuring his
19 election.

20 5. That illegal votes have been received or legal votes rejected
21 at the polls, sufficient to change the result.

22 6. Any error in any board of canvassers in counting the votes,
23 or in declaring the result of the election, if the error would affect the
24 result.

25 7. Any other cause which shows that another person was the
26 person duly elected.

[C., '51, §§ 339, 341, 368, 380, 387; R., '60, §§ 569, 571, 598,
610, 617; C., '73, §§ 692, 718, 730, 737; C., '97, § 1198.]

SEC. 547. Certificate withheld.

1 If notice of contesting the election of an officer is filed before the
2 certificate of election is delivered to him, it shall be withheld until
3 the determination of the contest.

[C., '51, § 367; R., '60, § 597; C., '73, § 713; C., '97, § 1219.]

SEC. 548. Incumbent.

1 The term "incumbent" in this chapter means the person whom
2 the canvassers declare elected.

[C., '51, § 340; R., '60, § 570; C., '73, § 693; C., '97, § 1199.]

SEC. 549. Change the result.

1 When the misconduct, fraud or corruption complained of is on
2 the part of the judges of election in a precinct, it shall not be held
3 sufficient to set aside the election, unless the rejection of the vote of
4 that precinct would change the result as to that office.

[C., '51, § 342; R., '60, § 572; C., '73, § 694; C., '97, § 1200.]

SEC. 550. Recanvass in case of contest.

1 The parties to any contested election shall have the right, in open
2 session of the court or tribunal trying the contest, and in the pres-
3 ence of the officer having them in custody, to have the ballots opened,
4 and all errors of the judges in counting or refusing to count ballots
5 corrected by such court or tribunal.

[C., '97, § 1143; S., '13, § 1143.]

SEC. 551. Provisions applicable.

1 All the provisions of the chapter in relation to contested elec-
2 tions of county officers shall be applicable, as near as may be, to con-
3 tested elections for other offices, except as herein otherwise provided,
4 and in all cases process and papers may be issued to and served by
5 the sheriff of any county.

[C., '51, §§ 379, 396; R., '60, §§ 609, 626; C., '73, §§ 729, 745;
C., '97, § 1250.]

CHAPTER 13.

CONTESTING ELECTIONS OF GOVERNOR AND LIEUTENANT GOVERNOR.

SECTION 552. Contest as to governor or lieutenant governor.

1 The contestant for the office of governor or lieutenant governor
2 shall, within thirty days after the proclamation of the result of the
3 election, deliver to the presiding officer of each house of the general

4 assembly a notice of his intent to contest, and a specification of the
5 grounds of such contest, as provided in chapter seventeen of this title.
[C., '51, § 388; R., '60, § 618; C., '73, § 738; C., '97, § 1239.]

SEC. 553. Notice to incumbent.

1 As soon as the presiding officers have received the notice and
2 specifications, they shall make out a notice, directed to the incumbent,
3 including a copy of the specifications, which shall be served by the
4 sergeant-at-arms.
[C., '51, § 389; R., '60, § 619; C., '73, § 739; C., '97, § 1240.]

SEC. 554. Houses notified.

1 The presiding officers shall also immediately make known to their
2 respective houses that such notice and specifications have been received.
[C., '51, § 390; R., '60, § 620; C., '73, § 740; C., '97, § 1241.]

SEC. 555. Court—how chosen.

1 Each house shall forthwith proceed, separately, to choose seven
2 members of its own body in the following manner:

3 1. The names of members of each house, except the presiding
4 officer, written on similar paper tickets, shall be placed in a box, the
5 names of the senators in their presence by their secretary, and the
6 names of the representatives in their presence by their clerk.

7 2. The secretary of the senate in the presence of the senate, and
8 the clerk of the house of representatives in the presence of the house,
9 shall draw from their respective boxes the names of seven members
10 each.

11 3. As soon as the names are thus drawn, the names of the mem-
12 bers drawn by each house shall be communicated to the other, and
13 entered on the journal of each house.

[C., '51, § 391; R., '60, § 621; C., '73, § 741; C., '97, § 1242.]

SEC. 556. Powers and proceedings of committee.

1 The members thus drawn shall constitute a committee to try and
2 determine the contested election, and for that purpose shall hold their
3 meetings publicly at the place where the general assembly is sitting,
4 at such times as they may designate; and may adjourn from day to
5 day or to a day certain, not more than four days distant, until such
6 trial is determined; shall have power to send for persons and papers,
7 and to take all necessary means to procure testimony, extending like
8 privileges to the contestant and the incumbent; and shall report their
9 judgment to both branches of the general assembly, which report shall
10 be entered on the journals of both houses.

[C., '51, § 392; R., '60, § 622; C., '73, § 742; C., '97, § 1243.]

SEC. 557. Testimony.

1 The testimony shall be confined to the matters contained in the
2 specifications.

[C., '51, § 393; R., '60, § 623; C., '73, § 743; C., '97, § 1244.]

SEC. 558. Judgment.

1 The judgment of the committee pronounced in the final decision
2 on the election shall be conclusive.

[C., '51, § 394; R., '60, § 624; C., '73, § 744; C., '97, § 1245.]

CHAPTER 14.

CONTESTING ELECTIONS FOR SEATS IN THE GENERAL ASSEMBLY.

SECTION 559. Statement served on incumbent.

1 The contestant for a seat in either branch of the general assem-
 2 bly shall, within thirty days after the incumbent was declared elected,
 3 serve on the incumbent a statement as required in relation to county
 4 officers, except the list of illegal votes, which shall be served with the
 5 notice of taking depositions relative to them, and if no such deposition
 6 is taken, then twenty days before the first day of the next session.

[C., '51, § 381; R., '60, § 611; C., '73, § 731; C., '97, § 1233.]

SEC. 560. Subpoenas.

1 Any judge or clerk of a court of record may issue subpoenas in
 2 the above cases, as in those provided in chapters sixteen and seventeen
 3 of this title, and compel the attendance of witnesses thereunder.

[C., '51, § 382; R., '60, § 612; C., '73, § 732; C., '97, § 1234.]

SEC. 561. Depositions.

1 Depositions may be taken in such cases in the same manner and
 2 under the same rules as in an action at law in the district court, but
 3 no cause for taking the same need be shown.

[C., '51, § 383; R., '60, § 613; C., '73, § 733; C., '97, § 1235.]

SEC. 562. Return of depositions.

1 A copy of the statement, and of the notice for taking depositions,
 2 with the service indorsed, and verified by affidavit if not served by an
 3 officer, shall be returned to the officer taking the depositions, and then,
 4 with the depositions, shall be sealed up and transmitted to the secre-
 5 tary of state, with an indorsement thereon showing the nature of the
 6 papers, the names of the contesting parties, and the branch of the gen-
 7 eral assembly before whom the contest is to be tried.

[C., '51, § 384; R., '60, § 614; C., '73, § 734; C., '97, § 1236.]

SEC. 563. Statement and depositions—notice.

1 The secretary shall deliver the same unopened to the presiding
 2 officer of the house in which the contest is to be tried, on or before the
 3 second day of the session, regular or special, of the general assembly
 4 next after taking the depositions, and the presiding officer shall imme-
 5 diately give notice to his house that such papers are in his possession.

[C., '51, § 385; R., '60, § 615; C., '73, § 735; C., '97, § 1237.]

SEC. 564. Power of general assembly.

1 Nothing herein contained shall be construed to abridge the right
 2 of either branch of the general assembly to grant commissions to take
 3 depositions, or to send for and examine any witness it may desire to
 4 hear on such trial.

[C., '51, § 386; R., '60, § 616; C., '73, § 736; C., '97, § 1238.]

CHAPTER 15.

CONTESTING ELECTIONS OF PRESIDENTIAL ELECTOR.

SECTION 565. Court of contest—organization—oath.

1 The court for the trial of contested elections for presidential elec-
 2 tors shall consist of the chief justice of the supreme court, who shall
 3 be presiding judge of the court, and four judges of the district court
 4 not interested, to be selected by the supreme court, two of whom, with
 5 the chief justice, shall constitute a quorum for the transaction of the
 6 business of the court. If the chief justice should for any cause be
 7 unable to attend at the trial, the judge longest on the supreme court
 8 bench shall preside in place of the chief justice; and any question
 9 arising as to the membership of the court shall be determined by the
 10 members of the court not interested in the question. The secretary
 11 of state shall be the clerk of the court, or, in his absence or inability
 12 to act, the clerk of the supreme court. Each member of the court, be-
 13 fore entering upon the discharge of his duties, shall take an oath be-
 14 fore the secretary of state, or some officer qualified to administer
 15 oaths, that he will support the constitution of the United States and
 16 that of the state of Iowa, and that, without fear, favor, affection, or
 17 hope of reward, he will, to the best of his knowledge and ability, ad-
 18 minister justice according to law and the facts in the case.

[C., '97, § 1246.]

SEC. 566. Statement.

1 The contestant shall file the statement provided for in chapter
 2 seventeen of this title in the office of the secretary of state, within ten
 3 days from the day on which the returns are canvassed by the state
 4 board of canvassers, and, within the same time, serve a copy of the
 5 same, with a notice of the contest, on the incumbent.

[C., '97, § 1247.]

SEC. 567. Trial.

1 The clerk of the court shall, immediately after the filing of the
 2 statement, notify the judges herein named, and fix a day for the or-
 3 ganization of the court within three days thereafter, and also notify
 4 the parties to the contest. The judges shall meet on the day fixed,
 5 and organize the court, and make and announce such rules for the
 6 trial of the case as they shall think necessary for the protection of
 7 the rights of each party and a just and speedy trial of the case, and
 8 commence the trial of the case as early as practicable thereafter, and
 9 so arrange for and conduct the trial that a final determination of the
 10 same and judgment shall be rendered at least six days before the sec-
 11 ond Monday in January next following.

[C., '97, § 1248.]

SEC. 568. Judgment.

1 The judgment of the court shall determine which of the parties
 2 to the action is entitled to hold the office of presidential elector, and
 3 shall be authenticated by the presiding judge and clerk of the court
 4 and filed with the secretary of state; and the judgment so rendered
 5 shall constitute a final determination of the title to the office, and a
 6 certificate of appointment shall be issued to the successful party as an
 7 elector.

[C., '97, § 1249.]

CHAPTER 16.

CONTESTING ELECTIONS OF STATE OFFICERS.

SECTION 569. State court of contest.

1 The court for the trial of contested state elections, except of gov-
 2 ernor and lieutenant governor, shall consist of three judges, not in-
 3 terested, of the supreme court or district court, or any of them, as
 4 may be convenient.

[C., '51, § 369; R., '60, § 599; C., '73, § 719; C., '97, § 1224.]

SEC. 570. Clerk.

1 The secretary of state shall be the clerk of this court; but if the
 2 person holding that office is a party to the contest, the clerk of the su-
 3 preme court, or, in case of his absence or inability, the auditor of
 4 state shall be clerk.

[C., '51, § 370; R., '60, § 600; C., '73, § 720; C., '97, § 1225.]

SEC. 571. Statement filed.

1 The statement as provided in chapter seventeen of this title must
 2 be filed with such clerk within thirty days from the day when incum-
 3 bent was declared elected.

[C., '51, § 371; R., '60, § 601; C., '73, § 721; C., '97, § 1226.]

SEC. 572. Time of trial—notice.

1 The clerk shall, as soon as practicable, ascertain which three of
 2 the judges residing nearest the seat of government can attend the
 3 trial, fix a time therefor, and notify the judges, and cause a copy of
 4 the statement and a notice of the time fixed for trial to be served upon
 5 the incumbent, and a notice of the time to be served upon the con-
 6 testant, at least twenty days before the day of trial, and returns
 7 thereof to be made to him; when convenient, the service of the above
 8 papers may be made by the clerk of this court. The time for the trial
 9 shall not be set beyond the last Monday of January following the elec-
 10 tion.

[C., '51, § 372; R., '60, § 602; C., '73, § 722; C., '97, § 1227.]

SEC. 573. Place of trial.

1 The trial shall take place at the seat of government, unless some
 2 other place be substituted by consent of the court and both parties.

[C., '51, § 375; R., '60, § 605; C., '73, § 725; C., '97, § 1229.]

SEC. 574. Subpoenas—depositions.

1 The secretary of state, the several clerks of the supreme and dis-
 2 trict courts, under their respective seals of office, and either of the
 3 judges of the supreme or district courts, under their hands, may issue
 4 subpoenas for witnesses to attend this court; and disobedience to such
 5 process may be treated as a contempt. Depositions may also be taken
 6 as in the case of contested county elections.

[C., '51, § 373; R., '60, § 603; C., '73, § 723; C., '97, § 1228.]

SEC. 575. Judgment filed—execution.

1 A transcript of the judgment rendered by such court, filed in the
 2 office of the clerk of the supreme court, shall have the force and effect

3 of a judgment of the supreme court, and execution may issue there-
4 from in the first instance against the party's property generally.

[C., '51, § 377; R., '60, § 607; C., '73, § 727; C., '97, § 1231.]

SEC. 576. Power of judge.

1 The presiding judge of this court shall have authority to carry
2 into effect any order of the court, after the adjournment thereof, by
3 attachment or otherwise.

[C., '51, § 378; R., '60, § 608; C., '73, § 728; C., '97, § 1232.]

SEC. 577. Compensation of judges.

1 The judges shall be entitled to receive for their travel and attend-
2 ance the sum of six dollars each per day, with such mileage as is
3 allowed to members of the general assembly, to be paid from the state
4 treasury.

[C., '51, § 376; R., '60, § 606; C., '73, § 726; C., '97, § 1230.]

CHAPTER 17.

CONTESTING ELECTIONS OF COUNTY OFFICERS.

SECTION 578. Court—how constituted.

1 The court for the trial of contested county elections shall be thus
2 constituted: The chairman of the board of supervisors shall be the
3 presiding officer, and the contestant and incumbent may each name
4 a person who shall be associated with him.

[C., '51, § 343; R., '60, § 573; C., '73, § 695; C., '97, § 1201.]

SEC. 579. Judges.

1 The contestant and incumbent shall each file in the auditor's office,
2 on or before the day of trial, a written nomination of one associate
3 judge of the contested election, who shall be sworn in manner and
4 form as trial jurors are in trials of civil actions; if either the con-
5 testant or the incumbent fails to nominate, the presiding judge shall
6 appoint for him. When either of the nominated judges fails to appear
7 on the day of trial, his place may be filled by another appointment
8 under the same rule.

[C., '51, §§ 347, 348; R., '60, §§ 577, 578; C., '73, § 700; C.,
'97, § 1206.]

SEC. 580. Clerk.

1 The county auditor shall be clerk of this court, and keep all papers,
2 and record the proceedings in the election book, in manner similar
3 to the record of the proceedings of the district court, but when the
4 county auditor is a party, the court shall appoint a suitable person
5 as clerk, whose appointment shall be recorded.

[C., '51, § 344; R., '60, § 574; C., '73, § 696; C., '97, § 1202.]

SEC. 581. Sheriff to attend.

1 The court or presiding judge may direct the attendance of the
2 sheriff or a constable when necessary.

[C., '51, § 359; R., '60, § 589; C., '73, § 708; C., '97, § 1214.]

SEC. 582. Statement of contest.

1 The contestant shall file in the office of the county auditor, within
2 twenty days after the day when the incumbent was declared elected,
3 a written statement of his intention to contest the election, setting
4 forth the name of the contestant, and that he or she is qualified to
5 hold such office, the name of the incumbent, the office contested, the
6 time of the election, and the particular causes of contest, which state-
7 ment shall be verified by the affidavit of the contestant, or some elector
8 of the county, that the causes set forth are true as he verily believes.
9 The contestant must also file with the county auditor a bond, with
10 security to be approved by said auditor, conditioned to pay all costs
11 in case the election be confirmed, or the statement be dismissed, or
12 the prosecution fail. When the auditor is a party, the clerk of the
13 district court shall receive such statement and approve such bond.

[C., '51, § 345; R., '60, § 575; C., '73, § 697; C., '97, § 1203.]

SEC. 583. Names of voters.

1 When the reception of illegal or the rejection of legal votes is
2 alleged as a cause of contest, the names of the persons who so voted,
3 or whose votes were rejected, with the precinct where they voted or
4 offered to vote, shall be set forth in the statement.

[C., '51, § 346; R., '60, § 576; C., '73, § 698; C., '97, § 1204.]

SEC. 584. Trial—notice.

1 The chairman of the board of supervisors shall thereupon fix a
2 day for the trial, not more than thirty nor less than twenty days there-
3 after, and shall cause a notice of such trial to be served on the incum-
4 bent, with a copy of the contestant's statement, at least ten days before
5 the day set for trial.

[C., '51, §§ 347, 349, 350; R., '60, §§ 577, 579, 580; C., '73,
§ 699; C., '97, § 1205.]

SEC. 585. Place of trial.

1 The trial of contested county elections shall take place at the
2 county seat, unless some other place within the county is substituted
3 by the consent of the court and parties.

[C., '51, § 357; R., '60, § 587; C., '73, § 707; C., '97, § 1213.]

SEC. 586. Subpoenas.

1 Subpoenas for witnesses may be issued at any time after the notice
2 of trial is served, either by the clerk of the district court or by the
3 county auditor, and shall command the witnesses to appear at.....,
4 on....., to testify in relation to a contested election, wherein
5 A..... B..... is contestant and C..... D..... is incumbent.

[C., '51, §§ 352, 356; R., '60, §§ 582, 586; C., '73, §§ 704,
706; C., '97, § 1210.]

SEC. 587. Postponement.

1 The trial shall proceed at the time appointed, unless postponed
 2 for good cause shown by affidavit, the terms of which postponement
 3 shall be in the discretion of the court.

[C., '51, § 353; R., '60, § 583; C., '73, § 701; C., '97, § 1207.]

SEC. 588. Procedure—powers of court.

1 The proceedings shall be assimilated to those in an action, so far
 2 as practicable, but shall be under the control and direction of the
 3 court, which shall have all the powers of the district court necessary
 4 to the right hearing and determination of the matter, to compel the
 5 attendance of witnesses, swear them and direct their examination, to
 6 punish for contempt in its presence or by disobedience to its lawful
 7 mandate, to adjourn from day to day, to make any order concerning
 8 intermediate costs, and to enforce its orders by attachment. It shall
 9 be governed by the rules of law and evidence applicable to the case.

[C., '51, §§ 354, 358, 361; R., '60, §§ 584, 588, 591; C., '73,
 § 702; C., '97, § 1208.]

SEC. 589. Sufficiency of statement—amendment.

1 The statement shall not be dismissed for want of form, if the
 2 particular causes of contest are alleged with such certainty as will
 3 sufficiently advise the incumbent of the real grounds of contest. If
 4 any part of the causes are held insufficient, they may be amended, but
 5 the incumbent will be entitled to an adjournment, if he states on oath
 6 that he has matter of answer to the amended causes, for the prepara-
 7 tion of which he needs further time. Such adjournment shall be upon
 8 such terms as the court thinks reasonable; but if all the causes are
 9 held insufficient and an amendment is asked, the adjournment shall
 10 be at the cost of contestant. If no amendment is asked for or made,
 11 or in case of entire failure to prosecute, the proceedings may be dis-
 12 missed.

[C., '51, §§ 355, 361; R., '60, §§ 585, 591; C., '73, § 705; C.,
 '97, § 1211.]

SEC. 590. Testimony.

1 The testimony may be oral or by deposition, taken as in an action
 2 at law in the district court.

[C., '51, § 351; R., '60, § 581; C., '73, § 703; C., '97, § 1209.]

SEC. 591. Voters testify.

1 The court may require any person called as a witness, who voted
 2 at such election, to answer touching his qualifications as a voter, and,
 3 if he was not a qualified voter in the county where he voted, then to
 4 answer for whom he voted; and if the witness answer such questions,
 5 no part of his testimony on that trial shall be used against him in any
 6 criminal action.

[C., '51, § 360; R., '60, § 590; C., '73, § 709; C., '97, § 1215.]

SEC. 592. Judgment.

1 The court shall pronounce judgment whether the incumbent or
 2 any other person was duly elected, and adjudge that the person so
 3 declared elected will be entitled to his certificate. If the judgment

4 be against the incumbent, and he has already received the certificate,
5 the judgment shall annul it. If the court find that no person was
6 elected, the judgment shall be that the election be set aside.

[C., '51, § 362; R., '60, § 592; C., '73, § 714; C., '97, § 1220.]

SEC. 593. How enforced.

1 When either the contestant or incumbent shall be in possession
2 of the office, by holding over or otherwise, the presiding judge shall,
3 if the judgment be against the party so in possession of the office and
4 in favor of his antagonist, issue an order to carry into effect the judg-
5 ment of the court, which order shall be under the seal of the county,
6 and shall command the sheriff of the county to put the successful
7 party into possession of the office without delay, and to deliver to
8 him all books and papers belonging to the same; and the sheriff shall
9 execute such order as other writs.

[C., '73, § 715; C., '97, § 1221.]

SEC. 594. Appeal.

1 The party against whom judgment is rendered may appeal within
2 twenty days to the district court, but, if he be in possession of the
3 office, such appeal will not supersede the execution of the judgment
4 of the court as provided in the preceding section, unless he gives a
5 bond, with security to be approved by the district judge, in a sum
6 to be fixed by him, and which shall be at least double the probable
7 compensation of such officer for six months, which bond shall be con-
8 ditioned that he will prosecute his appeal without delay, and that, if
9 the judgment appealed from be affirmed, he will pay over to the suc-
10 cessful party all compensation received by him while in possession of
11 said office after the judgment appealed from was rendered. The court
12 shall hear the appeal in equity and determine anew all questions aris-
13 ing in the case.

[C., '73, § 716; C., '97, § 1222; S., '13, § 1222.]

SEC. 595. Judgment on appeal.

1 If, upon appeal, the judgment is affirmed, the district court may
2 render judgment upon the bond for the amount of damages, against
3 the appellant and the sureties thereon.

[C., '73, § 717; C., '97, § 1223.]

SEC. 596. Process—fees.

1 The style, form and manner of service of process and papers, and
2 the fees of officers and witnesses, shall be the same as in the district
3 court, so far as the nature of the case admits.

[C., '51, §§ 356, 374; R., '60, §§ 586, 604; C., '73, §§ 706, 724;
C., '97, § 1212.]

SEC. 597. Compensation of judges.

1 The judges shall be entitled to receive four dollars a day for the
2 time occupied by the trial.

[C., '51, § 363; R., '60, § 593; C., '73, § 710; C., '97, § 1216.]

SEC. 598. Costs.

1 The contestant and the incumbent are liable to the officers and
2 witnesses for the costs made by them, respectively; but if the election

3 be confirmed, or the statement be dismissed or the prosecution fail,
 4 judgment shall be rendered against the contestant for costs; and if the
 5 judgment be against the incumbent, or the election be set aside, it
 6 shall be against him for costs.

[C., '51, § 364; R., '60, § 594; C., '73, § 711; C., '97, § 1217.]

SEC. 599. How collected.

1 A transcript of the judgment, filed and recorded in the office of
 2 the clerk of the district court as provided in relation to transcripts
 3 from justices' courts, shall have the same effect as there provided,
 4 and execution may issue thereon.

[C., '51, § 365; R., '60, § 595; C., '73, § 712; C., '97, § 1218.]

CHAPTER 18.

TIME AND MANNER OF QUALIFYING.

SECTION 600. Oath and bond—time in which to qualify.

1 The several officers, before entering upon their duties as such,
 2 shall qualify by taking the prescribed oath and by giving, when
 3 required, a bond, which qualification shall be perfected, unless other-
 4 wise specified, before noon of the second secular day in January of the
 5 first year of the term for which such officers were elected, but city
 6 and town officers shall so qualify within ten days after their election
 7 has been declared by the board of canvassers. When, on account of
 8 sickness or the inclement state of the weather or other unavoidable
 9 casualty, an officer has been prevented from qualifying within the
 10 prescribed time, he may do so within ten days after the time herein
 11 fixed, and in case of a contest, within ten days after the decision.

[C., '51, §§ 319, 334, 335; R., '60, §§ 549, 564, 565; C., '73,
 §§ 670, 685, 686, 687; C., '97, § 1177; S., '13, § 1177.]

SEC. 601. Governor and lieutenant governor.

1 The governor and lieutenant governor shall each qualify within
 2 ten days after the result of the election shall be declared by the gen-
 3 eral assembly, by taking an oath in its presence, in joint convention
 4 assembled, administered by a judge of the supreme court, to the effect
 5 that he will support the constitution of the United States and the
 6 constitution of the state of Iowa, and will faithfully and impartially,
 7 and to the best of his knowledge and ability, discharge the duties
 8 incumbent upon him as governor, or lieutenant governor of this state.

[C., '51, §§ 320, 334; R., '60, §§ 550, 564; C., '73, §§ 671,
 685; C., '97, § 1178.]

SEC. 602. Judges.

1 All judges of courts of record shall qualify by the first day of
 2 January following the election, by taking and subscribing an oath to
 3 the effect that they will support the constitution of the United States
 4 and that of the state of Iowa, and that, without fear, favor, affection,
 5 or hope of reward, they will, to the best of their knowledge and ability,

6 administer justice according to the law, equally to the rich and the
7 poor.

[C., '51, §§ 322, 334; R., '60, §§ 552, 564; C., '73, §§ 673, 685; C., '97, § 1179.]

SEC. 603. Officer holding over.

1 When it is ascertained that the incumbent is entitled to hold over
2 by reason of the nonelection of a successor, or for the neglect or refusal
3 of the successor to qualify, he shall qualify anew, within the time
4 provided by section six hundred four.

[C., '51, § 338; R., '60, § 568; C., '73, § 690; C., '97, § 1195; S., '13, § 1195.]

SEC. 604. Appointee to fill vacancy.

1 Persons elected or appointed to fill vacancies, and officers entitled
2 to hold over to fill vacancies occurring through a failure to elect,
3 appoint or qualify, as provided in chapter twenty-three of this title,
4 shall qualify within ten days from such election, appointment, or
5 failure to elect, appoint or qualify, in the same manner as those orig-
6 inally elected or appointed to such offices.

[C., '51, § 440; R., '60, § 668; C., '73, § 786; C., '97, § 1275.]

SEC. 605. Temporary officer.

1 Any person temporarily appointed to fill an office, during the
2 incapacity or suspension of the regular incumbent, shall qualify, in
3 the manner required by this chapter, for the office so to be filled.

[C., '73, § 691; C., '97, § 1194.]

SEC. 606. Other officers.

1 All other civil officers, elected by the people or appointed to any
2 civil office, unless otherwise provided, shall take and subscribe an oath
3 substantially as follows:

4 "I,, do solemnly swear that I will support the
5 constitution of the United States and the constitution of the state of
6 Iowa, and that I will faithfully and impartially, to the best of my
7 ability, discharge all the duties of the office of (naming
8 it) in (naming the township, town, city, county, district or state, as
9 the case may be), as now or hereafter required by law."

[C., '51, §§ 331, 332; R., '60, §§ 561, 562, 1084, 1182; C., '73, §§ 504, 514, 675, 676; C., '97, § 1180.]

SEC. 607. Oath on bond.

1 Every civil officer who is required to give bond shall take and
2 subscribe the oath provided for in the preceding section, on the back
3 of his bond, or on a paper attached thereto, to be certified by the officer
4 administering it.

[C., '51, § 331; R., '60, § 561; C., '73, § 675; C., '97, § 1181.]

SEC. 608. Accounting before approval of bond.

1 When the incumbent of an office is reelected, he shall qualify as
2 above directed; but when the reelected officer has had public funds
3 or property in his control, under color of his office, his bond shall not
4 be approved until he has produced and fully accounted for such funds

5 and property to the proper person to whom he should account there-
6 for; and the officer or board approving the bond shall indorse upon
7 the bond, before its approval, the fact that the said officer has fully
8 accounted for and produced all funds and property before that time
9 under his control as such officer.

[C., '51, § 338; R., '60, § 568; C., '73, § 690; C., '97, § 1193.]

SEC. 609. Oath to be taken by trustees.

1 Every person appointed or elected a trustee, manager, commis-
2 sioner or inspector, or a member of any board of trustees, managers,
3 commissioners or inspectors, now or hereafter created or provided
4 by law for the government, control, management or inspection of any
5 public building, improvement or institution whatever, owned, con-
6 trolled or managed, in whole or in part, by or under the authority or
7 direction of this state, shall, before entering upon the discharge of
8 his duties as such trustee, manager, commissioner or inspector, take
9 and subscribe an oath, in substance and form as follows: "I (here
10 insert affiant's name) do solemnly swear that I will support the con-
11 stitution of the United States, and of the state of Iowa; that I will
12 honestly and faithfully discharge the duties of (here describe the
13 nature of the office, trust or position as trustee, manager, commis-
14 sioner or inspector, as the case may be, according to the laws that
15 now are or that may hereafter be in force regulating said institutions,
16 and prescribing the duties of trustees, managers, commissioners or
17 inspectors thereof, as the case may be); that I will, in all things, con-
18 form to the directions contained in said law or laws, and that I will
19 not, directly or indirectly, as such trustee, manager, commissioner or
20 inspector, as the case may be, make, or enter into, or consent to, any
21 contract or agreement, expressed or implied, whereby any greater sum
22 of money shall be expended or agreed to be expended than is expressly
23 authorized by law at the date of such contract or agreement."

[R., '60, § 2180; C., '73, § 126; C., '97, § 179.]

SEC. 610. Oaths to be filed.

1 Oaths required by the preceding section shall be filed in the office
2 of the auditor of state, and he shall not draw any warrant on the state
3 treasury for expenditures made or directed by any such officer until
4 such oaths are so filed.

[R., '60, § 2183; C., '73, § 128; C., '97, § 180.]

CHAPTER 19.

OFFICIAL AND PRIVATE BONDS.

SECTION 611. Bond not required.

1 The governor, lieutenant governor, members of the general assem-
2 bly, judges of courts, township trustees, aldermen, and councilmen
3 of cities and towns, are not required to give bond.

[C., '51, § 323; R., '60, § 553; C., '73, § 674; C., '97, § 1182;
S., '13, § 1182.]

SEC. 612. Bond required.

1 All other civil officers, except as especially otherwise provided,
 2 shall give bond with the conditions, in substance, as follows:
 3 That as..... (naming the office), in.....
 4 (city, town, township, county or state of Iowa), he will render a true
 5 account of his office and of his doings therein to the proper authority,
 6 when required thereby or by law; that he will promptly pay over to
 7 the officer or person entitled thereto all moneys which may come into
 8 his hands by virtue of his office; that he will promptly account for
 9 all balances of money remaining in his hands at the termination of
 10 his office; that he will exercise all reasonable diligence and care in the
 11 preservation and lawful disposal of all money, books, papers, securi-
 12 ties, or other property appertaining to his said office, and deliver them
 13 to his successor, or to any other person authorized to receive the
 14 same; and that he will faithfully and impartially, without fear, favor,
 15 fraud or oppression, discharge all duties now or hereafter required
 16 of his office by law; and the sureties on such bond shall be liable for
 17 all money or public property that may come into the hands of such
 18 officer at any time during his possession of such office.

[C., '51, § 324; R., '60, §§ 554, 1084, 1132; C., '73, §§ 504,
 514, 674; C., '97, § 1183.]

SEC. 613. Bond.

1 When a bond is required by law to be given by or for any public
 2 officer, deputy or employee of such public officer, or by any person
 3 holding a fiduciary office or trust, administrator, executor, guardian,
 4 trustee, officer or employee of any public or private corporation or
 5 association, when not otherwise specifically provided, it shall be con-
 6 ditioned as above provided.

[S., '13, § 1177-a.]

SEC. 614. Contract or stipulation.

1 No contract, stipulation, or condition limiting the liability created
 2 by said bond shall be of any force or validity.

[S., '13, § 1177-c.]

SEC. 615. Other bonds.

1 All other bonds, public or private, required to be given by law,
 2 when not otherwise specifically provided, shall be substantially con-
 3 ditioned as required in the two preceding sections and subject to the
 4 limitations thereof.

[S., '13, § 1177-d.]

SEC. 616. County supervisors shall give bond—amount of.

1 All county supervisors in the state of Iowa shall be compelled to
 2 give bonds for the faithful performance of their duties in such sums
 3 as shall be approved by one of the district judges of their respective
 4 districts where the supervisor resides. The amount of such bond
 5 shall not be less than five thousand dollars, and shall be approved by
 6 and left in the custody of the clerk of the district court.

[S., '13, § 1182-a.]

SEC. 617. Penalty of bond.

1 The bond of the secretary of state shall be in the penal sum of
 2 not less than ten thousand dollars; the auditor of state in the sum
 3 of not less than ten thousand dollars; the treasurer of state in the
 4 sum of not less than three hundred thousand dollars; the attorney
 5 general in the sum of not less than ten thousand dollars; each rail-
 6 road commissioner in the sum of not less than five thousand dollars;
 7 the reporter of the supreme court in the sum of not less than ten
 8 thousand dollars; the clerk of the supreme court in the sum of not
 9 less than ten thousand dollars; and the superintendent of public
 10 instruction in the sum of not less than two thousand dollars.

[C., '51, §§ 326, 327; R., '60, §§ 128, 556; C., '73, § 678; C.,
 '97, § 1184.]

SEC. 618. Appropriation—for bonds.

1 There is hereby appropriated for the payment on the bond of the
 2 state treasurer and deputy state treasurer, out of any money in the
 3 state treasury not otherwise appropriated, annually, the sum of two
 4 thousand dollars, or so much thereof as is necessary to pay the bond
 5 of the state treasurer and deputy state treasurer.

[S., '13, § 115-a.]

SEC. 619. County and municipal officers—bond.

1 The bonds of the following county officers, viz.: treasurers, clerks
 2 of the district courts, county attorneys, recorders, coroners, surveyors,
 3 auditors, superintendents of schools, sheriffs, justices of the peace
 4 and constables, and city, town and township assessors, shall each be
 5 in a penal sum to be fixed by the board of supervisors; but those of
 6 treasurers, clerks of the district courts, county auditors, sheriffs and
 7 county attorneys shall not be in less sum than five thousand dollars
 8 each, and those of justices and constables, not less than five hundred
 9 dollars each. The bonds of all municipal officers who are required
 10 to give bonds shall each be in such penal sum as may be provided by
 11 law or as the council shall from time to time prescribe by ordinance;
 12 provided that the bonds of mayors shall not be in less sum than five
 13 hundred dollars each. If any county treasurer shall elect to furnish
 14 a bond with any association or incorporation as surety as provided
 15 in this chapter, the reasonable cost of such bond shall be paid by the
 16 county where the bond is filed.

[C., '51, §§ 326, 327; R., '60, §§ 556, 557, 1084, 1132; C., '73,
 §§ 504, 514, 678; C., '97, § 1185; S., '13, § 1185.]

SEC. 620. Deputies.

1 Deputies of state, county, city and town officers, who are required
 2 to give bond, shall give bond in such amounts as may be fixed by the
 3 governor, board of supervisors, or the council, as the case may be,
 4 with sureties as required for the bonds of their principals, which shall
 5 be approved as the principal's bond, and filed with the same officer.
 6 But the giving of such bond shall not relieve the principal from lia-
 7 bility for the official acts of the deputy.

[C., '51, § 411; R., '60, § 642; C., '73, § 766; C., '97, § 1186.]

SEC. 621. Sureties.

1 No bond in this chapter required, except as hereinafter specified,
 2 shall be executed with less than two sureties, each of whom shall be
 3 a freeholder of the state; and the bond of the state or county treas-
 4 urer with not less than four, possessed of like qualifications. Any
 5 association or incorporation which does the business of insuring the
 6 fidelity of others, and which has authority by law to do business in
 7 this state, shall be accepted as surety upon bonds required by law,
 8 with the same force and effect as sureties above qualified.

[C., '51, §§ 328, 329; R., '60, §§ 558, 559; C., '73, § 679; C.,
 '97, § 1187.]

SEC. 622. Form—approval.

1 All official bonds shall run to the state, and be for the use and
 2 benefit of any corporation, public or private, or person injured or
 3 sustaining loss, with a right of action in the name of the state for its
 4 or his use. Those given by state and district officers shall be approved
 5 by the governor; those of county officers, township clerk and assessor,
 6 by the board of supervisors; those of other township officers by the
 7 township clerk; and those of city and town officers by the mayor, or
 8 as may be provided by ordinance, except that the bond of the mayor
 9 shall be approved by the council. All bonds shall be approved or dis-
 10 approved within five days after their presentation for that purpose,
 11 and indorsed, in case of approval, to that effect and filed, and, unless
 12 otherwise provided by law, kept in the office of the approving officer.

[C., '51, §§ 325, 330; R., '60, §§ 555, 560; C., '73, §§ 677, 680;
 C., '97, § 1188; S., '13, § 1188.]

SEC. 623. Approval by county auditor.

1 When any official bond shall be presented after the final adjourn-
 2 ment of the January session of the board of supervisors, except those
 3 of the county auditor and treasurer, the auditor may approve the
 4 same, reporting his actions in the premises to the board at its next
 5 session, and, unless disapproved by it, such bond shall continue in
 6 force as though approved by the board in the first instance; if disap-
 7 proved, the new bond must be given within five days from the date
 8 of such decision, but this old bond shall stand good for all acts done
 9 up to the time of the approval of the new bond.

[C., '51, § 330; R., '60, § 560; C., '73, § 680; C., '97, § 1189.]

SEC. 624. Failure of board to approve—application to judge.

1 If the board of supervisors refuses or neglects to approve the
 2 bond of any county officer, he may within five days thereafter, or the
 3 expiration of the time allowed for such approval, present the same for
 4 approval to a judge of the district court of the proper district, who
 5 shall fix a day for the hearing. Notice of such hearing shall be given
 6 the board of supervisors, and return made in the same manner as in
 7 a civil action, and the court or judge at the time fixed shall, unless
 8 good cause for postponement be shown, proceed to hear the matter
 9 and approve the bond, if found sufficient, and such approval shall
 10 have the same force and effect as an approval by the board of super-
 11 visors.

[C., '73, § 681; C., '97, § 1190.]

SEC. 625. Where bonds and oaths filed.

1 The bonds and oaths of state officers shall be filed in the office of
 2 the secretary of state, except those of the secretary, which shall be
 3 filed and recorded in the office of the auditor; those of the county and
 4 township officers, in the county auditor's office, except those of the
 5 county auditor, which shall be kept in the county treasurer's office,
 6 and those of justices of the peace, which shall be filed by the auditor
 7 in the office of the clerk of the district court, after the same have been
 8 approved and recorded.

[C., '51, § 333; R., '60, § 563; C., '73, § 682; C., '97, § 1191.]

SEC. 626. Recording.

1 The auditor of each county shall keep in his office a book, to be
 2 known as the record book of officers' bonds, and record in said book
 3 the official bonds of all county officers, including justices of the peace,
 4 township clerks, constables, assessors and mayors filed in his county;
 5 and also keep an index to said book, in which, under the title of each
 6 office, shall be entered the names of each principal and his sureties,
 7 and the date of the filing of the bond. All bonds when recorded shall
 8 be returned to the officers charged by law with the custody thereof.

[C., '73, § 683; C., '97, § 1196; S., '13, § 1196.]

SEC. 627. Want of compliance.

1 No official bond shall be void for want of compliance with the
 2 statute, but it shall be valid in law for the matters contained therein.

[C., '51, § 337; R., '60, § 567; C., '73, § 689; C., '97, § 1192.]

SEC. 628. Penalty for not giving bond.

1 It shall be a misdemeanor for any officer who is required to give
 2 bond to act in such official capacity without giving such bond as is
 3 provided by law, and he shall be liable to a fine for an amount not
 4 exceeding the amount of the bond required of him.

[C., '73, § 684; C., '97, § 1197.]

CHAPTER 20.
ADDITIONAL SECURITY AND DISCHARGE OF SURETIES.**SECTION 629. Additional security.**

1 Whenever the governor shall deem it advisable that the bonds of
 2 any state officer should be increased and the security enlarged, or a
 3 new bond given, he shall notify said officer of the fact, the amount of
 4 new or additional security to be given, and the time when the same
 5 shall be executed; which said new security shall be approved and filed
 6 as provided by law.

[R., '60, § 660; C., '73, § 772; C., '97, § 1280.]

SEC. 630. New bond.

1 Any officer or board who has the approval of another officer's
 2 bond, when of the opinion that the public security requires it, upon
 3 giving ten days' notice to show cause to the contrary, may require him

4 to give such additional security by a new bond, within a reasonable
5 time to be prescribed.

[C., '51, §§ 418, 419; R., '60, §§ 649, 650; C., '73, § 773; C., '97, § 1281.]

SEC. 631. Effect.

1 If a requisition made under either of the foregoing sections be
2 complied with, both the old and the new security shall be in force; if
3 not, the office shall become and be declared vacant, and the fact be
4 certified to the proper officer, to be recorded in the election book or
5 township record.

[C., '51, § 420; R., '60, §§ 651, 661; C., '73, § 774; C., '97, § 1282.]

SEC. 632. Sureties relieved.

1 When any surety on a bond required by law, except as otherwise
2 provided, conceives himself in danger, and desires to be relieved of his
3 obligation, he may petition the approving officer or board above
4 referred to for relief, stating the ground of his apprehension.

[C., '51, § 421; R., '60, § 652; C., '73, § 775; C., '97, § 1283.]

SEC. 633. Notice.

1 The surety shall give the principal at least twenty-four hours'
2 notice of the presenting and filing of the petition, with a copy thereof.
3 At the expiration of this notice the approving officer may hear the
4 matter, or may postpone it, as justice requires.

[C., '51, § 422; R., '60, § 653; C., '73, § 776; C., '97, § 1284.]

SEC. 634. Subpoenas.

1 The approving officer may issue subpoenas in his official name for
2 witnesses, compel them to attend and testify, in the same way an
3 officer authorized to take depositions may.

[C., '51, § 427; R., '60, § 658; C., '73, § 780; C., '97, § 1288.]

SEC. 635. Hearing—order—effect.

1 If, upon the hearing, there appears substantial ground for appre-
2 hension, the approving officer or board may order the principal to give
3 a new bond and to supply the place of the petitioning surety within a
4 reasonable time to be prescribed, and, upon such new bond being given,
5 the petitioning surety upon the former bond shall be declared dis-
6 charged from liability on the same for future acts, which order of
7 discharge shall be entered in the proper election book, but the bond
8 will continue binding upon those who do not petition for relief.

[C., '51, § 424; R., '60, § 655; C., '73, § 777; C., '97, § 1285.]

SEC. 636. Failure to comply.

1 If the new bond is not given as required, the office shall be
2 declared vacant, and the order to that effect entered in the proper
3 election book.

[C., '51, § 425; R., '60, § 656; C., '73, § 778; C., '97, § 1286.]

SEC. 637. Justice of the peace.

1 If the proceedings relate to a justice of the peace, and he is
 2 removed from office, the county auditor shall notify the proper town-
 3 ship trustees or clerk of the removal.

[C., '51, § 426; R., '60, § 657; C., '73, § 779; C., '97, § 1287.]

SEC. 638. Sureties relieved—how.

1 If any surety on said bond shall so elect, his liability thereon may
 2 be canceled at any time by giving thirty days' notice in writing to the
 3 person or persons authorized to approve said bond, and to the officer
 4 or person with whom the same is required to be filed or deposited by
 5 law, and refunding the premium paid, if any, less a pro rata part
 6 thereof for the time said bond shall have been in force. The liability
 7 and indemnity created by said bond shall extend to the date of can-
 8 cellation as provided by this chapter.

[S., '13, § 1177-b.]

CHAPTER 21.
REMOVAL FROM OFFICE.**SECTION 639. Causes.**

1 All county, township, city and town officers, elected or appointed,
 2 may be removed upon charges made in writing and trial thereunder,
 3 for the following causes:

- 4 1. For habitual or wilful neglect of duty.
- 5 2. For any disability preventing a proper discharge of the duties
 6 of his office.
- 7 3. For gross partiality.
- 8 4. For oppression.
- 9 5. For extortion.
- 10 6. For corruption.
- 11 7. For wilful misconduct or maladministration in office.
- 12 8. Upon conviction of a felony.
- 13 9. For a failure to produce and fully account for all public funds
 14 and property in his hands at any inspection or settlement.

[C., '51, § 397; R., '60, § 628; C., '73, § 746; C., '97, § 1251.]

SEC. 640. Complaint.

1 Any resident of the county, township, city or town, of which the
 2 person to be charged is an officer, may make such complaint, by
 3 petition in the district court, in the name of the state, in which one
 4 or more charges against the same officer may be united, and which
 5 shall contain specifications under each charge, and may be amended
 6 as in ordinary actions. It shall state the name of the accuser, and the
 7 accused officer shall be named as defendant. The county attorney
 8 shall file such petition whenever he believes there is just cause
 9 therefor, and may be required to do so by the court or judge thereof
 10 upon the suspension of any officer by such court or judge. If the peti-
 11 tion is filed by a person other than the county attorney, it shall be

12 verified, and he shall file a bond for the costs, with sureties to be
13 approved by the clerk.

[C., '51, §§ 398, 400, 409; R., '60, §§ 629, 631, 640; C., '73, §§
747, 749, 757; C., '97, § 1252.]

SEC. 641. Notice.

1 The original notice shall state, in substance, that the defendant
2 is required to appear and answer a petition charging him with "official
3 misdemeanors," and shall be served as an original notice.

[C., '51, § 401; R., '60, § 632; C., '73, § 750; C., '97, § 1253.]

SEC. 642. Trial.

1 The charges, when filed, shall be tried as a law action, and all the
2 proceedings shall, as nearly as may be, conform to the rules governing
3 the trial of such actions, and the costs shall be taxed against the
4 losing party, unless otherwise ordered, but in no event shall they be
5 taxed against the county attorney. The form of the general verdict
6 shall be "guilty," or "not guilty," and, when "guilty," a judgment of
7 removal from office shall be immediately entered against the accused,
8 and a copy thereof shall be certified to the county auditor, who shall
9 cause it to be entered in the election book. Either party may appeal
10 to the supreme court, in the same manner and time as in other pro-
11 ceedings, which shall be heard and determined as a law action.

[C., '51, §§ 399, 405, 406; R., '60, §§ 630, 636, 637; C., '73,
§§ 748, 754, 755; C., '97, § 1254.]

SEC. 643. Clerk of court.

1 If the accused is clerk of the district court, the charge may be
2 filed with the county auditor; both he and the deputy clerk may issue
3 subpoenas for witnesses, and the county auditor shall deliver the
4 papers to the judge of the district court on its sitting.

[C., '51, § 403; R., '60, § 634; C., '73, § 751; C., '97, § 1255.]

SEC. 644. Suspension—clerk or sheriff summarily.

1 When charges are thus made, the district court of the proper
2 district, or judge thereof, may suspend the accused from the function
3 of his office until the determination of the matter, if sufficient cause
4 appear from the testimony or affidavits presented, and, on his own
5 motion, may suspend from office any clerk of the district court, or
6 sheriff of a county, for any of the causes mentioned in this chapter,
7 coming to his own knowledge, or manifestly appearing from the papers
8 or testimony in any proceeding in court.

[C., '51, §§ 404, 408; R., '60, §§ 635, 639; C., '73, §§ 752, 756;
C., '97, § 1256.]

SEC. 645. Temporary officer.

1 Upon such suspension, the board of supervisors in case of a
2 county or township officer, and the council in case of a city or town
3 officer, shall temporarily fill the office by appointment, and, in case of
4 a suspension of a clerk or sheriff, the district court or judge thereof
5 may supply such place by appointment until a temporary appoint-
6 ment shall be made by the board of supervisors. Such orders of sus-
7 pension and temporary appointment of county and township officers

8 shall be certified to the county auditor, and be by him entered in the
9 election book; those of city and town officers, certified to the clerk and
10 entered upon the records.

[C., '51, §§ 404, 407, 410; R., '60, §§ 635, 638, 641; C., '73, §§
752, 753, 758; C., '97, § 1257.]

SEC. 646. Municipal officers.

1 Any councilman, marshal, police matron, or other officer of a city
2 or town, may be removed from office for any of the foregoing causes,
3 or when charged with the commission of any crime, upon charges
4 preferred in writing to the council, and a hearing thereon, by a two-
5 thirds vote of all the members elected to the council. The council
6 may, by ordinance, provide as to the manner of preferring and hearing
7 such charges. No person shall be twice removed by the council from
8 the same office for the same cause, but proceedings before the council
9 shall not be a bar to proceedings in the district court as in this chapter
10 provided.

[R., '60, § 1087; C., '73, § 516; C., '97, § 1258; S. S., '15, §
1258.]

SEC. 647. Applicable to special charter cities.

1 The preceding provisions of this chapter are also made applicable
2 to cities acting under special charters.

[S., '13, § 1258-a.]

SEC. 648. By executive council—for what causes.

1 Members of the board of curators of the state historical society,
2 members of the board of educational examiners appointed by the
3 governor, the director of the weather and crop service, the fish and
4 game warden, members of the commission of pharmacy, members of
5 the board of dental examiners, members of the board of parole, dairy
6 and food commissioner, custodian of public buildings and property,
7 state veterinary surgeon, inspectors of products of petroleum, mem-
8 bers of state board of veterinary medical examiners, inspectors of
9 passenger boats, members of the board of optometry examiners, and
10 members of the library commission appointed by the governor may
11 be removed by a majority vote of the executive council, for any of the
12 following causes:

- 13 1. For habitual or wilful neglect of duty.
- 14 2. For any disability preventing a proper discharge of the duties
15 of his office.
- 16 3. For gross partiality.
- 17 4. For oppression.
- 18 5. For extortion.
- 19 6. For corruption.
- 20 7. For wilful misconduct or maladministration in office.
- 21 8. Upon conviction of felony.
- 22 9. For a failure to produce and fully account for all public funds
23 and property in his hands at any inspection or settlement.

[S., '13, § 1258-b.]

SEC. 649. By district court or judge—for what causes.

- 1 All elective county, city and town officers shall be removed from
 2 office by the district court or judge upon charges made in writing and
 3 hearing thereunder for the following causes:
- 4 1. For wilful or habitual neglect or refusal to perform the duties
 5 of his office.
 - 6 2. For wilful misconduct or maladministration in office.
 - 7 3. For corruption.
 - 8 4. For extortion.
 - 9 5. Upon conviction of a felony.
 - 10 6. For intoxication or upon conviction of being intoxicated.
- [S., '13, § 1258-c; 37 G. A., ch. 391, § 1.]

SEC. 650. Complaint or petition—who may file—county attorney to prosecute.

- 1 The complaint or petition shall be entitled in the name of the
 2 state of Iowa, and may be filed upon the relation of any five qualified
 3 electors of the county in which the person charged is an officer, the
 4 county attorney of such county, or the attorney general, and shall be
 5 filed by the attorney general when directed so to do by the governor.
 6 It shall be the duty of the county attorney to appear and prosecute
 7 this proceeding when the officer sought to be removed is one other than
 8 himself; and when the proceeding is brought to remove the county
 9 attorney, the court may appoint an attorney to appear in behalf of
 10 the state and prosecute such proceedings.
- [S., '13, § 1258-d.]

SEC. 651. Governor to direct attorney general to act—procedure.

- 1 It shall be the duty of the governor, whenever he has knowledge
 2 that reasonable grounds exist for the filing of complaint against any
 3 of the within-named officers, to direct the attorney general to file the
 4 same against the offending party and prosecute said action. The
 5 accused shall be named as defendant and the petition, unless filed by
 6 the attorney general, shall be verified. The petition shall state the
 7 charges against the accused and may be amended as in ordinary
 8 actions, and shall be filed in the office of the clerk of the district court
 9 of the county in which the person charged is an officer. The accused
 10 may at any time prior to the time fixed for hearing file in the office
 11 of the clerk of the district court his answer, which shall be verified.
- [S., '13, § 1258-e.]

SEC. 652. Trial judge—time of hearing.

- 1 If the person or persons filing the complaint or the defendant
 2 believe that the cause ought not to be heard before any of the judges
 3 in such district, he shall at the time he files his petition or answer in
 4 the office of the clerk of the district court, file a copy thereof in the
 5 office of the clerk of the supreme court, together with an application
 6 to the supreme court asking for the appointment of a judge outside of
 7 such district to hear the complaint. Upon the filing of the copy of said
 8 complaint, together with the application, in the office of the clerk of the
 9 supreme court, it shall be the duty of the chief justice of the supreme
 10 court, or in his absence or inability to act, any justice thereof, to
 11 forthwith issue a written commission directing a district judge in the

12 state of Iowa outside of such district to proceed to the county in which
 13 the complaint was filed and hear the same. Upon the receipt of such
 14 commission, said judge shall immediately make an order fixing a time
 15 for hearing, which shall be not less than ten nor more than twenty
 16 days thereafter, and forward said order to the clerk of the district
 17 court of the county in which the hearing is to be had. The clerk shall
 18 file said order and forthwith cause a copy thereof or a notice of the
 19 time and place of hearing to be served on the accused. If the cause is
 20 to be heard by a judge within the judicial district, upon the presenta-
 21 tion of the petition, or a copy thereof, to such judge, he shall make the
 22 order fixing a time for the hearing as hereinbefore specified.

[S., '13, § 1258-f.]

**SEC. 653. Summary proceeding—suspension from office—tem-
 porary vacancy—how filled.**

1 The proceeding shall be summary in its nature and triable as an
 2 equitable action and may be heard either in vacation or term time, and
 3 shall be heard before the court or judge without the intervention of a
 4 jury. Upon the filing of the petition in the office of the clerk of the
 5 district court, and presentation of the same to the judge, the court or
 6 judge may suspend the accused from office, if in his judgment suffi-
 7 cient cause appear from the petition and affidavit or affidavits which
 8 may be presented in support of the charges contained therein. In case
 9 of suspension, as herein provided, the temporary vacancy shall be filled
 10 in the manner specified in section six hundred forty-five.

[S., '13, § 1258-g.]

SEC. 654. Order of removal—vacancy—how filled.

1 If upon the hearing herein provided for, the district court or
 2 judge shall find that the accused should be removed from office, he
 3 shall make and enter of record an order of removal and the vacancy
 4 thus created shall be filled as provided in section six hundred seventy-
 5 one.

[S., '13, § 1258-h.]

**SEC. 655. Appeal—procedure—bond shall not restore to office—
 expenses—costs.**

1 In case of appeal to the supreme court, the cause shall be
 2 advanced and take precedence over all other causes upon the court
 3 calendar, and shall be heard at the next term after the appeal is
 4 taken, provided the abstract and arguments are filed in said court in
 5 time for said action to be heard. The supreme court shall fix the time
 6 of hearing and the filing of arguments. The taking of an appeal by
 7 the defendant and the filing of a supersedeas bond shall not operate to
 8 stay the proceedings of the district court or judge, or restore said
 9 defendant to office pending such appeal. If the final termination of
 10 such proceedings be favorable to any accused officer, said officer shall
 11 be allowed the reasonable and necessary expense, including a reason-
 12 able attorney fee to be fixed by the court or judge, he has incurred
 13 in making his defense, by the county if he be a county officer, or by
 14 the city or town in which he holds office if he be a mayor, police officer
 15 or marshal. If the action is instituted upon complaint of citizens as
 16 herein provided, and it appears to the court that there was no reason-

17 able cause for filing the complaint, the costs may be taxed against the
18 complaining parties.

[S., '13, § 1258-i.]

SEC. 656. Expenses of judge and reporter.

1 Any judge who is required to preside at a hearing, herein pro-
2 vided for, outside of his judicial district, shall be allowed his necessary
3 and actual expenses incurred by reason of such hearing, and the neces-
4 sary and actual expenses of his official reporter. An itemized sworn
5 statement shall be made by such judge and official reporter showing
6 the amount of expenses incurred, and the same shall be filed with the
7 auditor of state. Thereupon, the auditor shall draw his warrant upon
8 the treasurer of state for such amount.

[S., '13, § 1258-j.]

CHAPTER 22.

SUSPENSION OF STATE OFFICERS.

SECTION 657. Accounts examined by commission.

1 The governor shall, when of the opinion the public service requires
2 it, appoint a commission of three competent accountants, who shall
3 examine the books, papers, vouchers, moneys, securities and other
4 documents in the possession or under the control of any state officer.
5 Such accountants shall make out a full, complete and specific state-
6 ment of the transactions of said officer with, for or on behalf of the
7 state, showing the true balances in each case, and report the same to
8 the governor, with such suggestions as they may think proper.

[R., '60, §§ 46, 47, 55, 56; C., '73, § 759; C., '97, § 1259.]

SEC. 658. Powers.

1 Said commission shall have power, when in session, to issue sub-
2 poenas, call any person to testify in reference to any fact connected
3 with their investigation, and require such person to produce any
4 papers or books which the district court might require to be produced.

[R., '60, § 54; C., '73, § 765; C., '97, § 1260.]

SEC. 659. Defalcation—suspension.

1 If it shall report that any officer has been guilty of any defalca-
2 tion or misappropriation of the public money, or that his accounts,
3 papers and books are improperly or unsafely kept, the governor shall
4 forthwith suspend such officer from the exercise of his office, and
5 require him to deliver all the moneys, books, papers and other property
6 of the state to him, to be disposed of as hereinafter provided, and
7 thereafter it shall be unlawful for such officer to exercise or attempt to
8 exercise any of the functions of his office until such suspension shall
9 be revoked; and any attempt to exercise such office by the suspended
10 officer shall be punished by imprisonment in the county jail not more
11 than one year, or by a fine not exceeding one thousand dollars, or by
12 both fine and imprisonment.

[R., '60, §§ 48, 49; C., '73, §§ 760, 761; C., '97, § 1261.]

SEC. 660. Temporary appointment.

1 In every such case, the governor shall appoint some suitable
 2 person to temporarily fill the office, who, having qualified as required
 3 by law, shall perform all the duties and enjoy all the rights belonging
 4 to the said office, until the removal of the suspension of his prede-
 5 cessor, or the appointment or election of a successor.

[R., '60, § 51; C., '73, § 762; C., '97, § 1262.]

SEC. 661. Duty of governor.

1 When the governor shall suspend any public officer, he shall direct
 2 the proper legal steps to be taken to indemnify the state from loss.

[R., '60, § 52; C., '73, § 763; C., '97, § 1263.]

SEC. 662. Compensation of commissioners.

1 The commissioners provided for in this chapter shall each receive
 2 the sum of three dollars per day for the time actually employed in the
 3 performance of their duties.

[R., '60, § 53; C., '73, § 764; C., '97, § 1264.]

CHAPTER 23.
VACANCIES IN OFFICE.**SECTION 663. Holding over.**

1 Except when otherwise provided, every officer elected or appointed
 2 for a fixed term shall hold office until his successor is elected and
 3 qualified, unless he resigns, or is removed or suspended, as provided
 4 by law.

[C., '51, § 241; C., '73, § 784; C., '97, § 1265.]

SEC. 664. What constitutes vacancy.

1 Every civil office shall be vacant upon the happening of either of
 2 the following events:

3 1. A failure to elect at the proper election, or to appoint within
 4 the time fixed by law, unless the incumbent holds over.

5 2. A failure of the incumbent or hold-over officer to qualify within
 6 the time prescribed by law.

7 3. The incumbent ceasing to be a resident of the state, district,
 8 county, township, city, town or ward by or for which he was elected
 9 or appointed, or in which the duties of his office are to be exercised.

10 4. The resignation or death of the incumbent.

11 5. The removal of the incumbent from, or forfeiture of, his office,
 12 or the decision of a competent tribunal declaring his office vacant.

13 6. The conviction of incumbent of an infamous crime, or of any
 14 public offense involving the violation of his oath of office.

[C., '51, §§ 334, 429; R., '60, §§ 564, 662, 1132; C., '73, §§ 504,
 686, 781; C., '97, § 1266; 37 G. A., ch. 12, § 1.]

SEC. 665. Possession of office.

1 When a vacancy occurs in a public office, possession shall be taken
 2 of the office room, the books, papers, and all things pertaining thereto,

3 to be held until the qualification of a successor, as follows: Of the
 4 office of the county auditor, by the clerk of the district court; of the
 5 clerk or treasurer, by the county auditor; of any of the state officers,
 6 by the governor, or, in his absence or inability at the time of the
 7 occurrence, as follows: Of the secretary, by the treasurer; of the
 8 auditor, or superintendent of public instruction, by the secretary; of
 9 the treasurer, by the secretary and auditor, who shall make an inven-
 10 tory of the money and warrants therein, sign the same, and transmit
 11 it to the governor; and the secretary shall take the keys of the safe
 12 and desks, after depositing the books, papers, money and warrants
 13 therein, and the auditor shall take the key of the office room.

[C., '51, § 444; R., '60, § 671; C., '73, § 788; C., '97, § 1267.]

SEC. 666. Resignations.

1 Resignations in writing by civil officers may be made as follows,
 2 except as otherwise provided:

3 1. By the governor, to the general assembly, if in session, if not,
 4 to the secretary of state.

5 2. By state senators and representatives, and all officers appointed
 6 by the senate or house, or by the presiding officers thereof, to the
 7 respective presiding officers of the senate and house, when the general
 8 assembly is in session, and such presiding officers shall immediately
 9 transmit to the governor information of the resignation of any mem-
 10 ber thereof; when the general assembly is not in session, all such res-
 11 ignations shall be made to the governor.

12 3. By senators and representatives in congress, all officers elected
 13 by the qualified voters in the state or any district or division thereof
 14 larger than a county, or chosen by the general assembly, all judges of
 15 courts of record, all officers, trustees, inspectors, and members of all
 16 boards and commissions now or hereafter created under the laws of
 17 the state, and all persons filling any position of trust or profit in the
 18 state, for which no other provision is made, to the governor.

19 4. By all county and township officers, to the county auditor,
 20 except that of the auditor, which shall be to the board of supervisors.

21 5. By all councilmen and officers of cities and towns, to the clerk
 22 or mayor.

[C., '51, § 430; R., '60, § 663; C., '73, § 782; C., '97, § 1268.]

SEC. 667. Vacancy in general assembly.

1 When a vacancy shall occur in the office of senator or representa-
 2 tive in the general assembly, except by resignation, the auditor of the
 3 county of his residence shall notify the governor of such fact and the
 4 cause.

[C., '51, § 443; R., '60, § 672; C., '73, §§ 789, 790; C., '97, §
 1269.]

SEC. 668. Vacancies—when governor may fill.

1 If the offices of the senators in the congress of the United States,
 2 or either of them, shall become vacant when the senate is in session or
 3 will convene prior to the next general election, the governor may make
 4 temporary appointment until the people fill the vacancy at the next
 5 succeeding general election.

[37 G. A., ch. 401, § 2; 38 G. A., ch. 215, § 1.]

SEC. 669. Vacancy in board of state institutions.

1 In case of a vacancy from any cause, other than resignation or
 2 expiration of term, occurring in any of the directors of state institu-
 3 tions, the secretary thereof shall immediately notify the governor.

[C., '97, § 1270.]

SEC. 670. Duty of governor.

1 An officer receiving any resignation, or notice of any vacancy,
 2 shall forthwith notify the general assembly, board, tribunal or officer,
 3 if any, empowered to fill the same by appointment. If the general
 4 assembly is not in session, such notice shall be sent upon its next
 5 convening.

[C., '97, § 1271.]

SEC. 671. Filling vacancies.

1 Vacancies in the offices of clerk and reporter of the supreme court
 2 shall be filled by the supreme court; in all other state offices, judges of
 3 courts of record, officers elected in districts larger than a county,
 4 except state senators and representatives, officers, trustees, inspectors,
 5 and members of all boards or commissions, officers chosen by the
 6 general assembly if the legislature is not in session, and all persons
 7 filling any position of trust or profit in the state, by the governor,
 8 except when some other method is specially provided, and he shall
 9 issue the proper commission to the appointee; in county offices, includ-
 10 ing those of justices of the peace and constables, by the board of
 11 supervisors; and in the membership of such board, by the clerk of
 12 the district court, auditor and recorder; and when by death, or other-
 13 wise, a vacancy occurs in the office of the clerk of the district court,
 14 said court, or judge thereof, may, by order entered of record in the
 15 court journal, appoint a suitable and proper person to act as clerk
 16 until the vacancy shall be filled in the manner provided by law; in all
 17 other township offices, including trustees, by the trustees, but where
 18 the offices of the three trustees are all vacant, the county auditor shall
 19 appoint; in the office of councilman or mayor of any city, and all other
 20 elective city offices, the council may appoint any qualified elector to
 21 fill such vacancy, who shall qualify in the same manner as persons
 22 regularly elected to fill such office, and shall hold such office until the
 23 qualification of the officer elected to fill such vacancy, who shall be
 24 elected at the next regular municipal election; in all city appointive
 25 offices, unless otherwise provided by law, in the same manner as the
 26 original appointment was made; in all town offices, by the council at
 27 its first regular meeting after such vacancy occurs, or as soon there-
 28 after as practicable.

[C., '51, § 436; R., '60, §§ 664, 1101; C., '73, §§ 513, 530, 783,
 794, 795; C., '97, § 1272; S., '13, § 1272.]

SEC. 672. Person removed not eligible.

1 No person can be appointed to fill a vacancy who has been
 2 removed from office within one year next preceding.

[C., '51, § 441; R., '60, § 669; C., '73, § 787; C., '97, § 1273.]

SEC. 673. Appointments.

1 Appointments under the provisions of this chapter shall be in
 2 writing, and filed in the office where the oath of office is required to
 3 be filed.

[C., '51, § 439; R., '60, § 667; C., '73, § 785; C., '97, § 1274.]

SEC. 674. Successor chosen.

1 An officer filling a vacancy in an office which is filled by election
 2 of the people shall continue to hold until the next regular election at
 3 which such vacancy can be filled, and until a successor is elected and
 4 qualified. Appointments to all other offices, made under this chapter,
 5 shall continue for the remainder of the term of each office, and until a
 6 successor is appointed and qualified; except that, when the office is one
 7 to be filled by the general assembly, the appointee shall hold only
 8 until the general assembly elects.

[C., '51, §§ 429, 439; R., '60, §§ 662, 667, 1101; C., '73, §§ 530,
 781, 785; C., '97, § 1276.]

SEC. 675. Officers to fill vacancies.

1 Officers elected to fill vacancies, either at a special or general
 2 election, shall hold for the unexpired portion of the term, and until a
 3 successor is elected and qualified, unless otherwise provided by law.

[R., '60, § 1083; C., '73, § 513; C., '97, § 1277.]

SEC. 676. Officers—vacancies.

1 If a vacancy occurs in an elective office in a city, town or township
 2 ten days, or a county office fifteen days, or any other office thirty days,
 3 prior to a general election, it shall be filled at such election, unless
 4 previously filled at a special election.

[C., '51, §§ 431-435; R., '60, §§ 672, 1101; C., '73, §§ 530, 789,
 794, 795; C., '97, § 1278.]

SEC. 677. Election to fill vacancies.

1 A special election to fill a vacancy shall be held for a representa-
 2 tive in congress, or senator or representative in the general assembly,
 3 when the body in which such vacancy exists is in session, or will con-
 4 vene prior to the next general election, and the governor shall order
 5 such special election at the earliest practicable time, giving ten days'
 6 notice thereof.

[C., '51, § 443; R., '60, § 672; C., '73, § 789; C., '97, § 1279.]

CHAPTER 24.**SOLDIERS' PREFERENCE LAW.****SECTION 678. Preference in appointments and promotions.**

1 In every public department and upon all public works in the
 2 state of Iowa, and of the counties, cities and towns thereof, honor-
 3 ably discharged soldiers, sailors, and marines from the army and navy
 4 of the United States in the late civil war, who are citizens and resi-
 5 dents of this state, shall be entitled to preference in appointment,

6 employment and promotion, over other persons of equal qualifications,
 7 and the persons thus preferred shall not be disqualified from holding
 8 any position hereinbefore mentioned on account of his age or by reason
 9 of any physical disability, provided such age or disability does not
 10 render him incompetent to perform properly the duties of the position
 11 applied for, and when such soldier, sailor or marine shall apply for
 12 appointment or employment under this chapter, the officer, board or
 13 person whose duty it is or may be to appoint or employ some person
 14 to fill such position or place shall, before appointing or employing
 15 anyone to fill such position or place, make an investigation as to the
 16 qualifications of said soldier, sailor or marine for such place or posi-
 17 tion, and if he is a man of good moral character and can perform the
 18 duties of said position so applied for by him, as hereinbefore provided,
 19 said officer, board or person shall appoint said soldier, sailor or marine
 20 to such position, place or employment. A refusal to allow the prefer-
 21 ence provided for in this and the next succeeding section to any hon-
 22 orably discharged soldier, sailor or marine, or a reduction of his com-
 23 pensation intended to bring about his resignation or discharge, entitles
 24 such honorably discharged soldier, sailor or marine to a right of action
 25 therefor in any court of competent jurisdiction for damages, and also
 26 a remedy for mandamus for righting the wrong.

[S., '13, § 1056-a15.]

SEC. 679. Removals.

1 Any person whose rights may be in any way prejudiced contrary
 2 to any of the provisions of this section shall be entitled to a writ of
 3 mandamus to remedy the wrong. No person holding a position by
 4 appointment or employment in the state of Iowa, or in the several
 5 counties, cities, or towns, thereof, who is an honorably discharged
 6 soldier, sailor or marine having served as such in the union army or
 7 navy during the late civil war shall be removed from such position
 8 or employment except for incompetency or misconduct shown after a
 9 hearing, upon due notice, upon stated charges, and with the right of
 10 such employee or appointee to a review by a writ of certiorari. The
 11 burden of proving incompetency or misconduct shall rest upon the
 12 party alleging the same. Nothing in this chapter shall be construed
 13 to apply to the position of private secretary or deputy of any official
 14 or department, or to any person holding a strictly confidential rela-
 15 tion to the appointing officer.

[S., '13, § 1056-a16.]

CHAPTER 25.

DUTIES RELATIVE TO PUBLIC CONTRACTS.

SECTION 680. Contracts for unauthorized expenditures.

1 Any officer who shall be empowered to expend any public money,
 2 or to direct such expenditures, is hereby prohibited from making any
 3 contract for the erection of any building, or for any other purpose
 4 which shall contemplate any excess of expenditures beyond the terms
 5 of the law under which such expenditures were authorized.

[R., '60, § 2181; C., '73, § 127; C., '97, § 185.]

SEC. 681. Contracts in excess of appropriations.

1 It shall be unlawful for any trustee, superintendent, warden or
 2 other officer of any of the educational, penal or charitable institutions
 3 of this state to contract any indebtedness against said institutions or
 4 the state in excess of the appropriation made for said institutions;
 5 but nothing herein contained shall prevent the incurring of an indebt-
 6 edness on account of support funds for state institutions, upon the
 7 prior written direction of the executive council, specifying the items
 8 and amount of such indebtedness to be increased, and the necessity
 9 therefor.

[C., '97, § 186.]

SEC. 682. Disclosing sealed bids—liability on bond.

1 No public officer or deputy thereof, if any, shall directly or indi-
 2 rectly or in any manner whatsoever, at any other time or in any other
 3 manner than as provided by law, open any sealed bid or convey or
 4 divulge to any person any part of the contents of a sealed bid, on any
 5 proposed contract concerning which a sealed bid is required or per-
 6 mitted by law. A violation of the provisions of this section shall,
 7 in addition to criminal liability, render the violator liable, personally
 8 and on his bond, if any, to liquidated damages in the sum of ten hun-
 9 dred dollars for each violation, to inure to, and be collected by the
 10 state, county, city, town, school district or other municipal corpora-
 11 tion of which the violator is an officer or deputy.

[S., '13, § 1279-a.]

SEC. 683. Witnesses—not privileged from testifying—immunity.

1 In any action in any court wherein the matter of a violation of
 2 the preceding section is at issue, no witness shall be privileged from
 3 testifying to any matter or from producing any books, papers, or
 4 letters, on the ground that the same might or would tend to render
 5 such witness criminally liable, but such witness shall not be prose-
 6 cuted for any offense whatever growing out of or connected with the
 7 matters and things so testified to or produced by him, provided such
 8 witness shall not be exempt from prosecution for perjury committed
 9 in so testifying.

[S., '13, § 1279-b.]

CHAPTER 26.
COMMISSIONERS IN OTHER STATES.
SECTION 684. Appointment—tenure—powers.

1 The governor may appoint and commission, in each of the United
 2 States and territories, one or more commissioners, to continue in office
 3 for the term of three years from the date of commission, unless such
 4 appointment shall be sooner revoked by the governor. Such commis-
 5 sioners, when qualified as hereinafter provided, shall be empowered to
 6 administer oaths, take depositions and affidavits to be used in the
 7 courts of this state, and to take acknowledgments or proof of deeds
 8 and other instruments to be recorded and used in this state.

[C., '51, § 71; R., '60, § 188; C., '73, § 267; C., '97, § 383.]

SEC. 685. Seal.

1 Each commissioner exercising the authority conferred upon him
 2 by this chapter shall have an official seal, on which shall be engraved
 3 the words, "Commissioner for Iowa" with his surname at length, and
 4 at least the initials of his christian name; also the name of the state
 5 in which he has been commissioned to act, which seal must be so
 6 engraved as to make a clear impression on wax, wafer or paper.

[C., '73, § 268; C., '97, § 384.]

SEC. 686. Seal and signature as evidence.

1 A signature and impression of such seal of any commissioner
 2 qualified as herein provided, and corresponding with that on file in
 3 the office of the secretary of state, shall be entitled to the same credit
 4 as evidence in the courts and public offices of this state as the signa-
 5 ture and seal of a clerk of the district court or notary public of this
 6 state.

[C., '51, § 74; R., '60, § 191; C., '73, § 269; C., '97, § 385.]

SEC. 687. Fees.

1 Such commissioner is authorized to demand for his services the
 2 same fees as may be allowed for similar services by the laws of the
 3 state in which he is to exercise his office.

[C., '51, § 75; R., '60, § 192; C., '73, § 270; C., '97, § 386.]

SEC. 688. Oaths as evidence.

1 Oaths administered by any such commissioner, affidavits and
 2 depositions taken by him, and acknowledgments, as aforesaid, certi-
 3 fied by him over his official signature and seal, are made as effectual
 4 in law, to all intents and purposes, as if done and certified by a clerk
 5 of the district court or justice of the peace of this state.

[C., '51, § 72; R., '60, § 189; C., '73, § 271; C., '97, § 387.]

SEC. 689. Conditions required.

1 Before such commissioner can perform any of the duties of his
 2 office, he is required to take and subscribe an oath that he will support
 3 the constitution of the United States and the constitution of the state
 4 of Iowa, and that he will faithfully perform the duties of such office;
 5 which oath shall be taken and subscribed before some judge or clerk
 6 of a court of record in the state in which the commissioner is to exer-
 7 cise his appointment, and certified under the hand of the person taking
 8 it and the seal of his court, or before a duly authorized commissioner
 9 for Iowa, resident in said state; which certificate shall be filed in the
 10 office of the secretary of state of this state, and on which shall be the
 11 official signature and clear impression of the official seal of such com-
 12 missioner.

[C., '51, § 73; R., '60, § 190; C., '73, § 272; C., '97, § 388.]

SEC. 690. Authority to be certified.

1 The secretary of state, upon the reception of the certificate as
 2 provided in the last preceding section, shall examine the same, and,
 3 if this chapter has been strictly complied with, it shall be his duty to
 4 forward to said commissioner a certificate, properly attested, that he
 5 has been duly commissioned as a commissioner for Iowa, and that he

6 is duly qualified as required by the laws of Iowa authorizing the
 7 appointment of commissioners in other states; and it shall be the fur-
 8 ther duty of the secretary of state to forward a duplicate of said
 9 certificate to the secretary of the state in which said commissioner
 10 may have been appointed.

[C., '73, § 273; C., '97, § 389.]

SEC. 691. List to be published.

1 The secretary of state shall cause to be published with the session
 2 laws of each general assembly a full and complete list of all commis-
 3 sioners for Iowa who are duly qualified, and whose commissions do
 4 not expire on or before the fourth day of July of the year in which
 5 such publication is made, which list shall give the postoffice address,
 6 date of qualification, and date of expiration of the commission of
 7 each commissioner.

[C., '73, § 274; C., '97, § 390.]

SEC. 692. Commissioners of other states—authority of.

1 Commissioners of the like nature appointed in this state, under
 2 the authority of any other of the United States or territories, are
 3 hereby invested with the authority of a justice of the peace to issue
 4 subpoenas, requiring the attendance of witnesses before them to give
 5 their testimony by deposition or affidavit, in any matter in which
 6 such deposition or affidavit may be taken by the law of such other
 7 state, and they are also authorized to administer oaths in any matter
 8 in relation to which they are required or permitted by such law of
 9 the other states; and false swearing in such cases is hereby made
 10 subject to the penal laws of this state relating to perjury; but such
 11 commissioner shall cause to be filed in the office of the secretary of
 12 state a certificate of the secretary of the state or territory for which
 13 he claims to act, that he is properly appointed and qualified, as required
 14 by the laws of said state, and has in his possession a certificate that
 15 this section has been complied with.

[C., '51, § 77; R., '60, § 194; C., '73, § 275; C., '97, § 391.]

SEC. 693. Records of appointments.

1 The secretary of state shall keep in his office a complete record
 2 of all appointments made by the governor pursuant to the provisions
 3 of this chapter.

[C., '73, § 276; C., '97, § 392.]

CHAPTER 27.

NOTARIES PUBLIC.

SECTION 694. Appointment—commissions expire—notice.

1 The governor may appoint and commission one or more notaries
 2 public in each county and may at any time revoke such appointment.
 3 The commission of all notaries public heretofore or hereafter issued
 4 prior to the fourth day of July, A. D., nineteen hundred nine, shall
 5 expire on that day, and commissions subsequently issued shall be for
 6 no longer period than three years, and all such commissions shall

7 expire on the fourth day of July in the same year. The governor
8 shall, on or before the first day of May, A. D., nineteen hundred nine,
9 and every three years thereafter, notify each notary when his com-
10 mission will expire, sending such notice by mail and accompanying the
11 notice with a blank application for reappointment and a blank bond.

[C., '51, § 78; R., '60, § 195; C., '73, § 258; C., '97, § 373; S.,
'13, § 373.]

SEC. 695. Conditions.

1 Before any such commission is delivered to the person appointed,
2 he shall:

3 1. Procure a seal on which shall be engraved the words "Notarial
4 Seal" and "Iowa," with his surname at length and at least the initials
5 of his christian name.

6 2. Execute a bond to the state of Iowa in the sum of five hundred
7 dollars conditioned for the true and faithful execution of the duties
8 of his office, which bond, when secured by personal surety, shall be
9 approved by the clerk of the district court of the county of his resi-
10 dence; all other bonds shall be approved by the governor.

11 3. Write on said bond, or a paper attached thereto, his signature,
12 and place thereon a distinct impression of official seal.

13 4. File such bond with attached papers, if any, in the office of the
14 governor.

15 5. Remit to the governor the fee required by law.

16 When the governor is satisfied that the foregoing requirements
17 have been fully complied with, he shall execute and deliver a commis-
18 sion to the person appointed.

[C., '51, §§ 80, 83; R., '60, §§ 197, 200, 207-209; C., '73, §
259; C., '97, § 374; S., '13, § 374.]

SEC. 696. Certificate of appointment filed with clerk.

1 When the governor delivers a commission to the person appointed,
2 he or his secretary shall make a certificate of such appointment and
3 forward the same to the clerk of the district court of the proper county,
4 who shall file and preserve the same in his office, and it shall be deemed
5 sufficient evidence to enable such clerk to certify that the person so
6 commissioned is a notary public during the time such commission is
7 in force.

[C., '73, § 260; C., '97, § 375; S., '13, § 375.]

SEC. 697. Revocation—notice.

1 Should the commission of any person appointed notary public be
2 revoked by the governor, he shall immediately notify such person and
3 also the clerk of the district court of the proper county, through the
4 mail.

[C., '73, § 261; C., '97, § 376; S., '13, § 376.]

SEC. 698. Powers—improper acts—penalties.

1 Each notary is invested with the powers and shall perform the
2 duties which pertain to that office by the custom and law of merchants
3 within the county of his appointment or in any adjoining county in
4 which he has filed in the office of the clerk of the district court a certi-
5 fied copy of his certificate of appointment. If any notary public ex-
6 ercise the duties of his office after the expiration of his commission,

7 or when otherwise disqualified, or appends his official signature to
8 documents when the parties have not appeared before him, he shall
9 be guilty of a misdemeanor, and fined not less than fifty dollars, and
10 shall be removed from office by the governor.

[C., '51, § 79; R., '60, §§ 196, 210; C., '73, §§ 262, 3975;
C., '97, §§ 377, 4912; S., '13, § 377.]

SEC. 699. Record to be kept.

1 Every notary public is required to keep a true record of all no-
2 tices given or sent by him, with the time and manner in which the
3 same were given or sent, and the names of all the parties to whom the
4 same were given or sent, with a copy of the instrument in relation to
5 which the notice is served, and of the notice itself.

[C., '51, § 81; R., '60, § 198; C., '73, § 263; C., '97, § 378.]

SEC. 700. Record filed with clerk.

1 On the death, resignation or removal from office of any notary,
2 his records, with all his official papers, shall, within three months
3 therefrom, be deposited in the office of the clerk of the district court
4 in the county for which such notary shall have been appointed; and
5 if any notary, on his resignation or removal, neglects for three months
6 so to deposit them, he shall be held guilty of a misdemeanor and
7 be punished accordingly, and be liable in an action to any person in-
8 jured by such neglect; and if an executor or administrator of a de-
9 ceased notary wilfully neglects, for three months after his acceptance
10 of that appointment, to deposit the records and papers of a deceased
11 notary which came into his hands in said clerk's office, he shall be held
12 guilty of a misdemeanor, and punished accordingly.

[C., '51, § 85; R., '60, § 202; C., '73, § 264; C., '97, § 379.]

SEC. 701. Change of residence.

1 If a notary remove his residence from the county for which he
2 was appointed, such removal shall be taken as a resignation.

[C., '51, § 86; R., '60, § 203; C., '73, § 265; C., '97, § 380.]

SEC. 702. Duty of clerk as to records.

1 Each clerk aforesaid shall receive and safely keep all such records
2 and papers of the notary in the cases above named, and shall give
3 attested copies of them, under the seal of his court, for which he may
4 demand such fees as by law may be allowed to the notaries, and such
5 copies shall have the same effect as if certified by the notary.

[C., '51, § 87; R., '60, § 204; C., '73, § 266; C., '97, § 381.]

SEC. 703. Notaries fees.

1 Notaries public shall be entitled to charge and receive the fol-
2 lowing fees:

- 3 1. For every protest of a bill or note, seventy-five cents.
- 4 2. For registering any protest, fifty cents.
- 5 3. For being present at a demand, tender or deposit, and noting
- 6 the same, fifty cents.
- 7 4. For administering an oath, five cents.
- 8 5. For certifying to the same under his official seal, twenty-five
- 9 cents.

- 10 6. For certificate under seal, twenty-five cents.
 11 7. For other services, the same fees as are allowed justices of the
 12 peace for similar services.
 [C., '51, § 2542; R., '60, § 4151; C., '73, § 3801; C., '97, §
 382.]

CHAPTER 28.

ADMINISTRATION OF OATHS.

SECTION 704. Who may administer.

1 Judges of the supreme, district, superior and police courts; clerks
 2 of said courts and their deputies; county auditors and their deputies;
 3 justices of the peace and notaries public within the county of their
 4 residence; sheriffs and their deputies, in cases where they are author-
 5 ized by law to select commissioners or appraisers, or to impanel ju-
 6 rors for the view or appraisal of property, or are directed as an
 7 official duty to have property appraised, or take the answers of gar-
 8 nishees; the governor, secretary of state, auditor and treasurer of
 9 state, in any matter pertaining to the business of their respective
 10 offices, or that may come before them for consideration and action as
 11 members of the executive council; the mayor and clerk of cities and
 12 towns; judges and clerks of election; township clerks; the chairman
 13 of the board of supervisors; the surveyor or coroner in any county,
 14 in relation to any duty imposed upon either of them where the admin-
 15 istration of an oath may be required; members of all boards of any
 16 state institutions, of all commissions, boards or bodies created by
 17 law, and all persons, referees or appraisers appointed by authority
 18 of law, who have any duty to perform by virtue of their office or ap-
 19 pointment requiring the administration of oaths, are authorized to
 20 administer oaths and take affirmations. Notaries public may perform
 21 such services in any adjoining county in which they have filed with
 22 the clerk of the district court a certified copy of the certificate of their
 23 appointment.

[C., '51, §§ 227, 979, 980, 1594, 1865; R., '60, §§ 201, 449,
 1843, 1844, 2684, 3201; C., '73, §§ 277, 278, 396; C., '97,
 § 393.]

CHAPTER 29.

SALARIES, FEES, EXPENSES AND EXPENDITURES.

SECTION 705. Salaries paid monthly.

1 The salaries of all officers authorized in this code shall be paid
 2 in equal monthly installments at the end of each month, and shall be
 3 in full compensation for all services, except as otherwise expressly
 4 provided.

[C., '73, § 3780; C., '97, § 1289.]

SEC. 706. Commissioners to appraise property.

1 Every appraiser or commissioner appointed or selected to ap-
 2 praise damages or property, unless otherwise provided, shall receive
 3 the same compensation and mileage as jurors in courts of record, but
 4 when called to appraise property taken on judicial process, shall re-
 5 ceive twenty-five cents per hour.

[C., '51, § 2550; R., '60, § 4158; C., '73, § 3813; C., '97, §
 1290.]

SEC. 707. Appraisers—compensation of, generally.

1 The compensation of appraisers appointed to appraise property
 2 belonging to any estate as a basis for the assessment of the collateral
 3 inheritance tax shall be three dollars per day for each appraiser and
 4 mileage as hereinafter provided and in other cases where the com-
 5 pensation of appraisers is not now fixed by statute, shall be two dol-
 6 lars per day for each appraiser and five cents a mile for the distance
 7 traveled in going to and returning from the place of appraisal, to
 8 be paid out of the property appraised or by the owner or owners
 9 thereof.

[S. S., '15, § 1290-a.]

SEC. 708. General fees.

1 Any officer legally called on to perform any of the following
 2 services, in cases where no fees have been fixed therefor, shall be en-
 3 titled to receive:

4 1. For drawing and certifying an affidavit, or giving a certificate
 5 not attached to any other writing, twenty-five cents.

6 2. For affixing his official seal to any paper, whether the certifi-
 7 cate be under seal or not, thirty-five cents.

8 3. For making out a transcript of any public papers or records
 9 under his control for the use of a private person or corporation, or
 10 recording articles of incorporation, for every one hundred words, ten
 11 cents.

[C., '51, § 2523; R., '60, § 4132; C., '73, § 3819; C., '97, §
 1291.]

SEC. 709. When fees payable.

1 When no other provision is made on the subject, the party re-
 2 quiring any service shall pay the fees therefor upon the same being
 3 rendered, and a bill of particulars being presented, if required.

[C., '51, § 2557; R., '60, § 4164; C., '73, § 3837; C., '97,
 § 1295.]

SEC. 710. Fees paid in advance.

1 No officer or person is entitled to receive any fees in advance
 2 where the same grow out of a criminal prosecution, or where the
 3 fees or compensation is payable by the state or county, or when the
 4 orders, judgments or decrees of courts or justices of the peace are to
 5 be entered or performed, or their writs executed; but in all other
 6 cases he may do so, if he demand them. Witnesses subpoenaed for
 7 the defendant in criminal cases may demand their fees in advance as
 8 in civil cases, unless the subpoena shows that it is issued under the
 9 order of the judge.

[C., '73, § 3842; C., '97, § 1298.]

SEC. 711. Receipt for fees paid.

1 Every person charging fees shall, if required by the person pay-
 2 ing them, give him a receipt therefor, setting forth the items, and
 3 the date of each.

[C., '51, § 2549; R., '60, § 4157; C., '73, § 3836; C., '97,
 § 1294.]

SEC. 712. Fee bill.

1 After the expiration of sixty days from the rendition of a final
 2 judgment not appealed, removed or reversed, the clerk of the court,
 3 or a justice of the peace in whose office the judgment is entered, may,
 4 and, upon demand of any party entitled to any part thereof, shall,
 5 issue a fee bill for all costs of such judgment, which shall have the
 6 same force and effect as an execution issued by such officer, and shall
 7 be served and executed in the same manner.

[C., '73, § 3842; C., '97, § 1299.]

SEC. 713. Fees payable by state or county.

1 In all cases where fees or compensation, except a fixed salary,
 2 are by the provisions of this code to be paid any officer or other per-
 3 son out of the county or state treasury, no part of the same shall be
 4 audited or paid until a particular account has been filed in the audi-
 5 tor's office of the county or state, verified by affidavit, and showing
 6 clearly for what services such fees or compensation is claimed, and
 7 when the same was rendered.

[C., '73, § 3843; C., '97, § 1300.]

SEC. 714. Statement of per diem and expenses to be filed.

1 All members of boards, commissions or departments of state, and
 2 all state officers, who are authorized to contract expense accounts in
 3 the service of the state, and all who are allowed a per diem for services,
 4 instead of a fixed compensation, shall, on or before the end of each
 5 month, file with the secretary of the state board of audit an itemized
 6 and sworn statement of all expenses and days' service, with dates and
 7 amounts, for the preceding calendar month.

[S., '13, § 170-e.]

SEC. 715. Approval—how paid.

1 The state board of audit shall examine all statements referred to
 2 in the preceding section that shall have been filed with the secretary
 3 of the board, and for all items of per diem and expenses approved and
 4 amounts allowed by a majority of said board the auditor of state shall
 5 draw warrants payable by the treasurer of state out of such funds as
 6 are now or may hereafter be provided by law. The treasurer of state
 7 and auditor of state shall each keep an account of the moneys paid
 8 in under the provisions of section seven hundred seventeen, and where
 9 the law now provides, or may hereafter provide, that the amounts
 10 allowed for per diem and expenses shall be limited to or paid from
 11 fees collected, the auditor's warrant shall be drawn against the funds
 12 realized from such fees and shall not exceed the amount thereof.

[S., '13, § 170-f.]

SEC. 716. Secretary and auditor to account for fees.

1 The secretary of state and the auditor of state shall keep an ac-
2 curate and particular account of all fees received by them, which shall
3 be verified by affidavit, and rendered monthly to the treasurer of state,
4 and they shall pay the amounts thus received to such treasurer at the
5 end of each month.

[C., '73, § 3778; C., '97, § 191.]

SEC. 717. Fees—when deposited.

1 All officers of state, elective or appointive, all boards, commis-
2 sions and departments, except the department of agriculture, shall
3 turn into the state treasury or bank or depository to the credit of
4 the state treasurer, as designated by the state treasurer, not later than
5 the third day succeeding the collection thereof, ninety per cent of all
6 fees, commissions and moneys collected or received, with an itemized
7 statement of sources from which received and the fund to be cred-
8 ited; and shall also file with the auditor of state a duplicate of such
9 statement. The balance actually collected in cash remaining in the
10 hands of any officer, board, or department, shall not exceed the sum
11 of five thousand dollars and no money collected shall be held more
12 than thirty days.

[S., '13, § 170-d.]

SEC. 718. Report of fees.

1 All officers required by the provisions of this code to collect and
2 pay over fines and fees shall, except as otherwise provided, on the
3 first Monday in January in each year, make report thereof under oath
4 to the board of supervisors of the proper county, showing the amount
5 of fines assessed, and the amount of fines and fees collected, together
6 with vouchers for the payment of all sums collected to the proper
7 officer.

[R., '60, § 4314; C., '73, § 3973; C., '97, § 1301.]

SEC. 719. Publication of legal notices.

1 The compensation, when not otherwise fixed, for the publication
2 in a newspaper of any notice, order, citation or other publication re-
3 quired or allowed by law, shall not exceed one dollar for one inser-
4 tion, and fifty cents for each subsequent insertion, for each ten lines
5 of brevier type, or its equivalent, in a column not less than two and
6 one-sixth inches in width. For publication of the official ballot, forty
7 cents for each ten lines of brevier or its equivalent may be charged,
8 the space necessarily occupied thereby being measured as if it were
9 in brevier type set solid. In no case shall the cost of publishing the
10 official ballot exceed forty dollars for each of the two papers in which
11 it shall be published, except in presidential years, when it shall not
12 exceed the sum of seventy dollars for each of said papers. Weekly
13 publications may be made in a daily or weekly newspaper. The
14 plaintiff or executor, in all publications concerning actions, executions
15 and estates, may designate the newspaper in which such publication
16 shall be made. If any newspaper refuses to make publication thereof,
17 when copy therefor, with the cost or security for payment of the cost,
18 is tendered, such publication may be made in some other newspaper

19 of general circulation at or nearest to the county seat, with the same
20 effect as if made in the newspaper so refusing.

[C., '73, § 3832; C., '97, § 1293; S., '13, § 1293.]

SEC. 720. Publications in daily papers.

1 In the publication of notices as provided for by this act [30 G.
2 A., ch. 2], when the same shall be published in any paper published
3 oftener than once each week, the succeeding publications of such no-
4 tice shall be on the same day of the week as the first publication.

[30 G. A., ch. 2, § 14.]

Note.—The word "act" in above section has been allowed to stand without change owing to the large number of sections referred to by it, with the thought in view of remedying the difficulty by a proper bill.

SEC. 721. Publications in daily papers.

1 In the publication of notices as provided for by this act [31 G.
2 A., ch. 9], when the same shall be published in any paper published
3 oftener than once a week, the succeeding publications of such notice
4 shall be on the same day of the week as the first publication.

[S., '13, § 1293-a.]

Note.—The word "act" in above section has been allowed to stand without change owing to the large number of sections referred to by it, with the thought in view of remedying the difficulty by a proper bill.

SEC. 722. Posting advertisements.

1 In all cases where an officer in the discharge of his duty is re-
2 quired to post an advertisement or notice, he shall, when not other-
3 wise provided, be allowed twenty-five cents, and the same mileage as
4 a sheriff, and if an advertisement is required to be published in a
5 newspaper, the cost thereof shall be paid by the party, and may be
6 taxed in the bill of costs.

[C., '51, § 2558; R., '60, § 4165; C., '73, § 3838; C., '97, § 1296.]

SEC. 723. Appropriations not to be diverted.

1 It shall be unlawful for any superintendent, warden, trustee, or
2 other officer of any of the institutions mentioned in section six hun-
3 dred eighty-one, to divert any money that has been or may be appro-
4 priated for the use of said institutions to any other purpose than the
5 specific purpose named therefor in the act appropriating the same.

[C., '97, § 187.]

SEC. 724. Misdemeanor.

1 Any person violating any of the provisions of sections six hun-
2 dred eighty-one and seven hundred twenty-three shall be deemed guilty
3 of a misdemeanor, and, upon conviction thereof, shall be punished by
4 a fine not exceeding five hundred dollars, or by imprisonment in the
5 county jail for not more than one year, or by both fine and imprison-
6 ment.

[C., '97, § 188.]

SEC. 725. Contingent funds to be accounted for.

1 Any contingent fund set apart to any office or officer to be ex-
2 pended for the state shall, as used, be entered in a proper book show-

3 ing when, to whom and for what purpose it was devoted, and receipts
4 shall be taken therefor, preserved and filed with the report herein-
5 after required. On or before the first day of November preceding
6 each regular session of the general assembly, the officers or person
7 having charge of the fund shall make report to the state auditor in
8 writing, showing, in detail, each item of expenditure made, and he
9 shall not be credited with any sum not paid out in the manner con-
10 templated by the law making the appropriation, nor unless the report
11 shall be accompanied with the proper vouchers and receipts. All
12 funds not thus accounted for may be recovered by the state from the
13 proper officer or person, with fifty per cent damages thereon, and the
14 state auditor shall, in his report to the governor, make a detailed
15 statement of the condition of each appropriation contemplated by this
16 section.

[R., '60, §§ 2172-2176; C., '73, §§ 123, 124; C., '97, § 178.]

SEC. 726. Books and accounts to be inspected.

1 The books, accounts, vouchers, and funds belonging to, or kept
2 in, any state office or institution, or in the charge or under the con-
3 trol of any state officer or person having charge of any state funds or
4 property, shall, at all times, be open or subject to the inspection of
5 the governor or any committee appointed by him, or by the general
6 assembly or either house thereof; and the governor shall see that such
7 inspection of the office of state treasurer is made at least four times
8 in every twelve months.

[C., '51, §§ 59, 69; R., '60, §§ 80, 90; C., '73, § 132; C., '97,
§ 184.]

TITLE V.

REGULATIONS UNDER POLICE POWER.

CHAPTER 1.

COAL MINES AND MINING.

SECTION 727. Mine inspectors—appointment—bond—term.

1 The governor shall appoint three mine inspectors from those re-
2 ceiving certificates of competency from the board of examiners as by
3 law provided, who shall hold their office for a term of four years and
4 until their successors shall be appointed and qualified, subject to re-
5 moval by him for cause, their term to commence on the fourth day of
6 July, nineteen hundred fifteen. Any vacancies occurring shall be filled
7 in the same manner as original appointments and the appointee to
8 hold for the unexpired term only. Each inspector shall in no way be
9 financially interested in or connected with any mining property,
10 directly or indirectly act as an agent, officer or representative of any
11 person, firm or corporation, and shall devote his entire time and atten-
12 tion to the duties incumbent upon him as an inspector of mines in
13 the state of Iowa, and shall, before entering upon the discharge of
14 his duties, give a bond in the sum of two thousand dollars and take
15 an oath to be indorsed upon his bond, with sureties to be approved by
16 the secretary of state, conditioned in accordance with the tenor of
17 the oath. The bond shall be conditioned to faithfully and impartially
18 without fear or favor perform the duties incumbent upon him, which
19 shall be filed with the oath and commission and recorded in the office
20 of the secretary of state.

[C., '73, §§ 1567-1569; C., '97, § 2478; S. S., '15, § 2478.]

SEC. 728. Board of examiners.

1 The executive council shall appoint a board of five examiners
2 consisting of two practical miners and two mine operators, all hold-
3 ing certificates of competency as mine foremen, and one mining engi-
4 neer, each of whom shall have had at least five years' actual experience
5 in his profession immediately preceding his appointment, who shall
6 hold office for a term of two years. The members of said board shall
7 qualify by taking oath to perform the duties devolving upon them
8 fairly, faithfully and impartially, without fear or favor, uninfluenced
9 by personal or political considerations. No member of said board
10 shall be interested in or connected with any school, scheme, plan or
11 device having for its object the preparation, education or instruction
12 of persons in the knowledge required of applicants for certificates of
13 competency. Any member of said board shall be summarily removed
14 from office by the executive council, upon due notice and hearing,
15 for violation of the law, misfeasance or malfeasance in the perform-
16 ance of his duties, or for other sufficient cause, and his successor shall

17 thereupon be appointed by the said executive council for the unexpired
18 term.

[S., '13, § 2479-a.]

SEC. 729. Meetings—compensation.

1 Said board shall meet in the office of the state mine inspectors in
2 the capitol on the first Monday in March of each even-numbered year
3 for the examination of applicants; notice of which examination shall
4 be published in at least one newspaper in each mining district not
5 less than fifteen days preceding the date of such examination; and
6 shall be furnished with the necessary stationery and other material
7 for the examination in the same manner as other state officers are
8 provided with supplies. The members shall receive as compensation
9 for their services the sum of five dollars per day for the time actually
10 employed, with necessary traveling expenses, which shall be audited
11 and paid in the manner provided for the salaries of other state officers,
12 but in no case shall the per diem exceed fifty dollars a session to each
13 member.

[C., '97, § 2480.]

SEC. 730. Examination—qualification of candidates.

1 The examination shall consist of oral and written questions in
2 theoretical and practical mining and mine engineering, on the nature
3 and properties of noxious and poisonous gases found in mines, and
4 on the different systems of working and ventilating coal mines. Dur-
5 ing the progress of the examination, books, memoranda or notes shall
6 not be allowed or used, and the board shall issue to those examined
7 and found to possess the requisite qualifications certificates of compe-
8 tency for the position of mine inspector; but certificates shall be
9 granted only to persons of twenty-five years of age or over, of good
10 moral character, citizens of the state, and with at least five years' ex-
11 perience in the practical working of mines, and who have not been
12 acting as agent or superintendent of any mines for at least six months
13 next preceding such examination.

[C., '97, § 2481.]

**SEC. 731. Inspection districts—powers and duties of inspectors—
expenses and supplies.**

1 The governor shall divide the state into three inspection districts,
2 and assign one inspector to each district, who shall devote his entire
3 time to his work, and, before entering thereon, procure, to be paid
4 for by and to belong to the state, all instruments necessary for the
5 discharge of his duties, including a complete set of standards, bal-
6 ances and other means of adjustment in testing any and all apparatus
7 used in weighing, and shall examine, test and adjust, as often as
8 occasion demands, all scales, beams and other apparatus used in
9 weighing coal at the mines. He shall examine all the mines in his dis-
10 trict as often as the time will permit, which examination shall be
11 made at least once in every six months of all mines having an aver-
12 age output of fifty tons or more of coal per day, keep a record of the
13 inspections made, showing date, the condition in which the mine is
14 found, the extent and manner in which the laws relating to the gov-
15 ernment of mines and their operation are observed and obeyed, the
16 progress made in improvements for the better security to health and
17 life, number of accidents happening and their character, the number

18 employed, and such other and further matters as may be of public
 19 interest and connected with the mining industries of the state. He
 20 shall have the right at all reasonable times, by night or by day, to
 21 enter any mine in his district, or any district to which he may be
 22 sent by the governor for the purpose of ascertaining its condition, and
 23 the manner of its operation, by making personal examination and
 24 inquiry in relation thereto, but not so as to unnecessarily obstruct or
 25 impede the working of the mines; and to this end the mine owner or
 26 person in charge shall furnish such mine inspector all assistance in
 27 his power, and forthwith, upon the happening of any accident to any
 28 miner in or about the mine by reason of the working thereof which
 29 causes loss of life, shall report the same, by mail or otherwise, to the
 30 mine inspector and the coroner of the county. Each inspector shall
 31 have and maintain, at some suitable place in his district, to be ap-
 32 proved by the governor, an office, and shall reside in the district and
 33 remain therein, unless otherwise engaged in the conduct of his official
 34 duties. The costs and expenses of the office of the mine inspector
 35 other than at the capitol, including rental, telephone, office supplies
 36 and necessary fixtures, shall be paid for by the state, and the bills
 37 audited and allowed by the state board of audit, who shall direct a war-
 38 rant to issue therefor. The bills for current expenses shall be pre-
 39 sented monthly and shall not exceed the sum of fifteen dollars per
 40 month for each inspector, whose office is maintained at a place other
 41 than at the capitol.

[C., '73, § 1567; C., '97, § 2482; S., '13, § 2482.]

SEC. 732. General office—report to governor—compensation.

1 The three inspectors shall maintain a general office in the capitol,
 2 and keep therein all records, correspondence, documents, apparatus
 3 or other property pertaining to their office; they shall meet in said
 4 office biennially on or before August fifteenth preceding the regular
 5 session of the general assembly, and make report to the governor of
 6 their official doings, including therein all matters which by this chap-
 7 ter are specially committed to their charge, adding such suggestion
 8 as to needed future legislation as in their opinion may be important.
 9 Each inspector shall receive for his services the sum of eighteen hun-
 10 dred dollars per annum and actual traveling expenses, not exceeding
 11 seven hundred fifty dollars yearly, the traveling expenses to be paid
 12 quarterly upon an itemized statement duly verified and audited by
 13 the state auditor.

[C., '73, § 1569; C., '97, § 2483; S., '13, § 2483.]

SEC. 733. Removal of inspector—hearing—appeal.

1 Charges of gross neglect of duty or malfeasance in office against
 2 any inspector may be made in writing, sworn to and filed with the
 3 governor, and must be made by five miners, or one or more mine op-
 4 erators; they shall be accompanied with a bond in the sum of five hun-
 5 dred dollars, running to the state, executed by two or more freehold-
 6 ers, approved and accepted by the clerk of the district court of the
 7 county of their residence, conditioned for the payment of all costs
 8 and expenses arising from the investigation of the charges, and there-
 9 upon the governor shall convene the board of examiners at such time
 10 and place as he may designate, giving the inspector and the person
 11 whose name first appears in the charge ten days' notice thereof. The
 12 board, at the time and place fixed, shall proceed to hear, try and de-

13 termine the matter, and for this purpose shall summon any material
14 witness desired, by either party, and may administer the proper oath
15 to all witnesses. Evidence may also be taken by deposition as in other
16 cases, and continuances of the hearing may be granted in the further-
17 ance of justice and upon the application of either party. After the
18 evidence has been fully heard, the board shall report to the governor
19 the results of its investigation, and if the charges are sustained, the
20 inspector shall be forthwith removed by the governor, and in that
21 event the costs and expenses of the hearing shall be awarded against
22 the inspector or the bondsmen as the case may be, with the right,
23 however, upon the part of the aggrieved party to appeal from such
24 findings and order to the district court of any county in the inspec-
25 tor's district against whom charges were made, by giving notice in
26 writing to the board, or any member thereof, served in the same man-
27 ner as original notices are served, within ten days from the time of
28 filing the findings with the governor, or if the order of removal is
29 made within ten days therefrom. Upon such appeal all matters shall
30 be heard bearing upon the charges made, and the pleadings may be
31 amended within the discretion of the court in the furtherance of jus-
32 tice. The appeal shall be tried as an equitable action and such order
33 made as the evidence supports and justice demands. Nothing herein
34 contained shall be construed to prevent the governor from proceed-
35 ing under the law provided for the suspension or removal of state
36 officers for malfeasance or nonfeasance in office.

[C., '97, § 2484; S., '13, § 2484.]

SEC. 734. Uniform reports.

1 The board of inspectors shall prepare a standard form of reports
2 which shall be uniform for and throughout the state and which shall
3 be used in all cases where reports are required to be made to the dis-
4 trict mine inspectors or the board of inspectors as the case may be.

[S., '13, § 2484-a.]

SEC. 735. Maps of mines—surveys.

1 The owner, operator, lessee or person in charge of any mine shall
2 make or cause to be made an accurate map or plan of such mine drawn
3 to a scale not more than two hundred feet to the inch, on which shall
4 appear the name of the state, county and township in which the mine
5 is located, the designation of the mine, the name of the company or
6 owner, operator, lessee or person in charge, the certificate of the min-
7 ing engineer or surveyor as to the accuracy and date of the survey,
8 the north point and the scale to which the drawing is made. Every
9 such map or plan shall correctly show the surface boundary lines of
10 the coal rights pertaining to each mine and all sections or quarter
11 section lines or corners within the same; the lines of town lots and
12 streets; the tracks and sidetracks of all railroads, the location of all
13 wagon roads, rivers, streams, ponds, reservations made of coal and
14 mineral. For the underground workings said maps shall show all
15 shafts, slopes, tunnels or other openings to the surface or to the work-
16 ings of a contiguous mine; all excavations, entries, rooms and cross-
17 cuts; the location of the escape ways, and of the fan or furnace or
18 other means of ventilation and the direction of air currents and the
19 location of permanent pumps, hauling engines, engine planes, aban-
20 doned works, fire walls and standing water. A separate and similar
21 map drawn to the same scale in all cases shall be made of each and

22 every seam of coal operated in any mine in this state. A separate
23 map shall also be made of the surface whenever the surface buildings,
24 lines or objects are so numerous as to obscure the details of the mine
25 workings if drawn upon the same sheet with them, and in such case
26 the surface map shall be drawn upon transparent cloth or paper so
27 that it can be laid upon the map of the underground workings and
28 thus truly indicate the local relation of lines and objects on the sur-
29 face to the excavations of the mine, together with any other principal
30 workings of the mine. Each map shall also show by profile drawing
31 and measurement, the last one hundred fifty feet approaching the
32 boundary lines, showing the rise and dip of the seam. The original
33 or true copies of all such maps shall be kept at the office of the mine,
34 and true copies thereof shall also be furnished the state mine inspec-
35 tor for the district in which said mine is located, within thirty days
36 after the completion of the same. The maps so delivered to the in-
37 spector shall be the property of the state and shall remain in the cus-
38 tody of the said inspector during his term of office, and be delivered
39 to his successor in office. They shall be kept at the office of the inspec-
40 tor and be open to examination of all persons interested in the same;
41 but such examination shall only be made in the presence of the inspec-
42 tor or his office assistant, and he shall not permit any copies of the
43 same to be made without the written consent of the operator or the
44 owner of the property, except as herein and otherwise provided. An
45 accurate extension of the last preceding survey of every mine in active
46 operation shall be made once in every twelve months prior to July
47 first of every year and the result of such survey with the date thereof,
48 shall be promptly and accurately entered upon the original map and
49 a true, correct and accurate copy of said extended map shall be for-
50 warded to the inspector of mines in the district in which said mine
51 is located so as to show all changes in plan of new work in the mine,
52 and all extensions of the old workings to the most advanced face or
53 boundary of said workings which have been made since the last pre-
54 ceding survey, and the parts of the mine abandoned or worked out
55 after the last preceding survey shall be clearly indicated and shown
56 by colorings, which copy must be delivered to the inspector of mines
57 within thirty days after the last survey is made. When any coal mine
58 is worked out or is about to be abandoned or indefinitely closed, the
59 owner, operator, lessee or person in charge of the same shall make or
60 cause to be made a completed and extended map of said mine and the
61 result of the same shall be duly extended on all maps of the mine and
62 copies thereof so as to show all excavations and the most advanced
63 workings of the mine, and their exact relation to the boundary or
64 section lines on the surface, and deliver to the inspector a copy of the
65 completed map. The state inspector of mines shall order a survey
66 to be made of the workings of any mine and the result to be extended
67 on the maps of the same and the copies thereof whenever in his judg-
68 ment the safety of the workmen, the support of the surface, the con-
69 servation of the property or the safety of an adjoining mine requires
70 it; and if not made by the owner, operator, lessee or person in charge
71 when ordered by the inspector it shall be made or caused to be made
72 by the inspector and paid for by the state and the amount collected
73 from the owner, operator, lessee or person in charge as other debts
74 are collected.

[C., '97, § 2485; S., '13, § 2485.]

SEC. 736. Failure to furnish map—penalty.

1 When the owner, operator, lessee or person in charge of any
 2 mine neglects and refuses for a period of three months to furnish to
 3 said inspector the map or plan of such mine or a copy thereof or of
 4 the extension thereof as provided for by the preceding section, such
 5 owner, operator, lessee, or person shall be deemed guilty of a misde-
 6 meanor, and upon conviction thereof shall be fined one hundred dol-
 7 lars and shall stand committed to the county jail until such fine is
 8 paid, and in addition thereto the inspector shall make or cause to be
 9 made an accurate map or plan of such mine or extension as the case
 10 may be, at the expense of the owner, operator, lessee or person in
 11 charge thereof; the cost to be paid by the state and recovered by law
 12 from the said owner, operator, lessee or person in charge in the same
 13 manner as other debts by suit; and it shall be the duty of the county
 14 attorney of the county in which such mine is located, at the request
 15 of the inspector, to bring such action in the name and for the benefit
 16 of the state.

[S., '13, § 2485-a.]

SEC. 737. Right of adjoining landowner—expenses of examination—double damages.

1 Upon affidavit of an adjoining landowner in the vicinity of any
 2 mine, or his agents, filed with the inspector of the district stating that
 3 it is necessary for the protection of his property to know how near
 4 his land the excavations in the mine extend, the inspector shall make
 5 an examination or employ a surveyor therefor if necessary, to deter-
 6 mine the length and direction of entries and other works toward the
 7 land of the applicant and the extent of excavation of same on all of
 8 his land, if any, and make report to the inspector to whom the appli-
 9 cation may have been made; the inspector may in such case permit
 10 examination of such map or copies thereof as may be in the possession
 11 of the inspector for the purpose of and to aid and assist in deter-
 12 ming the location of the workings as herein contemplated. The neces-
 13 sary expenses incurred and compensation of five dollars per day to
 14 the inspector in favor of the state and ten dollars per day to the sur-
 15 veyor shall be paid by the applicant except when it shall be shown
 16 that said applicant's property has been undermined, in which case
 17 the expense shall be paid by the mine owner, operator, lessee or per-
 18 son in charge; and in any case where any owner, operator, lessee or
 19 person operating a mine, who without permission takes coal from
 20 adjoining land he shall be liable for double damages therefor and for
 21 all expense caused thereby. If it be found necessary to survey the
 22 premises to discover the facts as contemplated by this section the
 23 owner or person filing the affidavit shall first give a bond or other
 24 security to the inspector in favor of the state in the sum of one hun-
 25 dred dollars conditioned to pay all costs and expenses incurred
 26 thereby.

[S., '13, § 2485-b.]

SEC. 738. Escape ways and air shafts.

1 The owner, operator, lessee or person in charge of any mine
 2 hereafter constructed and operated by shaft, or one having a slope
 3 or drift opening in which five or more persons are employed, shall
 4 construct and maintain at least two distinct openings for each seam

5 of coal worked, which in mines operated by shaft shall be separated
6 by natural strata of not less than three hundred feet in breadth, and
7 in mines operated by slope or drift not less than two hundred feet
8 in breadth, through which ingress and egress at all times shall be
9 unobstructed to the employees and persons having occasion to use
10 the same as escape ways or place of exit from the mine.

[C., '97, § 2486; S., '13, § 2486.]

SEC. 739. Stairways in escape shafts.

1 All escape shafts hereafter constructed not provided with hoist-
2 ing appliances as hereinafter provided shall have stairs at an angle
3 of not more than sixty degrees in ascent, nor less than two and one-
4 half feet in width with proper, safe and substantial landings at con-
5 venient and easy distances, and equipped with good and substantial
6 hand rails or banisters. If a shaft be used for an escape shaft and
7 air shaft, that part of the shaft used as an escape way shall be divided
8 and partitioned closely with good and substantial material from the
9 part used as an air shaft, all of which shall be kept in safe condition
10 as by this chapter provided.

[S., '13, § 2486-a.]

SEC. 740. Hoisting appliances for use of workmen.

1 All escape shafts not provided with stairs shall be provided with
2 suitable appliances for hoisting underground workmen at all times
3 ready for use both day and night, while the workmen are at labor,
4 which hoisting apparatus shall be separate and apart from the hoist-
5 ing shaft, and the equipment shall include a depth indicator, brake
6 on the drum, steel or iron cable, safety catches on cages, and covers
7 on cages to securely protect any person while on the cage.

[S., '13, § 2486-b.]

SEC. 741. Underground connection with contiguous mine.

1 Where two or more mines are connected underground the several
2 owners by joint agreement may use the hoisting shaft, slope or drift
3 of the one as an escape for the other, and the road or traveling ways
4 to the boundary on either side shall be kept clear of every obstruc-
5 tion to travel by the respective operators, and the intervening doors,
6 if any, shall remain unlocked and ready at all times for immediate
7 use, and when such communication has once been established between
8 contiguous mines it shall be unlawful for the owner, operator, or per-
9 son in charge of either mine to close the same without the consent
10 both of the contiguous operators and of the state inspector of mines
11 of the district, but when either operator desires to abandon mining
12 operations, the expense and duty of maintaining such communication
13 shall devolve upon the party continuing operation.

[S., '13, § 2486-c.]

SEC. 742. Location of shafts—approval of inspector—appeal.

1 No escape shaft or other place of exit or any air shaft or opening
2 for ventilation not including hoisting shafts shall be located or con-
3 structed without first giving notice to the state mine inspector and
4 obtaining his approval thereof in writing, who shall retain a copy and
5 file in his office and preserve with other records of that mine. The
6 state mine inspector of the district in which any mine is located shall

7 have the right at any time to order any additional air and escape way,
 8 shaft or openings therefor or other place of exit as may be deemed
 9 necessary for the purpose of furnishing additional ventilation or rea-
 10 sonably necessary means of escape and such additional air and escape
 11 ways shall only be used in cases of emergency; but if the owner, op-
 12 erator, lessee or person in charge of the mine feels aggrieved with
 13 the order as made by the mine inspector of the district in which the
 14 mine is located he shall have the right to appeal from the decision
 15 or the order of the mine inspector in such case to the district court,
 16 where the action shall be tried as an equitable action, and shall have
 17 precedence over any and all other cases, and the first term of such
 18 court held after the taking of such appeal shall be the appearance
 19 term; but in any case the state mine inspector may elect by giving
 20 four days' notice to the party taking the appeal, to bring said cause
 21 on for hearing before any judge of the judicial district in which such
 22 mine is located, who shall make such order as the case demands; it
 23 shall be unlawful to construct a furnace shaft in connection with an
 24 escape shaft or other means of exit for the employees of a mine, and
 25 all furnace shafts hereafter constructed shall be separate and apart
 26 from the escape way or means of exit.

[S., '13, § 2486-d.]

SEC. 743. Ventilation—obstructions prohibited.

1 The escape way shall be ventilated and kept free from vitiated
 2 air, accumulation of ice and obstructions of every kind; nor shall
 3 steam or heated air be discharged therein during the daytime unless
 4 an attendant be kept in charge thereof and the equipment so arranged
 5 that the steam or warm air may be readily turned off at any time
 6 when required and a conspicuous signboard placed in plain view indi-
 7 cating the point where the steam or warm air may be turned off as
 8 by this chapter contemplated; and all surface or other water which
 9 flows therein shall be conducted by rings or otherwise to receptacles
 10 for the same so as to keep the stairway reasonably free from falling
 11 water.

[S., '13, § 2486-e.]

SEC. 744. Traveling ways—sign boards—inspection—appeal.

1 In any mine affected by this chapter and every seam of coal or
 2 other mineral worked therein, there shall be constructed, kept and
 3 maintained safe and accessible traveling ways to and from any and
 4 all escape ways or place of exit, which shall be maintained free from
 5 falls of roof, standing water and other obstructions and made at least
 6 five feet high and seven feet wide. At all points where the passage
 7 or traveling ways to the escapement shaft or place of exit intersect
 8 other roadways or entries, conspicuous signboards shall be placed
 9 thereat indicating the way to such place of exit. All traveling ways
 10 shall be inspected by the mine foreman or his assistant at least once
 11 each week, and written report of their condition made and filed in
 12 the office at the mine which shall be open for examination to all the
 13 employees of the mine and such other persons entitled thereto at all
 14 reasonable times; except that in any case, when in the judgment of
 15 the mine inspector of the district where the mine is located it is
 16 deemed impracticable by reason of the conditions or strata to make
 17 the traveling way herein referred to five feet in height, then and in
 18 that case the traveling way may be made and maintained less than

19 five feet in height and seven feet in width, but in no case shall the
 20 traveling way be less than three feet in height or six feet in width.
 21 But if any dispute or difference should arise as to the findings or or-
 22 ders of the mine inspector, in the premises, between such inspector
 23 and employer operating the mine, or between such inspector and at
 24 least five operatives working in the mine, then and in that case the
 25 inspector shall furnish, on demand, to the aggrieved party or parties
 26 a copy of the findings or orders complained of and he shall also file
 27 the originals thereof in the office of the board of state mine inspec-
 28 tors and the aggrieved party or parties may have the right to appeal
 29 from said findings and orders to the district court of any county in
 30 which said mine is located on the same terms and conditions, so far
 31 as applicable, as those provided for the trial and appeal under sec-
 32 tion seven hundred thirty-three. When appeal is taken as herein
 33 provided the case shall be docketed and precedence given over all
 34 other cases excepting criminal cases where the party is in jail, and
 35 the inspector may bring the case on for hearing before any judge of
 36 the judicial district where the mine is located by giving five days'
 37 notice in writing to the opposite party, and if the evidence fails to
 38 show that the order was not a reasonable one as made by the inspector
 39 the findings and order of the inspector shall stand as made by him.

[S., '13, § 2486-f.]

SEC. 745. Precaution against fire—location of buildings.

1 It shall be unlawful to erect, keep or maintain any inflammable
 2 structure or buildings or other material in the space intervening be-
 3 tween the main or hoisting shafts, slopes or drifts, and the escape-
 4 ment shaft or other place of exit or any powder magazine in such
 5 location or manner as to jeopardize the free and safe exit of the
 6 employees from the mine by said escapement shaft or other place of
 7 exit in case of fire or other casualty to the main shaft, slope or drift
 8 buildings.

[S., '13, § 2486-g.]

SEC. 746. Boiler and engine rooms.

1 All boiler and engine rooms erected or constructed on the sur-
 2 face at any mine shall be constructed of fireproof material, and in no
 3 case shall the boiler room be placed within sixty feet of the hoisting
 4 shaft, slope or drift.

[S., '13, § 2486-h.]

SEC. 747. Shaft lights.

1 In all cases, after twilight, or when by reason of steam or other
 2 causes obscuring the plain view of the top and openings of any shaft,
 3 there shall be maintained a good and substantial light, but in no case
 4 shall an open light or torch be used.

[S., '13, § 2486-i.]

SEC. 748. Traveling way around hoisting shafts.

1 At the bottom of each hoisting shaft there shall be constructed
 2 a safe and convenient traveling way around the shaft for employees
 3 and animals, and it shall be unlawful for any person to pass across
 4 the shaft bottom in any other manner than by the traveling way herein
 5 contemplated; except such employees as may be necessary to perform

6 the work at the bottom of the shaft or those engaged in making re-
7 pairs.

[S., '13, § 2486-j.]

SEC. 749. Places of refuge in haulage roads—signals—trip car lights.

1 On all single-track haulage roads wherever hauling is done by ma-
2 chinery or other mechanical device, and on all gravity or inclined
3 planes in mines where it is impractical to construct a separate trav-
4 eling way and which persons employed in the mines must use while
5 performing their work or travel on foot to and from their work,
6 places of refuge must be cut in the side wall not less than three feet
7 in depth and four feet wide and five feet high, and not more than
8 twenty yards apart unless there be a clear space of not less than two
9 and one-half feet between the car when on the track and the rib or
10 side of the entry of the haulage way; but in no case shall such haul-
11 age way be used as a traveling way unless it shall first be determined
12 by the inspector that it is impracticable to construct, keep or main-
13 tain a separate traveling way, and in all such cases, unless otherwise
14 determined by the inspector to be impracticable, there shall be kept
15 and maintained a separate traveling way for the employees which
16 shall at all times be maintained in good and safe condition and free
17 from falls of roof and other obstructions. On every such haulage
18 road which is more than one hundred feet in length a code of signals
19 shall be established between the hauling engineer and all points on
20 the road, except where hauling is done by motor; and a conspicuous
21 light shall be carried on the front of every trip or train of trip cars
22 moved by machinery.

[S., '13, § 2486-k.]

SEC. 750. Entries used by draft animals.

1 All entries hereafter constructed in which the hauling is done
2 by draft animals, and wherein the employees perform their work or
3 use as a means of ingress and egress to and from their working
4 places, shall be maintained substantially eight feet in width from one
5 rib or side of the entry or haulage way to the opposite side, which
6 shall be kept free from timbers or other refuse and as reasonably
7 even on the surface of each side of the track as may be reasonably
8 practicable; but this section shall not apply to such haulage ways in
9 longwall work when the inspector of the district where the mine is
10 located shall determine that it is impracticable to maintain the width
11 of the entry or haulage way as herein provided.

[S., '13, § 2486-l.]

SEC. 751. Ventilation—measurements of air.

1 The owner, operator, lessee or person in charge of any mine,
2 whether operated by shaft, slope or drift, shall provide and maintain
3 an amount of ventilation of not less than one hundred cubic feet of
4 air per minute for each person employed in the mine, nor less than
5 five hundred cubic feet of air per minute for each mule, horse or other
6 animal used therein, which shall be so circulated throughout the mine
7 so as to dilute, render harmless and expel all noxious and poisonous
8 gases in all working parts of the same; but in no case shall the air
9 current be a greater distance than sixty feet from the working face

10 except when making crosscuts in entries for an air course, then in
11 that case the distance shall not be greater than seventy feet; but in a
12 special case requiring it, the state mine inspector may, in writing,
13 grant permission to go beyond the limit herein mentioned. When
14 the air current is carried to the working face of the room in double
15 room mining, such air current shall be treated as that contemplated
16 in this section. The measurements of the air currents as herein con-
17 templated shall be taken at the bottom of the intake and near the
18 mouth of each split thereof, and also near the working face of the
19 entries; the person in charge of the mine shall be furnished with an
20 anemometer by the owner or lessee of the mine, who shall take the
21 measurements of the air as herein contemplated at least once each
22 week and make a record thereof showing the time and place and
23 when and where measurements were taken, copy thereof shall be re-
24 tained at the office of the mine where operated, and report sent each
25 month to the state mine inspector of the district in which said mine
26 is operated.

[C., '97, § 2488; S., '13, § 2488.]

SEC. 752. Air currents to be split.

1 In every mine the air current shall be split and so conducted that
2 not more than eighty employees at any time shall be employed on or
3 in each split except in case of emergency. But the inspector of the
4 district where the mine is located may in writing grant permission
5 for a greater number not to exceed fifty when the required number
6 of cubic feet of air per minute is properly circulated therein.

[S., '13, § 2488-a.]

SEC. 753. Contrivances for supplying air current.

1 Artificial means of exhaust steam, fans, furnaces or other con-
2 trivances of sufficient capacity shall be kept in operation to supply
3 the air current, but if a furnace is used it shall be so constructed by
4 lining the upcast for a distance for not less than fifty feet or for such
5 greater distance as special cases may be required and determined by
6 the state mine inspector, with indestructible material so that fire
7 can not be communicated to any part of the works.

[S., '13, § 2488-b.]

SEC. 754. Doors in haulage ways—duty of employees.

1 On all haulage ways where doors are maintained to direct the
2 air current, it shall be the duty of the driver or other employees, pass-
3 ing through the same, to see that the same are properly closed.

[S., '13, § 2488-c.]

SEC. 755. Breaks-through in entries.

1 All breaks-through in entries except the last one shall be securely
2 closed and all stoppings in breaks-through except the one next to the
3 last in the entries shall be made with some substantial material so as
4 to securely and completely close the same, and thereby prevent the
5 air from passing through or in any part thereof, which shall be sub-
6 ject to the state mine inspector's approval, who is hereby authorized
7 and empowered to require any change to be made in the material or
8 construction for the purpose of and to reasonably comply with the
9 provisions of law and for the purposes intended. The stoppings in

10 the next to the last break-through in entries may be constructed tem-
11 porarily of some suitable material until one additional break-through
12 has been made, when the temporary stopping shall be replaced with
13 material as by this section contemplated.

[S., '13, § 2488-d.]

SEC. 756. Breaks-through in rooms.

1 All breaks-through in the rooms, except the last one, shall be
2 closed and securely fastened so as to prevent the air from passing
3 through the same, which stoppings shall be of suitable material and
4 subject to the approval of the state mine inspector of the district in
5 which the mine is operated. The mouth or openings of all abandoned
6 rooms shall be securely closed in the manner as provided for perma-
7 nent stoppings in entries and all abandoned works shall be closed in
8 like manner. All breaks-through in entries must be of an area of
9 not less than twenty-five feet and in rooms not less than twenty feet
10 for the purpose of and to accommodate the air current as herein con-
11 templated.

[S., '13, § 2488-e.]

**SEC. 757. Unhealthful conditions—changes ordered—suspension
of work—violation—penalty.**

1 When the state mine inspector finds the air insufficient or the
2 employees working in unsafe or under improper health conditions,
3 he shall at once give notice to the mine owner or his agent or person
4 in charge, and upon failure to make the necessary changes within
5 such reasonable time as said mine inspector may fix, he shall then
6 and there order the employees, except such as may be necessary to
7 correct the defect and make the repairs, to cease work and remain
8 out of the mine until the defects are corrected and the mine put in
9 proper condition, and any person, employer or employee, failing to
10 comply with the order of the state mine inspector relating thereto,
11 shall be deemed guilty of a misdemeanor and upon conviction thereof
12 shall be fined not less than five dollars and not more than one hundred
13 dollars.

[S., '13, § 2488-f.]

SEC. 758. Speaking tubes—signal men.

1 The owner, lessee, operator or person in charge of any mine shall
2 in all mines operated by shaft, slope or drift, where the voice can not
3 be distinctly heard, provide and maintain a metal speaking tube or
4 other adequate means of communication and keep the same in com-
5 plete order from the bottom or interior to the top or exterior, and in
6 all cases where mechanical means are used in any shaft, slope or drift,
7 to hoist or lower employees, the owner, lessee, operator or person in
8 charge of such mine shall keep and maintain a suitable, sober and
9 competent person at the top and bottom in charge of the signals dur-
10 ing such time of lowering and raising the employees, who shall be and
11 remain on duty for at least thirty minutes before and after the usual
12 hours for beginning and stopping the ordinary work of the mine.

[C., '97, § 2489; S., '13, § 2489.]

SEC. 759. Safety appliances and regulations.

1 In all shafts where the employees are raised and lowered by ma-
2 chinery or otherwise, there shall be provided a good and sufficient
3 brake on the drum, so adjusted that it may be operated by the engineer
4 without leaving his post at the levers. Flanges shall be so attached
5 or arranged to the sides of the drum of any engine used, with a clear-
6 ance of not less than four inches when the whole rope is wound on
7 the drum. The ends of the hoisting cables shall be well secured on
8 the drum and at least two and one-half laps of the same shall remain
9 on the drum when the cage is at rest at the lowest caging place in
10 the shaft. An index dial or indicator shall be so arranged to show
11 at all times the true position of the cages in the shaft, which shall be
12 so attached to the machinery as to furnish constant information and
13 guidance to the engineer; and all cages used in any shaft shall be
14 equipped with good safety catches and must be suspended between
15 good substantial guides, the cages so constructed overhead with boiler
16 iron that falling objects can not strike persons being hoisted therein,
17 and at all landings and openings at the top of all shafts there shall
18 be maintained an approved safety gate constructed in such manner
19 as to at all times close the opening or entrance to the shaft when the
20 cage is not at rest at that point, and proper or adequate springs at
21 the top of each slope and a trail or dog attached to each train used
22 therein, and not more than ten persons shall be allowed to descend
23 or ascend in any cage at one time or such less number as may be fixed
24 by the state mine inspector; but no person at any time shall be allowed
25 to ride in the shaft or any cage with a car, tools or other material or
26 when such car, tools or material is on the opposite cage, except when
27 absolutely necessary in the performance of work in the making of
28 repair; and no person shall ride upon a loaded trip while in any part
29 of the mine, except the conductor or person in charge thereof or any
30 person in the performance of his duty.

[S., '13, § 2489-1a.]

SEC. 760. Speed and use of cages.

1 Cages on which employees are riding shall not be lifted or
2 lowered at a rate of speed greater than four hundred feet per minute,
3 and no cage having any unstable or self-dumping platform or device
4 shall be used for the carriage of employees or material other than
5 coal or mineral unless the same is provided with some convenient de-
6 vice by which the cage platform can be securely locked when employees
7 are being conveyed thereon.

[S., '13, § 2489-2a.]

SEC. 761. Engineers—competency—duties.

1 The owner, lessee or operator or any person in charge of any
2 mine shall not place in charge of any engine in and around the mine
3 any but competent and sober engineers who shall not permit any per-
4 son but those designated to handle, operate, or interfere with it or
5 any part of the machinery except such as may be necessary in making
6 proper and needed repairs, or an apprentice, and then only when the
7 engine or machinery is not in use in hoisting or lowering employees
8 or hoisting coal or mineral; and no person shall be permitted to talk
9 to the engineer while in the performance of his duty in hoisting or
10 lowering employees, coal or mineral. There shall be placed in plain

11 view of the engineer while at his post of duty at some conspicuous
 12 point, a code of signals as by this chapter provided, and which shall
 13 be in like manner placed at the top and bottom of each shaft, slope
 14 or drift; and it shall be the duty of the engineer at least once each
 15 day to carefully inspect all of the machinery and apparatus under
 16 his charge and carefully note all of its parts, and if any defects appear
 17 which will endanger the life or limb of any employee in the use thereof
 18 he shall cease operating the machinery until the defects are corrected.
 19 No person but the engineer shall be allowed in the engine room except
 20 on business connected with the operation of the mine or to repair
 21 machinery, and in such case shall immediately retire therefrom when
 22 the work is completed or business transacted.

[S., '13, § 2489-3a.]

SEC. 762. Code of signals.

1 In all mines operated by shaft, slope or drift where machinery
 2 is used in the operation of the plant, the following code of signals
 3 shall be used between the engineer and other employees for the pur-
 4 pose of operation:

- 5 1. One ring or whistle shall signify to hoist coal or empty cage;
 6 and also to stop when the cage is in motion.
- 7 2. Two rings or whistles shall signify to lower cage.
- 8 3. Three rings or whistles shall signify that employees are com-
 9 ing up; when return signal or one ring or whistle is received from the
 10 engineer employees shall then be permitted to enter the cage, but not
 11 before, when one ring or whistle shall be given to start.
- 12 4. Four rings or whistles shall signify to hoist slowly; implies
 13 danger.
- 14 5. Five rings or whistles shall signify accident within the mine
 15 and a call for stretcher and supplies.
- 16 6. Six rings or whistles shall call for a reversal of the fan.
- 17 7. From top to bottom one ring or whistle shall signify all ready,
 18 get on cage.
- 19 8. Two rings or whistles from top to bottom shall signify send
 20 away empty cage, which shall be answered from the bottom with one
 21 ring or whistle, and the cage may then be moved.
- 22 9. But the owner, lessee or operator in charge of such mine may,
 23 with written consent of the state mine inspector, add to this code of
 24 signals in his discretion when deemed necessary for the efficiency of
 25 the mine or the safety of the employees, but any addition thereto shall
 26 be posted as by this act provided for the information of the engineer
 27 and employees.

[S., '13, § 2489-4a.]

SEC. 763. Caps—timbers—props.

1 The owner, lessee, operator or person in charge of any mine shall
 2 at all times keep a sufficient supply of caps and timbers to be used as
 3 props or otherwise, convenient and ready for use and shall send such
 4 caps, timber and props down when requested and deliver them to the
 5 places where needed.

[S., '13, § 2489-5a.]

SEC. 764. Material for tamping.

1 In all mines where coal is blasted from the solid, the owner,
2 lessee, operator or person in charge shall furnish sand, soil or clay to
3 be used for tamping which shall be delivered to the employee and
4 placed at a convenient distance from the working places ready for use,
5 and so as not to obstruct the employee in the performance of his
6 ordinary duties as a workman; and in such work no person shall be
7 permitted to use any substance or material other than sand, soil or
8 clay for tamping.

[S., '13, § 2489-6a.]

SEC. 765. Sprinkling of roadways.

1 The owner, operator, lessee or person in charge of any mine shall
2 not permit the accumulation of dust upon and along the roadways;
3 and where the roadway is dry and dusty shall cause the same to be
4 sprinkled at least once each week and as much oftener as conditions
5 may require.

[S., '13, § 2489-7a.]

SEC. 766. Stables—location—construction—use.

1 The owner, lessee, operator or person in charge of any mine shall
2 not be allowed to locate a stable at a point in any mine where the air
3 current supplied to the employees passes through such place and in no
4 case shall such stable be located without first having given notice to
5 the state mine inspector, who shall determine the suitability of the
6 place proposed for the location of the stable in any mine in this state,
7 and if approved shall consent thereto in writing; a copy thereof shall
8 be retained and filed in the office of the inspector of mines of the dis-
9 trict where the mine is located. The material used in the construction
10 of the stables herein contemplated shall, as near as reasonably prac-
11 ticable, be incombustible and such stables shall not be used as a place
12 for storing, or any inflammable material stored therein, except such
13 hay as may be reasonably necessary for one day's use.

[S., '13, § 2489-8a.]

SEC. 767. Gasoline and engines—hand fire extinguishers.

1 No gasoline engine, except gasoline haulage motors where the
2 exhaust is properly cared for, or supplies of gasoline therefor, shall be
3 located in or near the air current which supplies the employees of any
4 mine with air, but in all cases shall be placed upon the return and
5 located at least twenty feet from any and all traveling ways, but in no
6 case shall any gasoline engine or place for supply of gasoline therefor
7 be located without first having the approval in writing of the state
8 mine inspector, who shall determine the suitability of the location of
9 said engine or supplies. The supply of gasoline required for the opera-
10 tion of said engine shall be kept at the place selected, and shall not
11 exceed twelve gallons at any one time, except that in case of emer-
12 gency such engine may be temporarily placed where needed and the
13 inspector of the district where the mine is located immediately notified
14 thereof, who shall at once proceed to the mine and determine as to
15 the safety of the employees of the mine while the engine is so oper-
16 ated at the place required, and if in his judgment the operation thereof
17 can be continued with reasonable safety to the employees of the mine

18 at the place required, the owner, lessee or person in charge of the mine
 19 may continue the operation thereof while the employees of the mine
 20 are at work until the emergency therefor shall have ceased; otherwise
 21 the inspector shall order the employees, except such as are required to
 22 operate the engine and work connected therewith, to leave the mine
 23 until the same is made safe. At all hoisting shafts, air shafts, escape
 24 shafts and places of exit, boiler and engine rooms, stables in mines and
 25 places where gasoline engines are used, there shall be kept ready for
 26 use at all times at least two good hand fire extinguishers, conven-
 27 iently placed for immediate use when needed.

[S., '13, § 2489-9a.]

SEC. 768. Telephone systems.

1 In all mines where the working parts thereof exceed three thou-
 2 sand feet from the foot of the slope, shaft or the mouth of a drift as
 3 the case may be, a good and substantial telephone system or other like
 4 suitable means of communication shall be maintained from the bottom
 5 to some suitable and convenient point at all times ready for use, which
 6 shall be extended as the works of the mine progress three thousand
 7 feet therefrom.

[S. S., '15, § 2489-10a.]

SEC. 769. Stretchers—blankets—bandages.

1 The owner, operator, or person in charge of any mine shall at all
 2 times keep in readiness for use in case of accident and at the mine at
 3 some convenient place, one good and substantial stretcher for each
 4 fifty employees engaged in the operation of the mine, and proper and
 5 sufficient blankets for each stretcher, together with a sufficient and
 6 reasonable supply of bandages.

[S., '13, § 2489-11a.]

SEC. 770. Annual reports—reports of accidents.

1 The owner, lessee, operator or person in charge of any mine shall
 2 on or before the first day of February in each year send to the office
 3 of the inspector of the district where the mine is located, upon blanks
 4 furnished by the state, a correct return with respect to the year
 5 ending January first of each year, the quantity of coal mined and the
 6 number of persons ordinarily employed at, in and around such mine,
 7 designating the number of persons below and above ground and such
 8 other information as required by such blank. In all cases, the owner,
 9 operator, lessee or person in charge of any mine in this state, upon
 10 the happening of any accident, by which injury occurs to any of the
 11 employees above or below ground, shall immediately report the same
 12 to the state mine inspector of the district in which said mine is
 13 located, which report shall contain a detailed statement of the extent
 14 of the accident, and the manner in which it occurred, which report
 15 shall conform to the standard form of reports, as provided by the state
 16 mine inspector in such cases.

[S. S., '15, § 2489-12a.]

SEC. 771. Foreman or pit boss—duties.

1 It shall be the duty of the mine foreman or pit boss in charge of
 2 any mine or part thereof to make careful inspection of the mine from

3 day to day by himself or assistant and at such other times as in his
4 judgment conditions may require. He shall give such directions and
5 formulate such rules for the guidance of the men employed in the
6 mine as skillful and safe operation of the mine may require. He shall
7 see that the mines are supplied with props of proper lengths, caps and
8 other timbers necessary to securely prop the roof of such mine and
9 the rooms wherein the men are employed, and such material shall be
10 conveniently placed for the use of the miners. He shall keep a careful
11 watch over the ventilating apparatus and airways, together with all
12 of the stoppings, doors and other means of directing the air current.
13 He shall keep a record of the boys under sixteen years of age employed
14 by him during the time of school vacation, showing their ages, names
15 and residence of parents or guardian and character of employment,
16 which record shall be kept at the office of the mines and open for
17 inspection at all reasonable times. He shall examine the escape shaft,
18 manway, the traveling ways leading thereto, or cause them to be
19 examined by his assistant once each day, and written report of the
20 conditions shall be made and filed in the office at the mine, which shall
21 be open for examination at all reasonable times to representatives of
22 the employees and such other persons entitled thereto. A copy of
23 such report shall be sent each month to the state mine inspector of the
24 district in which said mine is operated. If he finds the conditions of
25 the escape shaft, manway or traveling ways impassable or dangerous,
26 he shall immediately notify the employees of the mine thereof, and
27 shall, immediately upon the discovery of the defect, place such obstruc-
28 tions at the defective place as may be reasonably necessary to apprise
29 the employees of the danger.

[S., '13, § 2489-13a.]

SEC. 772. "Mine foreman" defined.

1 The term "mine foreman," as mentioned in this chapter, and
2 the law of this state, shall mean and be construed to be one in charge
3 of the underground workings or department of the mine or any part
4 thereof, either by day or night.

[S., '13, § 2489-14a.]

SEC. 773. Revocation of certificate of mine foreman, pit boss or engineer.

1 In any case where the mine foreman, pit boss, engineer or other
2 person receiving a certificate under the law pertaining to mines and
3 mining within this state shall have wilfully disobeyed the orders of
4 the mine inspector or has been convicted of a misdemeanor as by this
5 chapter provided, his certificate shall be revoked, if the evidence war-
6 rants upon complaint being filed with the board of examiners who shall
7 proceed to hear the case at such time and place as it may determine,
8 which shall be as soon as practicable after the charges are filed and
9 notice by it given to the accused. The board shall have power to
10 subpoena the witnesses and administer oaths and a majority of the
11 board required to determine the questions at issue; the costs incurred
12 shall be taxed to the losing party and collected as in other cases.

[S., '13, § 2489-15a.]

SEC. 774. Duties of miners or other employees.

1 It shall be the duty of each employee to examine his working
2 place upon entering the same and shall not commence to mine or load
3 coal or other mineral until it is made safe. Each miner or other
4 employee employed in a mine shall securely prop and timber the roof
5 of his working place therein and shall obey any order or orders given
6 by the superintendent or mine foreman relating to the width of the
7 working place and to the security of the mine in the part thereof
8 where he is at work. Each miner or other person shall avoid waste of
9 props, caps, timbers and other material and when he has props, caps,
10 timbers or other material not suitable for his purpose he shall place
11 the same at some convenient point near the track, and where the same
12 may be readily seen, and inform the mine foreman or other person in
13 charge, of their being unsuitable for the purpose intended. When
14 drawslate or other like material is over the coal he shall see to it
15 that proper timbers are placed thereunder for his safety before work-
16 ing under the same, and it shall be unlawful and a violation of this
17 chapter for any person working in a mine at any time to leave any
18 of the doors open that direct the air current after he has passed
19 through the same, but shall closely observe after passing through
20 such doors that the same are properly closed.

[S., '13, § 2489-16a.]

SEC. 775. Injury to property—violation of rules and regulations.

1 No workman or other person shall knowingly injure a water
2 gauge, barometer, air course, brattice, equipment, machinery or live
3 stock; obstruct or throw open any airway, handle or disturb any part
4 of the machinery of the hoisting engine of the mine; open a door
5 of a mine and neglect to close it; endanger the mine or those working
6 therein; disobey any order given in pursuance of law or do a wilful act
7 whereby the lives of persons working therein or the security of the
8 mine or the machinery connected therewith may be endangered; and
9 it shall be unlawful for any workmen or person to place any refuse
10 material or any obstruction in any part of the air course or any part
11 of the breaks-through in the entries or rooms other than as by this
12 chapter provided.

[S., '13, § 2489-17a.]

SEC. 776. Use of intoxicants.

1 No person shall go into, at or around a mine or the buildings,
2 tracks or machinery connected therewith while under the influence of
3 intoxicants, and no person shall use, carry or have in his possession,
4 at, in or around the mine or the buildings, tracks or machinery con-
5 nected therewith, any intoxicants.

[S., '13, § 2489-18a.]

SEC. 777. Drill holes—shot examiner.

1 It shall be unlawful for any miner or other person to charge a drill
2 hole with powder or other explosive until the shot examiner shall have
3 first examined the same, and the shot examiner shall forbid the
4 charging of any drill hole with powder or other explosive if in his
5 judgment he believes it would be unsafe to the employees to discharge
6 the shot as herein contemplated; and in any case where the shot

7 examiner forbids the charging of any drill hole as by this section pro-
8 vided, he shall immediately make a cross with chalk markings at the
9 mouth of the hole when condemned and make an entry thereof in a
10 book retained by him for that purpose, stating the name of the person
11 working in such place, the number of drill holes in such place which
12 he forbids being charged with powder or other explosives and the date
13 thereof, which record shall be retained and kept intact for at least one
14 week; and it shall be unlawful for any shot firer or any other person
15 to discharge any shot or blast until it has first been examined; nor
16 shall any person fire a shot or blast which has been condemned by the
17 shot examiner as by this section provided, and in any case when the
18 mine foreman shall have forbidden the charging of any drill hole or
19 the firing of any shot, no person shall be permitted to charge such hole
20 or fire such shot, and if the shot examiner forbids the charging of a
21 hole or the firing of a shot, the mine foreman shall not cause the hole
22 to be charged or the shot fired.

[S., '13, § 2489-19a.]

SEC. 778. Certificate of competency of foreman, pit boss or hoisting engineer.

1 It shall be unlawful for any person to discharge, or attempt to dis-
2 charge, any of the duties of mine foreman, pit boss, or hoisting
3 engineer at any coal mine, employing five or more persons therein,
4 unless he shall hold a certificate of competency for such position as
5 provided in this chapter. But in case of the discharge, resignation, or
6 disability of any person lawfully performing such duties the owner,
7 agent, operator, or managing officer of said mine shall have thirty
8 days within which to secure the services of a certificated person to
9 take the place of the one so discharged, resigned, or disabled; and
10 during such time a competent and capable person, whether certificated
11 as provided in this chapter or not, may be temporarily employed to
12 perform such services.

[S., '13, § 2489-a.]

SEC. 779. How procured.

1 Any person may secure the certificate of competency herein pro-
2 vided for by appearing before the board created by section seven
3 hundred twenty-eight for the examination of state mine inspectors,
4 and submitting to such examination as to his qualifications, or pro-
5 ducing such evidence of service, as required by this chapter.

[S., '13, § 2489-b.]

SEC. 780. Board of examiners to adopt rules—compensation.

1 The board of examiners referred to in the last preceding section
2 shall meet at such times and places, shall adopt such rules, conditions,
3 and regulations, and shall prescribe and conduct such examinations as
4 shall be more efficient to give effect to the spirit and intent of this
5 chapter. The members of said board shall each receive the sum of
6 five dollars per day for every day actually employed in the discharge
7 of the duties imposed herein, together with their actual expenses
8 incurred in the performance of such duties, which expenses shall be
9 itemized and verified as provided by section seven hundred twenty-

10 nine, but they shall not be allowed compensation for more than seventy
11 days in any one year.

[S., '13, § 2489-c.]

SEC. 781. Issuance of certificate.

1 The certificate of competency herein provided shall be issued, first,
2 to any person who shall satisfactorily pass such examination, written
3 or oral, as may be prescribed by said board; second, to any person who
4 shall produce satisfactory evidence that he has, for a period of four
5 years immediately preceding the examination, continuously and cap-
6 ably performed the duties of mine foreman, pit boss, or hoisting
7 engineer as the case may be.

[S., '13, § 2489-d.]

SEC. 782. Fees—certificates recorded.

1 Every person applying for a certificate under this chapter shall
2 pay to said examining board a fee of two dollars, and every successful
3 applicant shall pay to said board an additional fee of two dollars, all
4 of said fees to be accounted for and paid into the state treasury. Each
5 certificate issued under this chapter shall be recorded in the office of
6 the examining board, and shall show the name, age, residence, and
7 years of experience of the person to whom it was issued.

[S., '13, § 2489-e.]

SEC. 783. Penalty.

1 No owner, agent, operator, or managing officer of any coal mine
2 to which this chapter applies shall employ any mine foreman, pit boss,
3 or hoisting engineer who does not hold the certificate herein contem-
4 plated. And any person violating any of the provisions of this section
5 shall be punished by fine not exceeding five hundred dollars, or by
6 imprisonment in the county jail not exceeding six months, or by both
7 fine and imprisonment, in the discretion of the court.

[S., '13, § 2489-f.]

SEC. 784. Scales and weighers—records—payment in money.

1 The owner or operator shall, if the miners are paid by weight,
2 provide the mine with suitable scales of standard make, and require
3 the person selected to weigh the coal delivered from the mine to be
4 sworn before some person authorized to administer oaths, to the effect
5 that he will keep the scales correctly and truly balanced, and accu-
6 rately weigh and a true record keep of each car delivered, which oath,
7 with that of the checkweighman hereinafter provided for, shall be
8 conspicuously displayed with record of weights at the place of weigh-
9 ing, which record shall carry the account of each miner by itself, be
10 open to the inspection at all proper times of miners and all others
11 having a pecuniary interest in the mine, and all damages sustained on
12 account of a failure to weigh and credit to the proper person any coal
13 mined shall be recoverable in an action brought within two years from
14 the time the right thereto accrued, and a knowledge of a violation of
15 this provision by the miner shall not be a defense thereto. The miners
16 employed and working in any mine may furnish a competent check-
17 weighman, who, before entering upon his duties, shall make and sub-
18 scribe to an oath to the effect that he is duly qualified and will

19 faithfully discharge his duties as checkweighman, and he shall at all
20 proper times have access to and the right to examine the scales,
21 machinery or apparatus used in weighing and seeing all measures and
22 weights of coal mined and the accounts kept thereof; but not more
23 than one person on the part of the miners collectively shall have this
24 right, and such examination and inspection shall be so made as to
25 create no unnecessary interference with the use of such scales, ma-
26 chinery or apparatus. The owner or agent shall, where the miner is
27 by contract to be paid by the ton or other quantity, unless otherwise
28 agreed upon in writing, weigh the coal before screening, and the miner
29 shall be credited at the rate of eighty pounds to the bushel and two
30 thousand pounds to the ton, but no payment shall be demanded for
31 sulphur, rock, slate, blackjack, dirt or other impurities which may be
32 loaded or found with the coal. Where ten or more miners are employed,
33 such owner or agent shall not sell, give, deliver or issue, directly or
34 indirectly, to any person employed, in payment for labor due or as
35 advances for labor to be performed, any script, check, draft, order or
36 other evidence of indebtedness payable or redeemable otherwise than
37 in money at the face value, and he shall not compel or in any manner
38 endeavor to coerce any employee to purchase goods or supplies from
39 any particular person, firm, company or corporation; but all wages
40 shall be paid in money upon demand semimonthly, by paying for those
41 earned during the first fifteen days of each month not later than the
42 first Saturday after the twentieth of said month, and for those earned
43 after the fifteenth of each month not later than the first Saturday
44 after the fifth of the succeeding month. A failure or refusal to make
45 payment within five days after demand shall entitle the laborer to
46 recover the amount due him, and one dollar per day additional for each
47 day such payment is neglected or refused, not exceeding the sum due,
48 and in any action therefor the court shall tax as a part of the costs a
49 reasonable attorney fee to plaintiff's attorney.

[C., '97, § 2490; S., '13, § 2490.]

SEC. 785. Penalties.

1 The owner or person in charge of any mine, who shall have or use
2 any scales or other appliances for weighing the output of coal so
3 arranged that false or short weighing may be done thereby, or shall
4 knowingly resort to or employ any means whatever by which the coal
5 is not correctly weighed, reported and recorded as in this chapter
6 provided, or any weighman or checkweighman who shall falsely weigh,
7 report or record the weights of coal, or connive at or consent to such
8 false weighing, reporting or recording, or any such owner or agent
9 who shall fail to comply with the provisions of this chapter, or either
10 of them, or shall obstruct or hinder the carrying out of its require-
11 ments, or anyone who shall compel or shall attempt to compel or
12 coerce any employee of any owner or person operating a mine to
13 purchase goods from any particular person, shall be punished by
14 imprisonment in the county jail not exceeding sixty days, and by a
15 fine not exceeding five hundred dollars; or if any miner, workman or
16 other person shall knowingly injure or interfere with any air course
17 or brattice, or obstruct or throw open doors, or disturb any part of the
18 machinery, or disobey any orders given in carrying out the provisions
19 of this chapter, or ride upon a loaded car or wagon in the shaft or
20 slope, except as herein provided, or do any act whereby the lives and
21 health of the persons or the security of the mines and machinery is

22 endangered, or shall neglect or refuse to securely prop or support the
 23 roof and entries under his control, or neglect or refuse to obey any
 24 order given by the superintendent in relation to the safety of the mine
 25 in that part under his charge and control, he shall be punished by fine
 26 not exceeding one hundred dollars, or imprisonment in the county jail
 27 not exceeding thirty days.

[C., '97, § 2491.]

SEC. 786. Failure to provide for safety of employees.

1 In addition to any and all other remedies, if any owner or person
 2 in charge of any mine shall fail to provide any of the appliances herein
 3 required for the safety of the employees, or the appliances provided do
 4 not conform to the requirements herein specified, or such owner or
 5 agent shall neglect, for twenty days after notice given in writing by
 6 the district mine inspector of such failure to remedy the same, such
 7 inspector may apply to the district court, or any judge thereof, in an
 8 action brought in the name of the state, for a writ of injunction to
 9 restrain the working of the mine with more persons at the same time
 10 than are necessary to make the improvements needed, save as may be
 11 required to prevent waste, until such appliances have been supplied,
 12 and in case an injury happens to those engaged in work because of
 13 such failure, the same shall be held culpable negligence.

[C., '73, § 1568; C., '97, § 2492.]

SEC. 787. Purity of oil—provisions as to illumination.

1 Only pure animal or vegetable oil or other means for illuminating
 2 purposes equally as safe and free from smoke or offensive odor shall be
 3 used in any mine in this state; and for the purpose of determining the
 4 purity of oils the state board of health shall fix a standard of purity
 5 of the said oils and establish regulations for testing the same, and
 6 when so determined and established shall be recognized by all of the
 7 courts of this state. And in any case where any material, substance
 8 or other means of illumination is used for illuminating purposes as
 9 by this section contemplated any refuse part thereof remains after
 10 use which gives off any gas or offensive odor shall by the person using
 11 it be removed from the mine at the end of his day's work.

[C., '97, § 2493; S., '13, § 2493.]

SEC. 788. Penalty.

1 Any person, firm or corporation either by themselves, agents or
 2 employees selling or offering to sell for illuminating purposes in any
 3 mine in this state any adulterated or impure oil, or oil not recognized
 4 by the state board of health as suitable for illuminating purposes or
 5 other substance to be used for illuminating purposes not equally as
 6 safe and free from smoke or offensive odor as oils contemplated by this
 7 and the preceding section, shall be deemed guilty of a misdemeanor
 8 and upon conviction thereof shall be fined not less than twenty-five
 9 dollars or more than one hundred dollars for each offense; and any
 10 mine owner, lessee, operator or employee thereof who shall knowingly
 11 use, or any mine owner, lessee, or operator who shall knowingly per-
 12 mit to be used, for illuminating purposes in any mine in this state,
 13 any impure or adulterated oil or any oil or other means of illuminating,
 14 the use of which is forbidden by this and the preceding section, shall,

15 upon conviction thereof, be fined not less than five dollars or more than
16 twenty-five dollars.

[C., '97, § 2494; S., '13, § 2494.]

SEC. 789. Inspector may order changes not covered by statute—petition—burden of proof—contempt—penalty.

1 In all cases arising when not covered by statute it is found neces-
2 sary that some change, improvement or device is required to reason-
3 ably protect the life, health or limb of the employees of any mine or
4 works connected therewith, and the owner, lessee, operator or person
5 in charge, fails or refuses to make the change or the improvement or
6 supply the device needed within a reasonable time after written notice
7 thereof having been given by the inspector of the district within the
8 district where the mine is located, the inspector shall file a verified
9 petition with the clerk of the district court of the county where the
10 mine is located setting out the facts and thereupon give five days'
11 notice to the accused in the same manner as original notices are given
12 and served, stating the time and place and the name of the judge
13 before whom the case will be tried, who shall hear the evidence offered
14 by either party, and when and where the defaulting party shall be
15 required to appear at the time and place mentioned in the notice
16 which may be at any place convenient for the judge in the judicial
17 district. The proceedings shall be entitled the state of Iowa as plain-
18 tiff and the owner, operator or person in charge as defendant, who
19 shall plead on or before noon of the fourth day after notice. At the
20 time and place fixed in the notice the case shall be heard and tried by
21 the judge as in equity, who shall make such order as the evidence
22 supports. The burden of proof shall rest upon the plaintiff to show
23 that the order of the inspector was a reasonable one or the proposed
24 change, improvement or device reasonably required for the purpose
25 intended; and if the evidence in the whole case fails to prove that the
26 order as made by the inspector was a reasonable one or the proposed
27 change, improvement or device necessary for the purposes intended,
28 the judge shall forthwith issue a mandatory order for compliance
29 therewith, and enter the same of record in the district court of the
30 county in which the hearing is had or the mine in controversy located.
31 If the defendant has failed to comply with the order made by the
32 judge, such defendant may be charged with contempt of court, and
33 upon conviction thereof be fined not to exceed five hundred dollars and
34 committed to the county jail until such fine is paid. The clerk of the
35 district court where such petition has been filed shall issue subpoenas
36 at the request of either party, and witnesses shall be required to
37 respond thereto as in other cases, and it shall be a part of the county
38 attorney's official duty to represent the plaintiff in all matters per-
39 taining to the proceedings. Pending such proceedings, the judge may,
40 if in his judgment it is deemed advisable for the safety of the em-
41 ployees, order the mine closed until such changes are made as have
42 been directed by him.

[S., '13, § 2494-a.]

SEC. 790. Applicable.

1 In all cases the penalties as provided by sections seven hundred
2 eighty-five and seven hundred eighty-six shall apply to this chapter,
3 except when otherwise herein provided.

[S., '13, § 2494-b.]

SEC. 791. Inspection by oil inspector.

1 It shall be the duty of an inspector of petroleum products to
2 inspect and test all oil offered for sale, sold, or used for illuminating
3 purposes in coal mines in this state, and for such purpose he may
4 enter upon the premises of any person. If upon test and examination
5 the oil shall meet the requirements made and provided by the state
6 board of health, he shall brand, over his own official signature and
7 date, the barrel or vessel holding the same with the words "Approved
8 for illuminating coal mines." Should it fail to meet such require-
9 ments, he shall brand it over his official signature and date, "Rejected
10 for illuminating coal mines." All inspection shall be made within this
11 state, and paid for by the person for whom the inspection is made at
12 the rate of ten cents per barrel or vessel, which charge shall be a lien
13 on the oil inspected, and be collected by the inspector. Each inspector
14 shall be governed in all things respecting his record, compensation,
15 expenses, and returns to the treasurer of state and secretary of state
16 as provided in sections nine hundred two and nine hundred three. It
17 shall be the duty of the inspector whenever he has good reason to
18 believe that oil is being sold or used in violation of the provisions of
19 this chapter to make complaint to the county attorney of the county in
20 which the offense was committed, who shall forthwith commence pro-
21 ceedings against the offender in any court of competent jurisdiction.
22 All reasonable expenses for analyzing suspected oil shall be paid by the
23 owner of the oil whenever it is found that he is selling or offering to
24 sell impure oil in violation of the provisions of this chapter. Such
25 expenses may be recovered in a civil action, and in criminal proceed-
26 ings such expenses shall be taxed as part of the costs.

[S., '13, § 2495-a.]

SEC. 792. Shot examiners—proof of competency.

1 In all mines, where the coal is blasted from the solid, competent
2 persons shall be employed to examine all shots, before they are
3 charged, said examiners to have the power to prohibit the charging
4 and firing of any shot which, in their judgment is unsafe. Before
5 entering upon the discharge of their duties, said examiners shall give
6 proof of their competency to the state mine inspector of the district
7 in which the mine, where they are employed, is located, and said
8 inspector shall certify to the operator of each mine the persons who
9 have given proof of their competency to act in the capacity of shot
10 examiners, the state mine inspector to have the power to refuse to
11 give permission to any person to act as shot examiner who, in his judg-
12 ment, is not sufficiently competent; or he may revoke the permission
13 granted, should it appear that a shot examiner is negligent, or careless
14 in the performance of his work.

[S., '13, § 2495-b.]

SEC. 793. Provisions applicable.

1 The provisions of this chapter shall apply only to coal mines.

[C., '97, § 2496.]

SEC. 794. Transportation of powder into coal mines.

1 No person, firm or corporation shall be permitted to transport,
2 carry or convey, by any electrical process whatever, any powder or

3 other explosives into any coal mine where twenty or more persons are
4 employed therein until after the coal miners and other employees have
5 ceased their work and have departed from the mines.

[S., '13, § 2496-a.]

SEC. 795. Storage of powder—what permitted.

1 No operator or other person in charge of any coal mine, shall
2 suffer or permit under any circumstances the storing of powder, or
3 other explosives, in any coal mine except as follows: Each miner shall
4 be permitted to have in his separate and individual possession at one
5 time not more than two kegs containing twenty-five pounds of powder
6 each, and other explosives sufficient for one day's use. Such powder,
7 or other explosives, shall be kept by the miner in a wooden or metallic
8 box or boxes securely locked, and said boxes shall be kept at a reason-
9 able distance from the track; nor shall black powder and high explo-
10 sives be kept in the same box.

[S., '13, § 2496-b.]

SEC. 796. Supply for following day—where desposited.

1 It shall not be construed as storing powder, as defined in the pre-
2 ceding section, to deposit the powder, or other explosives, at the end
3 of the electrical or mechanical haulage at the face of the mine for the
4 following day's use; provided that it is transported, conveyed or depos-
5 ited in conformity with the provisions of section seven hundred
6 ninety-four.

[S., '13, § 2496-c.]

SEC. 797. Transportation and delivery—by whom.

1 The transportation and delivery of all powder and other explo-
2 sives in said coal mines shall be done by the operator or by men em-
3 ployed by him for that purpose.

[S., '13, § 2496-d.]

SEC. 798. Penalty.

1 Any person, firm or corporation violating any of the provisions of
2 the four preceding sections shall be guilty of a misdemeanor and upon
3 conviction shall be fined in any sum not exceeding one hundred dollars,
4 or be imprisoned in the county jail not exceeding thirty days.

[S., '13, § 2496-e.]

CHAPTER 2.

GYPSUM MINES.

SECTION 799. Escape and air shafts—contiguous mines.

1 The owner or person in charge of any gypsum mine operated by
2 shaft or one having a slope or drift opening in which five or more men
3 are employed shall construct and maintain at least two distinct open-
4 ings, which in shaft mines hereafter constructed shall be separated by
5 not less than three hundred feet and in slope or drift mines by not
6 less than two hundred feet in breadth through which, in every shaft

7 or slope mine, ingress and egress at all times shall be unobstructed and
 8 free from water. All escape shafts hereafter constructed shall have
 9 stairs at an angle of not more than sixty degrees in descent, with a
 10 stairway not less than two feet in width, kept in safe condition, with
 11 proper landings at easy and convenient distances apart and adequate
 12 means of escape from mines now in operation. He shall provide all air
 13 shafts with fans for ventilating purposes, and no combustible material
 14 shall be allowed to be or remain between any escape shaft and hoisting
 15 shaft, nor shall any building hereafter erected be located within two
 16 hundred feet of an escape shaft without written permission from the
 17 state inspector. Where two or more mines are connected underground
 18 the several owners may, by agreement, use the hoisting shaft or slope
 19 of one mine as an escape for the other. No escape shaft shall be
 20 located or constructed without first giving notice to, and obtaining the
 21 approval in writing of the state mine inspector.

[S., '13, § 2496-f.]

SEC. 800. Ventilation—air measurement—inspection.

1 The owner or person in charge of any mine shall provide and
 2 maintain, whether the mine be operated by shaft, slope or drift, an
 3 amount of ventilation of not less than one hundred cubic feet of air
 4 per minute for each person, nor less than five hundred cubic feet of
 5 air per minute for each mule or horse employed therein, which shall
 6 be so circulated throughout the mines as to dilute, render harmless
 7 and expel all noxious and poisonous gases in all working parts of the
 8 same. But in no case shall the air current be a greater distance than
 9 sixty feet from the working face, except when making crosscuts in
 10 entries for air courses; then, in that case, the distance shall not be
 11 greater than seventy feet; but the state mine inspector may, in writ-
 12 ing, grant permission to go beyond the limit herein mentioned, when
 13 the conditions are such in a special case as to require it. When the
 14 mine inspector shall find the air insufficient, or men working under
 15 unsafe conditions, he shall at once give notice to the mine owner or his
 16 agent or person in charge, and, upon the failure to make the necessary
 17 changes within a reasonable time, to be fixed by him, he may order
 18 the men out, to remain out until the mine is put in proper condition.

[S., '13, § 2496-h.]

SEC. 801. Speaking tubes—safety appliances—engineers—props.

1 The owner or person in charge of any mine shall in all mines
 2 operated by shaft or slope, where the voice can not be distinctly
 3 heard, provide and maintain a metal speaking tube or other means of
 4 communication, kept in complete order from the bottom or interior to
 5 the top or exterior, also a sufficient safety catch and proper cover
 6 overhead on all cages, and an adequate brake to all drums or other
 7 devices used for lowering or hoisting persons, an approved safety gate
 8 at the top of each shaft, springs at the top of each slope, and a trail
 9 attached to each train used therein. He shall not knowingly place in
 10 charge of any engine used in or about the operation of the mines any
 11 but experienced, competent and sober engineers, who shall have the
 12 same qualifications as are required of hoisting engineers at coal mines,
 13 and who shall not allow anyone but those designated for that purpose
 14 to handle or in any way interfere with it or any part of the machinery,
 15 nor shall more than ten persons be allowed to descend or ascend in any

16 cage at one time, or such less number as may be fixed by the state mine
17 inspector, nor anyone but the conductor on a loaded car or cage. He
18 shall at all times keep a sufficient supply of timber to be used as props,
19 convenient and ready for use, and shall send such props down when
20 required and deliver them to the places where needed.

[S., '13, § 2496-i.]

SEC. 802. Violation—writ of injunction.

1 In addition to any and all other remedies if any owner or person
2 in charge of any mine shall fail to provide the requirements herein
3 specified, or such owner or agent neglect for twenty days after notice
4 given in writing by the state mine inspector of such failure to remedy
5 the same, such inspector may apply to the district court or any judge
6 thereof in an action brought in the name of the state for a writ of
7 injunction to restrain the working of the mine with more persons at
8 the same time than are necessary to make the improvements needed,
9 save as may be required to prevent waste, until such appliances have
10 been provided, and in case an injury happens to those engaged in the
11 work because of such failure, the same shall be held culpable negli-
12 gence on the part of the operator of the mine.

[S., '13, § 2496-j.]

SEC. 803. Duties and powers state mine inspector.

1 It is hereby made the duty of the state mine inspector to enforce
2 the provisions of this chapter. He shall have the right to enter any
3 gypsum mine under the provisions of this chapter, at any time, but
4 shall not unnecessarily interfere with the working of any mine, nor
5 shall more than six months intervene between examinations of any
6 such mine.

[S., '13, § 2496-k.]

SEC. 804. Fatal accidents—reports.

1 Every person in charge of a mine under the provisions of this
2 chapter shall, within twenty-four hours after a fatal accident happens
3 to any employee in or around the mine, report the same to the coroner
4 of the county in which the mine is operated and to the state mine
5 inspector.

[S., '13, § 2496-l.]

SEC. 805. Maps—surveys—abandoned mines.

1 The owner, operator, lessee or person in charge of any gypsum
2 mine shall make or cause to be made an accurate map or plan of such
3 mine, drawn to a scale not more than two hundred feet to the inch,
4 on which shall appear the name of the state, county and township in
5 which the mine is located, the designation of the mine, the name of the
6 company or owner, operator, lessee or person in charge, the certificate
7 of the mining engineer or surveyor as to the accuracy and date of the
8 survey, the north point and the scale to which the drawing is made.
9 Every such map or plan shall correctly show the surface boundary
10 lines of the rights pertaining to each mine and all sections or quarter
11 section lines or corners within the same; the lines of town lots or
12 streets; the tracks or sidetracks of all railroads, the location of all
13 wagon roads, rivers, streams, ponds, reservations made of gypsum and

14 mineral. For the underground workings said map shall show all
15 shafts, slopes, tunnels or other opening to the surface or to the work-
16 ings of a continuous mine; all excavations, entries, rooms and cross-
17 cuts; the location of the escape ways, and of the fan or furnace or
18 other means of ventilation and the direction of air currents and the
19 location of permanent pumps, hauling engines, engine planes, aban-
20 doned works, fire walls and standing water. A separate and similar
21 map drawn to the same scale in all cases shall be made of each and
22 every seam of gypsum operated in any mine in the state. A separate
23 map shall also be made of the surface whenever the surface buildings,
24 lines or objects are so numerous as to obscure the details of the mine
25 workings if drawn upon the same sheet with them and in such case the
26 surface map shall be drawn upon transparent cloth or paper so it can
27 be laid upon the map of the underground workings and thus truly indi-
28 cate the local relation of lines and objects on the surface to the excava-
29 tion of the mine, together with any other principal workings of the
30 mines. Each map shall also show, by profile drawing and measure-
31 ment, the last one hundred fifty feet approaching the boundary lines,
32 showing the rise and dip of the seam. The original or true copies of
33 all such maps shall be kept at the office of the mine and true copies
34 thereof shall also be furnished the state mine inspector for the district
35 in which said mine is located within thirty days after the completion
36 of the same. The maps so delivered to the inspector shall be the
37 property of the state and shall remain in the custody of the said
38 inspector during his term of office and be delivered to his successor in
39 office. They shall be kept at the office of the inspector and be open to
40 examination to all persons interested in the same. But such examina-
41 tion shall only be made in the presence of the inspector or his office
42 assistant, and he shall not permit any copies of the same to be made
43 without the written consent of the operator or the owner of the prop-
44 erty, except as herein and otherwise provided. An accurate extension
45 of the last preceding survey of every mine in active operation shall be
46 made once in every twelve months prior to July first of every year and
47 the result of such survey with the date thereof shall be promptly and
48 accurately entered upon the original map and a true, correct and accu-
49 rate copy of said extended map shall be forwarded to the inspector of
50 mines in the district in which said mine is located so as to show all
51 changes in plan of new work in the mine, and all extension of the old
52 workings to the most advanced face or boundary of said workings
53 which have been made since the last preceding survey, and the parts
54 of the mine abandoned or worked out after the last preceding survey
55 shall be clearly indicated and shown by colorings, which copy must be
56 delivered to the inspector of mines within thirty days after the last
57 survey is made. When any gypsum mine is worked out or is about to
58 be abandoned or indefinitely closed, the owner, operator, lessee or
59 person in charge of the same shall make or cause to be made a com-
60 plete extended map of said mine and the result of the same shall be
61 duly extended on all maps of the mine and copies thereof so as to show
62 all excavations and the most advanced workings of the mine and their
63 exact relation to the boundary of section lines on the surface, and
64 deliver to the inspector a copy of the completed map. The state
65 inspector of mines shall order a survey to be made of the workings of
66 any mine and the result to be extended on the maps of the same and
67 the copies thereof whenever in his judgment the safety of the work-
68 men, the support of the surface, the conservation of the property or

69 the safety of the adjoining mine requires it; and if not made by the
 70 owner, operator, lessee or person in charge when ordered by the
 71 inspector it shall be made or caused to be made by the inspector and
 72 paid for by the state and the amount collected from the owner, oper-
 73 ator, lessee or person in charge as other debts are collected.

[S., '13, § 2496-m.]

SEC. 806. Violation—penalties.

1 Any owner or person in charge of any gypsum mine who shall
 2 fail to comply with the provisions of this chapter, or either of them,
 3 or shall hinder or obstruct the carrying out of any of the requirements
 4 of this chapter shall be punished by imprisonment in the county jail
 5 not exceeding sixty days or by a fine not exceeding five hundred dol-
 6 lars; or if any miner, workman or other person knowingly injure or
 7 interfere with any air course or brattice, or obstruct or throw open
 8 doors or disturb any part of the machinery, or disobey any order given
 9 in carrying out the provisions of this chapter whereby the lives and
 10 health of the persons, or the security of the mines and machinery is
 11 endangered, or shall neglect or refuse to securely prop any entries
 12 under his control, or refuse to obey any order given by the superin-
 13 tendent in relation to the safety of the mine or that part of the mine
 14 under his charge or control, he shall be punished by a fine not exceed-
 15 ing one hundred dollars or imprisonment in the county jail not exceed-
 16 ing thirty days.

[S., '13, § 2496-n.]

CHAPTER 3.

WORKMEN'S COMPENSATION.

Part I.

SECTION 807. Employers—employees—exceptions.

1 *a Presumption—employees excepted.* Except as by this chapter
 2 otherwise provided, it shall be conclusively presumed that every em-
 3 ployer as defined by this chapter has elected to provide, secure and
 4 pay compensation according to the terms, conditions, and provisions
 5 of this chapter for any and all personal injuries sustained by an
 6 employee arising out of and in the course of the employment; and in
 7 such cases the employer shall be relieved from other liability for
 8 recovery of damages or other compensation for such personal injury,
 9 unless by the terms of this chapter otherwise provided; but this chap-
 10 ter shall not apply to any household or domestic servant, farm or other
 11 laborer engaged in agricultural pursuits, nor persons whose employ-
 12 ment is of a casual nature. The provisions of this chapter shall not
 13 apply as between a municipal corporation, city or town and any per-
 14 son or persons receiving any benefits under, or who may be entitled
 15 to, benefits from any "firemen's pension fund" or "policemen's pen-
 16 sion fund" of any municipal corporation, city or town.

17 *b Compulsory.* Where the state, county, municipal corporation,
 18 school district, cities under special charter or commission form of
 19 government is the employer, the terms, conditions and provisions of

20 this chapter for the payment of compensation and amount thereof for
21 such injury sustained by an employee of such employer shall be exclu-
22 sive, compulsory and obligatory upon both employer and employee.

23 *c Rejection of terms—reasons for.* An employer having the
24 right under the provisions of this chapter to elect to reject the terms,
25 conditions and provisions thereof and who in such case exercises the
26 right in the manner and form by this chapter provided, such employer
27 shall not escape liability for personal injury sustained by an employee
28 of such employer when the injury sustained arises out of and in the
29 usual course of the employment because:

30 1. The employee assumed the risks inherent in or incidental to
31 or arising out of his or her employment, or the risks arising from the
32 failure of the employer to provide and maintain a reasonably safe
33 place to work, or the risks arising from the failure of the employer
34 to furnish reasonably safe tools or appliances, or because the employer
35 exercised reasonable care in selecting reasonably competent employees
36 in the business.

37 2. That the injury was caused by the negligence of the coem-
38 ployee.

39 3. That the employee was negligent unless and except it shall
40 appear that such negligence was wilful and with intent to cause the
41 injury; or the result of intoxication on the part of the injured party.

42 4. *Negligence presumed—burden of proof—notices of election to*
43 *reject—presumption on failure to give notice.* In actions by an em-
44 ployee against an employer for personal injury sustained arising out
45 of and in the course of the employment where the employer has elected
46 to reject the provisions of this chapter, it shall be presumed that the
47 injury to the employee was the direct result and growing out of the
48 negligence of the employer; and that such negligence was the prox-
49 imate cause of the injury; and in such cases the burden of proof shall
50 rest upon the employer to rebut the presumption of negligence.

51 Every such employer shall be conclusively presumed to have
52 elected to provide, secure and pay compensation to employees for in-
53 juries sustained arising out of and in the course of the employment
54 according to the provisions of this chapter, unless and until notice in
55 writing of an election to the contrary shall have been given to the
56 employees by posting the same in some conspicuous place at the place
57 where the business is carried on, and also by filing notice with the
58 Iowa industrial commissioner with return thereon by affidavit show-
59 ing the date that notice was posted as by this chapter provided. But
60 any employer beginning business after the taking effect of this chap-
61 ter and giving notice at once of his desire not to come under the pro-
62 visions of this chapter, shall not be considered as under its provisions;
63 but such employer shall not be relieved of the payment of compensa-
64 tion as by this chapter provided until thirty days after the filing of
65 such notice with the Iowa industrial commissioner, which notice shall
66 be substantially in the following form:

67 EMPLOYERS' NOTICE TO REJECT.

68 To the employees of the undersigned, and the Iowa industrial com-
69 missioner:

70 You and each of you are hereby notified that the undersigned
71 rejects the terms, conditions and provisions to provide, secure and
72 pay compensation to employees of the undersigned for injuries re-
73 ceived as provided in chapter three, title five, and elects to pay
74 damages for personal injuries received by such employee under
75 the common law and statutes of this state modified by subdivisions

76 one, two, three and four of section eight hundred seven of said chap-
77 ter.

78 Signed.....

79 State of Iowa, }
80 County. }ss:

81 The undersigned being first duly sworn deposes and says that a
82 true, correct and verbatim copy of the foregoing notice was on the
83 day of, 19....., posted at
84 (State fully place where posted.)

85
86 Subscribed and sworn to before me by, this
87 day of, 19.....

88
89 Notary Public.

90 The employer shall keep such notice posted in some conspicuous
91 place which shall apply to the employees subsequently employed by
92 the employer with the same force and effect and to the same extent
93 and in like manner as employees in the employ at the time the notice
94 was given.

95 Where the employer and employee have not given notice of an
96 election to reject the terms of this chapter, every contract of hire
97 express or implied, shall be construed as an implied agreement be-
98 tween them and a part of the contract on the part of the employer to
99 provide, secure and pay, and on the part of the employee to accept
100 compensation in the manner as by this chapter provided for all per-
101 sonal injuries sustained arising out of and in the course of the em-
102 ployment.

[S., '13, § 2477-m; 37 G. A., ch. 418, § 1.]

SEC. 808. Wilful injury—intoxication.

1 No compensation under this chapter shall be allowed for an in-
2 jury caused:

3 By the employee's wilful intention to injure himself or to wil-
4 fully injure another; nor shall compensation be paid to an injured
5 employee if injury is sustained where intoxication of the employee
6 was the proximate cause of the injury.

[S., '13, § 2477-m1.]

SEC. 809. Rights of employee—notice to reject.

1 *a Exclusive of other rights—presumption—notice.* The rights
2 and remedies provided in this chapter for an employee on account of
3 injury shall be exclusive of all other rights and remedies of such em-
4 ployee, his personal or legal representatives, dependents or next of
5 kin, at common law or otherwise, on account of such injury; and all
6 employees affected by this chapter shall be conclusively presumed to
7 have elected to take compensation in accordance with the terms, con-
8 ditions and provisions hereof until notice in writing shall have been
9 served upon his employer, and also on the Iowa industrial commis-
10 sioner, with return thereon by affidavit showing the date upon which
11 notice was served upon the employer.

12 *b Rejection—procedure—oath—form—undue influence.* In the
13 event such employee elects to reject the terms, conditions and pro-
14 visions of this chapter, the rights and remedies thereof shall not apply
15 where an employee brings an action or takes proceedings to recover
16 damages or compensation for injuries received growing out of and in

17 the course of his employment, except as otherwise provided by this
 18 chapter; and in such actions where the employee has rejected the terms
 19 hereof the employer shall have the right to plead and rely upon any and
 20 all defenses, including those at common law, and the rules and defenses
 21 of contributory negligence, assumption of risk and fellow servant shall
 22 apply and be available to the employer as by statute authorized unless
 23 otherwise provided in this chapter. But if an employee sustains an
 24 injury as the result of the employer's failure to furnish or failure to
 25 exercise reasonable care to keep or maintain any safety device re-
 26 quired by statute or rule, or violation of any of the statutory pro-
 27 visions or rules and regulations now or hereafter in force relating
 28 to safety of employees, the doctrine of assumed risk in such case
 29 growing out of the negligence of the employer shall not apply or be
 30 available as defensive matter to such offending party. The notice
 31 required to be given by an employee shall be substantially in the fol-
 32 lowing form:

EMPLOYEES' NOTICE TO REJECT.

33 To and the Iowa industrial commissioner:

34 (Name of employer.)

35 You and each of you are hereby notified that the undersigned
 36 hereby elects to reject the terms, conditions and provisions of chapter
 37 three, title five, of the code, for the payment of compensation as pro-
 38 vided thereby, and elects to rely upon the common law as modified by
 39 section eight hundred nine of said chapter for the right to recover for
 40 personal injury which I may receive, if any, growing out of and arising
 41 from the employment while in line of duty for my employer above
 42 named.

43 Dated this day of, 19.....

44 Signed.....

45 State of Iowa, }
 46 County. }ss:

47 The undersigned being first duly sworn deposes and says that the
 48 written notice was on the day of, 19.....,
 49 served on the within named employer of the undersigned by delivering
 50 to a true, correct and verbatim copy thereof.

51 (Name of person serving.)

52 Subscribed and sworn (or affirmed) to before me by the said
 53 this day of, 19.....

54 Notary Public.

55 In any case where an employee or one who is an applicant for
 56 employment elects to reject the terms, conditions and provisions of
 57 this chapter, he shall, in addition to the notice required by subdivision
 58 b of this section, state in an affidavit to be filed with said notice who,
 59 if any person, requested, suggested, or demands of such person to
 60 exercise the right to reject the provisions of this chapter. And if
 61 request, suggestion, or demand has been made of such employee by
 62 any person, such employee shall give and state the name of the person
 63 who made the request, suggestion, or demand, and all of the circum-
 64 stances relating thereto, the date and place when and where made,
 65 and persons present, and if it be found that the employer of such
 66 employee, or an employer to whom an applicant for employment, or
 67 any person a member of the firm, association, corporation, or agent
 68 or official of such employer, made a request, suggestion or demand of

72 such employee or applicant for employment to reject the terms, con-
 73 ditions and provisions of this chapter, such request, suggestion or
 74 demand, if made under such conditions, shall be conclusively presumed
 75 to have been sufficient to have unduly influenced such employee or an
 76 applicant for employment to exercise the right to reject the terms of
 77 this chapter, and the rejection made under such circumstances shall
 78 be conclusively presumed to have been procured through fraud and
 79 thereby fraudulently procured, and such rejection shall be null and
 80 void and of no effect.

81 No person interested in the business of such employer, financially
 82 or otherwise, shall be permitted to administer the oath to the affidavit
 83 required in case an employee or applicant for employment elects to
 84 exercise the right to reject the provisions of this chapter. And the
 85 person administering such oath in making such affidavit, shall care-
 86 fully read the notice and affidavit to such person making such rejec-
 87 tion, and shall explain that the purpose of the notice is to bar such
 88 person from recovering compensation in accordance with the schedule
 89 and terms of this chapter in the event that he sustains an injury in
 90 the course of such employment; all of which shall be shown by cer-
 91 tificate of the person administering the oath herein contemplated.
 92 The Iowa industrial commissioner, or any person acting for such com-
 93 missioner, shall refuse to file the notice and affidavit, unless such no-
 94 tice, affidavit and certificate fully, and in detail, comply with the
 95 requirements hereof. And if such rejection, affidavit and certificate
 96 is found insufficient for any cause, it shall be returned by mail or
 97 otherwise to the person who executed the instrument.

[S., '13, § 2477-m2.]

SEC. 810. Tenure of election.

1 *a Until provisions complied with.* When the employer or em-
 2 ployee has given notice in compliance with this chapter electing to
 3 reject the terms thereof such election shall continue and be in force
 4 until such employer or employee shall thereafter elect to come under
 5 the provisions of this chapter as is provided in subdivision *b* of this
 6 section.

7 *b Notice—how filed.* When an employer or employee rejects the
 8 terms, conditions or provisions of this chapter, such party may at any
 9 time thereafter elect to waive the same by giving notice in writing
 10 in the same manner required of the party in electing to reject the
 11 provisions of this chapter, which shall become effective when filed
 12 with the Iowa industrial commissioner.

[S., '13, § 2477-m3.]

SEC. 811. Liability of employer after election to reject.

1 Where the employer and employee elect to reject the terms, con-
 2 ditions and provisions of this chapter, the liability of the employer
 3 shall be the same as though the employee had not rejected the terms,
 4 conditions and provisions thereof.

[S., '13, § 2477-m4.]

SEC. 812. Subsequent election to reject—security for compensation.

1 An employer having come under this chapter, who thereafter
 2 elects to reject the terms, conditions and provisions thereof, shall not

3 be relieved from the payment of compensation to such employee who
4 sustains an injury in the course of the employment before the election
5 to reject becomes effective; and in such cases the employer shall be
6 required to secure the payment of any compensation due or that may
7 become due to such workman, subject to the approval of the Iowa
8 industrial commissioner.

[S., '13, § 2477-m5.]

SEC. 813. Liability of other than employer.

1 Where an employee coming under the provisions of this chapter
2 receives an injury for which compensation is payable under this chap-
3 ter and which injury was caused under circumstances creating a legal
4 liability in some person other than the employer, to pay damages in
5 respect thereof:

6 *a Proceedings against both parties.* The employee or beneficiary
7 may take proceedings both against that person to recover damages
8 and against the employer for compensation, but the amount of the
9 compensation to which he is entitled under this chapter shall be re-
10 duced by the amount of damages recovered.

11 *b Indemnity—subrogation.* If the employee or beneficiary in
12 such case recovers compensation under this chapter, the employer by
13 whom the compensation was paid or the party who has been called
14 upon to pay the compensation, shall be entitled to indemnity from the
15 person so liable to pay damages as aforesaid, and shall be subrogated
16 to the rights of the employee to recover therefor.

[S., '13, § 2477-m6.]

SEC. 814. Contract to relieve not operative.

1 No contract, rule, regulation or device whatsoever shall operate
2 to relieve the employer, in whole or in part, from any liability created
3 by this chapter except as herein provided.

[S., '13, § 2477-m7.]

SEC. 815. Notice of injury—form—failure to give.

1 Unless the employer or representative of such employer shall have
2 actual knowledge of the occurrence of an injury, or unless the em-
3 ployee or some one on his behalf, or some of the dependents or some
4 one on their behalf, shall give notice thereof to the employer within
5 fifteen days of the occurrence of the injury, then no compensation shall
6 be paid until and from the date such notice is given or knowledge
7 obtained; but if notice is given or the knowledge obtained within
8 thirty days from the occurrence of the injury, no want, failure or
9 inaccuracy of a notice shall be a bar to obtaining compensation, unless
10 the employer shall show that he was prejudiced by such want, defect
11 or inaccuracy, and then only to the extent of such prejudice; but if
12 the employee or beneficiary shall show that his failure to give prior
13 notice was due to mistake, inadvertence, ignorance of fact or law, or
14 inability, or to the fraud, misrepresentation or deceit of another or
15 to any other reasonable cause or excuse, then compensation may be
16 allowed, unless and then to the extent only that the employer shall
17 show that he was prejudiced by failure to receive such notice; but,
18 unless knowledge is obtained or notice given within ninety days after
19 the occurrence of the injury, no compensation shall be allowed. No
20 form of notice shall be required, but may substantially conform to
21 the following form:

FORM OF NOTICE.

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To

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You are hereby notified that on or about the day of,
 19....., personal injury was sustained by.....
 while in your employ at.....

(Give name and place employed and point where located when injury occurred.)

and that compensation will be claimed therefor.

Signed.....

but no variation from this form of notice shall be material if the notice
 is sufficient to advise the employer that a certain employee, by name,
 received an injury in the course of his employment on or about a speci-
 fied time at or near a certain place. Notice served upon one upon
 whom an original notice may be served in civil cases shall be a com-
 pliance with this section.

The notice required to be given to the employer may be served
 by any person over sixteen years of age, who shall make return upon
 a copy of the notice, properly sworn to, showing the date of service
 where and upon whom served, but no special form of the return of
 service of the notice shall be required. It shall be sufficient if the
 facts therefrom can be reasonably ascertained. The return of service
 may be amended at any time.

[S., '13, § 2477-m8.]

SEC. 816. Compensation schedule.

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If any employee has not given notice to reject the terms, condi-
 tions and provisions of this chapter, or has given such notice and
 waived the same as by this chapter provided, and the employer has
 not rejected the terms, conditions and provisions of this chapter or
 has given such notice and waived the same and the employee receives
 a personal injury arising out of and in the course of the employment,
 compensation shall be paid as herein provided.

a The compensation provided for in this chapter shall be paid
 in accordance with the schedule unless otherwise provided.

b At the time of the injury and thereafter during the disability,
 but not exceeding four weeks of incapacity, the employer, if so re-
 quested by the employee, or anyone for him, or if so ordered by the
 court or Iowa industrial commissioner, shall furnish reasonable sur-
 gical, medical and hospital services, and supplies therefor, not exceed-
 ing one hundred dollars; provided, however, that in exceptional cases,
 an application may be made in writing to the Iowa industrial com-
 missioner for additional surgical, medical and hospital services, and
 supplies therefor, in which case a copy of such application shall be
 mailed to the employer or his insurer. If such application is approved
 by the commissioner, then the employer shall furnish such additional
 services and supplies for such period and in such amount as the Iowa
 industrial commissioner shall order, but in no event to exceed one
 hundred dollars.

c Where the injury causes death the compensation under this
 chapter shall be as follows:

The employer shall, in addition to any other compensation, pay
 the reasonable expense of the employee's last sickness and burial not
 to exceed one hundred dollars. If the employee leaves no dependents
 this shall be the only compensation.

d If death results from the injury, the employer shall pay the
 dependents of the employee wholly dependent upon his earnings for

32 support at the time of the injury, a weekly payment equal to sixty per
33 cent of his average weekly wages, but not more than fifteen dollars
34 nor less than six dollars per week for a period of three hundred weeks.

35 *e* If the employee leaves dependents only partially dependent
36 upon his earnings for support at the time of the injury, the weekly
37 compensation to be paid as aforesaid shall be equal to the same pro-
38 portion of the weekly payments for the benefit of persons wholly
39 dependent as the amount contributed by the employee to such partial
40 dependents bears to the annual earnings of the deceased at the time
41 of the injury. When weekly payments have been made to an injured
42 employee before his death, the compensation to dependents shall begin
43 from the date of the last of such payments, but shall not continue
44 more than three hundred weeks from the date of the injury.

45 *f* Where injury causes death to an employee, a minor, whose earn-
46 ings were received by the parent, the compensation to be paid the
47 parent shall be two-thirds of the amount provided for payment in
48 subdivision *d* of this section.

49 *g* No compensation shall be paid for an injury which does not
50 incapacitate the employee for a period of at least two weeks from
51 earning full wages; but this provision shall not apply to those in-
52 juries resulting in disability partial in character and permanent in
53 quality and compensated according to the schedule found in paragraph
54 *j* of this section. Should such incapacity extend beyond a period of
55 two weeks, compensation shall begin on the fifteenth day after the
56 injury; but if the period of incapacity extends beyond the thirty-fifth
57 day following the date of injury, then the compensation for the fifth
58 week of incapacity shall be increased by adding thereto an amount
59 equal to two-thirds of the weekly compensation; if the period of inca-
60 pacity extends beyond the forty-second day following the date of in-
61 jury, then the compensation for the sixth week of incapacity shall
62 be increased by adding thereto an amount equal to two-thirds of the
63 weekly compensation; if the period of incapacity extends beyond the
64 forty-ninth day following the date of injury, then the compensation
65 for the seventh week of incapacity shall be increased by adding thereto
66 an amount equal to two-thirds of the weekly compensation; if the
67 period of incapacity extends beyond the forty-ninth day following the
68 date of injury, then the compensation thereafter shall be only the
69 weekly compensation provided for in this chapter.

70 *h* For injury producing temporary disability, sixty per cent of
71 the average weekly wages received at the time of injury, subject to
72 a maximum compensation of fifteen dollars and a minimum of six
73 dollars per week; but if at the time of injury the employee receives
74 wages less than six dollars per week, then he shall receive the full
75 amount of wages per week. This compensation shall be paid during
76 the period of such disability, not, however, beyond three hundred
77 weeks.

78 *i* For disability total in character and permanent in quality, sixty
79 per cent of the average weekly wages received at the time of the injury,
80 subject to a maximum compensation of fifteen dollars per week, and
81 a minimum of six dollars per week; but if at the time of injury, the
82 employee receives wages less than six dollars per week, then he shall
83 receive the full amount of wages per week. This compensation shall
84 be paid during the period of such disability, not, however, beyond four
85 hundred weeks.

- 86 *j* For disability partial in character and permanent in quality,
 87 the compensation shall be as follows:
 88 For all cases included in the following schedule, compensation
 89 shall be paid as follows, to wit:
 90 1. For the loss of a thumb, sixty per cent of daily wages during
 91 forty weeks.
 92 2. For the loss of a first finger, commonly called the index finger,
 93 sixty per cent of daily wages during thirty weeks.
 94 3. For the loss of a second finger, sixty per cent of daily wages
 95 during twenty-five weeks.
 96 4. For the loss of a third finger, sixty per cent of daily wages
 97 during twenty weeks.
 98 5. For the loss of a fourth finger, commonly called the little
 99 finger, sixty per cent of daily wages for fifteen weeks.
 100 6. The loss of the first phalange of the thumb or of any finger
 101 shall be considered to be equal to the loss of one-half of such thumb
 102 or finger and compensation shall be one-half of the amounts above
 103 specified.
 104 7. The loss of more than one phalange shall be considered as
 105 the loss of the entire finger or thumb; but in no case shall the amount
 106 received for more than one finger exceed the amount provided in
 107 this schedule for the loss of a hand.
 108 8. For the loss of a great toe, sixty per cent of daily wages dur-
 109 ing twenty-five weeks.
 110 9. For the loss of one of the toes other than the great toe, sixty
 111 per cent of daily wages during fifteen weeks.
 112 10. The loss of the first phalange of any toe, shall be considered
 113 to be equal to the loss of one-half of such toe and the compensation
 114 shall be one-half of the amount above specified.
 115 11. The loss of more than one phalange shall be considered as
 116 the loss of the entire toe.
 117 12. For the loss of a hand, sixty per cent of daily wages dur-
 118 ing one hundred fifty weeks.
 119 13. The loss of two-thirds of that part of an arm between the
 120 shoulder joint and the elbow joint shall constitute the loss of an
 121 arm, and the compensation therefor shall be sixty per cent of the
 122 average weekly wages during two hundred twenty-five weeks.
 123 14. For the loss of a foot, sixty per cent of daily wages during
 124 one hundred twenty-five weeks. ✓
 125 15. The loss of two-thirds of that part of a leg between the hip
 126 joint and the knee joint shall constitute the loss of a leg, and the
 127 compensation therefor shall be sixty per cent of the average weekly
 128 wages during two hundred weeks.
 129 16. For the loss of an eye, sixty per cent of daily wages during
 130 one hundred weeks.
 131 17. For the loss of a second or last eye, the other eye having
 132 been lost prior to the injury resulting in the loss of the second eye,
 133 sixty per cent of the average weekly wages during two hundred
 134 weeks.
 135 18. For the loss of hearing in one ear, sixty per cent of daily
 136 wages during fifty weeks, and for the loss of hearing in both ears,
 137 sixty per cent of the daily wages during one hundred fifty weeks.
 138 19. The loss of both arms, or both hands, or both feet, or both
 139 legs, or both eyes, or of any two thereof, caused by a single accident,
 140 shall constitute total and permanent disability, to be compensated
 141 according to the provisions of paragraph *i* of this section.

142 20. In all other cases in this, clause *j*, the compensation shall
 143 bear such relation to the amount stated in the above schedule as the
 144 disability bears to those produced by the injuries named in the sched-
 145 ular. Should the employee and employer be unable to agree upon the
 146 amount of compensation to be paid in cases not specifically covered
 147 by the schedule, the amount of compensation shall be settled accord-
 148 ing to provisions of this chapter as in other cases of disagreement.

149 21. The amounts specified in this, paragraph *j*, and subdivisions
 150 thereof, shall be subject to the same limitations as to maximum and
 151 minimum weekly payments as are stated in paragraph *h* of this sec-
 152 tion.

[S., '13, § 2477-m9; 37 G. A., ch. 270, §§ 1-7; 38 G. A., ch. 220, §§ 1-6.]

SEC. 817. Death—payment of unpaid balance.

1 Where an employee is entitled to compensation under this chap-
 2 ter for an injury received and death ensues from any cause not re-
 3 sulting from the injury for which he was entitled to the compensation,
 4 payments of the unpaid balance for such injury shall cease and all
 5 liability therefor shall terminate.

[S., '13, § 2477-m10.]

SEC. 818. Examination of injured employee—suspension of compensation.

1 After an injury, the employee, if so requested by his employer,
 2 shall submit himself for examination at some reasonable time and
 3 place within the state and as often as may be reasonably requested, to
 4 a physician or physicians authorized to practice under the laws of this
 5 state, without cost to the employee; but if the employee requests, he
 6 shall, at his own cost, be entitled to have a physician or physicians of
 7 his own selection present to participate in such examination. The
 8 refusal of the employee to submit to such examination shall deprive
 9 him of the right to compensation during the continuance of such
 10 refusal. When a right to compensation is thus suspended no com-
 11 pensation shall be payable in respect to the period of suspension.

[S., '13, § 2477-m11.]

SEC. 819. Contributions from employees—no reduction of employer's responsibility.

1 The compensation herein provided shall be the measure of the
 2 responsibility which the employer has assumed for injuries or death
 3 that may occur to employees in his employment subject to the pro-
 4 visions of this chapter, and it shall not be in anywise reduced by con-
 5 tribution from employees.

[S., '13, § 2477-m12.]

SEC. 820. Trustees for minors and those physically and mentally incapacitated—reports.

1 When an injured minor, employee or a minor dependent, or one
 2 physically or mentally incapacitated from earning, is entitled to com-
 3 pensation under this chapter, payment shall be made to a trustee
 4 appointed by the judge of the district court for each county in the
 5 respective judicial districts, and the money coming into the hands of
 6 said trustee shall be expended for the use and benefit of the person

7 entitled thereto under the direction and orders of the judge during
8 term time or in vacation. The trustee shall make annual reports to
9 the court of all money or property received and expended for each
10 person, and for services rendered as trustee shall be paid such com-
11 pensation by the county as the court may direct by written order
12 directed to the auditor of the county, who shall issue a warrant there-
13 for upon the treasurer of the county in which the appointment is
14 made. If the judge making the appointment deems it advisable, a
15 trustee may be appointed to serve for more than one county in the
16 district and the expenses shall be paid ratably by each county accord-
17 ing to the amount of work performed in each county. The trustee
18 shall qualify and give bond in such amount as the judge may direct,
19 which may be increased or diminished from time to time as the court
20 may deem best.

21 In case a deceased employee for whose injury or death compen-
22 sation is payable leaves surviving him an alien dependent or depend-
23 ents residing outside the United States, the consul general, consul, vice
24 consul or consular agent of the nation of which the said dependent or
25 dependents are citizens shall be regarded as the exclusive representa-
26 tive of such dependent or dependents. Such consular officer, or his
27 duly appointed representative residing in the state of Iowa, shall have
28 the exclusive right in behalf of such nonresident dependent or depend-
29 ents to present, prosecute, litigate, adjust and settle all claims for
30 compensation provided by this chapter, and to receive for distribution
31 to such dependent or dependents all compensation arising hereunder.

32 Such consular officer, or his duly appointed representative, shall
33 file with the industrial commissioner a copy of his exequatur or evi-
34 dence of his authority, and the industrial commissioner shall notify
35 such consular officer or his said representative of the death of all
36 employees leaving alien dependent or dependents residing in the coun-
37 try of said consular officer so far as same shall come to his knowledge,
38 but nothing herein shall abridge the right of any relative of such
39 decedent who may reside in the state of Iowa to take out administra-
40 tion upon the estate of such decedent, and as such receive the funds
41 due said estate; and before said consular agent or his representative
42 shall have the right to receive funds due the estate of said decedent
43 he shall regularly take out administration in the county where said
44 decedent last resided, and give bond as administrator for the protec-
45 tion of such funds as provided by law.

[S., '13, § 2477-m13; 37 G. A., ch. 270, § 8; 37 G. A., ch. 336,
§ 1.]

SEC. 821. Commutation of future payments—discretion of court.

1 In any case where the period of compensation can be determined
2 definitely either party may, upon due notice to the other, apply to any
3 judge of the district court for the county in which the accident
4 occurred for an order commuting future payments to a lump sum; but
5 no judge of the district court shall consider any such application until
6 there is indorsed thereon by the Iowa industrial commissioner his
7 approval of such commutation, and no order shall be issued by such
8 judge contrary to the indorsement of said industrial commissioner.
9 And such judge may make such an order when it shall be shown to his
10 satisfaction that the payment of a lump sum in lieu of future monthly
11 or weekly payments, as the case may be, will be for the best interest
12 of the person or persons receiving or dependent upon said compensa-

13 tion, or that the continuance of periodical payments will, as compared
14 with lump sum payments, entail undue expense or undue hardship
15 upon the employer liable therefor. Where the commutation is ordered,
16 the court shall fix the lump sum to be paid at an amount which will
17 equal the total sum of the probable future payments capitalized at
18 their present value and upon the basis of interest, calculated at five
19 per cent per annum. Upon the payment of such amount the employer
20 shall be discharged from all further liability on account of such injury
21 or death, for which said compensation was being paid, and be entitled
22 to a duly executed release, upon filing which the liability of such
23 employer under any agreement, award, finding or judgment shall be
24 discharged of record.

[S., '13, § 2477-m14; 37 G. A., ch. 270, § 9.]

SEC. 822. Schedule of computation.

1 The basis for computing compensation provided for in this chap-
2 ter shall be as follows:

3 *a* The compensation shall be computed on the basis of the annual
4 earnings which the injured person received as salary, wages or earn-
5 ings in the employment of the same employer during the year next
6 preceding the injury.

7 *b* Employment by the same employer shall be taken to mean em-
8 ployment by the same employer in the grade in which the employee
9 was employed at the time of the accident, uninterrupted by absence
10 from work due to illness or any other unavoidable cause.

11 *c* The annual earnings, if not otherwise determinable, shall be
12 regarded as three hundred times the average daily earnings in such
13 computation.

14 *d* If the injured person has not been engaged in the employment
15 for a full year immediately preceding the accident, the compensation
16 shall be computed according to the annual earnings which persons of
17 the same class in the same or in neighboring employments of the same
18 kind have earned during such period. And if this basis of computa-
19 tion is impossible, or should appear to be unreasonable, three hundred
20 times the amount which the injured person earned on an average of
21 those days when he was working during the year next preceding the
22 accident, shall be used as a basis for the computation.

23 *e* In case of injured employees who earn either no wages or less
24 than three hundred times the usual daily wage or earnings of the
25 adult day laborer in the same line of industry of that locality, the
26 yearly wage shall be reckoned as three hundred times the average daily
27 local wages of the average wage earner in that particular kind or
28 class of work; or if information of that class is not obtainable, then
29 of the class or kindred or similarity in the same general employment
30 in the same neighborhood.

31 *f* As to employees employed in a business or enterprise which
32 customarily shuts down and ceases operation during a season of each
33 year, the number of working days which it is the custom of such busi-
34 ness or enterprise to operate each year shall be used instead of three
35 hundred as a basis for computing the annual earnings; provided the
36 minimum number of days which shall be used as a basis for the year's
37 work shall not be less than two hundred.

38 *g* Earnings, for the purpose of this section, shall be based on the
39 earnings for the number of hours commonly regarded as a day's work
40 for that employment, and shall exclude overtime earnings. The earn-

41 ings shall not include any sum which the employer has been accus-
 42 tomed to pay the employee to cover any special expense entailed on
 43 him by the nature of the employment.

44 *h* In computing the compensation to be paid to any employee who,
 45 before the accident for which he claims compensation, was disabled
 46 and drawing compensation under the terms of this act, the compen-
 47 sation for each subsequent injury shall be apportioned according to
 48 the proportion of incapacity and disability caused by the respective
 49 injuries which he may have suffered.

[S., '13, § 2477-m15; 38 G. A., ch. 220, § 7.]

SEC. 823. Terms defined.

1 In this chapter unless the context otherwise requires:

2 *a* "Employer" includes and applies to any person, firm, associa-
 3 tion or corporation, and includes state, counties, municipal corpora-
 4 tions, cities under special charter and under commission form of
 5 government and shall include school districts and the legal repre-
 6 sentatives of a deceased employer. Whenever necessary to give effect
 7 to section eight hundred thirteen, it includes a principal or interme-
 8 diate contractor.

9 *b* "Workman" is used synonymously with "employee," and means
 10 any person who has entered into the employment of, or works under
 11 contract of service, express or implied, or apprenticeship for an em-
 12 ployer, except a person whose employment is purely casual or not for
 13 the purpose of the employer's trade or business or those engaged in
 14 clerical work only, but clerical work shall not include one who may
 15 be subjected to the hazards of the business, or one holding an official
 16 position or standing in a representative capacity of the employer, or
 17 an official elected or appointed by the state, county, school district,
 18 municipal corporation, cities under special charter and commission
 19 form of government; provided that one who sustains the relation of
 20 contractor with any person, firm, association, corporation or the state,
 21 county, school district, municipal corporation, cities under special
 22 charter or commission form of government, shall not be considered
 23 an employee thereof.

24 The term "workman" shall include the singular and plural of
 25 both sexes. Any reference to a workman who has been injured shall,
 26 where the workman is dead, include a reference to his dependents as
 27 herein defined, legal representatives or where the workman is a minor
 28 or incompetent to his guardian or next friend.

29 *c* The following shall be conclusively presumed to be wholly de-
 30 pendent upon a deceased employee:

31 1. The surviving spouse, unless it be shown that the survivor
 32 wilfully deserted deceased without fault upon the part of the deceased;
 33 and if it be shown that the survivor deserted deceased without fault
 34 upon the part of deceased, the survivor shall not be regarded as a
 35 dependent in any degree. No surviving spouse shall be entitled to
 36 the benefits of this chapter unless she shall have been married to the
 37 deceased at the time of the injury, and should the deceased employee
 38 leave no dependent children, and should the surviving spouse remarry,
 39 then all compensation payable to her shall terminate on the date of
 40 such remarriage.

41 2. A child or children under sixteen years of age (and over said
 42 age if physically or mentally incapacitated from earning) whether

43 actually dependent for support or not upon the parent at the time of
44 his or her death.

45 3. A parent of a minor entitled to the earnings of the employee
46 at the time when the injury occurred, subject to provisions of subdivi-
47 sion *f*, section eight hundred sixteen.

48 4. If the deceased employee leaves dependent surviving spouse,
49 the full compensation shall be paid to such spouse; but if the depend-
50 ent surviving spouse dies before payment is made in full, the balance
51 remaining shall be paid to the person or persons wholly dependent, if
52 any, share and share alike. If there be no person or persons wholly
53 dependent, then payment shall be made to partial dependents.

54 5. In all other cases, questions of dependency in whole or in part
55 shall be determined in accordance with the fact as the fact may be at
56 the time of the injury; and in such other cases if there is more than
57 one person wholly dependent, the death benefit shall be equally divided
58 among them, and persons partially dependent, if any, shall receive
59 no part thereof. If there is no one wholly dependent and more than
60 one person partially dependent, the death benefit shall be divided
61 among them according to the relative extent of their dependency; but
62 when a lump sum is paid as contemplated by this chapter, the court
63 or commissioner, in making distribution thereof, shall take into con-
64 sideration the contingent rights of partial beneficiaries or the rights
65 of those who may become such after a wholly dependent child or chil-
66 dren become sixteen years of age.

67 6. Stepparents shall be regarded in this chapter as parents.

68 7. Adopted child or children or stepchild or children shall be re-
69 garded in this chapter the same as if issue of the body.

70 *d* "Injury" or "personal injury" includes death resulting from
71 injury.

72 *e* The words "personal injury arising out of and in the course
73 of such employment" shall include injuries to employees whose serv-
74 ices are being performed on, in or about the premises which are occu-
75 pied, used or controlled by the employer, and also injuries to those
76 who are engaged elsewhere in places where their employer's business
77 requires their presence and subjects them to dangers incident to the
78 business.

79 *f* The words "injury" and "personal injury" shall not include
80 injury caused by the wilful act of a third person directed against an
81 employee for reasons personal to such employee or because of his em-
82 ployment.

83 *g* They shall not include a disease except as it shall result from
84 the injury.

85 *h* The word "court" whenever used in this chapter, unless the
86 context shows otherwise, shall be taken to mean the district court.

[S., '13, § 2477-m16; 37 G. A., ch. 270, §§ 10-12.]

SEC. 824. Insurance against compensation prohibited—penalty.

1 Any contract of employment, relief benefit or insurance or other
2 device whereby the employee is required to pay any premium or pre-
3 miums for insurance against the compensation provided for in this
4 chapter shall be null and void; and any employer withholding from
5 the wages of any employee any amount for the purpose of paying any
6 such premium shall be guilty of a misdemeanor and punishable by a
7 fine not less than ten dollars nor more than fifty dollars for each
8 offense, in the discretion of the court.

9 No employee or beneficiary shall have power to waive any of the
10 provisions of this chapter in regard to the amount of compensation
11 which may be payable to such employee or beneficiary hereunder to
12 whom the chapter applies.

[S., '13, § 2477-m17.]

SEC. 825. Certain contracts respecting claim for injury deemed fraudulent.

1 Any contract or agreement made by any employer or his agent
2 or attorney with any employee or any other beneficiary of any claim
3 under the provisions of this chapter within twelve days after the in-
4 jury shall be presumed to be fraudulent.

[S., '13, § 2477-m18.]

SEC. 826. Attorney's lien—subject to approval.

1 No claim of an attorney at law for services in securing a recovery
2 under this chapter shall be an enforceable lien thereon unless the
3 amount of the same be approved in writing by a judge of a court of
4 record or the Iowa industrial commissioner, which approval may be
5 made in term time or vacation.

[S., '13, § 2477-m20.]

SEC. 827. Applicable to intrastate and interstate commerce.

1 The provisions of this chapter shall apply to employers and em-
2 ployees as defined in this chapter engaged in intrastate commerce and
3 also those engaged in interstate or foreign commerce for whom a rule
4 or method of compensation has been or may be established by the
5 congress of the United States, only to the extent that their mutual
6 connection with intrastate work or foreign commerce shall be clearly
7 separable and distinguishable from interstate or foreign commerce;
8 provided that any such employer and workman of such employer
9 working only in this state may, subject to the approval of the Iowa
10 industrial commissioner, and so far as not forbidden by any act of
11 congress or permitted, voluntarily by written agreement, accept and
12 become bound by the provisions of this chapter in like manner and
13 with the same force and effect in every respect as by this chapter pro-
14 vided for other employers and employees.

[S., '13, § 2477-m21.]

SEC. 828. Payment to employees of state.

1 All valid claims now due or which may hereafter become due
2 employees of the state of Iowa under the provisions of this chapter,
3 shall be paid out of any funds in the state treasury not otherwise
4 appropriated.

[37 G. A., ch. 67, § 1.]

SEC. 829. Auditor to issue warrants.

1 The auditor of state is hereby authorized and directed to draw
2 warrants on the state treasury for any and all amounts due such
3 employees under the provisions of this chapter upon there being filed
4 in his office, either a memorandum of settlement approved by the com-
5 missioner, or of an award made by an arbitration committee, for
6 which no review is pending, or an order of the industrial commis-
7 sioner from which no appeal has been taken, or a judgment of any

8 court of the state, accompanied by a certificate of the Iowa industrial
9 commissioner setting forth the amount of compensation due and the
10 statutory provisions under which the same should be paid.

[37 G. A., ch. 67, § 2.]

SEC. 830. Board of audit not to pass on claims.

1 The provisions found in section two hundred seventy-seven shall
2 not apply to the compensation claims referred to herein.

[37 G. A., ch. 67, § 3.]

SEC. 831. Iowa industrial commissioner—deputy—appointment of term.

1 There is hereby created the office of Iowa industrial commissioner,
2 to be appointed by the governor, by and with the consent of the senate.
3 The term of office of the commissioner shall be six years. An appoint-
4 ment may be made to fill a vacancy or otherwise when the senate is
5 not in session, but shall be acted upon at the next session thereof.

6 The Iowa industrial commissioner shall appoint a deputy, for
7 whose acts he shall be held responsible, who shall hold office during
8 the pleasure of said industrial commissioner. Such appointment shall
9 be made in writing, and must be approved by the executive council
10 of the state of Iowa. The deputy, in the absence or disability of the
11 Iowa industrial commissioner, shall have all of the powers and per-
12 form all of the duties of the industrial commissioner pertaining to
13 his office, and shall receive an annual salary of two thousand dollars,
14 payable in equal monthly installments, out of the state treasury, and
15 in the same manner as are the salaries of other state officials.

[S., '13, § 2477-m22; 37 G. A., ch. 270, § 14.]

SEC. 832. Salary—expenses—office—seal—assistants—accounts—political activity—annual appropriation.

1 The salary and actual necessary expenses of the commissioner
2 shall be paid by the state, and he shall be provided with adequate and
3 necessary office rooms, furniture, equipment, supplies and other neces-
4 saries in the transaction of the business. The salary of the commis-
5 sioner shall be three thousand dollars per annum. The commissioner,
6 by and with the consent of the executive council, may fix the salary
7 and appoint a secretary and other assistants and clerical help as may
8 be required and needed; provided that the salary of the secretary shall
9 not exceed fifteen hundred dollars per annum. The salary and actual
10 personal expense account of the commissioner shall be itemized and
11 sworn to, and filed as other current bills as provided by statute, and
12 warrant therefor shall be issued by the auditor upon the treasurer
13 of the state for the payment thereof at the end of each calendar
14 month; but the expense account may be audited, allowed and paid at
15 the end of each week. The commissioner shall provide himself with
16 a seal, which shall be used to authenticate his orders, decisions and
17 other proceedings deemed necessary, upon which shall be inscribed
18 the words "Iowa Industrial Commissioner's Seal" and the date of
19 organization. All other accounts made by, through or under the com-
20 missioner for salaries and expenditures, unless otherwise by this chap-
21 ter provided, shall be itemized and sworn to by the parties entitled
22 thereto, audited by the commissioner, attested by the secretary, filed
23 as other bills are required by statute, and a warrant shall issue there-

24 for by the auditor of state upon the treasurer, who shall pay the same
 25 out of the funds appropriated for the use of the commissioner as by
 26 this chapter provided. The salaries of all persons under the com-
 27 missioner shall be audited, allowed and paid at the end of each month,
 28 and expense accounts may be audited, allowed and paid at the end of
 29 each week. The commissioner shall have the power to remove the
 30 secretary or any other person appointed to an office by him at any time
 31 the commissioner may see fit.

32 It shall be unlawful for any appointee by the commissioner to
 33 espouse the election or appointment of any candidate for or to any
 34 political office, or contribute to the campaign fund of any political
 35 party, or to the campaign fund of any person who is a candidate for
 36 election or appointment to any political office, and any person per-
 37 forming the duties as an appointee under the commissioner violating
 38 the provisions of this chapter shall be sufficient cause for dismissal
 39 and removal from office.

40 Before entering upon his duties the commissioner shall qualify
 41 by taking the oath of his office, that he will support the constitution
 42 of the United States and of the state of Iowa, and will faithfully and
 43 impartially, without fraud, fear or favor, discharge the duties of his
 44 office incumbent upon him, as provided by the law of the state of Iowa,
 45 to the best of his ability and understanding.

46 There is hereby appropriated out of any money not otherwise
 47 appropriated for the use of the commissioner, as contemplated within
 48 the terms of this chapter or acts amendatory thereof, or other stat-
 49 utes relating to the commissioner, his duties and responsibilities
 50 empowered by law, the sum of twenty thousand dollars annually, and
 51 in addition thereto the executive council shall provide and furnish the
 52 commissioner with such printing as may be necessary in the transac-
 53 tion of the business within the contemplation of law.

[S., '13, § 2477-m23.]

SEC. 833. Powers—rules—witnesses—reports.

1 The commissioner may make rules and regulations not inconsis-
 2 ent with this chapter for carrying out the provisions of the chapter.

3 The employer shall furnish upon request of an injured employee
 4 or dependent or any legal representative acting for such person, a
 5 statement of the earnings, wages, or salary and other matters relating
 6 to such earnings, wages, or salary during the year or part of the year
 7 that such employee was in the employment of such employer for the
 8 year preceding the injury; but not more than one report shall be re-
 9 quired for each on account of any one injury.

10 Process and procedure under this chapter shall be as summary
 11 as reasonably may be.

12 While sitting as an arbitration committee, or when conducting
 13 a hearing upon review, or in the making of any investigation or
 14 inquiry, neither the commissioner nor the arbitration committee shall
 15 be bound by common law or statutory rules of evidence, or by tech-
 16 nical or formal rules of procedure, but may hold such arbitrations or
 17 conduct such hearings and make such investigations and inquiries in
 18 the manner best suited to ascertain the substantial rights of the
 19 parties.

20 The commissioner shall have the power to subpoena witnesses,
 21 administer oaths and to examine such books and records of the parties
 22 to a proceeding or investigation as relate to questions in dispute or

23 under investigation. The fees for attending as a witness before the
24 industrial commissioner shall be one dollar and fifty cents per diem;
25 for attending before an arbitration committee, one dollar per diem;
26 in both cases five cents per mile for traveling to and from the place
27 of hearing. The district court is hereby empowered to enforce by
28 proper proceedings the provisions of this section relating to the attend-
29 ance and testimony of witnesses and the examination of books and
30 records.

31 The deposition of any witness may be taken and used as evidence
32 in any hearing pending before a board of arbitration in workmen's
33 compensation proceeding in connection therewith.

34 Such deposition shall be taken in the same manner as pro-
35 vided for the taking of depositions in the district court, and when
36 so taken shall be admissible in evidence in such hearings in the same
37 manner subject to the same rules governing the admission of evidence
38 in the district court.

39 Application for permission to take depositions in such case shall
40 be filed in the district court of the county wherein the case for arbi-
41 tration shall be heard.

42 The commissioner shall make biennial reports to the governor,
43 who shall transmit the same to the general assembly, in which, among
44 other things, the commissioner shall recommend such changes in the
45 law covered by this chapter as he may deem necessary.

[S., '13, § 2477-m24; 37 G. A., ch. 188, § 1; 37 G. A., ch. 270,
§ 15; 37 G. A., ch. 409, § 1.]

SEC. 834. Compensation agreements—approval.

1 If the employer and the employee reach an agreement in regard
2 to the compensation under this chapter, a memorandum thereof shall
3 be filed with the Iowa industrial commissioner by the employer or
4 employee, and unless the commissioner shall, within twenty days,
5 notify the employer and employee of his disapproval of the agreement
6 by registered letter sent to their addresses as given on the memoran-
7 dum filed, the agreement shall stand as approved and be enforceable
8 for all purposes under the provisions of this chapter. In case the
9 injured employee is a minor, either he or the trustee provided for in
10 section eight hundred twenty may execute the memorandum of agree-
11 ment provided for herein, and may give a valid and binding release
12 for the compensation paid on his account under the terms of this chap-
13 ter. Such agreement shall be approved by said commissioner only
14 when the terms conform to the provisions of this chapter.

[S., '13, § 2477-m25; 37 G. A., ch. 270, § 16.]

SEC. 835. Committee of arbitration.

1 If the employer and the injured employee or representatives or
2 dependents fail to reach an agreement in regard to compensation under
3 this chapter, either party may notify the industrial commissioner, who
4 shall thereupon call for the formation of a committee of arbitration.
5 The arbitration committee shall consist of three persons, one of whom
6 shall be the industrial commissioner, who shall act as chairman. The
7 other two shall be named, respectively, by the two parties. If a va-
8 cancy occurs it shall be filled by the party whose representative is
9 unable to act.

[S., '13, § 2477-m26.]

SEC. 836. Oath of arbitrators.

1 The arbitrators appointed by the parties shall be sworn by the
2 chairman to take the following oath:

3 "I do solemnly swear (or affirm) that I will
4 faithfully perform my duties as arbitrator and will not be influenced
5 in my decision by any feeling of friendship or partiality toward either
6 party.

(Signed) "....."

[S., '13, § 2477-m27.]

SEC. 837. Appointment of arbitrators.

1 It shall be the duty of the industrial commissioner, upon notifi-
2 cation that the parties have failed to reach an agreement, to request
3 both parties to appoint their respective representatives on the com-
4 mittee of arbitration. The commissioner shall act as chairman, and,
5 if either party does not appoint its member on this committee within
6 seven days after notification as above provided, or after a vacancy
7 has occurred, the commissioner shall fill the vacancy and notify the
8 parties to that effect.

[S., '13, § 2477-m28.]

SEC. 838. Powers of committee—hearings—decision.

1 The committee of arbitration shall make such inquiries and inves-
2 tigation as it shall deem necessary. The hearings of the committee
3 shall be in the city, town or place where the injury occurred, if within
4 the state. If the injury occurred outside this state the hearings of
5 the committee shall be held in the county seat of this state which is
6 nearest to the place where the injury occurred unless the interested
7 parties and the Iowa industrial commissioner mutually agree by writ-
8 ten stipulation that the same may be held at some other place. The
9 decision of the committee, together with the statement of evidence
10 submitted before it, its findings of fact, rulings of law and any other
11 matters pertinent to questions arising before it shall be filed with the
12 industrial commissioner. Unless a claim for review is filed by either
13 party within five days from the date of filing the decision with said
14 commissioner, such decision shall be enforceable under the provisions
15 of this chapter.

[S., '13, § 2477-m29; 38 G. A., ch. 220, § 8.]

SEC. 839. Examination by physician—fee—evidence.

1 The industrial commissioner may appoint a duly qualified impar-
2 tial physician to examine the injured employee and make report. The
3 fee for this service shall be five dollars, to be paid by the industrial
4 commissioner, together with traveling expenses, but the commissioner
5 may allow additional reasonable amounts in extraordinary cases. Any
6 physician so examining any injured employee shall not be prohibited
7 from testifying before the Iowa industrial commissioner or any other
8 person, commission or court, as to the results of his examination or
9 the condition of the injured employee.

[S., '13, § 2477-m30.]

SEC. 840. Compensation of arbitrators—costs.

1 The arbitrators named by or for the parties to the dispute shall
2 each receive five dollars as a fee for his services, but the industrial

3 commissioner may allow additional reasonable amounts in extraor-
 4 dinary cases. The fees shall be paid by the employer, who may deduct
 5 an amount equal to one-half of the sum from any compensation found
 6 due the employee. And all other costs incurred in the hearing before
 7 the board of arbitration shall be taxed to the losing party, or an equit-
 8 able apportionment made thereof by the committee according to the
 9 facts.

[S., '13, § 2477-m31.]

SEC. 841. Review—second hearing.

1 If a claim for review is filed, the industrial commissioner shall
 2 hear the parties and may hear evidence in regard to any or all matters
 3 pertinent thereto and may revise the decision of the committee in
 4 whole or in part, or may refer the matter back to the committee for
 5 further findings of fact, and shall file its decision with the records
 6 of the proceedings and notify the parties thereof. No party shall as
 7 a matter of right be entitled to a second hearing upon any question
 8 of fact.

[S., '13, § 2477-m32.]

**SEC. 842. Decrees by district court—award of arbitrators—re-
 view—appeal.**

1 Any party in interest may present a certified copy of an order
 2 or decision of the commissioner, or an award of an arbitration com-
 3 mittee from which no claim for review has been filed within the time
 4 allowed therefor, or a memorandum of agreement approved by the
 5 commissioner, and all papers in connection therewith, to the district
 6 court of the county in which the injury occurred, whereupon said
 7 court shall render a decree in accordance therewith and notify the
 8 parties. Such decree, in the absence of an appeal from the decision
 9 of the industrial commissioner, shall have the same effect and in all
 10 proceedings in relation thereto shall thereafter be the same as though
 11 rendered in a suit duly heard and determined by said court. Upon
 12 the presentation to the court of a certified copy of a decision of the
 13 industrial commissioner, ending, diminishing or increasing a weekly
 14 payment under the provisions of this chapter, the court shall revoke
 15 or modify the decree to conform to such decision.

16 No order or award of an arbitration committee is appealable
 17 direct to the courts, but if any party in interest is aggrieved thereby,
 18 he may within five days from the date thereof apply to the industrial
 19 commissioner for a review of the same by such industrial commis-
 20 sioner in the manner as hereinbefore provided. If any such party is
 21 aggrieved by reason of an order or decree of the Iowa industrial com-
 22 missioner, such party may appeal therefrom to the district court of
 23 Iowa, only in the manner and upon the grounds following:

24 Within thirty days from the date of such order or decree of the
 25 industrial commissioner, the party aggrieved may file an application
 26 in writing with the Iowa industrial commissioner asking for an appeal
 27 from such order or decree, stating generally the grounds upon which
 28 such appeal is sought. In the event such application is filed as here-
 29 inbefore provided, the industrial commissioner shall, within thirty
 30 days from the filing of same, cause certified copies of all documents
 31 and papers then on file in his office in the matter, and a transcript of
 32 all testimony taken therein, to be transmitted with his findings and
 33 order or decree to the clerk of the district court of Iowa in and for

34 that county wherein the injury occurred. The application for such
 35 appeal may thereupon be brought on for hearing before said district
 36 court upon such record by either party on ten days' written notice upon
 37 the other; subject, however, to the provisions of law for a change of
 38 the place of trial or the calling of another judge. The findings of
 39 fact made by the industrial commissioner within his powers shall, in
 40 the absence of fraud, be conclusive, but upon such hearing the court
 41 may confirm or set aside such order or decree of the industrial com-
 42 missioner, if he finds:

- 43 1. That the industrial commissioner acted without or in excess
 44 of his powers; or
- 45 2. That the order or decree was procured by fraud; or
- 46 3. That the facts found by the industrial commissioner do not
 47 support the order or decree.
- 48 4. That there is not sufficient competent evidence in the record
 49 to warrant the industrial commissioner in making the order or decree
 50 complained of.

51 No order or decree of the industrial commissioner shall be set
 52 aside by the court upon other than the grounds just stated.

53 Upon the setting aside of any such order or decree, the court may
 54 recommit the controversy to the industrial commissioner for further
 55 hearing or proceedings, or it may enter the proper judgment upon
 56 the findings, as the nature of the case may demand. Such decree
 57 shall have the same effect and in all proceedings in relation thereto
 58 shall thereafter be the same as though rendered in a suit duly heard
 59 and determined by said court. An abstract of the judgment entered
 60 by the trial court upon the appeal from any order or decree shall
 61 be made by the clerk thereof upon the docket entry of any judgment
 62 which may hereinbefore have been rendered upon it. Such order or
 63 decree and transcript of such abstract may thereupon be obtained for
 64 like entry upon the dockets of the courts of other counties within the
 65 state.

66 Any party in interest who is aggrieved by a judgment entered
 67 by the district court upon the appeal of an order or decree may appeal
 68 therefrom within the time and in the manner provided for in appeal
 69 from the orders, judgments and decrees of the district court of Iowa;
 70 but all such appeals shall be placed on the calendar of the supreme
 71 court and brought to a hearing in the same manner as criminal causes
 72 on such calendar.

73 No fee shall be charged by the clerk of any district court for the
 74 performance of any official service required by this section, except for
 75 the docketing of judgments and for certified copies or transcripts
 76 thereof. In proceedings on appeal from an order or decree, costs as
 77 between the parties shall be allowed or not, in the discretion of the
 78 court.

[S., '13, § 2477-m33; 37 G. A., ch. 270, § 17.]

SEC. 843. Notice—review of payments—place of hearing—duty of court.

- 1 1. Any payment required to be made under this chapter, which
 2 has not been commuted, may be reviewed by the industrial commis-
 3 sioner at the request of the employer or of the employee, and if on
 4 such review the commissioner finds the condition of the employee
 5 warrants such action, he may end, diminish or increase the compen-
 6 sation, subject to the maximum or minimum amounts provided for in

7 this chapter. All hearings upon review by the Iowa industrial com-
 8 missioner under the provisions of this section, or under section eight
 9 hundred forty-one, shall be held at Des Moines, Iowa, unless the inter-
 10 ested parties and the Iowa industrial commissioner mutually agree by
 11 written stipulation that the same may be held at some other place.

12 Upon the presentation to the court of a certified copy of a de-
 13 cision of the industrial commissioner ending, diminishing or increas-
 14 ing a weekly payment under the provisions of this chapter, the court
 15 shall revoke or modify any judgment or decree then on record in his
 16 court to conform to such decision.

17 2. Any notice to be given by the commissioner or court provided
 18 for in this act shall be in writing, but service thereof shall be sufficient
 19 if registered and deposited in the mail, addressed to the last known
 20 address of the parties.

[S., '13, § 2477-m34; 37 G. A., ch. 270, § 18.]

SEC. 844. Fees subject to approval.

1 Fees of attorneys and physicians for services under this chapter
 2 shall be subject to the approval of the industrial commissioner unless
 3 otherwise provided in this chapter.

[S., '13, § 2477-m35.]

SEC. 845. Reports by employers—records—inspection.

1 Every employer shall hereafter keep a record of all injuries, fatal
 2 or otherwise, sustained by his employees in the course of their employ-
 3 ment and resulting in incapacity for a longer period than one day.
 4 Within forty-eight hours, not counting Sundays and legal holidays,
 5 after the employer has knowledge of the occurrence of an accident
 6 resulting in personal injury causing incapacity for a longer period
 7 than one day, a report shall be made in writing by the employer to
 8 the industrial commissioner on blanks to be procured from the com-
 9 missioner for that purpose.

10 Upon the termination of the disability of the injured employee,
 11 or if such disability extends beyond a period of sixty days, at the
 12 expiration of such period, the employer shall make a supplemental
 13 report on blanks to be procured from the commissioner for that pur-
 14 pose. The said reports shall contain the name and nature of the busi-
 15 ness of the employer, the location of the establishment, the name, age,
 16 sex and occupation of the injured employee, and shall state the date
 17 and hour of the accident, the nature and cause of the injury, and such
 18 other information as may be required by the commissioner. Any em-
 19 ployer who refuses or neglects to make the report required by this
 20 section shall be punished by a fine of not more than fifty dollars for
 21 each offense.

22 All books, records and pay rolls of the employers, coming under
 23 this chapter showing or reflecting in any way upon the amount of
 24 wage expenditure of such employers, shall always be open for inspec-
 25 tion by the industrial commissioner, or any of his representatives pre-
 26 senting a certificate of authority from said commissioner for the pur-
 27 pose of ascertaining the correctness of the wage expenditure; the
 28 number of men employed and such other information as may be neces-
 29 sary for the uses and purposes of the commissioner in his administra-
 30 tion of the law. But information obtained within the contemplation
 31 of this chapter shall be used for no other purpose than the informa-
 32 tion of the commissioner or insurance association with reference to

33 the duties imposed upon such commissioner. A refusal on the part of
 34 the employer to submit his books, records or pay rolls for the inspec-
 35 tion of the commissioner, or his authorized representatives presenting
 36 written authority from the commissioner, shall subject the employer
 37 to a penalty of one hundred dollars for each such offense, to be col-
 38 lected by civil action in the name of the state, and paid into the state
 39 treasury.

[S., '13, § 2477-m36; 37 G. A., ch. 270, § 19.]

SEC. 846. Political activity and campaign contributions prohibited—penalty.

1 It shall be unlawful for the commissioner, during his term of
 2 office, to serve upon any committee of any political party or espouse
 3 the election or appointment of any person for any political office or
 4 contribute to any campaign fund of any political party, or to the cam-
 5 paign fund of any person who is a candidate for election or appointed
 6 to any political office. A violation of this section shall be deemed a
 7 misdemeanor and upon conviction shall be fined one hundred dollars.

[S., '13, § 2477-m37.]

SEC. 847. Candidates for commissioner—political promises prohibited—penalty.

1 It shall be unlawful for any person who is a candidate for the
 2 appointment as commissioner to make any promise to another, ex-
 3 pressed or implied, in consideration of any assistance or influence
 4 given or recommendation made that the candidate will, if appointed
 5 as commissioner, vote to appoint such person or one whom he may
 6 recommend to an office within the power of the commissioner to ap-
 7 point. A violation hereof shall be deemed a misdemeanor and upon
 8 conviction therefor shall be fined one hundred dollars.

[S., '13, § 2477-m38.]

SEC. 848. Recommendations of candidates to be in writing—record—public inspection—financial interest prohibited—penalty.

1 All recommendations to the governor of any person asking the
 2 appointment of another as commissioner shall be reduced to writing
 3 signed by the person presenting the same, which shall be filed by the
 4 governor in his office and open at all reasonable times for public inspec-
 5 tion, and all recommendations made by any person to the commis-
 6 sioner for the appointment of another within the power of the commis-
 7 sioner to appoint, shall be reduced to writing, signed by the person
 8 presenting the same and filed by the commissioner and open for public
 9 inspection at all reasonable times and hours. If any person recom-
 10 mending the appointment of another within the contemplation of this
 11 chapter refuse to reduce the same to writing, it shall be the duty of
 12 the person to whom the recommendation is made, to make a brief
 13 memorandum thereof, stating the name of the person recommended
 14 and the name of the person who made the same, which shall be filed
 15 as by this chapter in other cases provided. It shall be unlawful for
 16 the commissioner to be financially interested in any business enter-
 17 prise coming under or affected by this chapter during his term of
 18 office, and if he offend this statute, it shall be sufficient grounds for

19 his removal from office, and in such case the governor shall at once
20 declare the office vacant and appoint another to fill the vacancy.

[S., '13, § 2477-m39.]

SEC. 849. Removal from office—filing of charges—executive council shall hear.

1 The governor shall remove from office the commissioner on the
2 grounds of inefficiency, neglect of duty, or malfeasance in office, upon
3 written charges having been filed with the executive council and sus-
4 tained by proofs; but written notice of such charges, together with a
5 copy thereof, shall be served upon the accused ten days before the
6 time fixed for hearing. The executive council shall have jurisdiction
7 to hear the case, and shall make such finding in accordance with jus-
8 tice and the law. The finding shall be reduced to writing, and report
9 and finding filed with the governor.

[S., '13, § 2477-m40.]

SEC. 850. Insurance of liability.

1 Every employer subject to the provisions of this chapter shall
2 insure his liability thereunder in some corporation, association or
3 organization approved by the state department of insurance. Every
4 such employer shall exhibit on demand of the state insurance depart-
5 ment evidence of his compliance with this section; and if such em-
6 ployer refuses, or neglects to comply with this section, he shall be
7 liable in case of injury to any workman in his employ under the com-
8 mon law as modified by statute, and in the same manner and to the
9 same extent as though such employer had legally exercised his right
10 to reject the compensation provisions of this chapter.

11 Any employer who fails to insure his liability as required herein
12 shall post and keep posted a sign of sufficient size and so placed as to
13 be easily seen by his employees in the immediate vicinity where work-
14 ing, which sign shall read as follows:

15 "NOTICE TO EMPLOYEES.

16 "You are hereby notified that the undersigned employer has
17 failed to insure his liability to pay compensation as required by law,
18 and that because of such failure he is liable to his employees
19 in damages for personal injuries sustained by his employees in the
20 same manner and to the same extent as though he had legally exer-
21 cised his right to reject the compensation provisions of chapter three,
22 title five, of the code.

23 (Signed) "....."

24 Any employer coming under the provisions of this chapter who
25 fails to comply with this section or to post and keep posted the above
26 notice in the manner and form herein required shall be guilty of a
27 misdemeanor.

[S., '13, § 2477-m41; 37 G. A., ch. 270, § 20.]

SEC. 851. Mutual companies—conditions.

1 For the purpose of complying with the foregoing section, groups
2 of employers by themselves or in an association with any or all of
3 their workmen, may form insurance associations as hereafter pro-
4 vided, subject to such reasonable conditions and restrictions as may
5 be fixed by the state insurance department, and membership in such
6 mutual insurance organization as approved, together with evidence of

7 the payment of premiums due, shall be evidence of compliance with
8 the preceding section.

[S., '13, § 2477-m42.]

SEC. 852. Benefit insurance—approval.

1 Subject to the approval of the Iowa industrial commissioner, any
2 employer or group of employers may enter into or continue an agree-
3 ment with his or their workmen to provide a scheme of compensation,
4 benefit or insurance in lieu of the compensation and insurance pro-
5 vided by this chapter; but such scheme shall in no instance provide
6 less than the benefits here secured, nor vary the period of compen-
7 sation provided for disability or for death, or the provisions of this
8 chapter with respect to periodic payments, or the percentage that such
9 payments shall bear to weekly wages, except that the sums required
10 may be increased; and the approval of the Iowa industrial commis-
11 sioner shall be granted, if the scheme provides for contribution by
12 workmen, only when it confers benefits in addition to those required
13 by this chapter commensurate with such contributions.

[S., '13, § 2477-m43.]

SEC. 853. Certificate of approval.

1 Whenever such scheme or plan is approved by the Iowa indus-
2 trial commissioner, he shall issue a certificate to that effect, where-
3 upon it shall be legal for such employer, or group of employers, to
4 contract with any or all of his or their workmen to substitute such
5 scheme or plan for the provisions of this chapter during a period of
6 time fixed by said department.

[S., '13, § 2477-m44.]

SEC. 854. Termination—appeal to district court.

1 Such scheme or plan may be terminated by the Iowa industrial
2 commissioner on reasonable notice to the interested parties if it shall
3 appear that the same is not fairly administered, or if its operation
4 shall disclose latent defects threatening its solvency, or if for any
5 substantial reason it fails to accomplish the purpose of this chapter;
6 but from any such order of said Iowa industrial commissioner the
7 parties affected, whether employer or workman, may, upon the giving
8 of proper bond to protect the interests involved, appeal for equitable
9 relief to the district court of this state.

[S., '13, § 2477-m45.]

**SEC. 855. Maximum commission or compensation for rein-
surance.**

1 No insurer of any obligation under this chapter shall either by
2 himself or through another, either directly or indirectly, charge or
3 accept as a commission or compensation for placing or renewing any
4 insurance under this chapter more than fifteen per cent of the pre-
5 mium charged.

[S., '13, § 2477-m46.]

SEC. 856. Policy requirements.

1 Every policy issued by any insurance corporation, association or
2 organization to assure the payment of compensation under this chap-
3 ter shall contain a clause providing that between any employer and

4 the insurer, notice to and knowledge of the occurrence of injury or
 5 death on the part of the insured shall be notice and knowledge on
 6 the part of the insurer; and jurisdiction of the insured for the pur-
 7 pose of this chapter shall be jurisdiction of the insurer, and the insurer
 8 shall be bound by every agreement, adjudgment, award or judgment
 9 rendered against the insured.

[S., '13, § 2477-m47.]

SEC. 857. Insolvency clause prohibited—lien of insured.

1 No policy of insurance issued under this chapter shall contain
 2 any provision relieving the insurer from payment if the insured be-
 3 comes insolvent or discharged in bankruptcy during the period that
 4 the policy is in operation, or the compensation, or any part of it, is
 5 due and unpaid. Every policy shall provide that the workman shall
 6 have a first lien upon any amount becoming due on account of such
 7 policy to the insured from the insurer, and that in case of the legal
 8 incapacity, inability or disability of the insured to receive the amount
 9 due and pay it over to the insured workman, or his dependents, said
 10 insurer shall pay the same directly to such workman, his agent, or
 11 to a trustee for him or his dependents, to the extent of discharging
 12 any obligation of the insured to said workman or his dependents.

[S., '13, § 2477-m48.]

SEC. 858. Proof of solvency—revocation of approval.

1 Where an employer coming under this chapter furnishes proofs
 2 to the insurance department satisfactory to the insurance department
 3 and Iowa industrial commissioner, of such employer's solvency and
 4 financial ability to pay the compensation and benefits as by this chap-
 5 ter provided and to make such payments to the parties when entitled
 6 thereto, or when such employer deposits with such insurance depart-
 7 ment security satisfactory to such insurance department and the Iowa
 8 industrial commissioner as will secure the payment of such compen-
 9 sation, such employer shall be relieved of the provision of section eight
 10 hundred fifty; provided that such employer shall from time to time,
 11 as may be required by such insurance department and Iowa indus-
 12 trial commissioner, furnish such additional proof of solvency and
 13 financial ability to pay as by this section of this chapter provided.

14 The insurance department and Iowa industrial commissioner
 15 may, at any time, upon reasonable notice to such employer and upon
 16 hearing, revoke for cause any order or approval theretofore made,
 17 as by this chapter provided and within the contemplation of this
 18 section.

[S., '13, § 2477-m49.]

CHAPTER 4.

HEALTH AND SAFETY APPLIANCES.

**SECTION 859. Water-closets—facilities for washing—seats for fe-
 males.**

1 Every manufacturing establishment, workshop or hotel in which
 2 five or more persons are employed, shall be provided with a sufficient
 3 number of water-closets, earth closets or privies for the reasonable

4 use of the persons employed therein, which shall be properly screened
 5 and ventilated and kept at all times in a clean condition and free from
 6 all obscene writing or marking; and such water-closets or privies shall
 7 be supplied in the proportion of at least one to every twenty employees;
 8 and if women or girls are employed in such establishment, the water-
 9 closets, earth closets or privies used by them shall have separate ap-
 10 proaches and be separate and apart from those used by the men.

11 In factories, mercantile establishments, mills and workshops, ade-
 12 quate washing facilities shall be provided for all employees; and when
 13 the labor performed by the employees is of such a character as to re-
 14 quire or make necessary a change of clothing, wholly or in part, by the
 15 employees, there shall be provided a dressing room, or rooms, lockers
 16 for keeping clothing and suitable washing facilities separate for each
 17 sex, and no person or persons shall be allowed to use the facilities
 18 assigned to the opposite sex. A sufficient supply of water suitable for
 19 drinking purposes shall be provided.

20 All employers of females in any mercantile or manufacturing
 21 business or occupation shall provide and maintain suitable seats, when
 22 practicable, for the use of such female employees, at or beside the
 23 counter or work-bench where employed, and permit the use thereof
 24 by such employees to such extent as the work engaged in may reason-
 25 ably admit of. Any neglect or refusal to comply with the provisions
 26 of this section by any employer shall be punished by a fine not exceed-
 27 ing ten dollars.

[C., '97, § 4999; S., '13, § 4999-a1.]

**SEC. 860. Safety appliances—duties of persons in charge—opera-
 tion of dangerous machinery by minors.**

1 It shall be the duty of the owner, agent, superintendent or other
 2 person having charge of any manufacturing or other establishment
 3 where machinery is used, to furnish and supply or cause to be fur-
 4 nished and supplied therein, belt shifters or other safe mechanical
 5 contrivances for the purpose of throwing belts on and off pulleys,
 6 and, wherever possible, machinery therein shall be provided with loose
 7 pulleys; all saws, planers, cogs, gearing, belting, shafting, set screws
 8 and machinery of every description therein shall be properly guarded.

9 Any person owning or operating steam boilers in this state shall
 10 provide the same with steam-gauge, safety-valve and water-gauge,
 11 and keep the same in good order. Any person neglecting so to do
 12 shall be fined not less than fifty nor more than five hundred dollars.

13 If any person run any threshing machine in this state without
 14 having two lengths of tumbling rods next the machine, together with
 15 the knuckles or joints and jacks of the tumbling rods safely boxed
 16 and secured while the machine is running, he shall be fined not less
 17 than ten nor more than fifty dollars for every day or part of day he
 18 shall violate this section.

19 No person under sixteen years of age, and no female under eight-
 20 een years of age, shall be permitted or directed to clean machinery
 21 while in motion. Children under sixteen years of age shall not be
 22 permitted to operate or assist in operating dangerous machinery of
 23 any kind.

[C., '73, § 4064; C., '97, §§ 5025, 5026; S., '13, § 4999-a2.]

SEC. 861. Blowers and pipes for dust and fumes.

1 All persons, companies or corporations operating any factory or
 2 workshop where emery wheels or emery belts of any description, or
 3 tumbling barrels used for rumbling or polishing castings, are used,
 4 shall provide the same with blowers and pipes of sufficient capacity,
 5 placed in such a manner as to protect the person or persons using
 6 same from the particles of dust produced or caused thereby, and to
 7 carry away said particles of dust arising from or thrown off such
 8 wheels, belts or tumbling barrels while in operation, directly to the out-
 9 side of the building, or to some receptacle placed so as to receive or con-
 10 fine such particles of dust; but grinding machines upon which water is
 11 used at the point of grinding contact, and small emery wheels which
 12 are used temporarily for tool grinding, are not included within the
 13 provisions of this section, and the shops employing not more than one
 14 man at such work may, in the discretion of the commissioner of the
 15 bureau of labor of the state, be exempt from the provisions hereof.
 16 Any factory, workshop, printshop or other place where molten metal
 17 or other material which gives off deleterious gases or fumes is kept
 18 or used shall be equipped with pipes or flues so arranged as to give
 19 easy escape to such gases or fumes into the open air, or provided with
 20 other adequate ventilators.

[S., '13, § 4999-a4.]

SEC. 862. Enforcement—penalty—removal of safety appliances.

1 It shall be the duty of the commissioner of the bureau of labor
 2 of the state, and the mayor and chief of police of every city or town,
 3 to enforce the provisions of the three preceding sections. Any per-
 4 son, whether acting for himself or for another or for a copartner-
 5 ship, joint stock company or corporation, having charge or manage-
 6 ment of any manufacturing establishment, workshop or hotel, who
 7 shall fail to comply with the provisions of said sections within thirty
 8 days after being notified in writing to do so, by any one of said officers
 9 whose duty it may be to enforce the provisions of said sections, shall
 10 be punished by a fine not exceeding one hundred dollars or by impris-
 11 onment in the county jail not exceeding thirty days.

12 When any person, in any manufacturing or other establishment
 13 wherein machinery is used and wherein or whereon guards or safety
 14 appliances have been provided, shall remove such guards or safety
 15 appliances from any machine or other equipment or shall so adjust
 16 such guards or safety appliances as to destroy their purpose of pre-
 17 venting bodily injuries, or safeguarding health excepting when it
 18 becomes necessary to remove some or all of the guards, including
 19 springs or pressure bars that may properly come under this chapter,
 20 to enable the employee operating said machine to perform certain
 21 special work that can not be performed with guard, it shall be the
 22 duty of said employee or employer to immediately replace them after
 23 said work has been completed. Any person who may neglect or refuse
 24 to comply with the provisions of this chapter shall be punished by a
 25 fine of not less than five dollars or more than one hundred dollars, or
 26 by imprisonment in the county jail not to exceed thirty days.

[S. S., '15, § 4999-a5.]

SEC. 863. Assumption of risks.

1 In all cases where the property, works, machinery or appliances
 2 of an employer are defective or out of repair, and where it is the

3 duty of the employer from the character of the place, work, machin-
 4 ery or appliances to furnish reasonably safe machinery, appliances or
 5 place to work, the employee shall not be deemed to have assumed the
 6 risk, by continuing in the prosecution of the work, growing out
 7 of any defect as aforesaid, of which the employee may have had knowl-
 8 edge when the employer had knowledge of such defect, except when
 9 in the usual and ordinary course of his employment it is the duty of
 10 such employee to make the repairs, or remedy the defects. Nor shall
 11 the employee under such conditions be deemed to have waived the
 12 negligence, if any, unless the danger be imminent and to such extent
 13 that a reasonably prudent person would not have continued in the
 14 prosecution of the work; but this statute shall not be construed so as
 15 to include such risks as are incident to the employment; and no con-
 16 tract which restricts liability hereunder shall be legal or binding.

[S., '13, § 4999-a3.]

CHAPTER 5.

BOARDS OF ARBITRATION.

SECTION 864. Petition for appointment.

1 When any dispute arises between any person, firm, corporation,
 2 or association of employers and their employees or association of em-
 3 ployees, of this state, except employers or employees having trade
 4 relations directly or indirectly based upon interstate trade relations
 5 operating through or by state or international boards of conciliation,
 6 which has or is likely to cause a strike or lockout, involving ten or
 7 more wage earners, and the parties thereto are unable to adjust the
 8 same, and which does or is likely to interfere with the due and ordi-
 9 nary course of business, or which menaces the public peace, or which
 10 jeopardizes the welfare of the community, either or both parties to
 11 the dispute, or the mayor of the city, or the chairman of the board of
 12 supervisors of the county in which said employment is carried on, or
 13 on petition of any twenty-five citizens thereof, over the age of twenty-
 14 one years, or the commissioner of the bureau of labor, after investi-
 15 gation, may make written application to the governor for the appoint-
 16 ment of a board of arbitration and conciliation, to which board such
 17 dispute may be referred under the provisions of this chapter; and the
 18 manager of the business of any person, firm, corporation or associa-
 19 tion of such employers, or any organization representing such em-
 20 ployees, or if such employees are not members of any organization,
 21 then a majority of such employees affected may make the application
 22 as provided in this chapter, but in no case shall more than twenty
 23 employees be required to join in such application.

[S., '13, § 2477-n.]

SEC. 865. Notification by governor—appointment.

1 The governor shall at once upon application made to him as herein
 2 provided, and upon his being satisfied that the dispute comes within
 3 the provisions of the preceding section, notify the parties to the dis-
 4 pute of the application for the appointment of a board of arbitration
 5 and conciliation and make request upon each party to the dispute that
 6 each of them recommend within three days from the date of notice,

7 the names of five persons who have no direct interest in such dispute
 8 and are willing and ready to act as members of the board, and the
 9 governor shall appoint from each list submitted one of such persons
 10 recommended. Should either of the parties fail or neglect to make
 11 any recommendation within the said period, the governor shall, as
 12 soon thereafter as possible, appoint a fit person who shall be deemed
 13 to be appointed on the recommendation of either of the said parties.
 14 The members of the board so appointed shall within five days of their
 15 appointment recommend to the governor the name of one person who
 16 is ready and willing to act as a third member of the board, and upon
 17 failure or neglect upon their part to make such recommendation within
 18 the said period, or upon the failure or refusal of the person so recom-
 19 mended to act, the governor shall as soon thereafter as possible ap-
 20 point some person to act as the third member of the board.

[S., '13, § 2477-n1.]

SEC. 866. Agreement to be bound by decision.

1 In all cases when the application is made by both parties to the
 2 dispute, they shall set forth in the application whether or not they
 3 agree to be bound by the decision of the board of arbitration and con-
 4 ciliation; and if both parties agree to be so bound by such decision,
 5 then the same shall be binding and enforceable as set out in section
 6 eight hundred seventy.

[S., '13, § 2477-n2.]

SEC. 867. Oath—organization—compensation.

1 Each member of the board shall, before entering upon the duties
 2 of his office, be sworn to a faithful and impartial discharge thereof;
 3 they shall organize at once by the choice of one of their number as
 4 chairman, and one of their number as secretary, and shall have power
 5 to employ all necessary clerks and stenographers to properly carry out
 6 the duties of their appointment. The members of the board shall
 7 receive a compensation of five dollars per diem for the time actually
 8 employed, together with their traveling and other necessary expenses,
 9 the same to be payable out of the state treasury upon warrants drawn
 10 by the state auditor.

[S., '13, § 2477-n3.]

SEC. 868. Evidence—witnesses—fees.

1 For the purpose of this inquiry the board shall have all the powers
 2 of summoning before it and enforcing the attendance of witnesses, of
 3 administering oaths and of requiring witnesses to give evidence or
 4 solemn affirmation and to produce books, papers and other documents
 5 or things as the board may deem requisite to the full investigation of
 6 the matters into which it is inquiring, as is vested in the district court
 7 in civil cases. Any member of the board may administer an oath, and
 8 the board may accept, admit and call for such evidence as in equity
 9 and good conscience it thinks fit, whether strictly legal evidence or not.
 10 A subpoena or any notice may be delivered or sent to any sheriff, con-
 11 stable, or any police officer who shall forthwith serve the same, and
 12 make due return thereof, according to directions. Witnesses in attend-
 13 ance and officers serving subpoenas or notices shall receive the same
 14 fees as are allowed in the district court, payable from the state treas-
 15 ury, upon the certificate of the board that such fees are due and cor-

16 rect, upon warrants drawn by the auditor of state. The board shall
 17 have the same power and authority to maintain and enforce order at
 18 the hearings and obedience to its writs of subpoena as is by law con-
 19 ferred upon the district court for like purposes.

[S., '13, § 2477-n4.]

SEC. 869. Investigation—report filed—public inspection.

1 The board shall as soon as practical, visit the place where the
 2 controversy exists, and make careful inquiry into the cause, and the
 3 said board may, with the consent of the governor, conduct such inquiry
 4 beyond the limits of the state. The board shall hear all persons inter-
 5 ested who come before it, advise the respective parties what ought to
 6 be done or submitted to by either or both of the parties to the dispute
 7 to adjust said controversy, and make a written decision thereof, which
 8 shall at once be made public and open to public inspection and shall be
 9 recorded by the secretary of the board, and a copy of such report shall
 10 be filed in the office of the clerk of the city or town in which the con-
 11 troversy arose and shall be open for public inspection.

[S., '13, § 2477-n5.]

**SEC. 870. Time limit for investigation—suspension of strike or
 lockout—decision binding for one year.**

1 The board of arbitration and conciliation shall within ten days
 2 from the date of their appointment, unless such time shall be extended
 3 by the governor, complete the investigation of any controversy sub-
 4 mitted to them, and during the pendency of such period neither party
 5 shall engage in any strike or lockout. Any decision made by the board
 6 shall date from the date of the appointment of the board and shall be
 7 binding upon the parties who join in the application as herein provided
 8 for a period of one year.

[S., '13, § 2477-n6.]

**SEC. 871. Report to governor—copies served and filed—publi-
 cation—evidence preserved.**

1 Within five days after the completion of the investigation, unless
 2 the time is extended by the governor for good cause shown, the board
 3 or a majority thereof shall render a decision, stating such details as
 4 will clearly show the nature of the controversy and the points dis-
 5 posed of by them, and make a written report to the governor of their
 6 findings of fact and of their recommendation to each party to the con-
 7 troversy. Every decision and report shall be filed in the office of the
 8 governor, and a copy served upon each party to the controversy, and a
 9 copy furnished to the labor commissioner for publication in the report
 10 of the bureau of labor and shall be published at a rate of not to exceed
 11 thirty-three and one-third cents per ten lines of brier type or its
 12 equivalent, in two newspapers of general circulation in the county in
 13 which the business is located upon which the dispute arises. All evi-
 14 dence taken and exhibits and documents offered shall be carefully
 15 preserved and at the close of the investigation shall be filed in the
 16 office of the governor of the state and shall only be subject to inspec-
 17 tion upon his order.

[S., '13, § 2477-n7.]

SEC. 872. Expenses.

1 The expenses incurred under the preceding sections of this chap-
2 ter shall be audited by the state board of audit and shall be paid out
3 of any money in the state treasury not otherwise appropriated upon
4 warrants drawn by the auditor of state.

[S., '13, § 2477-n8.]

CHAPTER 6.**BUREAU OF LABOR.****SECTION 873. Commissioner.**

1 The bureau of labor statistics shall be under the control of a
2 commissioner, biennially appointed by the governor by and with the
3 advice and consent of the executive council, whose term of office shall
4 commence on the first day of April in each odd-numbered year and con-
5 tinue for two years, and until his successor is appointed and qualified.
6 He may be removed for cause by the governor, with the advice of the
7 executive council, record thereof being made in his office; any vacancy
8 shall be filled in the same manner as the original appointment. He
9 shall give bonds in the sum of two thousand dollars with sureties to
10 be approved by the governor, conditioned for the faithful discharge
11 of the duties of his office, and take the oath prescribed by law. He
12 shall have an office in the capitol, safely keep all records, papers, docu-
13 ments, correspondence, and other property pertaining to or coming
14 into his hands by virtue of his office, and deliver the same to his suc-
15 cessor, except as hereinafter provided.

[C., '97, § 2469; S., '13, § 2469.]

SEC. 874. Duties—report.

1 The duties of said commissioner shall be to collect, assort, sys-
2 tematize and present in biennial reports to the governor statistical
3 details relating to all departments of labor in the state, especially in
4 its relations to the commercial, social, educational and sanitary condi-
5 tions of the laboring classes, the means of escape from, and the pro-
6 tection of life and health in factories, the employment of children, the
7 number of hours of labor exacted from them and from women, and to
8 the permanent prosperity of the mechanical, manufacturing and pro-
9 ductive industries of the state; and he shall, as fully as practicable,
10 collect such information and reliable reports from each county in the
11 state, the amount and condition of the mechanical and manufacturing
12 interests, the value and location of the various manufacturing and coal
13 productions of the state, also sites offering natural or acquired advan-
14 tages for the profitable location and operation of different branches
15 of industry; he shall, by correspondence with interested parties in
16 other parts of the United States, impart to them such information as
17 may tend to induce the location of mechanical and producing plants
18 within the state, together with such other information as shall tend to
19 increase the productions, and consequent employment of producers;
20 and in said biennial report he shall give a statement of the business of
21 the bureau since the last regular report, and shall compile and publish
22 therein such information as may be considered of value to the indus-

23 trial interests of the state, the number of laborers and mechanics em-
24 ployed, the number of apprentices in each trade, with the nativity of
25 such laborers, mechanics and apprentices, wages earned, the savings
26 from the same, with age and sex of laborers employed, the number
27 and character of accidents, the sanitary condition of institutions
28 where labor is employed, the restrictions, if any, which are put upon
29 apprentices when indentured, the proportion of married laborers and
30 mechanics who live in rented houses, with the average annual rental,
31 and the value of property owned by laborers and mechanics; and he
32 shall include in such report what progress has been made with schools
33 now in operation for the instruction of students in the mechanic arts,
34 and what systems have been found most practical, with details thereof.
35 Such reports shall not contain more than six hundred printed pages,
36 and shall be of the number, and distributed in the manner, provided
37 by law. He shall make a report to the governor biennially. Said com-
38 missioner may from time to time, with the consent of the executive
39 council, issue bulletins containing information of importance to the
40 industries of the state and to the safety of wage earners.

[C., '97, § 2470; S. S., '15, § 2470.]

SEC. 875. Power to secure evidence—witness fees.

1 The commissioner of the bureau of labor statistics shall have the
2 power to issue subpoenas, administer oaths and take testimony in all
3 matters relating to the duties herein required by said bureau, said tes-
4 timony to be taken in some suitable place in the vicinity to which testi-
5 mony is applicable. Witnesses subpoenaed and testifying before the
6 commissioner of the bureau shall be paid the same fees as witnesses
7 before a justice's court, such payment to be made out of the general
8 funds of the state on voucher by the commissioner, but such expense
9 for witnesses shall not exceed one hundred dollars annually. Any
10 person duly subpoenaed under the provisions of this section, who shall
11 wilfully neglect or refuse to attend or testify at the time and place
12 named in the subpoena, shall be deemed guilty of a misdemeanor, and,
13 upon conviction thereof before any court of competent jurisdiction,
14 shall be punished by a fine not exceeding fifty dollars and costs of
15 prosecution, or by imprisonment in the county jail not exceeding
16 thirty days; but no witness shall be compelled to go outside the county
17 in which he resides to testify.

[C., '97, § 2471; S., '13, § 2471.]

SEC. 876. Right to enter premises—violation or neglect—written notice—prosecution.

1 The commissioner of the bureau of labor statistics shall have the
2 power to enter any factory or mill, workshop, mine, store, business
3 house, public or private work, when the same is open or in operation
4 for the purpose of gathering facts and statistics such as are contem-
5 plated by this chapter, and to examine into the methods of protection
6 from danger to employees, and the sanitary conditions in and around
7 such buildings and places, and make a record thereof. If the com-
8 missioner shall learn of any violation of, or neglect to comply with the
9 law in respect to the employment of children, or in respect to fire
10 escapes, or the safety of employees, or for the preservation of health,
11 he shall give written notice to the owner or person in charge of such
12 factory or building, of such offense or neglect, and if the same is not

13 remedied within sixty days after service of such notice, such officer
14 shall give the county attorney of the county in which such factory or
15 building is situated, written notice of the facts, whereupon that officer
16 shall immediately institute the proper proceedings against the person
17 guilty of such offense or neglect. And any owner or occupant of
18 such factory or mill, workshop, mine, store, business house, public or
19 private work, or any agent or employee of such owner or occupant,
20 who shall refuse to allow any officer or employee of said bureau to so
21 enter, or who shall hinder him, or in any way deter him from collecting
22 information, shall be deemed guilty of a misdemeanor, and, upon con-
23 viction thereof before any court of competent jurisdiction, shall be
24 punished by a fine of not exceeding one hundred dollars and costs of
25 prosecution, or by imprisonment in the county jail not exceeding
26 thirty days.

[C., '97, § 2472; S., '13, § 2472.]

SEC. 877. Meaning of terms.

1 The expressions "factory," "mill," "workshop," "mine," "store,"
2 "business house," and "public or private work," as used in this chap-
3 ter, shall be construed to mean any factory, mill, workshop, mine,
4 store, business house, public or private work, where wage earners are
5 employed for a certain stipulated compensation.

[C., '97, § 2473; S. S., '15, § 2473.]

SEC. 878. Reports to bureau—violation—penalty.

1 It shall be the duty of every owner, operator or manager of every
2 factory, mill, workshop, mine, store, business house, public or private
3 work, or any other establishment where labor is employed, as herein
4 provided, to make to the bureau, upon blanks furnished by said bureau,
5 such reports and returns as said bureau may require for the purpose
6 of compiling such labor statistics as are contemplated in this chapter;
7 and the owner, operator or business manager shall make such reports
8 or returns within sixty days from the receipt of blanks furnished by
9 the commissioner, and shall certify under oath to the correctness of
10 the same. Any owner, operator or manager of such factory, mill,
11 workshop, mine, store, business house, public or private work, as
12 herein stated, who shall neglect or refuse, within thirty days after the
13 receipt of notice given by said commissioner, to furnish to the com-
14 missioner of labor such reports or returns as may be required by the
15 commissioner in order to enable him to fully comply with the duties
16 enjoined upon him by section eight hundred seventy-four, shall be
17 deemed guilty of a misdemeanor, and, upon conviction thereof, shall
18 be punished by a fine not exceeding one hundred dollars and costs of
19 prosecution, or imprisoned in the county jail not exceeding thirty days.

[C., '97, § 2474; S., '13, § 2474.]

SEC. 879. Use of information.

1 In the reports of the commissioner no use shall be made of names
2 of individuals, firms or corporations supplying the information called
3 for by sections eight hundred seventy-four and eight hundred seventy-
4 five, such information being deemed confidential and not for the pur-
5 pose of disclosing personal affairs; and any officer or employee of the
6 bureau of labor statistics violating this provision shall be deemed
7 guilty of a misdemeanor, and, upon conviction thereof, shall be fined

8 in a sum not exceeding five hundred dollars and costs of prosecution,
9 or by imprisonment in the county jail not exceeding one year.

[C., '97, § 2475.]

SEC. 880. Reports and records preserved.

1 No report or return made to said bureau in accordance with the
2 provisions of this chapter, and no schedule, record or document gath-
3 ered or returned by its officers or employees, shall be destroyed within
4 two years of the collection or receipt thereof. At the expiration of
5 two years all records, schedules or papers accumulating in said bureau
6 during said period that may be considered of no value by the commis-
7 sioner may be destroyed, provided the authority of the executive coun-
8 cil be first obtained for such destruction.

[C., '97, § 2476.]

SEC. 881. Compensation and expenses—inspectors—duties of woman inspector.

1 The commissioner of the bureau of labor statistics shall receive a
2 salary of eighteen hundred dollars per annum and shall be allowed a
3 deputy at a salary of fifteen hundred dollars per annum payable
4 monthly; he shall also be allowed three factory inspectors, one of
5 whom shall be a woman, at a salary of one hundred dollars per month
6 each, and one office clerk at a salary of one thousand dollars per
7 annum. The woman factory inspector herein provided for shall, in
8 addition to the general duties required of her, under the direction of
9 the commissioner of the bureau of labor statistics, inspect the sanitary
10 and general conditions under which the women and children are at
11 work in all factories, workshops, hotels, restaurants, stores, and any
12 other places where women and children are employed; collect statistics
13 and make recommendations and report the same to the commissioner
14 of labor, who shall make special reference thereto in his biennial report
15 to the governor, and said woman factory inspector shall render any
16 other or additional service under the direction of the labor commis-
17 sioner as will tend to promote the health and general welfare of the
18 women and children employees of this state. The appointment by the
19 commissioner of such factory inspectors shall be subject to the
20 approval of the executive council. Said commissioner shall be allowed
21 the necessary postage, stationery and office expenses. The said salaries
22 and expenses shall be paid as the salaries and expenses of other state
23 officers are provided for. The commissioner or any officer or employee
24 of the bureau of labor statistics shall be allowed in addition to his sal-
25 ary his actual and necessary traveling expenses while in the perform-
26 ance of his duties, said expenses to be audited by the state board of
27 audit and paid out of the general fund of the state upon a voucher
28 verified by the commissioner or his deputy; but the total amount of the
29 expenses for the officers and employees of said bureau other than the
30 salaries of the commissioner, his deputy, the factory inspectors and
31 clerk, shall not exceed four thousand dollars per annum.

[C., '97, § 2477; S., '13, § 2477.]

SEC. 882. Child labor in factories and mills—age limitation.

1 No person under fourteen years of age shall be employed with or
2 without wages or compensation in any mine, manufacturing establish-
3 ment, factory, mill, shop, laundry, slaughterhouse or packing house,

4 or in any store or mercantile establishment where more than eight
5 persons are employed, or in the operation of any freight or passenger
6 elevator, or livery stable or garage, place of amusement, or in the dis-
7 tribution or transmission of merchandise or messages; but nothing in
8 this section shall be construed as prohibiting a child from working in
9 any of the above establishments or occupations when such are owned
10 or operated by their own parents.

[S. S., '15, § 2477-a.]

SEC. 883. Record and report of accidents—violation—penalty.

1 Manufacturers, manufacturing corporations, proprietors or cor-
2 porations operating any mercantile establishments, mills, workshops,
3 mines other than those subject to inspection by the state mine inspec-
4 tor, or business houses, shall keep a careful record of any accidents
5 occurring to an employee while at work for the employer, when such
6 accident results in the death of the employee or in such bodily injury
7 as will or probably may prevent him from returning to work within
8 four days thereafter. The said record shall at all times be open to
9 inspection by an inspector of the bureau of labor statistics. Within
10 forty-eight hours after the occurrence of an accident, the record of
11 which is herein required to be kept, a written report thereof shall be
12 forwarded to the commissioner of the bureau of labor statistics, and
13 said commissioner may require further and additional report to be
14 furnished him should the first report be by him deemed insufficient.
15 No statement contained in any such report shall be admissible in any
16 action arising out of the accident therein reported. Any employer
17 who fails to keep the record or to furnish the report as herein pro-
18 vided shall be deemed guilty of a misdemeanor and upon conviction
19 thereof shall be fined not less than five dollars nor more than one
20 hundred dollars and costs of prosecution.

[S., '13, § 2477-1a.]

SEC. 884. Child occupations forbidden—exceptions—work permits—penalty on parent—unlawful sales to child.

1 No boy under eleven years of age nor girl under eighteen years
2 of age shall be employed, permitted or suffered to work at any time
3 in any city of ten thousand or more inhabitants within this state in or
4 in connection with the street occupations of peddling, bootblacking,
5 the distribution or sale of newspapers, magazines, periodicals or circu-
6 lars, nor in any other occupations in any street or public place; except
7 that in cities having a superior or municipal court, the superintendent
8 of schools or person authorized by him, upon sufficient showing made
9 by the said superior or municipal judge, shall have authority, in excep-
10 tional cases, to issue a permit to a boy under eleven years of age. No
11 boy between eleven and sixteen years of age shall be employed, per-
12 mitted or suffered to work in any such city in or in connection with
13 any of the aforesaid occupations unless he complies with all the
14 requirements for the issuance of work permits as described in this
15 section except the filing of an employers' agreement, but the school
16 record so required shall certify only that the boy is regularly attend-
17 ing school and that the work in which he wishes to engage will not
18 interfere with his progress at school. Upon compliance with these
19 requirements such boy shall be entitled to receive from the officer
20 authorized to issue work permits a badge which shall authorize such

21 boy to engage in the above mentioned occupations at such time or
22 times between four a. m. and seven-thirty p. m. in each day as the
23 public schools of the city or district where such boys reside are not in
24 session, but at no other time, except that during the summer school
25 vacation such boy may engage in such occupation until the hour of
26 eight-thirty p. m. All such badges issued in the same calendar year
27 shall be of the same color, which color shall be changed each year
28 upon renewal and all such badges shall become void upon the first
29 day of January of each year.

30 The parent or person in charge of any child who shall engage in
31 any such street occupation in violation of any of the provisions of this
32 section shall be deemed guilty of a misdemeanor and upon conviction
33 thereof shall be punished by a fine of not more than fifteen dollars.
34 The truant or attendance officers of the public schools shall enforce
35 the provisions of this section. Whoever furnishes or sells to any
36 minor any article of any description with the knowledge that said
37 minor intends to sell said article in violation of the provisions of this
38 section or who shall continue to furnish or sell articles of any descrip-
39 tion to a minor after having received written notice from any officer
40 charged with the enforcement of this section or from the officer
41 issuing the badge required as aforesaid that said minor is unlicensed
42 to sell such article, shall be punished by a fine of not less than fifteen
43 dollars nor more than one hundred dollars for each offense.

[S. S., '15, § 2477-a1.]

SEC. 885. Where life and health are endangered—age limitation.

1 No person under sixteen years of age shall be employed at any
2 work or occupation by which, by reason of its nature or the place of
3 employment, the health of such person may be injured, or his morals
4 depraved, or at any work in which the handling or use of gunpowder,
5 dynamite or other like explosive is required, or in or about any mine
6 during the school term, hotel, bowling alley, pool or billiard room, or in
7 occupations dangerous to life or limb and no female under twenty-one
8 years of age shall be employed in any capacity where the duties of
9 such employment compel her to remain constantly standing.

[S. S., '15, § 2477-b.]

SEC. 886. Hours of labor—noon intermission.

1 No person under sixteen years of age shall be employed at any
2 of the places or in any of the occupations recited in section eight hun-
3 dred eighty-two before the hour of seven o'clock in the morning or
4 after the hour of six o'clock in the evening, and if such person is em-
5 ployed exceeding five hours of each day, a noon intermission of not
6 less than thirty minutes shall be given between the hours of eleven
7 and one o'clock, and such person shall not be employed more than
8 eight hours in any one day, exclusive of the noon hour intermission;
9 nor shall any such person be employed more than forty-eight hours
10 in any one week; but whenever in any organized school district there
11 shall have been established a part-time school, department or class, no
12 person under sixteen years of age shall be employed for more than
13 forty hours in any one week; nor shall any person under eighteen
14 years of age be employed in the transmission, distribution or delivery

15 of goods or messages between the hours of ten in the evening and five
16 in the morning in any city of ten thousand or more inhabitants.

[S. S., '15, § 2477-c; 38 G. A., ch. 139, § 1.]

SEC. 887. Penalties applicable.

1 All the penalties contained in section eight hundred eighty-nine
2 shall be and the same are hereby made applicable to any violation of
3 the provisions of section eight hundred eighty-six.

[38 G. A., ch. 139, § 2.]

SEC. 888. Conditions under which children may be employed.

1 No child under sixteen years of age shall be employed, permitted,
2 or suffered to work in or in connection with any of the establishments
3 or occupations mentioned in section eighty hundred eighty-two unless
4 the person, firm or corporation employing such child procures and
5 keeps on file, accessible to any officer charged with the enforcement of
6 this chapter, a work permit issued as hereinafter provided, and keeps
7 two complete lists of the names and ages of all such children under
8 sixteen years of age employed in or for such establishments or in such
9 occupations, one on file in the office and one conspicuously posted near
10 the principal entrance of the place or establishment in which such
11 children are employed. On termination of the employment of a child
12 whose permit is on file, such permit shall be returned by the employer
13 within two days to the officer who issued it with a statement of the
14 reasons for the termination of such employment. A work permit
15 shall be issued only by the superintendent of schools or by a person
16 authorized by him in writing, or, where there is no superintendent of
17 schools, by a person authorized in writing by the local school board in
18 the community where such child resides, upon the application of the
19 parent, guardian or custodian of the child desiring such permit. The
20 person authorized to issue work permits shall not issue any such per-
21 mit until he has received, examined, approved and filed the following
22 papers duly executed, namely:

23 1. A written agreement from the person, firm or corporation into
24 whose service the child under sixteen years of age is about to enter,
25 promising to give such child employment, describing the work to be
26 performed and agreeing to return the work permit of such child to
27 the office from which it was issued within two days after the termina-
28 tion of the employment of such child.

29 2. The school record of such child filled out and signed by the
30 chief executive of the school which such child has last attended certi-
31 fying that the child is able to read intelligently and write legibly
32 simple sentences in the English language and has completed a course
33 of study equivalent to six yearly grades in reading, writing, spelling,
34 English language, geography, and arithmetic. Such school record
35 shall give also the name, date of birth and residence of the child as
36 known on the records of the school and also the name of its parent,
37 guardian or custodian.

38 3. A certificate signed by a medical inspector of schools or if
39 there be no such inspector then by a physician appointed by the board
40 of education certifying that the applicant for the work permit has
41 reached the normal development of a child of its age and is in suf-
42 ficiently sound health and physically able to perform the work for
43 which the permit is sought.

44 4. Evidence of age showing that the child is fourteen years old
45 or upwards which shall consist of one of the following proofs required
46 in the order herein designated as follows:

47 *a* A transcript of the birth certificate filed according to law with
48 a registrar of vital statistics or other officer charged with the duty of
49 recording births.

50 *b* A passport or a transcript of a certificate of baptism showing
51 the date of birth and place of baptism of such child.

52 *c* A school census record.

53 *d* In cases where none of the above named proofs is obtainable,
54 a certificate signed by the local medical inspector of schools, or if there
55 be no such inspector then by a physician appointed by the local board
56 of education certifying that in his opinion the applicant for the work
57 permit is fourteen years of age or upwards.

58 A duplicate of every such work permit issued shall be filled out
59 and forwarded to the office of the commissioner of labor between the
60 first and the tenth day of the month following the month in which it
61 is issued. The blank forms for the work permit, the employer's agree-
62 ment, the school record and the physician's certificate shall be formu-
63 lated by the state superintendent of public instruction and furnished
64 by him to the local school authorities. The work permit shall in no
65 case be issued to the applicant or its parent, guardian or custodian,
66 but shall in every case be forwarded to the prospective employer of
67 such applicant. Every such work permit shall give the name, sex, the
68 date and place of birth and the residence of the child in whose name
69 it is issued, describe the color of the hair and eyes, give his height and
70 weight and shall contain a statement of the proof of age accepted, the
71 school grade completed, the name and address of the establishment
72 where the child is to be employed and shall describe the work for
73 which the permit is issued; it shall further certify that the papers
74 required for its issuance have been duly examined, approved and filed
75 and that the person named therein has personally appeared before the
76 officer issuing the permit and has been examined. A work permit shall
77 be issued for every position obtained by a child between the ages of
78 fourteen and sixteen years.

79 Any officer whose duty it is to enforce the provisions hereof shall
80 have authority to demand of any employer in or about whose place or
81 establishment a child apparently under the age of sixteen years is em-
82 ployed, permitted or suffered to work, and whose work permit is not
83 filed as required by this section, that such employer shall either fur-
84 nish him within ten days the same documentary evidence of age of
85 such child as is required upon the issuance of a work permit, or shall
86 cease to employ or permit or suffer such child to work in such place or
87 establishment.

[S. S., '15, § 2477-d.]

SEC. 889. False statements—other violations—penalty.

1 Any parent, guardian or other person, who having under his
2 control any person under sixteen years of age causes or permits said
3 person to work or be employed in violation of the provisions of this
4 chapter, or any person making, certifying to, or causing to be made or
5 certified to, any statement, certificate or other paper for the purpose
6 of procuring the employment of any person in violation of the pro-
7 visions of this chapter, or who makes, files, executes or delivers any
8 such statement, certificate or other paper containing any false state-

9 ment for the purpose of procuring the employment of any person in
 10 violation of this chapter, or for the purpose of concealing the violation
 11 thereof in such employment, and every person, firm or corporation, or
 12 the agent, manager, superintendent, or officer of any person, firm or
 13 corporation, whether for himself or such person, firm or corporation,
 14 either by himself or acting through any agent, foreman, superintend-
 15 ent or manager, who knowingly employs any person or permits any
 16 person to be employed in violation of the provisions of this chapter, or
 17 who shall refuse to allow any authorized officer or person to inspect
 18 any place of business under the provisions of this chapter, if demand
 19 is made therefor at any time during business hours, or who shall wil-
 20 fully obstruct such officer or person while making such inspection, or
 21 who shall fail to keep posted the lists containing the names of persons
 22 employed under sixteen years of age and other information as required
 23 by this chapter, or who shall knowingly insert any false statement in
 24 such list, or who violates any other provision of this chapter, shall be
 25 deemed guilty of a misdemeanor, and upon being found guilty thereof,
 26 shall be fined not to exceed one hundred dollars or be imprisoned in the
 27 county jail not to exceed thirty days.

[S., '13, § 2477-e.]

SEC. 890. Enforcement.

1 It shall be the duty of the commissioner of the bureau of labor
 2 statistics to enforce the provisions of this chapter, and such com-
 3 missioner and his deputies, factory inspectors, assistants and other
 4 persons authorized by him in writing, state mine inspectors, and
 5 county attorneys, mayors, chiefs of police and police officers, acting
 6 under their written directions, city and town marshals, sheriffs and
 7 their deputies within the territories where they exercise their official
 8 functions, and any person having authority therefor in writing from
 9 the judge of a court of record within the territory over which such
 10 judge has jurisdiction, shall have authority to visit any of the places
 11 enumerated in section eight hundred eighty-two of this chapter, and
 12 make an inspection thereof to ascertain if any of the provisions of this
 13 chapter are violated or any person unlawfully employed thereat, and
 14 such persons shall not be interfered with or prevented from asking
 15 questions of any persons found at the place being inspected by them
 16 with reference to the provisions of this chapter. It shall be the duty of
 17 the county attorney to investigate all complaints made to him of the
 18 violation of the provisions of this chapter, and to attend and prosecute
 19 at the trial of all cases for such violation upon any information that
 20 may be filed within his county.

[S., '13, § 2477-f.]

**SEC. 891. Employment bureau—commissioner to establish—
 clerk—compensation—expense.**

1 The commissioner of the bureau of labor statistics shall main-
 2 tain in his office at the seat of government a department to be called
 3 the state free employment bureau, and the said commissioner is hereby
 4 authorized and directed to adopt such rules and regulations as are
 5 necessary to carry out the purposes of this and the two following sec-
 6 tions. He shall, with the approval of the executive council, appoint a
 7 competent person who shall be placed in charge of such work and be
 8 known as the chief clerk of the state free employment bureau. His

9 term of office shall be the same as that of commissioner of the bureau
10 of labor statistics, and his salary shall be twelve hundred dollars
11 annually, payable monthly, and shall be paid in the same manner as
12 are the salaries of other officers of said bureau. All printing, postage,
13 stationery and other necessary office expenses, including telephone and
14 telegraph bills used to properly carry on the work of such free em-
15 ployment bureau, shall be paid by the state in the same manner as
16 are paid the other expenses of the office of the commissioner of the
17 bureau of labor statistics.

[S. S., '15, § 2477-g1.]

SEC. 892. Applicants for work—lists mailed—posting.

1 The chief clerk of the state free employment bureau shall cause
2 to be printed the number of all applicants and the character of the
3 employment desired by the applicants and the number of those desir-
4 ing to employ labor, and the class thereof, which have been received by
5 him since making up his last list, and cause a true copy of said list to
6 be mailed to the auditors of the several counties of Iowa, and to the
7 clerks of all cities and towns within the state of Iowa having a popula-
8 tion of five hundred or more, according to the last state or national
9 census. Said list shall be mailed out as above provided with such fre-
10 quency as will in his judgment best serve the needs of the public but
11 not oftener than once each week nor less frequent than once each
12 month. Said list shall be immediately posted on receipt thereof by
13 the county auditors or city and town clerks in an accessible, conspicu-
14 ous and public place in their respective communities and shall at all
15 times be subject to the inspection of all persons desiring employment
16 and all persons wishing to employ labor. The chief clerk of the state
17 free employment bureau, with the consent of the commissioner of the
18 bureau of labor statistics, and with the approval of the executive coun-
19 cil, may adopt and use such other methods of disseminating informa-
20 tion as will in their judgment be helpful in bringing the unemployed
21 in touch with those desiring to employ such labor. No fee or compen-
22 sation shall be received, either directly or indirectly, from persons
23 residing within this state applying for employment or help to said
24 state free employment bureau.

[S. S., '15, § 2477-g2.]

SEC. 893. Defacing lists—penalty.

1 Any person who shall deface, mutilate, destroy or remove any of
2 the lists required to be posted by the provisions of the preceding
3 section shall be deemed guilty of a misdemeanor, and, upon conviction
4 thereof, shall be fined not exceeding one hundred dollars or imprison-
5 ment in the county jail not exceeding thirty days.

[S. S., '15, § 2477-g3.]

SEC. 894. Employment agencies—failure to procure employment as agreed upon—fee returned.

1 Every person, firm or corporation who shall agree or promise, or
2 who shall advertise through the public press, or by letter, to furnish
3 employment or situations to any person or persons, and in pursuance
4 of such advertisement, agreement or promise, shall receive any money,
5 personal property or other valuable thing whatsoever, and who shall
6 fail to procure for such person or persons acceptable situations or

7 employment as agreed upon, within the time stated, or agreed upon,
8 or if no time be specified then within a reasonable time, shall upon
9 demand return all such money, personal property or valuable consid-
10 eration of whatever character, except an amount not to exceed one
11 dollar to be charged as a filing fee.

[S., '13, § 2477-h.]

SEC. 895. Copy of application or agreement furnished applicant.

1 It shall be unlawful for any person, firm or corporation to receive
2 any application for employment from, or enter into any agreement
3 with, any person to furnish or procure for said person any employ-
4 ment unless there is delivered to any such person making such appli-
5 cation or contract at the time of the making thereof a true and full
6 copy of such application or agreement, which application or agree-
7 ment shall specify the fee or consideration to be paid by the person
8 seeking employment.

[S., '13, § 2477-i.]

SEC. 896. Division of fees between employment bureau and employer prohibited.

1 It shall be unlawful for any person, firm or corporation or any
2 person employed or authorized by such person, firm or corporation to
3 hire or discharge employees, to receive any part of any fee or any per-
4 centage of wages or any compensation of any kind whatever, that is
5 agreed upon to be paid by any employee of said person, firm or corpo-
6 ration to any employment bureau or agency for services rendered to
7 any such employee in procuring for him employment with said person,
8 firm or corporation.

[S., '13, § 2477-j.]

SEC. 897. Investigation by labor commissioner.

1 The commissioner of the bureau of labor statistics, or his deputy,
2 shall have authority to examine at any time the records, books and
3 any papers relating in any way to the conduct of any employment
4 agency or bureau within the state, and must investigate any complaint
5 made against any such employment agency or bureau, and if any vio-
6 lations of law are found he shall at once file or cause to be filed an
7 information against any person, firm or corporation guilty of such
8 violation of law.

[S., '13, § 2477-k.]

SEC. 898. Penalty.

1 Any person, firm or corporation violating any of the provisions
2 of the four preceding sections, or who shall refuse access to records,
3 books or other papers relative to the conduct of such agency or bureau,
4 to any person having authority to examine same, shall be deemed
5 guilty of a misdemeanor and, upon conviction thereof, shall be pun-
6 ished by a fine not exceeding one hundred dollars, or imprisonment in
7 the county jail not to exceed thirty days.

[S., '13, § 2477-l.]

CHAPTER 7.

PETROLEUM PRODUCTS.

SECTION 899. Inspectors—chief inspector to decide disputes—assistants—bond.

1 The governor shall appoint inspectors of petroleum, not exceeding
2 fourteen in number, one of whom shall be designated as chief inspec-
3 tor, who shall have general supervision of the inspection service of
4 the state, to whom all reports shall be made. All differences arising
5 in the inspection of oils shall be referred to the chief oil inspector and
6 his decision of the question shall be final.

7 The chief inspector shall make such recommendations to the state
8 board of health as may be deemed necessary to improve the inspection
9 service. He shall devote his time and services wholly to the inspec-
10 tion of oil and the duties of his office.

11 Inspectors may appoint such deputies, helpers and branders as
12 may be necessary in the proper discharge of their official duties, but
13 such appointments before becoming effective must be submitted to
14 and approved and confirmed and their compensation fixed by the
15 executive council as in their judgment may be necessary, equitable and
16 just. Each inspector shall be a resident of the state and not directly
17 or indirectly interested in the manufacture or sale of products of
18 petroleum. He shall give bond to the state in the penal sum of five
19 thousand dollars. The chief oil inspector's bond shall be ten thousand
20 dollars, all conditioned upon the faithful performance of their duties,
21 with sureties who shall, in addition to the usual justification, make
22 oath entered on the bond that they are not directly or indirectly inter-
23 ested in the manufacture or sale of products of petroleum for illu-
24 minating purposes, which bond shall be approved by the governor and
25 filed with the secretary of state.

[C., '97, § 2503; S. S., '15, § 2503.]

SEC. 900. Regulations.

1 The state board of health shall make rules and regulations for the
2 inspection of petroleum products, for the government of inspectors,
3 and prescribe the instruments and apparatus to be used. Such rules
4 and regulations shall be approved by the governor, and, when so ap-
5 proved, shall be binding upon all inspectors.

[C., '97, § 2504; S., '13, § 2504.]

SEC. 901. Inspection—rejection—branding—fees—reduction—gasoline—how marked—rebate—penalties—supplies.

1 Each inspector shall be furnished, at reasonable expense to the
2 state, with the necessary supplies, instruments and apparatus for
3 testing, and shall promptly make inspections and tests and brand all
4 illuminating oils kept for use or sale and for such purposes may enter
5 upon the premises of any person.

6 He shall reject all oils for illuminating purposes which will emit
7 a combustible vapor at a temperature of one hundred degrees standard
8 Fahrenheit thermometer closed test, not less than one-half pint of oil
9 to be used in the flash test. If upon test and examination the oil shall
10 meet the requirements, he shall brand over his official signature and
11 date on the barrel or package holding the same, "Approved. Flash
12 Test—Degrees," inserting in the blank the number. Should it

13 fail to meet the requirements, it shall be branded under his official
14 signature and date, "Rejected for illuminating purposes."

15 All inspections shall be made within the state, and paid for by the
16 person for whom the inspection is made at the rate of seven cents per
17 barrel, fifty-five gallons for this purpose constituting a barrel; which
18 charge shall be a lien upon the oil inspected and be collected by the in-
19 spector, reported and paid to the chief oil inspector of the state on or
20 before the fifteenth day of each month, and on the first day of July of
21 each year the chief inspector shall ascertain the total receipts from oil
22 inspection and all the expenses thereof during the twelve months pre-
23 ceding, and, if in any such year, the revenue realized from oil inspec-
24 tion exceeds the total expenses of inspection by the sum of four
25 thousand dollars, it shall be the duty of the chief inspector to reduce
26 the fees for inspection during the ensuing year to such sum per barrel
27 as will in the judgment of the chief inspector yield a revenue equal to
28 the expenses during the preceding year plus the sum of four thousand
29 dollars; and if in any year such reduced charge of inspection proves
30 insufficient to meet the total expenses of the department for said year,
31 the chief inspector shall be authorized and is hereby directed to in-
32 crease said inspection fees in an amount sufficient to pay the entire
33 expenses of the department not exceeding, however, the sum of seven
34 cents per barrel.

35 No gasoline shall be sold, given away or delivered to any person in
36 the state until the package, cask, barrel or vessel containing the same
37 has been painted bright red, and plainly marked "gasoline" in such
38 manner as the board of health may prescribe.

39 There shall be no refund or rebate of charges made or paid for
40 inspection except upon a duly verified certificate of the owner that the
41 goods, for which the rebate is asked, have been disposed of outside
42 of the state, said certificate to be in such form as shall be prescribed
43 by the chief oil inspector of state and shall be delivered to the inspector
44 and attached to his monthly report. The amount of such rebate per
45 barrel allowed during any fiscal year shall be determined by the chief
46 oil inspector of state during the month of July of each year and shall
47 equal approximately the net proceeds per barrel from the inspection
48 service of the state during the preceding fiscal year, the same to be
49 seven cents per barrel.

50 Any person, firm, corporation or agent violating any of the provi-
51 sions of this chapter shall be deemed guilty of a misdemeanor and
52 punished accordingly. All necessary supplies, tables, instruments and
53 apparatus, as contemplated in this chapter, shall be purchased by the
54 executive council and shall be furnished to the inspectors as needed
55 by them upon requisition therefor made to the chief oil inspector of
56 state, approved by him and forwarded to the executive council.

57 Every person who receives products of petroleum for use or sale
58 which have not been inspected as provided in this chapter shall, within
59 five days after the receipt thereof, notify the inspector of that inspec-
60 tion district that the same is in his possession, and to neglect to do so
61 shall be deemed a misdemeanor.

[C., '97, § 2505; S. S., '15, § 2505.]

SEC. 902. Inspector's record—approval—monthly reports from companies—violations—penalty.

1 Each inspector shall keep an accurate record of all oils inspected
2 and branded, the number of gallons, the number and kind of barrels

3 and packages, the date and number of gallons approved, the number
4 rejected, the name of the person for whom inspection was made, and
5 the amount of money received therefor, the necessary traveling ex-
6 penses incurred and the expenses incurred in prosecution, which rec-
7 ord at all reasonable times shall be open to public inspection. A copy
8 of the record duly verified under oath for the preceding month shall
9 be filed with the chief oil inspector of state on or before the fifteenth
10 day of each month, who shall examine said report and if found correct
11 indorse his approval thereon, and certify the same to the state board
12 of audit and when approved by said board the auditor of state shall
13 issue his warrant therefor upon the treasurer of state for the amount
14 so approved and due the several inspectors, and no item of expense
15 shall be allowed and paid not shown in such report.

16 It shall be the duty of all persons, firms or corporations, officers or
17 agents thereof, within the state receiving any of the products of
18 petroleum, subject to inspection, to file with the chief oil inspector of
19 state, on or before the tenth day of each month a certificate, duly
20 verified in such form as shall be approved by the chief oil inspector of
21 state, to cover the month preceding the one in which said report is
22 made.

23 Such report shall show the number of tanks or barrels, and if in
24 tanks the tank number of each product inspected for such person, firm,
25 corporation, officers or agents thereof, the amount of fees paid for
26 such inspection, to whom paid, and that the amounts so stated are all
27 products received by him or them which are subject to inspection
28 during the period. For any failure to make the reports contemplated
29 in this section the person, firm, corporation, officer, agent or employee
30 shall be liable to a fine of not less than ten dollars nor more than one
31 hundred dollars.

[C., '97, § 2506; S. S., '15, § 2506.]

**SEC. 903. Salary of inspectors — appropriation — expenses — fees
paid to state treasurer.**

1 The salary of the chief oil inspector shall be the sum of eighteen
2 hundred dollars per annum and of each of the other inspectors shall be
3 the sum of twelve hundred dollars per annum to be paid in the same
4 manner as other state officers.

5 For the purpose of enabling the chief inspector and the other
6 officials charged with the enforcement of this chapter to enforce the
7 same, of paying the salaries and all other expenses herein provided
8 for, the sum of thirty-eight thousand dollars annually, or so much
9 thereof as may be necessary, is hereby appropriated out of any money
10 in the state treasury not otherwise appropriated. He shall be allowed
11 a clerk or stenographer at a salary not exceeding nine hundred dollars
12 per year to be selected by him. He shall be furnished an office at the
13 seat of government.

14 Inspectors shall be allowed such other sums necessary and
15 actually expended in the discharge of their official duties and for
16 necessary expenses incurred for prosecution of violations of the pro-
17 visions of this chapter and for necessary help in branding barrels. All
18 moneys collected for each month shall on or before the fifteenth day of
19 the following month be paid to the chief oil inspector of state, who
20 shall receipt to the individual inspectors and by him not later than

21 the twentieth day of the month turned over to the treasurer of state,
22 who shall receipt him therefor.

[C., '97, § 2507; S. S., '15, § 2507; 38 G. A., ch. 329, § 1.]

SEC. 904. Penalties—damages.

1 If any person, company or corporation, or agent thereof, shall sell,
2 or attempt to sell, any product of petroleum for illuminating purposes
3 which has not been inspected and branded as in this chapter provided,
4 or shall falsely brand any barrel or package containing such petroleum
5 product, or shall refill with products of petroleum barrels or packages
6 having the inspector's brand thereon, without erasing such brand and
7 having the contents thereof inspected, and the barrel or package re-
8 branded, or shall purchase, sell or dispose of any empty barrel or
9 package without thoroughly removing the inspection brand, or shall
10 knowingly or negligently sell or cause to be sold, or shall use or cause
11 to be used, any product of petroleum mentioned in this chapter not
12 inspected and tested, except as otherwise authorized herein; or if any
13 person shall adulterate with any substance for the purpose of sale or
14 use any product of petroleum to be used for illuminating purposes in
15 such a manner as to render it dangerous, or shall sell or offer for sale,
16 or use any product of petroleum for illuminating purposes which will
17 emit a combustible vapor at a temperature of less than one hundred
18 five degrees, standard Fahrenheit thermometer, closed test, except as
19 otherwise provided in this section for illuminating railway cars, boats
20 and public conveyance, and except when the oils from which said gas
21 or vapor is generated in closed reservoirs outside the building to be
22 lighted thereby, and except the lighter products of petroleum when
23 used in such lamps or apparatus which, having been submitted to the
24 state board of health and having been examined and tested by said
25 board shall be found to be safe for the use of the public and for street
26 light by street lamps, shall be fined not less than ten dollars nor more
27 than fifty dollars; or if any common carrier shall carry in any railway
28 passenger, baggage, mail, or express car, street railway car, boat,
29 stage coach, omnibus, or other means of public conveyance, or use or
30 burn therein any oil or fluid, whether composed wholly or in part of
31 petroleum or its products, which will ignite and burn at a tempera-
32 ture of three hundred degrees, Fahrenheit thermometer, open test, for
33 lighting any lamp, vessel, or fixture of any kind, or boat or street rail-
34 way car, stage coach or other means of public conveyance; or if any
35 inspector shall falsely brand any package or barrel, or shall practice
36 any fraud or deceit in office, or be guilty of any official misconduct or
37 culpable negligence to the injury of another, or shall deal or have any
38 pecuniary interest, directly or indirectly in any oils or fluids sold for
39 illuminating purposes while holding such office, he or such person, com-
40 pany, corporation or agent shall be fined not less than fifty dollars
41 and shall be liable in a civil action for all damages which may be sus-
42 tained on account thereof, and each such inspector shall be fined in a
43 sum not less than ten dollars nor more than one thousand dollars, or
44 imprisoned in the county jail not exceeding six months, or be punished
45 by both fine and imprisonment.

[C., '73, § 3901; C., '97, § 2508; S., '13, § 2508.]

SEC. 905. Duties of state board of health—examination of lamps and apparatus.

1 The state board of health shall examine the particular design,
2 mechanism, and workmanship of such lamps or apparatus as shall be
3 presented to such board, and test said lamps or apparatus, and, if it
4 shall find any lamp or apparatus to be safe, said board shall enter the
5 findings of the board upon the records of the proceedings of said
6 board. The board shall have power, in case it comes to the notice of
7 the board that any lamp or apparatus which it has heretofore
8 approved as safe, because either of change of design, the use of unsuit-
9 able material, or poor workmanship in the construction of such lamps
10 or apparatus, or for any other cause, is unsafe as then manufactured,
11 and dangerous to public safety, to cancel its approval of such lamp or
12 apparatus, and after such cancellation of the approval of said lamp or
13 apparatus, it shall be unlawful to sell or use the same, and no lamps
14 or apparatus manufactured or sold after such disapproval shall be
15 used in burning the lighter products of petroleum for illuminating pur-
16 poses. The state board of health shall notify by registered letter the
17 several inspectors of any approval or disapproval by them of any lamp
18 or apparatus submitted to them for examination.

[S., '13, § 2508-a.]

SEC. 906. Removal of inspectors.

1 It shall be the duty of the governor to remove from office any
2 inspector who is incompetent or unfaithful in the discharge of his
3 official duty, or, having knowledge of the violation of any of the pro-
4 visions of this chapter, shall neglect or refuse to prosecute the
5 offender. In July of each year each inspector shall file with the secre-
6 tary of the executive council an inventory of all instruments and
7 apparatus belonging to the state, in his possession, or that of his
8 deputy or helper, which shall be fully accounted for in such manner
9 as may be prescribed by the executive council.

[C., '97, § 2509; S., '13, § 2509.]

SEC. 907. Biennial report.

1 The chief oil inspector of state shall make and deliver to the gov-
2 ernor a report for the fiscal year ending on the thirtieth day of June
3 in each even numbered year, of all inspections made, the receipts and
4 expenditures therefor and such other items as are by this chapter
5 required to be made of record.

[S. S., '15, § 2509-a.]

SEC. 908. Gasoline—benzine—naphtha—labels—brands.

1 All products of petroleum, known as gasoline, benzine or naph-
2 tha, sold or kept for sale within this state, shall be labeled or branded
3 in plain, clear, legible letters in English and figures showing the
4 Baume gravity test at a temperature of sixty degrees Fahrenheit.
5 If such petroleum products are sold by the barrel, half-barrel or cask,
6 the label shall be placed in a conspicuous place on each barrel, half-
7 barrel or cask. If sold from a tank wagon, the person selling or deliv-
8 ering the same shall show on each sale ticket the gravity test as here-
9 inbefore provided.

[S., '13, § 2510-1a.]

SEC. 909. Failure to brand—false labels.

1 Any person, firm, company, association or corporation, or any
 2 employee or agent of any such person, firm, company, association or
 3 corporation, who shall sell or cause to be sold or keep for sale within
 4 this state, any products of petroleum known as gasoline, benzine or
 5 naphtha, which has not been branded as above required, or which
 6 shall be falsely or incorrectly branded, or which is labeled so as to
 7 mislead or deceive the purchaser, or which is not equal to the gravity
 8 test as stated therein, shall be guilty of a misdemeanor.

[S., '13, § 2510-2a.]

SEC. 910. Inspection.

1 It shall be the duty of the chief oil inspector, or such state
 2 inspector or deputy as may be directed by him, upon complaint, to
 3 inspect gasoline, benzine or naphtha for the purpose of determining
 4 as to whether the same is up to the standard and quality as shown by
 5 the label thereon; or said chief oil inspector may at his own option
 6 inspect, or cause to be inspected, such petroleum products.

[S., '13, § 2510-3a.]

SEC. 911. Authority to enter premises—duty of inspector.

1 The chief oil inspector, or any state inspector or deputy, is hereby
 2 invested with authority and jurisdiction to enter upon the premises of
 3 anyone selling or keeping for sale within this state any gasoline, ben-
 4 zine or naphtha, for the purpose of inspecting the same as herein pro-
 5 vided. It is hereby made the duty of said chief oil inspector to enforce
 6 and cause to be enforced the provisions of this chapter.

[S. S., '15, § 2510-4a.]

SEC. 912. Sale of gasoline—conditions—penalty.

1 Every person dealing at retail in gasoline in this state shall
 2 deliver the same to the purchaser, in quantities of more than one
 3 quart and less than six gallons, only in barrels, casks, packages, cans
 4 or measures painted vermilion red and having the word "gasoline"
 5 plainly stenciled or marked thereon. No such dealer shall deliver
 6 kerosene in a barrel, cask, package or can painted or marked as above.
 7 Every person purchasing gasoline for use shall procure and keep the
 8 same only in barrels, casks, packages or cans painted and marked as
 9 above. No person keeping for use, or using, kerosene shall put or
 10 keep the same in any barrel, cask, package or can painted or marked
 11 as above. Any person violating any of the provisions of this section
 12 shall be deemed guilty of a misdemeanor, and upon conviction, shall be
 13 punished by fine of not less than five, nor more than one hundred
 14 dollars.

[S., '13, § 2510-j.]

SEC. 913. For manufacturing or mechanical purposes.

1 This chapter shall not be construed to prohibit the use of gasoline
 2 from tanks or reservoirs, of not less than ten gallons capacity, for
 3 manufacturing or mechanical purposes.

[S., '13, § 2510-k.]

CHAPTER 8.

INTOXICATING LIQUORS.

SECTION 914. Manufacture, sale or keeping for sale prohibited.

1 No one, by himself, clerk, servant, employee or agent, shall, for
 2 himself or any person else, directly or indirectly, or upon any pre-
 3 tense, or by any device, manufacture, sell, exchange, barter, dispense,
 4 give in consideration of the purchase of any property or of any serv-
 5 ices or in evasion of the statute, or keep for sale, any intoxicating
 6 liquor, which term shall be construed to mean alcohol, ale, wine, beer,
 7 spirituous, vinous and malt liquor, and all intoxicating liquor what-
 8 ever, except as provided in this chapter, or solicit, take, or accept any
 9 order for the purchase, sale, shipment, or delivery of any such liquor,
 10 or aid in the delivery and distribution of any intoxicating liquor so
 11 ordered or shipped, or own, keep, or be in any way concerned, engaged
 12 or employed in owning or keeping any intoxicating liquor with intent
 13 to violate any provision of this chapter, or authorize or permit the
 14 same to be done; and any clerk, servant, employee or agent engaged
 15 or aiding in any violation of this chapter shall be charged and con-
 16 victed as principal. And in case of a sale in which a shipment or
 17 delivery of such liquors is made by a common or other carrier, the
 18 sale thereof shall be deemed to be made in the county wherein the
 19 delivery thereof is made by such carrier to the consignee, his agent
 20 or employee.

[C., '51, §§ 924-928; R., '60, §§ 1559, 1562, 1563, 1583, 1587;
 C., '73, §§ 1523, 1540-1542, 1555; C., '97, § 2382; S. S.,
 '15, § 2382; 37 G. A., ch. 248, § 1.]

SEC. 915. Penalty—second offense.

1 Whoever is found guilty of violating any of the provisions of
 2 the preceding section, for the first offense shall pay a fine of not less
 3 than fifty dollars nor more than two hundred dollars and cost of prose-
 4 cution, and stand committed to the county jail until such fine and costs
 5 are paid; for the second and each subsequent offense he shall pay,
 6 upon conviction thereof, a fine of not less than three hundred dollars
 7 nor more than five hundred dollars and costs of prosecution, or be
 8 imprisoned in the county jail not to exceed one year.

[C., '51, § 930; R., '60, §§ 1561-1563; C., '73, §§ 1525, 1540,
 1542; C., '97, § 2383; S., '13, § 2383.]

SEC. 916. Qualification to sell—elector.

1 No one except a qualified elector of the town, city or township
 2 in which the business is conducted and carried on shall engage in
 3 the sale of intoxicating liquors at retail.

[S., '13, § 2383-a.]

SEC. 917. Persons interested in distilling or brewing.

1 No person, firm, association or corporation and no officer, mem-
 2 ber, stockholder, agent or employee of any such firm, association or
 3 corporation engaged in the manufacture, brewing, distilling or refin-
 4 ing of intoxicating liquors shall be interested or engaged, either
 5 directly or indirectly, in the retail sale of intoxicating liquors, or own,
 6 operate or lease any building, erection or place to be used for the sale
 7 or keeping for sale of intoxicating liquors at retail, or own or lease

8 or be interested in, either directly or indirectly, any fixtures, furniture,
9 or apparatus to be used in the retail sale of intoxicating liquors, or
10 furnish the license bond required by law or pay for such bond or
11 guarantee the bond of such person engaging in the sale of intoxicating
12 liquors contrary to the conditions above prohibited shall be punished
13 as provided in the following section.

[S., '13, § 2383-b.]

SEC. 918. Violation—penalty.

1 Any person, firm, association or corporation, or any agent or
2 officer of such firm, association or corporation, violating any of the
3 provisions of the preceding section, shall be deemed guilty of a mis-
4 demeanor, and shall be liable to all of the penalties, both civil and
5 criminal, provided in sections nine hundred fourteen to nine hundred
6 forty-two, inclusive, and nine hundred sixty-two to ten hundred twenty-
7 five, inclusive.

[S., '13, § 2383-c.]

SEC. 919. Nuisance—penalty—abatement—attorney's fee.

1 Whoever shall erect, establish, continue or use any building, erection
2 or place for any of the purposes herein prohibited, is guilty of a
3 nuisance, and upon conviction shall pay a fine of not less than three
4 hundred nor more than one thousand dollars and costs of prosecution,
5 which shall include a reasonable attorney's fee to be taxed by the
6 court, and stand committed to the county jail until such fine and costs
7 are paid, and the building, erection or place, or the ground itself, in
8 or upon which such unlawful manufacture or sale or keeping with
9 intent to sell, use or give away said liquors is carried on or continued
10 or exists, and the furniture, fixtures, vessels and contents, are also
11 declared a nuisance, and in addition to the penalties hereinbefore
12 affixed, shall be abated as hereinafter provided.

[R., '60, § 1564; C., '73, § 1543; C., '97, § 2384.]

SEC. 920. Permits.

1 Persons holding permits may sell and dispense intoxicating
2 liquors, not including malt liquors for pharmaceutical and medical pur-
3 poses, and to permit holders for use and resale by them, only for the
4 purposes authorized in this chapter; they may also sell and dispense
5 alcohol for specified chemical and mechanical purposes, and wine for
6 sacramental uses. Registered pharmacists, physicians holding cer-
7 tificates from the state board of medical examiners and manufacturers
8 of proprietary medicines may buy from permit holders intoxicating
9 liquors, not including malt, for the purpose of compounding medicines,
10 tinctures and extracts that can not be used as a beverage, but nothing
11 herein contained shall be construed to authorize the manufacture or
12 sale of any preparation or compound, under any name, form or device,
13 which may be used as a beverage, and which is intoxicating in its
14 character.

[R., '60, § 1575; C., '73, § 1526; C., '97, § 2385.]

SEC. 921. Pharmacists—manufacturers of proprietary medicines.

1 If any such registered pharmacist or manufacturer of proprietary
2 medicines shall sell, barter, give, exchange, dispose of or use intoxi-
3 cating liquors in any manner or for any purpose other than authorized

4 in the preceding section, he shall be liable to all the penalties and pro-
5 ceedings provided for in this chapter, and upon proof of such violation
6 by a registered pharmacist, the clerk of the district or superior court
7 shall transmit to the commissioners of pharmacy a certified copy of the
8 record thereof within ten days after its entry, and upon receipt of
9 such certified copy said commissioner may strike his name from the
10 list of registered pharmacists and cancel his certificate. The com-
11 missioners of pharmacy are empowered to make such further rules and
12 regulations, not inconsistent with law, with respect to the purchase,
13 keeping and use of intoxicating liquors by registered pharmacists and
14 manufacturers of proprietary medicines, as they shall think proper
15 to prevent abuses of the privilege, and shall revoke the certificate of
16 registration of any pharmacist for repeated violation of this chapter.
17 Said commissioners are authorized to draw from the state treasury
18 an amount not exceeding fifty per cent of the clear proceeds of all
19 fines collected and paid into the treasury of any county on account of
20 violations of the provisions of this chapter or the chapter regulating
21 the practice of pharmacy, prosecuted by the commissioners, the
22 amounts so drawn to be used solely in prosecutions instituted by them
23 for failure to comply with the provisions of such chapters. The court
24 or clerk thereof, before whom any prosecution is instituted or prose-
25 cuted by the commissioners of pharmacy, shall certify to the auditor
26 of state all such cases, and the amount of fees imposed and collected
27 therein. The expenses thus incurred by the commission shall be au-
28 dited by the executive council, and the amount thereof shall be drawn
29 from time to time upon the warrants of the state auditor.

[C., '97, § 2386; S., '13, § 2386.]

SEC. 922. Application for permit.

1 All applications for a permit to sell intoxicating liquors for the
2 purposes allowed in this chapter shall be by petition, signed and sworn
3 to by the applicant, and filed in the office of the clerk of the district
4 or superior court of the county or city in which the buying and selling
5 is to be carried on, at least ten days before the term at which the mat-
6 ter is to be for trial, which petition shall set out the name of the
7 applicant, his residence and business and that for the two previous
8 years, the place, particularly describing it, where the business is to
9 be conducted, that he is a citizen of the United States and of this state,
10 that he is a registered pharmacist, that now and for the six months
11 last past he has been lawfully conducting a pharmacy in the township,
12 town or city wherein he proposes to engage in the business under the
13 permit applied for, that he has not been adjudged guilty of any viola-
14 tion of the law relating to intoxicating liquors within the two years
15 next preceding the making of his application, is not the keeper of a
16 hotel, eating house, saloon, restaurant or place of public amusement,
17 and that he is not addicted to the use of intoxicating liquors as a bev-
18 erage, and desires a permit to buy, keep and sell liquors for lawful
19 purposes only. If the applicant has previously held a permit which
20 has been revoked, his petition, in addition to the foregoing require-
21 ments, shall state that he has not, within the last two years next before
22 making the application, knowingly been engaged, employed or inter-
23 ested in the unlawful manufacture, sale or keeping with intent to sell
24 of intoxicating liquors.

[R., '60, §§ 1575, 1576; C., '73, §§ 1526, 1527; C., '97, § 2387.]

SEC. 923. Notice.

1 Notice of an application for a permit must be published, once
2 each week, for three consecutive weeks in a newspaper regularly pub-
3 lished and printed in the English language, and of general circulation
4 in the township, town or city where the applicant proposes to conduct
5 the business, or, if none be regularly published therein, then in one of
6 the papers selected by the board of supervisors for the publication of
7 its proceedings, the last publication of which shall be not less than ten
8 nor more than twenty days before the first day of the term at which
9 the hearing is to be had. This notice shall state the name of the
10 applicant, with the firm name, if any, under which he is doing busi-
11 ness, the purpose of the application, the particular location of the place
12 where the proposed business is to be carried on, and that the required
13 petition is or will be on file in the clerk's office of the court, naming
14 it, at least ten days before the first day of the term, naming it, when
15 the application will be made. A copy of such notice shall be served
16 upon the county attorney in the same manner and for the same length
17 of time as is required of original notices in said courts.

[C., '73, § 1529; C., '97, § 2388; S., '13, § 2388.]

SEC. 924. Hearing—remonstrances.

1 Upon the return day of the notice, the court having, from an
2 inspection of the record, ascertained that due and timely service
3 thereof has been made, shall, if no remonstrance has been or is offered
4 to be filed, unless for cause postponed to some other day in the term,
5 proceed to hear and try the application. Any remonstrance against
6 or objection to the granting of the permit must be in writing and filed
7 in the clerk's office by noon of the first day of the term, unless further
8 time be given, and shall be so filed before the date fixed for the trial.
9 Such remonstrance or objections may be made by any citizen of the
10 county wherein the application is made, specifically stating the reasons
11 therefor, and the court shall fix a day in the term for the trial, and all
12 applications shall be tried at the first term after completed service has
13 been made of the required notice, if the business of the court shall
14 allow. No permit shall be granted unless the court shall find from
15 competent evidence that all the averments in the petition are true, that
16 the reasonable convenience and necessities of the people, considering
17 the population and all the surroundings, make the granting of the per-
18 mit proper, and that the applicant is possessed of the character and
19 qualifications required, worthy of the trust to be reposed in him, and
20 likely to discharge the same with fidelity. The county attorney shall
21 appear in such cases, and any number of persons, not less than five,
22 filing any remonstrance or objection, may also appear by counsel and
23 resist the application. If more than one permit is applied for in the
24 same locality, the applications shall be heard at the same time, unless
25 for cause shown it be otherwise ordered. If for any reason the appli-
26 cation can not be tried in term time, the same may be heard by the
27 judge in vacation, at a time to be fixed by the court and made of record,
28 and in all applications for permits the court may grant or refuse any
29 or all applications, as will best subserve the public good.

[C., '73, §§ 1529, 1530; C., '97, § 2389.]

SEC. 925. Bond—to be recorded.

1 No permit shall issue until the applicant shall execute to the state
 2 a bond in the penal sum of one thousand dollars, with good and suffi-
 3 cient sureties to be approved by the clerk of the court, conditioned
 4 that he will well and truly observe and obey the laws of the state now
 5 or hereafter in force in relation to the sale of intoxicating liquors, that
 6 he will pay all fines, penalties, damages and costs that may be assessed
 7 or recovered against him for a violation of such laws during the time
 8 for which the permit is granted, and the principal and sureties in said
 9 bond shall be liable thereon, jointly and severally, for all civil damages
 10 and costs that may be recovered against the principal in any action
 11 brought by a wife, child, parent, guardian, employer or other person
 12 under the provisions of this chapter. The bond, after being approved
 13 and recorded by the clerk, shall be deposited with the county auditor,
 14 and suit may be brought thereon at any time by the county attorney,
 15 or by any person for whose benefit the same is given. The clear pro-
 16 ceeds of all other money which may be collected for breaches of the
 17 bond shall go to the school fund of the county. If at any time the
 18 sureties on the bond shall file with the court or clerk a written request
 19 for release, or become insolvent, or be deemed insufficient by the court
 20 granting the permit, or its clerk, such court or clerk shall require a
 21 new bond to be executed within a reasonable time to be fixed. If the
 22 permit holder fails or neglects to furnish a new bond within the time
 23 so fixed, the permit shall from that date become null and void.

[R., '60, § 1575; C., '73, §§ 1528, 1532; C., '97, § 2390; S., '13,
 § 2390.]

SEC. 926. Oath of applicant.

1 In addition to giving the bond required, the applicant shall take
 2 and subscribe the following oath, which shall be indorsed upon the
 3 bond: "I,, do solemnly swear (or affirm) that I
 4 will well and truly perform all and singular the conditions of the
 5 within bond, and keep and perform the trust confided in me to pur-
 6 chase, keep and sell intoxicating liquors. I will not sell, give or fur-
 7 nish to any person any intoxicating liquors otherwise than as provided
 8 by law, and especially I will not sell or furnish any intoxicating liquors
 9 to any person who is not known to me personally, or duly identified,
 10 nor to any minor, intoxicated person, or persons who are in the habit
 11 of becoming intoxicated; and I will make true, full and accurate
 12 returns of all certificates and requests made to or received by me as
 13 required by law; and said returns shall show every sale and delivery
 14 of such liquors made by me, or for me, during the months embraced
 15 therein, and the true signature to every request received and granted;
 16 and such returns shall show all the intoxicating liquors sold or deliv-
 17 ered to any and every person, as returned.

[C., '97, § 2391.]

SEC. 927. Permit issued.

1 Upon taking said oath and filing said bond, the clerk of the court
 2 granting the same shall issue a permit to the applicant, authorizing
 3 him to keep and sell intoxicating liquors as in this chapter provided.
 4 The permit so issued shall specify the building, give the street and
 5 number or location in which intoxicating liquors may be sold by virtue
 6 of the same, and the length of time the same shall be in force, unless

7 sooner revoked; provided that upon the expiration of the lease or
 8 destruction of the building where such business is conducted, or for
 9 other good and sufficient cause shown, consent in writing of the bondsmen
 10 having been obtained therefor, or a new bond given, the district
 11 court of the county which granted said permit, or a judge of said
 12 court, may change the place specified in said permit to some other
 13 place in the same city, town, or township upon motion therefor. A
 14 copy of said motion, and notice of the time when and the place where
 15 the same will be heard, shall be given to the county attorney of the
 16 county where said place is situated, at least five days before said
 17 hearing.

[R., '60, §§ 1575, 1576; C., '73, § 1531; C., '97, § 2392; S., '13, § 2392.]

SEC. 928. Record—costs.

1 The clerk of the court granting the permit shall preserve as a
 2 part of the record and files in his office all petitions and other papers
 3 except bonds pertaining to the granting or revocation of permits, and
 4 keep suitable books in which bonds and permits shall be recorded.
 5 The books shall be furnished by the county like other public records.
 6 Whether said permit be granted or refused, the applicant shall pay
 7 the costs incurred in the case, and, when granted, he shall make pay-
 8 ment before any permit issue, except the court may tax the cost of
 9 any witnesses summoned by private persons resisting said application,
 10 and the fees for serving such subpoenas, to such persons, when it is
 11 shown that such witnesses were summoned maliciously, or without
 12 probable cause to believe their evidence material. The fees in such
 13 cases shall be as provided in actions at law in the district court.

[C., '97, § 2393; S., '13, § 2393.]

SEC. 929. Requests to purchase—blanks—permit holder to fill in.

1 Before selling or delivering any intoxicating liquors to any per-
 2 son, a request must be signed by the applicant, in his true name, truly
 3 dated, stating the applicant is not a minor, his residence, for whom
 4 and whose use the liquor is required, and his true name and residence,
 5 and, where numbered, by street and number if in a city, the amount
 6 and kind required, the actual purpose for which the request is made,
 7 and for what use desired, and that neither the applicant nor the per-
 8 son for whose use requested habitually uses intoxicating liquors as a
 9 beverage, and attested by the permit holder who receives and fills the
 10 request. The blanks for such request shall, with proper stubs, in all
 11 cases, be printed in book form and shall be furnished to the permit
 12 holder by the county auditor of the county in which such permit is in
 13 force, and shall contain, in addition to the matter provided for in said
 14 section, the facsimile signature of the county auditor; and both the
 15 stub and the request shall be numbered consecutively. Such blank
 16 requests with stubs, shall be furnished the permit holder applying
 17 therefor upon payment by him to the county auditor of the actual cost
 18 of printing the same. Such blank requests and the corresponding
 19 stubs shall be filled out by the person making the sale in ink, and in
 20 the presence of the applicant for such liquors and prior to the appli-
 21 cant's signature thereof. The line between the request and its corre-
 22 sponding stub shall be perforated. The permit holder shall be required
 23 to preserve the stubs in book form and shall keep them at all times

24 subject to the inspection of the commissioners of pharmacy, the county
 25 attorney, any grand juror, sheriff or justice of the peace in the county
 26 in which such permit is in force. The blank form of request and stub
 27 shall be as follows:

28 No. (Official Form E—Series B.)

29 CERTIFIED REQUEST OF PURCHASERS.

30 No., Iowa. 19.....

31 To..... Reg. Phar. No.....

32 I hereby make request for the purchase of the
 33 following intoxicating liquors:

34 AMOUNT. KIND.

35

36

37 My true name is..... I am not a

38 19..... minor, and reside in..... township (or

39 town of.....) at No..... in the County

40 Purchaser of....., State of..... The actual pur-

41 Address pose for which this request is made is to obtain

42 the said liquor for..... and the

43 same is desired for..... use, and

44 Purchase neither myself nor the said.....

45 For whom habitually use intoxicating liquors as a bev-

46 Address erage.

47 If the applicant is unknown to the permit

48 holder the blank below shall also be filled out

49 and signed by a witness. Signature of Pur-

50 Certifier chaser

51 I,, hereby certify that I

52 Address am acquainted with....., the

53 applicant for the purchase of the foregoing de-

54 scribed liquors, and that said

55 is not a minor and is not in the habit of using

56 intoxicating liquors, as a beverage, and is

57 worthy of credit as to the truthfulness of the

58 statements in the foregoing request, and my

59 residence is....., No.....

60 Street.....

61 (Signature of Certifier)

62

63 Attested by.....

64 Registered Pharmacist No.

65 The request shall be refused unless the permit holder has reason

66 to believe the statement to be true, and in no case granted unless the

67 permit holder filling it personally knows the person applying is not a

68 minor, intoxicated, nor in the habit of using intoxicating liquors as a

69 beverage; or, if the applicant is not so personally known, before filling

70 the order or delivering the liquor, he shall require identification, and

71 the statement in writing of a reliable and trustworthy person, of good

72 character and habits, known personally to him, that the applicant is

73 not a minor, nor in the habit of using intoxicating liquors as a bev-

74 erage, and is worthy of credit as to the truthfulness of the statements

75 in the application; and this statement so made shall be signed by the

76 witness in his own name, stating his residence correctly.

[C., '97, § 2394; S., '13, § 2394.]

SEC. 930. Penalties.

1 If any person shall make any false or fictitious signature, or sign
 2 any name other than his own to any paper required to be signed, or
 3 make any false statement in any paper or application signed to pro-
 4 cure liquors, the person so offending shall be punished by a fine of
 5 not less than twenty dollars nor more than one hundred dollars and
 6 costs of prosecution, and shall be committed until said fine and costs
 7 are paid, or shall be imprisoned not less than ten nor more than thirty
 8 days. If any permit holder or his clerk shall make false oath touch-
 9 ing any matter required to be sworn to, the person so offending shall
 10 be punished as provided by law for perjury. If any person holding
 11 a permit under this chapter shall purchase or procure any intoxicating
 12 liquor otherwise than as herein authorized, or make any false return
 13 to the county auditor, or use any request for liquors for more than
 14 one sale, he shall be guilty of a misdemeanor and punished accordingly.

[R., '60, § 1577; C., '73, § 1559; C., '97, § 2395.]

SEC. 931. Transportation by permit holder.

1 Every permit holder is hereby authorized to ship to registered
 2 pharmacists and manufacturers of proprietary medicines intoxicating
 3 liquors to be used by them for the purposes authorized by law. All
 4 railway, transportation and express companies and other common car-
 5 riers are authorized to receive and transport the same upon presenta-
 6 tion of a certificate from the clerk of the district or superior court of
 7 the county where the permit holder resides, that such person is per-
 8 mitted to ship intoxicating liquors under the law of this state.

[C., '97, § 2396.]

SEC. 932. Returns by permit holder.

1 On or before the fifteenth day of January, March, May, July, Sep-
 2 tember and November of each year, each permit holder shall make
 3 full returns to the county auditor, under oath, of all requests filled by
 4 him and his clerks during the two preceding months, which oath shall
 5 be in the following form: "I,, being duly
 6 sworn, on oath state that the requests for liquors herewith returned
 7 are all that were received and filled at my pharmacy (or place of busi-
 8 ness) during the months of, A. D.; that
 9 I have carefully preserved the same, and that they were filled up,
 10 signed and attested at the date shown hereon, as provided by law;
 11 that said requests were filled by delivering the quantity and kinds of
 12 liquors required, and that no liquors have been sold or dispensed under
 13 color of my permit during said months except as shown by the requests
 14 herewith returned, and that I have faithfully observed and complied
 15 with the conditions of my bond and oath taken by me thereon indorsed,
 16 and with all the laws relating to any duties in the premises."

[C., '97, § 2397.]

SEC. 933. Account of purchases and sales.

1 Every permit holder shall keep strict account of all liquors pur-
 2 chased or procured by him in a book kept for that purpose, which
 3 shall be subject at all times to the inspection of the commissioners of
 4 pharmacy, the county attorney, any grand juror, sheriff or justice of
 5 the peace of the county, and such book shall show of whom such liquors

6 were purchased or procured, the amount and kind, the date of receipt
 7 and amount sold; also the amount on hand of each kind for each two
 8 months, and at the same time he returns requests to the county auditor
 9 he shall file a statement of such account with such auditor, except that
 10 the items of sales need not be embraced therein, but the aggregate
 11 amount of each kind shall be, and such statement shall be verified. All
 12 forms necessary to carry out the provisions of this chapter not other-
 13 wise provided for shall be as may be provided by the commissioners
 14 of pharmacy.

[C., '73, §§ 1533, 1537; C., '97, § 2398.]

SEC. 934. Illegal sales by permit holder—evidence.

1 Every permit holder or his clerk shall be subject to all the penal-
 2 ties, forfeitures and judgments, and may be prosecuted by all the pro-
 3 ceedings and actions criminal and civil, whether at law or in equity,
 4 provided for or authorized by this chapter, and the permit shall not
 5 shield any person who abuses the trust imposed by it or violates the
 6 law. In case of conviction in any proceeding, civil or criminal, the
 7 liquors in possession of the permit holder shall by order of the court
 8 be destroyed, and on the trial of an action or proceeding against any
 9 person for manufacturing, selling, giving away or keeping with intent
 10 to sell intoxicating liquors in violation of law, or for any failure to
 11 comply with the conditions or duties imposed by law, the requests for
 12 liquors and returns made to the auditor, the quantity and kinds of
 13 liquors sold, or kept, purchased or disposed of, the purpose for which
 14 liquors were obtained by or from him and for which they were used,
 15 the character and habits of sobriety or otherwise of the purchasers,
 16 shall be competent evidence, and may be considered, so far as appli-
 17 cable to the particular case, with any other recognized, competent and
 18 material facts and circumstances bearing on the issues involved in
 19 determining the ultimate facts. In any suit, prosecution or proceed-
 20 ing under this chapter, the court shall compel the production in evi-
 21 dence of any books or papers required to be kept, and shall compel
 22 any permit holder, his clerk, or any person who has purchased liquors
 23 of either of them, to appear and give evidence, but such oral evidence
 24 shall not be used against such person or witness on the trial of any
 25 criminal proceeding against him.

[C., '73, § 1538; C., '97, § 2399.]

SEC. 935. Revocation of permit.

1 Permits shall be deemed trusts reposed in the recipients, and may
 2 be revoked upon sufficient showing by order of a court or judge. Com-
 3 plaint may be presented at any time to the district or superior court,
 4 or a judge thereof, which shall be in writing and signed and sworn
 5 to by three citizens of the county in which the permit was granted.
 6 A copy of the complaint shall, with a notice in writing of the time and
 7 place of hearing, be served on the accused five days before the hearing,
 8 and if the complaint is sufficient, and the accused appear and deny the
 9 same, the court or judge shall proceed without delay, unless continued
 10 for cause, to hear and determine the controversy. If continued or
 11 appealed at the instance of the permit holder, his permit may, in the
 12 discretion of the court, be suspended during the controversy. The
 13 complainant and accused may be heard in person or by counsel, or
 14 both, and proofs may be offered by the parties; and if it shall appear
 15 upon such hearing that the accused has in any way abused the trust,

16 or that liquors are sold by the accused or his employees in violation
 17 of law, or dispensed unlawfully, or he has in any proceeding, civil or
 18 criminal, within the last two years, been adjudged guilty of violating
 19 any of the provisions of this chapter, the court or judge shall revoke
 20 and set aside the permit; the papers and order in such case shall be
 21 immediately returned to and filed by the clerk of the court, and, if
 22 heard by a judge, the order shall be entered of record as if made in
 23 court; and if in this or any other proceeding, civil or criminal, it shall
 24 be adjudged by the court or judge that any registered pharmacist,
 25 proprietor or clerk has been guilty of violating any provision of this
 26 chapter, such adjudication may be by the commissioners of pharmacy
 27 regarded as sufficient, if repeated, to work a forfeiture of his cer-
 28 tificate of registration. It shall be the duty of the clerk to forward
 29 to the commissioners of pharmacy transcripts of such judgments or
 30 orders without charge therefor, and as soon as practicable after final
 31 judgment or order has been made and entered.

[C., '73, §§ 1534, 1535; C., '97, § 2400; S., '13, § 2400.]

SEC. 936. How business conducted—partner—clerks—physicians.

1 A permit holder may employ not more than two registered phar-
 2 macists as clerks to sell intoxicating liquors in conformity to the per-
 3 mit and the law; but in such cases the acts of clerks in conducting
 4 the business shall be considered the acts of the permit holder, who shall
 5 be liable therefor as if he had personally done them, and in making
 6 returns, the verification of such requests as may have been received,
 7 attested and filed by the clerk must be made by such clerk, and the
 8 clerk who transacted any of the business under the permit must join
 9 in the general oath required of the employer, so far as relates to his
 10 own connection therewith. If for any cause a registered pharmacist
 11 who holds a permit shall cease to hold a valid and subsisting certificate
 12 of registration or renewal thereof, his permit shall be forfeited and
 13 be null and void. Nothing contained in this chapter shall be con-
 14 strued to prevent licensed physicians from in good faith dispensing
 15 liquors as medicines to patients actually sick and under their treat-
 16 ment. In case a permit holder shall die, his personal or legal repre-
 17 sentative may continue the business, subject to the provisions thereof,
 18 through the agency of any reputable registered pharmacist, upon the
 19 approval of the court granting such permit, or the clerk thereof, and
 20 the giving of a bond as hereinbefore provided. A partner who is a
 21 registered pharmacist, not holding a permit, shall have the same rights
 22 and be subject to the same restrictions as clerks, and for whose acts
 23 the permit holder shall be held responsible the same in all respects as
 24 for his clerks.

[C., '97, § 2401; S., '13, § 2401.]

**SEC. 937. Wholesale druggists may sell for certain purposes—
 request blanks.**

1 Any corporation doing a general wholesale drug business within
 2 the state and having a registered pharmacist who holds a permit to
 3 sell intoxicating liquors, and is financially interested in and actually
 4 engaged in the conduct of said business, may sell and dispense intoxi-
 5 cating liquors, not including malt liquors, for the purpose of com-
 6 pounding medicines, tinctures, and extracts, none of which can be used
 7 as a beverage, to any registered pharmacist conducting a general drug
 8 business within the state, or to any firm or corporation having a regis-

9 tered pharmacist financially interested therein and doing a general
 10 drug business within the state, and to physicians, dentists or veteri-
 11 narians duly licensed under the laws of the state; and for resale, to
 12 registered pharmacists holding a permit to sell intoxicating liquors.
 13 Such sales of intoxicating liquors shall be made only upon the written
 14 request of the registered pharmacist, physician, dentist or veterina-
 15 rian, desiring to purchase the same, said request to be signed by the
 16 applicant for the purchase and countersigned by the permit holder of
 17 the corporation making the sale with his name and the date the goods
 18 are delivered for transportation, and shall be in the following form:

To _____, Iowa, _____, 19_____

Reg. Phar. No. _____:

I hereby make request for the purchase of the following intoxi-
 cating liquors:

Amount.	Kind.
---------	-------

My true name is _____, I am (1) a phar-
 macist registered under the laws of the state of Iowa; my reg-
 istry number is _____, I am conducting a general drug
 business in _____, Iowa; (2) a physician duly
 licensed under the laws of the state of Iowa, and have my office
 at _____, Iowa, where I am engaged in the
 practice of medicine; (3) a dentist duly licensed under the laws
 of the state of Iowa, and have my office at _____,
 Iowa, where I am engaged in the practice of dentistry; (4) a
 veterinarian duly licensed under the laws of the state of Iowa,
 and have my office at _____, Iowa, where I am
 engaged in the practice of veterinary surgery.

Reg. Phar. No. _____
Day of _____ 19_____

The actual purpose for which this request is made is for
 _____ I do not habitually use intoxicating
 liquors as a beverage.

 Signature of Purchaser.

[S., '13, § 2401-a; 37 G. A., ch. 422, § 1.]

SEC. 938. Requests may be forwarded.

1 Requests for intoxicating liquors made under the provisions of
 2 the foregoing section need not be filled out and signed in the presence
 3 of the permit holder countersigning the same for the wholesale drug
 4 corporation, but may be done by the applicant at his place of business
 5 and forwarded to the corporation of whom the request is made. Said
 6 requests shall be preserved and returns made to the county auditor
 7 in accordance with the provisions of section nine hundred thirty-two,
 8 but said requests need not be consecutively numbered.

[S., '13, § 2401-b.]

SEC. 939. Shipments—bill of lading.

1 Intoxicating liquors shipped under the provisions of sections nine
 2 hundred thirty-seven to nine hundred forty-two, inclusive, may be
 3 inclosed in the same box, package, or carton containing other drugs
 4 or merchandise. In all cases of such shipments of intoxicating liquors
 5 the bill of lading shall set out that intoxicating liquors are in the ship-
 6 ment, with the kind and amount of the same, and one copy of the bill
 7 of lading shall be signed for the wholesale drug corporation by the

8 permit holder provided for in section nine hundred thirty-seven, or
9 any officer of such drug corporation.

[S., '13, § 2401-c.]

SEC. 940. Carriage and delivery of liquors by carriers—procedure.

1 All railway, transportation and express companies and other com-
2 mon carriers shall receive intoxicating liquors, not including malt
3 liquors, from corporations conducting a wholesale drug business and
4 shipped to registered pharmacists, physicians, dentists, or veterina-
5 rians in good standing and duly licensed under the laws of this state,
6 and when consigned to the station nearest their residence. Before
7 receiving such shipments, the common carrier shall require the cor-
8 poration to file with it a copy of the permit of the permit holder con-
9 nected with the wholesale drug corporation making the shipment, said
10 copy to be certified by the clerk of the district court; the affidavit of
11 any officer of the corporation that said corporation is actually and in
12 good faith engaged in the wholesale sale of drugs in this state, and
13 that the permit holder is a stockholder in the drug corporation; and
14 with each shipment of intoxicating liquors a bill of lading made out
15 and signed as provided for in the preceding section. Before deliv-
16 ery of the liquor consigned to such physician, dentist or veterinarian,
17 the consignee shall file with the carrier an affidavit that such liquor
18 is for professional use only and not for sale or use as a beverage, and
19 shall in person sign the delivery book required by section nine hundred
20 thirty-eight, to be kept. The foregoing provisions having been compl-
21 ied with, common carrier shall be relieved from all liabilities other-
22 wise imposed by law for the transportation of intoxicating liquors.

[S., '13, § 2401-d; 37 G. A., ch. 422, § 2.]

SEC. 941. Violation—penalty.

1 A failure to comply with all or any of the provisions of the four
2 preceding sections shall render the person who so fails to comply liable
3 to all the penalties otherwise imposed by law for the sale and trans-
4 portation of intoxicating liquors within the state.

[S., '13, § 2401-e.]

SEC. 942. "Corporation" construed.

1 The term corporation, as used in the five preceding sections, shall
2 be construed to include corporations, firms and persons engaged in the
3 general wholesale drug business within this state.

[S., '13, § 2401-f.]

SEC. 943. Permit for sale of alcohol and other liquors.

1 Any person, firm or corporation within this state engaged, in
2 good faith, in the business of manufacturing patent and proprietary
3 medicines, tinctures, extracts or other commodity not susceptible of
4 use as a beverage but which require as one of their ingredients alco-
5 hol, spirituous or vinous liquors, and who desires to purchase and have
6 transported by either intrastate or interstate common carriers and
7 have possession of such liquors shall, before purchasing, transporting
8 or using such liquors, apply for and obtain a permit authorizing such
9 sale, transportation and use as hereinafter provided.

[37 G. A., ch. 133, § 1.]

SEC. 944. Permit—application—conditions.

1 Any person, firm or corporation desiring such permit shall apply
 2 to the judge of the district court of the county in which the principal
 3 place of business is located by filing with the clerk of said district
 4 court the affidavit of the person, member of the firm, or secretary or
 5 other managing officer of the corporation, as the case may be, stating
 6 therein the following facts:

7 1. The name, place of business and postoffice address of the per-
 8 son, firm or corporation desiring such permit.

9 2. The business in which said person, firm or corporation is
 10 engaged and the articles manufactured by them which require in their
 11 manufacture the use of alcohol, spirituous or vinous liquors and
 12 approximately the amount required during a calendar month.

13 3. That neither the applicant nor any member of the firm or
 14 officer of the corporation has been convicted of any violation of the
 15 laws of this state with reference to the sale of intoxicating liquors
 16 within three years last past prior to the date of said affidavit.

[37 G. A., ch. 133, § 2.]

SEC. 945. Hearing on application—bond.

1 Upon the filing of said affidavit, together with other proof sub-
 2 mitted, if any, the clerk shall immediately notify the county attorney
 3 of such application. If, after a hearing, the judge is satisfied that the
 4 facts stated in said affidavit are true and that the applicant is a person
 5 fit and proper to be intrusted with the permit applied for, the same
 6 shall be issued upon the filing by the applicant of a bond in the sum of
 7 two thousand dollars, the sureties to be approved by said clerk, con-
 8 ditioned as provided in section nine hundred twenty-five, which permit,
 9 unless revoked for cause, shall remain in force for a period of five
 10 years from the date of its issuance.

[37 G. A., ch. 133, § 3.]

SEC. 946. Clerk—duties—issuance of shipping permit.

1 It shall be the duty of said clerk to keep a record of permits issued
 2 hereunder, giving each permit holder a serial number and at the time
 3 of the issuance of said permit, or afterwards while the same remains
 4 in force, on the application of the permit holder the clerk shall deliver
 5 to him certificates showing his authority to buy, transport and use
 6 such alcohol, spirituous or vinous liquors as may be covered by said
 7 permit, which certificates shall be in triplicate and on red paper and
 8 in substantially the following form:

9 MANUFACTURERS' SHIPPING PERMIT.

10 This is to certify that....., of....., county
 11 of....., State of Iowa, is the holder of manufacturers' permit
 12 No., which will expire on the.....day of....., 19.....,
 13 and that such permit holder is authorized to purchase and have trans-
 14 ported to him alcohol, spirituous or vinous liquors of the kinds and
 15 amounts specified below, provided one duplicate of this certificate is
 16 firmly pasted or affixed to the exterior of the package and one dupli-
 17 cate hereof is attached to the bill of lading and after the delivery of
 18 said liquors to such permit holder, said duplicate with date of delivery
 19 indorsed or stamped thereon shall be by the delivering carrier
 20 promptly mailed to the undersigned:

21	Kinds of liquors	Amount	Purpose for which to be used
22	-----	-----	-----
23	-----	-----	-----
24			-----,
25			Clerk of the district court,
26			-----County, Iowa.
27			* * * *
28			SHIPPING ORDER.
29	-----,		
30	-----		
31	Please ship to us via		-----
32			(here insert name of carrier)
33	the liquors above specified.		
34			-----

[37 G. A., ch. 133, § 4.]

SEC. 947. Ordering and shipping liquors—procedure.

1 When the holder of any permit granted under sections nine hun-
2 dred forty-three to nine hundred ffity-one, inclusive, desires to pur-
3 chase and have transported any liquor provided for in sections nine
4 hundred forty-three to nine hundred fifty-one, inclusive, he shall make
5 a written order in triplicate upon the blanks provided in the preceding
6 section, which shall be furnished to him by said clerk for a fee of
7 twenty-five cents per set of three, setting forth the exact amount and
8 kind of liquor ordered, from whom and by what railway, express com-
9 pany or other common carrier the said liquor is to be transported.
10 One copy of this order shall be immediately filed with the clerk of the
11 district court of the county in which the permit is issued, one copy
12 shall be attached to the package in which the shipment is made in a
13 conspicuous place in such way that it can not be removed without
14 showing evidence of mutilation where the entire order is shipped in
15 one package, and if the said order shall be contained and shipped in
16 more than one package, then the consignor shall attach the original
17 copy to one of said packages and a duplicate thereof to each additional
18 package required to ship said order, and the third copy shall be
19 attached at the original point of shipment to the waybill of the com-
20 mon carrier transporting such liquor. This copy, when the holder of
21 the permit or his authorized agent shall have received for the said
22 liquor, shall be stamped with the date of delivery of such liquor and
23 immediately filed by the agent of the common carrier which has trans-
24 ported the said liquor with the clerk of the district court of the county
25 in which permit is granted. The clerk of the district court shall com-
26 pare the copy of the order filed by the agent of the common carrier
27 with the copy filed by the holder of the permit and, if any discrepancy
28 exists, he shall report such fact to the county attorney.

[37 G. A., ch. 133, § 5.]

SEC. 948. General permit holders may sell.

1 It shall be lawful for any person, firm or corporation holding a
2 permit in the state of Iowa for the sale of alcohol, spirituous or vinous
3 liquors to sell alcohol, spirituous or vinous liquors to holders of per-
4 mits under sections nine hundred forty-three to nine hundred fifty-
5 one, inclusive, and to deliver same to common carriers for transporta-
6 tion to such permit holders under the conditions and as provided by

7 sections nine hundred forty-three to nine hundred fifty-one, inclusive,
8 anything to the contrary in any other law notwithstanding.

[37 G. A., ch. 133, § 6.]

SEC. 949. Permit holder—duty.

1 It shall be the duty of any permit holder within this state or
2 dealer without the state filling such order to paste or otherwise attach
3 firmly one duplicate of such certificate to the exterior of such package,
4 which shall be sufficient authority for the transportation and delivery
5 to such permit holders of the package containing such liquors.

[37 G. A., ch. 133 § 7.]

SEC. 950. Transportation by carriers—delivery.

1 When the provisions of the seven preceding sections have been
2 fully complied with, common carriers are authorized to transport to
3 such permit holders liquors described therein in the manner specified
4 therein and the permit holder is authorized to carry or convey such
5 liquor to his place of business, anything in any other law to the con-
6 trary notwithstanding.

[37 G. A., ch. 133, § 8.]

SEC. 951. Violations.

1 Any person, firm or corporation violating any of the provisions of
2 the eight preceding sections shall be punished as provided in section
3 nine hundred fifteen. And a conviction of any violation of the liquor
4 laws of this state shall automatically work a revocation of said permit.

[37 G. A., ch. 133, § 9.]

SEC. 952. Clergymen's permit.

1 Any minister, priest or rabbi of any church, sect, denomination or
2 creed which uses wines in its sacraficial ceremonies or sacraments, and
3 who desires to purchase and have transported by either intrastate or
4 interstate common carriers and have possession of such sacramental
5 wines shall, before purchasing or transporting such sacramental wines
6 apply for and obtain a permit authorizing such sale or transportation
7 as hereinafter provided.

[38 G. A., ch. 221, § 1.]

SEC. 953. Application for permit.

1 Any such minister, priest or rabbi desiring such permit shall
2 apply to the judge of the district court of the county in which such
3 minister, priest or rabbi, resides, by filing with the clerk of the district
4 court the affidavit of such minister, priest or rabbi, as the case may be,
5 stating therein the following facts:

6 1. The name and postoffice address of the applicant and the loca-
7 tion of the church, building or synagogue where such minister, priest
8 or rabbi, ministers or officiates.

9 2. The kind and character of the wine and approximately the
10 amount required during the calendar month.

[38 G. A., ch. 221, § 2.]

SEC. 954. County attorney to represent petitioner.

1 It shall be the duty of the county attorney to appear for and
 2 represent the petitioner without expense to the petitioner. If, after
 3 a hearing, the judge is satisfied that the facts stated in said affidavit
 4 are true the permit shall be issued accordingly, which permit, unless
 5 revoked for cause, shall remain in force for five years from the date
 6 of its issuance.

[38 G. A., ch. 221, § 3.]

SEC. 955. Permit record—shipping order.

1 It shall be the duty of the clerk to keep a record of permits issued
 2 under the provisions of sections nine hundred fifty-two to nine hun-
 3 dred sixty-one, inclusive, giving each permit holder a serial number
 4 and at the time of the issuance of said permit, or afterwards, while
 5 the same remains in force, on application of the permit holder the
 6 clerk shall deliver to him certificates showing his authority to buy,
 7 transport and use such sacramental wines as may be covered by said
 8 permit, which certificates shall be in triplicate and on red paper and
 9 in substantially the following form:

CLERGYMAN'S SHIPPING PERMIT.

10 This is to certify that....., of....., county
 11 of..... and State of Iowa, is the holder of a clergyman's per-
 12 mit No., which will expire on the.....day of....., 19.....,
 13 and that such permit holder is authorized to purchase and have trans-
 14 ported to him sacramental wines of the kinds and amounts specified
 15 below, providing one duplicate of this certificate is firmly pasted or
 16 affixed to the exterior of the package and one duplicate hereof is
 17 attached to the bill of lading and after the delivery of said wine to
 18 such permit holders, said duplicate with the date of the delivery
 19 indorsed or stamped thereon shall be by the delivering carriers
 20 promptly mailed to the undersigned.

22	Kinds of Wine	Amount and Purpose for which to be used
23	.....	.....
24	.....	.....

25
 26
 27
 28
 29
 30
 31
 32
 33

.....
 Clerk of the District Court,
County, Iowa.

SHIPPING ORDER.

31 Please ship to me via.....
 32 (Here insert name of carrier)
 33 the wine above specified.

[38 G. A., ch. 221, § 4.]

SEC. 956. Shipping order in triplicate.

1 When the holder of any permit granted under section nine hun-
 2 dred fifty-four desires to purchase and have transported any wine pro-
 3 vided for in sections nine hundred fifty-two to nine hundred sixty-one,
 4 inclusive, he shall make a written order in triplicate upon the blanks
 5 provided in the preceding section, which shall be furnished to him by
 6 said clerk, setting forth the exact amount and kind of wine ordered,
 7 from whom and by what railway, express company or other common
 8 carrier the said liquor is to be transported. One copy of this order

9 shall be immediately filed with the clerk of the district court of the
 10 county in which the permit is issued, one copy shall be attached to the
 11 package in which shipment is made in a conspicuous place in such way
 12 that it can not be removed without showing evidence of mutilation
 13 where the entire order is shipped in one package, and if the said
 14 order shall be contained and shipped in more than one package,
 15 then the consignor shall attach the original copy to one of said
 16 packages and a duplicate thereof to each additional package required
 17 to ship said order, and the third copy shall be attached at the original
 18 point of shipment to the waybill of the common carrier transporting
 19 such wine. This copy, when the holder of the permit or his authorized
 20 agent shall have received for said wine, shall be stamped with the
 21 date of delivery of such wine and immediately filed by the agent of the
 22 common carrier which has transported the said wine with the clerk
 23 of the district court of the county in which permit is granted. The
 24 clerk of the district court shall compare the copy of the order filed by
 25 the agent of the common carrier with the copy filed by the holder of
 26 the permit and, if any discrepancy exists, he shall report such fact to
 27 the county attorney.

[38 G. A., ch. 221, § 5.]

SEC. 957. Sales for sacramental use.

1 It shall be lawful for any person, firm or corporation holding a
 2 permit in the state of Iowa for the sale of alcohol, spirituous or vinous
 3 liquors to sell sacramental wines to holders of permits under sections
 4 nine hundred fifty-two to nine hundred sixty-one, inclusive, and to
 5 deliver the same to common carriers for transportation to such per-
 6 mit holders under the conditions as provided by sections nine hundred
 7 fifty-two to nine hundred sixty-one, inclusive, anything to the con-
 8 trary in any other law notwithstanding.

[38 G. A., ch. 221, § 6.]

SEC. 958. Method of shipment.

1 It shall be the duty of any permit holder within this state or
 2 dealer without the state filling such order to paste or otherwise attach
 3 firmly one duplicate of such certificate to the exterior of such package,
 4 which shall be sufficient authority for the transportation and delivery
 5 to such permit holders of the package containing such wine.

[38 G. A., ch. 221, § 7.]

SEC. 959. Carriers may transport—when.

1 When the provisions of sections nine hundred fifty-two to nine
 2 hundred sixty-one, inclusive, have fully been complied with, common
 3 carriers are authorized to transport to such permit holders wine
 4 described in sections nine hundred fifty-two to nine hundred sixty-one,
 5 inclusive, in the manner specified therein and the permit holder is
 6 authorized to carry or convey such wine to his place of business, any-
 7 thing in any other law to the contrary notwithstanding.

[38 G. A., ch. 221, § 8.]

SEC. 960. Use for other purposes punished.

1 Any person receiving or having shipped any wine under the pro-
 2 visions of sections nine hundred fifty-two to nine hundred sixty-one,

3 inclusive, and using or permitting the same to be used for any pur-
 4 pose other than for sacramental purposes, or using or permitting the
 5 same to be used for beverage purposes shall be guilty of a misde-
 6 meanor and shall forfeit all his rights under any permit granted under
 7 the provisions of sections nine hundred fifty-two to nine hundred
 8 sixty-one, inclusive.

[38 G. A., ch. 221, § 9.]

SEC. 961. Violation revokes permit.

1 Any person, firm or corporation violating any of the provisions of
 2 sections nine hundred fifty-two to nine hundred sixty-one, inclusive,
 3 shall be guilty of a misdemeanor and any violation of any of the liquor
 4 laws of this state by a permit holder shall automatically revoke any
 5 permit held by him.

[38 G. A., ch. 221, § 10.]

SEC. 962. Intoxication punished.

1 If any person shall be found in a state of intoxication he is guilty
 2 of a misdemeanor, and any peace officer shall, without a warrant, take
 3 him into custody and detain him in some suitable place until an infor-
 4 mation can be made before a magistrate, and a warrant of arrest
 5 issued, under which he shall at once be taken before the magistrate
 6 issuing the same, or, if for any reason he can not act, to the next
 7 nearest one, where he shall be tried, and, if found guilty, shall be
 8 fined in the sum of not less than five nor more than twenty-five dollars
 9 and costs of prosecution, or imprisoned in the county jail not more
 10 than thirty days. The penalty, or any portion of it, may be remitted
 11 by the magistrate before whom the trial is had, and the accused dis-
 12 charged from custody, upon his giving information in writing and
 13 under oath, stating when, where and of whom he purchased or received
 14 the liquor which produced the intoxication, and the kind and character
 15 of this liquor, and, in addition, giving bail for his appearance before
 16 any court to give evidence in any action or complaint to be commenced
 17 or preferred against such party for furnishing the same.

[R., '60, §§ 1568, 1586; C., '73, § 1548; C., '97, § 2402.]

SEC. 963. Sale or gift to minor or intoxicated person.

1 No person by himself, agent or otherwise, shall in any manner
 2 procure for, or sell or give any intoxicating liquors to any minor for
 3 any purpose, except upon written order of his parent, guardian, or
 4 family physician, or give to or in any manner procure for or sell the
 5 same to any intoxicated person, or to one in the habit of becoming
 6 intoxicated.

[C., '73, § 1539; C., '97, § 2403; S., '13, § 2403.]

SEC. 964. Penalty.

1 Any person violating any of the provisions of the preceding sec-
 2 tion shall be guilty of a misdemeanor, and upon conviction thereof be
 3 fined in a sum not less than twenty-five dollars, nor more than two
 4 hundred dollars, and costs of prosecution, and shall stand committed
 5 to the county jail until such fine and costs are paid.

[C., '73, § 1539; C., '97, § 2403; S., '13, § 2403-a.]

SEC. 965. Clubroom.

1 Every person who shall, directly or indirectly, keep or maintain,
2 by himself or by associating or combining with others, or who shall
3 in any manner aid, assist or abet in keeping or maintaining, any club-
4 room, or other place in which intoxicating liquors are received or kept
5 for the purpose of use, gift, barter or sale, or for distribution or divi-
6 sion among the members of any club or association by any means
7 whatever, and every person who shall use, barter, sell or give away,
8 or assist or abet another in bartering, selling or giving away, any
9 intoxicating liquors so received or kept, shall be punished by a fine of
10 not less than one hundred dollars nor more than five hundred dollars,
11 or by imprisonment in the county jail not less than thirty days nor
12 more than six months.

[C., '97, § 2404.]

SEC. 966. Action to abate nuisance—injunction—contempt.

1 When a nuisance is kept, maintained or exists, as defined in
2 this chapter, any citizen of the county may maintain an action in
3 equity to perpetually enjoin and abate the same. In such action the
4 court, or a judge in vacation, shall, upon the presentation of a petition
5 therefor, allow a temporary writ of injunction without bond, if it shall
6 be made to appear to the satisfaction of the court or judge, by evi-
7 dence in the form of affidavits, depositions, oral testimony or other-
8 wise, as the plaintiff may elect, unless the court or judge, by previous
9 order, shall have directed the form and manner in which it shall be
10 presented, that the nuisance complained of exists. Three days' notice
11 in writing shall be given the defendant of the hearing of the applica-
12 tion, and, if then continued at his instance, the writ as prayed shall
13 be granted as a matter of course. When an injunction has been
14 granted, it shall be binding on the defendant throughout the state,
15 and any violation of the provisions of this chapter by manufacturing,
16 selling or keeping for sale of intoxicating liquors anywhere within the
17 state shall be punished as a contempt, as provided in this chapter.

[R., '60, § 1564; C., '73, § 1543; C., '97, § 2405; S. S., '15,
§ 2405.]

**SEC. 967. How brought and tried—evidence—attorney's fee—
investigation by county attorney—report.**

1 Actions to enjoin nuisances may be brought in the name of the
2 state by the county attorney, who shall prosecute the same to judg-
3 ment, or any citizen of the proper county may institute and maintain
4 such a proceeding in his name. The action when brought shall be
5 triable at the first term of court after due and timely service of notice
6 of the commencement thereof has been given; and in such action evi-
7 dence of the general reputation of the place described in the petition
8 shall be admissible for the purpose of proving the existence of such
9 nuisance. If the plaintiff is successful in the action, an attorney's fee
10 of twenty-five dollars shall be taxed as costs in his favor.

11 Such action, when brought by a citizen, shall not be dismissed
12 upon the motion of either the plaintiff or defendant until the county
13 attorney shall have been notified in writing of the filing of such mo-
14 tion, and until such county attorney shall have made a personal inves-
15 tigation of the place of business sought to be enjoined, and of all
16 matters set forth in said motion for dismissal, and shall have filed, in

17 writing, a report of his findings in said cause, and his recommendation
18 in reference to the disposition of the same. If any such action shall
19 remain upon the docket for two terms of court, without trial, it shall
20 be the duty of the judge of such court to order the plaintiff and his
21 attorney or attorneys of record, to appear in open court for examina-
22 tion as to the reasons why such cause has not been brought on for
23 trial; and it shall be the duty of the county attorney to conduct such
24 examination, if the judge shall so order. Whenever the court shall
25 have reason to believe that any action commenced under this section
26 has not been brought or prosecuted in good faith said court shall
27 direct the grand jury to investigate all the facts and circumstances
28 connected with the bringing and prosecution of the same.

[C., '97, § 2406; S., '13, § 2406.]

SEC. 968. Violation of injunction.

1 In case of the violation of any injunction granted under the pro-
2 visions of this chapter, the court, or in vacation a judge thereof, may
3 summarily try and punish the offender. The proceedings shall be com-
4 menced by filing with the clerk of the court an information under oath,
5 setting out the alleged facts constituting such violation, upon which
6 the court or judge shall cause a warrant to issue, under which the
7 defendant shall be arrested. The trial may be had upon affidavits, or
8 either party may demand the production and oral examination of the
9 witnesses. A party found guilty of contempt under the provisions of
10 this section shall for the first offense be punished by a fine of not less
11 than two hundred nor more than one thousand dollars, or by impris-
12 onment in the county jail not less than three nor more than six
13 months, or by both fine and imprisonment. A party who, having once
14 been found guilty of contempt for violating the provisions of any such
15 injunction, shall for each such subsequent violation be punished by a
16 fine of not less than five hundred dollars or more than one thousand
17 dollars or by imprisonment in the state penitentiary or state reformatory
18 at hard labor for not more than one year.

[C., '97, § 2407; S. S., '15, § 2407.]

SEC. 969. Abatement.

1 If the existence of the nuisance be established in a civil or crim-
2 inal action, an order of abatement shall be entered as a part of the
3 judgment in the case; which order shall direct the destruction of the
4 liquor, the removal from the building or place of all fixtures, furniture,
5 vessels or movable property used in any way in conducting the unlaw-
6 ful business and sale thereof, in the manner provided for the sale of
7 chattels under execution, and the effectual closing of the building,
8 erection or place against its use for any purpose prohibited in this
9 chapter, and so keeping it for a period of one year, unless sooner re-
10 leased. If anyone shall break or use a building or place so directed to
11 be closed, he shall be punished as for contempt as provided in the pre-
12 ceding section. For removing and selling the movable property, the
13 officer shall be entitled to charge and receive the same fees as he
14 would for levying upon and selling like property on execution, and for
15 closing the premises and keeping them closed, a reasonable sum shall
16 be allowed by the court.

[C., '51, § 935; R., '60, § 1559; C., '73, §§ 1523, 1543; C., '97,
§ 2408.]

SEC. 970. Proceeds—how applied.

1 The proceeds of the sale of the personal property, as provided in
2 the preceding section, shall be applied, first, in payment of the costs of
3 the action and abatement; secondly, to the satisfaction of any fine and
4 costs adjudged against the proprietor of the premises and keeper of
5 said nuisance, and the balance, if any, shall be paid to the defendant.

[C., '97, § 2409.]

SEC. 971. Abatement by owner.

1 If the owner appears and pays all costs of the proceeding, and
2 files a bond with sureties to be approved by the clerk in the full value
3 of the property, to be ascertained by the court, or, in vacation, by the
4 clerk, auditor and treasurer of the county, conditioned that he will
5 immediately abate said nuisance and prevent the same from being es-
6 tablished or kept therein within a period of one year thereafter, the
7 court, or, in vacation, the judge, may, if satisfied of his good faith,
8 order the premises closed under the order of abatement to be deliv-
9 ered to said owner, and said order of abatement canceled so far as the
10 same may relate to said property; and if the proceeding be an action in
11 equity, and said bond be given and costs therein paid before judgment
12 and order of abatement, the action shall be thereby abated as to said
13 building only. The release of the property under the provisions of
14 this section shall not release it from any judgment, lien, penalty or
15 liability to which it may be subject by law.

[C., '97, § 2410; S., '13, § 2410.]

SEC. 972. Second offense.

1 Any person who shall have been convicted of keeping a nuisance
2 under this chapter, or who shall have been enjoined as herein pro-
3 vided, and shall again directly or indirectly engage in keeping a ni-
4 sance or selling intoxicating liquors in violation of this chapter, in any
5 county in this state, shall, upon conviction thereof, be punished by
6 imprisonment in the county jail not less than three months nor more
7 than one year. But no equitable proceeding, order or judgment shall
8 be construed as a conviction under the provisions of this section.

[C., '97, § 2411.]

**SEC. 973. Prepayment of fees not required—costs taxed to plain-
tiff.**

1 In an action brought by a citizen to enjoin a nuisance, as defined
2 in this chapter, no officer or witness shall be entitled to receive in ad-
3 vance fees for service or attendance. If the prosecution fails, or the
4 costs can not be collected of the defendant, they shall be paid in the
5 same manner as in criminal causes. If, however, the court shall find
6 that the case was commenced without probable cause, or was mali-
7 ciously brought, it may tax the costs to the plaintiff.

[C., '97, § 2412.]

SEC. 974. Search warrant—seizure.

1 If any credible resident of this state, or any special agent of the
2 state, or any assistant authorized by him, shall, before a justice of
3 the peace, or any judge of the district court of said county, or any
4 judge of the superior court of any city within said county make writ-

5 ten information, supported by his oath or affirmation, that he has
 6 reason to believe, and does believe, that any intoxicating liquor, de-
 7 scribed as particularly as may be in said information, is in said county,
 8 in any place described as particularly as may be in said information,
 9 owned or kept by any person named or described in said information
 10 as particularly as may be, and is intended by him to be sold, or had
 11 been purchased or procured as the result of solicitation, or has been
 12 transported in violation of the provisions of this chapter, said justice
 13 or judge shall, upon finding probable cause for such information, issue
 14 his warrant of search, directed to any peace officer in the county, de-
 15 scribing as particularly as may be the liquor and the place described
 16 in said information, and the person named or described in said infor-
 17 mation as the owner or keeper of said liquor, and commanding the
 18 said officer to search thoroughly said place, and to seize the said liquor,
 19 with the vessels containing it, and to keep the same securely until final
 20 action be had thereon; whereupon the said peace officer to whom such
 21 warrant shall be delivered shall forthwith obey and execute, as effec-
 22 tually as possible, the commands of said warrant, and make return of
 23 his doings to said justice, or judge and shall securely keep all liquors
 24 so seized by him and the vessels containing them until final action be
 25 had thereon. If the place to be searched be a dwelling house in which
 26 any family resides, and in which no tavern, eating house, grocery or
 27 other place of public resort is kept, such warrant shall not be issued
 28 unless said complainant shall, on oath or affirmation, declare before
 29 said justice or judge that he has reason to believe and does believe
 30 that within one month next before the making of said information
 31 intoxicating liquor has been, in violation of this chapter, sold in said
 32 house, or in some dependency thereof, by the person accused in said
 33 information, or by his consent or permission; nor unless, from the
 34 facts and circumstances disclosed by such complaint, the said justice
 35 or judge shall be of the opinion that said complainant has adequate
 36 reason for such belief. In all such prosecutions, the action shall be
 37 in the name of the state.

[R., '60, § 1565; C., '73, § 1544; C., '97, § 2413; S. S., '15,
 § 2413; 37 G. A., ch. 322, § 1.]

SEC. 975. Information for search warrant—defects.

1 The information and search warrant in such case shall describe,
 2 with reasonable particularity, the place to be searched, as well as the
 3 liquors to be seized. When any liquors shall have been seized by
 4 virtue of any such warrant, the same shall not be discharged or re-
 5 turned to any person claiming the same by reason of any alleged in-
 6 sufficiency of description in the warrant of the liquor or place, but the
 7 claimant shall only have a right to be heard on the merits of the case.

[C., '73, § 1545; C., '97, § 2414.]

SEC. 976. Notice—trial—judgment—appeal.

1 In the event of a seizure under said warrant, the officer shall
 2 forthwith make a return of his acts thereunder, and within forty-
 3 eight hours thereafter the justice or judge who issued the warrant
 4 shall cause to be left at the place where said liquor was seized, if said
 5 place be a dwelling house, store or shop, posted in some conspicuous
 6 place on or about said buildings, and also to be left with or at the last
 7 known and usual place of residence of the person named or described

8 in said information as the owner or keeper of said liquor, if he be a
9 resident of this state, a notice, summoning such person, and all others
10 whom it may concern, to appear before said justice or judge within
11 the county at a place and time named in said notice, which time shall
12 not be less than five nor more than fifteen days after the posting
13 and leaving of said notices, and show cause, if any they have, why
14 said liquor, together with the vessels in which the same is contained,
15 should not be forfeited; and said notice shall, with reasonable cer-
16 tainty, describe said liquor and vessels, and shall state where, when
17 and why the same were seized. + At the time and place prescribed in
18 said notice, the person named in said information, or any other person
19 claiming an interest in said liquor and vessels, or any part thereof,
20 may appear and show cause why the same should not be forfeited.
21 If any person shall so appear, he shall become a party defendant in
22 said case, and said justice or judge shall make a record thereof.
23 Whether any person shall so appear or not, said justice or judge shall,
24 at the prescribed time, proceed to the trial of said case, and said
25 complainants or either of them may, and upon their default the officer
26 having such liquor in custody shall, appear before said justice or
27 judge and prosecute said information, and show cause why such
28 liquor should be adjudged forfeited. The proceeding in the trial of
29 such case may be the same, substantially, as in cases of misdemeanor
30 triable before justices of the peace, and if any person shall appear
31 and be made a party defendant as herein provided, and shall make
32 written plea that said liquor, or a part thereof claimed by him, was
33 not owned or kept with intent to be sold in violation of this chapter,
34 and was not purchased or procured as the result of solicitation,
35 nor illegally transported, such party defendant may, at his option,
36 demand a jury to try the issue, and if, upon the evidence presented,
37 the said justice or judge or jury, as the case may be, shall, by ver-
38 dict, find that said liquor was, when seized, owned or kept by any
39 person, whether said party defendant or not, for the purpose of
40 being sold in violation of this chapter or was purchased or pro-
41 cured as the result of solicitation or has been unlawfully transported,
42 the said justice or judge shall render judgment that said liquor, or
43 said part thereof, with the vessels in which it is contained, is for-
44 feited. If no person be made defendant in manner aforesaid, or if
45 judgment be in favor of all the defendants who appear and are made
46 such, then the costs of the proceeding shall be paid as in ordinary
47 criminal prosecutions where the prosecution fails. If the judgment
48 shall be against only one party defendant appearing as aforesaid, he
49 shall be adjudged to pay all the costs of proceedings in the seizure
50 and detention of the liquor claimed by him, and trial, up to the time
51 of judgment. But if such judgment shall be against more than one
52 party defendant claiming distinct interests in said liquor, then the
53 costs of said proceedings and trial shall be, according to the discre-
54 tion of said justice or judge, equitably apportioned among said de-
55 fendants, and execution shall be issued on said judgments against said
56 defendants for the amount of the costs so adjudged against them. Any
57 person appearing and becoming party defendant as aforesaid may in
58 cases arising before a justice of the peace appeal from said judgment
59 of forfeiture, as to the whole or any part of said liquor and vessels
60 claimed by him and so adjudged forfeited, to the district court, as in
61 ordinary cases of misdemeanor. In any such proceeding where the
62 judgment is against the state, it shall have the same right of appeal

63 to the district court, except that no bond shall be required, and if an
64 appeal be taken by the state, the same shall operate as a stay of pro-
65 ceedings and the liquors seized under the warrant shall not be returned
66 to any claimant thereof until, upon the final determination of said ap-
67 peal, he is found entitled thereto.

[R., '60, § 1566; C., '73, § 1546; C., '97, § 2415; S. S., '15,
§ 2415; 37 G. A., ch. 322, § 2.]

SEC. 977. Destruction of liquor and vessels.

1 When it shall be finally decided by any other than the district
2 court that liquor seized as aforesaid is forfeited, the court rendering
3 final judgment of forfeiture shall forthwith file in the office of the
4 clerk of the district court in the county a certified transcript of such
5 judgment and the officer having said liquor in custody shall forthwith
6 deliver the same to the sheriff, taking itemized receipts therefor and
7 shall file one of said receipts with the clerk of the district court and
8 the other with the court rendering said judgment. The clerk of the
9 district court shall file the transcript as soon as received and enter a
10 memorandum thereof and the date of filing in the judgment docket
11 and from such entry it shall be treated in all respects and in its en-
12 forcement as a judgment in the district court. When it shall be
13 finally decided that any liquor so seized is not liable to forfeiture, the
14 court by whom such final decision shall be rendered shall issue a writ-
15 ten order to the officer having the same in custody, or to some other
16 peace officer, to restore said liquor, with the vessels containing the
17 same, to the place where it was seized, as nearly as may be, or to the
18 person entitled to receive it, which order the officer shall obey, and
19 make return thereon to the court of his acts thereunder, and the costs
20 of the proceeding in such case attending the restoration, as also the
21 costs attending the destruction of such liquor in case of forfeiture,
22 shall be taxed and paid in the same manner as is provided in case of
23 ordinary criminal prosecutions where the prosecution fails. When a
24 transcript has been filed or a judgment has been entered in the district
25 court decreeing a forfeiture of any intoxicating liquors the court, or
26 a judge thereof in vacation, may direct the disposition of such liquor
27 and the vessels containing the same by ordering the destruction
28 thereof, or by ordering any portion thereof consisting of alcohol,
29 brandies, wine or whisky delivered for medicinal or scientific pur-
30 poses to any state or reputable hospital in the county or adjoining
31 counties, and shall order any balance remaining, and the vessels con-
32 taining the same, turned over to the state board of control to be dis-
33 pensed to any state institution or reputable hospital in the state of
34 Iowa to be used for medicinal or scientific purposes. The state board
35 of control shall issue to the court under whose order the said liquor
36 was delivered to it a receipt stating the kind and quantity of liquor
37 delivered to it and shall keep a strict account of all liquors received
38 and dispensed and shall make a full and complete report of all such
39 transactions each year to the governor of the state.

40 It shall be the duty of the clerk of the district court to call to the
41 attention of the court on the first day of each term all judgments for
42 the forfeiture of intoxicating liquor and for the disposition of which
43 no order has been theretofore made and the court shall thereupon
44 enter an order for the disposition of such liquors. Upon the entry of
45 any order for the disposition of any intoxicating liquors which have
46 been adjudged forfeited, the clerk shall forthwith transmit a certified

47 copy thereof to the sheriff for execution and the sheriff shall imme-
 48 diately take possession of such liquors, and the vessels containing
 49 the same, and make disposition thereof in accordance with such order,
 50 and make return of his doings to the court. When any such liquor is
 51 ordered delivered or shipped the sheriff shall securely attach to the
 52 box or package containing the same a certified copy of the order of
 53 the court and thereupon any railway company, express company or
 54 other common carrier may receive, transport, and deliver such liquor
 55 to the consignee. The cost of packing and transportation shall be paid
 56 by the consignee receiving such liquor. The sheriff shall take receipts
 57 for any liquor disposed of under the provisions of this section show-
 58 ing in detail the kind and quantity of liquor delivered, the character
 59 of the vessels containing the same, the date and manner of delivery
 60 and, if delivery is made by common carrier, the name of such carrier.
 61 Such receipt shall be attached by the sheriff to and filed with the
 62 return of his doings as herein provided for.

63 Any statute of this state providing for the destruction of intoxi-
 64 cating liquors shall be construed so that the disposition of such liquors
 65 under the provisions of this section shall constitute a destruction
 66 thereof within the meaning of such statute.

[R., '60, § 1567; C., '73, § 1547; C., '97, § 2416; 38 G. A.,
 ch. 266, § 1.]

SEC. 978. Liability for care of intoxicated person.

1 Any person who shall by the manufacture, sale or giving away
 2 of intoxicating liquors, contrary to the provisions of this chapter,
 3 cause the intoxication of any other person, shall be liable for and
 4 compelled to pay a reasonable compensation to any person who may
 5 take charge of and provide for such intoxicated person, and one dollar
 6 per day in addition thereto for every day such intoxicated person
 7 shall be kept, in consequence of such intoxication, which sums may be
 8 recovered in a civil action before any court having jurisdiction thereof.

[C., '73, § 1556; C., '97, § 2417.]

SEC. 979. Civil action for damages by wife, parent, child, etc.

1 Every wife, child, parent, guardian, employer or other person who
 2 shall be injured in person or property or means of support by any in-
 3 toxicated person, or in consequence of the intoxication, habitual or
 4 otherwise, of any person, shall have a right of action in his or her own
 5 name against any person who shall, by selling or giving to another
 6 contrary to the provisions of this chapter any intoxicating liquors,
 7 cause the intoxication of such person, for all damages actually sus-
 8 tained, as well as exemplary damages; and a married woman shall
 9 have the same right to bring suits, prosecute, and control the same
 10 and the amount recovered, as if a single woman; and all damages re-
 11 covered by a minor under this section shall be paid either to such
 12 minor or his parent, guardian or next friend, as the court shall direct,
 13 and all suits for damages under this section shall be by civil action
 14 in any court having jurisdiction thereof.

[C., '73, § 1557; C., '97, § 2418.]

SEC. 980. Transportation to one not holding permit.

1 If any express or railway company, or any common carrier, or
 2 person, or any one as the agent or employee thereof, shall transport

3 or convey to any person within this state any intoxicating liquors,
 4 without first having been furnished with a certificate from the clerk
 5 of the court issuing the permit, showing that the consignee is a permit
 6 holder and authorized to sell liquors in the county to which the ship-
 7 ment is made, such company, common carrier, person, agent or em-
 8 ployee thereof, shall, upon conviction, be fined in the sum of one hun-
 9 dred dollars for each offense and pay the costs of prosecution, includ-
 10 ing a reasonable attorney's fee to be taxed by the court. The offense
 11 herein created shall be held committed and complete and to have been
 12 committed in any county in the state in which the liquors are received
 13 for transportation, through which they are transported, or in which
 14 they are delivered. The defendant in a prosecution under this section
 15 may show by a preponderance of the evidence as a defense that the
 16 character, circumstances and contents of the shipment were not known
 17 to him, or that the person to whom the shipment was made had com-
 18 plied with the provisions of this chapter relating to the mulct tax.

[R., '60, § 1580; C., '73, § 1553; C., '97, § 2419.]

SEC. 981. False statements.

1 If any person, for the purpose of procuring the shipment, trans-
 2 portation or conveyance of any intoxicating liquors within this state,
 3 shall make to any company, corporation or common carrier, or to any
 4 agent thereof, or other person, any false statements as to the char-
 5 acter or contents of any box, barrel or other vessel or package con-
 6 taining such liquors; or shall refuse to give correct and truthful infor-
 7 mation as to the contents of any such box, barrel or other vessel or
 8 package so sought to be transported or conveyed; or shall falsely
 9 mark, brand or label such box, barrel or other vessel or package in
 10 order to conceal the fact that the same contains intoxicating liquors,
 11 for the purposes aforesaid; or shall by any device or concealment pro-
 12 cure or attempt to procure the conveyance or transportation of such
 13 liquors as herein prohibited, he shall, upon conviction, be fined for
 14 each offense one hundred dollars and costs of prosecution, and the
 15 costs shall include a reasonable attorney fee to be taxed by the court,
 16 which shall be paid into the county fund, and be committed to the
 17 county jail until such fine and costs are paid. Any peace officer of
 18 the county under process or warrant to him directed shall have the
 19 right to open any box, barrel or other vessel or package for examina-
 20 tion, if he has reasonable ground for believing that it contains intoxi-
 21 cating liquors, either before or while the same is being so transported
 22 or conveyed.

[C., '97, § 2420.]

SEC. 982. Packages labeled.

1 It shall be unlawful for any common carrier or other person to
 2 transport or convey by any means, within this state, any intoxicating
 3 liquors, unless the vessel or other package containing such liquors
 4 shall be plainly and correctly labeled or marked, showing the quantity
 5 and kind of liquors contained therein, as well as the name of the party
 6 to whom they are to be delivered. And no person shall be authorized
 7 to receive or keep such liquors unless the same be marked or labeled
 8 as herein required. The violation of any provision of this section by
 9 any common carrier, or any agent or employee of such carrier, or by
 10 any other person, shall be punished the same as provided in the second

11 preceding section, and liquors conveyed or transported or delivered
 12 without being marked or labeled as herein required, whether in the
 13 hands of the carrier or some one to whom they shall have been de-
 14 livered, shall be subject to seizure and condemnation, as liquors kept
 15 for illegal sale.

[C., '97, § 2421.]

SEC. 983. Common carriers allowed to carry for lawful purposes.

1 It shall be unlawful for any railroad company, express company,
 2 or other common carrier, or for any person, corporation, steamboat
 3 or steamboat line, to carry any intoxicating liquor into the state or
 4 from one point to another within the state for the purpose of deliver-
 5 ing, or to deliver same to any person, company or corporation within
 6 the state, except for lawful purposes.

[S. S., '15, § 2421-a.]

SEC. 984. Carrier must keep record of liquor shipments—delivery to consignee only.

1 It shall be the duty of any railroad company, express company, or
 2 other common carrier, or corporation, steamboat or steamboat line, or
 3 person, who shall for hire carry any intoxicating liquor into the state,
 4 or from one point to another within the state, for the purpose of de-
 5 livery, and who shall deliver such intoxicating liquor to any person,
 6 company, or corporation, to keep, at each station or office where it em-
 7 ploys an agent or other person to make delivery of freight and keep
 8 records relative thereto, a record book, wherein such carrier shall
 9 promptly upon receipt, and prior to delivery, enter in ink, in legible
 10 writing, in full, the name of the consignor of each shipment of intoxi-
 11 cating liquor to be delivered from or through such station, from where
 12 shipped, the date of arrival, the quantity and kind of liquor, so far as
 13 disclosed by lettering on the package or by the carrier's records, and
 14 to whom and where consigned, and the date delivered. No shipment
 15 billed in whole or in part as intoxicating liquor shall be delivered to
 16 the consignee until such consignee upon such record book enters in
 17 ink, in legible writing, his full name and residence or place of business,
 18 giving the name of the town or city, and the street name and number
 19 where there is such, and certifies that such liquor is for his own lawful
 20 purposes or private consumption.

[S. S., '15, § 2421-b.]

SEC. 985. Delivery without receipt or to other than consignee—penalty.

1 It shall be a misdemeanor for any railroad company, express com-
 2 pany, corporation or common carrier, person, steamboat or steamboat
 3 line, or any agent or employee of such railroad company, express
 4 company, corporation or common carrier, person, steamboat or steam-
 5 boat line, to deliver any intoxicating liquor to any person other than
 6 the consignee, or without same having been receipted for as herein
 7 required, or where there is reasonable ground to believe that such
 8 liquor is intended for unlawful use, or to refuse examination of such
 9 record to any officer entitled to same as herein provided. And in no
 10 case shall any railroad company, express company, corporation or
 11 other common carrier, person, steamboat or steamboat line, be liable

12 for damages for complying with sections nine hundred eighty-three to
13 nine hundred eighty-seven, inclusive.

[S. S., '15, § 2421-c.]

SEC. 986. Record of shipments open to law enforcing officer.

1 The record book required by section nine hundred eighty-four
2 shall be kept in the said local office of such carrier and shall, during
3 business hours, be open to inspection by any peace or law enforcing
4 officer of the state, or of any county, town or city therein.

[S. S., '15, § 2421-d.]

SEC. 987. Construction of statute.

1 The four preceding sections shall be construed in harmony with
2 all federal statutes relating to interstate commerce in intoxicating
3 liquors.

[S. S., '15, § 2421-e.]

SEC. 988. Lien of judgments—liability of sureties—costs—evidence.

1 For all fines and costs assessed or judgments rendered of any
2 kind against any person for a violation of any provision of this chap-
3 ter, or costs paid by the county on account of such violation, the per-
4 sonal and real property, whether exempt or not, except the homestead,
5 as well as the premises and property, personal and real, occupied and
6 used for the purpose, with the knowledge of the owner or his agent,
7 by the person manufacturing, selling, giving, contrary to the pro-
8 visions of this chapter, or keeping with intent to sell intoxicating
9 liquors contrary to law, shall be liable, and the same shall be a lien
10 on such real estate until paid. And where anyone is required under
11 the provisions of this chapter to give a bond, the principals and sure-
12 ties shall be jointly and severally liable for all civil damages and costs
13 which may be adjudged against the principal for any violation of any
14 of the provisions of this chapter. Costs paid by the county for the
15 prosecution of actions or proceedings, civil or criminal, under this
16 chapter, as well as the fines inflicted or judgments recovered, may be
17 enforced against the property upon which the lien attaches by execu-
18 tion, or by action against the owner of the property to subject it to
19 the payment thereof. In actions under this section, evidence of the
20 general reputation of the place kept shall be admissible on the ques-
21 tion of knowledge of the owner, and written notice given him or his
22 agent by any citizen of the county shall be sufficient to charge him
23 with the same.

[R., '60, § 1579; C., '73, §§ 1552, 1558; C., '97, § 2422.]

SEC. 989. Payments—contracts—negotiable paper.

1 All payments or compensation for intoxicating liquor sold in vio-
2 lation of this chapter, whether such payments or compensation be in
3 money or anything else whatsoever, shall be held to have been re-
4 ceived in violation of law, and to have been received upon a valid
5 promise and agreement of the receiver to pay on demand to the per-
6 son furnishing such consideration the amount of said money, or the
7 just value of such other thing. All sales, transfers, liens and securi-
8 ties of every kind which either in whole or in part shall have been

9 made for or on account of intoxicating liquors sold in violation of this
 10 chapter shall be null and void against all persons, and no rights of
 11 any kind shall be acquired thereby. No action shall be maintained
 12 for intoxicating liquors or the value thereof, sold in any other state
 13 or country, contrary to the law of said state or country, or with intent
 14 to enable any person to violate any provision of this chapter, nor shall
 15 any action be maintained for the recovery or possession of any intoxi-
 16 cating liquor, or the value thereof, except in cases where persons own-
 17 ing or possessing such liquor with lawful intent may have been ille-
 18 gally deprived of the same. Nothing, however, in this section shall
 19 affect in any way negotiable paper in the hands of holders thereof in
 20 good faith for valuable consideration, without notice of any illegality
 21 in its inception or transfer, or the holders of land or other property
 22 who may have taken the same in good faith, without notice of any de-
 23 fect in the title of the person from whom the same was taken, grow-
 24 ing out of a violation of the provisions of this chapter.

[R., '60, § 1571; C., '73, § 1550; C., '97, § 2423.]

SEC. 990. Attempt to collect for liquors illegally sold, prohibited.

1 The collection of payment, the solicitation of payment, and all at-
 2 tempts directly or indirectly, to collect payment within this state for
 3 intoxicating liquor sold or shipped within or into this state to be used
 4 for illegal purposes within this state, is hereby prohibited and made
 5 illegal, and the violation hereof is hereby made a misdemeanor.

[S. S., '15, § 2423-a.]

SEC. 991. Injunction.

1 Every person, who for himself or for another, violates any of the
 2 provisions of the preceding section, may be restrained by injunction
 3 from continuing to do any of the acts herein prohibited, and all the
 4 proceedings for injunctions, temporary and permanent, and for fines
 5 and costs for violation of same, as defined by law, shall be applicable
 6 to such person.

[S. S., '15, § 2423-b.]

SEC. 992. Requisites of indictment or information—testimony of purchaser.

1 In any indictment or information under this chapter, it shall not
 2 be necessary to set out exactly the kind or quantity of intoxicating
 3 liquors manufactured, sold, given in evasion of the statute, or kept for
 4 sale, nor the exact time of manufacture, sale, gift or keeping for
 5 sale, but proof of the violation by the accused of any provision of this
 6 chapter, the substance of which violation is briefly set forth, within
 7 the time mentioned in said indictment or information, shall be suffi-
 8 cient to convict such person; nor shall it be necessary in any indict-
 9 ment or information to negative any exceptions contained in the
 10 enacting clause or elsewhere, which may be proper ground of de-
 11 fense; and, in any prosecution for a second or subsequent offense, as
 12 provided herein, it shall not be requisite to set forth in the indictment
 13 or information the record of a former conviction, but it shall be suffi-
 14 cient briefly to allege such conviction; nor shall it be necessary in
 15 every case to prove payment in order to prove a sale within the true
 16 meaning and intent of this chapter, and the person purchasing any

17 intoxicating liquor sold in violation of this chapter shall in all cases
18 be a competent witness to prove such sale.

[R., '60, § 1569; C., '73, § 1549; C., '97, § 2424.]

SEC. 993. Several counts—second conviction.

1 Informations or indictments under this chapter may allege any
2 number of violations of its provisions by the same party, but the sev-
3 eral charges must be set out in separate counts, and the accused may
4 be convicted and punished upon each one as on separate informations
5 or indictments, and a separate judgment shall be rendered on each
6 count under which there is a finding of guilty. The second or subse-
7 quent convictions provided for in this chapter shall be convictions on
8 separate informations or indictments, and, unless shown in the in-
9 formation or indictment, the charge shall be held to be for a first
10 offense.

[C., '51, §§ 930, 931; R., '60, § 1562; C., '73, § 1540; C., '97,
§ 2425.]

SEC. 994. Termination of lease.

1 Upon a violation of any provision of this chapter committed upon
2 real estate occupied by a tenant, his agent, servant, clerk, employee
3 or anyone claiming under him, the landlord of such premises, by him-
4 self or agent, within thirty days after a judgment therefor is entered
5 of record in any case, civil or criminal, may, in writing, notify such
6 agent, tenant, or the person in possession of said leased premises, to
7 the effect that he has terminated such lease and demands possession
8 thereof within three days after the giving of such notice, and, after
9 the expiration of said three days, may recover possession thereof in
10 an action of forcible entry and detainer, without further notice to
11 quit, upon proof of the record of such judgment and of the giving of
12 such notice, but such termination of the lease shall not divest the
13 property of any lien which has attached by reason of said judgment.

[C., '97, § 2426.]

SEC. 995. Evidence of illegal selling or keeping—license.

1 In all actions, prosecutions and proceedings under the provisions
2 of this chapter, proof of the actual manufacture, sale or gift in evasion
3 of the statute of intoxicating liquors by a person not authorized to
4 manufacture, sell or give the same shall be presumptive evidence of
5 illegal manufacture or sale, and the finding of intoxicating liquors in
6 the possession of one not legally authorized to sell or use the same,
7 except in a private dwelling house, which does not include or is not
8 used in connection with a tavern, public eating house, restaurant,
9 grocery, or other place of public resort, or the finding of the same in
10 unusual quantities in a private dwelling house or its dependencies
11 shall be presumptive evidence that such liquors are kept for illegal
12 sale. The fact that any person not authorized to keep for sale and to
13 sell intoxicating liquors for lawful purposes, engaged in any kind of
14 business, has or keeps posted in or about his place of business a receipt
15 or stamp showing payment of the special tax levied under the laws
16 of the United States upon the business of selling distilled, malt or
17 fermented liquors, or shall have paid such special tax for the sale of
18 such liquors in this state, shall be presumptive evidence that the
19 person owning or controlling such receipt or stamp, or having paid

20 such special tax, is engaged in keeping for sale or selling intoxicating
21 liquors contrary to the provisions of this chapter.

[R., '60, § 1563; C., '73, § 1542; C., '97, § 2427; 37 G. A.,
ch. 323, § 1.]

SEC. 996. Certified list of federal license holders—county attorney shall secure.

1 The several county attorneys of this state are hereby author-
2 ized and directed to secure from the federal internal revenue collectors
3 for Iowa, on or before the fifteenth day of January, April, July and
4 October of each year, a certified copy of the names of all persons who
5 have paid to the federal government special taxes imposed upon the
6 business of selling intoxicating liquors within their respective coun-
7 ties, except (such persons within their counties as are engaged in the
8 sale of intoxicating liquors under the mulct law and) registered phar-
9 macists who hold valid permits to keep and sell intoxicating liquors
10 for medicinal purposes, and to pay to the internal revenue collector
11 the fee prescribed by the statutes of the United States. Said county
12 attorney shall file with the county auditor of his county a certified
13 statement of the amount paid to such internal revenue collector, and
14 the board of supervisors shall audit and allow the same at their next
15 regular or special meeting.

[S., '13, § 2427-a.]

SEC. 997. Filed with auditor—record.

1 Upon receipt by the county attorney of certified copies of the
2 names of all persons in his county who have paid the federal govern-
3 ment the special tax imposed on the business of selling intoxicating
4 liquors as aforesaid, the county attorney shall, after examination of
5 said list, file the same with the auditor of his county, who shall record
6 the same in a book kept therefor, which shall be open to public inspec-
7 tion.

[S., '13, § 2427-b.]

SEC. 998. Prima facie evidence.

1 The certified copy furnished by the internal revenue collector of
2 the name of any person who has paid to the federal government the
3 special tax imposed upon the business of selling intoxicating liquors
4 shall be prima facie evidence that said person is engaged in the sale
5 of, or keeping with intent to sell, intoxicating liquors in violation of
6 law, that he is a registered pharmacist actually engaged in business
7 as such and said certified copy shall be competent evidence in any court
8 within this state.

[S., '13, § 2427-c.]

SEC. 999. Duty of peace officers—direction by county attorney—report—compensation—expenses.

1 Peace officers shall see that all provisions of this chapter are
2 faithfully executed within their respective jurisdictions, and when
3 informed, or they have reason to believe, that the law has been vio-
4 lated, and that proof thereof can be had, they shall file an information
5 to that effect against the offending party before a magistrate, who
6 shall thereupon proceed according to law. Upon trials of such causes,

paid on 11/10

7 the county attorney shall appear for the state, unless some other
 8 attorney, selected by the peace officer who filed the information, shall
 9 have previously appeared. Any peace officer failing to comply with
 10 the provisions of this section shall pay a fine of not less than ten nor
 11 more than fifty dollars, and a conviction shall work a forfeiture of
 12 his office. Every peace officer shall give evidence, when called upon,
 13 of any facts within his knowledge tending to prove a violation of the
 14 provisions of this chapter, but his evidence shall in no case be used
 15 against him in any criminal prosecution. The attorney selected by
 16 a peace officer in accordance with the provisions of this section, shall
 17 receive, for prosecuting such charge before a justice of the peace, five
 18 dollars, to be taxed as costs in the case. Any peace officer shall,
 19 whenever directed in writing so to do by the county attorney, make
 20 special investigation of any alleged or supposed infraction of the law
 21 within his county, and report in writing with reference thereto within
 22 a reasonable time to such county attorney. When such investigation
 23 is made, the peace officer shall file with the county auditor a detailed,
 24 sworn statement of the services rendered and of his actual itemized
 25 expenses incurred in connection therewith, accompanied by the writ-
 26 ten order of the county attorney. If the officer be one who is receiving
 27 a definite and fixed salary, the board of supervisors shall audit and
 28 allow only so much of such expense account as it shall find reasonable
 29 and necessary. If the officer be one not receiving a fixed and definite
 30 salary, the board of supervisors shall allow such additional sum for
 31 services as it may deem reasonable and just, which allowance shall
 32 be final.

[R., '60, §§ 1578, 4168; C., '73, §§ 1551, 3829; C., '97, § 2428;
 S., '13, § 2428.]

SEC. 1000. Attorney's fees.

1 In all actions in equity against persons charged with keeping a
 2 nuisance, and to abate the same, and all proceedings for a contempt
 3 for violating any injunction, temporary or permanent, issued or de-
 4 creed therein, the court or judge before whom the same shall be
 5 heard and determined shall allow the attorney prosecuting such cause
 6 a reasonable sum for his services, and in case a fine shall be assessed,
 7 he shall be allowed ten per cent of the fine collected.

[C., '97, § 2429.]

SEC. 1001. No release from imprisonment.

1 No person sentenced to be imprisoned for nonpayment of fines
 2 and costs, or either of them, under the provisions of this chapter,
 3 shall be released from such imprisonment under the provisions of this
 4 code for the liberation by the sheriff of persons sentenced to pay
 5 fines and costs only, and to stand committed until sentence be per-
 6 formed.

[R., '60, §§ 1562-1564; C., '73, §§ 1540, 1542, 1543; C., '97,
 § 2430.]

SEC. 1002. Evasions.

1 Courts and jurors shall construe this chapter so as to prevent
 2 evasion.

[C., '51, § 929; R., '60, § 1581; C., '73, § 1554; C., '97, § 2431.]

SEC. 1003. Payment of—lien.

1 Every person, partnership or corporation, except persons holding
2 permits, carrying on the business of selling or keeping for sale intoxi-
3 cating liquors, or maintaining a place where intoxicating liquors are
4 sold or kept with intent to sell, shall pay an annual tax, to be called
5 a "mulct tax," of six hundred dollars, in quarterly installments as
6 hereinafter provided, which tax shall be a lien upon the real property
7 wherein or whereon the business is carried on, or where the place
8 for selling or keeping for sale is maintained, from the time each in-
9 stallment of tax as hereinafter provided shall become due and payable.
10 In case the person carrying on the business or maintaining the place
11 is a different person from the owner of the real property wherein or
12 whereon the business is carried on or the place maintained, then the
13 tax shall be payable by the person conducting such business or main-
14 taining such place. But such owner may pay such tax at any time
15 after the same becomes due and payable for the purpose of releasing
16 his property therefrom. Any permit holder selling intoxicating liquors
17 as a beverage shall pay the tax provided for in this section.

[C., '97, § 2432.]

SEC. 1004. Return by assessor.

1 In the months of December, March, June and September of each
2 year, and before the twentieth day of each of said months, the as-
3 sessor of each township, town or city, or assessment district thereof,
4 shall return to the county auditor a list of persons who are, or since
5 the last quarterly return have been, engaged in carrying on within
6 said township, town, city or assessment district the business of sell-
7 ing or keeping for sale intoxicating liquors, or maintaining any place
8 where such liquors are sold or kept for sale, and also a description of
9 the real property wherein or whereon such business is carried on or
10 such place is maintained, with the name of the occupant or tenant and
11 owner or agent. At least five days before the assessor makes the
12 return above contemplated to the county auditor he shall give to the
13 person found in possession of each place which he intends to list, or
14 is required to list, and to the tenant occupant and owner of such
15 place a notice in writing that he intends to return such list to the
16 county auditor charging the property itself and the owner of the
17 property therein described and the person who owns or conducts the
18 business with the mulct tax. But if any one of the persons to whom
19 the assessor is herein required to give notice does not reside within
20 the assessor's assessment district it shall be sufficient for the assessor
21 to mail, at least five days before he make such return to the auditor,
22 a copy of such notice to such person at his last known postoffice ad-
23 dress; and if there is anyone whose postoffice address can not be ascer-
24 tained by the assessor it shall be sufficient as to such person for the
25 assessor to post a copy of such notice in some conspicuous place on the
26 front of the property about to be listed as liable to the tax. Service
27 of notice on any agent having general charge of the property or on
28 any agent renting or collecting rent on the property so used or hav-
29 ing authority to rent or collect rent on such property, or on any mem-
30 ber of the owner's family over fourteen years of age shall be equiva-
31 lent to notice to the owner of such property. The assessor shall give
32 notice in each case in such one of the ways above provided as the cir-
33 cumstances of the case require, and he shall show in his return to the

34 auditor that he has given notice and the manner of the service. The
 35 return signed by the assessor shall in all cases be admissible in evi-
 36 dence without further proof, and such return shall have the same
 37 force and effect as the oath of the assessor. The burden of proof
 38 shall in all cases be upon the party claiming that notice was not given.
 39 The county auditor shall furnish to the several assessors of his county,
 40 printed blanks upon which to give the notice contemplated in this
 41 section. Any assessor wilfully failing to comply with the provisions
 42 of this section shall pay a fine of fifty dollars and costs for each
 43 offense.

[C., '97, § 2433; S., '13, § 2433.]

SEC. 1005. Blanks.

1 The county auditor shall furnish to each assessor the necessary
 2 blanks on which shall be returned the list of places where intoxicating
 3 liquors are sold, with names of the occupants, tenants and owners,
 4 and also the name of the agent, if there is an agent, of the property.

[C., '97, § 2434.]

SEC. 1006. Statement by citizens—service—return.

1 Should the assessor for any reason fail to perform his duty, any
 2 three citizens of the county can, by verified statement on information
 3 and belief, addressed to the county auditor, procure the listing of
 4 names and places for the levy of said tax, with the same force and
 5 effect as if done by the assessor. At least five days before listing the
 6 property or names with the county auditor as contemplated in the
 7 law as it appears in this section, such citizens shall give notice in
 8 writing of their intention so to do to the same parties and in the same
 9 manner as required of the assessor in section ten hundred four. Said
 10 notice shall, upon request of any of said three citizens be served by
 11 the sheriff of said county, and proof of the service of said notice shall
 12 be made by the sheriff, which notice and return of service thereon
 13 shall, by said sheriff, be filed with the auditor, with the list of names
 14 and property sought to be charged. Any one of said three citizens
 15 may serve such notice and make return thereof under affidavit, filed
 16 with the auditor. Said statement and return of service so filed with
 17 the county auditor shall be admissible in evidence in the same way
 18 and with the same force and effect as the return of the assessor.

[C., '97, § 2435; S. S., '15, § 2435.]

SEC. 1007. Quarterly installments—lien—penalty.

1 On the first day of January, of April, of July, and of October of
 2 each year there shall be due and payable from each person returned
 3 to the county auditor by the assessor, or by three citizens as afore-
 4 said, as a person carrying on the business of selling or keeping for
 5 sale intoxicating liquors, or maintaining a place where such liquors are
 6 sold or kept for sale, a quarterly installment of the mulct tax herein
 7 provided for, and the tax due from any person so returned by the
 8 assessors, or by three reputable citizens, shall be a lien upon the real
 9 property wherein or whereon such business is returned as being
 10 carried on or such place maintained, whether the person carrying
 11 on such business, or maintaining such place, is correctly described or
 12 not. If the installments of tax due and payable as aforesaid are not
 13 paid within one month after the same become due and payable,

14 then a penalty of twenty per cent shall be added thereto, together
 15 with one per cent per month thereafter until paid. Whoever is as-
 16 sessed under the provisions of this chapter shall be liable at least for
 17 one quarterly installment of the tax herein provided for, notwith-
 18 standing any such person may discontinue the business when so
 19 assessed, and notwithstanding the fact he may have been in the busi-
 20 ness for a less period than three months; and if he shall continue
 21 therein for a longer period than three months, he shall be liable for an
 22 additional quarterly installment, subject to abatement on account of
 23 discontinuance of the business before the expiration of such second
 24 or subsequent quarter.

[C., '97, § 2436.]

SEC. 1008. List certified to treasurer—mulct tax account.

1 On the last day of December, of March, of June, and of Septem-
 2 ber in each year, the county auditor shall certify to the county treas-
 3 urer a complete list of the names of persons returned to him by the
 4 assessors, or entered on the sworn statements made to him by citi-
 5 zens as aforesaid, together with a description in each case of the real
 6 property wherein or whereon the business is carried on or the place
 7 maintained, and the name of the occupant or tenant, and the owner
 8 or agent of such property, and the county auditor shall keep in his
 9 office in books to be provided for that purpose an account to be known
 10 as the mulct tax account, in which memoranda of all moneys which
 11 may come into his hands and those of the county treasurer, from the
 12 mulct tax, shall be entered; and the county treasurer shall keep a
 13 like account and record of all mulct tax coming into his hands. Set-
 14 tlement of such accounts shall be made with the board of supervisors
 15 at the January and June sessions of the board, which settlement shall
 16 be published with the proceedings of the board.

[C., '97, § 2437; S., '13, § 2437.]

SEC. 1009. Entry of tax—payments made to county treasurer.

1 The county treasurer shall thereupon enter upon a book known
 2 as the mulct tax book a quarterly installment of the mulct tax, as due
 3 and payable by the person carrying on such business or keeping such
 4 place, and as a lien and charge upon and against the real property
 5 wherein or whereon such business is carried on or such place main-
 6 tained, all payments of mulct tax shall be made to the county treasurer
 7 upon a certificate from the county auditor showing the amount due.

[C., '97, § 2438; S., '13, § 2438.]

SEC. 1010. When delinquent—sales for—redemption—title in the county.

1 After the expiration of one month from the date when such tax
 2 becomes due and payable, if not paid, it shall be delinquent and col-
 3 lectible by the treasurer in the same method as that in which other
 4 delinquent taxes are collectible, and all the provisions as to the col-
 5 lection of other delinquent taxes shall apply. Tax sales for such de-
 6 linquent taxes shall also be made on the first Monday in June of each
 7 year, in the same manner and to the same effect as on the first Mon-
 8 day in December, and all the provisions of law as to tax sales in De-
 9 cember shall apply to such sales in June. When real estate offered
 10 at tax sale under this section shall be passed for want of bid covering

11 amount of tax due thereon, it shall be advertised and sold by the treas-
 12 urer at next semiannual tax sale. The treasurer shall appoint, prior
 13 to such sale, three appraisers who shall appraise the value of any and
 14 all property to be offered at such sale, taking into account any su-
 15 perior, valid lien thereon, and file a separate appraisal for each
 16 parcel; and the cost thereof shall be added to the penalty. If at the
 17 sale an amount less than the tax and penalty and less than the ap-
 18 praisalment is offered, the property shall be sold to the county; at the
 19 appraised value, if it is less than the tax and penalty; or at the tax
 20 and penalty, if they are less than the appraised value. The provisions
 21 of sections forty-six hundred eighty-eight to forty-six hundred ninety,
 22 inclusive, shall apply to the redemption; but the supervisors may allow
 23 redemption for any amount deemed advantageous to the county; and
 24 in default thereof after notice to redeem as provided by section forty-
 25 six hundred ninety-three, the treasurer shall execute a deed to the
 26 county, without fee, and such deed shall have, so far as applicable, all
 27 the effect as provided by section forty-six hundred ninety-six as to
 28 vesting in the county all the right, title, interest and estate of the
 29 former owner in and to the land conveyed. On redemption or on final
 30 sale of the property the proceeds shall be applied as provided by sec-
 31 tion ten hundred sixteen. While thus acquiring title the county, to
 32 protect its interest, may bid in the property at ordinary tax sale and
 33 acquire title under the same terms and conditions as other tax sale
 34 purchasers.

[C., '97, § 2439; S., '13, § 2439.]

SEC. 1011. Collection by selling personal property.

1 At any time after the quarterly installment of such taxes becomes
 2 delinquent, the treasurer may collect the same by seizing and selling
 3 any personal property used in connection with the business or in
 4 maintaining the place.

[C., '97, § 2440.]

SEC. 1012. Application for remission.

1 At the meeting of the board of supervisors next following the
 2 listing as aforesaid, application may be made to remit the tax, by
 3 petition duly verified and filed with the county auditor at least eight
 4 days before the time set for the consideration of the case, and notice
 5 for the same length of time must be served on the county attorney in
 6 writing. The averments of the petition shall be deemed denied, and
 7 witnesses may be examined, and the chairman of the board, or, in his
 8 absence or inability to act, any member of the same may administer
 9 an oath in the same form and of the same effect as to penalties for
 10 testifying falsely as if administered in court.

[C., '97, § 2441.]

SEC. 1013. Hearing—evidence—appeal.

1 On the application to remit the tax, the owner of the property
 2 may be heard in support of the same, and evidence of the general repu-
 3 tation of the place shall be admissible, and if upon the hearing of the
 4 case it shall be shown that the petitioner, his agent or tenant has paid
 5 a retail liquor dealer's internal revenue tax to the United States, cov-
 6 ering any portion of the time and premises as set forth in the listing
 7 of said real estate, it shall be prima facie evidence that the person and

8 property are subject to the tax. If upon said hearing it be found by
9 a majority vote of the board of supervisors that the tax is proper, it
10 shall stand, otherwise it shall be remitted, and the board shall enter
11 its order on its record. Either the petitioner or the county attorney
12 may appeal to the district court, and if the petitioner appeals he shall
13 be required to give bond for the costs which have accrued, or may
14 accrue in the further progress of the case. Notice of the appeal shall
15 be served upon the appellee or his attorney, and upon the county audi-
16 tor, within ten days after the decision by the board of supervisors;
17 whereupon the auditor shall file a full and complete transcript of the
18 record of the proceedings in said cause, together with the original
19 papers, in the office of the clerk of the district court in said county.
20 In case the finding of the board of supervisors shall be against the
21 tax, and the county attorney shall fail to take an appeal to the dis-
22 trict court within ten days from such finding as above provided, any
23 three citizens of the county may take such appeal within ten days
24 thereafter, upon giving a good and sufficient bond for costs, and the
25 same proceeding shall be had as if the appeal had been taken by the
26 county attorney. The auditor shall charge and tax as fees for the
27 transcript and writing up of the record ten cents per hundred words.

[C., '97, § 2442.]

SEC. 1014. Remission entered—costs.

1 If the tax is remitted by the board of supervisors, and no appeal
2 from such action is taken, or if on an appeal to the district court the
3 tax is ordered to be remitted, the auditor shall certify the fact to the
4 treasurer, who shall mark the tax on his books as remitted, and shall
5 not collect the same, and if an installment of tax has already been
6 paid, it shall be refunded by the board of supervisors. If any sale
7 of real property has been made for a tax which is afterwards remitted,
8 the title of the purchaser shall become void and the amount paid by
9 such purchaser shall be refunded by the county. If any application
10 for the remission of the tax is refused by the board of supervisors,
11 and no appeal therefrom is taken, or if on appeal to the district court
12 the tax is confirmed, the costs of the whole proceeding shall be certified
13 by the auditor to the treasurer, and by him added to the tax, and col-
14 lected as the remainder of such tax.

[C., '97, § 2443.]

SEC. 1015. Trial on appeal—judgment against property.

1 On the appeal the trial shall be conducted as an equitable cause,
2 and the first term shall be the trial term. Should it appear, either on
3 the trial before the board of supervisors or in the district court, that
4 there have been sales of intoxicating liquors made in or upon the
5 premises listed for taxation, the tax shall be confirmed against the
6 person, corporation or partnership conducting the business, and if it
7 appears that the wrong name or an alias has been used, then the rec-
8 ord and assessment list may be amended and the true name inserted;
9 and if it shall appear at such trial that the owner or his agent knew,
10 or by the use of reasonable care or diligence might have known, of the
11 sales of intoxicating liquors as aforesaid, the tax shall be confirmed
12 against the property by an order of record, and the clerk of the dis-
13 trict court shall certify such fact to the county auditor, with the
14 amount of costs made in the trial of the case.

[C., '97, § 2444.]

SEC. 1016. Tax divided and apportioned.

1 The revenue derived from the tax provided for in this chapter
2 shall be paid into the county treasury, one-half to go into the general
3 county fund, and the remainder to be paid over to the municipality
4 in which the business taxed is conducted. If such business is con-
5 ducted outside the limits of a city or town then the tax now in hands
6 of county treasurers, or that shall hereafter be collected from such
7 business, shall be apportioned as follows: One-half to the general
8 county fund and the other one-half to the clerk of the township in
9 which such business is conducted. The clerk of the township shall
10 apportion the amount so received by him equally among the road
11 supervisors of the territory of the township outside of the city or
12 town, to be by said road supervisors expended for the improvement
13 of the roads of the districts. In counties where a tax on the traffic
14 in intoxicating liquors is paid into and belongs to the county treasury,
15 the board of supervisors may transfer the same or any part thereof
16 to the county road fund and expend the same upon the roads of the
17 county; and that portion of such revenue derived from such business
18 conducted inside the limits of a city, including cities under special
19 charter, or town, the board may expend all or any part thereof upon
20 the permanent improvement of streets within such city or town abut-
21 ting upon agricultural or horticultural lands not subject to taxation
22 for general municipal purposes.

[C., '97, § 2445; S., '13, § 2445.]

SEC. 1017. Duty of county attorney.

1 It shall be the duty of the county attorney of each county to see
2 that the provisions of this chapter relating to the mulct tax are en-
3 forced, and the district court or any judge thereof shall suspend or
4 remove from office any county attorney who shall wilfully refuse or
5 neglect to perform any such duty. Such suspension or removal may
6 be made upon application of any citizen residing in the county, but
7 shall not take place except upon due notice to said officer and trial in
8 court, and the provisions of this section shall apply to assessors, county
9 treasurers and members of boards of supervisors whose duty it is to
10 enforce them.

[C., '97, § 2446.]

SEC. 1018. Effect of payment.

1 Nothing contained in this chapter so far as it relates to the mulct
2 tax shall be in any way construed to mean that the business of the sale
3 of intoxicating liquors is in any way legalized, nor as a license, nor
4 shall the assessment or payment of any tax for the sale of liquors as
5 aforesaid protect the wrongdoer from any penalty now provided by
6 law.

[C., '97, § 2447.]

SEC. 1019. "Bootlegger" defined.

1 Any person who shall, by himself, or his employee, servant or
2 agent, for himself or any person, company or corporation, keep or
3 carry around on his person, or in a vehicle, or leave in a place for
4 another to secure, any intoxicating liquor as herein defined, with in-
5 tent to sell or dispose of the same by gift or otherwise, or who shall
6 within this state, in any manner, directly or indirectly, solicit, take, or

7 accept any order for the sale, shipment, or delivery of intoxicating
8 liquor, in violation of law, shall be termed a bootlegger, and shall be
9 guilty of a misdemeanor.

[S. S., '15, § 2461-a.]

SEC. 1020. Penalty.

1 Every such bootlegger may be restrained by injunction from do-
2 ing or continuing to do any of the acts prohibited by law, and all the
3 proceedings for injunctions, temporary and permanent, and for fines
4 and costs for violation of same, as defined by law, shall be applicable
5 to such person, company or corporation, and the fact that an offender
6 has no known or permanent place of business or base of supplies, or
7 quits the business after the commencement of an action shall not pre-
8 vent a temporary or permanent injunction, as the case may be, from
9 issuing.

[S., '13, § 2461-b.]

**SEC. 1021. Drinking liquors on passenger cars — profane lan-
guage—penalty.**

1 Any person who shall drink intoxicating liquors as a beverage
2 on any passenger railway car or street car in service or who shall use
3 profane or indecent language on such railway or street car shall be
4 guilty of a misdemeanor.

[S., '13, § 2461-f.]

SEC. 1022. Powers of conductor.

1 Any conductor of a railway train or street car carrying passen-
2 gers shall have the right to refuse to permit any person, not in the
3 custody of an officer, to enter any passenger car on his train or street
4 car in his charge who shall be in a state of intoxication; and shall
5 have the further right to eject from his train at any station or from
6 his street car at any regular stop any person found in a state of intoxi-
7 cation or drinking intoxicating liquors as a beverage, or using profane
8 or indecent language on any passenger car of his train or any street
9 car under his charge and for that purpose may call to his aid any em-
10 ployee of the railway or street car company.

[S., '13, § 2461-g.]

SEC. 1023. Intoxicating liquors—carrying on trains prohibited.

1 Any person who shall upon any railroad, street or interurban
2 car, carry upon his person, or in any hand baggage, suit case or other-
3 wise, for unlawful purposes, any intoxicating liquor shall be guilty
4 of a misdemeanor.

[S. S., '15, § 2461-g1.]

SEC. 1024. Persistent violators—penalty.

1 Any person who, having once in any district court of this state
2 been duly convicted in a criminal action for violation of any of the
3 provisions of sections nine hundred fourteen to nine hundred forty-
4 two inclusive and nine hundred sixty-two to one thousand twenty-five
5 inclusive, and who shall hereafter be indicted, tried and convicted
6 for a subsequent offense under the same law, shall be considered a
7 persistent violator of such law, and sentence for each such subsequent

8 violation of said law shall be imprisonment in the state penitentiary
9 or state reformatory for not more than one year.

[S. S., '15, § 2461-m.]

SEC. 1025. Evidence.

1 On the trial of any cause, under the provisions of the preceding
2 section, a duly authenticated copy of the former judgment in any
3 court in which such judgment was so had, shall be competent and
4 prima facie evidence of such former judgment, and may be used in
5 evidence upon the trial of said cause.

[S. S., '15, § 2461-n.]

SEC. 1026. Advertising sale of intoxicating liquors prohibited.

1 Any person who shall advertise for sale upon, or in, any street
2 car, railway car or other vehicle of transportation, or in any railway
3 depot, hotel, boarding house, rooming house, restaurant, cafe, or at
4 any other public place or resort, by means of any sign or billboard, or
5 any circular, poster, price list, order blank, newspaper, magazine,
6 periodical, letter or otherwise, within this state, any intoxicating
7 liquor or liquids, whether malt, spirituous, vinous or fermented liquors
8 or liquids, or any other article, the sale or keeping for sale of which is
9 prohibited by the laws of this state, or any of them, or advertise
10 through any of the above described methods, or in any other way or
11 manner display any such advertisement of the manufacture, sale,
12 keeping for sale, of any such liquors or liquids, or furnishing the name
13 of the person from whom, or the company or corporation from which,
14 or the place where, or the price at which, or the method by which any
15 such liquors or liquids may be purchased, obtained or procured; or
16 any person who shall publish or circulate, or cause to be published or
17 circulated any newspaper, magazine, periodical, circular, order blank,
18 price list, letter or other written or printed matter in which any ad-
19 vertisement prohibited in this chapter shall appear, or permit any
20 sign or billboard containing any such advertisement to remain on his
21 premises; or any person who shall circulate, or cause to be circulated,
22 any price lists, order blanks, or other written or printed matter for
23 the purpose of suggesting, inducing or securing orders for the sale of
24 any such liquors or liquids, no matter where the said liquors or liquids
25 may have been manufactured or where the same may be located, shall
26 be deemed guilty of a misdemeanor.

[37 G. A., ch. 136, § 1.]

SEC. 1027. When building deemed nuisance.

1 Any building, erection, or place which is used or permitted to be
2 used, for the purpose of printing, lettering, publishing or making in
3 any way, any sign, poster, price list, order blank, circular, pamphlet,
4 or circular letter, or for the publication of any newspaper, periodical
5 or magazine which may contain any advertisement, notice, reference,
6 editorial or story, giving information of the place where, or the per-
7 son or firm from whom, or the method by which, or the price at which
8 any intoxicating liquor or any other article the sale or keeping for
9 sale of which is prohibited by the laws of this state, may be pur-
10 chased, procured, or obtained, and any building, erection or place
11 where any such sign, poster, price list, order blank, circular, pamphlet,
12 circular letter or newspaper, periodical or magazine containing such

13 advertisement, as herein described, are exhibited, posted or kept for
 14 distribution, sale or gift, and the machinery, type, fixtures and furni-
 15 ture used in printing and publishing any such advertisement, as de-
 16 scribed in this chapter, shall be deemed a public nuisance and may be
 17 enjoined and abated as provided in this chapter for enjoining and
 18 abating liquor nuisances.

[37 G. A., ch. 136, § 2.]

CHAPTER 9.

HOUSES OF PROSTITUTION.

SECTION 1028. Houses of prostitution and equipment thereof de- clared a nuisance—injunction.

1 Whoever shall erect, establish, continue, maintain, use, own or
 2 lease any building, erection or place used for the purpose of lewdness,
 3 assignation or prostitution is guilty of a nuisance, and the building,
 4 erection or place, or the ground itself, in or upon which such lewd-
 5 ness, assignation or prostitution is conducted, permitted or carried
 6 on, continued or exists, and the furniture, fixtures, musical instru-
 7 ments, and movable property used in conducting or maintaining such
 8 public nuisance, are also declared a nuisance and shall be enjoined and
 9 abated as hereinafter provided.

[S. S., '15, § 4944-h1.]

SEC. 1029. Injunction—procedure.

1 When a nuisance is kept, maintained or exists, as defined in this
 2 chapter, the county attorney or any citizen of the county or any so-
 3 ciety, association or body, incorporated under the laws of this state,
 4 may maintain an action in equity in the name of the state of Iowa,
 5 upon the relation of such county attorney, citizen, or corporation to
 6 perpetually enjoin said nuisance, the person or persons conducting or
 7 maintaining the same from further conducting or maintaining the
 8 same and the owner or agent of the building or ground upon which
 9 said nuisance exists from further permitting such building or ground
 10 or both to be so used. The defendants shall be served therein as in
 11 other actions and in such action the court, or judge in vacation, shall
 12 upon the presentation of a petition therefor alleging that the nuisance
 13 complained of exists, allow a temporary writ of injunction without
 14 bond, if the existence of such nuisance shall be made to appear to the
 15 satisfaction of the court or judge by evidence in the form of affidavits,
 16 depositions, oral testimony or otherwise as the complainant may elect,
 17 unless the court or judge by previous order, shall have directed the
 18 form and manner in which such evidence shall be presented. Where
 19 a temporary injunction is prayed for, the court or judge in vacation,
 20 on the application of plaintiff, may issue an ex parte restraining or-
 21 der, restraining the defendants and all other persons from removing
 22 or in any manner interfering with the furniture, fixtures, musical
 23 instruments and movable property used in conducting the alleged
 24 nuisance, until the decision of the court or judge granting or refusing
 25 such temporary injunction and until the further order of the court
 26 thereon. The restraining order may be served by handing to and
 27 leaving a copy of said order with any person in charge of said prop-

28 erty or residing in the premises or apartment wherein the same is
 29 situated, or by posting a copy thereof in a conspicuous place at or
 30 upon one or more of the principal doors or entrances to such prem-
 31 ises or apartment where such nuisance is alleged to be maintained, or
 32 by both such delivery and posting. The officer serving such restrain-
 33 ing order shall forthwith make a return into court and inventory of the
 34 personal property situated in and used in conducting or maintaining
 35 such nuisance. Any violation of such restraining order shall be a con-
 36 tempt of court, and where such order is so posted, mutilation or re-
 37 moval thereof, while the same remains in force, shall be a contempt
 38 of court, provided such posted order contains thereon or therein a
 39 notice to that effect. Three days' notice in writing shall be given the
 40 defendants of the hearing of the application for temporary injunction,
 41 and if then continued at the instance of defendant, the temporary
 42 writ, as prayed, shall be granted as a matter of course. Each def-
 43 endant so notified shall serve upon the complainant or his attorney
 44 a verified answer on or before the date fixed in said notice for said
 45 hearing, and such answer shall be filed with the clerk of the district
 46 court of the county wherein such cause is triable, but the court may
 47 allow additional time for so answering, providing such extension of
 48 time shall not prevent the issuing of said temporary writ as prayed
 49 for. The allegations of the answer shall be deemed to be traversed
 50 without further pleading. When an injunction has been granted, it
 51 shall be binding on the defendants throughout the judicial district in
 52 which it was issued, and any violation of the provisions of the injunc-
 53 tion herein provided shall be a contempt as hereinafter provided.

[S. S., '15, § 4944-h2.]

SEC. 1030. Action—when tried—reputation—dismissal—delay in trial.

1 The action when brought shall be noticed for and triable at the
 2 first term of the court the same as other actions triable in the district
 3 court of such county, and in such action evidence of the general repu-
 4 tation of the place shall be competent for the purpose of proving the
 5 existence of said nuisance and shall be prima facie evidence of such
 6 nuisance and of knowledge thereof and of acquiescence and participa-
 7 tion therein on the part of the owners, lessors, lessees, users and all
 8 those in possession of or having charge of, as agent or otherwise, or
 9 having any interest in any form of property used in conducting or
 10 maintaining said nuisance. If the complaint is filed by a citizen or
 11 a corporation, it shall not be dismissed except upon a sworn state-
 12 ment made by the complainant and his attorney, setting forth the
 13 reasons why the action should be dismissed, and the dismissal ap-
 14 proved by the county attorney in writing or in open court. If the
 15 court is of the opinion that the action ought not to be dismissed, he
 16 may direct the county attorney to prosecute said action to judgment
 17 at the expense of the county, and if the action is continued more than
 18 one term of court, any citizen of the county or the county attorney
 19 may be substituted for the complaining party and prosecute said ac-
 20 tion to judgment. If the action is brought by a citizen or a corpora-
 21 tion and the court finds there were no reasonable grounds or cause
 22 for said action, the costs may be taxed to such citizen or corporation.

[S. S., '15, § 4944-h3.]

SEC. 1031. Violation of injunction—procedure to establish—penalty.

1 In case of the violation of any injunction granted under the pro-
 2 visions of this chapter, or of a restraining order or the commission of
 3 any contempt of court in proceedings under this chapter, the court, or
 4 in vacation, a judge thereof, may summarily try and punish the offend-
 5 er. The proceedings shall be commenced by filing with the clerk of the
 6 court a complaint under oath, setting out and alleging facts constitut-
 7 ing such violation, upon which the court or judge shall cause a war-
 8 rant to issue, under which the defendant shall be arrested. The trial
 9 may be had upon affidavits or either party may demand the produc-
 10 tion and oral examination of the witnesses. A party found guilty of
 11 contempt under the provisions of this chapter shall be punished by a
 12 fine of not less than two hundred nor more than one thousand dollars
 13 or by imprisonment in the county jail not less than three nor more
 14 than six months or by both fine and imprisonment.

[S. S., '15, § 4944-h4.]

SEC. 1032. Order of abatement—sale of property—building to be closed—contempt.

1 If the existence of the nuisance be admitted or established in an
 2 action as provided in this chapter, or in a criminal proceeding in the
 3 district court, an order of abatement shall be entered as a part of the
 4 judgment in the case, which order shall direct the removal from the
 5 building or place of all fixtures, furniture, musical instruments or
 6 movable property used in conducting the nuisance, and shall direct
 7 the sale of such in the manner provided for the sale of chattels under
 8 execution, and shall direct the effectual closing of the building or place
 9 against its use for any purpose, and so keeping it closed for a period
 10 of one year, unless sooner released as hereinafter provided.+ If any
 11 person shall break and enter or use a building, erection or place so
 12 directed to be closed, he shall be punished as for contempt as provided
 13 in the preceding section. For removing and selling the movable prop-
 14 erty, the officer shall be entitled to charge and receive the same fees
 15 as he would for levying upon and selling like property, on execution,
 16 and for closing the premises and keeping them closed, a reasonable
 17 sum shall be allowed by the court.

[S. S., '15, § 4944-h5.]

SEC. 1033. Duty of county attorney—proceeds of sale.

1 In case the existence of such nuisance is established in a criminal
 2 proceeding in a court not having equitable jurisdiction, it shall be the
 3 duty of the county attorney to proceed promptly under this chapter
 4 to enforce the provisions and penalties thereof, and the finding of the
 5 defendant guilty in such criminal proceedings, unless reversed or set
 6 aside, shall be conclusive as against such defendant as to the exist-
 7 ence of the nuisance. All moneys collected under this chapter shall
 8 be paid to the county treasurer. The proceeds of the sale of the per-
 9 sonal property as provided in the preceding section, shall be applied
 10 in payment of the costs of the action and abatement or so much of
 11 such proceeds as may be necessary, except as hereinafter provided.

[S. S., '15, § 4944-h6.]

SEC. 1034. Release of property on filing bond.

1 If the owner of the premises in which said nuisance has been
2 maintained appears and pays all costs of the proceeding, and files a
3 bond with sureties to be approved by the court in the full value of
4 the property, to be ascertained by the court, or in vacation, by the
5 judge thereof, conditioned that he will immediately abate said nuisance
6 and prevent the same from being established or kept therein within a
7 period of one year thereafter, the court, or in vacation the judge, if
8 satisfied of his good faith, may order the premises closed or sought
9 to be closed under the order of abatement, to be delivered to said
10 owner, and said order of abatement canceled so far as the same may
11 relate to said real property. The release of the property under the
12 provisions of this section shall not release it from the injunction
13 herein provided against the property nor any of the defendants nor
14 from any judgment, lien, penalty or liability to which it may be sub-
15 ject by law.

[S. S., '15, § 4944-h7.]

SEC. 1035. Assessment and distribution of tax.

1 When a permanent injunction issues against any person for main-
2 taining a nuisance as herein defined, or against any owner or agent of
3 the building kept or used for the purpose prohibited by this chapter,
4 there shall be imposed upon said building and the ground upon which
5 the same is located and against the person or persons maintaining
6 said nuisance, and the owner or agent of said premises, a tax of three
7 hundred dollars. The imposing of said tax shall be made by the court
8 as a part of the proceeding, and the clerk of said court shall make
9 and certify a return of the imposition of said tax forthwith to the
10 county auditor, who shall enter the same as a tax upon the property
11 and against the persons upon which or whom the lien was imposed
12 as and when other taxes are entered, and the same shall be and remain
13 a lien on the land upon which lien was imposed until fully paid; pro-
14 vided that any such lien imposed while the tax books are in the hands
15 of the auditor shall be immediately entered therein. The payment of
16 said tax shall not relieve the persons or property from any other pen-
17 alties provided by law. The provisions of the law relating to the
18 collection of taxes in this state, the delinquency thereof and sale of
19 property for taxes shall govern in the collection of the tax herein
20 prescribed in so far as the same are applicable, and the said tax col-
21 lected shall be applied in payment of any deficiency in the costs of
22 the action and abatement on behalf of the state to the extent of such
23 deficiency after the application thereto of the proceeds of the sale of
24 personal property as hereinbefore provided, and the remainder of said
25 tax together with the unexpended portion of the proceeds of the sale
26 of personal property shall be distributed in the same manner as fines
27 collected for the keeping of houses of ill fame, excepting that twenty
28 per cent of the amount of the whole tax collected and of the whole
29 proceeds of the sale of said personal property as provided in this
30 chapter shall be paid by the treasurer to the attorney representing
31 the state in the injunction action, at the time of final judgment.

[S. S., '15, § 4944-h8.]

SEC. 1036. Tax assessed against person served or appearing—service—unknown claimants—modification of order.

1 When such nuisance has been found to exist under any proceed-
 2 ing in the district court or as in this chapter provided, and the owner
 3 or agent of such building or ground whereon the same has been found
 4 to exist, was not a party to such proceeding, nor appeared therein,
 5 the said tax of three hundred dollars shall, nevertheless, be imposed
 6 against the persons served or appearing and against the property as
 7 in this chapter set forth. † The person in whose name the real estate
 8 affected by the action stands on the books of the county auditor for
 9 purposes of taxation shall be presumed to be the owner thereof, and
 10 in case of unknown persons having or claiming any ownership, right,
 11 title, or interest in property affected by the action, such may be made
 12 parties to the action by designating them in the summons and com-
 13 plaint as "all other persons unknown claiming any ownership, right,
 14 title, or interest in the property affected by the action" and service
 15 thereon may be had by publishing such summons in the manner pre-
 16 scribed in section seventy-one hundred eighty-five. Any person hav-
 17 ing or claiming such ownership, right, title or interest, and any owner
 18 or agent in behalf of himself and such owner may make, serve and
 19 file his answer therein within twenty days after such service and
 20 have trial of his rights in the premises by the court; and if said cause
 21 has already proceeded to trial or to findings and judgment, the court
 22 shall by order fix the time and place of such trial and shall modify,
 23 add to or confirm such findings and judgment as the case may require.
 24 Other parties to said action shall not be affected thereby.

[S. S., '15, § 4944-h9.]

SEC. 1037. Construction of statute.

1 Should any provision or item of this chapter be held to be un-
 2 constitutional, such fact shall not be held to invalidate the other pro-
 3 visions and items thereof.

[S. S., '15, § 4944-h10.]

CHAPTER 10.

STATE FIRE MARSHAL.

SECTION 1038. Office created—appointment—term—removal.

1 There is hereby created the office of state fire marshal and the
 2 governor shall appoint a citizen of the state versed in the causes of
 3 fires and having a knowledge of improved methods of preventing fires,
 4 to fill the position hereby created. The term of office of the state fire
 5 marshal shall be four years and shall end July first. During the ses-
 6 sion of the general assembly the governor with the consent of the
 7 senate shall appoint a citizen of the state possessing the above re-
 8 quirements as state fire marshal, and the person so appointed shall
 9 assume the duties of his office July first following the date of his ap-
 10 pointment. The state fire marshal may be removed for cause at any
 11 time by the governor and vacancies arising shall be filled by appoint-
 12 ment by the governor, which appointment shall be for the unexpired
 13 term. The state fire marshal shall maintain an office at the seat of

14 government and for that purpose the executive council shall provide
15 him with suitably furnished rooms, furniture, books, supplies, print-
16 ing and stationery necessary to the proper conduct of his office. Be-
17 fore entering upon the discharge of his duties he shall give a bond
18 in the penal sum of five thousand dollars conditioned as provided in
19 section six hundred twelve.

[S., '13, § 2468-a.]

SEC. 1039. Deputy and other assistants—compensation.

1 The state fire marshal is hereby empowered to appoint a deputy
2 fire marshal to assist him in his work, and with the approval of the
3 executive council may appoint and fix the compensation of such addi-
4 tional deputies, clerks and assistants as may be necessary to properly
5 and efficiently conduct the affairs of his office.

[S., '13, § 2468-b.]

SEC. 1040. Vacancy filled by deputy.

1 While any vacancy shall exist in the office of state fire marshal
2 or during his absence or inability to perform his duties, the same shall
3 devolve upon and be performed by the deputy fire marshal.

[S., '13, § 2468-c.]

SEC. 1041. Inspectors—appointment—powers.

1 With the approval of the executive council the state fire marshal
2 may, in addition to the provisions of section ten hundred thirty-nine,
3 appoint any person, or persons, as state inspector, or inspectors, who
4 may be known to him to be competent and skilled in the inspection of
5 buildings and their contents. Such person or persons shall have all
6 the powers of a deputy fire marshal to enter and inspect buildings,
7 including their contents and occupancies, as provided in section ten
8 hundred forty-six, and it shall be the duty of such inspector to report
9 to the fire marshal any faulty or dangerous condition found. Such
10 state inspector or inspectors shall be duly commissioned and shall re-
11 ceive such compensation as provided for in section ten hundred fifty-
12 two.

[S., '13, § 2468-d.]

SEC. 1042. Investigation of causes of fires—duties of city and other officers—reports—penalties.

1 The state fire marshal either by himself or through other per-
2 sons as in this chapter provided shall investigate the cause, origin
3 and circumstances of every fire occurring within the state and it
4 shall be the duty of the chief of the fire department of every city,
5 town or village in which a fire department is established, and of the
6 mayor of every incorporated town, or village in which no fire depart-
7 ment exists, and of the township clerk of every organized township,
8 outside the limits of any organized city, town or village, to investigate
9 the cause, origin and circumstances of every fire occurring in such
10 city, town, village or township by which property has been destroyed,
11 or damaged, and to specially make investigation as to whether such
12 fire was the result of carelessness or design. Such investigation shall
13 be begun within two days, not including Sunday, of the occurrence of
14 such fire, and the state fire marshal shall have the right to supervise
15 and direct such investigation whenever he deems it expedient or nec-

16 essary. The officer making investigation of fires occurring in cities,
 17 villages, towns or townships shall forthwith notify said fire marshal,
 18 and shall within one week of the occurrence of the fire furnish to the
 19 said fire marshal a written statement of all facts relating to the cause
 20 and origin of the fire and such other information as may be called
 21 for by the blanks provided by said fire marshal. Any chief of a fire
 22 department, mayor or township clerk who fails or refuses to make the
 23 investigation and report required of him by this section shall be
 24 deemed guilty of a misdemeanor, and shall, upon conviction, be fined
 25 in a sum not less than five dollars nor more than one hundred dollars.

[S., '13, § 2468-e.]

SEC. 1043. Record of fires.

1 The state fire marshal shall keep in his office a record of all fires
 2 occurring in the state, showing the name of the owners and name or
 3 names of occupants of the property at the time of the fire, the sound
 4 value of the property, and amount of insurance thereon, the total
 5 amount of insurance collected, and the total amount of loss to the
 6 property owner, together with all the facts, statistics, and circum-
 7 stances, including the origin of the fire, which may be determined by
 8 the investigation provided by this chapter. Such record shall at all
 9 times be opened to public inspection.

[S., '13, § 2468-f.]

SEC. 1044. Testimony under oath—arrest for arson.

1 The state fire marshal shall, when in his opinion further investi-
 2 gation is necessary, take or cause to be taken the testimony under
 3 oath of all persons supposed to have knowledge of any facts, or to
 4 have means of knowledge in relation to the matter in which an exam-
 5 ination is herein required to be made, and shall cause the same to be
 6 reduced to writing. If the state fire marshal shall be of the opinion
 7 that there is evidence sufficient to charge any person with the crime
 8 of arson, or with the attempt to commit the crime of arson, or of con-
 9 spiracy to defraud, or criminal conduct in connection with such fire, he
 10 shall cause such person to be arrested and charged with the offense,
 11 or either of them, and shall furnish to the proper prosecuting attor-
 12 ney all such evidence, together with the names of witnesses and all of
 13 the information obtained by same, including a copy of all matter and
 14 testimony taken in the case.

[S., '13, § 2468-g.]

**SEC. 1045. Power to require attendance of witnesses—evidence—
 violation—penalty.**

1 The state fire marshal and his deputy shall each have power in
 2 any county in the state to administer an oath and compel the attend-
 3 ance of witnesses before them, or either of them, to testify in rela-
 4 tion to any matter which is by the provisions of this chapter a sub-
 5 ject of inquiry and investigation, and may require the production of
 6 any books, papers, or documents necessary for such investigation.
 7 False swearing in any matter of proceeding aforesaid shall be deemed
 8 perjury and shall be punished as such. Any witness who refuses to
 9 be sworn, or refuses to testify, or who disobeys any lawful order of
 10 said state fire marshal, or deputy state fire marshal, or who fails to
 11 produce any books, papers or documents touching any matter under

12 examination, or who is guilty of any contentious conduct after being
13 summoned by them or either of them to appear before them or either
14 of them, to give testimony in relation to any matter or subject under
15 investigation as aforesaid, shall be guilty of a misdemeanor, and it
16 shall be the duty of the state fire marshal or deputy state fire marshal,
17 or either of them, to make or compel said person or persons so refus-
18 ing to comply with the summons or orders of said state fire marshal,
19 or deputy state fire marshal, before any justice of the peace, police
20 magistrate, or any court of record in the county in which said in-
21 vestigation is being had, and upon the filing of such complaint for
22 such cause, shall proceed in the same manner as other criminal cases.
23 Any person convicted of the violation of any of the provisions of this
24 chapter shall be deemed guilty of a misdemeanor and shall be fined
25 in a sum not exceeding one hundred dollars or imprisoned not to ex-
26 ceed thirty days, or both, in the discretion of the court; any person so
27 convicted shall have the right of appeal.

[S., '13, § 2468-h.]

SEC. 1046. Authority to enter buildings.

1 Said state fire marshal and his deputy, or either of them, shall
2 have the right and authority at all times of day or night in the per-
3 formance of the duties imposed by the provisions of this chapter, to
4 enter upon, or examine any buildings or premises, where any fire has
5 occurred, and other buildings or premises adjoining or near the same.

[S., '13, § 2468-i.]

**SEC. 1047. Examination of buildings—order for removal or
change—penalty—appeal.**

1 The state fire marshal, his deputy and assistants, the chief of
2 the fire department of all cities, towns or villages where a fire depart-
3 ment is established, and the clerk of each township in the territory
4 outside the limits of an organized city, or village, upon complaint of
5 any person having an interest in any building or property adjacent,
6 and without any complaint, shall have a right at all reasonable hours,
7 for the purpose of examination, to enter into and upon all buildings
8 and premises within their jurisdiction. When any of said officers
9 shall find any building or structure, which by want of proper repair
10 or by reason of age and dilapidated condition, or for any cause, is
11 especially liable to fire, and is so situated as to endanger other build-
12 ings or property therein, or when any such official shall find in any
13 building or upon any premises combustible or explosive matter or in-
14 flammable conditions dangerous to the safety of certain buildings or
15 premises, they shall order the same to be removed or remedied and
16 such order shall be forthwith complied with by the owner or occupant
17 of said building or premises, but if said occupant or owner shall
18 deem himself aggrieved by such order he may within forty-eight hours
19 appeal to the state fire marshal, and the cause of complaint shall be
20 at once investigated under the direction of the latter, and unless by
21 his authority the order is rejected, such order shall remain in force
22 and be forthwith complied with by said owner or occupant. Any
23 owner or occupant of buildings or premises failing to comply with
24 the order of the authorities above specified shall be punished by a
25 fine of not less than ten dollars nor more than fifty dollars for each
26 day's neglect; such penalty to be sued for in the name of the state upon

27 complaint of the fire marshal, deputy fire marshal or county attorney,
28 or of any officer named herein in the county in which such building
29 or buildings shall be situated, before any justice of the peace or any
30 court of record; right of appeal shall be granted, and such penalty,
31 when recovered, shall be paid into the county treasury of the county
32 wherein such recovery is had; but in municipalities having building
33 inspection and limit ordinances, nothing herein shall be construed to
34 affect such local regulations, but the jurisdiction of the state fire mar-
35 shal shall be concurrent with that of the municipal authorities.

[S., '13, § 2468-j.]

**SEC. 1048. Fire drills in public schools—exits unlocked—danger
bulletin—teachers—penalty.**

1 It shall be the duty of the state fire marshal and his deputies to
2 require teachers of public and private schools, in all buildings of more
3 than one story, to have at least one fire drill each month, and to re-
4 quire all teachers of such schools, whether occupying buildings of
5 one or more stories, to keep all doors and exits of their respective
6 rooms and buildings unlocked during school hours. The state fire
7 marshal shall prepare a bulletin upon the causes and dangers of
8 fires, arranged in not less than four divisions or chapters, and under
9 the direction of the executive council shall publish and deliver the
10 same to the public schools throughout the state, and the teachers
11 thereof shall be required to instruct their pupils in at least one lesson
12 each quarter of the school year with reference to the causes and dan-
13 gers of fires. Any teacher failing to comply with the provisions of
14 this section shall be guilty of a misdemeanor and shall be punishable
15 by a fine of not to exceed ten dollars for each offense.

[S., '13, § 2468-k.]

SEC. 1049. Salaries—expenses.

1 The state fire marshal shall receive an annual salary of twenty-
2 five hundred dollars and the deputy fire marshal shall receive an an-
3 nual salary of eighteen hundred dollars. The said fire marshal, his
4 deputies and assistants shall be entitled to their actual and necessary
5 traveling, hotel and other expenses while away from the city of Des
6 Moines on business of the office; and the said fire marshal may con-
7 tract such other expenses as may be necessary in the performance of
8 his official duties, but the total amount to be expended for all purposes,
9 including salaries, compensation, fees and expenses, except the office
10 expenses provided in section ten hundred thirty-eight, shall not ex-
11 ceed the sum of thirteen thousand five hundred dollars annually.

[S., '13, § 2468-l.]

SEC. 1050. Marshal and deputy shall devote entire time.

1 The state fire marshal shall devote his entire time to the duties
2 of his office and he or his deputy shall, except when engaged else-
3 where in the performance of his duties, at all times be at the office of
4 the state fire marshal, ready for such duties as are required by this
5 chapter.

[S., '13, § 2468-m.]

SEC. 1051. Annual report—publication—distribution.

1 The state fire marshal shall file with the governor annually, as
2 early as consistent with full and accurate preparation and not later
3 than the first day of February each year, a detailed report of his
4 official action and of the affairs of his office, which report shall be
5 published and distributed as the reports of other state officers.

[S., '13, § 2468-n.]

SEC. 1052. Fee for fires reported.

1 There shall be paid to the chiefs of the fire department, and to
2 mayors of incorporated villages, and to the township clerk of every
3 organized township, who are by this chapter required to report fires
4 to the state fire marshal, the sum of fifty cents for each fire so re-
5 ported to the satisfaction of the state fire marshal, and in addition
6 thereto there shall be paid to township clerks mileage at the rate of
7 ten cents per mile for each mile traveled to the place of fire. Said
8 allowance shall be paid by the state fire marshal out of any funds ap-
9 propriated for the use of the office of said state fire marshal.

[S., '13, § 2468-o.]

SEC. 1053. Annual appropriation.

1 There is hereby appropriated out of any money in the state
2 treasury not otherwise appropriated the sum of thirteen thousand five
3 hundred dollars annually, or so much thereof as may be necessary for
4 the purpose of maintaining the department of the state fire marshal
5 and paying all expenses thereof. The said fire marshal shall keep
6 on file in the office an itemized statement of all expenses incurred by
7 his department, and shall approve all vouchers issued, and said vouch-
8 ers shall be allowed and paid out of the funds hereby appropriated in
9 the same manner that other claims against the state are paid, upon
10 approval of the state board of audit.

[S., '13, § 2468-p.]

CHAPTER 11.**FIRE COMPANIES.****SECTION 1054. Members have certain exemptions.**

1 Any person while an active member of any fire engine, hook and
2 ladder, hose, or any other company for the extinguishment of fire, or
3 the protection of property at fires, under the control of the corporate
4 authorities of any city or town, shall be exempt from the perform-
5 ance of military duty and labor on the roads on account of poll tax,
6 and from serving as a juror. Any person who has been an active
7 member of such company in any city or town as aforesaid, and has
8 faithfully discharged his duties as such for the term of ten years,
9 shall thereafter be exempt from military duty in time of peace, from
10 serving as a juror, and from labor on the roads.

[R., '60, § 1763; C., '73, § 1560; C., '97, § 2462.]

SEC. 1055. Certificate of service—evidence of exemption.

1 Any person who has thus served in any company for the term
 2 of ten years shall receive from the foreman of the company of which
 3 he shall have been a member a certificate to that effect, and on its
 4 presentation to the clerk he shall file the same in his office and give
 5 his certificate, under the corporate seal, to such person, setting forth
 6 the name of the company of which such person was a member and
 7 the duration of such membership, which certificate shall be received
 8 in all courts as evidence that the person legally holding the same is
 9 entitled to such exemption.

[R., '60, § 1764; C., '73, § 1561; C., '97, § 2463.]

SEC. 1056. Certificate of exemption from working roads.

1 To entitle a person to exemption from labor on the roads before
 2 the expiration of the term of ten years, he shall, on or before the first
 3 day of April of each year, file with the clerk of the city or town a
 4 certificate, signed by the foreman of the company of which he is a
 5 member, that the holder thereof is an active member of said fire com-
 6 pany, and thereupon the clerk shall enter said exemption upon the
 7 street tax list for that year.

[C., '73, § 1562; C., '97, § 2464.]

SEC. 1057. False claim to exemption punished.

1 Any person who shall by misrepresentation, or by the use of a
 2 false certificate or the certificate of any other person, endeavor to
 3 avail himself of the benefits of this chapter, upon conviction thereof,
 4 shall be imprisoned in the county jail for a period of not more than
 5 six nor less than one month, and pay a fine of not less than ten nor
 6 more than one hundred dollars.

[R., '60, § 1765; C., '73, § 1563; C., '97, § 2465.]

SEC. 1058. Injury to fire apparatus.

1 If any person wilfully destroy or injure any engine, hose car-
 2 riage, hose, hook and ladder carriage, or other thing used and kept
 3 for the extinguishment of fires, he shall, upon conviction, be impris-
 4 oned in the penitentiary for a period of not less than one nor more
 5 than three years.

[R., '60, § 1766; C., '73, § 1564; C., '97, § 2466.]

SEC. 1059. Removal of fire apparatus punished.

1 No person shall remove any engine or other apparatus for the
 2 extinguishment of fire from the house or other place where it is kept
 3 or deposited, except in time of fire or alarm thereof, unless authorized
 4 so to do by the president, director or foreman of the company to whom
 5 the same shall belong. Any person violating the provisions of this
 6 section shall be guilty of a misdemeanor and shall be punished by a
 7 fine not exceeding one hundred dollars, or by imprisonment in the
 8 county jail not exceeding thirty days.

[R., '60, § 1767; C., '73, § 1565; C., '97, § 2467; S., '13, § 2467.]

SEC. 1060. False alarms of fire punished.

1 No person or persons shall cause or give a false alarm of fire, by
 2 setting fire to any combustible material, or by crying or sounding an

3 alarm, or by any other means, without cause. Any person violating
4 the provisions of this section, shall be guilty of a misdemeanor and
5 shall be punished by a fine not exceeding one hundred dollars or by
6 imprisonment in the county jail not exceeding thirty days.

[R., '60, § 1768; C., '73, § 1566; C., '97, § 2468, S., '13,
§ 2468.]

CHAPTER 12.

FIRE ESCAPES.

SECTION 1061. Protection against fire—means of escape—when basement counted as a story.

1 All buildings, structures or inclosures of three or more stories
2 and such other buildings of a less number of stories as are included
3 by law and which buildings are not equipped with fire escapes or
4 which buildings may hereafter be erected or the fire escapes of which
5 are renewed or in need of renewal, shall be equipped with such protection
6 against fire and means of escape as is by law provided. The
7 word "building" used in the law relating to fire escapes and protection
8 against fire and means of escape from buildings shall be held to
9 include all of the structures or inclosures embraced in this section or
10 referred to more specifically in the law relating to fire escapes, protection
11 against fire and means of escape from buildings. When a basement
12 is five feet or over above ground it shall be counted as a story.

[S. S., '15, § 4999-a6.]

SEC. 1062. Number of fire escapes required—where placed.

1 Every building, structure or inclosure of three or more stories
2 and every schoolhouse of two stories and not provided with two inside
3 stairways located approximately at each end of the hallway in
4 the second story and every structure having a stage, and every theater
5 or opera house of more than one story, or having balconies or galleries,
6 shall have the number of fire escapes of the kind prescribed by
7 law, which minimum number shall be based upon the following formula:
8

9 $\text{Number of fire escapes} = C \times P.$

10 P equals the average maximum number of persons on any story
11 above the first story having the largest number; such number to be
12 fixed and determined according to the purpose for which the building
13 is used.

14 C is a coefficient and is fixed and shall be taken for the various
15 classes of buildings as follows:

- 16 1. Buildings having wooden or combustible walls, C equals .020.
- 17 2. Buildings having brick or noncombustible walls with combustible
18 interior, C equals .014.
- 19 3. Buildings having brick or noncombustible walls and noncombustible
20 roof and slow burning construction, C equals .012.
- 21 4. Buildings of fireproof construction throughout, C equals .007.
- 22 5. Buildings of wooden or combustible walls equipped with efficient
23 water sprinkler system, C equals .014.
- 24 6. Buildings having brick or noncombustible walls with com-

25 bustible interior equipped with efficient water sprinkler system, C
26 equals .008.

27 7. Buildings having brick or noncombustible walls and noncom-
28 bustible roof and slow burning construction equipped with efficient
29 water sprinkler system, C equals .006.

30 8. Fireproof buildings equipped with efficient water sprinkler
31 system, C equals .003.

32 When the result of the said formula is one or any fraction thereof
33 the number of escapes shall be equal to one. The number of escapes
34 above one shall be a number sufficient to cover the number indicated
35 by the formula, including any fraction as unity, except when such
36 fraction shall be thirty-three hundredths or less, in which case the
37 fraction may be dropped if permitted by the inspector.

38 The first fire escape required by law shall be placed as far as
39 possible from the existing inside stairway or exits to the lower floors
40 of the building, taking into account the hazard and the path or route
41 of access to the escape from such stairway.

42 The distance from any inside stairway or exit to the lower floor
43 to the nearest fire escape shall not exceed two hundred feet by way of
44 the path or route of access to such fire escape from such stairway or
45 exit.

46 Additional fire escapes to those otherwise provided by law shall
47 be provided wherever it is necessary to pass within twenty feet of
48 any stairway or elevator shaft from any portion of the building more
49 than twenty feet from such stairway or shaft to reach the fire escape
50 required by the other provisions of law and where there are peculiar,
51 unusual or extreme hazards additional fire escapes may be required
52 by those authorized by law to regulate and fix the number and re-
53 quirements of fire escapes.

54 But if by reason of the height of buildings or by reason of many
55 or all stories above the second story of such buildings having near the
56 average maximum of persons of any one floor above the first, such
57 buildings shall be equipped with a sufficient number of fire escapes to
58 permit the exit of such average maximum number of persons occupy-
59 ing such buildings above the first story, permanently, or temporarily
60 in the course of business within the following periods of time:

61 Buildings with wooden or combustible walls, two minutes; build-
62 ings having brick or noncombustible walls with combustible interior,
63 three minutes; buildings having brick or noncombustible walls and
64 noncombustible roof and slow burning interior construction, four
65 minutes; buildings of fireproof construction throughout, fifteen min-
66 utes; or a less period of time if hazard of merchantable contents of
67 such building may so require; and in estimating the period of time
68 required the rate of descent on the fire escapes shall not be taken in
69 excess of one and five-tenths feet of vertical distance, or height per
70 second, when said fire escapes are fully loaded, which rate of descent
71 shall be estimated to permit the exit of not to exceed one person per
72 second; but the time of complete exit as herein provided may be in-
73 creased where efficient sprinkler systems are installed, such increase
74 of time to be determined by the character and efficiency of the sprin-
75 kling system installed unless peculiar or unusual hazards shall exist.

[S. S., '15, § 4999-a7.]

SEC. 1063. Fire escapes—how constructed—location of escapes to be shown—interior arrangement.

1 All fire escapes shall be constructed as described in the follow-
2 ing classifications:

3 Class A. Fire escapes of this class shall consist of those more safe
4 and efficient than outside ladders and stairways and which shall have
5 been approved as such by the commissioner of the bureau of labor
6 statistics, and may include inside stairways and means of escape in
7 fireproof buildings when approved by said commissioner.

8 Class B. Fire escapes of this class shall consist of a suitable out-
9 side stairway of not less than twenty-two inches clear width of steel
10 or wrought iron constructed with platforms and with stationary stair-
11 way carried down to within six and one-half feet from the ground or
12 with a drop or counterbalanced stairway from the second story plat-
13 form or balcony to the ground.

14 Class C. Fire escapes of this class shall consist of at least one
15 ladder not less than eighteen inches in width of steel or wrought iron
16 construction of sufficient size and strength for safety attached to the
17 outside walls of the building and provided with platforms of steel or
18 wrought iron inclosed by suitable railings and of such dimensions
19 and in such proximity to the windows of each story above the first
20 so as to render access to the ladder from each story easy and safe,
21 the said ladder to extend to within six and one-half feet from the
22 ground or be provided with a drop ladder hung at the second story
23 in such a manner that it can be easily lowered for use. All fire escapes
24 reaching the top floor shall have suitable extensions reaching from
25 the upper platform to safe landing on the roof of building.

26 All of the above classes of fire escapes shall be of suitable ma-
27 terial, construction, arrangement and location to make the same safe
28 and efficient and no fire escape of a higher class shall be less safe and
29 efficient than of a lower class and the provisions of each lower class
30 with respect to platforms, access to windows and openings and suffi-
31 ciency of strength shall apply to the upper class except where allowed
32 to be modified by those having authority.

33 All fire escapes of any of the foregoing classes shall have such
34 necessary windows or openings leading to the platforms or balconies
35 of the same as shall be necessary to make the same safe and efficient,
36 and all routes or paths of access to said fire escapes shall be safe and
37 sufficient, with all doors of rooms leading to fire escapes one-half glass
38 and equipped with mortise latches or equivalent that the same may
39 be easily and quickly opened by breaking the glass and turning the
40 latches from the inside of the doors, all so as to render access to the
41 fire escape from each floor above the first easy and safe. All win-
42 dows or doors leading to the platforms of fire escapes shall not be
43 fastened against exit.

44 The attachment of all fire escapes shall be made in a thorough
45 and substantial manner and sufficient to carry the full load that may
46 be placed on said fire escapes when the same are crowded, with a
47 factor of safety of not less than four.

48 Suitable signs indicating the location of fire escapes shall be
49 posted at all entrances to elevators, stairways, landings and in all
50 rooms. In all buildings which are used for lodging or sleeping pur-
51 poses and in opera houses, theaters and public assembly halls red
52 lights shall be maintained at night or when the buildings are dark-

53 ened to indicate the place or opening through which access to the fire
54 escape is obtained.

[S. S., '15, § 4999-a8.]

SEC. 1064. Class of escapes to be supplied—certain classes forbidden—discretionary power of commissioner—stairways.

1 Hotels, lodging houses, tenements, apartment buildings, schools,
2 retail or department stores, seminaries, and college buildings, office
3 buildings, hospitals, asylums, opera houses, theaters, assembly halls
4 and factories required to be equipped by law shall be equipped with
5 escapes of class "A" or class "B". All other buildings and structures
6 required to be equipped with fire escapes shall be equipped with some
7 one or more of said classes of fire escapes.

8 Class "C" shall not be used on any building over three stories in
9 height in which more than five persons are at any one time allowed
10 upon any one of the floors above said third story nor where any of
11 the persons allowed upon any floor above the third story are females
12 or minors; provided, however, the commissioner of the bureau of labor
13 statistics may under peculiar conditions and where the hazards are
14 not great permit fire escapes of class "C" to be used on buildings of
15 more than three stories, but when ladder fire escapes are permitted
16 on buildings more than three stories in height the ladders thereof must
17 offset at the platforms and not be continuous from one story to the
18 next.

19 Where stairways not less than forty-four inches in clear width
20 are provided they shall be taken as the equivalent of two or more
21 single stairways in proportion to their width, provided the means of
22 escape and efficiency and safety of said escapes are not thereby dimin-
23 ished.

[S. S., '15, § 4999-a9.]

SEC. 1065. Doors to open outward and be unfastened.

1 The entrance and exit doors of all hotels, churches, lodge halls,
2 courthouses, assembly halls, theaters, opera houses, colleges and pub-
3 lic schoolhouses and other structures where the hazard is deemed suffi-
4 cient by the inspector and the entrance doors to all class and assembly
5 rooms in all public school buildings shall open outward and shall not
6 be fastened against exit or so the same can not be easily opened from
7 within.

[S. S., '15, § 4999-a9a.]

SEC. 1066. Chief of fire department, mayor, or chairman board of supervisors as building inspector—duty—labor commissioner—duty—specifications to be adopted—appeal to commissioner—rules and regulations adopted and published.

1 It shall be the duty of the building inspector in cities having such
2 officer and if there be no such officer, then the chief of the fire depart-
3 ment, and if there be no chief of a paid fire department, the mayor
4 of each city or town or if the building is not within the corporate
5 limits of any city or town, then the chairman of the board of super-
6 visors shall inspect and they shall be the inspectors of all fire escapes
7 within their respective jurisdictions, except such buildings as hotels
8 and factories as are required otherwise to be inspected by law, and
9 they shall as often as necessary and whenever complaint is made care-
10 fully inspect and examine such fire escapes and such inspection shall

11 include all paths or routes of access between any interior exit to a
12 lower floor and said fire escapes and shall include the openings and
13 means of access to the said fire escapes and shall include signs, lights,
14 exits and means of escape of all buildings required to be equipped with
15 fire escapes and required to have certain exits and means of escape,
16 and upon the complaint or request of any person that any fire escape,
17 exit or means of escape from fire or any rule or regulation relative
18 thereto or relative to protection against fire is being violated, such
19 inspector shall examine into the complaint or request and determine
20 what, if any, requirements should be made in relation thereto, and
21 shall have power to make all reasonable requirements and regulations
22 in conformity with law and to determine all matters with respect to
23 fire escapes, protection from fire and means of escape from buildings.
24 Said inspectors, however, shall be subject to and their duties shall not
25 conflict with the duties of inspection of the commissioner of the bureau
26 of labor statistics, the engineer of the state board of health and their
27 assistants or deputies.

28 The commissioner of the bureau of labor statistics shall have
29 general charge and supervision of the inspection and regulation of
30 fire escapes and means of escape and of the enforcement of the law
31 relating thereto, and for this purpose the inspectors named herein
32 shall be subject to his direction and to the rules and regulations
33 adopted by such commissioner. The said commissioner shall adopt
34 standard uniform specifications for the various classes of fire escapes
35 provided by law and shall keep such specifications on file in his office
36 and shall furnish copies of such specifications to all persons made by
37 law inspectors of fire escapes and means of escape from fire, and such
38 persons shall keep the same on file in their respective offices.

39 It shall be the duty of any inspector required by law to inspect
40 fire escapes or means of escape from fire to serve or cause to be served
41 a written notice in behalf of the state of Iowa upon the owner if he
42 be a resident of the county in which the buildings are situated, or if
43 he be a nonresident of such county, then upon his agent or lessee,
44 that the buildings within this state are not provided with fire escapes
45 in accordance with the provisions of this chapter, or that the fire
46 escapes or means of escape from fire are defective, unsafe or danger-
47 ous, notifying such owner of such want of fire escapes, condition of
48 the building, defective, dangerous or unsafe means of escape from fire
49 or any matter relating thereto and notifying him to comply with the
50 law and requirements of the inspector or commissioner within sixty
51 days after the service of such notice, provided the time of such notice
52 may be extended by the commissioner of the bureau of labor statistics
53 if necessary.

54 The owner, by himself, his agent or lessee, may appeal from the
55 action or requirement of any inspector at any time within the said
56 sixty days after the service of such notice by a written communication
57 addressed to said commissioner, setting forth such objections as may
58 be taken to the complaint, requirement or regulation of such inspec-
59 tor and it shall be the duty of the commissioner to pass upon and
60 determine all matters of disagreement relating to fire escapes and the
61 means of escape from fire from buildings and all rules, regulations,
62 findings and orders of the commissioner shall be reasonable and not
63 unduly burdensome wherever it is within the discretion of the com-
64 missioner.

65 The commissioner of the bureau of labor statistics shall make all
 66 necessary rules and regulations to carry out the purpose of this law
 67 and for all buildings wherever constructed and have the same printed
 68 in pamphlet form for distribution and he shall have the power to
 69 approve any and all plans relating to fire escapes of the various
 70 classes, and it shall be his duty to see that the same conform to the law
 71 and to make rulings and orders relative thereto, and where any dis-
 72 pute or disagreement arises with respect to the plans and specifica-
 73 tions for any fire escapes or means of escape from fire the commis-
 74 sioner shall have the power and authority to determine and pass upon
 75 the same and make orders relative thereto. Said inspector shall, sub-
 76 ject to the final decision of the commissioner, have power to determine
 77 the number of exits from all theaters, opera houses and assembly halls
 78 and those having one or more balconies and the relation of such exits
 79 to the fire escapes, and shall require and enforce the requirement that
 80 all exits shall not be fastened against exit.

[S. S., '15, § 4999-a10.]

SEC. 1067. Violations—penalty.

1 Any person who shall violate any of the provisions of law relat-
 2 ing to fire escapes or means of escape from fire or any owner, agent
 3 or trustee having the full care and control of any building and who
 4 has been served with notice as provided herein and who shall within
 5 sixty days of the service of the notice or within the time as extended
 6 by the commissioner fail and neglect to comply with the requirements
 7 of law or of the inspector or the commissioner, unless he appeal there-
 8 from or who shall fail, refuse or neglect to perform any order or
 9 requirement fixed by law or by the labor commissioner, if the same
 10 be reasonable, shall be subject to a fine of not less than twenty-five
 11 dollars and not more than one hundred dollars and shall be subject to
 12 a further fine of twenty-five dollars for each additional week of neglect
 13 to comply with such notice, order or requirement.

[S. S., '15, § 4999-a11.]

CHAPTER 13.

HOTELS, INNS AND LODGING HOUSES.

SECTION 1068. "Hotels" and "public lodging houses" defined.

1 Every building or structure kept, used, advertised as, or held out
 2 to the public to be an inn, hotel, or public lodging house, or place
 3 where sleeping accommodations are furnished for hire to transient
 4 guests, whether with or without meals, shall, for the purpose of this
 5 chapter, be defined to be a hotel, and wherever the word hotel shall
 6 occur in this chapter it shall be construed to mean and cover every
 7 such building or structure as is described in this section.

[S., '13, § 2514-h; 38 G. A., ch. 182, § 1.]

SEC. 1069. Annual license—rates posted.

1 On or before January first of each year every person, firm or cor-
 2 poration now engaged in the business of conducting a hotel, and every
 3 person, firm or corporation who shall hereafter engage in conducting

4 such business, shall make application to the inspector of hotels for a
5 license to conduct such business, which application shall be accom-
6 panied by a statement showing the maximum rates to be charged for
7 each room in such hotel to the guests when occupied by one guest, by
8 two guests, by three guests or more, and on the first day of July and
9 January in each year; and the rate for each room shall be posted on
10 a card on the inside of the entrance door to such room in type of such
11 size and dimension sufficiently large to be easily read. A complete
12 list of rooms by number and floor, together with rate for each room,
13 shall be continuously kept posted on the wall near the office in the
14 lobby of such hotel and open to public inspection without request from
15 the management, and no greater rate shall be charged or collected.

[38 G. A., ch. 182, § 1.]

SEC. 1070. Application blanks—license.

1 The inspector of hotels upon request shall furnish to any person,
2 firm or corporation desiring to conduct a hotel an application blank
3 to be filled out by such person, firm or corporation for a license there-
4 for, and which shall require such applicant to state the full name and
5 address of the owner of the building, the lessee and manager of such
6 hotel, together with the full description of the building and property
7 to be used or proposed to be used for such business, the location of the
8 same, the name under which such business is to be conducted, and
9 such other information as may be required therein by the inspector
10 of hotels, and such application shall be accompanied by the license fee
11 hereinafter provided. Upon the approval of such application by the
12 inspector of hotels he shall issue a license to the applicant to conduct
13 a hotel in this state.

[38 G. A., ch. 182, § 1.]

SEC. 1071. License—expiration of—transferable.

1 Each license shall expire on the thirty-first day of December next
2 following its issuance. No hotel shall be maintained or conducted in
3 this state without having secured a license therefor as herein pro-
4 vided and said license shall be transferable upon payment of one dollar
5 for such transfer; but after the making of application for license as
6 herein provided, and pending the issuance of such license, such hotel
7 shall be permitted to operate as such until the final refusal of such
8 application by the inspector; and no hotel shall be denied relief in the
9 courts in any action instituted by such hotel by reason of the fact
10 that a license has not been issued to such hotel.

[38 G. A., ch. 182, § 1.]

SEC. 1072. License fees—payment.

1 The fee for license to conduct a hotel in this state shall be for
2 every hotel containing fifteen rooms, or less, for the accommodation
3 of guests, four dollars; for more than fifteen and less than thirty-one
4 rooms, six dollars; for more than thirty and less than seventy-six
5 rooms, eight dollars; for more than seventy-five rooms and less than
6 one hundred fifty rooms, ten dollars; for one hundred fifty rooms and
7 upward, fifteen dollars. In all hotels within the meaning of this chap-
8 ter the office, parlors, dining room and kitchen and all sleeping rooms,
9 whether for hire to transient or permanent guests, shall be construed
10 to mean guest rooms.

11 All fees received for licenses shall be forthwith paid over to the
 12 state treasurer and his receipt taken and kept on file in the office of
 13 the inspector of hotels. Such fees shall be by the treasurer kept as
 14 a separate fund to be known as a hotel inspection fund and only paid
 15 out for bills or claims approved by the inspector of hotels and the
 16 state board of audit.

[38 G. A., ch. 182, § 1.]

SEC. 1073. Fire escapes—ropes.

1 Every hotel shall be provided and equipped with fire escapes and
 2 means of exit and escape from fire as is otherwise than in this chapter
 3 provided by law and all such shall be additional to the provisions of
 4 this chapter, and in addition thereto, every bedroom or sleeping apart-
 5 ment which has no other approved fire escape above the ground floor,
 6 except in hotels which are of approved fireproof construction, shall be
 7 provided with a manila rope at least five-eighths of an inch in diam-
 8 eter and of sufficient length to reach the ground with knots or loops
 9 not more than fifteen inches apart, and of sufficient strength to sustain
 10 a weight and strain of at least five hundred pounds. Such ropes shall
 11 be securely fastened to the building as near the window as practicable
 12 and shall be kept coiled in plain sight at all times, nor shall such rope
 13 be covered by curtain or other obstruction; but any other contrivance
 14 or appliance for reaching the ground from said bedroom or sleeping
 15 apartment may be used in lieu of said rope, if approved by the state
 16 hotel inspector. The provisions herein as to providing ropes shall
 17 apply to all hotels of more than one story.

[S. S., '15, § 2514-i.]

SEC. 1074. Notices posted.

1 In every such hotel there shall be posted and maintained notices,
 2 printed in black ink on white paper or cardboard with type not less
 3 than one inch in height, at the entrance to each hall, stairway, ele-
 4 vator shaft, and in each bedroom or sleeping apartment, above the
 5 ground floor, giving directions how to reach the fire escapes, and there
 6 shall also be posted and maintained in each bedroom or sleeping apart-
 7 ment, above the ground floor, except in hotels which are of approved
 8 fireproof construction, notices printed in large bold-faced type, calling
 9 attention to the rope therein, and giving directions how to use it.

[S., '13, § 2514-j.]

SEC. 1075. Fire extinguishers.

1 Every such hotel shall be provided with at least one efficient chem-
 2 ical fire extinguisher on each floor to each twenty-five hundred feet
 3 of floor space, which extinguisher or extinguishers shall be placed and
 4 maintained in the hallway outside of the sleeping rooms and kept and
 5 maintained in condition for immediate use, or in lieu thereof such
 6 hotel shall be equipped with a standpipe placed in the hall of not less
 7 than one and one-fourth inches in diameter, with hose always attached
 8 of sufficient length to reach any and every part of the interior of the
 9 building, which standpipe shall be kept and maintained with a suffi-
 10 cient pressure of water.

[S., '13, § 2514-k.]

SEC. 1076. Elevator shafts—how constructed.

1 In every hotel, except in hotels which are of approved fireproof
 2 construction, which is equipped with an elevator or elevators, such
 3 portion of the shaft or shafts thereof as extend below the level of the
 4 first floor shall be inclosed with an iron or steel sheeting or other fire-
 5 proof material as nearly air tight as practicable with tight doors to
 6 the shaftway, the door to be made as far as practicable of wire glass,
 7 or in lieu thereof shall be provided with an automatic floor trap at
 8 the first floor in each elevator shaft; each or either of such appliances
 9 shall be constructed in the most approved manner for the prevention
 10 of spread of fire by means of such elevator shaft.

[S., '13, § 2514-l.]

SEC. 1077. Sanitary conditions—sewerage.

1 Every hotel located or situated in a city or town having a system
 2 of sewerage shall be thoroughly drained, constructed and plumbed
 3 according to approved sanitary principles; all hotels shall be kept and
 4 maintained in a clean and sanitary condition and free from any
 5 effluvia, gas or offensive odors arising from any sewer, drain, privy,
 6 or any other source whatsoever within the control of the owner, man-
 7 ager, agent or person in charge thereof. Hotels in cities or towns
 8 not provided with a sewerage system shall be provided with an ap-
 9 proved cesspool or with privies or water closets properly screened
 10 from flies and separated for the use of males and females, which cess-
 11 pools, privies and water closets shall be properly cleaned and disin-
 12 fected as often as necessary to keep and maintain them in an approved
 13 sanitary condition. In hotels which maintain locked sanitary toilets
 14 accessible to guests, said hotel shall furnish to all guests slugs for
 15 admittance to toilets, said slugs to be furnished without expense to
 16 the guests.

[S., '13, § 2514-m; 38 G. A., ch. 182, § 2.]

SEC. 1078. Hotel rooms—how ventilated.

1 Every hotel in this state shall be properly ventilated. Such
 2 proper ventilation shall be construed to mean that no room shall be
 3 used for sleeping purposes which does not have a window or ventilated
 4 skylight opening to the outside of the building or court, and that no
 5 room with floor more than three feet below level of the outside surface
 6 of the ground shall be used for sleeping purposes, and every hotel
 7 hereafter constructed or any building remodeled to be used for hotel
 8 purposes shall have sufficient ventilation in the door or doorway or
 9 by such other equivalent improvement as may be later discovered and
 10 at least one window opening to the outside of the building or court,
 11 which window or windows shall equal in area at least one-eighth of
 12 the floor area of such room, and where storm windows are used the
 13 same shall be so constructed that proper ventilation may be had by
 14 the guests if desired. Such storm sash shall be hung in such manner
 15 that same may be opened to insure safe and speedy exit in cases of fire.

[38 G. A., ch. 182, § 2.]

SEC. 1079. Character of bedding specified.

1 Each bed, bunk, cot or other sleeping place provided for the use
 2 of guests shall be supplied with pillow slips and under sheets suffi-
 3 ciently large to cover the mattress, and top sheets, sheet to be made

4 ninety-six inches long, and of sufficient width to completely cover the
 5 mattress and springs; said sheets and pillow slips to be made of white
 6 cotton or linen, and all such sheets and pillow slips, after being used
 7 by one guest, to be washed and ironed before they are used by any
 8 other guest, a clean set being furnished each succeeding guest. All
 9 bedding used in any hotel shall be thoroughly aired and kept clean,
 10 and all bedding, including mattresses, quilts, blankets, pillows, sheets
 11 or comforts, which are so worn or insanitary as to be unfit for use,
 12 shall be condemned by the inspecting officer and their further use
 13 forthwith prohibited. Any room in any hotel under this chapter
 14 which shall become infested with vermin or bedbugs shall be renovated
 15 until said vermin or bedbugs are exterminated.

[38 G. A., ch. 182, § 2.]

SEC. 1080. Towels specified.

1 The use of the roller or common towel in the toilet rooms or wash
 2 rooms of hotels is hereby prohibited. Individual towels shall be pro-
 3 vided for the use of guests in guest rooms so that no two or more
 4 guests will be required to use the same towel; but this shall not pro-
 5 hibit the use of individual sanitary paper towels in wash rooms.

[38 G. A., ch. 182, § 2.]

SEC. 1081. Common drinking cups prohibited.

1 The use of the common drinking cup in hotels or in hotel offices,
 2 or toilet rooms and wash rooms of hotels, is hereby prohibited.

[38 G. A., ch. 182, § 2.]

SEC. 1082. Sanitary utensils—kitchens screened.

1 In every hotel the kitchen, dining room, cellar, office, ice boxes,
 2 refrigerators, and all places where foods are prepared, kept or stored,
 3 and cooking utensils, shall be kept clean and in a sanitary condition,
 4 and the use of soiled or insanitary table cloths, napkins or other table-
 5 ware is hereby prohibited. Kitchens and dining rooms shall be
 6 screened from flies.

[38 G. A., ch. 182, § 2.]

SEC. 1083. Rates increased—notice—permission.

1 On the inside of the door of each lodging room there shall be
 2 posted in a conspicuous place a card stating the price of said room
 3 per day per person, and said posted price shall not be increased until
 4 the manager of said hotel shall have given the hotel inspector provided
 5 for in this chapter sixty days' notice of his intention to so increase
 6 the said price and stating the amount he proposes to charge, and
 7 receive permission from the said inspector to increase the rates.

[38 G. A., ch. 182, § 2.]

SEC. 1084. Inside court or light well—runways—construction.

1 Every hotel except those which are of fireproof construction that
 2 is constructed with an inside court or light well and with sleeping
 3 rooms or sleeping apartments, the only outside openings of which open
 4 upon or into such court or light well, unless the same extends to the
 5 ground floor with suitable means of exit, shall have such court or
 6 light well supplied with a suitable runway, platform or balcony upon
 7 the roof or covering at the bottom thereof connecting with some easy

8 and efficient means of egress to accessible fire escapes, and when the
 9 fire hazard is such that said roof or covering at the bottom of such
 10 court or light well is in danger of being destroyed by fire such run-
 11 way, platform or balcony shall be attached to the walls of the court
 12 or light well as may be required by the inspector. Any doors or win-
 13 dows interposed between said runway, platform or balcony and the
 14 fire escapes shall not be fastened against exit.

[S. S., '15, § 2514-n.]

SEC. 1085. Halls—fire escapes—modifications as to halls.

1 Every hotel hereafter constructed, that is three or more stories
 2 high, shall be provided with a hall on each floor above the ground floor
 3 extending from one outside wall to another, and said halls shall be
 4 equipped at the end with fire escapes as is otherwise provided by law ;
 5 but in hotels of fireproof construction the provisions with reference
 6 to the hall extending from one outside wall to another may be modified
 7 with the approval of the commissioner of labor statistics, when such
 8 buildings are equipped with fire escapes of class "A".

[S. S., '15, § 2514-o.]

SEC. 1086. Inspector of hotels—deputies—bonds.

1 The state board of health shall at its first meeting in July of each
 2 odd-numbered year appoint an inspector of hotels, who shall have no
 3 other official business and shall be required to give bonds to the state
 4 in the penal sum of five thousand dollars, conditioned for the faithful
 5 performance of his duty, to be approved by and filed with the secre-
 6 tary of state, and shall maintain his office in the state board of health
 7 rooms at the capitol. Such inspector may, with the consent of a ma-
 8 jority of the members of the state board of health, appoint, and at his
 9 pleasure remove, one or more deputies, who shall assist under his
 10 direction in performing the duties imposed by this chapter ; such depu-
 11 ties shall each give bond to the state in the penal sum of two thousand
 12 dollars, conditioned as that of the inspector and be approved by and
 13 filed with the secretary of state.

[S. S., '15, § 2514-p.]

SEC. 1087. Inspector—management—duties.

1 It shall be the duty of the inspector and his deputies to see that
 2 all of the provisions of this chapter are enforced and complied with,
 3 and for such purpose such inspector or deputy shall personally inspect
 4 at least once each year every hotel in the state coming within the
 5 provisions of this chapter, said inspector or his deputy being hereby
 6 empowered and authorized to enter any hotel at all reasonable hours
 7 to make such inspection ; and it is hereby made the duty of every per-
 8 son in the management or control of such hotel to afford free access
 9 to every part of the hotel and render all aid and assistance necessary
 10 to enable the inspector to make a full, thorough and complete exam-
 11 ination thereof.

[S., '13, § 2514-q ; 38 G. A., ch. 182, § 3.]

SEC. 1088. Reports.

1 The inspector or deputy shall make a full and complete report to
 2 the state board of health of every hotel inspected, upon blanks fur-
 3 nished for that purpose, which report shall show the condition of the

4 hotel inspected, as to its sanitary condition, the number and condition
5 of its fire escapes, number of stories high, number of sleeping rooms
6 or sleeping apartments, name of the proprietor, fee charged for inspec-
7 tion, and such other information as the state board of health may
8 determine will be for the betterment of the public health.

[S., '13, § 2514-r.]

SEC. 1089. Inspection after complaint.

1 Upon the receipt of a verified complaint signed by three or more
2 patrons of any hotel in this state, setting forth facts showing that
3 such hotel is in an insanitary condition or that fire escapes and appli-
4 ances are not kept and maintained in accordance with the provisions
5 of law, the inspector shall make or cause to be made an inspection or
6 examination of the matters complained of, and if upon inspection the
7 complaint is found to be justifiable, the actual cost or expense neces-
8 sarily incurred in making such inspection shall be charged and col-
9 lected from the person, firm or corporation conducting such hotel;
10 but the inspector of hotels shall not have power to cancel, annul or
11 invalidate any license issued, except upon the judgment of a court
12 of record or municipal court.

[S. S., '15, § 2514-s; 38 G. A., ch. 182, § 4.]

SEC. 1090. Inspector—deputies—compensation.

1 The inspector of hotels shall receive a salary of twenty-four hun-
2 dred dollars per annum and necessary expenses payable monthly out
3 of the hotel inspection fund.

4 Each deputy inspector shall receive an annual salary of eighteen
5 hundred dollars and necessary expenses, payable monthly out of the
6 hotel inspection fund. All salaries, compensation, printing, station-
7 ery, postage and other contingent expenses necessarily incurred under
8 the provisions of this chapter shall be paid from said fund. All bills
9 and claims for compensation and necessary expenses shall be item-
10 ized, verified and shall be approved and certified by the state board
11 of audit before warrants in payment of the same are drawn by the
12 auditor of state; but no salaries, compensation or expenses shall be
13 paid in excess of the license fees received.

[S. S., '15, § 2514-t; 38 G. A., ch. 182, § 5.]

SEC. 1091. False certification—penalty.

1 Any inspector or deputy who shall knowingly certify falsely
2 regarding any hotel inspected by him, or shall issue a license to any
3 person owning, managing, or operating a hotel when such person has
4 not complied with the provisions of this chapter, shall be guilty of a
5 misdemeanor, and upon conviction thereof shall be punished by a fine
6 not exceeding five hundred dollars or imprisonment in the county jail
7 not exceeding six months or by both such fine and imprisonment.

[S., '13, § 2514-u; 38 G. A., ch. 182, § 6.]

SEC. 1092. Notice to owner or manager.

1 It shall be the duty of the inspector upon ascertaining, by inspec-
2 tion or otherwise, that any hotel is being carried on contrary to any
3 of the provisions of this chapter, to notify the manager, proprietor
4 or owner in writing in what respect it fails to comply with the law

5 and requiring such person within a reasonable time, to be fixed by the
6 inspector, to do or cause to be done the things necessary to make it
7 comply with the law.

[S., '13, § 2514-v.]

SEC. 1093. Interference with inspector—failure to comply—penalty.

1 Any owner, manager, agent or person in charge of a hotel who
2 shall obstruct, hinder or interfere with an inspector or his deputy in
3 the proper discharge of his duty, or who shall wilfully fail or neglect
4 to comply with any of the provisions of this chapter, shall be guilty of
5 a misdemeanor and upon conviction thereof be fined not exceeding one
6 hundred dollars or imprisoned in the county jail not exceeding thirty
7 days. Upon such conviction in any court of competent jurisdiction
8 the inspector of hotels may revoke the license of the person, firm or
9 corporation so convicted.

[S., '13, § 2514-w; 38 G. A., ch. 182, § 7.]

SEC. 1094. Injunction—duty of county attorney.

1 It shall be the duty of the inspector upon ascertaining that any
2 owner, manager, agent or person in charge is violating any of the pro-
3 visions of this chapter after the expiration of the time fixed in the
4 notice provided in section ten hundred ninety-two to make complaint,
5 and he may file his petition in any court of competent jurisdiction or
6 before any judge of such court in vacation, upon which an injunction
7 may issue with or without bond as may be ordered by the court or
8 judge, restraining the further use of such hotel until the provisions
9 of this chapter are fully complied with; but no injunction shall issue
10 until after the defendant has had at least five days' notice of the appli-
11 cation therefor, fixing a time for hearing thereon. It is hereby made
12 the duty of the county attorney in either case to prepare the necessary
13 papers and conduct all prosecutions or litigation connected therewith.

[S., '13, § 2514-x.]

CHAPTER 14.

INSPECTION OF PASSENGER BOATS.

SECTION 1095. Inspectors.

1 The governor shall appoint one or more suitable persons as inspec-
2 tors of passenger boats, to hold office for two years from the first
3 Monday in May in each even-numbered year, unless sooner removed,
4 who shall qualify by taking an oath, to be indorsed upon the certificate
5 of appointment, faithfully and honestly to discharge the duties of the
6 office.

[C., '97, § 2511.]

SEC. 1096. Certificates—fees.

1 Any inspector, on the request of the owner, agent or master of
2 any boat other than rowboat, upon the inland waters of the state,
3 having a carrying capacity of five or more passengers, shall carefully
4 and thoroughly inspect such boat, its appliances and machinery, and,

5 if found in proper condition and safe for the carriage of persons or
6 passengers, give his certificate thereof, including therein the number
7 of persons or passengers that may be carried, and on what waters;
8 which certificate, or a copy thereof, shall be posted in a conspicuous
9 place on the boat, and any boat so inspected and certified shall be
10 entitled to run for the season following the date thereof. In like man-
11 ner, upon the request of any pilot or engineer for a license as such,
12 the inspector shall forthwith investigate the competency of the appli-
13 cant, his acquaintance with and experience in his business, his habits
14 as to sobriety, and other qualifications, and, if found capable of per-
15 forming well his duties, and of good habits, he shall issue his certifi-
16 cate authorizing him to act as pilot or engineer, as the case may be,
17 for five years from the date thereof, unless sooner revoked for cause,
18 which revocation when made shall take effect upon approval by the
19 governor. The inspector may charge and require advance payment
20 for inspection, for each sailboat, one dollar, each boat propelled by
21 other power, with a capacity of not more than twenty persons, five
22 dollars, those of greater capacity, ten dollars, and for each applicant
23 for license as pilot or engineer, three dollars.

[C., '97, § 2512; S., '13, § 2512.]

SEC. 1097. Operation without license punished.

1 If any owner, agent or master of any such boat, having a capacity
2 of carrying five or more persons, plying the inland waters of the state,
3 shall hire, or offer to hire, such boat for the carrying of persons, or
4 receive persons thereon for hire, without first obtaining annually, be-
5 fore the boating season, a certificate as in this chapter required, or if
6 such owner, agent or master, having obtained such certificate, shall
7 permit or receive for carriage on such boat a greater number of per-
8 sons than authorized therein, or if any person shall act as pilot or
9 engineer on any boat mentioned for which inspection and license are
10 herein required, without first obtaining a license therefor, or if, hav-
11 ing such license, he continues to follow such avocation after the same
12 has been revoked, or has expired, he shall be fined in a sum not exceed-
13 ing one thousand dollars, or imprisoned in the county jail not exceed-
14 ing one year, or punished by both fine and imprisonment; but the
15 provisions of this chapter shall not apply to vessels licensed by author-
16 ity of the United States.

[C., '97, § 2513; S., '13, § 2513.]

SEC. 1098. Reports.

1 Each inspector annually, on or before the first day of January,
2 shall report to the governor the number and date of licenses granted
3 pilots or engineers, to whom issued, the date thereof, the number and
4 kind of boats inspected, the time and place of inspection, upon what
5 waters to be used and such other matters as may be considered useful
6 or of general interest, with the total amount of fees received from all
7 sources.

[C., '97, § 2514; S., '13, § 2514.]

SEC. 1099. Headlights.

1 Any person or company operating any boat, launch or other vessel
2 propelled by machinery, or through the means of sails, upon the public
3 waters of the state of Iowa between the hours of thirty minutes after

4 sunset and thirty minutes before sunrise shall cause the same to carry
5 at the bow thereof, properly lighted, operated and conspicuously dis-
6 played, a headlight, the lens or mirror of which shall be not less than
7 five inches in diameter.

[S., '13, § 2514-a.]

SEC. 1100. Safety appliances for prompt stoppage.

1 All such vessels operated by machinery having a speed exceeding
2 ten miles per hour shall be equipped with reverse gear, reversible
3 propeller or other adequate means for prompt stoppage and reversal
4 thereof.

[S., '13, § 2514-b.]

SEC. 1101. Speed at bridge.

1 All such vessels when passing through a draw or bridge or be-
2 neath same shall slow down to a speed of not more than four miles
3 per hour.

[S., '13, § 2514-c.]

SEC. 1102. Penalty.

1 Any person or company violating any of the provisions of the
2 three preceding sections shall upon conviction be fined not to exceed
3 one hundred dollars or be imprisoned in the county jail not to exceed
4 thirty days.

[S., '13, § 2514-d.]

SEC. 1103. Life preservers.

1 Every boat for which a certificate of inspection is issued as pro-
2 vided in this chapter shall at all times when in service be supplied
3 with a number of life preservers of recognized standard make and
4 efficiency equal to one-half the number of passengers that may be
5 carried by such boat under its certificate of inspection; said life pre-
6 servers to be kept within view and easy reach of the passengers.

[S., '13, § 2514-e.]

SEC. 1104. Inspection.

1 At the time of inspecting the boat under the provisions of this
2 chapter the life preservers shall be inspected and if found in proper
3 condition such fact shall be included in the certificate of inspection;
4 and no certificate of inspection shall be issued to the owner, agent, or
5 master of any boat unless supplied with the life preservers as above
6 provided.

[S., '13, § 2514-f.]

SEC. 1105. Penalties.

1 Any owner, agent or master of any such boat who shall violate
2 the terms of the two preceding sections shall be subjected to the penal-
3 ties provided for in section ten hundred ninety-seven.

[S., '13, § 2514-g.]

CHAPTER 15.

FISH AND GAME.

SECTION 1106. Warden — compensation — expenses — duties — seizure without warrant—sale.

1 A state fish and game warden shall be appointed by the governor,
2 and hold his office for three years from the first day of April of the
3 year of his appointment. He shall receive a salary of twenty-two
4 hundred dollars annually, together with his necessary traveling, con-
5 tingent and office expenses, to be paid out of moneys collected under
6 the provisions of this chapter. He shall have charge and manage-
7 ment of the state fish hatcheries, which shall be used in stocking the
8 waters of the state with fish native to the country and to the extent
9 of the means provided by the state. He shall impartially and equi-
10 tably distribute all fry raised by or furnished to the state, or for it
11 through other sources, in the streams and lakes of the state; shall
12 faithfully and impartially enforce obedience of the provisions of this
13 chapter, and shall make a biennial report to the governor of his doings,
14 together with such information upon the subject of the culture of fish
15 and the protection of game in the country as he may think proper,
16 accompanied with an itemized statement monthly to the state board
17 of audit under oath of all moneys expended and for what purpose, and
18 of the number and varieties of fish distributed, and in what waters.
19 It shall be the duty of the fish and game warden, sheriffs, constables,
20 and police officers of this state to seize and take possession of any
21 fish, birds, or animals which have been caught, taken, or killed at a
22 time, in a manner, or for a purpose, or had in possession or under
23 control, or have been shipped, contrary to the provisions of this chap-
24 ter. Such seizure may be made without a warrant. Any court hav-
25 ing jurisdiction of the offense, upon receiving proof of probable cause
26 for believing in the concealment of any fish, birds, or animals, caught,
27 taken, killed, had in possession, under control, or shipped contrary to
28 any of the provisions of this chapter, shall issue a search warrant and
29 cause a search to be made in any place therefor. Any fish, birds, or
30 animals so found shall be sold for the purpose of paying the costs in
31 the case, and the amount, if any, in excess of the costs shall be turned
32 into the school fund of the county in which the seizure is made. Any
33 net, seine, trap, contrivance, material, and substance whatever, while
34 in use or had and maintained for the purpose of catching, taking,
35 killing, trapping or deceiving any fish, birds, or animals contrary to
36 any of the provisions of this chapter is hereby declared to be, and is,
37 a public nuisance, and it shall be the duty of the fish and game warden,
38 sheriffs, constables, and police officers of the state, without warrant or
39 process, to take or seize any and all of the same, and abate and sell or
40 destroy any and all of the same without warrant or process and no
41 liability shall be incurred to the owner or any other person for such
42 seizure and destruction, and said warden or his regularly constituted
43 deputies or other peace officers as hereinbefore named shall be released
44 from all liability to any person or persons whomsoever for any act
45 done or committed or property seized or destroyed under or by virtue
46 of this section.

[C., '97, § 2539; S. S., '15, § 2539.]

SEC. 1107. Fishing—rules and regulations—shipment—statement to common carrier—confiscation.

1 Between the first day of October and April fifteenth no one shall
2 take from the waters of the state any salmon or trout, nor between
3 the first day of December and the fifteenth day of May any bass, pike,
4 crappies, pickerel, or catfish, or other game fish, nor shall any one
5 person take of said fish from the waters of the state in any one day
6 more than forty of any or all of said kinds of fish, of which total num-
7 ber not more than twenty shall be bass, pike or pickerel. It shall be
8 unlawful for any person, firm or corporation to offer for transporta-
9 tion or to transport to any place within or without this state for pur-
10 poses of sale, any game fish taken from the inland waters of the state.

11 Any person, firm or corporation desiring the shipment or trans-
12 portation of any game fish shall deliver to the common carrier, express
13 or transportation company a statement under oath in duplicate, set-
14 ting forth the name of the shipper, the person to whom the package
15 is shipped, the residence of both, the kind and number of fish con-
16 tained in such package, and that the fish contained in such package
17 are not being shipped for the purpose of sale or market, and one copy
18 thereof shall be retained by the common carrier, express or trans-
19 portation company receiving such shipment for the period of twelve
20 months thereafter and the other copy thereof shall be attached in a
21 secure manner to such package.

22 Any agent of any common carrier, express or transportation com-
23 pany receiving such shipment is hereby authorized to administer to
24 such shipper the oath contemplated in the last preceding paragraph.
25 Any shipment made in violation of the provisions of this act [36 G.
26 A., ch. 290] may be seized, confiscated and sold by any game warden
27 in this state at private or public sale, the proceeds thereof to be turned
28 into the fish and game protection fund, or such shipment may be by
29 such warden destroyed. Nor shall anyone fish for, or by any means
30 catch any fish in any stream which has been stocked with breeding
31 trout one or two years old, within one year from the date of the stock-
32 ing thereof, if notice of such fact is by the authority of the warden
33 posted where a public road crosses such stream; nor shall anyone at
34 any time take from the waters of the state any fish, except minnows
35 for bait, unless by hook and line; but any person may, between the
36 fifteenth day of May and the first day of December, use not more than
37 one trot-line in streams only, and extending not more than half-way
38 across; nor shall anyone place, erect or cause to be placed or erected,
39 any trot-line, seine, net, trap, dam or other device or contrivance in
40 the water in such a manner as to hinder or obstruct the free passage
41 of fish, up, down or through the same for the purpose of catching
42 them, except as provided in the next section; nor have, erect or use,
43 while fishing on or through the ice, any house, shed or other protec-
44 tion against the weather, or have or use any stove or other means for
45 creating artificial heat. The possession of a spear, trap, net or seine,
46 or the taking or killing or attempting to take or kill any fish by any
47 means other than by rod, line, hook and bait within three hundred
48 feet of a fishway or dam shall be unlawful, but the provisions of this
49 section shall not prevent the taking of carp, sucker, red horse or buffalo
50 by use of a spear from the lakes, sloughs, bayous and waters on the
51 bottom lands and islands of the Mississippi river. And it shall be
52 lawful for the state fish and game warden, or any of his deputies or
53 assistants to seize without warrant and sell or destroy any such trap,

54 net or seine wherever found. No person shall, at any time, kill, de-
 55 stroy, have in possession or under control, for any purpose whatever,
 56 any bass, catfish, or trout less than ten inches in length, or any wall-
 57 eyed pike, or pickerel less than twelve inches in length, or any crappie,
 58 less than eight inches in length, except for the purpose of returning
 59 the same to the water from which they were taken, as soon as they are
 60 taken therefrom, with as little injury to the fish as possible.

[C., '73, § 4052; C., '97, § 2540; S. S., '15, § 2540.]

SEC. 1108. Explosives—drugs—penalty.

1 It shall be unlawful for anyone to place in the waters of the state
 2 any lime, ashes, or drug of any kind or other substance, explode dyna-
 3 mite, gun cotton, giant powder or other compound or preparation or
 4 use electricity in any way with the intent to kill or so to affect any fish
 5 that it may be taken, and anyone guilty of any of said acts shall be
 6 guilty of a misdemeanor and upon conviction thereof be fined not less
 7 than fifty dollars nor more than one hundred dollars or imprisoned
 8 in the county jail not less than fifteen nor more than thirty days.

[S. S., '15, § 2540-a.]

SEC. 1109. Minnows for bait.

1 In taking minnows for bait, a three-eighths inch mesh seine not
 2 exceeding five yards in length may be used, and if any of the fish enu-
 3 merated in section eleven hundred seven shall be taken, they shall at
 4 once be restored unharmed to the water whence taken, and the word
 5 "minnows" as used in this chapter does not include young bass, pike,
 6 crappies, trout, salmon, or fry of any game fish, native or otherwise.

[C., '73, § 4052; C., '97, § 2541.]

SEC. 1110. Two lines.

1 No person shall use more than two lines, with one hook upon each
 2 line, in still fishing, or otherwise, except that a trot-line as above pro-
 3 vided, or in trolling a spoon hook composed of three hooks fastened
 4 together, may be used.

[C., '97, § 2542.]

SEC. 1111. Buying or selling.

1 No person shall knowingly buy, sell, offer for sale, have in posses-
 2 sion for sale or transportation, or for any other use or purpose, any
 3 fish unlawfully taken under the provisions of this chapter.

[C., '97, § 2543.]

SEC. 1112. Violation—penalties.

1 Any person, firm or corporation who shall violate any of the
 2 provisions of the five preceding sections shall be guilty of a misde-
 3 meanor, and, upon conviction, shall pay a fine of not less than five nor
 4 more than fifty dollars and cost of prosecution for each offense, or be
 5 imprisoned in the county jail for not less than one day nor more than
 6 thirty days, and the taking of each fish in violation of law shall be
 7 construed to be a separate offense.

[C., '73, § 4053; C., '97, § 2544; S. S., '15, § 2544.]

SEC. 1113. Private fishing.

1 Persons who raise or propagate fish upon their own premises, or
 2 who own premises on which there are waters having no natural inlet
 3 or outlet through which such waters may become stocked or replen-
 4 ished with fish, are the owners of the fish therein and may take them
 5 as they see fit, or permit the same to be done. Any person taking
 6 said fish without the consent of such owner shall be guilty of a misde-
 7 meanor, and be prosecuted and punished as provided in the preceding
 8 section, and such owner may recover three times the value thereof
 9 from the person so taking them.

[C., '73, § 4054; C., '97, § 2545.]

SEC. 1114. Taking by warden—written permits.

1 The warden may take from any of the public waters of the state,
 2 at any time and in any manner, any fish for the purpose of propagat-
 3 ing or restocking other waters, or exchanging with fish commissioners
 4 or wardens of other states; provided, further, that the warden may,
 5 upon proper application in writing, made upon blanks furnished by
 6 said warden, issue to whomsoever he may see fit, written permits,
 7 upon blank forms to be furnished by said warden, suspending for a
 8 specified period specified portions of this chapter relating to fishing
 9 and authorizing the person to whom said permit is issued, to take
 10 from certain designated lakes of the state, having an area of not less
 11 than two square miles, buffalo, carp, quillbacks, red horse, suckers and
 12 gar, as in said permit named, in any quantities and for all purposes;
 13 provided, however, that no such permit holder shall be authorized to
 14 exercise the rights granted in said permit, except in the presence and
 15 under the supervision of the warden or one or more of his regularly
 16 constituted deputies, without expense to the state, and provided that
 17 seining shall not be permitted between the first day of December and
 18 the fifteenth day of June.

[C., '97, § 2546; S., '13, § 2546.]

SEC. 1115. Rivers excepted—dams.

1 Except as otherwise expressly stated, nothing herein contained
 2 shall be held to apply to fishing in the Mississippi or Missouri rivers,
 3 nor to so much of the Des Moines river as forms the boundary line
 4 between this state and Missouri, nor to forbid the erection of dams
 5 across the waters of the state for manufacturing or other lawful pur-
 6 poses, subject to the provisions of the following section.

[C., '97, § 2547; S., '13, § 2547.]

SEC. 1116. Nets, seines, traps and other contrivances—boundary waters—license—bond—fee.

1 It shall be unlawful for any person to take from the waters of
 2 that part of the Des Moines river forming a part of the boundary
 3 between this state and Missouri, or from the waters of the Big Sioux
 4 river within the jurisdiction of this state, any fish with net, seine,
 5 trap, contrivance, material or substance whatsoever except by rod,
 6 line, hook and bait; but nothing herein shall be construed as prohib-
 7 iting the use of trot-lines or set lines in the taking of fish from the
 8 waters of the Big Sioux river or the waters of that part of the Des
 9 Moines river which forms a part of the boundary between the state

10 of Iowa and the state of Missouri, between the same dates and subject
 11 to the same restrictions relative to the use of trot-line in the interior
 12 streams of the state as the same appear in section eleven hundred
 13 seven. It shall be unlawful for any person to take from the Missis-
 14 sippi or Missouri rivers within the jurisdiction of this state any fish
 15 with nets or seines without first procuring from the state fish and
 16 game warden an annual license for the use of such nets and seines.
 17 Before any such license shall be issued to a nonresident of the state
 18 of Iowa, the applicant shall execute and deliver to the fish and game
 19 warden a bond running to the state of Iowa in the penal sum of two
 20 hundred dollars with two sureties, who shall each justify in the sum
 21 of two hundred dollars in property in this state over and above all
 22 debts and liabilities, and property exempt by law from sale on exe-
 23 cution. In lieu of such bond such licensee may make a cash deposit
 24 of two hundred dollars or provide bond of any surety company author-
 25 ized to do business in this state. Such bond shall be conditioned that
 26 if the applicant shall well and faithfully observe and comply with all
 27 the requirements of sections eleven hundred fifteen to eleven hundred
 28 twenty, inclusive, and the rules and regulations which are or may be
 29 hereafter prescribed by law, such application to be null and void, other-
 30 wise to remain in full force and effect. The fee charged for such
 31 license shall be as follows: For each five hundred lineal feet of seine,
 32 or fraction thereof, ten dollars; for each pound net having more than
 33 one hundred feet lead on each side, four dollars; for each pound net
 34 having less than one hundred feet lead on each side, one dollar; for
 35 each bait net, dip net, hoop net, and fyke net, fifty cents; for each
 36 three hundred lineal feet of trammel net used for floating fishing, five
 37 dollars. All licenses shall expire on the first day of March following
 38 their issuance. The state fish and game warden shall furnish to each
 39 licensee, at an expense not to exceed ten cents each, a metal tag, num-
 40 bered and stamped so as to show year of issuance and for what issued,
 41 for each net, and each five hundred feet, or fraction thereof, of seine;
 42 and it shall be unlawful to use any seine or net in the waters specified
 43 in this section without having a tag thus procured attached thereto;
 44 but no seine or net with less than two and one-half inch mesh, stretch
 45 measure, shall be licensed or used for fishing, under sections eleven
 46 hundred fifteen to eleven hundred twenty, inclusive.

[S. S., '15, § 2547-a.]

SEC. 1117. Funds—how expended—removal of fish from cut-off waters.

1 The funds received for such licenses and sale of tags shall be
 2 expended by the state fish and game warden for the maintenance of
 3 his department and meeting the expenses thereof, and so far as same
 4 are available he shall expend same in the preservation of food fishes
 5 in the waters described in section eleven hundred sixteen by removing
 6 young fish from dead or cut-off waters to the live waters adjacent
 7 thereto, and where practicable, cleaning the channel from said dead
 8 and cut-off waters so that young fish can escape therefrom. He shall
 9 render an itemized account of all such funds in each biennial report.

[S., '13, § 2547-b.]

SEC. 1118. Taking of certain fish prohibited.

1 It shall be unlawful for any person to take from the waters de-
 2 scribed in section eleven hundred sixteen, except by hook and line and

3 spear, any of the following fish in lengths less than as follows, to wit:
 4 carp, fifteen inches; buffalo, fifteen inches; black bass, eleven inches;
 5 striped or white bass, eight inches; pike, fifteen inches; crappies, eight
 6 inches; pickerel, eighteen inches; catfish, thirteen inches; and the fol-
 7 lowing fish weighing less than as follows, to wit: sand sturgeon, one
 8 pound; rock sturgeon, three pounds; and no pike, bass or crappies
 9 between and including March thirty-first and June first of each year.
 [S., '13, § 2547-c.]

SEC. 1119. Food fishes not to be injured or destroyed.

1 It shall be unlawful for any person to take from the waters de-
 2 scribed in section eleven hundred sixteen, by seine or net, any food
 3 fishes and cause or permit same to perish or be destroyed, or to remove
 4 such fish within such water so as to cause same to be destroyed or to
 5 perish, and any person taking any food fishes from such waters who
 6 does not make use of same shall immediately return same to such
 7 waters without injury.

[S., '13, § 2547-d.]

SEC. 1120. Violation—penalty.

1 Any person violating any of the provisions of the five preceding
 2 sections shall be deemed guilty of a misdemeanor and be punished by
 3 imprisonment in the county jail for a period of not exceeding thirty
 4 days or by a fine not exceeding one hundred dollars.

[S., '13, § 2547-e.]

SEC. 1121. Fishways—penalty.

1 No dam or obstruction across any river, stream or other waters
 2 in this state shall be erected or maintained which is not provided with
 3 a fishway constructed in accordance with plans and specifications pre-
 4 pared and furnished by the fish and game warden for such dam, nor
 5 shall any pumping station or plant in or connected with such river,
 6 stream or other waters be constructed or operated which is not pro-
 7 vided with screens to prevent fish from entering such pumping station
 8 or plant, such screens to be constructed and used according to plans
 9 and specifications prepared and furnished by the fish and game
 10 warden. Any dam, obstruction or pumping plant which is not so con-
 11 structed is a public nuisance, and may be abated accordingly. A vio-
 12 lation of this section is a misdemeanor, and, in addition to the remedy
 13 in this section provided, the offender may be punished by fine of not
 14 less than fifty dollars nor more than one hundred dollars or imprison-
 15 ment in the county jail not less than fifteen days nor more than thirty
 16 days. This law shall not apply to sand pumps or dredging machines.

[C., '97, § 2548; S. S., '15, § 2548; 37 G. A., ch. 81, § 1.]

SEC. 1122. Fish dams—condemning property for.

1 Any city or town, bounded in whole or in part by any meandered
 2 lake or chain of lakes, or the board of supervisors of the county in
 3 which such waters are situated, may construct and maintain across
 4 the outlet or inlet thereof a dam to obstruct the passage of fish, the
 5 same to be of earth, masonry or other material to the natural and
 6 ordinary level of the lake, above and across the entire width to be an
 7 open network of bars or wire with the necessary supports, so arranged
 8 as to prevent as far as may be the escape of fish. For this purpose,

9 upon the petition of a majority of the resident taxpayers of any city
10 or town, so much land as is situated within the corporate limits as may
11 be necessary may be purchased or condemned in the same manner
12 provided for the appropriation of private property for streets and
13 other municipal uses, and paid for out of the general fund.

[C., '97, § 2549.]

SEC. 1123. Penalty for injuring or destroying.

1 Whoever shall wilfully injure or destroy such dam so erected or
2 maintained, shall be guilty of a misdemeanor, and, upon conviction,
3 shall pay a fine of not less than one hundred nor more than five hun-
4 dred dollars, or be imprisoned in the county jail not less than thirty
5 nor more than one hundred days, and pay the costs of prosecution.

[C., '97, § 2550.]

SEC. 1124. Game protected—penalty.

1 No person shall trap, shoot or kill any pinnated grouse or prairie
2 chicken between the first day of December and the first day of Sep-
3 tember next following; any woodcock, between the first day of January
4 and the tenth day of July; any ruffed grouse or pheasant, wild turkey
5 or quail, between the fifteenth day of December and the first day of
6 November; any wild duck, goose or brant, rail, plover, sandpiper and
7 marsh or beach bird, between the fifteenth day of April and the first
8 day of September; or any gray or fox squirrel or timber squirrel,
9 between the first day of January and the first day of September; and
10 it shall be unlawful to kill any quail prior to November first, nineteen
11 hundred twenty-two.

12 Shooting or killing quail on the public highway shall be in viola-
13 tion of law. No person shall kill or attempt to kill any of the birds
14 mentioned in this section from any artificial ambush of any kind or
15 with the aid or use of any sneak boat or sink box or from any sail-
16 boat, gasoline or electric launch or steamboat, or any other water con-
17 veyance, except as propelled by oar or paddle, or other device used
18 for concealment in the open water, nor use any artificial light, battery
19 or other deception, contrivance or device whatever, with the intent to
20 attract or deceive any of the birds mentioned in this chapter, except
21 that decoys may be used in hunting wild geese and ducks, but no
22 person shall at any time hunt or shoot from any boat, canoe, contriv-
23 ance or device whatever on any of the waters of this state between
24 sunset and sunrise. No person shall trap, shoot or kill any prairie
25 chicken prior to the year nineteen hundred twenty-two. Any person
26 violating any of the provisions of this section shall be held guilty of a
27 misdemeanor and punished as provided for in section eleven hundred
28 thirty-one, and in addition thereto for use of any ambush, sink box,
29 sneak boat or other water conveyance, prohibited by law, on the waters
30 of this state, a fine of not less than twenty-five dollars, nor more than
31 one hundred dollars, and shall stand committed to the county jail for
32 thirty days unless such fine and costs are paid.

[R., '60, § 4381; C., '73, § 4048; C., '97, § 2551; S. S., '15,
§ 2551; 37 G. A., ch. 202, § 1; 37 G. A., ch. 233, § 1.]

SEC. 1125. Protection of certain animals.

1 It shall be unlawful for any person other than the owner, or per-
2 son authorized by the owner, to kill, maim, trap, or in any way injure

3 or capture any deer, elk, or goat except when distrained, as provided
4 by law.

[S., '13, § 2551-a.]

SEC. 1126. Penalty.

1 Any person violating the provisions of the preceding section shall
2 be deemed guilty of a misdemeanor and be punished by imprisonment
3 in the county jail for a period not exceeding thirty days or by a fine
4 not exceeding one hundred dollars, or by both such fine and imprison-
5 ment.

[S., '13, § 2551-b.]

SEC. 1127. Killing for traffic—destroying eggs or nests—penalty.

1 No person shall at any time or at any place within this state, trap,
2 shoot or kill for traffic any of the birds, animals or game named in this
3 chapter, nor shall any person shoot or kill more than eight prairie
4 chickens, fifteen quails or twenty-five of the other birds or animals
5 mentioned in this chapter in any one day, of any kind of said named
6 animals, birds or game, nor shall any one person, firm or corporation
7 have more than sixteen prairie chickens or twenty-five of either kind
8 of said named birds or game named in this chapter in his or their
9 possession at any time unless lawfully received for transportation;
10 but the limit of ducks in possession is hereby made fifty. Nor shall
11 any person capture or take, or attempt to catch or take, with any trap,
12 snare or net any of the birds or animals named in the preceding sec-
13 tions, or in any manner wilfully destroy the eggs or nest of any of
14 the birds named in this chapter. Any person, firm or corporation
15 violating any of the provisions of this section shall be held to be guilty
16 of a misdemeanor and punished as provided for in section eleven
17 hundred thirty-one.

[C., '97, § 2552; S. S., '15, § 2552.]

SEC. 1128. Fur-bearing animals—trapping—regulations.

1 It shall be unlawful for any person to kill, trap, or ensnare any
2 beaver, mink, otter or muskrat, between the fifteenth day of March
3 and the fifteenth day of November following, except where such kill-
4 ing, trapping or ensnaring may be for the protection of public or
5 private property; or to molest, injure or destroy any muskrat house;
6 or, to have in possession during the closed season provided for in this
7 section, except during the first five days thereof, any of the animals
8 or carcasses or parts thereof described in this section, whether law-
9 fully or unlawfully taken within or without this state; but nothing
10 herein contained shall be deemed to apply to green hides in process
11 of manufacture.

[C., '97, § 2553; S. S., '15, § 2553; 37 G. A., ch. 396, § 1.]

SEC. 1129. Having in possession—violation—penalty.

1 It shall be unlawful for any person, firm or corporation to buy
2 or sell, dead or alive, any of the birds, game or animals named in this
3 chapter, and it shall be unlawful to have the same in possession during
4 the period when the killing of such birds, game or animals is pro-
5 hibited, except during the first five days of such prohibited period;
6 and the possession by any person, firm or corporation of any of such
7 birds, game or animals during such prohibited period, except during

8 the first five days thereof, shall be presumptive evidence of the viola-
9 tion of this chapter relating to game and he or they shall be held to
10 be guilty of a misdemeanor and shall be punished as provided for in
11 section eleven hundred thirty-one.

[C., '97, § 2554; S. S., '15, § 2554.]

SEC. 1130. Shipments—intrastate and interstate.

1 No person, company or corporation shall at any time ship, take
2 or carry out of this state any of the birds or animals named in this
3 chapter. No person, firm or corporation shall at any time ship to any
4 person, firm or corporation within this state any of the birds or ani-
5 mals named in this chapter, except in strict compliance with the fol-
6 lowing provisions: It shall be lawful for any person to ship to any
7 person within this state any game birds named, not to exceed one
8 dozen in any one day, during the period when the killing of such birds
9 is not prohibited; but before such shipment is made, he shall first
10 make an affidavit before some person authorized to administer oaths
11 that said birds have not been unlawfully killed, bought, sold or had
12 in possession, are not being shipped for sale or profit, giving the name
13 and postoffice address of the person to whom shipped, and the num-
14 ber of birds to be so shipped. A copy of such affidavit, indorsed "a
15 true copy of the original" by the person administering the oath, shall
16 be furnished by him to the affiant, who shall deliver the same to the
17 railroad agent or common carrier receiving such birds for transporta-
18 tion, and the same shall operate as a release to such carrier or agent
19 from any liability in the shipment or carrying of such birds. The
20 original affidavit shall be retained by the officer taking the same, and
21 may be used as evidence in any prosecution for violation of the sec-
22 tions of this chapter relating to game. Any person who shall ship
23 more than one dozen of the birds named in this chapter in any one
24 day, or any person shipping any of the birds named in this chapter
25 without first complying with the provisions of this section, or any
26 person, firm or corporation violating any of the provisions of this sec-
27 tion at any time, shall be held to be guilty of a misdemeanor and shall
28 be punished as provided for in section eleven hundred thirty-one; but
29 it shall be lawful to have in possession game lawfully taken outside
30 this state and lawfully brought into this state, but the burden shall
31 rest upon the person in possession to establish the fact that such game
32 so shipped into the state was lawfully killed and lawfully shipped into
33 this state.

[C., '97, § 2555; S. S., '15, § 2555.]

SEC. 1131. Penalty.

1 If any person use any device, kill, trap, ensnare, buy, sell, ship,
2 or have in his possession, or ship, take or carry out of the state, or
3 ship within this state contrary to the provisions of this chapter, any
4 of the birds or animals named or referred to herein, or shall wilfully
5 destroy any eggs or nests of the birds named or referred to in the
6 preceding sections, he shall be guilty of a misdemeanor, and be pun-
7 ished by a fine of ten dollars for each bird, beaver, mink, otter, or
8 muskrat, or other animals named or referred to in this chapter, and
9 ten dollars for each nest and the eggs therein, so killed, trapped, en-
10 snared, bought, sold, shipped, had in possession, destroyed, or shipped,
11 taken, or carried out of the state, or shipped within this state contrary

12 to law, and shall stand committed to the county jail for thirty days
13 unless such fine and costs of prosecuting are sooner paid.

[C., '97, § 2556; S. S., '15, § 2556.]

SEC. 1132. Receiving for transportation.

1 If any railway or express company or other common carrier, or
2 any of their agents or servants, receive any of the fish, birds or ani-
3 mals mentioned or referred to in this chapter for transportation or
4 other purpose, during the period hereinbefore limited and prohibited,
5 or at any other time except in the manner provided in this chapter,
6 he or it shall be punished by a fine of not less than one hundred nor
7 more than three hundred dollars, or by imprisonment in the county
8 jail for thirty days, or by both such fine and imprisonment.

[C., '73, § 4049; C., '97, § 2557.]

SEC. 1133. Using swivel gun or poison.

1 If any person shoot or kill any wild duck, goose or brant with
2 any swivel gun, or any kind of gun except such as is commonly shot
3 from the shoulder, or shall use medicated or poisoned food to capture
4 or kill any of the birds named in this chapter, he shall be fined twenty-
5 five dollars for each offense, and shall stand committed to the county
6 jail for thirty days, unless such fine and costs of prosecution are
7 sooner paid.

[C., '97, § 2558.]

SEC. 1134. Prosecutions—attorney's fee—opinion of attorney general.

1 In all prosecutions under this chapter, any number of violations
2 may be included in the information, but each one shall be set out in a
3 separate count. Prosecutions for violations of any provision of this
4 chapter may be brought either in the county in which the offense was
5 committed, or in any other county where the person, company or cor-
6 poration complained of has had or has in his or their possession any
7 fish, birds or animals named herein and bought, sold, caught, taken,
8 killed, trapped or ensnared in violation hereof. When requested by
9 the fish and game warden the attorney general shall give his opinion,
10 in writing, upon all questions of law pertaining to the office of such
11 warden. Nothing in this chapter shall be construed as prohibiting any
12 person from instituting legal proceedings for the enforcement of any
13 provisions hereof.

[R., '60, § 4385; C., '73, § 4051; C., '97, § 2559; S. S., '15,
§ 2559.]

SEC. 1135. Protection of birds—penalty.

1 No person shall destroy the nests or eggs of, or catch, take, kill
2 or have in possession or under control for any purpose whatever,
3 except specimens for use of taxidermists, at any time, any whippoor-
4 will, nighthawk, bluebird, finch, thrush, linnnet, lark, wren, martin,
5 swallow, bobolink, robin, turtledove, catbird, snowbird, blackbird, or
6 any other harmless bird except blue jays and English sparrows, but
7 nothing herein shall be construed to prevent the removal of nests from
8 buildings, and the keeping of song birds in cages as domestic pets.
9 Any person violating any of the provisions of this section shall be

10 fined not less than one dollar nor more than twenty-five dollars and
 11 costs of prosecution, and may be committed to the county jail until
 12 such fine and costs are paid.

[C., '73, § 4063; C., '97, § 2561; S., '13, § 2561.]

**SEC. 1136. Deputy wardens—compensation—expenses—bonds—
 powers.**

1 The fish and game warden may appoint three assistant fish and
 2 game wardens who shall receive a salary of twelve hundred dollars
 3 per year, and such number of deputies as he may deem necessary, who
 4 shall receive a compensation of two dollars and fifty cents per diem
 5 and actual expenses, for the time and money actually employed and
 6 expended by them in the enforcement of the provisions of this chap-
 7 ter. Such deputy wardens shall act under the advice and direction of
 8 the fish and game warden, and perform such duties in relation to their
 9 offices as may be required of them and submit, under oath, itemized
 10 statements of their per diem and expenses as aforesaid; and shall have
 11 full power and authority to serve and execute all warrants and process
 12 of law issued by any court in enforcing the provisions of this chapter,
 13 or any other law of this state relating to the propagation, preserva-
 14 tion and protection of fish, game and birds, in the same manner as any
 15 constable or sheriff may serve and execute the same and receive the
 16 same fee therefor, and for the purpose of enforcing the provisions of
 17 this chapter they may call to their aid any sheriff, deputy sheriff, con-
 18 stable or police officer or any other person, and it shall be the duty of
 19 all sheriffs, deputy sheriffs, constables and police officers and other
 20 persons when called upon to enforce and aid in enforcing the provi-
 21 sions of this chapter. All deputy wardens shall have power to arrest
 22 without warrant any person or persons found in the act of violating
 23 any law enacted for the purpose of propagation and protection of fish,
 24 game and birds. All deputy wardens shall give bonds conditioned for
 25 the faithful performance of their duties, in such amounts as may
 26 be fixed by the state executive council.

[C., '97, § 2562; S. S., '15, § 2562.]

SEC. 1137. State ownership and title—exceptions.

1 The ownership and title of all wild game, animals, and birds,
 2 found in the state, except deer in parks and public and private pre-
 3 serves the ownership of which has been acquired prior to April nine-
 4 teenth, nineteen hundred eleven, and all fish in any of the public
 5 waters of the state, including all ponds, sloughs, bayous, or other
 6 waters adjacent to any public waters, which ponds, sloughs, bayous
 7 and other waters are stocked with fish by overflow of public waters,
 8 is hereby declared to be in the state, and no wild game, animals, birds,
 9 or fish shall be taken, killed, or caught in any manner at any time or
 10 had in possession, except the person so catching, taking, killing, or
 11 having in possession, shall consent that the title to said wild game,
 12 animals, birds, or fish, shall be and remain in the state for the pur-
 13 pose of regulating and controlling the use and disposition of the same
 14 after such catching, taking, or killing. Any person desiring to engage
 15 in the business of raising and selling pheasants, wild duck, wood duck,
 16 quail and other game birds, or any of them, in a wholly inclosed pre-
 17 serve or inclosure, of which he is the owner or lessee, may make appli-
 18 cation in writing to the state fish and game warden for a license so to

19 do. The state fish and game warden, when it shall appear that such
 20 application is made in good faith, shall upon the payment of an annual
 21 fee of two dollars, issue to such applicant a breeder's license permitting
 22 such applicant to breed and raise the above described game birds, or
 23 other game birds, or any of them, on such preserve or inclosure; and
 24 to sell the same alive at any time for breeding or stocking purposes;
 25 and to kill and use same; or sell same for food. Such license must be
 26 renewed annually upon the payment of the fee as hereinbefore set
 27 holder from the penalties of this chapter for killing, having in posses-
 28 sion, or selling the game birds, or any of them set forth in this sec-
 29 tion; provided that said birds have been bred and raised upon the said
 30 preserve, or within said inclosure, by the license holder, or secured by
 31 him by purchase from without the state.

[S. S., '15, § 2562-b.]

SEC. 1138. Violation deemed consent to title.

1 The catching, taking, killing, or having in possession, wild game,
 2 animals, birds, or fish at any time, or in any manner, or by any
 3 person, except as provided in the preceding section, shall be deemed a
 4 consent of said person that the title of the state shall be and remain
 5 in the state for said purpose of regulating the use and disposition of
 6 the same and said possession shall be consent to such title in the state.

[S., '13, § 2562-c.]

SEC. 1139. Deer—killing or capture.

1 When it shall become necessary in the opinion of the state game
 2 warden or his deputies to kill or capture any deer now running at
 3 large within this state, it shall be done under the authority and direc-
 4 tion of the state fish and game warden, who shall distribute such deer
 5 so killed or captured within this state and the expense of said killing
 6 or capture and distribution shall be paid by the person receiving such
 7 deer.

[S., '13, § 2562-d.]

CHAPTER 16.

PROTECTION OF GAME.

SECTION 1140. License to hunt.

1 No person shall hunt, pursue, kill or take any wild animal, bird,
 2 or game in this state, with a gun, or trap fur-bearing animals or game
 3 without first procuring a license as herein provided.

[S. S., '15, § 2563-a1.]

SEC. 1141. Age limit—consent of parent or guardian.

1 No license shall be granted any person under eighteen years of
 2 age unless the written consent of parents or guardian is attached to
 3 the application.

[S., '13, § 2563-a2.]

SEC. 1142. Application blanks—inclosed or cultivated lands.

1 The state fish and game warden shall furnish county auditors
2 with application blanks for a license and license blanks. These blanks
3 shall provide for the insertion of the name, age, sex, and place of resi-
4 dence of the applicant and of the licensee. The license shall authorize
5 its holder to hunt in accordance with the provisions of this chapter in
6 any county of the state, but not on inclosed or cultivated lands without
7 permission of the owner or the tenant, or upon any public highway;
8 and shall bear a facsimile signature of the state fish and game warden
9 and the seal and signature of the auditor of the county in which it is
10 issued.

[S., '13, § 2563-a3.]

SEC. 1143. Fees.

1 An applicant for a license shall fill out an authorized application
2 blank and subscribe and swear to it before the county auditor, or a
3 notary or justice of the peace. Before the license is issued, the appli-
4 cant, if a resident of the state, and not a resident alien, shall pay the
5 county auditor the sum of one dollar as a license fee, and if a non-
6 resident of the state, or a resident alien, shall pay him the sum of
7 ten dollars as a license fee. These fees the county auditor shall pay at
8 the end of each month to the state treasurer, who shall place them to
9 the credit of a fund known as the fish and game protection fund.

[S. S., '15, § 2563-a4.]

SEC. 1144. Nonresidents—restrictions.

1 A nonresident holding a valid license may take from the state not
2 to exceed twenty-five game birds or animals, provided they are so
3 carried as to be readily inspected and his license is shown on request.

[S., '13, § 2563-a5.]

SEC. 1145. State fish and game protection fund—use.

1 The state fish and game protection fund shall be used for the
2 payment of the expenditures made necessary under the provisions of
3 section eleven hundred six, for the traveling, contingent and office
4 expenses of the warden; for deputy wardens' salaries and expenses;
5 for the protection and propagation of fish and game; for gathering
6 and distributing fish in the public waters of the state; for the care
7 and preservation of the lakes of the state; for the expenditures made
8 necessary under the operation or enforcement of this statute or any
9 other laws enacted affecting the fish and game service; and shall be
10 paid out only on verified vouchers approved by the executive council.

[S., '13, § 2563-a6.]

SEC. 1146. License record.

1 The county auditor shall keep a record of the licenses he issues
2 which shall show the date of issue, the name and address of the person
3 to whom issued, and the date of revocation, if revoked.

[S., '13, § 2563-a7.]

SEC. 1147. Terms of license—owners or tenants—alteration—violation—penalties.

1 The license shall be signed by the licensee in ink, and shall entitle
 2 the person to whom issued to hunt, pursue and kill wild animals, birds
 3 or game within the state at any time when it shall be lawful to hunt,
 4 pursue and kill such wild animals, birds or game, but it shall not
 5 entitle the person to whom issued to hunt, pursue or kill wild animals,
 6 birds or game in this state without being prepared at the time of so
 7 doing to exhibit it for inspection and permitting it, on demand, to be
 8 examined by any person. All licenses shall be void after the first day
 9 of July next succeeding issuance; but owners of farm lands, their
 10 children or tenants, shall have the right, without procuring a license,
 11 to hunt and kill wild animals, birds or game upon the lands owned or
 12 occupied by them. Any person found guilty of violating any of the
 13 provisions of this section shall be deemed guilty of a misdemeanor,
 14 and upon conviction thereof shall be fined in any sum not less than
 15 twenty-five dollars nor more than fifty dollars for each offense, and
 16 shall stand committed to the county jail until such costs and fines are
 17 paid, but such imprisonment shall not exceed thirty days for each
 18 offense. Any person who shall alter or change a license in any mate-
 19 rial manner shall be deemed guilty of forgery, and upon conviction
 20 thereof shall be subject to the penalties provided for the commission
 21 of forgery. Any person who uses or attempts to use the license of
 22 another, or altered license, shall be guilty of a misdemeanor, and upon
 23 conviction shall be fined not less than twenty-five dollars nor more
 24 than fifty dollars for each offense, and shall stand committed to the
 25 county jail until such fine and costs are paid, but such imprisonment
 26 shall not exceed thirty days for each offense.

[S., '13, § 2563-a8.]

SEC. 1148. Revocation.

1 A license in the possession of any person other than to whom
 2 first issued, and on complaint, the license of any person hunting on
 3 inclosed or cultivated lands, without permission of the owner or
 4 tenant, may be revoked by the county auditor.

[S., '13, § 2563-a9.]

SEC. 1149. Prima facie evidence.

1 Possession of a gun in the fields or forests or on the waters of
 2 the state, or upon the ice of the same, and a failure to display a license
 3 when it is demanded by any person, shall be, except in the case of the
 4 owner or tenant, prima facie evidence of a violation of the provi-
 5 sions of this chapter.

[S., '13, § 2563-a10.]

SEC. 1150. Killing of mussels licensed.

1 It shall be unlawful to take, catch or kill mussels for commercial
 2 purposes without a license issued by the state game and fish com-
 3 mission.

[38 G. A., ch. 98, § 1.]

SEC. 1151. License—resident—nonresident.

1 The state game and fish commission shall upon application issue
 2 a license to take, catch or kill mussels. On making application for

3 such license, residents of this state shall pay to the state game and
 4 fish commission a fee of two dollars and nonresidents shall pay to such
 5 game and fish commission a fee of twenty-five dollars and for author-
 6 ity to use a dredge, a fee of twenty dollars in addition to the fee fixed
 7 for a resident or a nonresident license. All such licenses shall expire
 8 on the thirty-first day of December following their issue. Licenses
 9 shall be consecutively numbered as issued and a record shall be kept
 10 thereof in the office of the state game and fish commission. Such
 11 license shall state whether it is a resident or nonresident license,
 12 whether the licensee is authorized to use a dredge, the resident address
 13 of the licensee and the amount paid for the license. Said license shall
 14 also state what waters have been closed to the capture of mussels by
 15 authority of this chapter.

16 Every person, while taking, catching or killing mussels for com-
 17 mercial purposes, shall have this license with him, ready for exhibi-
 18 tion and shall exhibit the same when requested to do so by an author-
 19 ized officer.

20 Any person, firm or corporation violating the provisions of this
 21 section shall be deemed guilty of a misdemeanor and upon conviction
 22 thereof shall be punished by a fine of twenty-five dollars or by impris-
 23 onment in the county jail not less than twenty days.

[38 G. A., ch. 98, § 2.]

SEC. 1152. Manner of taking regulated.

1 Any person, firm or corporation to whom a license under the pro-
 2 visions of the preceding section has been issued:

3 1. May operate not more than one boat for each license, or one rig
 4 in taking, catching or killing mussels for commercial purposes. Any
 5 such person, firm or corporation may use one additional boat for pur-
 6 poses of towing only when no apparatus for taking, catching or killing
 7 is used or kept thereon.

8 2. It shall be unlawful to have in possession in the waters while
 9 engaged in taking, catching or killing mussels for commercial purposes
 10 more than four crowfoot bars, not more than two of said bars to be in
 11 the water at one time, or more than one dredging mechanism, or to
 12 use or have in possession a crowfoot bar of greater length than twenty
 13 feet, or a dredge the length of the openings of which is more than three
 14 feet, and which has prongs or forks more than four inches in length,
 15 or to have in possession on the waters while engaged in taking, catch-
 16 ing or killing clams, a dredge without licensed authority therefor, but
 17 it shall not be unlawful to use a pitchfork in gathering clam shells.

18 Any person, firm or corporation violating any of the provisions of
 19 this section shall be guilty of a misdemeanor and upon conviction
 20 thereof shall be punished by a fine of twenty-five dollars, or by impris-
 21 onment in the county jail not less than twenty days.

[38 G. A., ch. 98, § 3.]

SEC. 1153. Unlawful to take small mussels.

1 It shall be unlawful to take, catch or kill, offer for sale or have in
 2 possession for commercial purposes, any mussel of a size less than
 3 one and three-fourths inches in greatest dimensions, except mussels
 4 taken in the ordinary course of clamming for larger mussels, and such
 5 undersized mussels shall be immediately culled and returned to the

6 water whence taken without avoidable injury, excepting that the
 7 so-called pigtoes may be retained.
 8 Any person, firm or corporation violating any of the provisions of
 9 this section shall be deemed guilty of a misdemeanor and upon con-
 10 viction thereof shall be punished by a fine of fifty dollars, or by impris-
 11 onment in the county jail not less than thirty days.

[38 G. A., ch. 98, § 4.]

SEC. 1154. Restricted areas prescribed.

1 The state game and fish commission may from time to time, and
 2 as may be required for the conservation of the mussel resources of the
 3 state, prescribe areas in any part of the state from which mussels shall
 4 not be taken for such a period as may be specified by the commission,
 5 but no such period shall exceed five years, nor shall more than one-half
 6 of the mussel producing waters of the state be closed at the same time.
 7 It shall be unlawful to take, catch or kill mussels for commercial pur-
 8 poses in waters so closed.

9 All orders of the game and fish commission affecting mussels shall
 10 be published once in the newspapers of general circulation, published
 11 within each county containing or having on its boundary waters
 12 affected by such order.

13 All such orders shall take effect at the fixed time therein, but not
 14 less than thirty days after the publication thereof. The game and fish
 15 commission may extend the time within which such order shall take
 16 effect.

17 Any person, firm or corporation who shall violate the provisions
 18 of this section in taking, catching or killing mussels for commercial
 19 purposes, in any waters of this state which have been declared closed
 20 by the game and fish commission shall be deemed guilty of a misde-
 21 meanor and upon conviction thereof shall be punished by a fine of
 22 one hundred dollars, or by imprisonment in the county jail not less
 23 than sixty days.

[38 G. A., ch. 98, § 5.]

SEC. 1155. Licensees—reports required.

1 On or before the thirty-first day of December of the year in which
 2 any license was issued, the holder thereof shall make a written report
 3 to the state game and fish commission on blanks furnished by them
 4 stating the total weight of mussels taken, caught or killed under such
 5 license, the names and locations of waters from which the mussels
 6 were taken and the amount received for shell sold. Upon failure to
 7 make such a report, the state game and fish commission shall not issue
 8 another license until such report shall be made.

[38 G. A., ch. 98, § 6.]

SEC. 1156. Money to general fund.

1 All moneys received under the provisions of the five preceding
 2 sections shall at the end of each month be paid into the general
 3 revenue fund of the state.

[38 G. A., ch. 98, § 7.]

SEC. 1157. Game and fish commission to enforce.

1 The state game and fish commission shall enforce the law relating
 2 to mussels and for the purposes of carrying into effect said law, the

3 commission, its executive agent and game wardens are authorized and
 4 empowered without warrant, to arrest anyone violating any of the
 5 provisions of sections eleven hundred fifty to eleven hundred fifty-
 6 nine, inclusive, and to seize mussels and devices adapted to taking,
 7 catching or killing mussels, and to inspect and examine mussels in any
 8 warehouse, boat, store, car, conveyance, vehicle, basket or other recep-
 9 tacle, when they have good cause to believe that any of the provisions
 10 of the law relating to mussels has been violated, except when it is
 11 necessary forcibly to enter a dwelling house. Any court having juris-
 12 diction of the offense, upon receiving proof of the probable cause for
 13 believing that mussels illegally taken, caught, killed or had in posses-
 14 sion are concealed, shall issue a search warrant and cause a search of
 15 the place of concealment to be made. The confiscation and sale of
 16 mussels by the state game and fish commission or by any game warden
 17 shall proceed in the manner provided by law for the sale of confiscated
 18 fish.

[38 G. A., ch. 98, § 8.]

SEC. 1158. Terms defined.

1 As used in this chapter the words:
 2 1. "Mussels" shall mean and embrace the pearly, fresh water
 3 mussels, or clams, or naiad, and the shell thereof.
 4 2. "Crowfoot bar" shall mean a bar of any material bearing a
 5 series of hooks designed to catch or adapted for catching mussels by
 6 the insertion of such hooks between the shells of the mussels.
 7 3. "Dredge" shall mean any mechanism of capture which is
 8 adapted for dragging the bottom of waters and is operated with or
 9 without the aid of mechanical power, except the crowfoot bar.
 10 4. "Commercial purposes" shall mean and be presumed the tak-
 11 ing, catching or killing of any mussel and having in possession of
 12 mussels unless the contrary is proven.
 13 5. "Rig" shall mean one boat equipped with not more than four
 14 crowfoot bars, one boat equipped with power and one barge.

[38 G. A., ch. 98, § 9.]

SEC. 1159. Territorial jurisdiction prescribed.

1 Any person duly licensed by the authorities of the state of Iowa
 2 to take and catch mussels from or in the waters forming the boundary
 3 line between the states of Wisconsin and Illinois and Iowa, are hereby
 4 authorized to take and catch mussels from and in that portion of said
 5 waters lying and being within the territorial jurisdiction of the state
 6 of Iowa without first having procured a license therefor from the
 7 authorities of the state of Iowa; but such persons so licensed by the
 8 authorities of Wisconsin and Illinois shall not take or catch any mus-
 9 sels within the territorial jurisdiction of the state of Iowa at the time
 10 and in a place or in a manner otherwise prohibited by this chapter;
 11 provided, however, that the laws of the states of Wisconsin and Illinois
 12 provide and extend a similar privilege to persons licensed hereunder by
 13 the authorities of the state of Iowa to take and catch mussels from
 14 and in the waters lying within the territorial jurisdiction of the states
 15 of Wisconsin and Illinois without a license from the authorities of the
 16 states of Wisconsin and Illinois.

[38 G. A., ch. 98, § 10.]

SEC. 1160. Appropriation—when available.

1 Any appropriation made by the general assembly for the use of
2 the state fish and game warden shall not be drawn upon until the fund
3 arising from license fees shall be exhausted.

[S., '13, § 2563-a11.]

SEC. 1161. License for nonresident.

1 It shall be unlawful for any male over sixteen years of age, who
2 is a nonresident of this state, to fish in any manner in the waters of
3 this state without first procuring from the county auditor a fishing
4 license.

[37 G. A., ch. 168, § 1.]

SEC. 1162. Fees.

1 It shall be the duty of the county auditor to issue such licenses
2 when applied for, upon payment of a fee of two dollars, and such
3 license shall be good for the calendar year in which the same is issued
4 and throughout the state. Such license fees shall be accounted for and
5 paid to the treasurer of state as provided by section eleven hundred
6 forty-three, relating to hunters' license fees.

[37 G. A., ch. 168, § 2.]

SEC. 1163. Violations—penalty.

1 Any person violating the provisions of section eleven hundred
2 sixty-one shall be deemed guilty of a misdemeanor and punished by
3 a fine not exceeding one hundred dollars or imprisonment in the county
4 jail not exceeding thirty days.

[37 G. A., ch. 168, § 3.]

SEC. 1164. Using birds as targets—penalty.

1 Any person who keeps or uses a live pigeon, fowl or other bird
2 for the purpose of a target or to be shot at either for amusement or
3 as a test of skill in marksmanship, or shoots at a bird kept or used as
4 aforesaid, or is a party to such shooting, or leases any building, room,
5 field or premises, or knowingly permits the use thereof, for the pur-
6 pose of such shooting, shall upon conviction thereof be fined not less
7 than ten dollars nor more than one hundred dollars or imprisoned
8 in the county jail not exceeding thirty days. Nothing in this section
9 shall apply to the shooting of wild game.

[S., '13, § 2563-i.]

SEC. 1165. Wild birds—property of state.

1 All wild birds, both resident and migratory, in this state, shall
2 be, and are hereby declared to be the property of the state.

[S., '13, § 2563-j.]

SEC. 1166. Sale of wild birds and plumage prohibited — game birds defined.

1 No person shall, within the state, kill or catch, or have in his
2 or her possession, living or dead, any wild bird other than a game
3 bird, or purchase, offer or expose for sale, transport or ship within or
4 without the state, any such wild bird after it has been killed or

5 caught, except as permitted by this chapter. No part of the plumage,
6 skin, or body of any bird protected by this section shall be sold or
7 had in possession for sale, irrespective of whether said bird was cap-
8 tured or killed within or without the state. For the purpose of this
9 chapter the following only shall be considered game birds: The Ana-
10 tidae, commonly known as swans, geese, brant and river and sea
11 ducks; the Rallidae, commonly known as rails, coots, mud hens and
12 gallinules; the Limicolae, commonly known as shore birds, plovers,
13 surf birds, snipe, woodcock, sandpipers, tattlers, and curlews; the Gal-
14 linae, commonly known as wild turkeys, grouse, prairie chickens,
15 pheasants, partridges, and quail. All other species of wild birds,
16 either resident or migratory, shall be considered nongame birds.

[S., '13, § 2563-k.]

SEC. 1167. Birds' nests and eggs.

1 No person shall, within the state, take or needlessly destroy or
2 attempt to take or destroy the nest or the eggs of any wild birds, or
3 have such nest in his or her possession, except as permitted by this
4 chapter.

[S., '13, § 2563-l.]

SEC. 1168. Transportation of wild birds prohibited.

1 No person or persons, or any corporation acting as a common
2 carrier, its officers, agents or servants, shall ship, carry, take or trans-
3 port, either within or beyond the confines of the state, any resident or
4 migratory wild nongame bird, except as permitted by this chapter.

[S., '13, § 2563-m.]

SEC. 1169. Not applicable to holder of certificate.

1 Sections eleven hundred sixty-six, eleven hundred sixty-seven,
2 eleven hundred sixty-eight and eleven hundred seventy-four shall not
3 apply to any person holding a certificate giving the right to take birds,
4 their nests, or eggs for scientific purposes only, as provided in the
5 following section.

[S., '13, § 2563-n.]

SEC. 1170. Certificate of permission for scientific purposes—fees.

1 Certificates may be granted by the fish and game warden of
2 the state to any properly accredited persons of the age of fifteen years
3 or upward, permitting the holder thereof to collect birds, their nests or
4 eggs for scientific purposes only. The applicant for the same must
5 present to said officer written testimonials from two well known orni-
6 thologists who must be residents of Iowa, certifying to the good
7 character, and fitness of said applicant to be intrusted with such privi-
8 lege and must pay said officer one dollar to defray the necessary ex-
9 penses attending the granting of such certificate. On proof that the
10 holder of such certificate has killed any bird, or taken the nest or eggs
11 of any bird for other than strictly scientific purposes, his certificate
12 shall become void, and he shall be liable to a fine of one hundred dol-
13 lars, or imprisonment of thirty days, or both, at the discretion of the
14 court.

[S., '13, § 2563-o.]

SEC. 1171. Expiration of certificates.

1 •The certificates authorized by the preceding section shall expire
2 on the thirty-first day of December of the year issued and shall not
3 be transferable.

[S., '13, § 2563-p.]

SEC. 1172. Certain birds not included.

1 The English, or European house sparrow, great horned owl, sharp
2 shinned hawk, Cooper's hawk, and blackbirds and crows are not in-
3 cluded among the birds protected by this chapter.

[S., '13, § 2563-q.]

SEC. 1173. Domestic pets—parrots and canaries.

1 Nothing in this chapter shall prevent a citizen of Iowa from
2 taking or keeping any wild nongame bird in a cage as a domestic pet,
3 but such bird shall not be sold, or exchanged, or offered for sale or
4 exchange, or transported out of the state; this chapter shall not be
5 construed to forbid the selling or shipping of parrots, canaries or any
6 other cage birds which are imported from other countries or not
7 native to any part of the United States.

[S., '13, § 2563-r.]

SEC. 1174. Penalty.

1 Any person who violates any of the provisions of this chapter
2 shall be guilty of a misdemeanor, and shall be liable to a fine of five
3 dollars for each offense, and an additional fine of five dollars for each
4 bird, living or dead, or part of bird, or nest, or set of eggs or part
5 thereof, possessed in violation of this chapter, or to imprisonment for
6 thirty days, or both, at the discretion of the court.

[S., '13, § 2563-s.]

SEC. 1175. Trapping, shooting or killing of pheasants prohibited.

1 No person shall trap, shoot, kill or take in any manner, any Mon-
2 golian, ring-neck, English or Chinese pheasants, Hungarian partridge
3 or other imported game birds in this state prior to the first day of
4 October, A. D. nineteen hundred twenty-two.

[S. S., '15, § 2563-u; 37 G. A., ch. 111, § 1.]

SEC. 1176. Penalty.

1 Any person violating the provisions of the preceding section
2 shall, upon conviction thereof, be fined not to exceed one hundred dol-
3 lars or imprisonment in the county jail not to exceed thirty days.

[S., '13, § 2563-v.]

CHAPTER 17.

PUBLIC PARKS ON LAKE SHORES.

SECTION 1177. Public state parks—beautification.

1 The state board of conservation, by and with the written consent
2 of the executive council, is hereby authorized to establish public parks
3 in any county of the state, upon the shores of lakes, streams or other
4 waters of the state, or at any other places which have by reason of
5 their location become historic or which are of scientific interest, or by
6 reason of their natural scenic beauty or location become adapted
7 therefor, and said board of conservation, under the supervision of the
8 executive council, is hereby authorized to improve and beautify such
9 parks. When so established they shall be made accessible from the
10 public highways, and in order to establish such parks the executive
11 council shall have the power to purchase or condemn lands for such
12 purposes and to purchase and condemn lands for said highway pur-
13 poses.

[37 G. A., ch. 236, § 1; 38 G. A., ch. 368, § 1.]

SEC. 1178. Dams—resulting damages.

1 The state board of conservation shall, under the direction of the
2 executive council, have the power to erect dams across streams and
3 across the outlets of lakes for the purpose of raising the water level
4 therein, and any damages occasioned to riparian owners by reason
5 of the raising of such water level shall be paid for out of the fund
6 hereinafter provided for.

[37 G. A., ch. 236, § 2; 38 G. A., ch. 368, § 1.]

SEC. 1179. Title in state—sale—conditions.

1 The title to all lands purchased or donated for park or highway
2 purposes under the provisions of this chapter shall be taken in the
3 name of the state and if thereafter it shall be deemed advisable to sell
4 any portion of the land so purchased the proceeds of such sale shall be
5 placed to the credit of the said public state parks fund to be used for
6 such park purposes, except that on request of any of the donors of the
7 fund with which such land was purchased the amount contributed by
8 the donor making such request shall be refunded to such donor with-
9 out interest, but application for such refund must be made within six
10 months from the date of the sale of such lands, and no such lands
11 shall be sold except in compliance with legislative enactment desig-
12 nating specifically the lands to be sold.

[37 G. A., ch. 236, § 3; 38 G. A., ch. 368, § 2.]

SEC. 1180. Donations.

1 The executive council is empowered and authorized on behalf of
2 the state to receive donations of land for either park or highway pur-
3 poses in conformity with the provisions of this chapter, and lands so
4 donated shall not be sold, and if abandoned by legislative enactment,
5 shall revert to the original owner.

[37 G. A., ch. 236, § 4.]

SEC. 1181. Donations under conditions.

1 The state treasurer shall have authority to receive and accept,
 2 on behalf of the state, donations for the purpose of aiding in the
 3 carrying out of the provisions of this chapter, and the donor may
 4 specify the place where and the purpose or purposes for which said
 5 donation is to be used or expended, and when such specification is
 6 made to the executive council by the donor the donated funds shall
 7 be expended for no other purpose.

[37 G. A., ch. 236, § 5.]

SEC. 1182. Improvements—expenses.

1 The state board of conservation shall permit the improvement of
 2 such parks, when established, or the improvement of bodies of water,
 3 upon the border of which such parks may be established, by the expen-
 4 diture of private or other funds, such improvement to be done, how-
 5 ever, under the direction of the state board of conservation, by and
 6 with the consent of the executive council. The executive council may
 7 call upon any agencies of the state for assistance and information.
 8 When such state agencies' traveling expenses are not otherwise pro-
 9 vided for, they shall be paid from the public state parks fund as other
 10 traveling expenses are paid.

[37 G. A., ch. 236, § 6; 38 G. A., ch. 368, §§ 1, 2.]

SEC. 1183. Powers in municipalities and individuals.

1 Municipalities, or individuals, or corporations organized for that
 2 purpose only, acting separately or in conjunction with each other, may
 3 establish like parks outside the limits of cities or towns, and when
 4 established without the support of the public state parks fund, the
 5 municipalities, corporations or persons establishing the same, as the
 6 case may be, shall have control thereof independently of the executive
 7 council; but none of the said municipalities, individuals or corpora-
 8 tions, acting under the provisions of this section shall establish, main-
 9 tain or operate any such park as herein contemplated for pecuniary
 10 profit.

[37 G. A., ch. 236, § 7; 38 G. A., ch. 368, § 2.]

SEC. 1184. Board of conservation—appointment—duties.

1 The executive council shall designate three persons who, with the
 2 curator of the historical department, shall constitute a board of con-
 3 servation, who shall serve without pay. Such board of conservation
 4 shall investigate places in Iowa, valuable as objects of natural history,
 5 forest reserves, as archaeology and geology, and investigate the means
 6 of promoting forestry and maintaining and preserving animal and
 7 bird life in this state and furnish such information to the executive
 8 council for the conservation of the natural resources of the state, from
 9 time to time, and said recommendations shall be printed in such num-
 10 bers as the council shall authorize, and shall be furnished each mem-
 11 ber of the succeeding general assembly.

[37 G. A., ch. 236, § 9.]

SEC. 1185. Regulations—mutilation.

1 The board of conservation and the executive council, acting
 2 jointly, shall from time to time make such regulations as they deem

3 necessary or advisable for the management, control or policing of said
 4 lands, and shall cause said regulations to be printed on cardboard,
 5 wood or metal signs and posted in said parks. The destruction or
 6 mutilation of said signs bearing said regulations shall be deemed a
 7 misdemeanor. Said regulation, however, shall in no wise interfere
 8 with the local police powers.

[37 G. A., ch. 236, § 10; 38 G. A., ch. 368, § 1.]

SEC. 1186. Annual appropriation.

1 For the purpose of carrying into effect the provisions of this
 2 chapter, there shall be appropriated out of the fish and game protec-
 3 tion fund any portion thereof which is in the judgment of the execu-
 4 tive council, unnecessary for the support and maintenance of the fish
 5 and game department, and in addition thereto there shall be appro-
 6 priated annually out of any moneys in the state treasury not other-
 7 wise appropriated, the sum of one hundred thousand dollars.

[37 G. A., ch. 236, § 11; 38 G. A., ch. 368, § 3.]

CHAPTER 18.

FENCES.

SECTION 1187. Partition fences—owners to maintain.

1 The respective owners of adjoining tracts of land shall upon
 2 written request of either owner, be compelled to erect and maintain
 3 partition fences, or contribute thereto, and keep the same in good
 4 repair throughout the year, and if said fence be hedge, the owner
 5 thereof shall trim or cut it back once in two years to within five feet
 6 from the ground, unless such owners otherwise agree in a writing to
 7 be filed with and recorded by the township clerk.

[C., '51, §§ 895, 900, 901; R., '60, §§ 1526, 1531, 1532; C., '73,
 §§ 1489, 1494, 1495; C., '97, § 2355; 38 G. A., ch. 52, § 1.]

SEC. 1188. Powers of fence viewers.

1 The fence viewers shall have power to determine any controversy
 2 arising under this chapter, upon giving five days' notice in writing to
 3 the opposite party or parties, prescribing the time and place of
 4 meeting to hear and determine the matter named in said notice. Upon
 5 request of any landowner, the fence viewers shall give such notice to
 6 all adjoining landowners liable for the erection, maintenance, rebuild-
 7 ing, trimming or cutting back, or repairing of a partition fence, or
 8 to pay for an existing hedge or fence. At said time and place the
 9 fence viewers shall meet and determine by written order the obliga-
 10 tions, rights and duties of the respective parties in such matter, and
 11 assign to each owner the part which he shall erect, maintain, rebuild,
 12 trim or cut back, or pay for, and fix the value thereof, and prescribe
 13 the time within which the same shall be completed or paid for, and, in
 14 case of repair, may specify the kind of repairs to be made.

[C., '51, §§ 896, 898, 902, 909; R., '60, §§ 1527, 1529, 1533,
 1540; C., '73, §§ 1490, 1492, 1496, 1503; C., '97, § 2356.]

SEC. 1189. Assignment of portions.

1 In case a landowner desires to erect a partition hedge or fence
 2 when the owner of the adjoining land is not liable to contribute
 3 thereto, the fence viewers may assign to each owner the part which
 4 he shall erect, maintain, rebuild, and repair, trim or cut back, by
 5 pursuing the method provided in the preceding section; but the adjoining
 6 owner shall not be required to contribute thereto until he becomes
 7 liable so to do, as elsewhere in this chapter provided.

[C., '51, § 901; R., '60, § 1532; C., '73, § 1495; C., '97, § 2357.]

SEC. 1190. Default—damages and fees collected as taxes.

1 If the erecting, rebuilding or repairing of such fence be not com-
 2 pleted within thirty days from and after the time fixed therefor in
 3 such order, the adjoining owner may do or complete the same, and the
 4 value thereof may be fixed by the fence viewers, and unless the sum
 5 so fixed, together with all fees of the fence viewers caused by such
 6 default, as taxed by them, is paid to the landowner so erecting,
 7 rebuilding, trimming or cutting back or repairing such fence, within
 8 ten days after the same is so ascertained; or when ordered to pay for
 9 an existing fence, and the value thereof is fixed by the fence viewers,
 10 and said sum, together with the fees of the fence viewers, as taxed by
 11 them, remains unpaid by the party in default for ten days, the fence
 12 viewers shall certify to the county auditor the full amount due from
 13 the party or parties in default, including all fees and costs taxed,
 14 together with a description of the real estate owned by the party or
 15 parties in default along or upon which the said fence exists, and the
 16 county auditor shall enter the same upon the tax list and the amount
 17 shall be collected as other taxes and when so collected same shall be
 18 paid to the party or parties entitled thereto.

[C., '51, §§ 897, 899, 902; R., '60, §§ 1528, 1530, 1533; C.,
 '73, §§ 1491, 1493, 1496; C., '97, § 2358; S., '13, § 2358.]

SEC. 1191. Service of notice on nonresidents.

1 The notice by the fence viewers provided for in this chapter may
 2 be served upon any owner nonresident of the county where his land
 3 is situated, by publication thereof, once each week, for two consecu-
 4 tive weeks in a newspaper printed in the county in which the land is
 5 situated, proof of which shall be made as in case of an original notice
 6 and filed with the fence viewers, and a copy delivered to the occupant
 7 of said land, or to any agent of the owner in charge of the same.

[C., '97, § 2359; S., '13, § 2359.]

SEC. 1192. Orders—notice—record conclusive evidence.

1 All orders and decisions made by the fence viewers shall be in
 2 writing, signed by at least two of them, and filed with the township
 3 clerk. All notices in this chapter required to be given shall be in
 4 writing, and return of service thereof made in the same manner as
 5 notices in actions before a justice of the peace. Such orders, decisions,
 6 notices and returns shall be entered of record at length by the town-
 7 ship clerk, and a copy thereof certified by the township clerk to the
 8 county recorder, who shall record the same in his office in a book kept
 9 for that purpose, and index such record in the name of each adjoining
 10 owner as grantor to the other. The record in the recorder's office,

11 unless modified, by appeal as hereinafter provided, shall be conclu-
 12 sive evidence of the matters therein stated, and such record or a
 13 certified copy thereof shall be competent evidence in all courts.

[C., '97, § 2360; 38 G. A., ch. 33, § 1.]

SEC. 1193. Division recorded.

1 The several owners may, in writing, agree upon the portion of
 2 partition fences between their lands which shall be erected and main-
 3 tained by each, which writing shall describe the lands and the parts
 4 of the fences so assigned, be signed and acknowledged by them, and
 5 filed and recorded in the office of the recorder of deeds of the county
 6 or counties in which they are situated.

[C., '51, § 905; R., '60, § 1536; C., '73, § 1499; C., '97, § 2361.]

SEC. 1194. How far binding.

1 Any order made by the fence viewers, or any agreement in writ-
 2 ing between adjoining landowners, when recorded in the office of the
 3 recorder of deeds, as in this chapter provided, shall bind the makers,
 4 their heirs and subsequent grantees, except, if the land of either shall
 5 cease to be used as a means for revenue or benefit, the same shall be
 6 inoperative while not thus used.

[C., '51, § 905; R., '60, § 1536; C., '73, § 1499; C., '97, § 2362;
 38 G. A., ch. 33, § 2.]

SEC. 1195. Lands in different townships.

1 When the adjoining lands are situated in different townships in
 2 the same or different counties, the clerk of the township of the owner
 3 making the application shall select two trustees of his township as
 4 fence viewers, and the clerk of the other township one from his town-
 5 ship, who shall possess, in such case, all the powers given to fence
 6 viewers in this chapter, but all orders, notices and valuations and taxa-
 7 tion of costs made by them must be recorded in both townships and in
 8 the office of the recorder of deeds of each county.

[C., '51, § 906; R., '60, § 1537; C., '73, § 1500; C., '97, § 2363;
 38 G. A., ch. 33, § 3.]

SEC. 1196. Fence on another's land.

1 When a person has made a fence or other improvement on an
 2 inclosure, which is found to be on land of another, such person may
 3 enter upon the land of the other and remove his fence or other
 4 improvement and material, upon his first paying, or offering to pay,
 5 the other party for any damage to the soil which may be occasioned
 6 thereby, and the value of any timber used in said improvement taken
 7 from the land of such other party, if any; and if the parties can not
 8 agree as to the damages, the fence viewers may determine them as in
 9 other cases; such removal shall be made as soon as practicable, but
 10 not so as to expose the crops of the other party.

[C., '51, §§ 907, 908; R., '60, §§ 1538, 1539; C., '73, §§ 1501,
 1502; C., '97, § 2364.]

SEC. 1197. Line fences.

1 A person building a fence may lay the same upon the line
 2 between him and the adjacent owners, so that it may be partly on one

3 side and partly on the other, and the owner shall have the same right
4 to remove it as if it were wholly on his own land.

[C., '51, § 910; R., '60, § 1541; C., '73, § 1504; C., '97, § 2365.]

SEC. 1198. Fence on one side of line.

1 The provisions concerning partition fences shall apply to a fence
2 standing wholly upon one side of the division line.

[C., '51, § 911; R., '60, § 1542; C., '73, § 1505; C., '97, § 2366.]

SEC. 1199. Lawful fence defined—sheep and swine tight fences.

1 A lawful fence shall consist of three rails of good substantial
2 material, or three boards not less than six inches wide and three-
3 quarters of an inch thick, such rails or boards to be fastened in or to
4 good substantial posts, not more than ten feet apart where rails are
5 used, and not more than eight feet apart where boards are used, or
6 wire either wholly or in part, substantially built and kept in good
7 repair; or any other kind of fence, which, in the opinion of the fence
8 viewers, shall be equivalent thereto, the lowest or bottom rail, wire
9 or board not more than twenty nor less than sixteen inches from the
10 ground, the top rail, wire or board, to be between forty-eight and
11 fifty-four inches in height, and the center rail, wire or board not less
12 than twelve nor more than eighteen inches above the bottom rail, wire
13 or board; or it shall consist of three wires, barbed with not less than
14 thirty-six iron barbs of two points each, or twenty-six iron barbs of
15 four points each, on each rod of wire, or of four wires, two thus
16 barbed and two smooth, the wires to be firmly fastened to posts not
17 more than two rods apart, with not less than two stays between posts,
18 or with posts not more than one rod apart, without such stays, the top
19 wire to be not more than fifty-four nor less than forty-eight inches in
20 height; but all partition fences may be made tight by the party
21 desiring it, and, when his portion is so completed, and securely fas-
22 tened to good substantial posts, set firmly in the ground, not more
23 than twenty feet apart, the adjoining property owner shall construct
24 his portion of the adjoining fence, in a like tight manner, same to be
25 securely fastened to good substantial posts, set firmly in the ground
26 not more than twenty feet apart. All tight partition fences shall con-
27 sist of not less than twenty-four inches of substantial woven wire on
28 the bottom, with three strands of barb wire with not less than thirty-
29 six barbs of two points to the rod on top, the top wire to be not less
30 than forty-eight inches, nor more than fifty-four inches high, or not
31 less than eighteen-inch substantial woven wire on the bottom with
32 four strands of barb wire of not less than thirty-six barbs of two
33 points to the rod, the top wire to be not less than forty-eight inches
34 nor more than fifty-four inches high, or good substantial woven wire
35 not less than forty-eight inches nor more than fifty-four inches high.
36 In case adjoining owners or occupants of land shall use the same for
37 pasturing sheep or swine, each shall keep his share of the partition
38 fence in such condition as shall restrain such sheep or swine. Upon
39 the application of either owner, after notice given as prescribed in this
40 chapter, the fence viewers shall determine all controversies arising
41 under this section, including the partition fences made sheep and
42 swine tight.

[R., '60, §§ 1544, 1545; C., '73, § 1507; C., '97, § 2367; S., '13,
§ 2367.]

SEC. 1200. Where stock restrained.

1 This chapter shall be construed the same in counties where stock
2 is restrained from running at large as where not so restrained.

[C., '73, § 1508; C., '97, § 2368.]

SEC. 1201. Appeal—judgment certified to recorder.

1 An appeal may be taken to the district court from any order or
2 decision of the fence viewers by any person affected, in the same man-
3 ner appeals are taken from justices of the peace, except that the
4 appeal bond shall be approved by the township clerk, in which event
5 the township clerk, after recording the original papers, shall file them
6 in the office of the clerk of the district court, certifying them to be
7 such, and the clerk shall docket them, entitling the applicant or peti-
8 tioner as plaintiff, and it shall stand for trial as other cases. Upon
9 the final determination of said appeal the clerk of the district court
10 shall certify to the recorder of deeds the fact that a judgment has
11 been entered upon such appeal, with the book and page of such judg-
12 ment, and the recorder shall thereupon enter on his record a notation
13 that a judgment on appeal has been entered and that the same may be
14 found in the office of the clerk of the district court, in the book and
15 page designated in said certificate.

[C., '97, § 2369; 38 G. A., ch. 33, § 4.]

SEC. 1202. Record kept—fees of clerk.

1 The township clerk shall enter all matters herein required to be
2 made of record in his record book, and shall receive ten cents for
3 each one hundred words in entering of record and making certified
4 copies of the matters herein provided for, and twenty-five cents addi-
5 tional for his certificate thereto when required, and shall also receive
6 the costs of recording in the office of the recorder of deeds of any in-
7 strument required to be so recorded.

[C., '97, § 2370; 38 G. A., ch. 33, § 5.]

CHAPTER 19.**LOST PROPERTY.****SECTION 1203. Taking up rafts, logs and lumber.**

1 If any person shall stop or take up any vessel or water craft, or
2 any raft of logs, or part thereof, or any logs suitable for making lum-
3 ber or hewn timber, or sawed lumber, found adrift within the limits
4 or upon the boundaries of this state, of the value of five dollars or
5 upwards, including the cargo, tackle, rigging and other appendages of
6 such vessel or water craft, such person, within five days thereafter,
7 provided the same shall not have been previously proved and restored
8 to the owner, shall go before some justice of the peace in the township
9 where such property is found, and make affidavit setting forth the
10 exact description of such property; where and when the same was
11 found; whether any, and if so what, cargo, tackle, rigging or other
12 appendages were found on board or attached thereto; and that the
13 same has not been altered or defaced, either in whole or in part, since

14 the taking up, either by him or by any other person to his knowledge;
 15 and the said justice shall thereupon issue his warrant, directed to
 16 some constable of his township, commanding him to summon three
 17 respectable householders of the neighborhood, who shall proceed with-
 18 out delay to examine and appraise such property, including cargo,
 19 tackle, rigging and other appendages if any there be, and to make
 20 report thereof under their hands to the justice issuing such warrant,
 21 who shall enter the same, together with the affidavit of the taker-up,
 22 at large in his estray book, and within five days shall transmit a certi-
 23 fied copy thereof to the county auditor of the proper county, to be by
 24 him recorded in his estray book and filed in his office.

[C., '51, §§ 876-880; R., '60, § 1506; C., '73, §§ 1509, 1512;
 C., '97, § 2371.]

SEC. 1204. Advertisement—title vests—sale.

1 In all cases where the appraisement of any such property shall
 2 not exceed the sum of twenty dollars, the taker-up shall advertise the
 3 same on the door of the courthouse, and in three other of the most
 4 public places in the county, within five days after the appraisement,
 5 and if no person shall appear to claim and prove such property within
 6 six months of the time of taking up, it shall vest in the taker-up; but
 7 if the value thereof shall exceed the sum of twenty dollars, the county
 8 auditor, within five days from the time of the reception of the jus-
 9 tice's certificate at his office, shall cause an advertisement to be
 10 posted on the door of the courthouse, and at three other of the most
 11 public places in the county, and also a notice to be published once
 12 each week, for three weeks successively, in some public newspaper
 13 printed in this state; and if such property be not claimed or proved
 14 within ninety days after the advertisement of the same, as aforesaid,
 15 the taker-up shall deliver the same to the sheriff of the county wherein
 16 it was taken up, who shall thereupon proceed to sell it at public auction
 17 to the highest bidder for cash, having first given ten days' notice of
 18 the time and place of sale; and the proceeds of all such sales, after
 19 deducting the costs and other necessary expenses, shall be paid into
 20 the county treasury.

[C., '51, §§ 879-881; R., '60, § 1507; C., '73, § 1513; C., '97,
 § 2372; S., '13, § 2372.]

SEC. 1205. Lost goods—money.

1 If any person shall find any lost goods, money, bank notes or
 2 other things of any description whatever, of the value of five dollars
 3 and upwards, such person shall inform the owner thereof, if known,
 4 and make restitution thereof without compensation, except the same
 5 be voluntarily given; but if the owner be unknown, such person shall,
 6 within five days after such finding, take such goods, money, bank
 7 notes or other things before some justice of the peace of the county
 8 where the property was found, and make affidavit of the description
 9 thereof, the time and place when and where the same was found, and
 10 that no alteration has been made in the appearance thereof since the
 11 finding; whereupon the justice shall enter a description of the prop-
 12 erty and the value thereof, as nearly as he can determine it, in his
 13 estray book, together with the affidavit of the finder, and shall also

14 within five days transmit to the county auditor a certified copy thereof,
15 to be by him recorded in his estray book.

[C., '51, §§ 876-879; R., '60, § 1508; C., '73, § 1514; C., '97,
§ 2373.]

SEC. 1206. Disposition of property unclaimed.

1 In all cases where such lost goods, money, bank notes or other
2 things shall not exceed the sum of ten dollars in value, the finder
3 shall forthwith advertise the same on the door of the courthouse and
4 in three other of the most public places in the county where the same
5 was found; and if no person shall appear to claim and prove such
6 money, goods, bank notes or other things within twelve months from
7 the time of such advertisement, the right to such property, when the
8 same shall consist of goods, money or bank notes, shall be vested in
9 the finder; but if the value thereof shall exceed the sum of ten dollars,
10 the county auditor, within five days from the receipt of the justice's
11 certificate, shall cause to be posted upon the courthouse door, and in
12 three of the most public places in the county, a notice thereof, which
13 shall also be published, once each week, for three weeks successively in
14 some newspaper printed at the county seat; and if the said goods,
15 money, bank notes or other things be not reclaimed within six months
16 after the finding, the finder, if the same shall consist of money or
17 bank notes, shall deliver the same to the county treasurer, after
18 deducting the necessary expenses hereinafter provided for; if in bills,
19 notes of hand, patents, deeds, mortgages, or other instruments of
20 value, the same shall be delivered to the county auditor to be preserved
21 in his office for the benefit of the owner when an applicant shall prove
22 his title thereto; if in goods or merchandise, the same shall be deliv-
23 ered to the sheriff of the county, who shall thereupon proceed to sell
24 the same at public auction to the highest bidder for cash, having
25 first given ten days' notice of the time and place of such sale; and
26 the proceeds of such sale, after deducting the costs and other expenses,
27 shall be paid into the county treasury.

[C., '51, §§ 877-882; R., '60, § 1509; C., '73, §§ 1510, 1515;
C., '97, § 2374; S., '13, § 2374.]

SEC. 1207. Advertisement—title vests.

1 In all cases where any vessel, water craft, logs or lumber shall
2 be taken up, or any goods, money or bank notes shall be found as
3 aforesaid, which shall be of a value less than five dollars, the finder
4 shall advertise the same by posting a notice of such finding in three
5 of the most public places in the neighborhood; but in such cases he
6 shall keep and preserve the same in his possession, and shall make
7 restitution thereof to the owner, without fee or reward, except the
8 same be given voluntarily when the owner claims the same, provided it
9 shall be done in three months from such taking up or finding; but, if
10 no owner shall claim such property within the time aforesaid, the
11 exclusive right to it shall be vested in the finder or taker-up.

[C., '51, §§ 876, 877; R., '60, § 1510; C., '73, § 1516; C., '97, §
2375.]

SEC. 1208. Ownership settled.

1 In any case where a claim is made to property found or taken
2 up, and the ownership of the property can not be agreed upon by the

3 finder and claimant, they may make a case before any justice of the
 4 peace in the county, who may hear and adjudicate it, and if either of
 5 them refuses to make such case the other may make an affidavit of
 6 the facts which have previously occurred, and the claimant shall also
 7 verify his claim by his affidavit, and the justice may take cognizance
 8 of and try the matter on the other party having one day's notice, but
 9 there shall be no appeal from the decision. This section does not bar
 10 any other remedy given by law.

[C., '51, § 890; R., '60, § 1504; C., '73, § 1517; C., '97, § 2376.]

SEC. 1209. Compensation.

1 As a reward for the taking up of boats and other vessels, and for
 2 finding lost goods, money, bank notes and other things, before resti-
 3 tution of the property or proceeds thereof shall be made, the finder
 4 shall be entitled to ten per cent upon the value thereof, and for taking
 5 up any logs or lumber, as hereinbefore described, twenty-five cents for
 6 each log not exceeding ten, twenty cents for each exceeding ten and not
 7 exceeding fifty, fifteen cents for each exceeding fifty, and fifty cents
 8 per thousand feet for sawed lumber; in addition to which allowance
 9 the owner shall also be required to pay to the taker-up or finder all
 10 such costs and charges as may have been paid by him for services
 11 rendered as aforesaid, including the cost of publication, together with
 12 reasonable charges for keeping and taking care of such property,
 13 which last mentioned charge, in case the taker-up or finder and the
 14 owner can not agree, shall be assessed by two-disinterested house-
 15 holders of the neighborhood, to be appointed by some justice of the
 16 peace of the proper county, whose decision, when made, shall be
 17 binding and conclusive on all parties.

[C., '51, §§ 892, 893; R., '60, § 1514; C., '73, §§ 1511, 1518;
 C., '97, § 2377.]

SEC. 1210. Proceeds.

1 The net proceeds of all sales made by the sheriff, and all money or
 2 bank notes paid over to the county treasurer, as directed in this
 3 chapter, shall remain in the hands of the county treasurer in trust
 4 for the owner, if any such shall apply within one year from the
 5 time the same shall have been paid over; but, if no owner shall
 6 appear within such time, the money shall be forfeited, and the claim
 7 of the owner thereto forever barred, in which event the money shall
 8 remain in the county treasury for the use of the common schools in
 9 said county.

[C., '51, § 885; R., '60, § 1516; C., '73, § 1519; C., '97, § 2378.]

SEC. 1211. Taker-up not accountable.

1 If the taker-up of any water craft, logs or lumber, or finder of
 2 lost goods, bank notes or other things, shall take reasonable care of
 3 the same, and any unavoidable accident happens thereto without the
 4 fault or neglect of the finder or taker-up before the owner shall have
 5 an opportunity of reclaiming the same, such taker-up or finder shall
 6 not be accountable therefor, if in cases of accident as aforesaid he
 7 within ten days thereafter shall certify the same to the county auditor,
 8 who shall make an entry thereof in his estray book.

[R., '60, § 1517; C., '73, § 1520; C., '97, § 2379.]

SEC. 1212. Penalty for selling.

1 If any person shall trade, sell, loan or take out of the limits
 2 of this state any such property taken up or found as aforesaid, before
 3 he shall be vested with the right to the same according to the fore-
 4 going provisions, he shall forfeit and pay double the value thereof,
 5 to be recovered by any person in an action, one-half of which shall
 6 go to the plaintiff and the other half to the county.

[R., '60, § 1518; C., '73, § 1521; C., '97, § 2380.]

SEC. 1213. Penalty for failure to comply.

1 If any person shall take up any boat or vessel, or any logs or
 2 lumber, or shall find any goods, money, bank notes or other things,
 3 and shall fail to comply with the requirements of this chapter, he
 4 shall forfeit and pay the sum of twenty dollars, to be recovered in an
 5 action by any person who will sue for the same, one-half for the use
 6 of the person suing and the other half to be deposited in the county
 7 treasury for the use of the common schools; but nothing herein con-
 8 tained shall prevent the owner from having and maintaining his
 9 action for the recovery of any damage he may sustain.

[R., '60, § 1519; C., '73, § 1522; C., '97, § 2381.]

CHAPTER 20.
CIVIL ENGINEERS.**SECTION 1214. Permit to practice engineering required.**

1 No person shall practice professional engineering or land survey-
 2 ing in the state except he be a registered professional engineer or a
 3 registered land surveyor as provided by this chapter.

[38 G. A., ch. 392, § 1.]

SEC. 1215. Compensation paid by warrant.

1 Warrants for the payment of expenses and compensations pro-
 2 vided by this chapter shall be issued by the auditor of state and paid
 3 by the state treasurer upon presentation of vouchers regularly drawn
 4 by the chairman and secretary of the board and passed by the state
 5 board of audit, but at no time shall the total amount of warrants
 6 exceed the total amount of the examination and registration fees col-
 7 lected as herein provided.

[38 G. A., ch. 392, § 2.]

SEC. 1216. Terms defined.

1 *a* The "board" means the Iowa state board of engineering exam-
 2 iners provided by this chapter.

3 *b* "Professional engineering" means the practice of any branch
 4 of the profession of engineering other than military engineering. The
 5 practice of said profession embraces the design and the supervision
 6 of the construction of public and private utilities, such as railroads,
 7 bridges, canals, harbors, river improvements, lighthouses, wet docks,
 8 dry docks, ships, barges, dredges, cranes, floating docks and other

9 floating property, the design and the supervision of the construction
10 of steam engines, turbines, internal combustion engines and other
11 mechanical structures, electrical machinery and apparatus, and of
12 works for the development, transmission or application of power, and
13 the design and the supervision of the construction of municipal works,
14 irrigation works, water supply works, sewerage works, drainage works,
15 industrial works, sanitary works, hydraulic works, structural works
16 and other public and private utilities or works which require for their
17 design or the supervision of their construction such experience and
18 technical knowledge as are required by this chapter. The execution
19 as a contractor of work designed by a professional engineer or the
20 supervision of the construction of such work as a foreman or superin-
21 tendent for such a contractor or the construction, improving, or
22 extending of private drains or drainage works, private irrigation
23 works, private water supply works, or other works of a private nature
24 shall not be deemed to be the practice of professional engineering
25 within the meaning of this chapter.

26 *c* A "professional engineer" means any person who practices pro-
27 fessional engineering.

28 *d* "Land surveying" is surveying having to do with the bound-
29 aries or areas of tracts of land. The surveying of lands for the pur-
30 pose of subdividing or determining boundary lines where no contest
31 is involved shall not be deemed to be the practice of land surveying
32 within the meaning of this chapter.

33 *e* A "land surveyor" is any person who makes land surveys.

[38 G. A., ch. 392, § 3.]

SEC. 1217. Board of engineering examiners.

1 There is hereby created a state board of engineering examiners
2 of five members who shall be appointed by the governor within sixty
3 days after the passage of this chapter. No two members of said board
4 shall be from the same branch of the profession of engineering. Two
5 members of the board first appointed shall hold office for two years
6 and three for four years, said terms of office terminating on the first
7 day of July. Upon the expiration of each of such terms, the term of
8 office of each member thereafter appointed shall be four years and
9 shall terminate on the first day of July. Each member shall hold over
10 after the expiration of his term until his successor shall be duly
11 appointed and qualified. The governor may remove any member of
12 the board for misconduct, incapacity or neglect of duty. Vacancies
13 in the membership of the board caused by death, resignation or
14 removal from office shall be filled by appointment by the governor for
15 the unexpired term. Each member of the board shall be a professional
16 engineer at least thirty-five years of age and shall have been a resi-
17 dent of this state for at least three years immediately preceding his
18 appointment. He shall have had at least ten years of active practice
19 preceding his appointment, and during that time shall have had charge
20 of engineering work as principal or assistant for at least two years.
21 He shall be a member in good standing of a recognized state or
22 national engineering society. Each member of the board, except as
23 provided in the next section, shall be registered as a professional
24 engineer under this chapter. Each member of the board shall receive
25 as compensation the sum of ten dollars per day for the time actually
26 spent in traveling to and from, and in attending sessions of the board

27 and its committees, and shall receive all necessary traveling and
28 incidental expenses incurred in carrying out the provisions of this
29 chapter.

[38 G. A., ch. 392, § 4.]

SEC. 1218. Attorney general to assist.

1 Each member of the board shall receive a certificate of appoint-
2 ment from the governor. Before beginning his term of office each
3 member of the board shall file with the secretary of state the con-
4 stitutional oath of office. Each member of the board first created
5 shall receive a certificate of registration under this chapter from said
6 board. The board, or any committee thereof, shall be entitled to the
7 counsel and to the services of the attorney general, shall have power
8 to compel the attendance of witnesses, and may take testimonies and
9 proofs, and may administer oaths, concerning all matters within its
10 jurisdiction. The board shall adopt and have an official seal which
11 shall be affixed to all certificates of registration granted and may make
12 all by-laws and rules, not inconsistent with law, needed in performing
13 its duty.

[38 G. A., ch. 392, § 5.]

SEC. 1219. Organization of board.

1 The board shall elect annually from its members a chairman, a
2 vice chairman and a secretary. The secretary shall give a surety bond
3 satisfactory to the board, conditioned for the faithful performance of
4 his duties and for the accounting and paying over of all moneys
5 received by him. The premium on said bond shall be paid from the
6 fund of the board hereinafter provided. The secretary shall keep on
7 file a record of all certificates of registration granted, and shall make
8 annually such revisions of said record as may be necessary. In revis-
9 ing said record, the secretary shall communicate annually by mail
10 with every professional engineer registered hereunder. In every case
11 in which a reply is not received within thirty days after the date of
12 the first letter, the secretary shall send a second letter by registered
13 mail. The certificate of registration of any professional engineer who
14 shall not reply within sixty days from the date of said second letter
15 shall be considered to have been revoked by such failure to reply,
16 but may be reinstated at any time upon due application therefor and
17 the payment of the registration fee of ten dollars, as hereinafter pro-
18 vided. The secretary shall receive and account for all fees derived
19 from the operation of this chapter and shall pay them to the state
20 treasurer who shall keep such moneys in a separate fund, to be known
21 as the fund of the board of engineering examiners, which shall be con-
22 tinued from year to year to be drawn against only for the expenses
23 and compensations of the board provided by this chapter. On or
24 before the thirtieth day of June in each year the board shall submit
25 to the governor a written report of its transactions for the preceding
26 year, and shall file with the secretary of state a copy of said report,
27 together with a complete statement of the receipts and expenditures
28 of the board, attested by the affidavits of the chairman and the secre-
29 tary, and a complete list of those registered under this chapter, with
30 their addresses and the dates of their certificates of registration. Said
31 report shall be printed by the state and a copy mailed to, and placed
32 on file by both the clerk of each incorporated city or town in the state,
33 and the auditor of each county in the state. The board shall hold at

34 least one stated meeting on the first Tuesday in December of each
35 year and special meetings shall be called at other times by the secre-
36 tary at the request of the chairman or of three members of the board.
37 At any meeting of the board three members shall constitute a quorum.

[38 G. A., ch. 392, § 6.]

SEC. 1220. Examination fees.

1 The board shall admit to examination any candidate who pays a
2 fee of fifteen dollars and who under oath submits evidence prescribed
3 by the board that he
4 *a* Is more than twenty-five years of age,
5 *b* Is of good character, and
6 *c* Has been engaged in the practice of professional engineering or
7 land surveying for at least six years and during that period has had
8 charge as assistant, for at least one year. Each year of work satis-
9 factorily completed at an engineering school of recognized standing
10 shall count as one year of practice in fulfilling the six-year require-
11 ment of this section.

[38 G. A., ch. 392, § 7.]

SEC. 1221. Report required.

1 Examinations for registration shall be given at stated or called
2 meetings of the board. The scope of the examinations and the
3 methods of procedure shall be prescribed by the board. As soon as
4 practicable, after the close of each examination, a report shall be
5 filed in the office of the secretary of the board by the members con-
6 ducting such examinations. Said report shall show the action of the
7 board upon each application, whereupon the secretary of the board
8 shall notify each applicant of the result of his examination.

[38 G. A., ch. 392, § 8.]

SEC. 1222. Certificate of registration.

1 To any applicant, who shall have passed the examination as a
2 professional engineer, and who shall have paid an additional fee of
3 ten dollars, the board shall issue a certificate of registration as a pro-
4 fessional engineer, signed by the chairman and the secretary of the
5 board under the seal of the board, whereupon such applicant shall be
6 authorized to practice professional engineering as defined by this
7 chapter. To any applicant, who shall have passed the examination
8 as a land surveyor, and who shall have paid an additional fee of ten
9 dollars, the board shall issue a certificate of registration, signed by
10 the chairman and the secretary of the board under the seal of the
11 board, whereupon such applicant shall be authorized to practice land
12 surveying as defined by this chapter, and to administer oaths to his
13 assistants or to witnesses produced for examination of facts connected
14 with land surveys. A certificate of registration as a professional engi-
15 neer shall not carry with it the right to practice land surveying unless
16 it is specifically permitted by said certificate, which permission shall
17 be granted by the board without additional fee in the case of any appli-
18 cant duly qualified as prescribed by the rules of the board. The board
19 shall provide each candidate who has successfully qualified for regis-
20 tration, a suitable seal with which he shall stamp all plans, specifica-
21 tions and reports issued by him.

[38 G. A., ch. 392, § 9.]

SEC. 1223. Qualifications required.

1 At any time within six months after July fourth, nineteen hundred
2 nineteen, upon due application therefor and the payment of a fee of
3 twenty-five dollars, the board shall issue a certificate of registration
4 as provided by the preceding section hereof to any person who under
5 oath submits evidence prescribed by the board that he
6 a Is more than twenty-five years of age,
7 b Is of good character, and
8 c Has been engaged in the practice of professional engineering or
9 land surveying for at least two years preceding July fourth, nine-
10 teen hundred nineteen, or is a graduate of some recognized school of
11 engineering. After January fourth, nineteen hundred twenty, the
12 board shall issue certificates of registration only as provided in the
13 preceding and following sections.

[38 G. A., ch. 392, § 10.]

SEC. 1224. Requirements in other states considered.

1 The board shall from time to time examine the requirements for
2 registration of professional engineers and land surveyors in other
3 states, territories and countries, and shall record those in which in the
4 judgment of the board standards not lower than those provided by
5 this chapter are maintained. The secretary of the board upon presenta-
6 tion to him of satisfactory evidence by any person, that he holds a
7 certificate of registration issued to him by proper authority in any
8 state, territory or country so recorded, and upon the receipt of a fee
9 of ten dollars, shall issue to such person a certificate of registration
10 to practice professional engineering or land surveying as provided by
11 this chapter, signed by the chairman and the secretary under the seal
12 of the board, whereupon the person to whom such certificate is issued
13 shall be entitled to all the rights and privileges conferred by the cer-
14 tificate issued after examination by the board.

[38 G. A., ch. 392, § 11.]

SEC. 1225. Revocation of certificate.

1 The board shall have the power by a four-fifths vote of the entire
2 board to revoke the certificate of any professional engineer or land
3 surveyor registered hereunder, found guilty of any fraud or deceit in
4 his practice, or guilty of any fraud or deceit in obtaining his certifi-
5 cate, or in case he is found by the same vote to be incompetent. Pro-
6 ceedings for the revocation of a certificate of registration shall be
7 begun by filing with the secretary of the board written charges against
8 the accused. The board shall designate a time and place for a hearing,
9 and shall notify the accused of this action and furnish him a copy of
10 all charges at least thirty days prior to the date of the hearing. The
11 accused shall have the right to appear personally or by counsel, to
12 cross-examine witnesses or to produce witnesses in his defense.

[38 G. A., ch. 392, § 12.]

SEC. 1226. Certificate presumptive evidence.

1 An unrevoked certificate of registration, made as provided in
2 this chapter, shall be presumptive evidence in all courts and places
3 that the person named therein is legally registered.

[38 G. A., ch. 392, § 13.]

SEC. 1227. Fraud in securing certificate punished.

1 Any person who, after July fourth, nineteen hundred twenty,
2 is not legally authorized to practice in this state according to the pro-
3 visions of this chapter and shall practice, or shall in connection with
4 his name use any designation tending to imply or designate him as a
5 registered practitioner within the meaning of this chapter, and any
6 person presenting or attempting to file as his own the certificate or
7 registration of another, or who shall give false or forged evidence of
8 any kind to the board, or to any member thereof, in obtaining a cer-
9 tificate of registration, or who shall falsely impersonate another prac-
10 titioner of like or different name, or who shall use or attempt to use
11 a revoked certificate of registration shall be deemed guilty of a misde-
12 meanor and shall for each offense of which he is convicted be punished
13 by a fine of not less than one hundred dollars, nor more than five hun-
14 dred dollars, or by imprisonment for three months, or by both such
15 fine and imprisonment.

[38 G. A., ch. 392, § 14.]

SEC. 1228. To whom not applicable.

1 This chapter shall not apply to any full-time employee of any cor-
2 poration while doing work for that corporation, except in the case of
3 corporations offering their services to the public as professional engi-
4 neers or land surveyors. Corporations engaged in designing and build-
5 ing works for public or private interests not their own shall be deemed
6 to practice professional engineering within the meaning of this chap-
7 ter. With respect to such corporations all principal designing or
8 constructing engineers shall hold certificates of registration hereunder.
9 This chapter shall not apply to corporations engaged solely in build-
10 ing said work. This chapter shall not apply to contracts existing on
11 the fourth day of July, nineteen hundred nineteen, nor to any pro-
12 fessional engineer or land surveyor working for the United States
13 government, nor to any professional engineer or land surveyor em-
14 ployed as an assistant to a professional engineer or land surveyor reg-
15 istered under this chapter, nor to purely operative services in con-
16 nection with mechanical plants or systems, nor to any professional
17 engineer or land surveyor from without this state until a reasonable
18 length of time as prescribed by the rules of the board shall have
19 elapsed to permit the registration of such a person under this chapter,
20 provided that, before practicing within this state, he shall have applied
21 for the issuance to him of a certificate of registration and shall have
22 paid the fee prescribed in this chapter.

[38 G. A., ch. 392, § 15.]

CHAPTER 21.**SHORTHAND REPORTERS.****SECTION 1229. Who eligible.**

1 No person shall be appointed to the position of shorthand reporter
2 of any district, superior or municipal court in this state, except he be
3 a certified shorthand reporter who has been adjudged competent to
4 report court proceedings, references, commissions or proceedings of

5 like character, but if the regularly appointed shorthand reporter
6 should be disabled from performing his duty, the judge of such
7 court may appoint a substitute whom he deems competent to act dur-
8 ing the disability of the regular reporter, or until his successor is
9 appointed.

[38 G. A., ch. 258, § 1.]

SEC. 1230. Unlawful use of title.

1 Any citizen of the state of Iowa who shall have received from the
2 board of examiners a certificate of his qualifications as a shorthand
3 reporter, as herein provided, shall be styled and known as a certified
4 shorthand reporter, and no other person shall assume such title and
5 use the abbreviation C. S. R., or any words, letters or figures to indi-
6 cate that the person using the same is such certified shorthand
7 reporter.

[38 G. A., ch. 258, § 2.]

SEC. 1231. Board of examiners.

1 The board of examiners herein provided for shall consist of three
2 members, two of whom shall be official shorthand reporters of the
3 district court of Iowa and one of whom shall be a practicing attorney
4 of the state of Iowa. The said board of examiners shall be appointed
5 by the chief justice of the supreme court of Iowa for a term of three
6 years, and the said board of examiners shall, subject to the approval
7 of the chief justice of the supreme court of Iowa, make such rules and
8 regulations as may be necessary for the proper performance of its
9 duties.

[38 G. A., ch. 258, § 3.]

SEC. 1232. Examinations—fees.

1 The board of examiners shall fix stated times for the examination
2 of candidates and shall receive as compensation for their services the
3 sum of ten dollars per day each, and their necessary traveling
4 expenses, to be certified by them to the clerk of the supreme court.
5 Each applicant for examination shall pay to the clerk of the supreme
6 court as an examination fee the sum of five dollars, payable before
7 the examination is commenced. The fees thus paid to said clerk shall
8 be retained by him as a special fund to be appropriated as provided
9 for in the preceding section for paying the fees and expenses of the
10 examiners and their other expenses incident to the examinations pro-
11 vided for herein. The board of examiners shall receive no compensa-
12 tion except from such funds as may accrue hereunder.

[38 G. A., ch. 258, § 4.]

SEC. 1233. Revocation of certificates.

1 The board of examiners may revoke any such certificate for suf-
2 ficient cause, after written notice to the holder thereof and hearing
3 thereon. Any member of the board of examiners may, upon being
4 duly designated by said board or a majority thereof, administer oaths
5 or take testimony concerning any matter within the jurisdiction of
6 said board.

[38 G. A., ch. 258, § 5.]

SEC. 1234. Violations punished.

1 Any violation of the provisions of this chapter shall be a misde-
2 meanor and punishable as such.

[38 G. A., ch. 258, § 6.]

CHAPTER 22.**ACCOUNTANCY.****SECTION 1235. Certified public accountants — qualifications — privileges.**

1 Any citizen of the United States residing in the state, or having
2 a place for the regular transaction of business in the state, as
3 a practicing public accountant, and being over the age of twenty-five
4 years, of good moral character, and who shall have received from the
5 board of accountancy of the state, a certificate as provided in this
6 chapter shall be styled and known as a certified public accountant, and
7 be entitled to use the abbreviations C. P. A. in connection with his
8 name, and no other person and no firm all the members of which are
9 not certified public accountants of this state, and no corporation in the
10 state shall assume such title or use the abbreviations C. P. A., C. A.
11 or any other words, letters or figures to indicate that the person, firm
12 or corporation using the same is a certified public accountant.

[S. S., '15, § 2620-a.]

SEC. 1236. Board of accountancy—appointment—tenure of office.

1 The governor shall appoint three persons to constitute and be
2 known as a board of accountancy. The board thus appointed shall be
3 selected by the governor from a list of names of public accountants
4 who have practiced in the state of Iowa on their own account, for a
5 period of at least three years, one of whom shall be appointed for a
6 term ending January first, nineteen hundred sixteen, one for a term
7 ending January first, nineteen hundred seventeen and one for a term
8 ending January first, nineteen hundred eighteen, and upon expira-
9 tion of each of said terms and of each succeeding term a member shall
10 be appointed for a term of three years; provided that the successors
11 to the first members shall be selected from holders of certificates under
12 this chapter. Any vacancies that may occur from any cause shall be
13 filled by the governor for the unexpired term under the same condi-
14 tions that govern regular appointments.

[S. S., '15, § 2620-b.]

SEC. 1237. Board to establish rules—organization—meetings.

1 The board of accountancy shall at its first meeting formulate
2 rules for its guidance, not inconsistent with this chapter, which rules
3 may be changed at any regular meeting. It shall organize by the
4 selection of one of its members as chairman and one as secretary and
5 treasurer, and meet at least once in each year and oftener, as may be
6 necessary, at such times and places as it may select, and a majority
7 shall constitute a quorum. Such meetings at all reasonable times
8 shall be open to the public. It may at any regular meeting examine

9 and determine the qualifications of persons applying for certificates
10 under this chapter.

[S. S., '15, § 2620-c.]

SEC. 1238. Examinations — dates — notice — scope — fees — register—waiver of examination.

1 The time and place for holding examinations under this chapter
2 shall be advertised for not less than three consecutive days in two
3 daily newspapers published in this state, not less than twenty days
4 prior to the date of such examination, and a notice of the same shall
5 be mailed to all holders of certificates under this chapter, as well as
6 applicants. The examination shall cover the following subjects,—
7 theory of accounts, practical accounting, auditing and commercial law
8 as affecting accountancy. Applicants for certificates before taking
9 the examination must produce evidence satisfactory to the board that
10 they are over twenty-five years of age, of good moral character, a
11 graduate of a high school with a four years' course, or have an equiva-
12 lent education, or pass a preliminary examination to be set by the
13 board, and that they have had at least three years' practical accounting
14 experience, at least one year of which shall have been as an account-
15 ant in the employ of a public accountant of recognized standing in the
16 profession or in public practice on their own account. The fees for
17 such examination shall be twenty-five dollars, for each applicant, pay-
18 able to the treasurer of the board at the time of filing application and
19 at least ten days prior to the holding of the examination. After the
20 examination provided by this chapter, the board shall, if in its judg-
21 ment the applicants are entitled thereto, issue certificates as provided
22 in this chapter. The board shall maintain a register of the names and
23 addresses of all persons receiving certificates under this chapter, and
24 shall keep a record of all persons whose certificates have been revoked.

25 In the event the board shall waive the examination of any person,
26 as in this chapter provided, a certificate shall likewise be issued to such
27 person upon payment of the fees hereunder.

[S. S., '15, § 2620-d.]

SEC. 1239. Nonresident accountant.

1 The board of accountancy may in its discretion register the cer-
2 tificate of any person who need not necessarily be a resident of the
3 state, and who is the lawful holder of a C. P. A. certificate issued under
4 the laws of another state which extends similar privileges to certified
5 public accountants of this state, provided the requirements of said
6 degree in the state which has granted it to the applicant are, in the
7 opinion of the state board of accountancy, equivalent to those herein
8 provided, or to holders of a degree of certified public accountant or
9 chartered accountant or the equivalent thereof, issued to any foreign
10 government, provided that the requirements of such degree are equiv-
11 alent to those herein provided for the degree of certified public ac-
12 countant.

[S. S., '15, § 2620-f.]

SEC. 1240. Revocation of registration—notice—hearing.

1 The board of accountancy may revoke or cancel the registration of
2 any certificate issued under this chapter, for unprofessional conduct
3 of the holder or other sufficient cause, provided, that written notice

4 shall have been mailed to the holder of such certificate at least twenty
5 days before any hearing thereon, stating the cause of such contem-
6 plated action, and appointing a day for full hearing thereon by the
7 board; provided, further, that no certificate issued under this chapter
8 shall be revoked until such hearing shall have been held or the oppor-
9 tunity for such hearing afforded the person charged.

[S. S., '15, § 2620-g.]

SEC. 1241. Compensation—bond of treasurer—biennial report.

1 The members of the board shall receive as compensation ten
2 dollars per day for the time actually employed and necessary expenses
3 incurred in the discharge of their duties; but all compensation for
4 services and expenses shall not exceed the amounts received as fees
5 from applicants. All bills for expenses and per diem shall be audited
6 and allowed by the state board of audit and shall be paid from the
7 fees received under the provisions of this chapter. Any sum remain-
8 ing after the payment of such compensation and expenses shall be paid
9 into the state treasury on or before the first day of August of each
10 year by the treasurer, who shall, on assuming his office, file with the
11 secretary of state a good and sufficient bond in the penal sum of one
12 thousand dollars. The board shall make a report biennially to the
13 governor of its proceedings, with an account of all moneys received
14 and disbursed, a list of names of all persons whose certificates have
15 been revoked, together with recommendations, if any, for new legisla-
16 tion, and such other matters as the board may deem proper.

[S. S., '15, § 2620-h.]

SEC. 1242. Violations—penalty.

1 If any person shall hold himself out to the public as having
2 received a certificate as provided in this chapter, or shall assume to
3 practice as a certified public accountant or chartered accountant, or to
4 use the abbreviation C. P. A. or C. A. or any other letters, words or
5 figures to indicate that the person using the same is such certified
6 public accountant, without having received such certificate, or after
7 the same shall have been revoked, he shall be deemed guilty of a mis-
8 demeanor, the penalty for which shall be a fine of not less than one
9 hundred dollars nor more than five hundred dollars for each offense,
10 or imprisonment in the county jail for a period not exceeding six
11 months.

[S. S., '15, § 2620-i.]

SEC. 1243. Misconduct—penalty.

1 If any person practicing in the state as a certified public account-
2 ant under this chapter, or if any person who is in the practice of
3 public accountancy as a certified public accountant or otherwise, shall
4 be found guilty of gross negligence or carelessness or shall wilfully
5 falsify any report or statement bearing on any examination, investi-
6 gation, or audit made by him or under his direction, he shall be deemed
7 guilty of a misdemeanor, and upon conviction thereof, shall be pun-
8 ished by a fine of not less than one hundred dollars, and not more
9 than one thousand dollars, or by imprisonment in the county jail for a
10 period of not less than three months or more than one year or by both

11 fine and imprisonment for each time he may be convicted of such a
12 misdemeanor.

[S. S., '15, § 2620-j.]

SEC. 124 . Certificate holder to give bond.

1 Every person having been granted a certificate under the provi-
2 sions of this chapter shall give a bond in the sum of five thousand dol-
3 lars to the auditor of state before entering upon his duties for the
4 faithful performance of the same.

[S. S., '15, § 2620-k.]

CHAPTER 23.

GOLD AND SILVER ALLOY.

SECTION 1245. Marking articles made of gold or alloy—tests for fineness.

1 Any person, firm, corporation or association who or which makes
2 for sale, or sells, or offers to sell or dispose of, or has in his, her or its
3 possession with intent to sell or dispose of, any article of merchandise
4 made in whole or in part of gold or any alloy of gold, and having
5 stamped, branded, engraved or imprinted thereon, or upon any tag,
6 card or label attached thereto, or upon any box, package, cover or
7 wrapper in which said article is incased or inclosed, any mark indicat-
8 ing, or designed or intended to indicate, that the gold, or alloy of gold,
9 in such article is of a greater degree of fineness than the actual fine-
10 ness or quality of such gold or alloy, unless the actual fineness of such
11 gold or alloy, in the case of flatware and watchcases, be not less by
12 more than three one-thousandths parts, and in case of all other arti-
13 cles be not less by more than one-half karat than the fineness indicated
14 by the marks stamped, branded, engraved or imprinted upon any part
15 of such article, or upon any tag, card or label attached thereto, or upon
16 any box, package, cover or wrapper in which such article is incased or
17 inclosed according to the standards and subject to the qualifications
18 hereinafter set forth, is guilty of a misdemeanor; provided that, in
19 any test for the ascertainment of the fineness of the gold or its alloy in
20 any such article, according to the foregoing standards, the part of the
21 gold or of its alloy taken for the test, analysis or assay shall be such
22 part or portion as does not contain or have attached thereto any solder
23 or alloy of inferior fineness used for brazing or uniting the parts of
24 said article; provided further, and in addition to the foregoing tests
25 and standards, that the actual fineness of the entire quantity of gold
26 and of its alloys contained in any article mentioned in this section, ex-
27 cept watchcases and flatware, including all solder or alloy of inferior
28 metal used for brazing or uniting the parts of the article, all such gold,
29 alloys and solder being assayed as one piece, shall not be less than the
30 fineness indicated by the mark stamped, branded, engraved or im-
31 printed upon such article, or upon any tag, card or label attached
32 thereto, or upon any box, package, cover or wrapper in which said
33 article is incased or inclosed.

[S., '13, § 5077-b.]

SEC. 1246. Articles made of silver or alloy.

1 *a* Any person, firm, corporation or association, who or which
2 makes for sale, or sells or offers to sell or dispose of, or has in his,
3 her or its possession with intent to sell or dispose of, any article of
4 merchandise made in whole or in part of silver or of any alloy of silver
5 and having marked, stamped, branded, engraved or imprinted thereon,
6 or upon any tag, card or label attached thereto or upon any box, pack-
7 age, cover or wrapper in which said article is incased or inclosed, the
8 words "sterling silver" or "sterling" or any colorable imitation
9 thereof, unless nine hundred twenty-five one-thousandths of the com-
10 ponent parts of the metal appearing or purporting to be silver, of
11 which such article is manufactured are pure silver, subject to the
12 qualifications hereinafter set forth, is guilty of a misdemeanor, pro-
13 vided that in the case of all such articles there shall be allowed a
14 divergence in fineness of four one-thousandths parts from the fore-
15 going standard.

16 *b* Any person, firm, corporation or association who or which
17 makes for sale, or sells, or offers to sell or dispose of, or has in his, her
18 or its possession with intent to sell or dispose of, any article of mer-
19 chandise made in whole or in part of silver or of any alloy of silver
20 and having marked, stamped, branded, engraved or imprinted thereon,
21 or upon any tag, card or label attached thereto, or upon any box, pack-
22 age, cover or wrapper in which such article is incased or inclosed, the
23 words "coin" or "coin silver," or any colorable imitation thereof, unless
24 nine hundred one-thousandths of the component parts of the metal ap-
25 pearing or purporting to be silver, of which such article is manufac-
26 tured are pure silver, subject to the qualifications hereinafter set
27 forth, is guilty of a misdemeanor; provided that in case of all such
28 articles there shall be allowed a divergence in fineness of four one-
29 thousandths parts from the foregoing standards.

30 *c* Any person, firm, corporation or association who or which
31 makes for sale, or sells, or offers to sell or dispose of, or has in his, her
32 or its possession with intent to sell or dispose of, any article of mer-
33 chandise made in whole or in part of silver or of any alloy of silver,
34 and having stamped, branded, engraved or imprinted thereon, or upon
35 any tag, card, or label attached thereto, or upon any box, package,
36 cover or wrapper in which said article is incased or inclosed, any mark
37 or word, other than the word "sterling" or the word "coin," indicating,
38 or designed or intended to indicate, that the silver or alloy of silver
39 in said article is of a greater degree of fineness than the actual
40 fineness or quality of such silver or alloy, unless the actual fine-
41 ness of the silver or alloy of silver of which said article is composed
42 be not less by more than four one-thousandths parts than the actual
43 fineness indicated by the said mark or word, other than the word
44 "sterling" or "coin," stamped, branded, engraved or imprinted upon
45 any part of said article, or upon any tag, card or label attached
46 thereto, or upon any box, package, cover or wrapper in which said
47 article is incased or inclosed, subject to the qualifications hereinafter
48 set forth, is guilty of a misdemeanor.

49 *d* In any test for the ascertainment of the fineness of any such
50 article mentioned in this section, according to the foregoing standards,
51 the part of the article taken for the test, analysis or assay, shall be
52 such part or portion as does not contain or have attached thereto any
53 solder or alloy of inferior metal used for brazing or uniting the parts

54 of such article, and provided further and in addition to the foregoing
 55 test and standards, that the actual fineness of the entire quantity of
 56 metal purporting to be silver contained in any article mentioned in
 57 this section, including all solder or alloy of inferior fineness used for
 58 brazing or uniting the parts of any such article, all such silver, alloy
 59 or solder being assayed as one piece, shall not be less by more than ten
 60 one-thousandths parts than the fineness indicated according to the
 61 foregoing standards, by the mark stamped, branded, engraved or im-
 62 printed upon such article, or upon any tag, card or label attached
 63 thereto, or upon any box, package, cover or wrapper in which said
 64 article is incased or inclosed.

[S., '13, § 5077-b1.]

SEC. 1247. Marking of gold plated or gold filled articles.

1 Any person, firm, corporation or association who or which makes
 2 for sale, or sells, or offers to sell or dispose of, or has in his, her or its
 3 possession with intent to sell or dispose of, any article of merchandise
 4 made in whole or in part of inferior metal having deposited or plated
 5 thereon or brazed or otherwise affixed thereto a plate, plating, cover-
 6 ing or sheet of gold or of any alloy of gold and which article is known
 7 in the market as "rolled gold plate," "gold plate," "gold filled" or "gold
 8 electroplate," or by any similar designation, and having stamped,
 9 branded, engraved or imprinted thereon, or upon any tag, card or label
 10 attached thereto, or upon any box, package, cover or wrapper in which
 11 said article is incased or inclosed, any word or mark usually employed
 12 to indicate the fineness of gold, unless said word be accompanied by
 13 other words plainly indicating that such article or some part thereof
 14 is made of rolled gold plate, or gold plate, or gold electroplate, or is
 15 gold filled, as the case may be, is guilty of a misdemeanor.

[S., '13, § 5077-b2.]

SEC. 1248. Marking of silver plated articles.

1 Any person, firm, corporation or association who or which makes
 2 for sale, or sells, or offers to sell or dispose of, or has in his, her or its
 3 possession with intent to sell or dispose of, any article of merchandise
 4 made in whole or in part of inferior metal having deposited or plated
 5 thereon or brazed or otherwise affixed thereto, a plate, plating, cover-
 6 ing or sheet of silver or of any alloy of silver, and which article is
 7 known in the market as "silver plate" or "silver electroplate" or by
 8 any similar designation, and having stamped, branded, engraved or
 9 imprinted thereon, or upon any tag, card, or label attached thereto, or
 10 upon any box, package, cover or wrapper in which said article is in-
 11 cased or inclosed, the word "sterling" or the word "coin" either alone
 12 or in conjunction with any other words or marks, is guilty of a mis-
 13 demeanor.

[S., '13, § 5077-b3.]

SEC. 1249. Violation—penalty.

1 Every person, firm, corporation or association guilty of a violation
 2 of any one of the preceding sections of this chapter, and every officer,
 3 manager, director or managing agent of any such person, firm, cor-
 4 poration or association directly participating in such violation or
 5 consenting thereto, shall be punished by a fine of not more than five

6 hundred dollars or imprisonment for not more than three months, or
7 both, at the discretion of the court; but if the person charged with
8 violation of this chapter shall prove that the article concerning which
9 the charge is made was manufactured prior to the thirteenth day of
10 June, nineteen hundred seven, then the charge shall be dismissed.
[S., '13, § 5077-b4.]

CHAPTER 24.

BRANDING AND LABELING OF MATTRESSES.

SECTION 1250. Sale, unbranded mattresses.

1 No person shall, within the state, manufacture for sale, know-
2 ingly offer for sale, sell, deliver or have in his possession with intent
3 to sell or deliver any mattress or comfort which is misbranded or mis-
4 labeled within the meaning of this chapter.

[37 G. A., ch. 406, § 1.]

SEC. 1251. Unbranded mattresses—sales prohibited.

1 Mattresses and comforts shall be branded, or labeled, as herein-
2 after provided, before being exposed for sale, and shall not be exposed
3 without such brand or label.

[37 G. A., ch. 406, § 2.]

SEC. 1252. Brand—requirements.

1 The brand or label required by the next preceding section shall
2 contain printed in plain type in the English language a true statement
3 of the quality and character of the material with which such mattress
4 or comfort is filled, and that it consists wholly of new and heretofore
5 unused material. Such brand or label shall be placed upon each mat-
6 tress or comfort.

[37 G. A., ch. 406, § 3.]

SEC. 1253. Attaching brand.

1 Such label shall be in the form of cloth or cloth-lined tag, to be
2 sewed or otherwise securely attached to each article.

[37 G. A., ch. 406, § 4.]

SEC. 1254. Brands—where placed.

1 Such brand or label shall be placed outside of and upon the most
2 conspicuous part of the finished article.

[37 G. A., ch. 406, § 5.]

SEC. 1255. Possession—conditions.

1 A person dealing in mattresses or comforts as described in this
2 chapter shall not have them in possession for the purpose of sale or
3 offer them for sale, without the brand or label required by this chap-
4 ter, or remove, conceal or deface the brand or label thereon.

[37 G. A., ch. 406, § 6.]

SEC. 1256. Prohibited materials.

1 No person within this state shall use, either in whole or in part, in
2 the manufacture of mattresses or comforts, any cotton or other mate-
3 rials which have been used for any purpose whatever.

[37 G. A., ch. 406, § 7.]

SEC. 1257. Use of "shoddy."

1 No person within this state, shall use, either in whole or in part, in
2 the manufacture of mattresses or comforts, any material known as
3 "shoddy," and made in whole or in part from old or worn clothing, car-
4 pets, or other fabric, or material previously used, or any other fabric
5 or material from which shoddy is constructed.

[37 G. A., ch. 406, § 8.]

SEC. 1258. Mattresses—scope of term.

1 A mattress or comfort within the meaning of this chapter shall
2 include any quilted bed or pad, tufted or not tufted, stitched or other-
3 wise finished bed or pad stuffed with excelsior, cotton, hair, husks,
4 sea moss, bambee, wool, fiber, floss, kapock, felted cotton, African
5 fiber, Louisiana tree moss, or other material used for this purpose,
6 sterilized feathers excepted.

[37 G. A., ch. 406, § 9.]

SEC. 1259. Felt or felted cotton.

1 If labeled felt or felted cotton, it is understood that the cotton or
2 material has all been carded in layers or sheets by a Garnett or cotton
3 felting machine.

[37 G. A., ch. 406, § 10.]

SEC. 1260. Penalty.

1 A person who sells, offers for sale, gives away, manufactures or
2 causes to be manufactured with intent to sell, any mattresses or com-
3 forts which are not branded or labeled pursuant to the provisions of
4 this chapter, or who falsely brands or labels any mattresses, or com-
5 forts, or who knowingly fails or neglects to state the true and actual
6 quality of the materials used in any mattress or comfort, shall upon
7 conviction thereof be fined not less than twenty-five dollars, nor more
8 than five hundred dollars, or imprisoned in the county jail not more
9 than six months or both.

[37 G. A., ch. 406, § 11.]

SEC. 1261. County attorney—duty.

1 When any peace officer or health officer has reason to believe that
2 any of the provisions of this chapter is being violated, he shall fully
3 advise the prosecuting attorney of the district and said prosecutor
4 shall without delay proceed to enforce this chapter.

[37 G. A., ch. 406, § 12.]

TITLE VI.

PUBLIC HEALTH.

CHAPTER 1.

STATE BOARD OF HEALTH.

SECTION 1262. Organization—meetings—officers.

1 The governor, secretary of state and auditor of state are hereby
2 made a board of appointment, two of whom shall constitute a quorum
3 for the purpose of making appointments as hereinafter provided, and
4 the secretary of the executive council shall be the secretary thereof.

5 Said board of appointment shall appoint a secretary of the state
6 board of health, who shall be a legally qualified physician and a gradu-
7 ate of a reputable school of medicine, of not less than ten years' ex-
8 perience, and who shall serve for a term of five years or until his suc-
9 cessor is appointed, as are the members of the state board of health,
10 and who shall be the executive officer and commissioner of public health
11 as hereinafter provided, and five members of the state board of health,
12 of which not more than three shall belong to the same political party,
13 nor more than two be of the same school of medical practice, which
14 shall be constituted as follows: The state board of health shall con-
15 sist of one well qualified civil and sanitary engineer, who shall devote
16 as much of his time to the service of the state as may be needed or re-
17 quired, and when so engaged, shall have all his necessary traveling and
18 incidental expenses paid by the state, and shall have his salary fixed by
19 the board of appointment, not to exceed eight dollars per day nor
20 twenty-five hundred dollars per annum, and four physicians, each of
21 whom shall be a graduate of a reputable school of medicine, each to
22 serve for a term of five years, unless sooner removed by said board of
23 appointment for good cause, same to apply to the secretary, and until
24 his successor is appointed; provided that the term of the office of the
25 five members first appointed shall be for one, two, three, four and five
26 years, respectively, their terms to be designated by the board of ap-
27 pointment, and to be so arranged that the term of one such member
28 shall expire on the thirtieth day of June of each year. Any vacancies
29 that may occur shall be filled by appointment by the board of appoint-
30 ment, and at the expiration of the term of each member, his successor
31 shall be appointed for a full term of five years. No member of the
32 state board of health shall be an officer or a member of the faculty of
33 any medical school, and the board of appointment shall have the power
34 to remove any member or the secretary of said board of health for
35 good cause.

36 The board of health shall meet semiannually, in July and January
37 of each year, and at such other times as it may be deemed necessary
38 by the secretary, or on the written request of two or more members of
39 the board of health, such meeting to be held at the seat of government;
40 suitable rooms, furniture, office supplies, postage, stationery and print-
41 ing therefor, to be provided by the executive council in the same man-

42 ner as for other departments of the state. At the meeting held in July,
43 a president shall be elected from the board of health for one year, and
44 the board of appointment shall in July, nineteen hundred thirteen,
45 name and appoint a secretary, as herein provided, not a member of
46 the board of health, who shall serve for a term of five years or until
47 his successor is appointed, unless sooner removed by the board of ap-
48 pointment for good cause; said secretary shall have charge of the office
49 of the state board of health.

50 When the board of health is not in session, the secretary shall be
51 the executive officer thereof, and commissioner of public health, and
52 shall have full power and authority to execute and enforce all of the
53 laws, rules and regulations of the board of health, pertaining to the
54 health and life of the citizens of the state, to quarantine, to marriages,
55 births and deaths, to sanitary investigations, and to all other matters
56 subject to regulations and control by the board of health, the board of
57 medical examiners, and all of the various other departments that are
58 now or may hereafter be provided by law, or by the rules and regula-
59 tions of such boards or commissions as are authorized to make and
60 adopt rules with reference thereto.

61 The compensation of the members of the state board of health, ex-
62 cept the civil and sanitary engineer which is otherwise provided for in
63 this section, not only as such members, but as members of the state
64 board of medical examiners, and for any and all other services which
65 they may render, either in their individual capacity, or in connection
66 with any other boards or commissions, by virtue of their membership,
67 either upon the board of health, board of medical, embalmers, nurses
68 or optometry examiners, shall be nine hundred dollars per annum, to
69 be paid as are the salaries of other state officers, which shall be in lieu
70 of all per diem and expenses, except transportation expenses.

[C., '97, § 2564; S., '13, § 2564.]

SEC. 1263. Compensation of secretary—expenses of members.

1 The secretary of the state board of health shall receive such sal-
2 ary as the board shall fix, not to exceed three thousand dollars per
3 annum, payable upon the certificate of the president to the state audi-
4 tor, who shall issue his warrant for the amount due, upon the state
5 treasurer; provided, however, that the aforesaid three thousand dol-
6 lars shall be in lieu of any and all other compensation he may receive
7 in any official capacity. Each member of the board shall receive only
8 actual traveling expenses incurred in the performance of his duties,
9 said expenses to be itemized, verified, certified, audited, and a warrant
10 drawn therefor in the same manner as the secretary's salary.

[C., '97, § 2574; S., '13, § 2574.]

SEC. 1264. Powers—regulations—reports.

1 The board shall have charge of and general supervision over the
2 interests of the health and life of the citizens of the state; matters
3 pertaining to quarantine, registration of marriages, births and deaths;
4 authority to make such rules and regulations and sanitary investiga-
5 tions as it from time to time may find necessary for the preservation
6 and improvement of the public health, which, when made, shall be
7 enforced by local boards of health and peace officers of the state. It
8 shall prepare and furnish, through its secretary, to the clerks of the
9 several counties such forms for the record of marriages, births and
10 deaths as it may determine upon, and by its secretary make biennial

11 reports to the governor, which shall include so much of its proceed-
 12 ings, such information concerning vital statistics, such knowledge re-
 13 specting diseases, and such instruction upon the subject of hygiene,
 14 as may be thought useful for dissemination among the people, with
 15 such suggestions as to further legislation as may be thought advis-
 16 able.

[C., '97, § 2565.]

SEC. 1265. Complaints of citizens.

1 In any case where five or more citizens in any locality in this state
 2 present a petition to the state board of health signed by such citizens
 3 setting forth complaint regarding sanitary conditions in their local-
 4 ity, it is hereby made the duty of the state board of health to use all
 5 means at its command to make special effort to improve the sanitation
 6 and health conditions and precautions in such localities of this state.
 7 If the local board of health should fail to carry out the directions of
 8 the state board of health, the state board of health may employ the
 9 necessary assistants to carry out the provisions of this section.

[S., '13, § 2569-a.]

SEC. 1266. General appropriation.

1 The annual appropriation for the state board of health, for the
 2 purpose of making sanitary investigations and inquiries in respect to
 3 the people, the causes of disease, epidemics and the sources of sick-
 4 ness and mortality, the effect of locality, employments, conditions and
 5 circumstances on public health, and for the purpose of making inquiry
 6 and investigation into the sanitary condition of any state, county,
 7 city or other almshouse, asylum, prison, penitentiary, jail, hospital,
 8 charitable institution, school, college, university or reform school, and
 9 for such other expenses incurred in carrying into effect the sanitary
 10 investigations required of the state board of health as found in sec-
 11 tions twelve hundred sixty-four and twelve hundred sixty-five, the
 12 transportation expenses of the physician members and the necessary
 13 traveling and incidental expenses of the civil and sanitary engineer
 14 as provided in section twelve hundred sixty-two, and the necessary
 15 traveling and incidental expenses of the secretary acting as the execu-
 16 tive officer and commissioner of public health, shall be the sum of
 17 ten thousand dollars or so much thereof as shall be necessary, to be
 18 paid from any money in the state treasury not otherwise appro-
 19 priated.

[C., '97, § 2575; 38 G. A., ch. 388, § 1.]

SEC. 1267. Appropriation for inspections and surveys.

1 There is hereby appropriated annually out of any funds in the
 2 state treasury not otherwise appropriated the sum of five thousand
 3 dollars or so much thereof as shall be necessary, for the state board
 4 of health for the employment of the necessary assistants, and for de-
 5 fraying the traveling and incidental expenses incurred, in making the
 6 sanitary investigations, inspections and surveys required in carrying
 7 out the provisions of sections forty-one hundred fourteen, forty-two
 8 hundred ten, forty-two hundred eleven and forty-two hundred thir-
 9 teen.

[38 G. A., ch. 388, § 2.]

SEC. 1268. Appropriations—how expended.

1 All appropriations or provisions made the state board of health
2 for public health purposes of whatever nature or character, shall be
3 expended under the immediate supervision and direction of the execu-
4 tive council of the state, composed of the governor, secretary of state,
5 auditor of state and treasurer of state, all of whom shall be members,
6 ex officio, to serve without compensation, of the state board of health,
7 and no bill for contingent or miscellaneous expenses, or expenses of
8 any kind, of said state board of health shall be allowed or paid unless
9 it is properly itemized, verified and certified to, and audited by the
10 state board of audit.

[S., '13, § 2564-a.]

CHAPTER 2.**LOCAL BOARDS OF HEALTH.****SECTION 1269. Organization—powers—duties.**

1 The mayor, health physician and council of each town or city, or
2 the trustees of any township, shall constitute a local board of health
3 within the limits of such towns, cities or townships of which they are
4 officers. The town, city or township clerk shall be clerk of the local
5 board, which board shall appoint a competent physician as its health
6 officer, who shall hold office during its pleasure. It shall regulate all
7 fees and charges of persons employed by it in the execution of health
8 laws and its own regulations and those of the state board of health;
9 have charge of all cemeteries dedicated to public use not controlled by
10 other trustees or incorporated bodies, and the burial of the dead;
11 make such regulations as are necessary for the protection of the pub-
12 lic health respecting nuisances, sources of filth, causes of sickness,
13 rabid animals and quarantine, not in conflict with any regulations of
14 the state board of health, which shall also apply to boats or vessels in
15 harbors or ports within their jurisdiction; to proclaim and establish
16 quarantine against all infectious or contagious diseases dangerous to
17 the public, and maintain and remove the same, as may be required
18 by regulations of the state board; may, when satisfied upon due exam-
19 ination that any cellar, room, tenement building, or place occupied as
20 a dwelling or otherwise has become, or is by reason of the number of
21 occupants, uncleanness or other cause, unfit for such purpose, or a
22 cause of nuisance or sickness to the occupants or the public, issue a
23 notice in writing to such occupants or any of them, requiring the
24 premises to be put in proper condition as to cleanliness, or requiring
25 the occupants to remove or quit such premises within a reasonable
26 time to be fixed; and, if the persons so notified or either of them neg-
27 lect or refuse to comply therewith, may by order cause the premises
28 to be properly cleaned at the expense of the owner or owners, or may
29 forcibly remove the occupants and close the premises, and peace and
30 police officers shall execute such orders, which premises so closed
31 shall not be again occupied as a dwelling place without written per-
32 mission of the board.

33 The quarantine authorized by this section in case of infectious or
34 contagious diseases may be declared or terminated by the mayor of
35 any city or town, or the township clerk outside of such city or town,

36 in cases required by regulations of the state board of health, upon
 37 written notice given by any practicing physician of the existence of
 38 such disease, or termination of the cause for quarantine, as the case
 39 may be.

[C., '73, §§ 415, 417, 418; C., '97, § 2568; 38 G. A., ch. 87.]

SEC. 1270. Meetings—rules and regulations of state board—reports.

1 Local boards of health shall meet for the transaction of business
 2 on the first Monday of April and November in each year and at such
 3 other times as it may be deemed necessary. Local boards of health
 4 shall furnish to the state board of health reports of their proceedings
 5 at such times and in such form as may be reasonably required by the
 6 state board of health. They shall give notice of all regulations adopted
 7 by publication thereof in some newspaper of general circulation in
 8 the town, city or township, or by posting a copy thereof in five public
 9 places therein.

10 The secretary of the state board of health, immediately after the
 11 adoption of any rules and regulations of said board, in accordance
 12 with section twelve hundred seventy-four, shall forward a certified
 13 copy of such rules to the county auditor of each county. Whenever
 14 such rules may be amended or changed, similar notice shall be for-
 15 warded to each county auditor. The state board of health shall cause
 16 to be printed such number of copies of the rules and regulations by it
 17 adopted as may be necessary to supply the needs of the several coun-
 18 ties of the state and upon application forward the required number
 19 to the county auditors of the state for distribution to the several
 20 boards of health within the county. The clerk of each local board of
 21 health shall upon request furnish a copy of said rules to any resident,
 22 physician or citizen. It shall be the duty of the official, when estab-
 23 lishing quarantine, to furnish to the person or persons quarantined a
 24 copy of the rules and regulations covering such quarantine.

[S., '13, § 2571-b.]

SEC. 1271. Enforcing regulations of state board.

1 Local boards of health shall obey and enforce the rules and regu-
 2 lations of the state board; and peace and police officers within their
 3 respective jurisdictions, when called upon to do so by the local boards,
 4 shall execute the orders of such board. If any local board of health
 5 shall refuse or neglect to enforce the rules and regulations of the
 6 state board of health, the state board of health may enforce its rules
 7 and regulations within the territorial jurisdiction of such local board,
 8 and for that purpose shall have and may exercise all of the powers
 9 given by statute to local boards of health; and the peace and police
 10 officers of the state, when called upon by the state board of health to
 11 enforce its rules and regulations, shall execute the orders of such
 12 board. All expenses incurred by the state board of health in deter-
 13 mining whether its rules and regulations are enforced by a local board
 14 of health, and in enforcing the same when a local board has refused
 15 or neglected to do so, shall be paid in the same manner as is now pro-
 16 vided for the payment of the expenses of enforcing such rules and
 17 regulations by local boards of health.

[C., '97, § 2572; S., '13, § 2572.]

SEC. 1272. Abatement of nuisance.

1 The local board may with its physician, when of the opinion it
 2 is necessary for the preservation of the lives or health of the inhab-
 3 itants, enter a building, vessel or place for the purpose of examining
 4 into, preventing, removing or destroying any nuisance, source of filth
 5 or cause of sickness, and, in case its members or physician shall be
 6 refused such entry, make complaint through any member under oath
 7 to any magistrate of the county, whether a member of the board or
 8 not, stating the facts so far as known, and the magistrate shall there-
 9 upon issue his warrant, directed to any peace officer of the county,
 10 commanding him between the hours of sunrise and sunset, accom-
 11 panied by two or more members of the board, to prevent, remove or
 12 destroy such nuisance, source of filth or cause of sickness, which shall
 13 be executed by the officer under the direction of such members of the
 14 board, and it may order the owner of any property, building or place
 15 to remove at his own expense, within twenty-four hours, or such other
 16 time as may be fixed by it, after notice has been served upon such
 17 owner, occupant or other person in charge thereof, any nuisance,
 18 source of filth or cause of sickness found thereon, and if such person
 19 fails or neglects to comply with the order and make such removal, it
 20 may cause the same to be done at the expense of the owner or occupant.

[C., '97, § 2569.]

SEC. 1273. Quarantine officers.

1 Whenever the board of health of any city of the first class or any
 2 city under special charter shall appoint any permanent officer to en-
 3 force the provisions of law or rules of the boards of health relative
 4 to quarantine, he shall be appointed with the rank of captain under
 5 and subject to all of the provisions of sections thirty-five hundred
 6 sixty-seven, thirty-five hundred seventy, thirty-five hundred seventy-
 7 one, thirty-five hundred seventy-two, and thirty-five hundred seventy-
 8 three, in so far as they can be made applicable, and the health officer
 9 shall have the same authority under such sections relative to such
 10 quarantine officer as the chief of police has with respect to police
 11 officers.

[37 G. A., ch. 73, § 1.]

CHAPTER 3.
CONTAGIOUS AND INFECTIOUS DISEASES.**SECTION 1274. Care of sick or infected person—quarantine—disinfection—expenses.**

1 When any person shall be sick or infected with any contagious
 2 or infectious disease, dangerous to the public health, whether a resi-
 3 dent or otherwise, the local board of health through the mayor or
 4 township clerk, shall make such provisions as are best calculated to
 5 protect the inhabitants therefrom, and may remove such person to a
 6 separate house, a house of detention or hospital; but quarantine shall
 7 not be established or maintained except in cases of scarlet fever (in-
 8 cluding scarlet rash and scarlatina), smallpox, diphtheria (including
 9 membranous croup), cholera, leprosy, cerebro-spinal meningitis, an-

10 terior poliomyelitis, Spanish influenza, bubonic plague, or any other
11 infectious or contagious disease, in the discretion of the state board
12 of health.

13 In case any person or persons liable for the support of such per-
14 son under quarantine or restrained under and by virtue of this sec-
15 tion, shall be financially unable to secure the proper care, provisions
16 or medical attendance, it shall be the duty of the mayor or township
17 clerk to procure for such diseased person proper care, provisions,
18 supplies and medical attendance, while so quarantined or restrained.
19 All bills for supplies furnished and services rendered by order of the
20 mayor or township clerk as herein provided, for persons removed to
21 a separate house, or house of detention, or hospital, or for persons
22 financially unable to provide for their sustenance and care, shall be
23 allowed and paid for only on a basis of the local market price for
24 such provisions, services and supplies in the locality in which such
25 services and supplies may have been furnished. All services and sup-
26 plies furnished to individuals or families under the provisions of this
27 section must be authorized by the local board of health or by the
28 mayor or township clerk acting under standing regulations of such
29 local board, and a written order therefor designating the person or
30 persons employed to furnish such services or supplies, issued before
31 said services or supplies were actually furnished, shall be attached to
32 the bill when the same is presented for audit and payment. No bill
33 for any expenses incurred for any person during quarantine or for
34 disinfecting premises or effects shall be allowed or paid except in
35 cases removed to a separate house, or house of detention, unless it
36 shall be found that such person is financially unable to pay said bill.
37 Provided that nothing contained in this section shall be construed to
38 prevent any person removed to a separate house or house of deten-
39 tion or hospital, as herein provided, from employing, at his own ex-
40 pense, the physician or nurse of his choice, nor from providing such
41 supplies and commodities as he may require. It is further provided
42 that if the person receiving services or supplies be not a legal resi-
43 dent of the county in which such bills were incurred and paid, the
44 amount so paid shall be certified to the board of supervisors of the
45 county in which said party claims residence or owns property and
46 the board of supervisors of such county shall reimburse the county
47 from which such claim is certified, in the full amount originally paid
48 by it.

49 All fumigations and disinfections, for the protection of the pub-
50 lic health, shall be done in accordance with the regulations of the state
51 board of health and under the directions of the local board, which shall
52 direct the attending physician to superintend or perform the work.
53 In case there be no attending physician, or in case the attending
54 physician refuses to perform this duty, then it shall be the duty of
55 the local board of health to provide some other suitable person to per-
56 form such work.

57 The undertaker or person in charge of the funeral of any per-
58 son, dying of tuberculosis, shall, within forty-eight hours after the
59 death of such person, report to the mayor of the city or town, or to
60 the township clerk, the name and residence of the deceased person,
61 together with the cause of death. Upon receipt of the notice as herein
62 provided, the mayor of the city or town, or clerk of the township,
63 shall cause said premises to be disinfected in accordance with the
64 regulations of the state board of health.

65 All bills and expenses incurred in carrying out the provisions of
 66 this section and establishing, maintaining and raising quarantine and
 67 furnishing necessary detention hospitals shall be filed with the clerk
 68 of the local board of health. This board at its next regular meeting
 69 or special meeting called for the purpose shall examine and audit the
 70 same and, if found correct, approve and certify the same to the county
 71 board of supervisors for payment. If the board of supervisors deter-
 72 mine such bills payable, under the provisions of this section, it
 73 shall order the county auditor to draw warrants therefor upon the
 74 poor fund of said county. The board of supervisors shall not be bound
 75 by the action of the local board of health in approving such bill, but
 76 may increase or diminish the same as may be just and reasonable.

77 The forcible removal of infected persons as herein provided shall
 78 be effected by an application to any civil magistrate in the manner pro-
 79 vided in section twelve hundred seventy-two for the removal and
 80 abatement of nuisances, who shall issue the warrant, as directed in
 81 such cases, to remove such person or persons to the place designated
 82 by the local board of health and to take possession of a condemned or
 83 infected house, lodging room, premises or effects. The officers desig-
 84 nated by such magistrate shall be entitled to receive for such services
 85 such reasonable compensation as shall be determined by the local board
 86 of health, the amount so determined to be certified to and paid in the
 87 same manner as other expenses incurred under the provisions of this
 88 section.

[S., '13, § 2571-a; 38 G. A., ch. 80, § 1.]

SEC. 1275. Quarantine and warning signs.

1 All quarantinable and placard diseases shall, as soon as possible,
 2 be definitely diagnosed and the proper placard placed in a conspicu-
 3 ous place on the house, dwelling, or place where the quarantinable or
 4 placard disease exists. The sign establishing a quarantine shall be
 5 the form adopted by the state board of health. In any event, when
 6 the type of the disease is not immediately determined or diagnosed,
 7 a warning sign shall be placed upon the house, dwelling or place
 8 where the disease exists, giving prominent notice that a communicable
 9 disease exists in the house, dwelling or place, and all persons connected
 10 therewith shall observe all the requirements of quarantine, until a
 11 proper and correct diagnosis shall have been made, when the proper
 12 quarantine placard shall replace the former warning; provided, how-
 13 ever, that such temporary quarantine shall terminate within twenty-
 14 four hours after being in force.

15 The warning sign hereinbefore mentioned and required shall be
 16 followed in the same manner as a quarantine placard, and shall be in
 17 the following form and language:

18 A yellow card, not less than twelve inches square, having printed
 19 thereon in large letters "Temporary Quarantine. Keep out", followed
 20 by the words: "Notice! No person shall be permitted to enter or
 21 leave these premises except as provided by the rules and regulations
 22 of the state board of health.

23 Signed "....."
 24 "Mayor or Township Clerk."

25 The form and wording of the warning sign where the diagnosis
 26 has not been determined shall be as follows:

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**TEMPORARY
QUARANTINE
KEEP OUT.**

Notice: No person shall be permitted to enter or leave these premises except as provided by the rules and regulations of the state board of health.

Signed.....
Mayor or Township Clerk.

[38 G. A., ch. 397, § 1.]

SEC. 1276. Report of children's diseases.

1 The physician attending cases of whooping cough, measles,
2 mumps or chickenpox shall be required to report the same to the local
3 board of health. In case there is no attending physician, it shall be
4 the duty of the parents or guardian or school teacher to report same
5 to the local board of health.

[S. S., '15, § 2571-1a.]

SEC. 1277. Warning signs posted.

1 It is the duty of the local board of health to cause a card with the
2 name of the disease printed upon it to be placed upon the home where
3 the patient resides, which shall act merely as a warning to the public.

[S. S., '15, § 2571-2a.]

SEC. 1278. Not a quarantine.

1 The preceding section is not to be regarded as a quarantine, but
2 merely as a notice to the public.

[S. S., '15, § 2571-3a.]

SEC. 1279. Removal—written permission.

1 No person known to be infected, or sick with any contagious dis-
2 ease dangerous to the public health shall move or be removed from
3 one city, town or township to another city, town or township except
4 as hereinafter provided and by written permission of the local board
5 of health of the city, town or township to which such person is to be
6 removed.

[S., '13, § 2575-a3.]

SEC. 1280. Expenses of removal and care.

1 If any person known to be infected or sick with smallpox or other
2 contagious disease dangerous to the public health shall with the knowl-
3 edge or consent of any member of the local board of health of the city,
4 town or township in which he resides be removed from said city, town
5 or township to another city, town or township either with or without
6 the permission of the local board of such city, town or township to
7 which he is removed, all expense of quarantine or care of such person
8 incurred by the city, town or township to which he is removed shall be
9 paid by the city, town or township from which such person was so re-

10 moved, in the manner provided in section twelve hundred seventy-four.
 11 If said person be so removed to another county, said expenses shall
 12 in the first instance be paid by such county and recovered from the
 13 county from which such person had been removed.

[S., '13, § 2575-a4.]

SEC. 1281. Method of removal—warning signs—expenses.

1 When it is determined by any physician or health officer that any
 2 person is sick with smallpox or any other contagious disease dan-
 3 gerous to the public health while in any city, town or township other
 4 than the one in which he resides, provided the distance be not to ex-
 5 ceed fifteen miles from his place of residence, then and in that event
 6 if the person so diseased elect to be moved to the city, town or town-
 7 ship in which he resides, he may be so removed by private convey-
 8 ance along the least frequented highways under escort of a health
 9 officer to his abode immediately on determining that he is so diseased;
 10 and every such vehicle shall carry as a signal of warning, conspicu-
 11 ously displayed, a yellow flag not less than two feet square. All ex-
 12 penses of removal, care and quarantine of such person shall be paid
 13 by the city, town or township to which he is removed and shall be
 14 paid in the manner provided in the preceding section.

[S., '13, § 2575-a5.]

SEC. 1282. Violation—penalty.

1 Any person who shall move, or any physician or any member of
 2 a local board of health who shall cause or assist any person known to
 3 be infected or sick with smallpox, or any contagious disease danger-
 4 ous to the public health, to be removed from one city, town or town-
 5 ship to another city, town or township, contrary to the provisions of
 6 the three preceding sections, or of any regulation of the state board
 7 of health, shall be guilty of a misdemeanor and be punished by a fine
 8 not exceeding one hundred dollars, or imprisonment not exceeding
 9 thirty days, or both at the discretion of the court.

[S., '13, § 2575-a6.]

SEC. 1283. Jurisdiction over pesthouses.

1 The health officers of the municipality which is allowed to main-
 2 tain a pesthouse or hospital for patients affected by infectious or
 3 contagious diseases outside the limits of said municipality, shall have
 4 exclusive jurisdiction and control of such pesthouse or hospital for
 5 the enforcement of all sanitary and health regulations.

[S., '13, § 2575-a2.]

SEC. 1284. Location of pesthouses—controversy—how settled.

1 When a controversy arises between municipalities, or between
 2 boards of health thereof, respecting the location of pesthouses or hos-
 3 pitals for the treatment of infectious or contagious diseases, such
 4 matter shall be referred to the president of the state board of health,
 5 who shall forthwith appoint a committee of three members thereof,
 6 which committee shall, upon two days' notice to the parties interested,
 7 investigate the matter and make such order in the premises as the
 8 facts warrant, and such order shall be final.

[S., '13, § 2575-a1.]

SEC. 1285. Failure to comply with orders or regulations.

1 Any person being notified to remove any nuisance, source of filth or
 2 cause of sickness, as in section twelve hundred seventy-two provided,
 3 who fails, neglects or refuses to do so after the time fixed in such no-
 4 tice, or knowingly fails, neglects or refuses to comply with and obey
 5 any order, rule or regulation of the state or local board of health, or
 6 any provision of sections twelve hundred sixty-four, twelve hundred
 7 sixty-nine, twelve hundred seventy, twelve hundred seventy-one, and
 8 twelve hundred seventy-four, after notice thereof has been given as
 9 herein provided, shall forfeit and pay the sum of twenty dollars for
 10 each day he refuses such obedience, or for each day he knowingly
 11 fails, neglects or refuses to obey such rule or regulation, or knowingly
 12 violates any provision of sections twelve hundred sixty-four, twelve
 13 hundred sixty-nine, twelve hundred seventy, twelve hundred seventy-
 14 one, and twelve hundred seventy-four, to be recovered in an action in
 15 the name of the clerk of the board, and, when collected, to be paid to
 16 the clerk of the town, city or township, as the case may be, and for
 17 its benefit; and, in addition thereto, any one so offending, or know-
 18 ingly exposing another to infection from any contagious disease, or
 19 knowingly subjecting another to the danger of contracting such dis-
 20 ease from a child or other irresponsible person, shall be liable for all
 21 damages resulting therefrom, and guilty of a misdemeanor.

[C., '73, § 419; C., '97, § 2573.]

CHAPTER 4.**VENEREAL DISEASES.****SECTION 1286. Venereal diseases.**

1 Syphilis, gonorrhoea and chancroid, hereafter designated venereal
 2 diseases, are hereby recognized and declared to be contagious, in-
 3 fectious, communicable and dangerous to the public health.

[38 G. A., ch. 299, § 1.]

SEC. 1287. Reports by physicians.

1 It shall be the duty of every licensed physician, of every superin-
 2 tendent or manager of a hospital or dispensary, and of every person
 3 who gives treatment for a venereal disease, to mail to the local board
 4 of health of the city, town, or township located in the state of Iowa,
 5 and where the disease occurs, a card or report blank supplied by the
 6 state board of health, stating the age, sex, color, marital condition and
 7 occupation of such diseased person, the nature and previous duration
 8 of such disease and its probable origin; such card or report blank to
 9 be mailed immediately after the first examination or treatment of
 10 such diseased person, provided that except as hereinafter required,
 11 the name and address of such diseased person shall not be reported to
 12 the local board of health.

[38 G. A., ch. 299, § 2.]

SEC. 1288. Distribution of law-information circulars.

1 It shall be the duty of every licensed physician and of every other
 2 person who treats a person afflicted with any venereal disease to give

3 to such person at the first examination a circular of information and
4 advice concerning venereal diseases, furnished by the state board of
5 health; and in addition to give to such diseased person a copy of this
6 chapter, furnished by said board, and to report to the local board of
7 health that such diseased person has received the two documents
8 herein specified.

[38 G. A., ch. 299, § 3.]

SEC. 1289. Notification of former physician—reporting name.

1 When a person applies to a physician or other person for treat-
2 ment of a venereal disease, it shall be the duty of the physician or
3 person consulted to inquire of and ascertain from the person seeking
4 treatment whether such person has heretofore, or previously, con-
5 sulted with, or been treated by, any other physician, person or per-
6 sons, for said diseases, and if so, to ascertain the name and address
7 of the physician, person or persons last consulted. It shall be the
8 duty of the applicant for treatment to furnish this information and
9 a refusal to do so, or falsely stating the name and address of such
10 physician, person or persons consulted, shall be deemed a violation of
11 this chapter. It shall be the duty of the physician, person or persons
12 whom the applicant seeks to and does consult or employ to notify the
13 physician, person or persons last consulted or employed, of the change
14 of advisers, such notification to be made upon a form furnished for
15 that purpose by the state board of health. Should the physician,
16 person or persons previously consulted fail to receive any such notice
17 within ten days after the appearance of such venereally diseased per-
18 son, it shall be the duty of such physician, person or persons to report
19 to the local board of health the name and address of such venereally
20 diseased person.

[38 G. A., ch. 299, § 4.]

SEC. 1290. Duty of local board.

1 Upon receipt of a report of a case of venereal disease, it shall be
2 the duty of the local board of health to institute, for the protection
3 of other persons from infection by such venereally diseased person,
4 such measures as said local board of health is already empowered to
5 use to prevent the spread of other contagious, infectious, or communi-
6 cable diseases.

[38 G. A., ch. 299, § 5.]

SEC. 1291. Information and reports confidential.

1 All information and reports concerning persons infected with
2 venereal diseases shall be confidential and shall be inaccessible to the
3 public, except in so far as publicity may attend the performance of
4 the duty imposed upon the local board of health and the laws of the
5 state of Iowa, and to those injured by contracting said disease from
6 said diseased person, and to public officers in the performance of
7 their official duties.

[38 G. A., ch. 299, § 6.]

SEC. 1292. Parents responsible for minors.

1 The parents of minors acquiring venereal diseases and living with
2 said parents shall be legally responsible for the compliance of such
3 minors with the requirements, or provisions of this chapter.

[38 G. A., ch. 299, § 7.]

SEC. 1293. Inspection— isolation— quarantine— disinfection.

1 In all suspected cases of venereal diseases in the infectious stages,
2 the local board of health shall immediately use every available means
3 to determine whether the person or persons suspected of being in-
4 fected or suffering from said diseases or any of them, and whenever
5 any of said diseases are found to exist, the local board of health shall,
6 whenever possible, ascertain the sources of such infection. In such
7 investigations the local board of health and its health officer are
8 hereby vested with full powers of inspection, examination, isolation,
9 internment or quarantine, if necessary, and disinfection of all per-
10 sons, places and things as provided herein, and as may be required by
11 the state board of health or local board of health, except, in cases of
12 persons known to the local board of health to be of good character and
13 reputation, who are under treatment by a qualified and reputable
14 physician, and are taking recognized precautionary measures to pre-
15 vent the infection of others, these powers shall not be exercised.

[38 G. A., ch. 299, § 8.]

SEC. 1294. Duties of health officer.

1 It is hereby made the duty of the health officer for the county,
2 municipality or community where he is appointed and for which he
3 is to serve, and he is hereby directed and empowered:

4 *a* To make examinations of persons reasonably suspected of hav-
5 ing syphilis in the infectious stages, gonococcus infection or chan-
6 croid, except as provided in section twelve hundred ninety-three, and
7 if any evidence of such disease is disclosed by said examination the
8 local board of health is hereby empowered to isolate, intern or quar-
9 antine such person a reasonable length of time in order to fully de-
10 termine the extent of such disease.

11 *a-1* Any person, subjected to examination under this chapter
12 may demand that another physician shall also make an examination,
13 and when this is done, the president of the local board of health shall
14 name such physician, and, in case of disagreement, the health officer
15 and this physician shall agree upon a third physician to make an ex-
16 amination, and the decision of two shall determine the action to be
17 taken as to isolation, internment, quarantine or release.

18 *a-2* The compensation of physicians, other than health officers,
19 for making examinations under this chapter, shall be five dollars, to
20 be paid in accordance with the usual procedure for the payment of
21 quarantine bills.

22 *b* Under the order of the local board of health, to isolate, intern
23 or quarantine, if necessary, persons infected with any of said dis-
24 eases whenever isolation, internment or quarantine is essential to pro-
25 tect the public health. In establishing isolation, internment or quar-
26 antine, the health officer, under the direction of the local board of
27 health, shall define the limits of the area in which the persons rea-
28 sonably suspected or known to have syphilis, gonococcus infections or
29 chancroid, are to be isolated, interned or quarantined, as the case may

30 require, and no persons, other than the persons attending the treat-
31 ment of such case shall enter or leave the area of isolation, internment
32 or quarantine without the permission of the local board of health
33 and the health officer.

34 *b-1* In case the person isolated, interned or quarantined is un-
35 able to meet the expenses incident thereto, such expenses, including
36 medical and surgical services, nursing and care, shall be provided as
37 in cases of quarantine for other diseases, and the president of the
38 local board of health shall name a physician to render the necessary
39 medical and surgical services, unless the board of supervisors have
40 previously made provision for the same.

41 *c* In making examinations and inspections of women for the pur-
42 pose of ascertaining the existence of syphilis, gonococcus infection or
43 chancroid, to appoint women physicians for said purposes where the
44 services of a woman physician are requested or demanded by the
45 woman to be examined.

[38 G. A., ch. 299, § 9.]

SEC. 1295. Termination of quarantine.

1 In cases of isolation, internment or quarantine, the local board
2 of health and the health officer shall not terminate said isolation,
3 internment or quarantine, until the cases have become noninfectious,
4 the same to be determined as provided for examinations in subdivi-
5 sion a-one of section twelve hundred ninety-four, if the isolated,
6 interned or quarantined person shall so elect, or until permission has
7 been given by the state board of health or its secretary-executive
8 officer.

9 Cases of gonococcus infection are to be regarded as infectious
10 until at least two successive smears, taken not less than forty-eight
11 hours apart, fail to show gonococci.

[38 G. A., ch. 299, § 10.]

SEC. 1296. Certificates of freedom from infection prohibited.

1 The local board of health, its health officer, and all other officers
2 enforcing the provisions of this chapter, shall use all proper means
3 of suppressing prostitution, and all such officers are hereby pro-
4 hibited from issuing certificates or other evidence of freedom from
5 venereal diseases.

[38 G. A., ch. 299, § 11.]

SEC. 1297. Identity of venereals to be secret.

1 The local board of health and the health officer shall withhold
2 from public inspection all records of inspections and examinations
3 made under the provisions of this chapter, and shall make every rea-
4 sonable effort to keep secret the identity of those affected by meas-
5 ures adopted to control venereal disease, as far as may be consistent
6 with the protection of the public health; provided that all records
7 shall be open to inspection by law enforcing officers, and to such per-
8 sons as are injured by one who is infected with such disease.

[38 G. A., ch. 299, § 12.]

SEC. 1298. Detention hospitals.

1 When in the judgment of the board of supervisors of any county,
2 or when advised or notified by the state board of health acting with
3 the United States public health service, it is necessary to provide a
4 detention hospital in a county for the isolation, internment or quar-
5 antine of venereal diseases, said board of supervisors may contract
6 for the erection, erect, purchase or rent, equip and maintain a deten-
7 tion hospital, which shall be erected, purchased, rented or equipped,
8 in accordance with plans and specifications provided in advance by
9 the state board of health, and it is hereby made the duty of the
10 health officer and the local board of health to use only such building
11 or buildings for detention, isolation, internment or quarantine of
12 persons afflicted with venereal diseases as shall be provided and estab-
13 lished under the provisions of this chapter, and under suitable admin-
14 istrative rules prescribed by the state board of health for the conduct
15 thereof.

16 The board of supervisors shall appoint and fix the compensation
17 of a qualified physician and surgeon and such nurses and other at-
18 tendants as may be necessary to provide proper treatment and care
19 for persons interned, from time to time, in such detention hospital.

[38 G. A., ch. 299, § 13.]

SEC. 1299. Tax levy for hospital.

1 The board of supervisors shall have the power to levy a tax upon
2 all the property in said county subject to taxation, in addition to all
3 of the taxes now provided by law, a special tax not exceeding in any
4 one year two mills on the dollar for a period of years not exceeding
5 fifty, for the purchase of real estate for hospital purposes, and for
6 the construction, purchasing or renting of such hospital and for
7 equipping and maintaining the same, for either or all of such pur-
8 poses. The tax so authorized shall be collected and paid over to the
9 treasurer of such county in the same manner as other taxes are col-
10 lected. The proceeds of such tax shall be known as the hospital fund,
11 and shall be paid out on the order of the board of supervisors for the
12 purposes authorized by this chapter, and for no other purpose what-
13 ever.

[38 G. A., ch. 299, § 14.]

SEC. 1300. Bond issue for hospital.

1 Any county may anticipate the collection of the tax herein au-
2 thorized to be levied, and for that purpose may issue interest bearing
3 bonds at a rate of interest not to exceed five per cent per annum, to
4 be denominated hospital bonds, and the said bonds and the interest
5 thereon shall be secured by said assessment and levy, and shall be
6 payable only out of the proceeds of the special tax provided for in the
7 preceding section, and no bonds shall be issued in excess of taxes
8 authorized to be levied to secure the payment of the same. It shall
9 be the duty of the treasurer of such county to collect said tax and to
10 hold the same separate and apart in trust for the payment of said
11 bonds and interest, and to apply the proceeds of said special tax
12 pledged for that purpose to the payment of said bonds and interest.
13 Such bonds shall be issued and sold in accordance with the provisions
14 of existing statutes relating to the issuance and sale of bonds by
15 counties. In issuing such bonds the board of supervisors may cause

16 portions of the same to become due at different definite periods, but
17 none of such bonds so issued shall be due and payable in less than
18 three or more than fifty years from date.

[38 G. A., ch. 299, § 15.]

SEC. 1301. Quarantine in detention hospitals.

1 Whenever it is necessary, in the judgment of the local board of
2 health and the health officer, for the protection of the public health
3 that persons infected with venereal diseases be quarantined, the
4 health officer and the mayor or township clerk, as the case may be,
5 shall quarantine such diseased persons in said detention hospitals and
6 cause to be administered to such persons a proper course of treatment.

[38 G. A., ch. 299, § 16.]

SEC. 1302. Release on bond.

1 In lieu of isolation, internment or quarantine, any person, except
2 a prostitute, infected with any of said venereal diseases, may be re-
3 leased upon bond as herein provided. Such person shall make written
4 application therefor to the local board of health, which application
5 must be made under oath and must state that the applicant is not a
6 prostitute. Such application shall be accompanied by a certificate
7 signed by either the mayor, the chief of police or peace officer or the
8 municipal judge or justice of the peace of the city or town where the
9 case occurs, or in township by the township clerk or township trustee,
10 stating that the applicant is not a prostitute. The applicant shall
11 then file with the county auditor a bond in the penal sum of one
12 thousand dollars conditioned that the applicant will not permit or
13 perform any act which might or would infect or expose to infection
14 any other person, and will continue treatment until cured and will
15 faithfully observe all rules, regulations and requirements of the state
16 board of health, local board of health and the health officer to protect
17 the public against infection or contagion. Said bond shall run to and
18 for the benefit of the county wherein the venereal disease occurs, and
19 shall be signed by one or more freeholders as sureties, to be approved
20 by the county auditor; but a cash guaranty in a like amount may be
21 accepted in lieu of such bond. Before any person is released from any
22 such bond as cured, a final examination and approval of the health
23 officer must be secured, and permission from the state board of health
24 or its secretary-executive officer obtained, except that, in securing the
25 approval of the health officer, the same procedure provided for exam-
26 inations in subdivision a-one of section twelve hundred ninety-four
27 may be taken.

[38 G. A., ch. 299, § 17.]

SEC. 1303. Penalty for transmitting disease.

1 Any person afflicted with any of the diseases named in this chap-
2 ter, who shall transmit, or assume the risk of transmitting the same
3 by intercourse, to another person shall be guilty of a misdemeanor,
4 and upon conviction thereof be fined in the sum of not to exceed five
5 hundred dollars or imprisoned in the county jail not to exceed six
6 months, or both such fine and imprisonment; and in addition thereto
7 shall be liable to the party injured for all damages sustained by
8 reason of said injury.

[38 G. A., ch. 299, § 18.]

SEC. 1304. Druggists to keep record of remedies sold.

1 Any druggist or other person who sells any drug, compound,
 2 alleged specific or preparation of any kind used for the cure of any
 3 of said venereal diseases shall keep a record of the name, address,
 4 and sex of the person making such purchase. A copy of said record
 5 shall be mailed each week to the health officer of the county, city,
 6 town or village wherein the drug, compound, specific or preparation
 7 for the treatment of these venereal diseases was sold.

[38 G. A., ch. 299, § 19.]

SEC. 1305. Duty to obey rules.

1 It shall be unlawful for any person to neglect or refuse to obey
 2 any order of the state or local board of health, authorized by this
 3 chapter, or to interfere with or obstruct said state board of health
 4 or local board of health, or the representative of either, in the dis-
 5 charge of any of their duties under this chapter.

[38 G. A., ch. 299, § 20.]

SEC. 1306. Penalties for violations.

1 Any person violating any of the provisions of this chapter shall
 2 be punished by a fine of not more than five hundred dollars or by im-
 3 prisonment in the county jail for a period not to exceed six months,
 4 or by both such fine and imprisonment.

5 Any physician or surgeon who shall be called upon to treat pro-
 6 fessionally anyone afflicted with syphilis, gonorrhoea or chancroid,
 7 except as provided in section twelve hundred ninety-three, who shall
 8 fail to report the same to the local board of health immediately after
 9 the first examination of such diseased person, and as provided for in
 10 section twelve hundred eighty-seven of this chapter, shall be guilty
 11 of a misdemeanor, and upon conviction thereof shall be punished by
 12 a fine of not more than five hundred dollars or by imprisonment in
 13 the county jail for a period not to exceed six months, or by both such
 14 fine and imprisonment, and upon conviction the state board of med-
 15 ical examiners may revoke his license or certificate authorizing him
 16 to practice medicine, surgery and obstetrics in the state of Iowa.

[38 G. A., ch. 299, § 21.]

CHAPTER 5.**ANTITOXIN.****SECTION 1307. Antitoxin department—establishment.**

1 For the purpose of furnishing antitoxin to the people of the state
 2 of Iowa, an antitoxin department is hereby established to be under
 3 the control and direction of the state board of health.

[S., '13, § 2572-a.]

SEC. 1308. Distributing stations—rates.

1 It shall be the duty of the state board of health to establish such
 2 distributing stations throughout the state as will enable physicians,

3 druggists and other persons to secure the Iowa state board of health
4 antitoxin at the reduced rates established by the board.

[S., '13, § 2572-c.]

SEC. 1309. Label.

1 All antitoxin furnished or distributed under the provisions of
2 this chapter shall be labeled "Iowa State Board of Health Antitoxin."

[S., '13, § 2572-b.]

SEC. 1310. Annual appropriation.

1 For the purpose of carrying into effect the provisions of this
2 chapter, and the payment of all expenses connected therewith, includ-
3 ing necessary clerical assistance, there is hereby appropriated out of
4 any funds in the state treasury, not otherwise appropriated, the sum
5 of two thousand dollars per annum, or so much thereof as may be
6 necessary to pay for clerical assistance and such other expenses as
7 may be incurred by the state board of health in establishing antitoxin
8 stations and providing for the distribution of Iowa state board of
9 health antitoxin under the provisions of this chapter; provided that
10 not to exceed nine hundred dollars of said sum shall be expended for
11 clerical assistance. All bills for expenses of whatever nature or char-
12 acter are to be itemized, verified, certified, audited and paid as other
13 expenses of the board.

[S., '13, § 2572-d.]

CHAPTER 6.

MEDICINE AND SURGERY.

SECTION 1311. Practice of medicine defined.

1 Any person shall be held as practicing medicine, surgery or
2 obstetrics, or to be a physician, within the meaning of this chapter,
3 who shall publicly profess to be a physician, surgeon or obstetrician,
4 and assume the duties, or who shall make a practice of prescribing or
5 of prescribing and furnishing medicine for the sick, or who shall
6 publicly profess to cure or heal; but it shall not be construed to pro-
7 hibit students of medicine, surgery or obstetrics, who have had not
8 less than two courses of lectures in a medical school of good standing,
9 from prescribing under the supervision of preceptors, or gratuitous
10 service in case of emergency, nor to prevent the advertising, selling
11 or prescribing natural mineral waters flowing from wells or springs,
12 nor shall it apply to surgeons of the United States army or navy, nor
13 of the marine hospital service, nor to physicians or midwives who
14 have obtained from the board of examiners a certificate permitting
15 them to practice medicine, surgery or obstetrics without a diploma
16 from a medical school or examination by the board, nor to physicians,
17 as defined herein, who have been in practice in this state for five con-
18 secutive years, three years of which time shall have been in one
19 locality, nor to filling prescriptions by a registered pharmacist, nor to
20 the advertising and sale of patent or proprietary medicines.

[C., '97, § 2579.]

SEC. 1312. Examination—registration—fee—temporary permits.

1 All persons beginning the practice of medicine in the state of
 2 Iowa must submit to an examination as set forth in this chapter, and,
 3 in addition thereto, shall present diplomas from medical colleges rec-
 4 ognized as in good standing by the state board of medical examiners,
 5 and all persons receiving their diplomas subsequent to January first,
 6 eighteen hundred ninety-nine, shall present evidence of having at-
 7 tended four full courses of study of not less than twenty-six weeks
 8 each, no two of which shall have been given in any one year. The
 9 state board of medical examiners shall examine the graduates of the
 10 medical departments of the state university of Iowa and of such other
 11 medical colleges in this state as are recognized by said board of med-
 12 ical examiners as being in good and legal standing at the annual
 13 medical commencement and at the location of said state university
 14 and other medical colleges respectively:

15 *a* A certificate of registration showing that an examination has
 16 been made by the proper board of any state, on which an average
 17 grade of not less than seventy-five per cent was awarded, the holder
 18 thereof having been at the time of said examination the legal pos-
 19 sessor of a diploma from a medical college in good standing in this
 20 state, may be accepted in lieu of an examination, as evidence of quali-
 21 fication. But in case the scope of said examination was less than
 22 that prescribed by this state, the applicant may be required to submit
 23 to a supplemental examination in such subjects as have not been
 24 covered.

25 *b* A certificate of registration or license, issued by the proper
 26 board of any state, may be accepted as evidence of qualification for
 27 registration in this state, provided the holder thereof was, at the time
 28 of such registration, the legal possessor of a diploma issued by a
 29 medical college in good standing in this state, and that the date
 30 thereof was prior to the legal requirement of the examination test in
 31 this state. The fee for such examination shall be fifty dollars.

32 *c* Applicants for registration under the provisions of clauses *a*
 33 and *b* of this section shall make proper application upon forms fur-
 34 nished by the board and file same together with the registration fee,
 35 with the secretary of said board. If the credentials of the applicant
 36 are complete and regular, the secretary shall issue a temporary per-
 37 mit authorizing the said applicant to practice in Iowa during the
 38 period intervening between the date of filing his application and the
 39 date upon which the board authorizes or refuses the issuance of a
 40 permanent certificate, but not more than one such permit shall be
 41 issued to the same applicant. The temporary permits herein provided
 42 for shall apply only to applicants for a certificate under reciprocal
 43 agreements with other states.

[C., '97, § 2582; S., '13, § 2582.]

SEC. 1313. Board of medical examiners—organization—duties.

1 The state board of medical examiners shall consist of the physi-
 2 cians of the state board of health, and the secretary of the board of
 3 health shall be secretary thereof. It shall hold regular meetings in
 4 January and July and special ones as may be necessary, due notice
 5 thereof being given, at which it shall discharge the duties contem-
 6 plated by this chapter. All examinations shall be in writing, each
 7 candidate for examination in any school of medicine being given the

8 same set of questions, covering anatomy, physiology, general chem-
9 istry, pathology, surgery and obstetrics. In materia medica, thera-
10 putics and the principles and practice of medicine, a set of questions
11 shall be used corresponding to the school of medicine which the appli-
12 cant desires to practice. The examination papers, when concluded,
13 shall be marked upon a scale of one hundred, each candidate for ex-
14 amination first to pay to the secretary of the board a fee of ten dollars
15 therefor. The average required to pass shall be fixed by the board
16 prior to the examination. Each applicant shall, upon obtaining an
17 order for examination, receive from the secretary a confidential num-
18 ber which he shall place upon his work when completed, so that the
19 board, in passing thereon, shall not know by whom it was prepared.
20 All matters connected therewith shall be filed with the secretary and
21 preserved for five years as a part of the records of the board, during
22 which time they shall be open to public inspection. If the examina-
23 tion is satisfactory to three members of the board, it shall issue its
24 certificate, under its seal, signed by its president, secretary, and not
25 less than three other members, who may, in the absence of the others,
26 act as an examining board, and the different schools of medicine rep-
27 resented in the board of health shall be represented in said number.
28 The certificate, while in force, shall confer upon the holder the right
29 to practice medicine, surgery and obstetrics, and be conclusive evi-
30 dence thereof. In all examinations made or proceedings had pursuant
31 to the provisions of this chapter, any member of the board may ad-
32 minister oaths and take testimony in any manner authorized by law.
33 Anyone failing in his examination shall be entitled to a second one,
34 within three months thereafter, without further fee. If any person
35 shall by notice in writing apply to the secretary of the board for an
36 examination or reexamination, and it fails or neglects for three
37 months thereafter to give him the same, he may, notwithstanding
38 any provision of this chapter, practice medicine until the next regular
39 meeting of the board without the required certificate.

[C., '97, § 2576; S., '13, § 2576.]

SEC. 1314. Expenses of secretary—supplies.

1 Out of the fund created by the payment of fees by applicants for
2 examination or certificates the secretary shall receive his necessary
3 expenses incurred for services which can not be performed at the
4 capitol. All printing, postage, and other contingent office expenses
5 necessarily incurred under the provisions of this chapter shall be paid
6 from said fund. Any balance of said funds remaining shall be turned
7 over to the state treasurer for the use of the school fund.

[C., '97, § 2583; S., '13, § 2583.]

SEC. 1315. Recording certificate.

1 Every certificate issued under this chapter shall show whether it
2 was granted upon examination or diploma, and the school of medicine
3 the holder practices under. He shall, before engaging in the practice
4 of medicine, file the same for record in the office of the recorder of the
5 county in which he resides, who shall record it in a book provided for
6 that purpose, which record shall be open to public inspection, and for
7 which service the recorder may charge a fee of fifty cents, to be paid
8 by the certificate holder. The same record must be made of the cer-

9 tificate in any county to which the holder may remove and in which he
10 proposes to practice.

[C., '97, § 2577.]

SEC. 1316. Refusal or revocation of certificate.

1 The board of medical examiners may refuse to grant a certificate
2 to any person otherwise qualified, and shall revoke any certificate
3 issued by it to any physician who is not of good moral character, or
4 who solicits professional patronage by agents, or who profits by the
5 acts of those representing themselves to be his agents, or who is guilty
6 of fraudulent representations as to his skill and ability, or who is
7 guilty of gross unprofessional conduct, or for incompetency, or for
8 habitual intoxication or drug habit; or if the certificate has been
9 granted upon false and fraudulent statements as to graduation or
10 length of practice, the board of medical examiners shall, to safeguard
11 the public health, revoke the certificate in the manner hereinafter set
12 forth.

13 The words "gross unprofessional conduct" as used in this section
14 are hereby declared to mean:

15 1. The procuring or aiding or abetting in procuring a criminal
16 abortion.

17 2. The employment of what are popularly known as "cappers" or
18 "steerers" in procuring practice.

19 3. The obtaining of a fee on the assurance that a manifestly in-
20 curable disease can be permanently cured.

21 4. A wilful betrayal of a professional secret to the detriment of
22 the patient.

23 5. Any advertisement of medical business in which untruthful
24 and improbable statements are made.

25 6. Any advertisement of any kind, of any medicine or means,
26 whereby the monthly periods of women can be regulated or the
27 menses be reestablished if suppressed.

28 7. Conviction of any offense involving moral turpitude.

29 8. Wilful neglect of a patient in a critical condition.

30 9. Accepting any fee for service as a witness in a case at law or
31 equity other than such as is allowed by the court, or that the court is
32 made cognizant of.

33 10. The splitting or division, or agreeing to split or divide, any
34 fee or charge paid or to be paid on account of any operation performed
35 or to be performed, upon any patient, with any other person for any
36 service performed or agreed to be performed, or in any consideration
37 of such other person accompanying, bringing or referring to him a
38 patient for any treatment or operation, or on account of such other
39 person assisting him in reference to such treatment or operation with-
40 out the knowledge and consent of the patient or the person having
41 the patient in charge or the patient's administrator or executor in
42 the event of the patient's death.

43 11. Knowingly misstating the cause of a death in a death cer-
44 tificate, except where an exact statement would render the physician
45 liable to suit for libel, or subject the decedent or his family to public
46 odium.

[C., '97, § 2578; S., '13, § 2578.]

SEC. 1317. Notice—charges—procedure.

1 Before the revocation of any certificate issued by the state med-
2 ical examiners the licentiate shall have been afforded an opportunity
3 for a hearing before the board. At least twenty days prior to the
4 date set for such a hearing, the secretary of the state board of med-
5 ical examiners shall cause written notice to be personally served upon
6 the defendant in the manner perscribed for the serving of original
7 notice in civil actions. Said notice shall contain a statement of the
8 charges and the date and place set for the hearing before the board.
9 If the party thus notified fails to appear, either in person or by coun-
10 sel at the time and place designated in said notice, the board shall,
11 after receiving satisfactory evidence of the truth of the charges and
12 the proper issuance of notice, revoke said certificate. If the licentiate
13 appear either in person or by counsel, the board shall proceed with the
14 hearing as herein provided. The board may receive and consider af-
15 fidavits and oral statements and shall cause stenographic reports of
16 the oral testimony to be taken, which, together with all other papers
17 pertaining thereto, shall be preserved for two years. If three mem-
18 bers of the board, present at the hearing, are satisfied that the licen-
19 tiate is guilty of any of the offenses charged, the license shall be re-
20 voked. After the revocation of a certificate the holder thereof shall
21 not practice medicine, surgery or obstetrics in this state for such time
22 as the state board of medical examiners may determine.

[S., '13, § 2578-a.]

SEC. 1318. Appeal—certification of record.

1 Any person aggrieved by any ruling or order entered under the
2 provisions of this chapter shall have the right of an appeal to the dis-
3 trict court in the county in which the alleged offense was committed,
4 upon giving notice to the board of medical examiners of such appeal
5 within twenty days after the entry of such ruling, order, or judgment.
6 Upon giving said notice the original complaint, affidavits, depositions
7 and a duly certified transcript of evidence taken upon the hearing be-
8 fore the state board of medical examiners shall be by the secretary
9 of said board certified to the clerk of the district court of the county
10 to which said appeal is taken. Said appeal shall be triable at the
11 next term of court in the county to which said appeal is taken
12 convening not less than ten days after notice of appeal is served.
13 The appeal shall be heard and determined upon the affidavits, depo-
14 sitions and evidence so transcribed and such further evidence as either
15 party may offer. The provisions hereof shall apply to all cases not
16 actually tried upon appeal May first, nineteen hundred thirteen.

[S., '13, § 2578-b.]

SEC. 1319. Itinerant physician.

1 Every physician practicing medicine, surgery or obstetrics, or
2 professing or attempting to treat, cure or heal diseases, ailments or
3 injuries by any medicine, appliance or method, who, by himself, agent
4 or employee goes from place to place, or from house to house, or by
5 circulars, letters or advertisements solicits persons to meet him for
6 professional treatment at places other than his office at the place of
7 his residence, shall be considered an itinerant physician; and any
8 such itinerant physician shall, in addition to the certificate elsewhere
9 provided for in this chapter, procure from the state board of medical

10 examiners a license as an itinerant, for which he shall pay to the
 11 treasurer of state, for the use of the state of Iowa, the sum of two
 12 hundred fifty dollars per annum. Upon payment of this sum, the
 13 secretary shall issue to the applicant therefor a license to practice
 14 within the state, as an itinerant physician, for one year from the
 15 date thereof. The board may, for satisfactory reasons, refuse to issue
 16 such license, or may cancel such license upon satisfactory evidence of
 17 incompetency or gross immorality. Any person practicing medicine
 18 as an itinerant physician as herein defined, without having procured
 19 such license, shall be guilty of a misdemeanor, and, upon conviction
 20 thereof, shall be fined not less than three hundred dollars, nor more
 21 than five hundred dollars, and costs, and shall be committed to the
 22 county jail until such fine is paid; but nothing herein shall be con-
 23 strued to prevent any physician otherwise legally qualified from at-
 24 tending patients in any part of the state to whom he may be called
 25 in the regular course of business, or in consultation with other
 26 physicians.

[C., '97, § 2581; S., '13, § 2581.]

SEC. 1320. Restrictions.

1 If, by the laws of any state or the rulings or decisions of the ap-
 2 propriate officers or boards thereof, any burden, obligation, require-
 3 ment, disqualification or disability is put upon physicians registered in
 4 this state or holding diplomas from medical colleges in this state,
 5 which are in good standing therein, affecting the right of said physi-
 6 cians to be registered or admitted to practice in said state, then the
 7 same or like burdens, obligations, requirements, disqualification or
 8 disability shall be put upon the registration in this state of physicians
 9 registered in said state, or holding diplomas from medical colleges sit-
 10 uated therein.

[S., '13, § 2582-a.]

SEC. 1321. Penalties.

1 Any person who shall present to the board of medical examiners
 2 a fraudulent or false diploma, or one of which he is not the rightful
 3 owner, for the purpose of procuring a certificate as herein provided,
 4 or shall file, or attempt to file, with the recorder of any county in the
 5 state the certificate of another as his own, or who shall falsely per-
 6 sonate anyone to whom a certificate has been granted by such board,
 7 or shall practice medicine, surgery or obstetrics in the state without
 8 having first obtained and filed for record the certificate herein re-
 9 quired, and who is not embraced in any of the exceptions contained
 10 in this chapter, or who continues to practice medicine, surgery or ob-
 11 stetrics after the revocation of his certificate, is guilty of a misde-
 12 meanor, and, upon conviction thereof, shall be fined not less than three
 13 hundred dollars, nor more than five hundred dollars, and costs of pros-
 14 ecution, and shall stand committed to the county jail until such fine
 15 is paid; and whoever shall file or attempt to file with the recorder of
 16 any county in the state the certificate of another with the name of the
 17 party to whom it was granted or issued erased, and the claimant's
 18 name inserted, or shall file or attempt to file with the board of medical
 19 examiners any false or forged affidavit of identification, shall be guilty
 20 of forgery.

[C., '97, § 2580.]

CHAPTER 7.

OSTEOPATHY.

SECTION 1322. Osteopathy—examination—practice.

1 Any person holding a diploma from a legally incorporated school
 2 of osteopathy, recognized as of good standing by the Iowa osteopathic
 3 association, and wherein the course of study comprises a term of at
 4 least twenty months, or four terms of five months each, in actual at-
 5 tendance at such school, and which shall include instruction in the
 6 following branches, to-wit: Anatomy, including dissection of a full
 7 lateral half of the cadaver, physiology, chemistry, histology, pathol-
 8 ogy, gynecology, obstetrics and theory of osteopathy, and two full
 9 terms of practice of osteopathy, shall, upon the presentation of such
 10 diploma to the state board of medical examiners and satisfying such
 11 board that he is the legal holder thereof, be granted by such board
 12 an examination on the branches herein named (except upon the theory
 13 and practice of osteopathy until such time as there may be appointed
 14 an osteopathic physician on the state board of health and medical ex-
 15 aminers). The fee for said examination, which shall accompany the
 16 application, shall be ten dollars and the examination shall be con-
 17 ducted in the same manner, and at the same place and on the same
 18 date that physicians are examined as prescribed by section thirteen
 19 hundred thirteen. The same general average shall be required as in
 20 case of physicians; provided that osteopaths who are graduates of
 21 legally incorporated schools of osteopathy as above recognized, and
 22 who are at the time of the passage of this act [29 G. A., ch. 158]
 23 engaged in the practice of osteopathy in Iowa, shall be entitled to re-
 24 ceive a certificate upon the payment of the prescribed fee without
 25 such examination. Upon passing a satisfactory examination as above
 26 prescribed the said board of medical examiners shall issue a certificate
 27 to the applicant therefor, signed by the president and secretary of
 28 said board, which certificate shall authorize the holder thereof to
 29 practice osteopathy in the state of Iowa. This certificate when issued
 30 shall be registered with the recorder of the county in which the holder
 31 thereof resides and for which he shall pay a fee of fifty cents, and the
 32 holder thereof shall not be subject to the provisions of section thirteen
 33 hundred twenty-one.

[S., '13, § 2583-a.]

SEC. 1323. Operative surgery or use of drugs prohibited.

1 The certificate provided for in the foregoing section shall not
 2 authorize the holder thereof to prescribe or use drugs in his practice,
 3 nor to perform major or operative surgery.

[S., '13, § 2583-b.]

SEC. 1324. Revocation of certificate.

1 The board of medical examiners may refuse to grant a certificate
 2 to any person otherwise qualified who is not of good moral character.
 3 For like cause, or for incompetency, or habitual intoxication, or upon
 4 satisfactory evidence by affidavit or otherwise that a certificate has
 5 been granted upon false and fraudulent statements as to graduation or
 6 length of practice, the said board may revoke a certificate by an af-
 7 firmative vote of at least three members of the board, which number

8 shall include one or more members of the different schools of medicine
9 represented in said board. After the revocation of a certificate, the
10 holder thereof shall not practice osteopathy, surgery or obstetrics in
11 the state.

[S., '13, § 2583-c.]

SEC. 1325. False representations—penalties.

1 Any person who shall present to the board of medical examiners
2 a fraudulent or false diploma, or one of which he is not the rightful
3 owner, for the purpose of procuring a certificate as herein provided,
4 or shall file, or attempt to file, with the recorder of any county in the
5 state the certificate of another as his own, or who shall falsely per-
6 sonate anyone to whom a certificate has been granted by such board,
7 or shall practice osteopathy, surgery or obstetrics in the state with-
8 out first having obtained and filed for record the certificate herein re-
9 quired, and who is not embraced in any of the exceptions contained
10 in this chapter, or who continues to practice osteopathy, surgery or
11 obstetrics after the revocation of his certificate, is guilty of a misde-
12 meanor, and upon conviction thereof, shall be fined not less than three
13 hundred dollars, nor more than five hundred dollars and costs of
14 prosecution, and shall stand committed to the county jail until such
15 fine is paid; and whoever shall file or attempt to file with the recorder
16 of any county in the state the certificate of another with the name
17 of the party to whom it was granted or issued erased, and the claim-
18 ant's name inserted, or shall file or attempt to file with the board of
19 medical examiners any false or forged affidavit of identification, shall
20 be guilty of forgery.

[S., '13, § 2583-d.]

SEC. 1326. Itinerant osteopath—license.

1 Every person practicing osteopathy, or obstetrics, or professing
2 to treat, cure or heal diseases, ailments or injury by osteopathic ap-
3 plication or method, who goes from place to place, or from house to
4 house, or by circulars, letters or advertisements solicits persons to
5 meet him for professional treatment at places other than his office at
6 the place of his residence, shall be considered an itinerant osteopath;
7 and such itinerant osteopath shall, in addition to the certificate else-
8 where provided for in this chapter, procure from the state board of
9 medical examiners a license as an itinerant, for which he shall pay
10 to the treasurer of state, for use of the state of Iowa, the sum of two
11 hundred fifty dollars per annum. Upon payment of this sum, the sec-
12 retary shall issue to the applicant therefor a license to practice within
13 the state, as an itinerant osteopath, for one year from the date
14 thereof. The board may, for satisfactory reasons, refuse to issue such
15 license, or may cancel such license upon satisfactory evidence of in-
16 competency or gross immorality.

[S., '13, § 2583-e.]

CHAPTER 8.

NURSING.

SECTION 1327. Practice of nursing.

1 No person, except one holding a certificate under this chapter,
 2 shall advertise to be, or assume, or use the title of registered or gradu-
 3 ated nurse, or use the abbreviations "R. N." or "G. N." or any other
 4 figures or letters to indicate that the person using the same is a reg-
 5 istered or graduated nurse; and it shall be unlawful for any nurse
 6 to practice nursing as registered or graduate nurse within this state
 7 without having first registered as provided in this chapter.

[S., '13, § 2575-a31.]

SEC. 1328. Certificate required.

1 It shall be unlawful for any person to profess to be a registered
 2 or graduated nurse without first obtaining from the state board of
 3 health a certificate authorizing him or her to practice nursing in this
 4 state, except as hereinafter provided.

[S., '13, § 2575-a28.]

SEC. 1329. Examining committee—qualifications of applicants.

1 At the annual meeting of the state board of health it shall select
 2 two physicians from its own membership, and two registered nurses,
 3 residents of this state actively engaged in the practice of nursing,
 4 who, together with the secretary of the state board of health, shall
 5 constitute the examining committee for the year. The examinations
 6 provided for in this chapter shall be held in the city of Des Moines,
 7 in July of each year and at such other times and places as the board
 8 of health shall direct. All applicants for certificates to practice nurs-
 9 ing shall have attained the age of twenty-one years and shall be of
 10 good moral character. They shall be graduates of training schools
 11 recognized as being in good standing by the state board of health of
 12 Iowa, and shall have received at least two years' instruction in general
 13 hospital practice. No training school shall be accredited by the state
 14 board of health as a school of recognized standing which is not at-
 15 tached to a general hospital, and which does not have a course of
 16 study of at least three years.

[S., '13, § 2575-a29.]

SEC. 1330. Compensation of examining committee—expenses.

1 Each member of the examining committee, except the secretary,
 2 shall receive for his services out of the funds created by the payment
 3 of fees by applicants for examination such compensation as is allowed
 4 to the members of the state board of medical examiners for like ser-
 5 vices and the secretary shall receive his necessary expenses, incurred
 6 for services which can not be performed at the capitol. All printing,
 7 postage and other contingent expenses necessarily incurred under the
 8 provisions of this chapter shall be paid from said fund. All expenses
 9 incurred under the provisions of this chapter shall be itemized, veri-
 10 fied, and audited and a warrant drawn therefor on the nurses' fund
 11 in the same manner as other expenses of the state board of health.

[S., '13, § 2575-a34.]

SEC. 1331. Examination—fees—certificates—where registered.

1 Any person who shall apply for a certificate to practice nursing
2 shall be examined in the following subjects: elementary hygiene, an-
3 atomy, physiology, materia medica, dietetics, and also practical nurs-
4 ing, medical and surgical nursing, obstetrics, nursing of children and
5 the rules and regulations of the state board of health relating to in-
6 fectious diseases and quarantine and such other subjects as the exam-
7 ining board may require from time to time. Each applicant shall pay
8 the secretary of the state board of health a fee of five dollars. If the
9 examination be satisfactory to three members of said committee it
10 shall so report to the state board of health; if the board find the re-
11 port and ratings correct, it shall authorize its president and secre-
12 tary to issue a certificate to the successful candidate for which such
13 candidate shall pay an additional fee of one dollar. This certificate
14 shall confer upon the holder the right to practice as a registered nurse
15 and be conclusive evidence thereof. The state board of health is em-
16 powered to recognize certificates issued to nurses under the laws of
17 other states having substantially similar requirements to those exist-
18 ing in this state; provided that such states recognize certificates is-
19 sued by the state of Iowa; then certificates issued by authority of such
20 other states may be deemed sufficient evidence of qualifications of the
21 licentiate without further examination for certificate in this state;
22 the fee for such certificate shall be ten dollars. The holder of such
23 certificate provided for in this chapter shall cause the same to be reg-
24 istered in the office of the county recorder of the county wherein he
25 intends to reside.

[S., '13, § 2575-a30.]

SEC. 1332. Refusal or revocation of certificates.

1 The board of health may refuse to grant, or renew any certifi-
2 cate provided for in this chapter, to a person otherwise qualified, who
3 obtained said certificate by false or fraudulent representation, or for
4 immoral or unprofessional or dishonorable conduct, or for wilful or
5 repeated violation of the rules or regulations of the state board of
6 health; and the board may revoke any certificate issued by it, for any
7 such or similar cause; provided that before the revocation of any
8 certificate issued under the provisions of this chapter, the licentiate
9 shall have been afforded an opportunity for a hearing before the
10 board. At least twenty days prior to the date set for such hearing,
11 the secretary of the state board of health shall cause written notice,
12 under registered mail, to be sent to the licentiate at his last known
13 place of residence; said notice shall contain a statement of the charges,
14 and the date and place set for the hearing before the board. If the
15 party thus notified fails to appear, either in person or by counsel, at
16 the time and place designated in said notice, the board may, after re-
17 ceiving satisfactory evidence of the truth of the charges and proper
18 issuance of the notice, revoke said certificate. If the licentiate appear
19 either in person or by counsel, the board shall proceed with the hear-
20 ing as herein provided. The board may receive and consider affidavits
21 and oral statements, and shall cause stenographic report of the oral
22 testimony to be taken, which, together with all other papers pertain-
23 ing thereto, shall be preserved for one year. If five members of the
24 board present at the hearing are satisfied that the licentiate is guilty

25 of any of the offenses charged, the certificate shall be revoked, for
26 such time as the state board of health may determine.

[S., '13, § 2575-a33.]

SEC. 1333. Penalty.

1 Any person who shall knowingly violate any of the preceding
2 provisions of this chapter shall be guilty of a misdemeanor, and upon
3 conviction thereof shall be fined a sum not exceeding one hundred
4 dollars or imprisoned in the county jail not to exceed thirty days.

[S., '13, § 2575-a35.]

SEC. 1334. Not applicable to certain nurses.

1 This chapter shall not apply to any person nursing the sick with
2 or without pay who does not in any way assume to be a registered or
3 graduate nurse.

[S., '13, § 2575-a32.]

SEC. 1335. Public health nurses.

1 The boards of supervisors, the city and town councils, and the
2 school boards in this state shall have the power and authority to em-
3 ploy visiting or public health nurses at such periods each year and
4 in such numbers as they may deem advisable and to pay the salaries
5 and expenses thereof from the funds in the treasuries of said boards
6 and councils.

[38 G. A., ch. 290, § 1.]

SEC. 1336. Cooperation between municipalities.

1 The said board of supervisors, the city and town councils, and
2 the school boards in any county in the state may cooperate in the em-
3 ployment of said visiting or public health nurses and may apportion
4 the salaries and expenses thereof to the various territories repre-
5 sented by them.

[38 G. A., ch. 290, § 2.]

SEC. 1337. Duties of public health nurses.

1 The said boards of supervisors, the city and town councils, and
2 the school boards shall at the time of the employment of visiting or
3 public health nurses prescribe the duties thereof which shall in a gen-
4 eral way be for the promotion and conservation of the public health.

[38 G. A., ch. 290, § 3.]

CHAPTER 9.

EMBALMING, TRANSPORTATION AND DISPOSAL OF DEAD BODIES.

**SECTION 1338. Preparation and transportation of dead bodies—
rules and regulations.**

1 The state board of health shall have sole jurisdiction over the
2 transportation of all dead bodies and of all methods preparatory
3 thereto, and the said board is hereby authorized to make such rules
4 and regulations, relating thereto, as in its opinion are necessary to

5 subserve and protect the public health; said rules and regulations
6 when made shall be enforced by the secretary of the state board of
7 health.

[S., '13, § 2575-a42.]

SEC. 1339. Practice of embalming.

1 It shall be unlawful for any person to embalm or otherwise pre-
2 pare for transportation by railway or other public conveyance except
3 as hereinafter provided, the dead body of any human being, or to
4 embalm or otherwise prepare any such body, or to practice, or publicly
5 profess to practice the art of embalming without first obtaining, from
6 the state board of health, a license authorizing him to practice embalming
7 in this state.

[S., '13, § 2575-a36.]

SEC. 1340. Examining committee—applicants—qualifications.

1 At the annual meeting of the state board of health, it shall select
2 two physicians from among its own membership, and two licensed
3 embalmers, residents of this state, who, together with the secretary
4 of the state board of health, shall constitute the examining committee
5 for the year. The examinations provided for in this chapter shall
6 be held in the city of Des Moines, in July and January of each year
7 and at such other times as the board of health may direct. All applicants
8 for license to practice embalming shall have attained the age
9 of twenty-one years, and shall have had not less than two years' practical
10 experience under a licensed embalmer in this state, or in lieu
11 thereof, shall have had a practical experience of not less than one
12 year under a licensed embalmer, and have completed the regular
13 course of instruction in a school of embalming recognized as being in
14 good standing by the state board of health of Iowa; in addition to all
15 of said requirements, each applicant for an embalmer's license shall
16 have actually embalmed not less than ten bodies, under the supervision
17 of a licensed embalmer, prior to the date of examination. Each
18 applicant for examination shall file with the secretary of the state
19 board of health not later than ten days prior to the date of the next
20 examination a sworn statement of his age and other qualifications as
21 required by this chapter, and a certificate of good moral character
22 signed by three responsible citizens, one of whom must be a licensed
23 embalmer personally acquainted with the applicant for at least one
24 year. All applications under this chapter shall be upon blanks furnished
25 by the state board of health.

[S., '13, § 2575-a37.]

SEC. 1341. Examination—license—fee.

1 Each applicant for license to practice embalming shall be examined
2 in the following subjects: anatomy, sanitary science, the care,
3 disinfection, preservation, transportation of and burial, or other final
4 disposition of dead bodies, and the rules and regulations of the state
5 board of health relating to infectious diseases and quarantine; he may
6 also be required to demonstrate his proficiency as an embalmer by
7 operations on a cadaver. The examination papers and oral answers
8 shall, when concluded, be graded upon the scale of one hundred, each
9 applicant first to pay, to the secretary of the state board of health, a
10 fee of five dollars therefor. The average rating required to pass shall

11 be fixed by the board of health prior to the examination. If the exam-
 12 ination be satisfactory to three members of the examining committee,
 13 it shall so report to the state board of health; if the board find the
 14 report and ratings correct, it shall authorize its president and secre-
 15 tary to issue a license to the successful candidates, for which such
 16 candidates shall each pay an additional fee of one dollar. The license,
 17 while in force, shall confer upon the holder the right to practice em-
 18 balming, or to otherwise prepare dead bodies for transportation,
 19 burial, or other authorized mode of final disposition, and be conclusive
 20 evidence thereof.

[S., '13, § 2575-a38.]

SEC. 1342. Licenses renewed annually—licentiates of other states—fees—licenses registered.

1 All licenses shall expire on the thirtieth day of June following
 2 the date of issuance of such license. Licenses shall be renewed with-
 3 out examination annually by the state board of health within thirty
 4 days after expiration, provided the holder of said license shall make
 5 written application to said board, and pay to the secretary thereof the
 6 sum of one dollar renewal fee. The state board of health is empow-
 7 ered to recognize licenses issued to embalmers by authorities under
 8 the laws of other states having substantially similar requirements to
 9 those existing in this state; provided that such states recognize
 10 licenses issued by the Iowa state board of health, then licenses issued
 11 by authority of such other states may be deemed sufficient evidence
 12 of qualifications of the licentiate without further examination for
 13 license in this state; the fee for such license shall be ten dollars. The
 14 owner of any license, or renewal, provided for in this chapter shall
 15 cause the same to be registered in the office of the local board of health
 16 of each city or town wherein he intends to practice the art of em-
 17 balming, and no transportation permit shall be issued by the local
 18 board to any person not so recorded.

[S., '13, § 2575-a39.]

SEC. 1343. Secretary of state board of health to keep record.

1 The secretary of the state board of health shall keep a record of
 2 the names and residence of all persons to whom licenses have been
 3 issued, with the official number and date of issuance; a copy of this
 4 record, together with such other information as may tend to improve
 5 the public service, shall be published annually.

[S., '13, § 2575-a40.]

SEC. 1344. Refusal to grant licenses—revocation.

1 The state board of health may refuse to grant, or renew, any
 2 license provided for in this chapter to a person otherwise qualified,
 3 who obtained said license by false or fraudulent representation, or
 4 for habitual intoxication, or for immoral or unprofessional or dis-
 5 honorable conduct, or for wilful or repeated violation of the rules or
 6 regulations of the state board of health; and the board may revoke
 7 any license, issued by it, for any such similar cause; provided that
 8 before the revocation of any license issued under the provisions of
 9 this chapter, the licentiate shall have been afforded an opportunity
 10 for a hearing before the board. At least ten days prior to the date
 11 set for said hearing, the secretary of the state board of health shall

12 cause written notice, under registered mail, to be sent to the licentiate
 13 at his last known place of residence; said notice shall contain a state-
 14 ment of the charges, and the date and place set for the hearing before
 15 the board. If the party thus notified fails to appear, either in person
 16 or by counsel, at the time and place designated in said notice, the
 17 board may, after receiving satisfactory evidence of the truth of the
 18 charges and the proper issuance of the notice, revoke said license. If
 19 the licentiate appear, either in person or by counsel, the board shall
 20 proceed with the hearing as herein provided. The board may receive
 21 and consider affidavits and oral statements, and shall cause a steno-
 22 graphic report of the oral testimony to be taken, which together with
 23 all other papers pertaining thereto shall be preserved for one year.
 24 If five members of the board, present at the hearing, are satisfied
 25 that the licentiate is guilty of any of the offenses named in this sec-
 26 tion, the license shall be revoked. After the revocation of a license
 27 the licentiate, or holder thereof, shall not practice embalming or any
 28 of its branches in this state.

[S., '13, § 2575-a41.]

SEC. 1345. Compensation of examining committee—expenses.

1 Each member of the examining committee, except the secretary,
 2 shall receive for his services, out of the funds created by the payment
 3 of fees by applicants for examination or license and renewals, such
 4 compensation as is allowed the members of the state board of medical
 5 examiners for like services, and the secretary shall receive his neces-
 6 sary expenses incurred for services which can not be performed at the
 7 capitol. All printing, postage, and other contingent office expenses
 8 necessarily incurred under the provisions of this chapter, shall be paid
 9 from said fund. Any balance of said funds remaining shall be turned
 10 over to the state treasurer for the use of the state. All expenses
 11 incurred under the provisions of this chapter shall be itemized, veri-
 12 fied, and audited, and a warrant drawn therefor on the embalmers'
 13 fund in the same manner as other expenses of the state board of
 14 health.

[S., '13, § 2575-a44.]

SEC. 1346. Removal or shipping permit.

1 It shall be unlawful for any railway agent, express agent, bag-
 2 gagemaster, conductor, or other person acting as such, to receive the
 3 dead body of any person for shipment, or transportation by railway
 4 or other public conveyance, to or from any point in this state or to a
 5 point outside of this state, unless said body be accompanied by a re-
 6 moval, or shipping permit signed by the health officer of the local
 7 board of health, and a certificate, attached to the outside box contain-
 8 ing such body, showing the name and official number of the embalmer
 9 by whom it was prepared, and the method of preparation employed;
 10 provided that nothing in this chapter shall be so construed as to pre-
 11 vent the shipment of dead bodies intended for use for anatomical pur-
 12 poses within this state when the same are so designated by the shipper.

[S., '13, § 2575-a43.]

SEC. 1347. Penalty—enforcement.

1 Any person who shall knowingly violate any of the foregoing
 2 provisions of this chapter, or who shall offer a forged removal, ship-

3 ping or transportation certificate, or who shall certify falsely as to
 4 the preparation of a dead body, or who shall represent himself to be
 5 the bona fide owner of a license or renewal when such license or re-
 6 newal was not regularly issued to him by the state board of health,
 7 shall be guilty of a misdemeanor, and upon conviction thereof, shall
 8 be fined not exceeding one hundred dollars, or be imprisoned in the
 9 county jail for a period not exceeding thirty days, or both at the dis-
 10 cretion of the court. It shall be the duty of the secretary of the state
 11 board of health to see that the foregoing provisions of this chapter
 12 are properly administered and enforced throughout the state, and all
 13 peace officers and county attorneys shall aid him in their several
 14 capacities in the discharge of these duties.

[S., '13, § 2575-a45.]

SEC. 1348. Bodies for medical purposes—how distributed.

1 Every coroner, undertaker, superintendent or managing officer
 2 of any public asylum, hospital, poorhouse, or penitentiary in this
 3 state, shall deliver the bodies of uninterred deceased persons in his
 4 charge suitable for scientific purposes with the consent of the friends
 5 or relatives, if known, and without such consent if not known, to
 6 medical colleges or schools within the state, for the purpose of scien-
 7 tific medical study, unless the deceased person expressed a desire dur-
 8 ing his last illness that his body should be buried or cremated; such
 9 bodies shall be equitably distributed among the medical colleges and
 10 schools in the state under such rules and regulations as may be adopted
 11 by the state board of health, and the number so distributed shall be
 12 in proportion to the number of students matriculated at each medical
 13 college or school. The expense of such distribution shall be paid by
 14 the medical college or school receiving the bodies. If there shall be
 15 more bodies than are required by the medical colleges or schools of
 16 the state, the same may be delivered to physicians in the state, under
 17 such rules and regulations as may be adopted by the state board of
 18 health.

[C., '73, § 4018; C., '97, § 4946; S., '13, § 4946-b.]

SEC. 1349. Duties of various officers.

1 It shall be the duty of every such coroner, undertaker, superin-
 2 tendent or managing officer of a public asylum, hospital, poorhouse or
 3 penitentiary, as soon as any such body shall come into his custody, or
 4 as soon as any person shall die, whose body, under the provisions
 5 hereof, should be delivered to a medical college or school, to at once
 6 notify the secretary of the state board of health by telegram of the
 7 fact, and to hold such body unburied for forty-eight hours thereafter,
 8 and to deliver the body to such medical college or school as the sec-
 9 retary of the state board of health may direct. If, however, such
 10 body is subsequently claimed by any relative or friend, it shall be at
 11 once, by the person or persons having the same in charge, or by the
 12 medical college or school to which it has been delivered, surrendered
 13 to such relative or friend for burial.

[S., '13, § 4946-c.]

SEC. 1350. Body held subject to claim.

1 Every medical college or school, or person receiving the body of
 2 any deceased person under the provisions of the two preceding sec-

3 tions, shall hold the same for the period of sixty days, subject to the
4 claim of relatives or friends.

[C., '73, § 4018; C., '97, § 4946; S., '13, § 4946-d.]

SEC. 1351. Penalties.

1 Any coroner, undertaker, superintendent or managing officer of
2 any public asylum, hospital, poorhouse or penitentiary within this
3 state into whose hands the body of a deceased person shall come, which
4 should be delivered to a medical college or school under the provi-
5 sions hereof, who shall wilfully neglect or refuse to notify the secre-
6 tary of the state board of health of the existence of such body, or re-
7 fuse to deliver the same to a medical college or school upon the direc-
8 tion of the secretary of the state board of health, as herein provided,
9 shall be guilty of a misdemeanor, and upon conviction thereof be fined
10 any sum not exceeding fifty dollars; and any person who shall re-
11 ceive or deliver any body or remains knowing that any of the provi-
12 sions of the three preceding sections have been violated, shall be im-
13 prisoned in the penitentiary not more than two years, or fined not ex-
14 ceeding twenty-five hundred dollars, or both.

[S., '13, § 4946-e.]

SEC. 1352. Burial after dissection.

1 The person receiving a body as contemplated in the preceding
2 section shall decently bury the remains thereof after it has been used
3 for proper purposes, and a failure to do so shall be a misdemeanor.

[C., '73, § 4019; C., '97, § 4947.]

SEC. 1353. Record kept.

1 Any physician receiving the body or remains of a deceased per-
2 son for the purpose of medical or surgical study, and any professor
3 or person in charge of a medical college or school at which such body
4 or remains are received for such purpose, shall, in a suitable book,
5 make or cause to be made a legible record of the time when, the name
6 and the description of the person from whom, and the place where,
7 such body or remains were received, and whether or not such body or
8 remains, when so received, were inclosed in any box, cask or other
9 receptacle, and, if so inclosed, shall record a description of such box,
10 cask or receptacle sufficient to identify the same, together with the
11 shipping marks or directions, if any, on same; and also a description
12 of such body or remains, including the length, weight and sex of
13 same, the apparent age of the person at the time of death, color of
14 hair or beard, if any, and any and all marks or scars on such body by
15 which the same might be identified, and whether or not such body,
16 when so received, was mutilated so as to prevent identification of the
17 same. And such physician, professor or person shall keep the said
18 record, and on demand exhibit the same, as also any and all such
19 bodies or remains of deceased persons then in his charge, for the in-
20 spection of any sheriff or his deputy, if the same is not required, one
21 year or more after such body was received.

[C., '97, § 4948.]

SEC. 1354. Penalty.

1 Any physician, professor or teacher in a medical college or school,
2 who uses, or allows or permits others under his control or charge to

3 use, the body or remains of a deceased person for the purpose of medi-
 4 cal or surgical study without the record required in the preceding
 5 section having been first made, or, on demand being made by the
 6 sheriff or his deputy as therein specified, shall refuse and fail to ex-
 7 hibit any such record or body in his charge or under his control to
 8 such officer for his inspection, shall be guilty of a misdemeanor, and
 9 imprisoned in the county jail not exceeding one year, or be fined not
 10 exceeding one thousand dollars, or both.

[C., '97, § 4949.]

SEC. 1355. Remains—how used.

1 The remains of any person received as aforesaid shall be used
 2 for the purpose of medical and surgical study alone, and in this state
 3 only, and whoever having received such remains shall use them for
 4 any other purpose, or shall remove the same beyond the limits of this
 5 state, or in any manner traffic therein, shall be guilty of a misde-
 6 meanor, and be imprisoned for a term not exceeding one year in a
 7 county jail.

[C., '73, § 4020; C., '97, § 4950.]

CHAPTER 10.

MATERNITY HOSPITALS.

SECTION 1356. Erection, establishment or maintenance—permit.

1 It shall be unlawful to erect, or establish or maintain, conduct,
 2 keep or carry on, or to continue to maintain, keep or carry on, within
 3 this state, any lying-in or maternity hospital, or any institution or
 4 place for the reception, care and treatment of women in labor, or
 5 where females may be received, cared for and treated during preg-
 6 nancy or after delivery, or any hospital wherein women are received,
 7 cared for and treated during pregnancy, or after delivery, the pro-
 8 prietor, owner or persons in charge of which, or any person repre-
 9 senting them, undertakes to adopt or procure or assist in procuring
 10 the adoption or disposal of any child born therein, within two hun-
 11 dred feet of any church building, university, school or other institu-
 12 tion of learning, or public park, or in a building situated within
 13 seventy-five feet of premises owned by another. And it shall be un-
 14 lawful to so erect, establish, maintain, conduct, keep or carry on, or
 15 continue to keep or carry on elsewhere in this state, any place or places
 16 above enumerated, for any such purpose or purposes, without having
 17 first obtained a permit in writing, as hereinafter provided. This
 18 chapter shall not apply to general hospitals for the treatment of dis-
 19 eases, obstetrics and surgical cases.

[S., '13, § 2575-a20.]

SEC. 1357. Board of health to grant permit.

1 The state board of health is hereby authorized to grant a permit
 2 in writing, to establish, maintain, conduct, keep or carry on such
 3 lying-in or maternity hospital, or hospital ward, or institution, or
 4 place for the reception, care and treatment of women in labor, for
 5 pay, or where females may be received, cared for or treated during

6 pregnancy or during or after delivery, for pay, at any place within
7 the state, except as prohibited in the preceding section; but only one
8 such permit shall be issued for any one premises.

[S., '13, § 2575-a21.]

SEC. 1358. Application—inspection of premises—issuance of permit—fees.

1 Any person or persons who desire to obtain the permit provided
2 in the preceding section shall file with the state board of health an
3 application for said permit, naming each person to whom said permit
4 is to be granted, and particularly describing the place or premises to
5 be used for said purposes, and the location thereof; and shall also
6 cause to be filed with said state board of health a statement signed
7 by two regular physicians, holding a certificate, in force, from the
8 state board of medical examiners of this state, to the effect that, to
9 the personal knowledge of each of said physicians, said person, or
10 each of said persons, is of good character and reputation; that he has
11 personally examined the premises described in the application for said
12 permit, and that the same are suitable and properly furnished for
13 the uses described in section thirteen hundred fifty-six, and that such
14 hospital or ward or other institution or place will be for the public
15 convenience. Upon the filing of such application for a permit, to-
16 gether with said physicians' certificate, the state board of health shall
17 satisfy itself as to the correctness of the matters set forth in said
18 application and physicians' certificate, and shall cause said premises
19 to be inspected, for which inspection a fee of five dollars shall be paid
20 by the person or persons signing such application, and when so satis-
21 fied, and upon the payment of a fee of twenty-five dollars by the per-
22 son or persons applying for said permit to the said state board of
23 health, said state board of health shall issue its permit, particularly
24 naming the person or persons to whom granted, the description and
25 location of the premises to be used, and the purpose or purposes for
26 which said permit is granted, which permit shall continue in force
27 for one year from the date thereof, unless sooner revoked. Said per-
28 mit may be renewed, from time to time, whenever said state board of
29 health deem it proper so to do, and upon payment to said board of a
30 fee of five dollars for each renewal thereof. Said permit shall not
31 authorize the use of any other place or premises than the one named
32 in said permit or in the renewal thereof; provided that no fee men-
33 tioned in this section shall be required of any religious or charitable
34 institution conducting such lying-in or maternity hospital.

[S., '13, § 2575-a22.]

SEC. 1359. Register of patients, births and deaths—reports.

1 The person or persons in charge of the place described in said
2 permit shall keep a true, accurate and complete register of all patients
3 and of all births and deaths occurring upon said premises, giving date
4 of entry of each patient, date of birth and name of each child born
5 on said premises, and the age of all children dying thereon, and the
6 same particulars, as well as the name, so far as known, of any woman
7 patient dying on said premises; and said person or persons in charge
8 of the place described in said permit shall furnish to the officer author-
9 ized by law to receive them, all of the particulars required by law
10 to be furnished for the due registration of each birth or death occur-
11 ring on said premises, except when such particulars have been fur-

12 nished by the physician in attendance at birth, or attending on the
 13 person so dying thereon. The state board of health shall furnish
 14 blanks to all permit holders specified in this chapter and to be filled
 15 out and returned to the state board of health within twenty-four hours
 16 after the birth or death of any child or death of any woman patient
 17 dying on the premises described in such permit, giving date of birth
 18 and sex of each child born on said premises and name and age of the
 19 mother, and if the true name of the mother can not be ascertained then
 20 the assumed name given by her, and the age and sex of all children
 21 dying on said premises. And the state board of health shall keep a
 22 record of same, which record shall be accessible to the members of
 23 the state board of health, members of the board of control of state
 24 institutions, the attorney general and any county attorney in the state,
 25 and to no other person except on order of a court of record.

[S., '13, § 2575-a23.]

SEC. 1360. Articles of adoption—record.

1 The person or persons in charge of the premises described in
 2 such permit shall not adopt or dispose of by adoption or procure or
 3 assist in the disposal by adoption of any child born thereon, without
 4 the articles of adoption being filed as required by law. Within twen-
 5 ty-four hours after the departure, removal or withdrawal from said
 6 premises of any child born thereon, or of the body of any such child,
 7 the person or persons in charge thereof shall enter upon said register
 8 a record of such departure, removal or withdrawal and the name or
 9 other description of said child, the name or names and respective resi-
 10 dences of the person or persons who took said child or its body, the
 11 disposition made of said child or its body, the place to which the same
 12 was taken and where the same was left.

[S., '13, § 2575-a24.]

SEC. 1361. Inspections—by whom made—report.

1 Every person in charge of the premises described in any such
 2 permit, his servants, employees or agents, shall permit visitation or
 3 inspection of said premises, and of the register in this chapter pro-
 4 vided to be kept, to be made at any time, by the state board or local
 5 board of health or by any person designated in writing by the state
 6 or local board of health for that purpose. It shall be the duty of the
 7 local board of health of the city, town or township in which such
 8 premises are maintained to inspect such premises at least once in six
 9 months; and to file an accurate report of such inspection with the
 10 city, town or township clerk of the city, town or township in which
 11 such premises are maintained, and that such report shall be preserved
 12 as a permanent record.

[S., '13, § 2575-a25.]

SEC. 1362. Revocation of permit.

1 Said permit may be revoked after reasonable notice by the state
 2 board of health, and a conviction under the succeeding section of this
 3 chapter shall operate to terminate and revoke said permit.

[S., '13, § 2575-a26.]

SEC. 1363. Penalty.

1 Any person violating any of the provisions of this chapter or
 2 making any false entry on the register required by this chapter to
 3 be kept, shall be guilty of a misdemeanor, and shall be punished by a
 4 fine of not more than two hundred fifty dollars, or by confinement in
 5 the county jail not more than six months, or by both such fine and
 6 imprisonment. And the premises so unlawfully used are hereby de-
 7 clared to be a nuisance, and the same shall be subject to the procedure
 8 provided in sections nine hundred sixty-six, nine hundred sixty-seven
 9 and nine hundred sixty-eight, as far as applicable thereto.

[S., '13, § 2575-a27.]

CHAPTER 11.**VITAL STATISTICS.****SECTION 1364. Registrar of vital statistics—duties.**

1 For the complete and proper registration of births and deaths
 2 for legal, sanitary and statistical purposes, the secretary of the state
 3 board of health is hereby constituted state registrar of vital statistics,
 4 without salary other than that received for his being secretary of the
 5 state board of health, and it shall be his duty to promulgate and en-
 6 force all necessary rules and regulations that may be required to carry
 7 out the purposes and provisions of this chapter.

[37 G. A., ch. 326, § 1.]

SEC. 1365. Death certificates.

1 The undertaker or the person in charge of the funeral of any
 2 person dying in the state of Iowa shall cause a certificate of death to
 3 be filled out, in original and duplicate, the original to be sent to the
 4 state registrar as hereinafter provided and the duplicate to be filed
 5 with the proper cemetery authorities where the body is buried for
 6 the cemetery's record, with all the personal particulars contained in
 7 the standard blanks adopted by the United States census bureau, and
 8 with a statement of cause of death by the attending physician, whose
 9 duty it shall be to furnish such information to the undertaker or per-
 10 son in charge of the funeral of any person dying in the state of Iowa
 11 promptly after death has occurred, or in the absence of the attending
 12 physician, or if there be no attending physician, by the health officer
 13 or coroner, and shall file it with the state registrar, capitol building,
 14 city of Des Moines, on or before the fifth day of each month for the
 15 month preceding, and the undertaker or person in charge of the fu-
 16 neral of any person to be buried in Iowa shall issue the burial permit
 17 as provided by the state board of health and shall furnish said permit
 18 and a copy of the death certificate, if the person died in Iowa; other-
 19 wise shall make a copy from the shipping blank if the body is shipped
 20 into Iowa and having died outside the state, to the cemetery authori-
 21 ties where the body is to be buried, and no sexton or superintendent
 22 or person in charge of a cemetery shall permit burial or interment,
 23 and no railroad or other transportation company shall permit ship-
 24 ment of the body unaccompanied by such certificate of death; and no

25 body shall be disinterred without a special permit from the state board
26 of health.

[37 G. A., ch. 326, § 2.]

SEC. 1366. Blanks.

1 The state registrar shall furnish blank certificates of death in
2 original and duplicate forms to physicians and undertakers, and all
3 proper forms and instructions for the effectual working and execution
4 of this law.

[37 G. A., ch. 326, § 3.]

SEC. 1367. Original death certificates—transcripts.

1 It shall be the duty of the state registrar to furnish to the clerk
2 of the district court of each county on or before the first day of April
3 of each year, certified transcripts of the certificates of death filed with
4 him from the respective counties, and the United States census bureau
5 at Washington, D. C., shall have the privilege of making copies of said
6 transcripts, but at the expense of the United States census bureau
7 and not at the expense of the state, and to arrange by counties, bind
8 and deposit in the state historical building at Des Moines, the original
9 death certificates; and transcripts sent to each county shall be bound
10 at the expense of said county, and preserved for reference by the
11 clerk of the district court.

[37 G. A., ch. 326, § 4.]

SEC. 1368. Births—duty of clerk.

1 For the complete and proper registration of births for legal, sani-
2 tary and statistical purposes, the clerk of the district court of each
3 county shall be the county registrar, and it shall be his duty to inform
4 all physicians, midwives, should there be any midwives, and the people
5 in general in his county that all births must be properly reported to
6 the clerk of the district court in the manner prescribed in section
7 thirteen hundred sixty-nine.

[37 G. A., ch. 326, § 5.]

SEC. 1369. Certificates of birth.

1 A certificate of birth of the standard form adopted by the United
2 States census bureau shall be made out by the physician, midwife, or
3 other person attending the birth of every child born in the state of
4 Iowa, or in default of such person by the parent, householder, super-
5 intendent of an institution, or other responsible person, and filed with
6 the clerk of the district court in the county where the child is born
7 within ten days after birth. In case the child is not named, the clerk
8 of the district court shall deliver a supplementary blank for report of
9 given name to the person filing the certificate, to be filled out and
10 returned as soon as the child shall be named, and which shall be at-
11 tached to the birth certificate of the child which has been previously
12 reported and not named.

[37 G. A., ch. 326, § 6.]

**SEC. 1370. Certificates of birth—preservation—records and re-
ports.**

1 Clerks of district courts shall deliver all certificates of birth filed
2 with them for any month to the state registrar, capitol building, city

3 of Des Moines, on or before the fifth day of the following month.
4 Clerks of district courts shall record, number and index, in order of
5 filing, all certificates of birth in a proper record book, the form of
6 which shall be furnished by the state registrar and shall be uniform
7 throughout the state, and said record book shall be furnished by the
8 county. Clerks of district courts shall mail certificates of birth to
9 the state registrar, state board of health office, capitol building, city
10 of Des Moines, in a stamped return envelope provided by the state
11 registrar, and shall include a statement card showing the number
12 returned, with the registered numbers, and that no other births have
13 occurred and failed to be registered. In case no births have occurred,
14 then the clerk of district court shall make a report to that effect upon
15 a postal card blank provided by the state registrar. The state regis-
16 trar shall arrange by counties, bind and deposit in the state historical
17 building at Des Moines, the original birth certificates in the same
18 manner as death certificates are deposited.

[37 G. A., ch. 326, § 7.]

SEC. 1371. Blanks.

1 The state registrar shall furnish blank certificates of birth to
2 clerks of district courts for distribution among physicians, midwives,
3 should there be any midwives, and others, and shall supply clerks of
4 district courts with all necessary forms and instructions to be fur-
5 nished by the county for the effective working and execution of this
6 law.

[37 G. A., ch. 326, § 8.]

SEC. 1372. Marriages and divorces—duty of clerk.

1 The clerk of the district court in each county shall keep a book
2 that shall be uniform throughout the state in which shall be recorded
3 all marriages and divorces occurring within the county, together with
4 such data respecting the same as shall be required by the state regis-
5 trar, and shall report to said state registrar on or before the first day
6 of August in each year, such data respecting such marriages and
7 divorces for the year ending June thirtieth, immediately preceding;
8 and the clerk of the district court of each county shall keep a book in
9 which shall be recorded all births occurring within the county, and
10 which shall have been reported to him as the county registrar, of
11 births, and as provided in section thirteen hundred seventy, and shall
12 furnish reports of births promptly as required in said section.

[37 G. A., ch. 326, § 10.]

SEC. 1373. Certified copies of records—evidence.

1 The state registrar shall, upon request, supply to any applicant,
2 for legal or other proper purposes, a certified copy of the record of
3 any birth or death registered under the provisions of this chapter,
4 for the making and certifying of which he shall be entitled to a fee
5 of fifty cents, to be paid by the applicant; provided that the United
6 States census bureau may obtain, without any expense to the state,
7 transcripts of certified copies of births and deaths without payment
8 of the fees herein prescribed. Any such copy of the record of a birth
9 or death, when properly certified by the state registrar, shall be prima
10 facie evidence in all courts and places of the facts therein stated. For
11 any search of the files and records, when no certified copy is made, the

12 state registrar shall be entitled to a fee of fifty cents for each hour or
13 fractional part of an hour of time of search, said fee to be paid by
14 the applicant. And the state registrar shall keep a true and correct
15 account of all fees by him received under these provisions, and turn
16 the same over to the state treasurer at the end of each month.

[37 G. A., ch. 326, § 11.]

SEC. 1374. System exclusive.

1 No system for the registration of births and deaths shall be con-
2 tinued or maintained in any of the several counties, communities or
3 municipalities of this state other than the one provided for and estab-
4 lished by this chapter.

[37 G. A., ch. 326, § 14.]

SEC. 1375. Appropriation.

1 There is hereby appropriated the sum of three thousand dollars,
2 annually, or so much thereof as may be necessary, to pay the expense
3 of printing, postage, extra clerk hire, and such other expense as may
4 be required in the state registrar's office. All bills to be itemized,
5 certified to and approved by the state registrar; and the state auditor
6 is hereby authorized to draw warrants upon any money in the state
7 treasury not otherwise appropriated to pay the expenses in accord-
8 ance with the provisions of this chapter.

[37 G. A., ch. 326, § 9.]

SEC. 1376. Penalties—duty of county attorney.

1 Any undertaker, person acting as undertaker, physician, mid-
2 wife, clerk of district court, sexton, agent of a transportation com-
3 pany, or other person violating any of the provisions of this chapter
4 or failing to properly register a birth or death as herein required,
5 shall, upon conviction, be considered guilty of a misdemeanor, and
6 shall be fined not less than five and not more than one hundred dollars,
7 or be imprisoned not more than thirty days, or be subjected to both
8 such fine and imprisonment, at the discretion of the court. It shall
9 be the duty of the county attorney in each county, upon complaint of
10 the clerk of the district court as the county registrar of births, or the
11 state registrar, to aid in the enforcement of this chapter, and the state
12 registrar shall endeavor to see that this chapter is uniformly and offi-
13 cially executed throughout the state.

[37 G. A., ch. 326, § 12.]

CHAPTER 12.

DENTISTRY.

SECTION 1377. Practice of dentistry—penalty.

1 It shall be unlawful for any person to practice dentistry in this
2 state without having first complied with all the statutory provisions
3 regulating the same, and any person who shall violate any of said
4 statutory provisions shall be deemed guilty of a misdemeanor, and
5 upon conviction thereof, shall be punished by a fine of not less than
6 fifty dollars, nor more than five hundred dollars, or by imprisonment

7 in the county jail not more than sixty days, or by both such fine and
8 imprisonment.

[S., '13, § 2600-o4.]

SEC. 1378. Practice defined—prima facie evidence.

1 All persons shall be regarded as practicing dentistry within the
2 meaning of this chapter who, for a fee, salary, or reward, paid directly
3 or indirectly, either to himself, or some other person, shall diagnose,
4 or profess to diagnose, or treat, or profess to treat, any of the dis-
5 eases or lesions of the oral cavity, teeth, gums, or maxillary bones, or
6 who shall extract teeth, or prepare or fill cavities in the human teeth,
7 correct, or attempt to correct, malposition of teeth or jaws, or supply
8 artificial teeth as substitutes for natural teeth, or administer anes-
9 thetics, general or local, or give prophylactic treatments, or engage
10 in any other practice included in the curricula of recognized dental
11 colleges; provided, however, that nothing in this chapter shall be so
12 construed as to prevent regularly licensed physicians or surgeons
13 from extracting teeth or treating any diseases coming within the prov-
14 ince of the practice of medicine or to prohibit bona fide students of
15 dentistry from operating upon patients at clinics in connection with
16 their regular course of instruction in any reputable dental college.
17 The opening up of an office for the purpose of practicing dentistry,
18 or announcing to the public in any way, of an intention to practice
19 dentistry, or the use of any sign, card, circular, device, or advertise-
20 ments by any person as a dentist or a dental surgeon, or person skilled
21 in the science of dentistry, or who shall make examination with the
22 intent of performing, or causing to be performed, any operation in
23 the oral cavity, shall be considered prima facie evidence that such
24 person is engaged in the practice of dentistry.

[S., '13, § 2600-o.]

SEC. 1379. Board of examiners—how appointed—term.

1 The board of dental examiners shall consist of five practicing
2 dentists, who shall have been engaged in the continuous practice of
3 their profession in this state for the period of five years preceding
4 their appointment, one of whom shall be appointed annually by the
5 governor, and hold office for the term of five years from and after
6 the first day of August following his appointment, and until his suc-
7 cessor is appointed. The Iowa state dental society shall, at the re-
8 quest of the governor, submit a list of dentists of recognized ability,
9 from which he may select the member of the board to be appointed.
10 All vacancies occurring in the board shall be filled in like manner, and
11 the appointee hold office for the unexpired term of his predecessor.

[S., '13, § 2600-b.]

SEC. 1380. Who not eligible to appointment on board.

1 No member of a dental college faculty, or no person connected
2 therewith, shall be eligible to an appointment upon the state board of
3 dental examiners.

[S., '13, § 2600-k.]

SEC. 1381. Officers—meetings—quorum.

1 The board shall organize by selecting one of its members as
2 president, and one as secretary and treasurer, and shall meet at least

3 once each year, and at such other times as it may deem necessary, and
 4 at such place as it may select. A majority of the board shall consti-
 5 tute a quorum, and its meetings shall at all reasonable times be open
 6 to the public.

[S., '13, § 2600-c.]

SEC. 1382. Treasurer to give bond.

1 The treasurer shall, on assuming the duties of his office, file with
 2 the secretary of state a good and sufficient bond in the penal sum of
 3 one thousand dollars, conditioned for the faithful discharge of his
 4 duties; and shall keep a full and accurate account of all moneys re-
 5 ceived by him under the provisions of this chapter, and pay out the
 6 same upon the written order of the president countersigned by the
 7 secretary.

[S., '13, § 2600-f.]

SEC. 1383. Compensation.

1 Each member of the board shall receive the sum of seven dollars
 2 and fifty cents for each day he is actually engaged in the duties of his
 3 office, with the actual expenses incurred by him in the discharge of
 4 such duties, and the treasurer shall receive a salary not exceeding six
 5 hundred dollars per annum for his services as secretary and treas-
 6 urer, which amounts shall be paid out of the fund received by the
 7 board under the provisions of this chapter, and from no other fund
 8 or source.

[37 G. A., ch. 309, § 5.]

SEC. 1384. Examinations—license—record books—fees.

1 The board shall at any regular meeting, and may at any special
 2 meeting, examine applicants for a license to practice dentistry as to
 3 their knowledge and skill in dental surgery, and shall issue to such
 4 applicants as are found to be qualified a license authorizing them to
 5 practice dentistry. The license shall be signed by each member of
 6 the board, attested by the president and secretary, and have the seal
 7 of the board affixed thereto, and shall be presumptive evidence of the
 8 right of the holder to practice dentistry in the state. The name, age,
 9 nativity, location, number of years of practice of the person to whom
 10 a license is given, the number of the license, and the date of the regis-
 11 tration thereof shall be entered in a book kept in the office of the sec-
 12 retary of the board, which shall be open to the inspection of the public,
 13 under proper restrictions as to its safe keeping, and the number of
 14 the book and page containing such entries shall be noted on the face
 15 of the license. Each applicant for a license shall be a graduate of a
 16 reputable dental school, which is recognized as such by the board of
 17 dental examiners, and pay to the board a fee of twenty dollars before
 18 a license is issued.

[S., '13, § 2600-d.]

SEC. 1385. Women eligible as dental hygienists.

1 Any woman over eighteen years of age and of good moral char-
 2 acter, whose preliminary education is equivalent to two years in the
 3 high school, and who is a graduate of a training school for dental
 4 hygiene, requiring a suitable course of not less than one academic
 5 year of at least nine months, and approved by the state board of dental

6 examiners, may, upon the payment of ten dollars, be examined in the
 7 subjects taught in any such approved course for a license to practice
 8 as a dental hygienist, by the state board of dental examiners, and if
 9 her examination is satisfactory to said board, she shall be licensed as
 10 a dental hygienist and given a license allowing her to remove lime
 11 deposits, accretions and stains upon the exposed surfaces of the teeth
 12 and directly beneath the free margins of the gums, but she shall not
 13 otherwise engage in the practice of dentistry as defined in section
 14 thirteen hundred seventy-eight; provided, however, that all such work
 15 shall be done either in a dental office, or in a public or private school,
 16 or in a public institution, and under the supervision of a licensed
 17 dentist of this state.

18 Any applicant who fails to pass the examination shall forfeit the
 19 fee paid by her, but will be entitled to one reexamination at any future
 20 meeting of the state board of dental examiners free of charge, but
 21 for each subsequent examination she shall pay ten dollars.

[37 G. A., ch. 309, § 3.]

SEC. 1386. License for practitioners from other states—fee.

1 The board of dental examiners may, without examination, issue
 2 license to practice to any dentist who shall have been in legal practice
 3 in some other state or territory for a period of at least five years,
 4 upon the certificate of the board of dental examiners or a like board
 5 of the state or territory in which such dentist was a practitioner,
 6 certifying his competency and that he is of good moral character and
 7 upon payment of twenty-five dollars; provided, however, that the
 8 state from which any practitioner may come shall have, and maintain
 9 equal standards of laws regulating the practice of dentistry and recog-
 10 nize exchange certificates issued by the board of examiners of the state
 11 of Iowa.

[S., '13, § 2600-m.]

SEC. 1387. Change of residence to another state—certificate—fee.

1 Any duly licensed dentist of the state of Iowa who is desirous of
 2 changing his residence to that of another state or territory shall upon
 3 application to the board of dental examiners, and the payment of a fee
 4 of five dollars receive a certificate which shall attest that he is a duly
 5 licensed dentist of the state of Iowa.

[S., '13, § 2600-n.]

SEC. 1388. Recording license — forfeiture — penalty — change of residence—record.

1 The license issued to any dentist by this state shall, within six
 2 months after its issue, be filed for record with the clerk of the district
 3 court in the county where said licensed dentist desires to practice
 4 dentistry; and failure to so file such license for record within six
 5 months after its issue shall incur a forfeiture thereof, and said license
 6 shall not be restored by the board, except upon the payment to the
 7 board of the sum of twenty-five dollars as penalty therefor; and should
 8 said licensed dentist change his place of business to any other county
 9 within the state of Iowa, he shall, within three months, file his license
 10 for record with the clerk of the district court of such new residence,
 11 and the clerk of the court shall be entitled in all instances to a fee of
 12 fifty cents for recording such license. The clerk of the district court

13 shall keep, as a part of the record, an alphabetical index, giving the
 14 names of the licensed dentists and a reference to the pages in the
 15 record wherein a copy of their licenses can be found. Upon the appli-
 16 cation of the state board of dental examiners, the clerk of the district
 17 court shall furnish said board with information as to whether or not
 18 any party named has filed his license in said county, together with the
 19 date of said license, and the date of recording, which information shall
 20 be furnished without expense to the state board of dental examiners.

[S., '13, § 2600-o3.]

SEC. 1389. Revocation for cause—notice—procedure.

1 The state board of dental examiners may, by a four-fifths vote of
 2 its members, revoke the license of any dentist or any dental hygienist
 3 in this state for any of the following causes:

4 1. The presentation to the board of any diploma, license, or cer-
 5 tificate, illegally or fraudulently obtained.

6 2. The conviction of any felony involving moral turpitude, or
 7 chronic or persistent inebriacy, or addiction to the excessive use of
 8 narcotics, or if the person holding such license shall be guilty of grossly
 9 unprofessional conduct, or of misrepresentation in his advertisements,
 10 whereby he deceives and defrauds the public.

11 3. The practice of dentistry as defined in section thirteen hun-
 12 dred seventy-eight, by a dental hygienist or the permitting of such
 13 practice of dentistry by any such dental hygienist by a dentist under
 14 whose supervision such dental hygienist is operating.

15 In all proceedings for the revocation of a license, the holder
 16 thereof shall be given thirty days' notice to prepare for a hearing,
 17 and he shall be heard in person, or by counsel, or by both. The presi-
 18 dent and secretary of the state board of dental examiners shall have
 19 the power to administer oaths in the hearing of all matters arising in
 20 the course of their duties in such trials, and the state board of dental
 21 examiners may take such oral or written proof, for or against the
 22 complainant, as it may deem will best present the facts. In all cases
 23 of revocation, the holder may appeal to the governor of the state within
 24 thirty days after such action by the state board of dental examiners.

[S., '13, § 2600-o5; 37 G. A., ch. 309, § 4.]

SEC. 1390. Testimony—rules and regulations.

1 The board shall have authority to take testimony in relation to
 2 all matters within its jurisdiction, and the presiding officer thereof,
 3 or of any committee appointed thereby, may issue subpoenas for, and
 4 administer oaths to, witnesses called to testify before the board or
 5 such committee; and it may make and adopt all necessary rules, regu-
 6 lations and by-laws not inconsistent with law necessary to enable it
 7 to perform the duties and transact the business authorized and re-
 8 quired by this chapter.

[S., '13, § 2600-e.]

SEC. 1391. Biennial report—auditing committee.

1 The board shall make a biennial report to the governor of its
 2 proceedings, including a full and accurate account of all moneys
 3 received and disbursed and shall publish said report with a list of
 4 dentists licensed to practice in this state, and the president shall
 5 appoint an auditing committee consisting of three practicing dentists

6 of the state who are not members of the board, whose duty it shall
7 be to audit the accounts of the board annually, and make a full report
8 thereof, which report shall accompany the biennial report made by
9 the board to the governor. Any sum of money remaining, after the
10 payment of the compensation and expenses of the members of the
11 board and the salary of the secretary and treasurer, shall be by the
12 treasurer paid into the state treasury on or before the first day of
13 May of each year.

[S., '13, § 2600-h.]

SEC. 1392. Posting of license and names of those employed.

1 Every person who shall practice dentistry, either personally or
2 as proprietor, employee, or assistant, shall keep his license in open
3 view in his operating room; and if he owns, operates or controls a
4 dental office, where anyone other than himself is practicing dentistry,
5 he shall also cause to be displayed, and keep in a conspicuous place
6 at the entrance of his place of business, the name of each and every
7 person employed by him in the practice of dentistry at that place.

[S., '13, § 2600-o1.]

SEC. 1393. Employment of unlicensed dentist—laboratory work.

1 It shall be unlawful for any person owning, or conducting a dental
2 office where dental work of any kind is done, or contracted for, to
3 employ, retain, or permit any unlicensed dentist to practice dentistry
4 in such dental office, contrary to the provisions of this chapter, but
5 nothing in this chapter shall be construed to prevent a person not a
6 licensed dentist from doing laboratory work.

[S., '13, § 2600-o2.]

SEC. 1394. Dentists to practice under their own names.

1 It shall hereafter be unlawful for any licensed dentist to operate
2 or conduct, in the state of Iowa, a dental office or dental parlors where
3 dentistry or dental surgery in any of its departments is practiced
4 under any other name than his own, or to display, in connection with
5 his practice, on signs, stationery, cards, circulars, newspapers, or other
6 mediums of advertising, any other than his own name; but these pro-
7 visions shall not be so construed as to prevent two or more licensed
8 dentists who are associated in the practice from using all of their
9 names, or so as to prohibit a widow or an heir of a deceased dentist,
10 or his administrator, executor or trustee, from operating or conduct-
11 ing such office until reasonable opportunity has been given for dis-
12 posing of same.

[37 G. A., ch. 309, § 1.]

SEC. 1395. Biennial reports—fee—expenditure of funds.

1 Every dentist heretofore or hereafter licensed to practice den-
2 tistry in Iowa and engaged in the active practice of dentistry in this
3 state, shall file, during the month of January, nineteen hundred eight-
4 een, and biennially thereafter, a report with the secretary and treas-
5 urer of the state board of dental examiners, on blanks furnished by
6 him, accompanied by a biennial fee of one dollar, which report shall
7 set forth, the name of the licensed dentist, his office address, the name
8 and address of each dentist and dental hygienist operating in his office
9 and under his supervision, and also the license number of each of such

10 parties, together with the date of its issue. Upon receipt of the fee
11 and report from any licensed dentist, as required by law, the secre-
12 tary and treasurer of the state board of dental examiners shall issue
13 to him a renewal of his license. The state board of dental examiners
14 may, upon hearing and after giving the licensee sixty days' written
15 notice of such hearing, revoke the license of any licensed dentist in
16 the state of Iowa who defaults in the filing of such report or the pay-
17 ment of such biennial fee; but the filing of all delinquent reports and
18 the payment of all delinquent fees on or before the time of hearing,
19 with such additional sum, not exceeding five dollars, as may be fixed
20 by the state board of dental examiners, which amount must be stated
21 in the notice, shall excuse such default and entitle the holder to a
22 renewal of his license. It shall be the duty of the state board of dental
23 examiners to enforce the provisions of this section, and it may collect
24 all delinquent fees in a civil action brought in the name of the state
25 of Iowa.

26 All biennial fees and other funds arising under the dental laws
27 of Iowa shall be accounted for by the secretary and treasurer of the
28 state board of dental examiners, and by him turned into the state
29 treasury within thirty days from the date when they are received;
30 and the state treasurer shall place all such moneys in a separate fund,
31 credited to the state board of dental examiners, and out of which shall
32 be paid all the necessary expenses incurred in the administration and
33 enforcement of the laws regulating the practice of dentistry and dental
34 hygiene and the prosecution of those violating any of their provisions.
35 All unappropriated money in such fund on the thirty-first day of De-
36 cember of each odd-numbered year shall be transferred to the general
37 revenues of the state. The auditor is hereby authorized and directed
38 to draw warrants against such fund in payment of all claims incurred
39 by said board which are itemized and verified as required by section
40 two hundred eighty-two, certified as correct by the secretary and treas-
41 urer of the state board of dental examiners and approved by the state
42 board of audit, and the state treasurer is authorized and directed to
43 pay any and all such warrants out of the said fund credited to the
44 state board of dental examiners.

[37 G. A., ch. 309, § 2.]

SEC. 1396. Enforcement—duty of county attorney.

1 It shall be the duty of the several county attorneys throughout the
2 state to enforce the provisions of this chapter, and to prosecute those
3 guilty of its violation.

[S., '13, § 2600-o7.]

SEC. 1397. Exceptions.

1 Nothing herein shall be construed to prevent physicians and sur-
2 geons from extracting teeth in the practice of their profession, or to
3 prevent bona fide students of dentistry, in the regular course of their
4 instruction, from operating upon patients at clinics, or under the
5 supervision and in the presence of their preceptors, but no fee or salary
6 for such operations shall be received, either directly or indirectly, by
7 any such student of dentistry. And nothing herein shall be construed
8 to prohibit the practice of dentistry in this state by any practitioner
9 who has been duly registered in accordance with the laws of Iowa
10 existing prior to the passage of this act [28 G. A., ch. 91]; or any
11 person who is a member of an incorporated society or community and

12 practicing dentistry solely for and among the members of such com-
 13 munity or incorporated society without charge or compensation.
 [S., '13, § 2600-l.]

SEC. 1398. "Person" defined.

1 Wherever the word "person" is used in this chapter, it shall be
 2 interpreted to mean corporation, association, company, person, or
 3 aggregation of persons, owning, operating, or controlling any room,
 4 or rooms, office, or dental parlor.
 [S., '13, § 2600-o6.]

CHAPTER 13.

OPTOMETRY.

SECTION 1399. Defined.

1 The practice of optometry is defined to be the employment of any
 2 means other than the use of drugs for the measurement of the powers
 3 of vision and the adaptation of lenses for the aid thereof.
 [S., '13, § 2583-g.]

SEC. 1400. Board of examiners—appointment—terms—vacancies.

1 The board of optometry examiners shall be appointed by the gov-
 2 ernor and consist of three optometrists who have been engaged in the
 3 practice of optometry not less than five years in the state of Iowa, and
 4 are recommended by the Iowa state association of optometrists, one
 5 physician member of the state board of health, and the secretary of
 6 the state board of health. They shall be appointed on or before July
 7 first each year and their terms of office shall be one year from July
 8 first of each year. Vacancies shall be filled by the governor, but the
 9 number of optometrists shall neither be increased nor diminished by
 10 any appointment to fill vacancy.
 [S., '13, § 2583-h.]

SEC. 1401. Who not eligible.

1 No members of the faculty of any optical school or college, or
 2 members of any wholesale or jobbing optical house, shall be eligible
 3 to an appointment upon the state board of examiners in optometry.
 [S., '13, § 2583-j.]

SEC. 1402. Organization—meetings—general powers.

1 The board shall organize by selecting one of its members as pres-
 2 ident and the secretary of the state board of health shall serve as
 3 secretary for the board. They shall meet at least once each year the
 4 second Tuesday in July, and at such other times as they may deem
 5 necessary, in the office of the state board of health. A majority of
 6 the board shall constitute a quorum and its meetings shall at all rea-
 7 sonable times be open to the public. This board shall have power to
 8 make all needed regulations for its government and proper discharge
 9 of its duties in accordance with this chapter.
 [S., '13, § 2583-i.]

SEC. 1403. Examination—requirements of—certificate—record.

1 The board shall, at any regular meeting, and may at any special
2 meeting, examine applicants for a license to practice optometry. Such
3 examination shall be confined to such knowledge and requirements as
4 are essential to the practice of optometry. Said board shall issue a
5 license or certificate duly authorizing such as are found to be qualified
6 to practice optometry. Such certificate shall be conclusive as to the
7 rights of the lawful holders of same to practice optometry in the state
8 of Iowa. The name, age, nativity, location, number of years of prac-
9 tice of the person to whom a license is given, the number of the
10 license and the date of registration thereof shall be entered in a book
11 kept in the office of the secretary of the board, which shall be open
12 to the inspection of the public, and the number of the book and page
13 containing such entries shall be noted on the face of the license.

[S., '13, § 2583-k.]

SEC. 1404. Qualifications of applicant—standards of education required—license to persons from other states—fee.

1 Every person desiring to begin the practice of optometry in this
2 state must furnish satisfactory evidence that he is twenty-one years
3 of age and of good moral character; that he has a preliminary educa-
4 tion equivalent to at least two years' study in an accredited high
5 school; that he has studied three years in the office of a registered
6 optometrist, or is a graduate from a standard school of optometry,
7 before he shall be eligible to examination by the board. The standard
8 school of optometry shall include a course of instruction of not less
9 than two years' duration, and the terms of school shall not be less
10 than three months' actual attendance each year. The requirements
11 of a standard school of optometry shall be that each student shall
12 devote seventy-eight hours to each subject named in this section
13 during each three months' course. He shall not be entitled to be regis-
14 tered, or to receive a license from the board unless he shall show
15 proficiency in the following subjects: physiology of the eye, optical
16 physics, anatomy of the eye, ophthalmology, and practical optometry.
17 Any person successfully passing such examination, and meeting all of
18 the requirements in this section shall be registered by the board, and
19 receive a license. The board of examiners may issue a certificate to
20 any person taking up a permanent residence in the state of Iowa, and
21 desiring to practice optometry, providing satisfactory evidence is
22 furnished of his qualifications, including credentials from the state
23 board of examiners in optometry of the state in which he formerly re-
24 sided, and upon payment of a fee of fifteen dollars.

[S., '13, § 2583-l.]

SEC. 1405. Certificate of exemption—revocation of license.

1 Any license issued by said board of examiners may be revoked
2 by said board for violation of the law, incompetency, immorality or
3 inebriety; provided that before any certificate or license shall be
4 revoked, the holder thereof shall have notice in writing of the charge
5 or charges against him, and at a day specified in said notice, and at
6 least five days after the service thereof, be given a public hearing and
7 have ample opportunity to produce testimony in his behalf and con-
8 front the witnesses against him. Any person whose certificate has

9 been revoked may, after the expiration of ninety days, apply to have
10 same regranted upon a satisfactory showing that the disqualification
11 has ceased.

[S., '13, § 2583-n.]

SEC. 1406. Fees—privilege of second examination.

1 The fee for said examination shall be fifteen dollars, for which a
2 license shall be issued, to practice optometry in this state, fee payable
3 in advance to secretary of the board. Should the applicant fail in his
4 first examination he shall have the right to appear at the next meet-
5 ing of the board for another examination free of charge. For a cer-
6 tificate of exemption a fee of ten dollars shall be paid to the secretary
7 of the board of examiners, for which a license shall be issued to
8 practice optometry in this state; said fees constitute a fund for
9 expenses made necessary by this chapter. From this fund the board
10 shall cause to be paid all necessary expenses incurred in the adminis-
11 tration of this chapter.

12 All registered optometrists shall, during the month of July of
13 each year, pay to the board of optometry examiners an annual license
14 fee of one dollar, and for each month any such registered optometrist
15 is in default of payment of such annual license fee an additional one
16 dollar shall be added to and made a part of such license; but such total
17 license fee shall not exceed in any one year the sum of ten dollars.
18 The license to practice optometry in this state may be canceled by the
19 board of optometry examiners for a failure of such registered optome-
20 trist to pay the annual license fee as herein required within six
21 months from the time same is due and payable. In addition to the
22 fees herein required, all optometrists who practice in two or more
23 counties other than those in which they reside shall, during the month
24 of July each year make an annual report to the board of optometry
25 examiners, which report shall show each of the towns visited and the
26 day or dates of such visit, and such additional information as may
27 be required by said board of optometry examiners.

[S., '13, § 2583-n; 37 G. A., ch. 213, § 1.]

SEC. 1407. Filing of license—recording fee.

1 Every person to whom a license is issued under this chapter shall
2 file the same for record with the clerk of the district court in the
3 county or counties in which he desires to practice optometry and the
4 clerk of the district court shall be entitled to a fee of fifty cents for
5 recording such license.

[S., '13, § 2583-o.]

SEC. 1408. Dealers excepted—use of term "doctor."

1 This chapter shall not be construed to apply to merchants or
2 dealers who sell glasses as merchandise and who do not profess to be
3 optometrists or practice optometry as herein defined. Any person
4 practicing optometry shall be prohibited from using the prefix "doc-
5 tor" to his name, unless he is a duly registered and licensed physician
6 and surgeon and his rights to such being allowed by the state board
7 of medical examiners, nor shall he advertise himself in such a manner
8 as to lead the public to believe him to be different than an optometrist
9 as defined in this section.

[S., '13, § 2583-q.]

SEC. 1409. Violation—penalty.

1 Any person who shall practice optometry in this state in violation
 2 of the provisions of this chapter shall be guilty of a misdemeanor, and,
 3 upon conviction thereof, shall be punished by a fine not exceeding one
 4 hundred dollars or imprisonment in the county jail not more than
 5 thirty days. It shall be deemed unlawful for any person to practice
 6 optometry in Iowa without a license to practice issued by the state
 7 board of optometry examiners. Such persons shall be restrained by
 8 permanent injunction, and shall be caused to pay all costs made neces-
 9 sary by such procedure.

[S., '13, § 2583-r; 37 G. A., ch. 213, § 2.]

SEC. 1410. Compensation of board of examiners—expenses.

1 Each member of the board of examiners, except the secretary,
 2 shall be paid five dollars for each day actually engaged in the duties
 3 of his office, with actual expenses incurred by him in the discharge
 4 of such duties, from the fund created by the payment of fees by appli-
 5 cants for examination. The secretary shall receive his necessary
 6 expenses incurred for services which can not be performed at the
 7 capitol. All printing, postage and other contingent expenses neces-
 8 sarily incurred under the provisions of this chapter shall be paid from
 9 said fund. All expenses incurred under the provisions of this chapter
 10 shall be itemized thereupon and audited and a warrant drawn therefor
 11 on the optometrists' fund in the same manner as other expenses of
 12 the state board of health.

[S., '13, § 2583-p.]

SEC. 1411. Disposition unappropriated funds.

1 All unappropriated funds arising under this chapter shall be
 2 accounted for and turned into the state treasury on June thirtieth of
 3 each year, except the sum of five hundred dollars, which shall be
 4 placed to the credit of the optometry fund, by the state treasurer,
 5 to defray current expenses of the board of optometry examiners.

[S., '13, § 2583-s.]

CHAPTER 14.
PHARMACY.**SECTION 1412. Registered pharmacists—labeling of poisons.**

1 No person not a registered pharmacist shall conduct the business
 2 of selling at retail, or offering or exposing for sale, compounding or
 3 dispensing drugs, medicines or poisons, or chemicals for medicinal
 4 use, or compounding or dispensing physicians' prescriptions as a phar-
 5 macist, nor allow anyone who is not a registered pharmacist to so sell,
 6 or offer or expose for sale, compound or dispense such drugs, medi-
 7 cines, poisons or chemicals, or physicians' prescriptions, except such
 8 as are assistants to and under the supervision of one who is a regis-
 9 tered pharmacist, and physicians who dispense their own prescrip-
 10 tions only; but no one shall be prohibited by anything contained in
 11 this chapter from keeping and selling proprietary medicines and such

12 other domestic remedies as do not contain intoxicating liquors or
 13 poisons, nor from selling denatured alcohol and poison fly paper, con-
 14 centrated lye or potash having written or printed on the package or
 15 parcel its true name and the word "poison," sales of which need not
 16 be registered. Whoever violates either provision of this section, for
 17 the former shall pay five dollars for each day of its violation, to be
 18 recovered in an action in the name of the state, brought by the county
 19 attorney under the direction of the commission, and for the latter
 20 shall be guilty of a misdemeanor, and punished accordingly. In actions
 21 or prosecutions under this chapter it need not be proven that the
 22 defendant has not a pharmacist's certificate, but such fact shall be a
 23 matter of defense. No one shall be prohibited by the provisions of
 24 this chapter, relating to the practice of pharmacy, from selling insecti-
 25 cides or fungicides consisting of hellebore, paris green, nicotine prep-
 26 arations, arsenical preparations, copper sulphate, formaldehyde and
 27 crude carboic acid in original packages, provided the package or parcel
 28 containing same has plainly written or printed thereon its true name,
 29 and if poisonous it shall be conspicuously marked with the word
 30 "poison" and its poisonous contents, correctly and conspicuously stated
 31 in conformity with the national insecticide act of June, nineteen hun-
 32 dred ten. Said insecticides and fungicides shall comply with the law
 33 of the state as to strength and purity, and the sales of such prepara-
 34 tions when marked as specified above need not be registered.

[C., '97, § 2588; S. S., '15, § 2588.]

**SEC. 1413. Commissioners—powers—state divided—three dis-
 tricts.**

1 The commission of pharmacy shall consist of three competent
 2 pharmacists who have been for the preceding five years residents of
 3 the state and engaged in practicing pharmacy, one of whom shall be
 4 annually appointed by the governor and hold office for three years and
 5 until his successor is appointed and qualified. The commission shall
 6 have power to make all needed regulations for its government and for
 7 the proper discharge of its duties under this chapter, the same to be
 8 done without expense to the state, save the necessary blanks and
 9 stationery which shall, upon requisition, be furnished by the secretary
 10 of state, and make such other regulations not inconsistent with law,
 11 and as authorized in this code, respecting the purchase, keeping and
 12 use of intoxicating liquors by registered pharmacists, not permit
 13 holders, as may be required for the prevention or abuse of the trust
 14 reposed in them, and such other matters as may be hereinafter spe-
 15 cifically enumerated.

16 The state shall be divided into three districts for the purpose of
 17 enabling the commission of pharmacy to better enforce the laws relat-
 18 ing to the practice of pharmacy and perform such other duties as are
 19 now imposed upon it.

20 The first district shall comprise the counties of Audubon, Boone,
 21 Buena Vista, Calhoun, Clay, Carroll, Cherokee, Crawford, Dallas, Dick-
 22 inson, Emmet, Greene, Guthrie, Hamilton, Hancock, Harrison, Hum-
 23 boldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plym-
 24 outh, Pocahontas, Sac, Shelby, Sioux, Webster, Winnebago, Wood-
 25 bury and Wright.

26 The second district shall comprise the counties of Allamakee, Ben-
 27 ton, Black Hawk, Bremer, Buchanan, Butler, Cedar, Cerro Gordo,

28 Chickasaw, Clayton, Clinton, Delaware, Dubuque, Fayette, Floyd,
 29 Franklin, Grundy, Hardin, Howard, Iowa, Jackson, Jasper, Jones,
 30 Johnson, Linn, Marshall, Mitchell, Poweshiek, Scott, Story, Tama,
 31 Winneshiek, Worth.

32 The third district shall comprise the counties of Adams, Adair,
 33 Appanoose, Cass, Clarke, Davis, Decatur, Des Moines, Fremont, Henry,
 34 Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion,
 35 Mills, Monroe, Montgomery, Muscatine, Page, Pottawattamie, Polk,
 36 Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington
 37 and Wayne.

38 One commissioner shall reside in the first district, one in the
 39 second district, and one in the third district; and it shall be the duty
 40 of each commissioner to see that the laws relating to the practice of
 41 pharmacy are enforced in his district; provided, however, that the
 42 commissioner of a district shall assist the commissioner of any other
 43 district in the performance of his duties at any time when in the
 44 judgment of the commission such assistance may be necessary, and
 45 this provision shall not be construed so as to prevent the commission
 46 as a whole from performing any duty now imposed upon.

[C., '97, § 2584; S. S., '15, § 2584.]

SEC. 1414. Secretary and treasurer.

1 The commissioners of pharmacy shall annually, on the first Mon-
 2 day in May, elect a suitable person, who shall not be a member of said
 3 board, and who shall be known as secretary and treasurer; said secre-
 4 tary and treasurer shall enter upon the discharge of his duties as soon
 5 as he shall have filed with the secretary of state a good and sufficient
 6 bond in the penal sum of three thousand dollars signed by at least
 7 two sureties, who shall justify in the aggregate to double the amount
 8 of said bond, and which shall bear upon its face the approval of the
 9 governor. The salary of said secretary and treasurer shall not exceed
 10 eighteen hundred dollars per annum, and traveling expenses. The
 11 secretary shall have charge of the office of the commission and of all
 12 books, documents, records and other appurtenances thereof. He shall
 13 keep a full and complete record of the proceedings of the commission
 14 and of all matters required by law or by the rules of the commission
 15 to be made of record and shall conduct and carry on all correspondence
 16 pertaining to the affairs of the commission, and when unable to
 17 adjust any matter by correspondence, he shall refer the same to a
 18 member of the commission for investigation and determination.

[C., '97, § 2585; S., '13, § 2585; 38 G. A., ch. 183, § 1.]

SEC. 1415. Records open to inspection—salary.

1 The books, accounts, vouchers, and funds belonging to or kept by
 2 said board of pharmacy shall at all times be open or subject to the
 3 inspection of the governor or any committee appointed by him. Each
 4 commissioner of pharmacy shall receive the salary of fifteen hundred
 5 dollars per annum; said salary to be paid in the same manner as the
 6 salaries of other state officers, and they shall be allowed the expenses
 7 necessarily incurred by them in the discharge of their duties. Their
 8 accounts shall be itemized and sworn to, and when approved by the
 9 state board of audit shall be paid by warrants of the auditor upon the
 10 treasurer out of the funds belonging to the commission of pharmacy.
 11 Such salaries shall be in full compensation for performing the duties

12 pertaining to the office of pharmacy commissioner, including the con-
13 ducting of examinations, inspections and enforcement of the pure
14 drug, poison, narcotic and habit-forming drug laws of the state, and
15 such other duties as may pertain to the enforcement of the pharmacy
16 laws.

[C., '97, § 2587; S. S., '15, § 2587.]

SEC. 1416. Examinations—appropriation.

1 To enable persons to engage in and conduct business as registered
2 pharmacists within the meaning of section fourteen hundred twelve,
3 the commission shall hold not more than five examinations each year,
4 one of which may be held at Iowa City and the others at Des Moines.
5 Such examinations shall be held at such times and in such manner
6 as the commissioners may determine, and to enable them to conduct
7 such examinations in conformity with the requirements necessary to
8 reciprocate with other states as authorized in section fourteen hun-
9 dred twenty-three, there is hereby appropriated out of the fees of the
10 office of pharmacy commission the sum not to exceed five hundred
11 dollars for two years, for the purchase of laboratory equipment and
12 necessary drugs and chemicals.

[C., '97, § 2589; S. S., '15, § 2589-a.]

SEC. 1417. Examination for registration—qualifications.

1 No person shall be eligible to examination for registration as a
2 pharmacist until he has passed his twenty-first birthday and shall
3 have successfully completed the work of two college years in a repu-
4 table school or college of pharmacy as herein defined and has presented
5 to the commission of pharmacy his own affidavit and that of his
6 employer or employers affirming that he has had not less than two
7 years of practical experience as clerk under the supervision of a regis-
8 tered pharmacist in a drug store or pharmacy in which physicians'
9 prescriptions are compounded. Provided, however, that if an appli-
10 cant of college work, an additional year or more, so successfully com-
11 pleted shall be the equivalent of one year of such practical experience.
12 A reputable school or college of pharmacy shall be such school or
13 college of pharmacy whose entrance and graduation requirements are
14 equivalent to those prescribed by the American conference of pharma-
15 ceutical faculties for the year nineteen hundred seventeen.

[S., '13, § 2589-b; 37 G. A., ch. 430, § 2.]

SEC. 1418. Exemptions.

1 Any person who is at the time of the taking effect of this law
2 actually employed in a drug store and who shall on or before the first
3 day of October, nineteen hundred seventeen, file with the commission
4 of pharmacy a sworn statement of proof of that fact, or who is regis-
5 tered by said commission as an assistant pharmacist, shall be exempt
6 from the requirement of attendance at a reputable school or college of
7 pharmacy and shall be entitled, if of the required age, to examination
8 for registration upon the completion of four years practical experience
9 in a drug store where physicians' prescriptions are usually com-
10 pounded as herein defined; provided, further, that one year of college
11 work as herein defined shall be equivalent of one year of practical

12 experience. If upon examination the commission finds such person
13 qualified he shall be entitled to registration as a pharmacist.

[37 G. A., ch. 430, § 3.]

SEC. 1419. Assistants' certificates.

1 If the applicant has passed his eighteenth birthday, and shall
2 have successfully completed the work of two college years in a
3 reputable school or college of pharmacy as herein defined, and has
4 presented to the commission his own affidavit and that of his employer
5 or employers, affirming that he has had not less than two years of
6 practical experience in a drug store where physicians' prescriptions
7 are usually compounded, he shall, upon passing a satisfactory exam-
8 ination, be granted an assistant's certificate, to be exchanged for full
9 registration when he shall have reached the age of twenty-one years,
10 and upon satisfactory proof that he has had, since the taking of the
11 examination, two additional years of practical experience in a drug
12 store as defined herein.

[S., '13, § 2589-c; 37 G. A., ch. 430, § 5.]

SEC. 1420. Examination and registration fees.

1 Each person furnished a certificate under this chapter shall be
2 charged a fee of five dollars, which shall be in full for all services,
3 and in case the examination of said person shall prove defective or
4 unsatisfactory and his name be not registered, he shall be permitted
5 to present himself for reexamination within any period not exceeding
6 twelve months next thereafter, and no charge shall be made for
7 reexamination. The said commissioners are authorized to administer
8 oaths pertaining to their said office and take a certificate of acknowl-
9 edgment of instruments in writing. After registration, an annual
10 fee of two dollars for renewal certificate shall be paid on or before the
11 twenty-second day of March by all pharmacists and assistants who
12 continue in business, one dollar of which shall be paid into the state
13 treasury, as provided in section fourteen hundred twenty-one, and one
14 dollar of which shall be paid into the treasury of the Iowa pharmaceu-
15 tical association, quarterly, on the first day of January, April, July and
16 October of each year, to be used by said association for the advance-
17 ment of the art and science of pharmacy, and the conduct of such
18 business without such renewal shall be a misdemeanor.

[C., '97, § 2590; S., '13, § 2589-d; 38 G. A., ch. 95, § 1.]

SEC. 1421. License fees.

1 The secretary and treasurer shall keep in his office a book known
2 as the "Commissioners of Pharmacy License Fee Book," which shall
3 be made with ruled columns and printed headings showing the date,
4 the name of the person paying, and the amount of each license and
5 fee paid, in which he shall enter all fees for licenses received by him,
6 and on the first Monday of each month he shall file with the auditor of
7 state a true statement thereof for the previous month, properly sworn
8 to by him, and shall quarterly pay into the state treasury, on the first
9 day of January, April, July and October of each year, the amount of
10 license fees payable by law into such treasury.

[C., '97, § 2586.]

SEC. 1422. Registry book—certificate displayed.

1 The commission shall keep a registry book in which shall be
2 recorded the names and places of residence of all certificate holders,
3 with the date of such certificates, which shall hold good for one year,
4 and no longer without renewal. Renewals shall be granted upon the
5 payment of the annual fee fixed in section fourteen hundred twenty.
6 Should a certificate holder change his residence, upon notice thereof
7 such change shall be noted in the registry book. Each certificate
8 holder shall keep displayed in his place of business his registration
9 certificate. A failure to comply with this requirement shall be a mis-
10 demeanor.

[C., '97, § 2591.]

SEC. 1423. Foreign certificates—conditions—fee.

1 A certificate of registration or license as pharmacist or assistant
2 pharmacist issued by the proper board or commission of any state or
3 foreign country may be accepted as evidence of qualification for regis-
4 tration in this state provided the holder thereof shall present said
5 evidence of qualification equal to those required of licentiates in this
6 state that he was registered or licensed by examination in such other
7 state or foreign country and that the standard of competency required
8 in such other state or foreign country accords similar recognition to
9 the licentiates of this state. Applicants for license under this section
10 shall with their application forward to the secretary of the commis-
11 sion of pharmacy a fee of not less than the fee charged for reciprocal
12 registration by the state issuing the certificate upon which said appli-
13 cation for reciprocal registration is made, but in no event shall the
14 fee be less than ten dollars.

[S., '13, § 2589-b; 37 G. A., ch. 430, § 4; 38 G. A., ch. 176.]

SEC. 1424. Itinerant vendors of drugs—assignment of license.

1 Any itinerant vendor of any drug, nostrum, ointment, or appliance
2 of any kind for the treatment of any disease or injury, and all those
3 who by any method publicly profess to treat or cure diseases, injury
4 or deformity, shall pay to the treasurer of the commission of phar-
5 macy an annual fee of one hundred dollars, upon the receipt of which
6 the secretary of the commission shall issue a license for one year from
7 its date. Two thousand dollars annually of the money arising from
8 the license fund, or so much as may be needed, shall be devoted to
9 defraying expenses of the commission, and any balance remaining
10 shall be paid into the state treasury. Said commission shall, on the
11 first day of January of each year, make a verified and itemized state-
12 ment in writing to the auditor of state of all receipts and expendi-
13 tures of moneys coming into their hands by virtue of their office.
14 Any violation of this section shall be a misdemeanor, and any person
15 shall, upon conviction thereof, pay a fine of not less than one hundred
16 dollars, nor more than two hundred dollars. In actions or prosecutions
17 under this chapter it need not be proven that the defendant has not a
18 license, but such fact shall be a matter of defense. The holder of any
19 unexpired license may assign the same to any person, and said license,
20 as soon as assigned, shall be forwarded to the secretary of the board
21 of pharmacy, who shall approve and record the assignment and shall
22 at once return said license to the assignee, who shall thus acquire all
23 the rights and privileges conferred upon the original holder of the

24 said license; provided, however, the person requesting the transfer
25 shall accompany his request with a transfer fee of one dollar.

[C., '97, § 2594; S., '13, § 2594.]

SEC. 1425. Penalty for false representations.

1 If any person shall procure or attempt to procure a certificate
2 of registry for himself or another by means of false representations
3 or device, or without being a registered pharmacist shall conduct a
4 place for retailing, compounding or dispensing drugs, medicines or
5 chemicals, or for compounding or dispensing physicians' prescriptions,
6 or shall use or exhibit the title of registered pharmacist, he shall be
7 guilty of a misdemeanor, and each several day a place shall be so used
8 shall be held to be a separate and several offense.

[C., '97, § 2595.]

SEC. 1426. Revocation of certificate.

1 When a registered pharmacist has been convicted of a violation
2 of the provisions of this chapter, in addition to the other penalties
3 provided by law, the commission, in its discretion, may revoke his
4 certificate of registry.

[C., '97, § 2596.]

SEC. 1427. Sale of adulterated drugs.

1 Registered pharmacists shall be responsible for the quality of all
2 drugs, chemicals and medicines which they may sell or dispense,
3 except those sold in the original packages of the manufacturer, and
4 those known as patent medicines. If any such pharmacist shall
5 knowingly adulterate or cause to be adulterated any drugs, chemicals
6 or medical preparations by him kept for sale or sold, he shall be guilty
7 of a misdemeanor.

[C., '97, § 2592.]

SEC. 1428. Sale of poisons.

1 No persons shall sell at retail any poisons enumerated in the fol-
2 lowing schedule, to wit: Acids, hydrochloric, nitric, and sulphuric,
3 arsenic, chloral hydrate, chloroform, ammoniated mercury, atropine,
4 arsenate of copper, aconitine, benzaldehyde, bromine, cyanide of potas-
5 sium, cobalt, corrosive sublimate, dionin, ether sulphuric, hyoscine,
6 morphine, kermes mineral, cantharides, cotton root, croton oil, carbolic
7 acid, digitalis, ergot, hydrocyanic acid, nux vomica, opium and its
8 preparations (excepting those containing less than two grains to the
9 ounce), oils of bitter almonds, savin and pennyroyal, oxalic acid, phos-
10 phorus, strychnine and its salts, veratrum, and wood alcohol; without
11 affixing to the bottle, box, or other package containing the poison, a
12 label bearing the name of the article and the word poison distinctly
13 shown, with the name and place of business of the registered phar-
14 macist from whom the article was obtained, nor sell or deliver such
15 poison unless upon due inquiry it be found that the party receiving
16 it is aware of its character and represents it to be used for proper
17 purposes, nor sell or deliver the poisons heretofore enumerated, with-
18 out entering same in a book kept for that purpose, the date of sale,
19 the name and address of purchaser, the name of the poison, the pur-
20 pose for which it was represented to be required, and the name of

21 the dispenser, which book shall be open for inspection by the proper
 22 authorities and preserved for at least five years; provided that nothing
 23 in this section shall apply to the sale of patent medicines, or to drugs
 24 used in the filling of prescriptions from physicians, veterinary sur-
 25 geons or dentists; provided that it shall not be necessary to keep a
 26 record in said book of sales of wood alcohol, when it is ascertained it
 27 is to be used for mechanical purposes; provided, however, that nothing
 28 herein contained shall be construed to permit or authorize the sale of
 29 any of the poisons herein named where the sale thereof is otherwise
 30 prohibited or regulated by law. The obtaining of any such poisons
 31 by any person under a false name or statement shall be deemed a
 32 violation of the provisions of this section. Any person violating any
 33 of the provisions of this section shall be adjudged guilty of a misde-
 34 meanor and be punished by a fine of not less than twenty-five dollars
 35 nor more than one hundred dollars, or by imprisonment in the county
 36 jail not more than thirty days.

[C., '51, § 2728; R., '60, § 4374; C., '73, § 4038; C., '97,
 § 2593; S., '13, § 2593.]

SEC. 1429. Denatured alcohol not a poison.

1 Denatured alcohol shall not be deemed to be a poison within the
 2 meaning of the statutes relating to the sale or handling of poisons.

[S., '13, § 2593-a.]

SEC. 1430. Cocaine and certain other drugs—sale.

1 No person, firm or corporation shall sell, exchange, deliver or have
 2 in his possession with intent to sell, exchange or expose or offer for
 3 sale or exchange any coca (*Erythroxyllum Coca*), cocaine, alpha or
 4 beta eucaine, or derivatives of any of them, or any preparation con-
 5 taining coca, cocaine, alpha or beta eucaine or derivatives of any of
 6 them, or cotton root, ergot, oil of tansy, oil of savin or derivatives of
 7 any of them, except upon the original written prescription of a regis-
 8 tered physician or veterinarian or licensed dentist, who is personally
 9 known to such person, firm or corporation, for medical, dental or
 10 veterinary purposes only, and no such prescription shall be refilled,
 11 provided that nothing in this section shall prevent the sale thereof to
 12 a wholesale or retail dealer in drugs, nor to a registered physician or
 13 veterinarian or licensed dentist for use in practice of his profession.

[S., '13, § 2596-a.]

SEC. 1431. Penalty.

1 Anyone found guilty of violating the provisions of the preceding
 2 section, for the first offense, shall pay a fine of not less than twenty-
 3 five dollars and not more than one hundred dollars and cost of prose-
 4 cution. For the second offense, and each subsequent offense, he shall
 5 pay on conviction thereof, a fine of not less than one hundred dollars,
 6 and not more than three hundred dollars, or imprisonment in the
 7 county jail not to exceed three months. Any clerk, employee or agent,
 8 violating, or aiding in the violation of the preceding section, shall be
 9 charged and convicted as principal.

[S., '13, § 2596-b.]

SEC. 1432. Enforcement.

1 Peace officers shall see that the provisions of the two preceding
 2 sections are faithfully executed within their respective jurisdictions,
 3 and when they are informed, or have reason to believe that the two
 4 preceding sections have been violated, and the proof thereof can be
 5 had, they shall file information to that effect against the offending
 6 party before a magistrate, who thereupon shall proceed according to
 7 law. The county attorney shall prosecute violators of the two preced-
 8 ing sections.

[S., '13, § 2596-c.]

CHAPTER 15.**PURE DRUGS.****SECTION 1433. Manufacture or sale of adulterated drugs.**

1 No person, firm or corporation, by himself, officer, servant or
 2 agent, or as the officer, servant or agent of any other person, firm
 3 or corporation, shall manufacture or introduce into the state or solicit
 4 orders for delivery, or sell, exchange, deliver, or have in his possession
 5 with the intent to sell, exchange, deliver, or expose, or offer for sale
 6 or exchange, or delivery any drug which is adulterated or misbranded
 7 within the meaning of this chapter; provided that none of the
 8 penalties set forth in this chapter shall be imposed upon any common
 9 carrier for introducing into the state, or having in its possession, any
 10 adulterated or misbranded drugs, where the same were received by
 11 said carrier for transportation in the ordinary course of its business
 12 and without actual knowledge of the adulteration or misbranding
 13 thereof.

[S. S., '15, § 4999-a32.]

SEC. 1434. Drug defined.

1 The term "drug," as used in this chapter, shall include all medi-
 2 cines and preparations recognized in the United States pharmacopœia
 3 or national formulary for internal or external use, and any substance
 4 or mixture of substances intended to be used for the cure, mitigation
 5 or prevention of disease of either man or other animals, or for the
 6 destruction of parasites.

[S., '13, § 4999-a33.]

SEC. 1435. Adulteration defined.

1 For the purposes of this chapter, a drug shall be deemed to be
 2 adulterated:

3 1. If, when a drug is sold under or by a name recognized in the
 4 United States pharmacopœia or national formulary, it differs from the
 5 standard of strength, quality or purity as determined by the test laid
 6 down in the United States pharmacopœia or national formulary official
 7 at the time of investigation; provided that no drug defined in the
 8 United States pharmacopœia or national formulary shall be deemed
 9 to be adulterated under this provision if the standard of strength,
 10 quality or purity be plainly stated upon the bottle, box or other con-
 11 tainer thereof, although the standard may differ from that determined

12 by the test laid down in the United States pharmacopœia or national
13 formulary.

14 2. If its strength or purity fall below the professed standard or
15 quality under which it is sold.

[S., '13, § 4999-a34.]

SEC. 1436. Misbranded defined.

1 The term "misbranded," as herein used, shall apply to all drugs,
2 the package or label of which shall bear any statement, design or
3 device regarding such article or the ingredients or substances con-
4 tained therein, which shall be false or misleading in any particular,
5 and to any drug which is falsely branded as to state, country or terri-
6 tory in which it is manufactured or produced. For the purposes of
7 this chapter, a drug shall also be deemed to be misbranded:

8 1. If it be an imitation of or offered for sale under the name of
9 another article.

10 2. If the contents of the package as originally put up shall have
11 been removed in whole or in part and other contents shall have been
12 placed in such package, or if the package shall fail to bear a statement
13 on the label showing the name and the exact quantity or proportion
14 of any alcohol, morphine, opium, heroin, chloroform, cannabic indica,
15 chloral hydrate, acetanilide, or any derivative or preparation of any
16 such substances contained therein. The statement herein required
17 shall be plainly printed upon the outside wrapper and also upon a
18 label affixed to the package in type eight-point caps; provided that in
19 case the size of the package will not permit the use of eight-point caps,
20 the size of the type may be reduced proportionately. There shall be
21 such a contrast between the color of the label and the color of the
22 ink used in printing the label heretofore required that the printing
23 thereon shall be easily and plainly legible; provided that nothing in
24 this subdivision contained shall be construed to apply to such drugs
25 and preparations as are specified and recognized by the United States
26 pharmacopœia and national formulary, which are in accordance there-
27 with, and which are sold under the name by which they are so recog-
28 nized, or the filling of prescriptions furnished by practicing physi-
29 cians, dentists or veterinarians, the originals of which prescriptions
30 are retained and filed by the pharmacist compounding or filling the
31 same; and provided further, that nothing in this subdivision contained
32 shall be construed to apply to such drugs or medicines as are per-
33 sonally dispensed by legally licensed physicians, dentists or veter-
34 inarians in the course of their practice as such physicians, dentists or
35 veterinarians.

[S., '13, § 4999-a35.]

SEC. 1437. Drugs containing wood alcohol.

1 No person, firm or corporation shall sell, offer, or expose for sale,
2 or have in his possession, any preparation or product intended for
3 use of man or domestic animals, either for internal or external use, or
4 for cosmetic purposes, or for inhalation, or for perfumes, which con-
5 tains methyl (wood) alcohol, crude or refined, or denatured alcohol.

[S., '13, § 4999-a36.]

SEC. 1438. Bulletins.

1 The pharmacy commissioners shall, from time to time, with the
2 approval of the executive council, issue a printed bulletin, showing
3 the results of inspections, analyses and prosecutions undertaken under
4 this chapter, together with such general information as may be
5 deemed suitable. Such bulletins shall be printed in such numbers as
6 may be directed by the executive council, and shall be issued to the
7 newspapers of this state and to all interested persons.

[S., '13, § 4999-a37.]

SEC. 1439. Enforcement—appropriation—chemical analysis.

1 It is hereby made the duty of the pharmacy commissioners to
2 enforce the provisions of this chapter, and for the purpose of enabling
3 them to perform this duty, the sum of two hundred fifty dollars
4 annually for two years, or so much thereof as may be deemed neces-
5 sary, is hereby appropriated from the funds in the state treasury not
6 otherwise appropriated. To further enable the state board to enforce
7 the provisions of this chapter, any chemical analysis deemed necessary
8 by them shall, upon request, be performed by the chemist now pro-
9 vided for in section fourteen hundred forty-two.

[S., '13, § 4999-a38.]

SEC. 1440. Penalty.

1 Any person, firm or corporation, or agent thereof, who refuses
2 to comply, on demand, with any of the requirements of this chapter,
3 or who shall violate any of its provisions, or who shall obstruct or
4 hinder the said pharmacy commissioners, in the discharge of any duty
5 imposed by this chapter, shall be guilty of a misdemeanor, and upon
6 conviction thereof shall be punished by a fine not exceeding one
7 hundred dollars.

[S., '13, § 4999-a39.]

SEC. 1441. Goods exempt—prima facie evidence.

1 The having in possession by any person who manufactures or
2 exposes for sale any adulterated or misbranded drug, within the mean-
3 ing of this chapter, shall be prima facie evidence of having in posses-
4 sion with intent to sell in violation of its provisions; provided that any
5 manufacturer, wholesaler or jobber may keep goods specifically set
6 apart in his stock for sale in other states, which might otherwise be in
7 violation of the provisions of this chapter.

[S., '13, § 4999-a40.]

TITLE VII.

DAIRY AND FOOD DEPARTMENT.

CHAPTER 1.

DAIRY AND FOOD COMMISSIONER.

SECTION 1442. Appointment—bond—powers and duties.

1 On or before the first day of April, nineteen hundred twenty, the
2 governor shall appoint a dairy and food commissioner, who shall have
3 practical knowledge of and experience in the manufacture of dairy
4 products, and who shall hold his office for a term of four years from
5 the first day of May following his appointment and until his successor
6 is appointed and qualified, subject to removal by the governor for inef-
7 ficiency, neglect or violation of duty. He shall give bond in the sum
8 of ten thousand dollars conditioned for the faithful performance of
9 his duties, with sureties to be approved by and filed with the secretary
10 of state.

11 He shall keep on hand a supply of standard test tubes or bottles
12 and milk measures or pipettes adapted for use by each milk testing
13 machine. He shall furnish to any firm or corporation desiring the
14 same one such tube or bottle, and such milk measure or pipette for
15 each factory, of the kind adapted for the machine operated therein,
16 upon request therefor, certifying it to be reliable, accurate and stand-
17 ard, placing thereon the letters "D. C." as a permanent mark, the
18 tubes or bottles and pipettes to be furnished at the actual cost
19 thereof.

20 He shall have and keep an office in the capitol, and preserve
21 therein all correspondence, documents, records, and all property of the
22 state pertaining thereto, and shall have authority to take all proper
23 educational measures to foster and promote the manufacture and sale
24 of pure food and dairy products.

25 The commissioner shall be allowed necessary postage, stationery,
26 and office supplies, and shall receive an annual salary of twenty-seven
27 hundred dollars and necessary expenses, which shall not exceed forty-
28 five hundred dollars per year, including expenses, such expenses to be
29 itemized, verified by him, and when examined and approved by the
30 state board of audit, to be paid by warrant of the state auditor drawn
31 upon the state treasurer.

32 The commissioner may appoint a deputy commissioner at a salary
33 of eighteen hundred dollars per year, a state dairy inspector at a salary
34 of sixteen hundred dollars per year.

35 He may also appoint, with the approval of the Iowa state college
36 of agriculture and mechanic arts, the director of the Iowa experiment
37 station and the professor of dairying, two assistants at a salary of
38 sixteen hundred dollars per year, and four assistants at a salary of
39 fifteen hundred dollars for the first year and sixteen hundred dollars
40 per year thereafter, who shall devote all their time to their duties and

41 shall perform such duties as may be assigned to them by the com-
42 missioner.

43 Such deputy, dairy inspector and assistants shall be allowed in
44 addition to their salaries, actual and necessary traveling expenses,
45 when in the performance of their official duties, said expenses to be
46 itemized, verified under oath, and when audited and approved by the
47 state board of audit, to be paid upon warrant of the state auditor upon
48 the state treasurer provided that such expenditure shall not exceed the
49 appropriation made for this purpose.

50 The commissioner may, with the approval of the executive coun-
51 cil, appoint a state chemist, who shall be an expert analytical, food
52 and pharmaceutical chemist, who shall be the official chemist of the
53 dairy and food department. He shall devote his whole time to the
54 duties of such office. He shall receive a salary of twenty-four hundred
55 dollars per year, and a bacteriologist and assistant chemist at a salary
56 to be hereafter fixed by the general assembly. The state chemist and
57 the bacteriologist and assistant chemist shall make all the examina-
58 tions necessary in enforcing the provisions of the various laws
59 enforced by the dairy and food department, shall be allowed actual
60 and necessary traveling expenses, and shall be furnished necessary
61 laboratory, apparatus, supplies and chemicals, to be paid for in the
62 same manner as the accounts of assistants.

63 The commissioner, the deputy commissioner, the state dairy
64 inspector, the assistants, the chemist and the bacteriologist and assist-
65 ant chemist shall be paid in the same manner as the salaries of other
66 state officers.

67 The commissioner shall, during his term of office, hold no other
68 official position or any professorship in any state educational institu-
69 tion, and on or before the first day of November he shall make annual
70 report to the governor, which shall contain a detailed account of all
71 his doings as commissioner and the receipts and disbursements of his
72 office since the preceding report, with such facts and statistics in
73 regard to the production, manufacture and sale of dairy products, with
74 such suggestions as he may regard of public importance in connection
75 therewith.

76 In the conduct of his office, he shall have power to issue sub-
77 poenas for witnesses, enforce their attendance and examine them
78 under oath by him to be administered, such witnesses to be allowed
79 fees as in justice courts, to be paid by the commissioner as part of the
80 expenses of his office and do such other acts and things as are neces-
81 sary and proper in the enforcement of the provisions of this and the
82 following chapter.

[C., '97, §§ 2515, 2528; S. S., '15, § 2515; 37 G. A., ch. 377,
§ 1; 38 G. A., ch. 206, § 1.]

SEC. 1443. Appropriation.

1 For the purpose of enabling the commissioner to enforce the
2 provisions of the various laws, the enforcement of which is vested
3 with the state dairy and food commissioner, for the making of such
4 analysis for other state departments as may be authorized by the
5 executive council, for necessary traveling and miscellaneous expenses
6 of assistants and experts and for all other expenses herein provided,
7 the sum of forty thousand dollars annually, or so much thereof as may

8 be necessary, is hereby appropriated from any funds in the treasury
9 not otherwise appropriated.

[S. S., '15, § 4999-a31f; 38 G. A., ch. 284, § 4.]

CHAPTER 2.

DAIRY PRODUCTS.

SECTION 1444. Milk license—revocation.

1 No person, firm or corporation shall sell milk or cream in, or to be
2 used in, any municipal corporation except for the purpose of supplying
3 the same to an establishment for the purpose of manufacture, without
4 being licensed by the state dairy and food commissioner, and the fee
5 for such license shall be one dollar for each place or vehicle from which
6 sale is made. Every such license shall expire July fourth next after
7 its issue; shall be given only to a person owning or leasing the vehicle
8 or place from which sales are to be made, and shall not be transferable.
9 No license shall be issued for less than one dollar. Each license shall
10 be numbered and shall contain the name, residence and place of busi-
11 ness of the licensee and the number of vehicles and places to be used.
12 The name of the dairy or the name of the person, firm or corporation
13 to whom the license is issued shall appear on both sides of each vehicle,
14 in letters not less than two inches in height and there shall be such
15 contrast between the color of the letters and the background as shall
16 render the letters plainly legible. Every sale from a vehicle not so
17 inscribed shall be deemed a violation of this section. But nothing
18 herein shall be construed as requiring persons to procure such license
19 unless such person shall sell milk or cream from a store or vehicle.
20 The commissioner may withhold a license from any applicant therefor
21 whom he may deem unworthy and he may revoke any license issued
22 by him to any person who has violated the terms thereof, or who has
23 failed to comply with any requirements of this or the preceding chap-
24 ter, or refused or failed to obey his lawful request or direction, and
25 every conviction of the licensee for an offense punishable under this
26 or the preceding chapter shall be sufficient grounds for such revo-
27 cation.

[C., '97, § 2525; S., '13, § 2515-a.]

SEC. 1445. Impure or skimmed milk or cheese—sale—labels.

1 No person shall sell, exchange, or expose for sale, or exchange, or
2 deliver or bring to another for domestic or potable use, or to be con-
3 verted into any product of human food, any adulterated, or mis-
4 branded milk, cream or skimmed milk, and no person shall purchase
5 any such substance to be converted into any human food product or
6 manufacture the same into food product, nor shall any persons offer
7 or expose for sale or have in his possession with intent to sell or sell
8 any skimmed milk unless each receptacle and carrying can containing
9 the same shall be kept plainly marked on the side thereof with the
10 words "Skimmed Milk" in the English language in plain letters not
11 less than one inch in height, provided that skimmed milk sold in
12 bottles shall be deemed to be properly marked if the cap shall be

13 plainly printed with the words "Skimmed Milk" in letters not smaller
14 than twelve-point gothic caps.

15 For the purpose of this chapter, milk is the fresh, clean, lacteal
16 secretion obtained by the complete milking of one or more healthy
17 cows, properly fed and kept. For the purpose of this chapter, cream
18 is the portion of milk, rich in milk-fat, which rises to the surface of
19 milk on standing, or is separated from it by centrifugal force, is fresh
20 and clean.

21 For the purpose of this chapter, skimmed milk is the portion of
22 milk, poor in fat, from which the cream has been removed. The term
23 "skimmed milk" shall also include the fresh, clean, lacteal secretion
24 of one or more healthy cows and containing less than three per cent
25 of milk-fat or less than eleven and one-half per cent of milk solids.

26 For the purpose of this chapter, milk, cream and skimmed milk
27 shall be deemed to be adulterated:

28 In case of milk, cream and skimmed milk:

29 1. If water or any other substance has been added.

30 2. If it contains any visible dirt or be contained in any container
31 which is not clean.

32 3. If it be obtained from any animal having disease, sickness,
33 ulcer, abscess or running sore or which has been obtained from a cow
34 within fifteen days before or five days after calving.

35 4. If it be obtained from a cow stabled in an unhealthful place or
36 fed upon any substance in a state of putrefaction or of an unhealthful
37 nature.

38 In case of milk: If it contains less than three per cent of milk-
39 fat or less than eleven and one-half per cent of milk solids.

40 In case of cream: If it contains less than sixteen per cent of
41 milk-fat.

42 For the purpose of this chapter, milk, cream and skimmed milk
43 shall be deemed to be misbranded:

44 If it be labeled or branded so as to deceive or mislead the pur-
45 chaser, or if the package bears any statement, design or device which
46 is false or misleading in any particular.

47 For the purpose of this chapter, cheese is the sound, ripened
48 product made from milk or cream by coagulating the casein with
49 rennet or lactic acid with or without the addition of ripening ferments,
50 seasonings and color, and contains not less than thirty per cent of
51 milk-fat. For the purpose of this chapter, skimmed milk cheese is the
52 sound and ripened product made from skimmed milk as defined in this
53 section, by coagulating the casein thereof with rennet or lactic acid,
54 with or without the addition of ripening ferments, seasoning, and color
55 and containing less than thirty per cent of milk-fat.

56 No person shall offer or expose for sale any skimmed milk cheese
57 without the same being plainly and durably branded or marked on
58 the side or top of both cheese and package in the English language
59 with the words "Skimmed Milk Cheese" in letters to be not less than
60 one inch in height and one-half inch in width.

61 Every article, substitute or compound, save that produced from
62 pure milk of cows and containing no added substance, made in the
63 semblance of or designed to be used for or in the place of evaporated
64 milk, is hereby declared "Imitation Evaporated Milk," and every arti-
65 cle, substitute or compound, containing any fat other than the milk-fat
66 of milk cows, made in the semblance of or designed to be used for or
67 in the place of [ice] cream, is hereby declared "Imitation Ice Cream."

68 No person, firm or corporation shall manufacture, have in his possession,
69 offer to sell, or sell, solicit or take orders for delivery or ship any
70 such imitation evaporated milk or imitation ice cream, except in the
71 manner and subject to the regulations provided in this section.

72 Imitation evaporated milk and imitation ice cream may be manufactured,
73 kept in possession, offered for sale, or sold, if each can, tub,
74 box, or other package in which same is kept, offered for sale or shipped
75 shall have plainly branded on the side or top thereof in the English language
76 in a durable manner, the words "Imitation Evaporated Milk" or
77 "Imitation Ice Cream" as the case may be, the letters of the words to be
78 not less than one inch in height and one-half inch in width; provided,
79 however, that on packages containing less than twenty ounces net of
80 imitation evaporated milk the words "Imitation Evaporated Milk" may
81 appear plainly printed on the principal label of the package in type not
82 less than one-fourth inch in height and one-eighth inch in width.

83 Imitation evaporated milk and imitation ice cream may be kept,
84 used or served only in case the proprietor or person in charge of the
85 place in which such imitation evaporated milk or imitation ice cream
86 is used, or served, shall display and keep constantly posted a card
87 opposite each table, counter, or other places where the guests or
88 others are served with the same, which card shall be white, at least
89 ten by fourteen inches in size and the words "Imitation Evaporated
90 Milk Used Here" or "Imitation Ice Cream Used Here," as the case
91 may be, printed in black roman letters not less than three inches in
92 height and two inches in width and no other words or figures shall be
93 printed thereon; provided, however, that this provision shall not apply
94 to a private residence of a person serving his family or guests.

95 Nothing in this or the preceding section shall be construed to
96 require the labeling of nut ice cream or ice cream flavored with chocolate
97 or cocoa, "Imitation Ice Cream."

[C., '73, § 4042; C., '97, §§ 4989, 4990, 4991; S., '13, §§ 2515-b, 2515-c, 2515-d; 37 G. A., ch. 377, § 3; 38 G. A., ch. 206, § 2.]

SEC. 1446. Brand—containers—registration.

1 Any person, firm or corporation who buys, sells or transports
2 skimmed milk, buttermilk, milk, cream or ice cream, may adopt a distinctive
3 mark or brand to be placed on any container of such dairy
4 products, owned by it, and may register such mark or brand with
5 the state dairy and food commissioner, and when approved by the
6 commissioner, such mark or brand shall be used only by the registrant
7 thereof. The mark or brand may consist of the owner's name and
8 address or suitable abbreviations therefor or both.

9 It shall be unlawful for any person, firm or corporation to use any
10 mark or brand which has been so registered by and approved for the
11 use of any other person, firm or corporation.

12 It shall be unlawful for any person, firm or corporation, other
13 than the rightful owner thereof, to use any container, marked or
14 branded as in this section provided, for any other purpose or for the
15 transportation or handling of any other commodity than skimmed
16 milk, buttermilk, milk, cream or ice cream.

17 It shall be unlawful for any person, firm or corporation, other
18 than the rightful owner thereof to deface, remove or injure any mark
19 or brand, provided in this section, placed on any container.

20 It shall be unlawful for any person, firm or corporation to use any
21 container marked or branded, as in this section provided, without the
22 consent of the owner thereof.

23 It shall be unlawful for any person, firm or corporation to have in
24 its possession for a longer time than three days any container marked
25 or branded as in this section provided, without the consent of the
26 owner thereof and any person, firm or corporation having in its pos-
27 session any container not its own property, or sent it by the owner
28 thereof for use, shall immediately return such container or containers,
29 other than milk and cream bottles, to the owner by a common carrier,
30 and a receipt from a common carrier shall be prima facie evidence
31 that such container was returned. Milk and cream bottles, marked or
32 branded as in this section provided, shall be returned by delivering
33 them to the owner thereof or his agent or servant in person, or by
34 leaving them where such owner, his agent or servant may pick them
35 up at the time he delivers milk; provided that where the person, firm
36 or corporation finds in its possession a container not its own property
37 nor sent it by the owner thereof for use and not knowing the name
38 and address of the rightful owner shall immediately notify the state
39 dairy and food commissioner in writing that such container is in its
40 possession, describing to him the size and shape of container and the
41 mark thereon. Upon receipt of shipping instructions from the state
42 dairy and food commissioner he shall immediately forward same by a
43 common carrier collect to the name and address furnished him by the
44 state dairy and food commissioner. Nothing in this section shall
45 require the return of any milk or cream bottle when the cost of return-
46 ing such bottle is greater than the market value of the bottle.

47 The state dairy and food commissioner shall adopt and issue
48 rules and regulations for carrying out the provisions of this section.
49 The term container used in this section shall include cans, bottles,
50 casks, kegs, barrels, packages, and other receptacles of like nature.

[38 G. A., ch. 206, § 5.]

SEC. 1447. Misuse of dairy terms.

1 No person, firm or corporation shall use in any way, in connec-
2 tion or association with the sale or exposure for sale or advertisement
3 of any substance designed to be used as a substitute for butter, the
4 word "butter," "creamery," or "dairy," except as required by section
5 fourteen hundred fifty-four or the name or representation of any
6 breed of dairy cattle, or any combination of such word or words and
7 representation, or any other words or symbols or combination thereof
8 commonly used in the sale of butter.

[38 G. A., ch. 206, § 6.]

SEC. 1448. License to operate milk-testing apparatus—Iowa butter trademark.

1 No person shall operate a milk or cream testing apparatus duly
2 approved by the state dairy and food commissioner, to determine the
3 percentage of milk-fat in milk or cream for the purpose of purchasing
4 the same either for himself or another without first securing a license
5 from the dairy and food commissioner of this state, or from his duly
6 appointed agent or representative, authorizing such person to so
7 operate such tester. Any person desiring to secure such license shall
8 make application therefor on a blank to be prepared and provided by
9 the dairy and food commissioner, and such applicant before being

10 issued such license may be required to pass a satisfactory examination
11 in person and prove by actual demonstration that he is competent
12 and qualified to properly use such tester and make an accurate test
13 with the same. Such license shall be valid for one year after its issue
14 and a fee of two and one-half dollars shall be paid by the licensee to the
15 state dairy and food commissioner before such license shall be issued.
16 The dairy and food commissioner shall have authority to revoke any
17 license issued under this section. The testing of each lot of milk or
18 cream by any such unlicensed person shall constitute a separate
19 offense, provided that any licensed person may for valid reasons
20 appoint a substitute for a period not to exceed fourteen days, subject
21 to the approval of the dairy and food commissioner. The fees col-
22 lected under the provisions of this chapter shall be paid into the state
23 treasury by the dairy and food commissioner.

24 For the purpose of insuring a higher standard of excellence and
25 quality, a more uniform butter market, a higher market value for the
26 butter manufactured in the state, and to insure a more healthful
27 product for consumption at home and abroad, there is hereby created
28 and adopted the following state trademark (or such modification
29 thereof as may be made by the executive committee to meet the
30 requirements of the United States copyright laws) for butter manu-
31 factured in the state of Iowa. The mark shall consist of a heavy circle
32 with an inner light circle, the center space being occupied by an out-
33 line of the map of Iowa and within the outline shall appear in promi-
34 nent letters the words "Iowa Butter." In the space above the outline
35 and within the light circle shall appear the words "First Quality.
36 License No." and the words "State Butter Control" shall be
37 inserted in the space below the outline of the map and within the
38 light circle. Said trademark and its use and regulation shall be in
39 charge of and under the control of an executive committee of five
40 members consisting of the president of the Iowa state dairy associa-
41 tion, the president of the Iowa state buttermakers' association, the
42 dean of the division of agriculture of the Iowa state college of agri-
43 culture and mechanic arts, the professor of dairying of the same insti-
44 tution, and the dairy and food commissioner of the state of Iowa.

45 The state trademark shall be controlled, used, manufactured and
46 issued under such rules and regulations as may be found necessary,
47 from time to time, by the said executive committee; such executive
48 committee shall have power to make such changes in the rules and
49 regulations for the use of said trademark as it may deem necessary
50 from time to time.

51 The rules governing the use of such trademark shall be published
52 by and through bulletins issued by the state dairy and food commis-
53 sioner. Such labels, stamps, or other means of imprinting such trade-
54 mark upon the manufactured product, or the receptacles containing
55 the same shall be furnished to those entitled to the use thereof by the
56 state dairy and food commissioner at actual cost.

57 The said executive committee is hereby directed and authorized to
58 secure a copyright under the laws of the United States for trademarks,
59 and copyrights for such trademark for butter, and the expenses
60 thereof shall be paid for from the funds appropriated for the use of
61 the state dairy and food department.

62 It shall be unlawful for any person, firm, corporation, association
63 or individual to use the said trademark for butter on their products

64 without first complying with all the rules and regulations prescribed
65 by the said executive committee for the use of the same.

[S. S., '15, § 2515-f; 37 G. A., ch. 377, § 2.]

SEC. 1449. Testing contrivances—false manipulation.

1 It shall be unlawful for any person, firm or corporation by
2 himself, or as the officer, servant, agent or employee of any person,
3 firm or corporation to falsely manipulate or underread or overread the
4 Babcock test or any other contrivance used for the purpose of deter-
5 mining the amount of milk-fat in milk or cream, or to make any false
6 determination of any test or contrivance used for the purpose of
7 determining the amount of milk-fat in any dairy products. For the
8 purpose of this section the writing of a check or payment of money for
9 cream or milk at any given test shall constitute prima facie evidence
10 that such test was made.

[S., '13, § 2515-e.]

SEC. 1450. Milk test.

1 Any person or corporation, or the employee of such person or
2 corporation, who operates a creamery or cheese or condensed milk
3 factory, and uses a chemical milk test to determine the quantity of
4 butter fat in milk purchased, used or received, shall so use only such
5 tests as shall be clear oil, free from any foreign substance, and produce
6 correct measurements of butter fat, and every such person or corpo-
7 ration using a milk test shall procure from the dairy and food com-
8 missioner for each factory so operated one standard tube or bottle,
9 and one standard measure or pipette, for testing milk, certified and
10 marked by him as provided in section fourteen hundred forty-two,
11 which shall be kept for inspection by the patrons and used by such
12 person or corporation in testing or verifying test tubes or bottles and
13 milk measures or pipettes used. In any action arising between any
14 such operator and patron, the burden of establishing the use of reli-
15 able tests and the results therefrom, equivalent to the standard herein
16 provided, shall be upon the operator.

[C., '97, § 2523.]

SEC. 1451. Samples collected.

1 The commissioner may appoint agents in any city having over ten
2 thousand inhabitants to collect from each dealer, not more than four
3 times each month, samples of milk offered for sale therein. The agent
4 shall make an accurate test of each sample received by him, and keep
5 a true record thereof, with the name and location of the person from
6 whom it was obtained, and report his work in detail to the commis-
7 sioner, the compensation therefor not to exceed three dollars for each
8 day actually employed therein.

[C., '97, § 2524.]

SEC. 1452. Inspection.

1 He or his agent may open any can or vessel containing milk or
2 cream offered for sale in such city, and inspect its contents and take
3 samples therefrom for testing or analysis. And any city milk dealer,
4 or employee of such milk dealer, or any other person who shall resist
5 or interfere with the commissioner or his agent in the performance of

6 his duties in executing any of the requirements of this chapter, shall
7 be guilty of a misdemeanor and punished as provided in this chapter.
[C., '97, § 2526.]

SEC. 1453. Imitation butter or cheese.

1 Every article, substitute or compound, save that produced from
2 pure milk or cream from milk of cows, made in the semblance of or
3 designed to be used for and in the place of butter, is imitation butter;
4 and every article, substitute or compound, save that produced from
5 pure milk or cream from milk of cows, made in the semblance of or
6 designed to be used for and in the place of cheese, is imitation cheese.
7 No one shall manufacture, have in his possession, offer to sell or sell,
8 solicit or take orders for delivery, ship, consign or forward by any
9 common carrier, public or private, and no common carrier shall know-
10 ingly receive or transport any such imitation butter or cheese, except
11 in the manner and subject to the regulations in this chapter provided.
[C., '97, § 2516.]

SEC. 1454. Substitute for butter or cheese—regulations—transportation.

1 A substitute for butter and cheese, not having a yellow color nor
2 colored in imitation of butter and cheese as prohibited in the next
3 section, may be manufactured, kept in possession, offered for sale, sold,
4 shipped, consigned or forwarded by common carriers, public or private,
5 if each tub, firkin, box or other package in which the same is kept,
6 offered for sale, sold, shipped, consigned or forwarded shall have
7 branded, stamped or marked on the side or top thereof in the English
8 language, in a durable manner, the words, "Substitute for Butter" or
9 "Substitute for Cheese," as the case may be, the letters of the words
10 to be not less than one inch in length by one-half inch in width. The
11 defacing, erasure, canceling or removal of this brand or mark, with
12 intent to mislead, deceive, or violate any provision of this chapter, is
13 prohibited. Such substitute for butter or cheese may be kept, used or
14 served as a food or for cooking in hotels, restaurants, lunch counters,
15 boarding houses or other places of public entertainment, only in case
16 the proprietor or person in charge of such place shall display and keep
17 constantly posted a card opposite each table or other place where the
18 guests or others are served with the same, which card shall be white,
19 at least ten by fourteen inches in size, the words, "Substitute for But-
20 ter Used Here," or "Substitute for Cheese Used Here," as the case may
21 be, printed in black roman letters of the same size as herein required
22 to be placed upon the tubs, firkins, boxes or other package in which
23 substitute for butter or cheese is kept, and no other words or figures
24 shall be printed thereon. No substitute for butter or cheese shall be
25 offered for sale in the manufacturer's original package under the name
26 of or for true butter or cheese made from the milk or cream of cows,
27 nor shall any substitute for butter or cheese be offered for sale or sold
28 unless the purchaser at the time was informed thereof, and, in addi-
29 tion, furnished with a printed statement in the English language in
30 prominent type that the substance sold is such substitute, and giving
31 the name and place of business of the maker. Nothing herein con-
32 tained, however, shall be so construed as to prohibit the transporta-
33 tion of imitation butter or cheese through and across the state.

[C., '97, § 2517.]

SEC. 1455. Coloring—adulteration.

1 No one shall color with any matter whatever any substance
2 intended as a substitute for butter or cheese, so as to cause it to resem-
3 ble true dairy products, or combine any animal fat, vegetable oil or
4 other substance with butter or cheese, or combine with any substance
5 whatever, intended as a substitute for butter or cheese, anything of
6 any kind or nature for the purpose or with the effect of imparting
7 to the compound the color of yellow butter or cheese, the product of
8 the milk or cream from cows, or use, solicit orders for delivery, keep
9 for sale or sell any such substance so colored and disguised as a sub-
10 stitute for butter or cheese; but nothing in this chapter shall be con-
11 strued to prohibit the use of salt, rennet, or harmless coloring matter
12 in making butter or cheese from such milk or cream.

[C., '97, § 2518.]

SEC. 1456. Package branded.

1 No one shall have in his possession or under his control, except
2 for the actual consumption of himself or family, any substance
3 designed as a substitute for butter or cheese, unless the tub, firkin,
4 box or package holding the same is branded or marked as in this
5 chapter required. Any person having in his possession or under his
6 control such substance, not so branded or marked, shall be presumed to
7 know its true character and name.

[C., '97, § 2519.]

SEC. 1457. Search warrants—samples.

1 Whoever shall have in possession or control any imitation butter
2 or cheese, or any substance designed to be used as a substitute
3 for butter or cheese contrary to the provisions of this chapter, shall
4 be held to have possession of property with intent to use it as a
5 means of committing a public offense, and all the provisions of the
6 chapter relating to search warrants and proceedings thereon shall
7 apply, except the officer serving the warrant, in addition to his duties
8 as therein required, shall deliver to the dairy and food commissioner,
9 or to a person by him authorized in writing to receive the same, a
10 perfect sample of each article seized by virtue of such warrant, for
11 the purpose of having the same analyzed, and forthwith return to the
12 person from whom it was taken the remainder of each article seized.
13 If any sample is found to be imitation butter or cheese, or substance
14 designed to be used as a substitute for butter or cheese, it shall be
15 returned to and retained by the magistrate for the purposes contem-
16 plated in said chapter on "search warrants and proceedings thereon,"
17 but if any sample be found not imitation butter or cheese, or a sub-
18 stance designed to be used as a substitute therefor, the value of the
19 same shall be paid by the dairy and food commissioner as part of the
20 expenses of his office, to the person from whom it was taken.

[C., '97, § 2521.]

SEC. 1458. Contracts invalid.

1 No action shall be maintained in any of the courts of the state
2 upon any contract or sale made in violation of or with the intent to
3 violate any provision of this chapter by one who was knowingly a
4 party thereto.

[C., '97, § 2520.]

SEC. 1459. Penalty.

1 Any person, firm or corporation violating any provision of the
2 preceding sections of this chapter or chapter one of this title shall be
3 guilty of a misdemeanor, and upon conviction therefor, shall be pun-
4 ished by a fine of not less than ten nor more than one hundred dollars,
5 or by imprisonment for not more than thirty days in the county jail.

[S., '13, § 2515-g; 38 G. A., ch. 206, § 7.]

SEC. 1460. Renovated butter.

1 No person, firm, corporation, agent or employee, shall sell, offer
2 or expose for sale in this state any butter that is produced by taking
3 original packing stock butter, or other butter, or both, and melting the
4 same so that the butter fat can be drawn off or extracted, then mix-
5 ing the said butter fat with skimmed milk, or milk, or cream, or other
6 milk product, and rechurning or reworking the said mixture, or that
7 produced by any process that is commonly known as boiled, process
8 or renovated butter, unless the same is branded or marked as pro-
9 vided in the following section.

[38 G. A., ch. 127, § 1.]

SEC. 1461. Labeling of renovated butter.

1 No person, firm, corporation, agent or employee, shall sell, offer
2 or expose for sale, or deliver to purchaser, any boiled, process or reno-
3 vated butter, as defined in the preceding section, unless the words
4 "Renovated Butter" shall be plainly branded with gothic or bold-faced
5 letters at least three-fourths of an inch in length, on the top and
6 sides of each tub, or box, or pail, or other kind of a case, or package,
7 or on the wrapper of prints or rolls in which it is put up. If such
8 butter is exposed for sale uncovered or not in a case or package, a
9 placard containing the label so printed shall be attached to the mass
10 of butter in such manner as to easily be seen and read by the pur-
11 chaser. The branding or marking of all packages shall be in the
12 English language, and in a conspicuous place, so as to be easily seen
13 and read by the purchaser.

[38 G. A., ch. 127, § 2.]

SEC. 1462. Enforcement.

1 The state dairy and food commissioner and his assistants, experts
2 and chemists, by him appointed, shall be charged with the proper
3 enforcement of all the provisions of the two preceding sections. When
4 complaint is made by the said state dairy and food commissioner,
5 security for costs shall not be required.

[38 G. A., ch. 127, § 3.]

SEC. 1463. Penalty.

1 Whoever violates any provision of the three preceding sections
2 shall be deemed guilty of a misdemeanor, and shall for each offense,
3 upon conviction thereof, be subject to a fine of not less than twenty-
4 five dollars nor more than fifty dollars, or to imprisonment in the
5 county jail for any period not to exceed six months.

[38 G. A., ch. 127, § 4.]

SEC. 1464. Access to buildings.

1 The said commissioner and his assistants, experts, chemists or
2 agents, shall have access and ingress to all places of business, fac-
3 tories, stores and buildings, used for the manufacture or sale of butter.
4 They also shall have power and authority to open any tub, box, pail or
5 other kind of case or package containing any butter that may be
6 manufactured, sold or exposed for sale.

[38 G. A., ch. 127, § 5.]

SEC. 1465. Pasteurization.

1 Every owner, manager or operator of a creamery shall before
2 delivering to any person any skimmed milk cause the same to be pas-
3 teurized at a temperature of at least one hundred eighty-five degrees
4 Fahrenheit.

[S., '13, § 4989-a.]

SEC. 1466. Penalty.

1 Whoever violates the provisions of the preceding section shall,
2 upon conviction, be liable to a fine of not less than ten dollars nor
3 more than one hundred dollars.

[S., '13, § 4989-b; 37 G. A., ch. 377, § 4.]

SEC. 1467. Access to factories.

1 The state dairy and food commissioner and his deputy and assist-
2 ants shall have full access to all places of business, factories, buildings,
3 wagons and cars used in the manufacture, sale or transportation
4 within the state of any dairy products or imitation thereof.

[S., '13, § 2528-a.]

SEC. 1468. Examination and inspection.

1 They may examine and open any package, can or vessel con-
2 taining, or believed to contain, any article or product which may be
3 manufactured, sold or exposed for sale in violation of the laws of this
4 state relative to the dairy products and imitation thereof, and may
5 inspect the contents therein and take therefrom samples for testing or
6 analysis.

[S., '13, § 2528-b.]

SEC. 1469. Interference with inspector.

1 Whoever shall refuse to allow the inspection herein provided for
2 or shall in any way hinder or obstruct the proper officers performing
3 their duties hereunder shall be punished by fine not exceeding one
4 hundred dollars or by imprisonment in the county jail not exceeding
5 thirty days.

[S., '13, § 2528-c.]

SEC. 1470. Milk dealers—manufacturers—reports.

1 Every city milk dealer, or every person furnishing milk or cream
2 to such dealer, or the employee of such milk dealer, and every person
3 or corporation, or the employee of such person or corporation, who
4 operates a creamery, milk plant, cream station or ice cream, cheese or
5 condensed milk factory, or reworks or packs butter, shall maintain

6 his premises and utensils in a clean and hygienic condition, and shall
 7 make, upon blanks furnished by the dairy and food commissioner,
 8 such reports and statistics as may be required for the purpose of com-
 9 piling statistics authorized by section fourteen hundred forty-two, and
 10 such dealer, owner, operator or business manager shall make such re-
 11 turns and reports within thirty days after receiving the proper blank
 12 form from the dairy and food commissioner and shall certify to the
 13 correctness thereof. Whoever shall violate any provision of this sec-
 14 tion shall be punished by a fine of not less than twenty-five nor more
 15 than one hundred dollars, or by imprisonment in the county jail for
 16 not more than thirty days.

[C., '97, § 2522; S., '13, § 2522; 38 G. A., ch. 206, § 4.]

CHAPTER 3.

PURE FOODS.

SECTION 1471. Manufacture and sale of adulterated foods.

1 No person, firm or corporation, by himself, officer, servant or
 2 agent, or as the officer, servant or agent of any other person, firm or
 3 corporation, shall manufacture or introduce into the state, or solicit
 4 or take orders for delivery, or sell, exchange, deliver or have in his
 5 possession with the intent to sell, exchange or expose or offer for sale
 6 or exchange, any article of food which is adulterated or misbranded,
 7 within the meaning of this chapter. None of the penalties set forth in
 8 this chapter shall be imposed upon any common carrier for introduc-
 9 ing into the state, or having in its possession, any adulterated or mis-
 10 branded articles of food, where the same were received by said carrier
 11 for transportation in the ordinary course of its business and without
 12 actual knowledge of the adulteration or misbranding thereof. Any
 13 manufacturer, wholesaler or jobber may keep goods specifically set
 14 apart in his stock for sale in other states, which might otherwise be
 15 in violation of the provisions of this chapter.

[S., '13, § 4999-a20.]

SEC. 1472. State dairy and food commissioner—duties.

1 The state dairy and food commissioner shall be charged with the
 2 duty of carrying into effect the provisions of this chapter, and shall
 3 have an official seal. He may, with the approval of the executive coun-
 4 cil, appoint such assistants as he may deem necessary, who may exer-
 5 cise the powers now provided by law in the case of milk inspectors,
 6 together with those conferred by this chapter, and they shall perform
 7 such duties as may be assigned to them by the state dairy and food
 8 commissioner. They shall be paid a salary of not to exceed the fol-
 9 lowing: eighteen hundred dollars for the first year of service, nineteen
 10 hundred dollars for the second year of service, two thousand dollars
 11 for the third year of service, twenty-one hundred dollars for the fourth
 12 year of service, and twenty-two hundred dollars for the fifth and each
 13 succeeding year of service, said salary to be paid in the same manner
 14 as the salaries of other state officers and they shall be allowed the ex-
 15 penses necessarily incurred by them in the discharge of their duties.
 16 Their accounts shall be itemized and sworn to, and when approved by

17 the commissioner and the executive council, shall be paid by warrant
18 of the auditor upon the treasurer out of a sum hereinafter appro-
19 priated for carrying out the provisions of this chapter.

[S., '13, § 4999-a31b; 38 G. A., ch. 284, § 2.]

SEC. 1473. Rules and regulations.

1 The commissioner shall, with the approval of the executive coun-
2 cil, make all necessary rules and regulations for carrying out the
3 provisions of this chapter, under which the commissioner shall procure
4 from time to time, or whenever he has occasion to believe any of its
5 provisions are being violated, or cause to be procured, for examination
6 chemically, microscopically or otherwise, samples of food shipped into
7 this state or offered for sale in this state. The chemist making the ex-
8 amination shall certify the results of his work to the commissioner.
9 The commissioner may, with the approval of the executive council,
10 make and issue standards for foods, standards for which are not fixed
11 by law, which standards shall conform with those proclaimed by the
12 secretary of agriculture of the United States.

[S., '13, § 4999-a18; 38 G. A., ch. 284, § 1.]

SEC. 1474. County attorney—duties.

1 If it shall appear from any such examination that any of the pro-
2 visions of this chapter have been violated, the commissioner shall at
3 once certify the facts to the proper county attorney, with a copy of
4 the results of the analysis, duly authenticated by the analyst under
5 oath. It shall be the duty of every county attorney to whom the com-
6 missioner or his assistants shall report any violation of this chapter,
7 to cause proceedings to be commenced and prosecuted without delay
8 for the fines and penalties in such case provided. An attorney may
9 be appointed by the governor when he deems advisable to prosecute
10 such cases, but in no case except where the county attorney has first
11 refused to act.

[C., '97, § 4998; S., '13, § 4999-a19.]

SEC. 1475. Samples.

1 Any person who manufactures or exposes for sale, or delivers to
2 a purchaser any article of food, shall furnish, within business hours,
3 and upon payment or tender of the selling price, a sample of such food
4 to any person duly authorized by the commissioner to receive the
5 same, and who shall apply to such vendor, or person delivering to a
6 purchaser, such article of food for such sample for such use in suffi-
7 cient quantity for the analysis of any such article or articles in his
8 possession. In the presence of such person and an agent of the com-
9 missioner, if so desired by either party, said sample shall be divided
10 into three parts, and each part shall be sealed with the seal of the com-
11 missioner. One part shall be left with the dealer, one delivered to the
12 commissioner, and one deposited with the county attorney for the
13 county in which the sample is taken. The having in possession by
14 any person who manufactures or exposes for sale any adulterated or
15 misbranded food, within the meaning of this chapter, shall be prima
16 facie evidence of having in possession with intent to sell in violation
17 of its provisions.

[S., '13, § 4999-a24.]

SEC. 1476. Adulterated food.

- 1 For the purpose of this chapter, an article of food shall be deemed
2 to be adulterated:
- 3 1. If any substance or substances has or have been mixed and
4 packed with it so as to reduce or lower or injuriously affect its quality,
5 strength or purity.
 - 6 2. If any substance or substances has or have been substituted
7 wholly or in part for the article.
 - 8 3. If any valuable constituent of the article has been wholly or in
9 part abstracted.
 - 10 4. If it does not conform to the standards established by law.
 - 11 5. If it be mixed, colored, powdered, coated or stained in a manner
12 whereby damage or inferiority is concealed.
 - 13 6. If it contains any poisonous ingredient, or any ingredient
14 which may render such article injurious to health or if it contains
15 saccharine, formaldehyde or boron compound.
 - 16 7. If it consists of the whole or any part of a diseased, filthy,
17 rancid, decomposed or putrid animal or vegetable substance or any
18 portion of an animal unfit for food, whether manufactured or not, or
19 if it is the product of a diseased animal or one that has died otherwise
20 than by slaughter, or if it be a food product which has been damaged
21 by freezing.
 - 22 8. Candies and chocolates if they contain terra alba, barytes, talc,
23 chrome yellow, or other mineral substances, or poisonous colors or
24 flavors or other ingredients deleterious or detrimental to health.

[S. S., '15, § 4999-a31e.]

SEC. 1477. Terms defined—misbranded food.

- 1 The word "commissioner," whenever used in this chapter, shall be
2 taken to mean the state dairy and food commissioner. The word
3 "food," as used herein, shall include all articles used for or entering
4 into the composition of food, drink, confectionery or condiment, by
5 man or domestic animals, whether simple, blended, mixed or com-
6 pound. The term "misbranded," as used herein, shall apply to all
7 articles of food, or articles which enter into the composition of food,
8 the package or label of which shall bear any statement, design or
9 device regarding such article, or the ingredients or substances con-
10 tained therein, which shall be false or misleading in any particular,
11 and to any food product which is falsely branded as to the state, ter-
12 ritory or country in which it is manufactured or produced.
- 13 For the purpose of this chapter an article of food shall be deemed
14 to be "misbranded":
- 15 1. If it be offered for sale under the specific name of another
16 article.
 - 17 2. If it be labeled or branded so as to deceive or mislead the pur-
18 chaser, or if it bears any design or device which might prove decep-
19 tive as to the true character of the product or purport to be a foreign
20 product when not so.
 - 21 3. Baking powders, if each can or package is not plainly labeled
22 so as to show the name of each and every ingredient contained
23 therein.
 - 24 4. In the case of articles labeled, branded, or tagged so as to
25 plainly indicate that they are mixtures, compounds, combinations, imi-
26 tations or blends, and the word "mixture," "compound," "combina-

tion," "imitation" or "blend," as the case may be, is plainly stated on the package in which it is offered for sale, unless the name of each ingredient shall appear on the main label, in continuous list with no intervening matter of any kind, immediately following the phrase, "mixture of," "compound of," "combination of," "blend of," as the case may be, such names of ingredients to appear in the order in which they are present in quantity in said article of food, beginning with the ingredient present in the greatest proportion. All letters used in naming the ingredients shall be of the same size, style and color as the letters used in the phrase "mixture of," "compound of," "combination of," or "blend of," and shall appear on a background of one color. Labels required by this chapter shall be distinctly printed in the English language in legible type no smaller than eight-point heavy gothic caps. Such label shall be placed upon the outside of the package and shall contain the name and place of business of the manufacturer, packer or dealer. The term "blend" as used herein shall be construed to mean a mixture of like substances. Nothing in this chapter shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome ingredients to disclose their trade formulas, except in so far as the provisions of this chapter may require to secure freedom from adulteration or misbranding.

5. If any person shall sell, offer or expose for sale any food in package form if the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count; but reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made by the state dairy and food commissioner.

6. If it be offered for sale in package or wrapped form and the name of the article be not plainly stated on the outside of the package or wrapper.

[S. S., '15, § 4999-a31c; 38 G. A., ch. 284, § 3.]

SEC. 1478. Food standards.

For the purposes of this chapter, the following standards are hereby established:

FLAVORING EXTRACTS.

1. *Flavoring extract.* A flavoring extract is a solution in ethyl alcohol of proper strength of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation.

2. *Almond extract.* Almond extract is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid, and contains not less than one per cent by volume of oil of bitter almonds.

3. *Anise extract.* Anise extract is the flavoring extract prepared from oil of anise, and contains not less than three per cent by volume of oil of anise.

4. *Celery seed extract.* Celery seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than three-tenths per cent by volume of oil of celery seed.

- 19 5. *Cassia extract*. Cassia extract is the flavoring extract pre-
20 pared from oil of cassia and contains not less than two per cent by
21 volume of oil of cassia.
- 22 6. *Cinnamon extract*. Cinnamon extract is the flavoring extract
23 prepared from oil of cinnamon, and contains not less than two per
24 cent by volume of oil of cinnamon.
- 25 7. *Clove extract*. Clove extract is the flavoring extract prepared
26 from oil of cloves, and contains not less than two per cent by volume
27 of oil of cloves.
- 28 8. *Ginger extract*. Ginger extract is the flavoring extract pre-
29 pared from ginger and contains in each one hundred cubic centimeters,
30 the alcohol-soluble matters from not less than twenty grams of ginger.
- 31 9. *Lemon extract*. Lemon extract is the flavoring extract pre-
32 pared from oil of lemon, or from lemon peel, or both, and contains not
33 less than five per cent by volume of oil of lemon.
- 34 10. *Terpeneless extract of lemon*. Terpeneless extract of lemon
35 is the flavoring extract prepared by shaking oil of lemon with dilute
36 alcohol, or by dissolving terpeneless oil of lemon in dilute alcohol, and
37 contains not less than two-tenths per cent by weight of citral derived
38 from oil of lemon.
- 39 11. *Nutmeg extract*. Nutmeg extract is the flavoring extract
40 prepared from oil of nutmeg, and contains not less than two per cent
41 by volume of oil of nutmeg.
- 42 12. *Orange extract*. Orange extract is the flavoring extract pre-
43 pared from oil of orange, or from orange peel, or both, and contains
44 not less than five per cent by volume of oil of orange.
- 45 13. *Terpeneless extract of orange*. Terpeneless extract of orange
46 is the flavoring extract prepared by shaking oil of orange with dilute
47 alcohol, or by dissolving terpeneless oil of orange in dilute alcohol,
48 and corresponds in flavoring strength to orange extract.
- 49 14. *Peppermint extract*. Peppermint extract is the flavoring
50 extract prepared from oil of peppermint, or from peppermint, or both,
51 and contains not less than three per cent by volume of oil of pepper-
52 mint.
- 53 15. *Rose extract*. Rose extract is the flavoring extract prepared
54 from attar of roses, with or without red rose petals, and contains not
55 less than four-tenths per cent by volume of attar of roses.
- 56 16. *Savory extract*. Savory extract is the flavoring extract pre-
57 pared from oil of savory, or from savory, or both, and contains not
58 less than thirty-five hundredths per cent by volume of oil of savory.
- 59 17. *Spearmint extract*. Spearmint extract is the flavoring ex-
60 tract prepared from oil of spearmint, or from spearmint, or both, and
61 contains not less than three per cent by volume of oil of spearmint.
- 62 18. *Star anise extract*. Star anise extract is the flavoring ex-
63 tract prepared from oil of star anise, and contains not less than three
64 per cent by volume of oil of star anise.
- 65 19. *Sweet basil extract*. Sweet basil extract is the flavoring ex-
66 tract prepared from oil of sweet basil, or from sweet basil, or both,
67 and contains not less than one-tenth per cent by volume of oil of sweet
68 basil.
- 69 20. *Sweet marjoram extract*. Sweet marjoram extract, mar-
70 joram extract, is the flavoring extract prepared from the oil of mar-
71 joram, or from marjoram, or both, and contains not less than one per
72 cent by volume of oil of marjoram.

73 21. *Thyme extract.* Thyme extract is the flavoring extract pre-
74 pared from oil of thyme, or from thyme, or both, and contains not
75 less than two-tenths per cent by volume of oil of thyme.

VINEGAR.

76
77 1. All vinegar shall be made by the alcoholic and subsequent
78 acetous fermentation of fruits, grain, vegetables, sugar or syrups,
79 and if not distilled must carry in solution the extractive matter de-
80 rived solely from the substances indicated on the label as its source.

81 2. No vinegar shall be sold or exposed for sale as vinegar, apple
82 vinegar or cider vinegar which is not the legitimate product of apples.
83 The term "cider vinegar" as used herein shall be construed to mean
84 vinegar derived by the alcoholic and subsequent acetous fermentation
85 of the expressed juice of apples, the acidity, solids and ash of which
86 have been derived exclusively from apples, and which contains not
87 less than four per cent of absolute acetic acid. Cider vinegar which,
88 during the course of manufacture, has developed in excess of four per
89 cent acetic acid may be reduced to a strength of not less than four per
90 cent, and cider vinegar so reduced shall not be regarded as adulter-
91 ated if so branded.

92 3. Sugar vinegar sold or exposed for sale as such shall be strictly
93 and distinctly fermented from sucrose.

94 4. No vinegar shall be sold or exposed for sale as malt vinegar
95 which is not fermented strictly and distinctly from barley malt, or
96 cereals whose starch has been converted by malt.

97 5. No vinegar shall be sold or exposed for sale in which foreign
98 substances, drugs or acids have been introduced. No vinegar shall
99 contain any artificial coloring matter, and all vinegar shall have an
100 acidity of not less than four per cent by weight of absolute acetic
101 acid. If vinegar contains any artificial matter, or less than the re-
102 quired amount of acidity, it shall be deemed to be adulterated.

103 6. All vinegar made by fermentation and oxidation without the
104 intervention of distillation shall be branded with the name of the fruit
105 or substance from which such vinegar has been made.

106 7. All vinegar made by acetous fermentation of dilute distilled
107 alcohol shall be branded "distilled" vinegar, together with the name
108 of the substance from which it is made, and shall not have a brown
109 color in imitation of cider vinegar.

110 8. Corn sugar vinegar is the product made by the alcoholic and
111 subsequent acetous fermentation of solutions of starch sugar.

BUTTER.

112
113 1. *Butter.* Butter shall contain not less than eighty per cent
114 by weight of butter fat.

OYSTERS.

115
116 1. *Oysters.* Oysters shall not contain ice, nor more than six-
117 teen and two-thirds per cent by weight of free liquid.

ICE CREAM.

118
119 1. *Ice cream.* Ice cream is the frozen product made from pure
120 wholesome sweet cream, and sugar, with or without flavoring, and,
121 if desired, the addition of not to exceed one per cent by weight of a
122 harmless thickener, and contains not less than twelve per cent by
123 weight of milk fat, and the acidity shall not exceed three-tenths of
124 one per cent.

125 2. *Fruit ice cream.* Fruit ice cream is the frozen product made
126 from pure wholesome sweet cream, sugar, and sound, clean, mature
127 fruits, and, if desired, the addition of not to exceed one per cent by

128 weight of a harmless thickener, and contains not less than ten per
129 cent by weight of milk fat.

130 3. *Nut ice cream.* Nut ice cream is the frozen product made
131 from pure wholesome sweet cream, sugar, and sound, nonrancid nuts,
132 and, if desired, the addition of not to exceed one per cent by weight
133 of harmless thickener, and contains not less than ten per cent by
134 weight of milk fat.

[S. S., '15, § 4999-a31.]

SEC. 1479. Notice—how served on corporation.

1 Upon the prosecution of a corporation for violations of the pro-
2 visions of this chapter, and information filed before a justice of the
3 peace having jurisdiction, the said justice of the peace shall forthwith
4 issue notice to the corporation which shall substantially notify the
5 defendant of the charges contained in the information and that it
6 must forthwith appear and answer the same, which notice may be
7 served by any peace officer in any county of the state on any officer
8 or agent of the defendant corporation by reading the same to him and
9 leaving with him a copy thereof; said notice shall be returned to the
10 justice of the peace without delay with proper return of its service,
11 and from and after two days from the time of making such service
12 the defendant corporation shall be considered to be in court, and all
13 further proceedings shall be the same as against an individual de-
14 fendent.

[S., '13, § 4999-a29.]

SEC. 1480. Bulletins.

1 The commissioner shall, from time to time, with the approval of
2 the executive council, issue a printed bulletin, showing the results of
3 inspections, analyses, and prosecutions undertaken under this chap-
4 ter, together with such general information as may be deemed suit-
5 able. Such bulletins shall be printed in such numbers as may be di-
6 rected by the executive council, and shall be issued to the newspapers
7 of the state and to all interested persons.

[S., '13, § 4999-a26.]

SEC. 1481. Penalty.

1 Any person, firm or corporation, or agent thereof, who refuses
2 to comply, on demand, with any of the requirements of this chapter,
3 or who shall violate any of its provisions, or who shall obstruct or
4 hinder the commissioner, or any of his assistants, in the discharge
5 of any duty imposed by this chapter, shall be guilty of a misdemeanor,
6 and upon conviction thereof shall be punished by a fine not exceeding
7 one hundred dollars.

[S., '13, § 4999-a25.]

CHAPTER 4.

EGGS.

SECTION 1482. License.

1 No person, firm or corporation shall engage in the business of
2 buying, selling, dealing in or trading in eggs, except those retailers
3 who buy direct from licensees, and who do not sell in lots greater
4 than one case, without first obtaining from the dairy and food com-
5 missioner a license to conduct such business. Such commissioner,
6 upon receipt of a proper application upon forms such as he may pre-
7 scribe, accompanied by an annual license fee of one dollar, shall there-
8 upon issue to such person, firm or corporation an annual license to
9 engage in such business; provided that any person, firm or corpora-
10 tion operating more than one place of business where eggs are bought
11 shall procure a license for each such place of business. All such
12 licenses shall expire March first of each year.

[38 G. A., ch. 274, § 4.]

SEC. 1483. Duty of commissioner.

1 The dairy and food commissioner shall enforce the provisions of
2 this chapter and shall make suitable rules and regulations for carrying
3 out its provisions. He shall determine the conditions under which
4 eggs previously candled shall be recandled before sale, in order to
5 safeguard the purchaser against buying such eggs as are unfit for
6 human food, which may be contained in such lot.

[38 G. A., ch. 274, § 5.]

SEC. 1484. Stale eggs.

1 No person, firm or corporation shall sell, offer or expose for sale,
2 or have in his possession, or traffic in, any egg unfit for human food,
3 unless the same is broken in shell and then denatured so that it can
4 not be used for human food. For the purposes of this chapter, an
5 egg shall be deemed unfit for human food if it be addled or moldy, a
6 black rot, a white rot, or a blood ring, or if it has an adherent yolk,
7 or a bloody or green white; or if it be incubated beyond the blood ring
8 stage; or if it consists in whole or in part of a filthy, decomposed or
9 putrid substance.

[38 G. A., ch. 274, § 1.]

SEC. 1485. Dockage—candling.

1 No person, firm or corporation shall, in buying or selling eggs,
2 take or give a greater or less dockage for eggs unfit for food as defined
3 in the preceding section than the actual dockage which has been
4 determined by the careful candling of the eggs so purchased or sold,
5 and he shall keep such candling records as may be required by the
6 rules and regulations of the dairy and food commissioner. All such
7 records shall be open at all reasonable times for examination by the
8 dairy and food commissioner, or his representatives. The term "can-
9 dling" as used herein shall be construed to mean the careful examina-
10 tion, in a partially dark room or place, of the whole egg by means of
11 a strong light, the apparatus and method employed to be such as shall
12 be approved by the dairy and food commissioner. Every person, firm
13 or corporation engaged in the business of buying eggs in this state for
14 resale or consignment shall provide and maintain an adequate place

15 for the accurate candling of eggs and a suitable place for the proper
16 handling of eggs which are intended to be used for human food.

[38 G. A., ch. 274, § 2.]

SEC. 1486. Candling certificate.

1 There shall be placed on the top layer of every case of candled
2 eggs, by the person candling same, a candling certificate. Such can-
3 dling certificate shall be printed on cards or sheets of paper not smaller
4 in size than two and three-eighths by four and one-fourth inches, and
5 shall give the date of candling the eggs contained in the case in which
6 it is placed, the name, initials or number of the person candling the
7 eggs, and the name of this state and the license number of the person,
8 firm or corporation for which the eggs were candled.

[38 G. A., ch. 274, § 3.]

SEC. 1487. Penalty.

1 Any person, firm or corporation failing to comply with the re-
2 quirements of, or violating any of the provisions of this chapter, shall
3 be guilty of a misdemeanor, and shall, upon conviction for the first
4 offense, be fined not less than ten dollars nor more than fifty dollars.
5 For any subsequent offense his license may be suspended or revoked,
6 at the discretion of the dairy and food commissioner.

[38 G. A., ch. 274, § 6.]

CHAPTER 5.

FOOD SANITATION.

SECTION 1488. Food-producing establishments—"food" defined.

1 Every building, room, basement or cellar occupied or used as a
2 bakery, confectionery, cannery, packing house, slaughter house, dairy,
3 creamery, cheese factory, restaurant, grocery, meat market or other
4 place or apartment used wholly or in part for the preparation for sale,
5 manufacture, packing, storing, sale or distribution of any food, shall
6 be properly lighted, drained, plumbed, and ventilated and conducted
7 with strict regard to the influence of such conditions upon the purity
8 and wholesomeness of the food therein produced; and for the purpose
9 of this chapter the term "food" as used herein, shall include all articles
10 used for food, drink, confectionery or condiment, intended for man
11 or domestic animals, whether simple, mixed or compound, and all sub-
12 stances or ingredients used in the preparation thereof.

[S., '13, § 2527-a; 38 G. A., ch. 202, § 1.]

SEC. 1489. Equipment—vehicles—employees.

1 The floors, side walls, ceilings, furniture, receptacles, implements,
2 equipment and machinery of every establishment or place where food
3 is manufactured, packed, stored, sold or distributed, and all cars,
4 trucks and vehicles used in the transportation of food products, shall
5 at all times be kept in a clean, healthful and sanitary condition, and
6 for the purpose of this chapter unclean, unhealthful or insanitary
7 conditions shall be deemed to exist unless food in the process of manu-
8 facture, preparation, packing, storing, sale, distribution or transporta-

9 tion is securely protected from flies, dust, dirt, and as far as may be
 10 necessary by all reasonable means, from all other foreign or injurious
 11 contamination; and unless the refuse, dirt and the waste products
 12 subject to decomposition and fermentation incident to the manufac-
 13 ture, preparation, packing, storing, selling, distributing and transport-
 14 ing of food are removed daily; and unless all trucks, trays, boxes,
 15 baskets, buckets, and all other receptacles, chutes, platforms, racks,
 16 tables, shelves, hooks and all knives, saws, cleavers, and all other uten-
 17 sils and machinery used in moving, handling, cutting, chopping, mix-
 18 ing, canning and all other processes are kept thoroughly cleaned, and
 19 unless the clothing of operatives, employees, clerks, or other persons
 20 therein employed, is clean.

[S., '13, § 2527-b.]

SEC. 1490. Interior of buildings—how finished.

1 The side walls and ceilings of every bakery, confectionery, cream-
 2 ery, cheese factory and restaurant kitchen, shall be plastered, wain-
 3 scoted or ceiled with metal, cement or other suitable material approved
 4 by the state dairy and food commissioner, and shall be oil painted or
 5 kept well lime-washed, and all interior woodwork in every bakery, con-
 6 fectionery, creamery, cheese factory and restaurant kitchen, shall be
 7 washed clean, and every building, room, basement or cellar occupied
 8 or used for the preparation, manufacture, packing, storage, sale or
 9 distribution of food, shall have an impermeable floor made of cement
 10 or tile laid in cement, grouted brick, wood or other suitable non-
 11 absorbent material which can be flushed and washed clean with water.

[S., '13, § 2527-c; 38 G. A., ch. 202, § 2.]

SEC. 1491. Screens.

1 The doors, windows and other openings of every food-producing
 2 or distributing establishment during the fly season shall be fitted with
 3 self-closing screen doors and wire window screens of not coarser than
 4 fourteen mesh wire gauze; but this section shall not apply to sheds
 5 used for husking corn, nor to warehouses or storerooms used for the
 6 storage or handling of the finished product in original packages.

[S., '13, § 2527-d.]

SEC. 1492. Toilet rooms—lavatories.

1 Every building, room, basement or cellar occupied or used for the
 2 preparation, manufacture, packing, canning, sale or distribution of
 3 food, shall have convenient toilet, or toilet rooms separate and apart
 4 from the room or rooms where the process of production, manufac-
 5 ture, packing, canning, selling or distribution is conducted. The
 6 floors of such toilet rooms shall be cement, tile, wood, brick or other
 7 nonabsorbent material and shall be washed and scoured daily. Such
 8 toilet or toilets shall be furnished with separate ventilating flues or
 9 pipes, discharging into soil pipes, or on the outside of the building
 10 in which they are situated. Lavatories and washrooms shall be ad-
 11 jacent to toilet rooms and shall be supplied with soap, running water
 12 and clean towels, and shall be maintained in a sanitary condition.
 13 Operatives, employees, clerks and all persons who handle the material
 14 from which food is prepared or the finished product, before beginning

15 work or after visiting toilet or toilets, shall wash their hands and arms
16 thoroughly in clean water.

[S., '13, § 2527-e.]

SEC. 1493. Cuspidors.

1 Cuspidors for the use of operatives, employees, clerks or other
2 persons shall be provided whenever necessary, and each cuspidor shall
3 be thoroughly emptied and washed daily with disinfectant solution,
4 and five ounces of such solution shall be left in each cuspidor while
5 it is in use. No operative, employee or other person shall expectorate
6 within any building, room, basement or cellar where the production,
7 manufacture, packing, storing, preparation or sale of any food is con-
8 ducted, except in cuspidors as provided for herein.

[S., '13, § 2527-f.]

SEC. 1494. Use as living room.

1 No person or persons shall be allowed to live or sleep in any work-
2 room of a bakeshop, kitchen, dining room, confectionery, creamery,
3 cheese factory, or place where food is prepared for sale, served or sold.

[S., '13, § 2527-g.]

SEC. 1495. Employment of diseased persons.

1 No employer shall require, permit or suffer any person, nor shall
2 any person work in a building, room, basement, cellar or vehicle occu-
3 pied or used for the production, manufacture, packing, storage, sale,
4 distribution and transportation of food, who is affected with any
5 venereal disease, smallpox, diphtheria, scarlet fever, yellow fever,
6 tuberculosis or consumption, bubonic plague, Asiatic cholera, leprosy,
7 trachoma, typhoid fever, epidemic dysentery, measles, mumps, German
8 measles, whooping cough, chickenpox or any other infectious or con-
9 tagious disease.

[S., '13, § 2527-h.]

SEC. 1496. Slaughterhouses—construction.

1 Every person owning, leasing or occupying any place, room or
2 building wherein cattle, sheep, swine, poultry or other animals are
3 killed or dressed, or any market, public or private, shall cause such
4 place, room, building or market to be kept at all times thoroughly
5 cleaned and purified, and all offal, blood, fat, garbage, manure or other
6 unwholesome or offensive refuse shall be removed therefrom at least
7 once every twenty-four hours, if used continuously, or if only occa-
8 sionally, within twenty-four hours after using; and the floors of such
9 building, place or premise shall have an impermeable floor, made of
10 cement or tile laid in cement, brick or other nonabsorbent material
11 which can be flushed and washed clean with water, and which shall
12 be approved by the state dairy and food commissioner or his author-
13 ized agent. No blood pit, dung pit, offal pit, or privy well shall remain
14 or be constructed within any place, room or building; nor shall swine
15 be kept or fed within one hundred fifty feet of the slaughterhouse.
16 Doors and windows must be screened to exclude flies, and side walls
17 painted or whitewashed.

18 Slaughterhouses are required to be kept in a sanitary condition,
19 and insanitary conditions shall be deemed to exist wherever any one
20 or more of the following conditions appear or are found, to wit: If

21 the slaughterhouse is dilapidated, and in a state of decay; if the floors
 22 or side walls are soaked with decaying blood or other animal matter;
 23 if cobwebs or other evidence of filth or neglect are present; if the
 24 drainage of the slaughterhouse or slaughterhouse yard is not suffi-
 25 cient; if maggots or filthy pools or hog wallows exist in the slaughter-
 26 house yard or under the slaughterhouse; if storage hides kept in the
 27 slaughterhouse are in pools of filth, or infested with maggots, or
 28 giving out vile odors; if the water supply used in connection with the
 29 cleansing or preparation is not pure and unpolluted; or if the odors
 30 of putrefaction plainly exist therein; if the bones or refuse are not
 31 burned or buried; if dead animals are being used as feed without first
 32 being thoroughly cooked; if carcasses are transported from place to
 33 place when not covered with clean, white cloths, or if kept in unclean,
 34 bad-smelling ice boxes, refrigerators or storage rooms.

35 If the floors of such killing places are found to be in an insani-
 36 tary condition by the inspector or health officer, he may require such
 37 floors to be constructed of cement or tile laid in cement, or brick, so
 38 to prevent the blood, foul liquid or washings from being absorbed.
 39 All new slaughterhouses shall be constructed with cement floor and
 40 killing beds.

[S., '13, § 2527-i.]

SEC. 1497. Street display of food.

1 The sidewalk or street display of food products is prohibited
 2 unless such products are inclosed in a show case or similar device
 3 which shall protect the same from flies, dust or other contamination;
 4 and in such display the bottom of the container shall be at least two
 5 feet above the surface of the sidewalk; but the sidewalk or street dis-
 6 play of meat or meat products is prohibited. The polishing of fruit
 7 or any other product by any process, or in any manner which is insani-
 8 tary or unclean, is hereby declared to be a violation of this chapter.

[S., '13, § 2527-j.]

SEC. 1498. Covering of foods.

1 Confectionery, dates, figs, dried and fresh fruits, berries, butter,
 2 cheese, and bakery products, while on sale or display, are required to
 3 be properly screened or covered to effectively protect the same from
 4 contamination or damage by flies, dust, vermin, or other means.

[S., '13, § 2527-k.]

SEC. 1499. Vendor's license—revocation.

1 No person, firm, or corporation shall operate or conduct a bakery,
 2 candy factory, ice cream factory, canning factory, slaughterhouse,
 3 meat market, or place where fresh meats are sold at retail, without
 4 being licensed by the state dairy and food commissioner. Each license
 5 shall be valid for one year from date of issue, and shall be numbered
 6 and contain the name of the person and the location of the place for
 7 which the license is issued. No license shall be issued until a fee of
 8 three dollars has been paid to the state dairy and food commissioner,
 9 and application for such license shall be made on blanks to be pro-
 10 vided by the state dairy and food commissioner. The state dairy and
 11 food commissioner may withhold a license from any applicant there-
 12 for whom he may deem unworthy, and he may revoke any license
 13 issued under this chapter. Fees collected under the provisions of this

14 chapter shall be paid into the state treasury by the state dairy and
15 food commissioner.

[S., '13, § 2527-l.]

SEC. 1500. Enforcement—authority of commissioner.

1 It shall be the duty of the state dairy and food commissioner or
2 appointees to enforce this chapter. The state dairy and food com-
3 missioner, and the food or dairy inspectors of the state shall have full
4 power at all times to enter and inspect every building, room, basement,
5 cellar or vehicle occupied or used for the production of foods intended
6 for sale, manufactured for sale, used for storage, distribution, or
7 transportation; and to inspect the premises and all utensils, fixtures,
8 furniture and machinery used as aforesaid.

9 If any person, firm or corporation or food-producing or distribut-
10 ing establishment, conveyance, employer, operative, employee, clerk,
11 driver or other person is found to be violating any of the provisions
12 of this chapter, or if the production, preparation, manufacture, pack-
13 ing, storing, sale, distribution or transportation of foods is being con-
14 ducted in a manner detrimental to the character or quality of the
15 food therein produced, manufactured, packed, stored, sold, distributed
16 or conveyed, such person, firm, or corporation shall be punished as
17 herein provided.

[S., '13, § 2527-m.]

SEC. 1501. Penalties.

1 Any person, firm or corporation who violates any of the pro-
2 visions of this chapter shall be guilty of a misdemeanor and on con-
3 viction shall be punished for the first offense by a fine of not less than
4 ten dollars nor more than fifty dollars; for the second offense by a fine
5 of not less than twenty-five dollars nor more than one hundred dollars;
6 and for the third and subsequent offense by a fine of two hundred
7 dollars and imprisonment in the county jail for not less than thirty
8 nor more than ninety days.

[C., '97, § 2527; S., '13, § 2527-n.]

CHAPTER 6.

COLD STORAGE.

SECTION 1502. Cold storage and refrigerating.

1 The term "cold storage" as used in this chapter shall be construed
2 to mean a place artificially cooled to a temperature of forty degrees
3 Fahrenheit or below, but shall not include such a place in a private
4 home, hotel, or restaurant, or to refrigerator cars. The term "cold
5 stored" as used in this chapter shall be construed to mean the keeping
6 of articles of food in cold storage for a period exceeding thirty days.
7 The term "articles of food" as used in this chapter shall be construed
8 to mean and include fresh meat, and fresh meat products except in
9 process of manufacture, fresh fruit, fish, game, poultry, eggs, butter,
10 and other articles intended for human consumption.

[S., '13, § 2528-d.]

SEC. 1503. License—application—examination.

1 Any person, firm or corporation desiring to operate a cold storage
2 or refrigerating warehouse, shall make application in writing to the
3 state dairy and food commissioner for that purpose, stating the loca-
4 tion of its plant or plants. On receipt of the application the state
5 dairy and food commissioner shall cause an examination to be made
6 into the sanitary condition of said plant or plants, and if found to be
7 in a sanitary condition and otherwise properly equipped for the busi-
8 ness of cold storage, the state dairy and food commissioner shall cause
9 a license to be issued authorizing the applicant to operate a cold stor-
10 age or refrigerating warehouse for and during the period of one year.
11 The license shall be issued upon payment by the applicant of a license
12 fee of twenty-five dollars to the state dairy and food commissioner,
13 and all licenses shall expire December thirty-first following the issue
14 thereof.

[S., '13, § 2528-d1.]

SEC. 1504. Suspension of certificate.

1 In the event that any place or places, or any part thereof, covered
2 by a license under the provision of this chapter, shall at any time be
3 deemed by the state dairy and food commissioner to be in an insani-
4 tary condition, it shall be his duty to notify licensee of such condition
5 and upon the failure of the licensee to put said specified place or
6 places, or the specified part thereof, in a sanitary condition within a
7 designated time, it shall be the duty of the state dairy and food com-
8 missioner to prohibit the use under its license of such specified place
9 or places, or part thereof, as it deems in an insanitary condition until
10 such time as it may be put in a sanitary condition.

[S., '13, § 2528-d2.]

SEC. 1505. Receipt and withdrawal of food—records.

1 It shall be the duty of any person, firm or corporation licensed to
2 operate a cold storage or refrigeration warehouse to keep an accurate
3 record of the receipts and the withdrawals of the articles of food, and
4 the state dairy and food commissioner or his assistants shall have free
5 access to these records at any time. Every such person, firm or cor-
6 poration shall, furthermore, submit a quarterly report to the state
7 dairy and food commissioner, setting forth in itemized particulars
8 quantity of food products held in cold storage. Such quarterly reports
9 shall be filed on or before the sixth day of January, April, July and Oc-
10 tober of each year, and the reports, so rendered, shall show the condi-
11 tions existing on the first day of the month in which the report is filed.
12 The state dairy and food commissioner shall have the authority to re-
13 quire such reports to be made at more frequent intervals than the
14 times herein specified, if in his judgment more frequent reports shall
15 be needed in the interest of a proper enforcement of this chapter, or
16 for other reasons affecting the public welfare.

[S., '13, § 2528-d3.]

SEC. 1506. Diseased or contaminated food—storing prohibited.

1 No article of food intended for human consumption shall be placed
2 in cold storage if diseased, tainted or so deteriorated as to injure its
3 keeping qualities, or if not slaughtered, handled and prepared for stor-
4 age in accordance with the pure food and sanitary food laws and such

5 rules and regulations as may be prescribed by the state dairy and food
6 commissioner for the sanitary preparation of food products for cold
7 storage under the authority hereinafter conferred. Any article of
8 food, if intended for use other than human consumption, before being
9 cold stored shall be marked by the owner in accordance with forms
10 prescribed by the dairy and food commissioner under authority here-
11 inafter conferred in such a way as to plainly indicate the fact that
12 such articles are not to be sold for human food.

[S., '13, § 2528-d4.]

SEC. 1507. Inspection.

1 It shall be the duty of the dairy and food commissioner or his
2 assistants to inspect and supervise all cold storage or refrigerating
3 warehouses in this state, and to make such inspection of the entry
4 of articles of food therein as the state dairy and food commissioner
5 may deem necessary to secure proper enforcement of this chapter.
6 The state dairy and food commissioner's employees shall be permitted
7 access to such establishments and all parts thereof at all reasonable
8 times for purposes of inspection and enforcement of the provisions
9 of this chapter. The said state dairy and food commissioner may also
10 appoint and designate such person or persons as he deems qualified
11 to make the inspections herein required.

[S., '13, § 2528-d5.]

SEC. 1508. Containers—marking.

1 All articles of food when deposited in cold storage shall be marked
2 plainly on the containers in which they are packed or on, or in con-
3 nection with, the individual article with the date of receipt, and when
4 removed from cold storage shall be marked with the date of with-
5 drawal, in accordance with such forms as may be prescribed by the
6 state dairy and food commissioner, under the authority hereinafter
7 conferred.

[S., '13, § 2528-d6.]

SEC. 1509. Period for storage.

1 No person, firm or corporation as owner, or having control, shall
2 keep in cold storage any article of food for a longer period than
3 twelve calendar months, except with the consent of the state dairy
4 and food commissioner as hereinafter provided. The state dairy and
5 food commissioner shall, upon application, grant permission to ex-
6 tend the period of storage beyond twelve months for a particular con-
7 signment of goods, if the goods in question are found, upon examina-
8 tion, to be in proper condition for further storage at the end of twelve
9 months. The length of time for which further storage is allowed shall
10 be specified in the order granting the permission. A report on each
11 case in which such extension of storage may be permitted, including
12 information relating to the reason for the action of the state dairy
13 and food commissioner, the kind and the amount of goods for which
14 the storage period was extended, and the length of time for which
15 the continuance was granted, shall be included in the annual report of
16 the state dairy and food commissioner.

[S., '13, § 2528-d7.]

SEC. 1510. Sale of cold storage goods.

1 It shall be unlawful to sell, or to offer or expose for sale, uncooked
 2 articles of food which have been held in cold storage without notify-
 3 ing persons purchasing, or intending to purchase the same, that they
 4 have been so kept by the display of a sign marked "Cold Storage Goods
 5 Sold Here," and it shall be unlawful to represent or advertise as fresh
 6 goods articles of food which have been held in cold storage.

[S., '13, § 2528-d8.]

SEC. 1511. Return to storage prohibited.

1 It shall be unlawful to return to cold storage any article of food
 2 that has once been released from such storage and placed on the
 3 market for sale to consumers, but nothing in this section shall be con-
 4 strued to prevent the transfer of goods from one cold storage or re-
 5 frigerating warehouse to another, provided that such transfer is not
 6 made for the purpose of evading the provisions of this chapter.

[S., '13, § 2528-d9.]

SEC. 1512. Rules and regulations.

1 The state dairy and food commissioner may make rules and regu-
 2 lations to secure a proper enforcement of the provisions of this chap-
 3 ter, including rules and regulations with respect to the sanitary prep-
 4 aration of articles of food for cold storage, the use of marks, tags, or
 5 labels and the display of signs, and the violation of such rules shall
 6 be punished on conviction, as provided in the following section.

[S., '13, § 2528-d10.]

SEC. 1513. Penalties.

1 Any person, firm or corporation violating any of the provisions
 2 of this chapter shall upon conviction be punished for the first offense
 3 by a fine of not less than twenty-five dollars nor more than one hun-
 4 dred dollars and for the second offense by a fine not less than one
 5 hundred dollars nor more than five hundred dollars or by imprison-
 6 ment for not more than six months, or by both such fine and impris-
 7 onment.

[S., '13, § 2528-d11.]

CHAPTER 7.
AGRICULTURAL SEEDS AND COMMERCIAL FEEDS.**SECTION 1514. Agricultural seeds—commercial feeding-stuffs.**

1 Every lot in bulk, barrel, bag, pail, parcel or package of concen-
 2 trated commercial feeding-stuffs as defined in section fifteen hun-
 3 dred sixteen, and every parcel, package or lot of agricultural seeds as
 4 defined in section fifteen hundred twenty-two, and containing one
 5 pound or more, offered or exposed for sale in the state of Iowa for use
 6 within this state, shall have affixed thereto, in a conspicuous place on
 7 the outside thereof, distinctly printed in the English language in leg-
 8 ible type not smaller than eight-point heavy gothic caps, or plainly
 9 written, a statement certifying:

- 10 1. In case of concentrated commercial feeding-stuffs:
 11 First. The number of net pounds of feeding-stuffs in the package.
 12 Second. The name, brand or trademark under which the article
 13 is sold.
 14 Third. The name and address of the manufacturer, importer,
 15 dealer or agent.
 16 Fourth. The place of manufacture.
 17 Fifth. Except in the case of condimental stock food; patented,
 18 proprietary or trade-marked stock and poultry foods, claimed to pos-
 19 sess medicinal or nutritive properties, or both, the chemical analysis
 20 of the feeding-stuffs, stating the percentages of crude protein, crude
 21 fat, and crude fiber, allowing one per cent of nitrogen to equal six
 22 and twenty-five one-hundredths per cent of protein, all three constitu-
 23 ents to be determined by the latest methods adopted by the associa-
 24 tion of official agricultural chemists of the United States.
 25 2. In the case of agricultural seeds:
 26 First. Name of the seed.
 27 Second. Full name and address of the seedsman, importer, dealer
 28 or agent.
 29 Third. A statement of the purity of the seed contained, specify-
 30 ing the kind and percentage of the impurities as defined in sections
 31 fifteen hundred twenty-four and fifteen hundred twenty-five, provided
 32 that said seeds are below the standards fixed in this chapter.
 33 Fourth. Locality where said seed was grown, when known.
 [S., '13, § 5077-a6.]

SEC. 1515. Labels.

1 Every barrel, bag, pail, parcel or package of concentrated com-
 2 mercial feeding-stuffs as defined in the next section, and every feed
 3 intended for domestic animals that is compounded from two or more
 4 substances, in addition to the requirements of the preceding section,
 5 shall have affixed thereto, in a conspicuous place on the outside thereof,
 6 a statement in the manner and form prescribed in the preceding sec-
 7 tion, giving the true and correct names of all the ingredients of which
 8 it is composed, except condimental stock food, patented, proprietary
 9 or trade-marked stock or poultry foods, claimed to possess medicinal
 10 or nutritive properties, or both; and these shall be labeled or branded
 11 so as not to deceive or mislead the purchaser in any way, and the con-
 12 tents of any such package shall not be substituted in whole or in part
 13 for any other contents. Any statement, design or device upon the
 14 label or package regarding the substances contained therein shall be
 15 true and correct, and any claim made for the feeding, condimental,
 16 tonic or medicinal value shall not be false or misleading in any par-
 17 ticular. The name and percentage of any deleterious or poisonous
 18 ingredient or ingredients, shall be plainly stated upon the outside of
 19 the package or container. The name and percentage of the dilutant
 20 or dilutents, or bases, shall be plainly stated on the outside of the pack-
 21 age or container.

[S., '13, § 5077-a7.]

SEC. 1516. Commercial feeding-stuffs defined.

1 The term concentrated commercial feeding-stuffs, as used in this
 2 chapter, shall include: alfalfa meals and feeds; dried beet refuse;
 3 ground beef or fish scraps; bean meals; dried blood; brewers' grains,
 4 both wet and dry; cerealine feeds; cocoanut meals; corn feeds; corn

5 and oat feeds; corn, oat and barley feeds; compounds under the name
 6 of corn and cob meals; corn bran; clover meal; cottonseed meal and
 7 feeds; germ feeds; distillers' grains; gluten meals; gluten feeds; hom-
 8 iny feeds; linseed meals; malt refuse; malt sprouts; meat meals; meat
 9 and bone meals; mixed feeds of all kinds; oil meals of all kinds; oat
 10 feeds; oat bran; oat flour; oat middlings; oat shorts; pea meals; poul-
 11 try foods; rice bran; rice meal; rice polish; rye bran; rye middlings;
 12 rye shorts; starch feeds and starch factory by-products; tankage and
 13 packing house by-products; wheat bran; wheat middlings; wheat
 14 shorts, and low grade wheat flour; and all materials of similar nature
 15 used for domestic animals; also condimental stock foods; patented
 16 proprietary or trade-marked stock or poultry feeds claimed to pos-
 17 sess medicinal or nutritive properties or both; and all other materials
 18 intended for feeding to domestic animals. But it shall not include:
 19 hay; straw; whole seeds; unmixed meals made from the entire grains
 20 of wheat, rye, barley, oats, Indian corn, buckwheat, and broom corn;
 21 nor wheat flours nor other flours fit for human consumption.

[S., '13, § 5077-a8.]

SEC. 1517. Certified copy of statement and samples.

1 Before any concentrated commercial feeding-stuffs, as defined in
 2 the preceding section, is offered or exposed for sale, the importer,
 3 manufacturer, person or party who causes it to be sold or offered for
 4 sale within the state of Iowa for use within this state, for each and
 5 every feeding-stuff bearing a distinguishing name or trademark, shall
 6 file with the state dairy and food commissioner a certified copy of the
 7 statement named in section fifteen hundred fourteen, and shall also
 8 deposit with the said state dairy and food commissioner a sealed glass
 9 jar or bottle containing not less than one pound of the feeding-stuff to
 10 be sold or offered for sale, accompanied by an affidavit that it is a fair
 11 average sample thereof and corresponds within reasonable limits to
 12 the feeding-stuff which it represents.

[S., '13, § 5077-a9.]

SEC. 1518. Inspection fee—license fee—tax tags.

1 Before any manufacturer, importer, dealer or agent shall offer or
 2 expose for sale in this state any of the concentrated commercial feed-
 3 ing-stuffs defined in section fifteen hundred sixteen, he shall pay to the
 4 state dairy and food commissioner an inspection fee of ten cents per
 5 ton for each ton of such concentrated commercial feeding-stuffs sold
 6 or offered for sale in the state of Iowa for use within this state; ex-
 7 cept that every manufacturer, importer, dealer or agent for any con-
 8 dimental, patented, proprietary or trade-marked stock or poultry
 9 foods, or both, shall pay to the state dairy and food commissioner, on
 10 or before the fifteenth day of July of each year, a license fee of one
 11 hundred dollars, in lieu of such inspection fee. Whenever the manufac-
 12 turer or importer of such foods shall have paid the fee herein required,
 13 no other person or agent of such manufacturer or importer shall be
 14 required to pay such license fee; and shall affix to each lot shipped
 15 in bulk, and to each bag, barrel or package of such concentrated com-
 16 mercial feeding-stuffs, a tag, to be furnished by the said state dairy
 17 and food commissioner, stating that all charges specified in this sec-
 18 tion have been paid; provided that the inspection fee herein required
 19 shall not apply to unadulterated wheat, rye and buckwheat bran, nor
 20 wheat, rye and buckwheat middlings, nor to wheat, rye and buckwheat

21 shorts manufactured in this state. The said state dairy and food
22 commissioner is hereby empowered to prescribe the form of such tag
23 and adopt such regulations as may be necessary for the enforcement
24 of this chapter. Tags for use upon concentrated commercial feeding-
25 stuffs shall be issued in denominations suitable for use with twenty-
26 five, fifty and one hundred pounds net, except as hereinafter provided;
27 provided that any dealer who sells at one time to any other person one
28 ton or more of concentrated commercial feeding-stuffs shall be held
29 to have complied with the provisions of this section if he delivers to
30 the purchaser the tax tags herein required, even though they may not
31 be attached to the various packages.

[S., '13, § 5077-a10.]

SEC. 1519. Samples—analysis.

1 The state dairy and food commissioner shall cause to be made
2 analyses of all concentrated commercial feeding-stuffs and agricultural
3 seeds sold or offered for sale in this state. Said state dairy and food
4 commissioner is hereby authorized, in person or by deputy, to take
5 for analysis a sample from any lot or package of concentrated com-
6 mercial feeding-stuffs in this state, not exceeding two pounds in
7 weight; and in case of agricultural seeds, a sample not exceeding four
8 ounces in weight; but said sample shall be drawn or taken in the
9 presence of the party or parties in interest, or their representative,
10 and shall be taken from a parcel, lot or number of parcels which shall
11 not be less than five per cent of the whole lot inspected, and shall be
12 thoroughly mixed and divided into two samples and placed in glass
13 or metal vessels carefully sealed and a label placed on each, stating
14 the name or brand of the feeding-stuff, agricultural seeds or material
15 sampled, the name of the party from whose stock the sample is
16 drawn, and the date and place of taking such sample, and said label
17 shall be signed by the said state dairy and food commissioner, or his
18 authorized agent; or said sample may be taken in the presence of two
19 disinterested witnesses. One of said duplicate samples shall be left on
20 the premises of the party whose stock was sampled and the other re-
21 tained by the state dairy and food commissioner for analysis and
22 comparison with the certified statements required by sections fifteen
23 hundred fourteen and fifteen hundred seventeen. The result of the
24 analysis of the sample, together with additional information, shall
25 be published from time to time in bulletins issued by the state dairy
26 and food commissioner upon approval of the executive council.

[S., '13, § 5077-a11.]

SEC. 1520. Analyses—fee.

1 Any person purchasing any concentrated commercial feeding-
2 stuffs or agricultural seeds in this state for his own use may submit
3 fair samples of said feeding-stuffs or seeds to the state dairy and food
4 commissioner, who, upon receipt of an analysis fee of fifty cents for
5 each sample of agricultural seeds and one dollar for each sample of
6 concentrated commercial feeding-stuff, shall cause an analysis of the
7 same to be made.

[S., '13, § 5077-a12.]

SEC. 1521. Wheat or rye screenings.

1 No person shall sell in ground form wheat or rye screenings con-
2 taining cockle or other poisonous or deleterious substances.

[S., '13, § 5077-a13.]

SEC. 1522. Agricultural seeds defined.

1 The term agricultural seeds, as used in this chapter, shall include
2 the seeds of the red clover, white clover, alsike clover, alfalfa, Ken-
3 tucky blue grass, timothy, brome grass, orchard grass, redtop, meadow
4 fescue, oat grass, rye grass and other grasses and forage plants, flax,
5 rape and cereals.

[S., '13, § 5077-a14.]

SEC. 1523. Impure seeds.

1 No person shall sell, offer or expose for sale or distribution in
2 this state, for the purpose of seeding, any of the agricultural seeds
3 as defined in the preceding section, unless the said seeds are free from
4 the seeds of the following weeds: wild mustard or charlock (*Brassica*
5 *sinapistrum*), quack grass (*Agropyron repens*), Canada thistle (*Cni-*
6 *cus arvensis*), wild oats (*Avent fatua*), clover and alfalfa dodder
7 (*Cuscuta epithimum*), field dodder (*Cuscuta arvensis*), and corn
8 cockle (*Lychnis githago*).

[S., '13, § 5077-a15.]

SEC. 1524. Impure seeds defined.

1 The seeds of the following weeds shall be considered as impurities
2 in the agricultural seeds, as defined in section fifteen hundred twenty-
3 two, sold, offered or exposed for sale within the state for the pur-
4 pose of seeding: white cockle (*Lychnis vespertina*), nightflowering
5 catchfly (*Silene noctiflora*), curled dock (*Rumex crispus*), smooth
6 dock (*Rumex altissimus*), sheep sorrel (*Rumex acetosella*), yellow
7 trefoil (*Medicago lupulina*), burr clover (*Medicago denticulata*),
8 sweet clover (*Melilotus alba* and *officinalis*), black mustard (*Brassica*
9 *nigra*), plantain, buckhorn (*Plantago lanceolata*), bracted plantain
10 (*Plantago aristata*), bindweed (*Convolvulus sepium*), smooth crab
11 grass (*Panicum glabrum*), common chickweed (*Stellaria media*).
12 When such impurities or any of them are present in quantity exceed-
13 ing a total of two per cent of the weight of said agricultural seeds, the
14 approximate percentage of each shall be plainly indicated in statement
15 specified in section fifteen hundred fourteen.

[S., '13, § 5077-a16.]

SEC. 1525. Other impurities.

1 Sand, dirt, chaff and foreign substances and seeds other than
2 those specified in the next two sections or broken seed and seed not
3 capable of germinating, shall be considered impurities when present
4 in agricultural seeds sold, offered or exposed for sale in this state for
5 the purpose of seeding, and when such impurities, or any of them, are
6 present in quantity exceeding the standards of purity and viability
7 authorized in section fifteen hundred twenty-nine, the name and ap-
8 proximate percentage of each shall be plainly indicated in the state-
9 ment specified in section fifteen hundred fourteen.

[S., '13, § 5077-a17.]

SEC. 1526. Mixed or adulterated seeds.

1 For the purposes of this chapter seeds shall be deemed to be mixed
2 or adulterated:

3 1. When orchard grass (*Dactylis glomerata*) seed contains ten
4 per cent or more by weight of meadow fescue (*Festuca elatior pra-*
5 *tensis*) seed, or Italian rye grass (*Lolium italicum*) seed, or English
6 rye grass (*Lolium perenne*) seed.

7 2. When blue grass or Kentucky blue grass (*Poa pratensis*) seed
8 contains five per cent or more by weight of Canadian blue grass (*Poa*
9 *compressa*) seed, redtop chaff, redtop (*Agrostis alba*) seed, or any
10 other seed or foreign substance.

11 3. When red clover (*Trifolium pratense*), mammoth red clover
12 (*Trifolium pratense* var), or alfalfa (*Medicago sativa*), contains five
13 per cent or more by weight of yellow trefoil (*Medicago lupulina*), or
14 sweet clover (*Melilotus alba* and *M. officinalis*) seed or burr clover
15 (*Medicago denticulata*) seed.

16 4. When rape (*Brassica rapa*) contains five per cent or more of
17 common mustard (*Brassica sinapistrum*) or black mustard (*B. nigra*).

[S., '13, § 5077-a18.]

SEC. 1527. Misbranded seed.

1 For the purpose of this chapter, seed shall be deemed to be mis-
2 branded:

3 1. When meadow fescue (*Festuca elatior pratensis*), English rye
4 grass (*Lolium perenne*) or Italian rye grass (*Lolium italicum*) is
5 labeled or sold under the name of orchard grass (*Dactylis glomerata*)
6 seed.

7 2. When Canadian blue grass (*Poa compressa*) seed, redtop (*Ag-*
8 *rostis alba*) seed, or any other seed not blue grass seed, is sold under
9 the name of Kentucky blue grass or blue grass (*Poa pratensis*) seed.

10 3. When yellow trefoil (*Medicago lupulina*), burr clover (*Medi-*
11 *cago denticulata*), or sweet clover (*Melilotus alba*) is sold under the
12 name of clover, June clover, red clover (*Trifolium pratense*), medium
13 red clover, small red clover, mammoth red clover, sapling clover, pea-
14 vine clover (*T. pratense* var) or alfalfa (*Medicago sativa*) seed.

15 4. When the seeds are not true to the name under which they are
16 sold.

[S., '13, § 5077-a19.]

SEC. 1528. Exemptions.

1 The provisions concerning agricultural seeds contained in this
2 chapter shall not apply to:

3 1. Any person or persons growing or selling seeds for food pur-
4 poses only, or having such seeds in possession for sale for such pur-
5 poses.

6 2. Any person selling seeds direct to merchants, to be cleaned or
7 graded before being offered for sale for the purpose of seeding. This
8 shall not, however, exempt the seller from the restrictions of section
9 fifteen hundred twenty-three.

10 3. Seed that is held in storage for the purpose of being recleaned,
11 and which has not been offered, exposed or held in possession or for
12 sale for the purpose of seeding.

13 4. Seed marked "not absolutely clean," and held or sold for ex-
14 port outside the state only.

15 5. The sale of seed that is grown, sold and delivered by any
16 farmer on his own premises for seeding by the purchaser himself,
17 unless the purchaser of said seeds obtains from the seller at the time
18 of the sale thereof a certificate that the said seed is supplied to the
19 purchaser subject to the provisions of this chapter.

20 6. Mixtures of seeds for lawn or pasture purposes. This shall
21 not, however, exempt the seller of such mixtures of seeds from the re-
22 strictions of sections fifteen hundred twenty-three and fifteen hundred
23 twenty-four.

[S., '13, § 5077-a20.]

SEC. 1529. Standards of purity.

1 The following standards of purity (meaning freedom from weed
2 seeds or other seeds) and viability are hereby fixed:

STANDARD OF PURITY AND VIABILITY OF AGRICULTURAL SEEDS.		
Name of seed.	Per cent of purity.	Per cent of germinable seeds.
7 Alfalfa (<i>medicago sativa</i>)	96	80
8 Barley	98	90
9 Blue grass, Canadian (<i>poa compressa</i>)	90	45
10 Blue grass, Kentucky (<i>poa pratensis</i>)	80	45
11 Brome, awnless (<i>bromus inermis</i>)	90	75
12 Clover, alsike (<i>trifolium hybridum</i>)	90	75
13 Buckwheat	96	90
14 Clover, crimson (<i>trifolium incarnatum</i>)	98	85
15 Clover, red (<i>trifolium pratense</i>)	92	80
16 Clover, white (<i>trifolium repens</i>)	90	75
17 Corn, field (<i>zea mays</i>)	99	94
18 Corn, sweet	99	75
19 Fescue, meadow (<i>fescuta pratensis</i>)	95	85
20 Flax (<i>linum usitatissimum</i>)	96	89
21 Millet, pearl (<i>penisetum typhoideum</i>)	99	65
22 Millet, common (<i>setaria italica</i>)	90	85
23 Millet, hog (<i>panicum miliaceum</i>)	90	85
24 Oats (<i>avena sativa</i>)	98	90
25 Oat grass, tall (<i>arrhena therum avenaceum</i>)	72	70
26 Orchard grass (<i>dactylis glomerata</i>)	70	70
27 Rape (<i>brassica rapa</i>)	99	90
28 Redtop (<i>agrostis alba</i>)	90	70
29 Rye (<i>secala cereale</i>)	98	90
30 Rye grass, perennial (<i>lolium perenne</i>)	96	90
31 Rye grass, Italian (<i>lolium italicum</i>)	95	80
32 Sorghum (<i>andropogon sorghum</i>)	96	80
33 Sorghum, for fodder	90	60
34 Timothy (<i>phleum pratense</i>)	96	85
35 Wheat (<i>triticum</i>)	98	90

[S., '13, § 5077-a21.]

SEC. 1530. Enforcement.

1 It is hereby made the duty of the state dairy and food commis-
2 sioner to enforce the provisions of this chapter. The inspectors, as-
3 sistants and chemists appointed by the state dairy and food commis-
4 sioner shall perform the same duties and have the same authority
5 under this chapter as are prescribed by chapter one hundred sixty-

6 six, laws of the thirty-first general assembly, and the state dairy and
7 food commissioner may appoint, with the approval of the executive
8 council, such analysts and chemists as may be necessary to carry out
9 the provisions of this chapter.

[S., '13, § 5077-a22.]

Note.—Reference to the session law above is retained because the subject matter of the reference has been repealed and therefore there are no corresponding compiled numbers.

SEC. 1531. Penalty.

1 Whoever sells, offers or exposes for sale any of the seeds speci-
2 fied in this chapter which are mixed, adulterated or misbranded, or
3 any agricultural seeds which do not comply with this chapter, or who
4 shall counterfeit, or use a counterfeit of any of the tags prescribed
5 by this chapter, or who shall prevent or attempt to prevent any in-
6 spector in the discharge of his duty from collecting samples, or who
7 shall violate any of the provisions of this chapter, shall be guilty of a
8 misdemeanor, and upon conviction, shall be fined not more than one
9 hundred dollars and costs of prosecution; but no one shall be con-
10 victed for violation of the provisions of section fifteen hundred twenty-
11 three if he is able to show that the weed seeds named in section fifteen
12 hundred twenty-three are present in quantities not more than one in
13 ten thousand, and that due diligence has been used to find and remove
14 said seeds.

[S., '13, § 5077-a23.]

SEC. 1532. Fees paid into state treasury.

1 All fees collected under the provisions of this chapter shall be
2 paid into the state treasury.

[S. S., '15, § 5077-a24.]

CHAPTER 8.

COMMERCIAL FERTILIZERS.

SECTION 1533. Commercial fertilizers—manufacture and sale.

1 Any person, firm or corporation who shall offer, sell, or expose
2 for sale, in the state of Iowa, any commercial fertilizer, the price of
3 which exceeds three dollars per ton, shall affix to every package in a
4 conspicuous place on the outside thereof, or furnish to the purchasers
5 of goods sold in bulk, a plainly printed certificate, naming the ma-
6 terials, including the filler, if any, of which the fertilizer is made,
7 stating the number of pounds in the package sold, the name or trade-
8 mark under which the article is sold, the name of the manufacturer
9 and the place of manufacture, and a chemical analysis, stating the
10 minimum percentages of nitrogen in available form, of potassium
11 soluble in water, of phosphorus in available form, soluble or reverted,
12 and of insoluble phosphorus.

[S., '13, § 2528-f.]

SEC. 1534. Filing certified copy of certificate—license fee.

1 Before any commercial fertilizer is sold, or offered for sale, the
2 manufacturer, importer, or party who causes it to be sold, or offered

3 for sale, within the state of Iowa, shall file in the office of the dairy
4 and food commissioner, a certified copy of the certificate referred to
5 in section fifteen hundred thirty-three, and shall pay to the dairy and
6 food commissioner on or before May first of each year a license of
7 twenty dollars for each brand of fertilizer offered for sale or sold
8 within the state; but when the manufacturer or importer shall have
9 paid the license fee herein required for any year, no other person
10 shall be required to pay such license fee, for that brand.

[S., '13, § 2528-f1.]

SEC. 1535. Enforcement—authority of commissioner.

1 The state dairy and food commissioner and his assistants shall
2 enforce the provisions of this chapter and he may publish annually
3 a report of all analyses made and certificates filed. The inspectors
4 and assistants of the dairy and food commissioner shall exercise in
5 the enforcement of this chapter all the authority and powers now
6 granted such assistants under the food and dairy laws of the state of
7 Iowa. The state dairy and food commissioner is hereby authorized,
8 in person or by deputy, to take for analysis a sample from any lot or
9 package of commercial fertilizer in this state, not exceeding two
10 pounds in weight.

[S., '13, § 2528-f2.]

SEC. 1536. Penalties.

1 Any person, firm or corporation who shall offer or expose for
2 sale or sell any commercial fertilizer in the state of Iowa without com-
3 plying with the provisions of this chapter, or who shall use an analysis
4 regarding any commercial fertilizer which shall be false as to the con-
5 stituents named in section fifteen hundred thirty-three, or who shall
6 obstruct or interfere with the dairy and food commissioner or any of
7 his assistants in the discharge of their duties shall be deemed guilty
8 of a misdemeanor and upon conviction shall be fined not less than
9 twenty-five dollars nor more than one hundred dollars for each offense.

[S., '13, § 2528-f3.]

CHAPTER 9.

INSECTICIDES AND FUNGICIDES.

SECTION 1537. Insecticides—adulteration—penalty.

1 It shall be unlawful for any person to manufacture within the
2 state any insecticide or fungicide which is adulterated or misbranded
3 within the meaning of this chapter; and any person who shall violate
4 any of the provisions of this section shall be guilty of a misdemeanor,
5 and for each offense shall, upon conviction thereof, be fined not to ex-
6 ceed two hundred dollars, and for each subsequent offense and convic-
7 tion thereof shall be fined not to exceed three hundred dollars.

[37 G. A., ch. 385, § 1.]

SEC. 1538. Importation—penalty.

1 The introduction into this state from any other state or territory
2 or from any foreign country, of any insecticide, or fungicide which

3 is adulterated or misbranded within the meaning of this chapter is
4 hereby prohibited; and any person having so received shall deliver,
5 in original unbroken packages, for pay or otherwise, or offer to deliver
6 to any other person, any such article so adulterated or misbranded
7 within the meaning of this chapter, or any person who shall sell or
8 offer for sale in this state any such adulterated or misbranded insecti-
9 cide, or fungicide, shall be guilty of a misdemeanor, and for such
10 offense be fined not exceeding two hundred dollars for the first offense,
11 and upon conviction for each subsequent offense not exceeding three
12 hundred dollars, or be imprisoned not exceeding one year, or both, in
13 the discretion of the court; but no article shall be deemed misbranded
14 or adulterated within the provisions of this chapter when intended for
15 sale in another state or for export to any foreign country and pre-
16 pared or packed according to specifications or directions of the foreign
17 purchaser; but if said article shall be in fact sold or offered for sale
18 for use in this state, then this proviso shall not exempt said article
19 from the operation of any of the other provisions of this chapter.

[37 G. A., ch. 385, § 2.]

SEC. 1539. Rules and regulations.

1 The state dairy and food commissioner shall make rules and regu-
2 lations for carrying out the provisions of this chapter, including the
3 collection and examination of specimens of insecticides and fungicides
4 manufactured or offered for sale in this state.

[37 G. A., ch. 385, § 3.]

SEC. 1540. Examinations—duty commissioner.

1 The examination of specimens of insecticides and fungicides shall
2 be made in a laboratory of the state dairy and food commissioner for
3 the purpose of determining from such examination whether such ar-
4 ticles are adulterated or misbranded within the meaning of this chap-
5 ter; and if it shall appear from any such examination that any of
6 such specimens are adulterated or misbranded within the meaning
7 of this chapter the state dairy and food commissioner may cause no-
8 tice thereof to be given to the party from whom such sample was ob-
9 tained. Any party so notified shall be given an opportunity to be
10 heard, under such rules and regulations as may be prescribed as afore-
11 said, and if it appears that any of the provisions of this chapter have
12 been violated by such party, then the state dairy and food commis-
13 sioner shall at once certify the facts to the county attorney, with a
14 copy of the findings of the analyst or officer making such examination,
15 under the oath of such officer.

[37 G. A., ch. 385, § 4.]

SEC. 1541. Duty of county attorney.

1 It shall be the duty of each county attorney to whom the state
2 dairy and food commissioner shall report any violations of this chap-
3 ter, to cause appropriate proceedings to be commenced and prosecuted
4 to the district court of the state, without delay, for the enforcement
5 of the penalties as in such case herein provided.

[37 G. A., ch. 385, § 5.]

SEC. 1542. Insecticide defined.

1 The term "insecticide" as used in this chapter shall include paris
2 green, lead arsenate and any other substance or mixture of substances
3 intended to be used for preventing, destroying, repelling, or mitigat-
4 ing any and all insects which may infest vegetation, man or other ani-
5 mals or households, or be present in any environment whatsoever.
6 The term "paris green" as used in this chapter shall include the prod-
7 uct sold in commerce as paris green and chemically known as aceto-
8 arsenite of copper. The term "lead arsenate" as used in this chapter
9 shall include the product or products sold in commerce as lead arsenate
10 and consisting chemically of products derived from arsenic acid
11 (H_3AsO_4) by replacing one or more hydrogen atoms by lead. That
12 the term "fungicide" as used in this chapter shall include any sub-
13 stance or mixture of substances intended to be used for preventing,
14 destroying, repelling, or mitigating any and all fungi that may infest
15 vegetation or be present in any environment whatsoever.

[37 G. A., ch. 385, § 6.]

SEC. 1543. Adulteration defined.

1 For the purpose of this chapter an article shall be deemed to be
2 adulterated—

3 In the case of paris green: First, if it does not contain at least
4 fifty per centum of arsenious oxide; second, if it contains arsenic in
5 water-soluble forms equivalent to more than three and one-half per
6 centum of arsenious oxide; third, if any substance has been mixed
7 and packed with it so as to reduce or lower or injuriously affect its
8 quality or strength.

9 In the case of lead arsenate: First, if it contains more than fifty
10 per centum of water; second, if it contains total arsenic equivalent
11 to less than twelve and one-half per centum of arsenic oxide (As_2O_5);
12 third, if it contains arsenic in water-soluble forms equivalent to more
13 than seventy-five one-hundredths of one per centum arsenic oxide
14 (As_2O_5); fourth, if any substance has been mixed and packed with
15 it so as to reduce, or lower, or injuriously affect its quality or strength.

16 In the case of insecticides or fungicides, other than paris green
17 and lead arsenate: First, if its strength or purity falls below the
18 professed standard or quality under which it is sold; second, if any
19 substance has been substituted wholly or in part for the article; third,
20 if any valuable constituent of the article has been wholly or in part
21 abstracted; fourth, if it is intended for use on vegetation and shall
22 contain any substance or substances which, although preventing, de-
23 stroying, repelling, mitigating insects or fungi, shall be injurious to
24 such vegetation when used as recommended by the manufacturer.

[37 G. A., ch. 385, § 7.]

SEC. 1544. "Misbranded" defined.

1 The term "misbranded" as used herein shall apply to all insecti-
2 cides or fungicides or articles which enter into the composition of in-
3 secticides or fungicides. For the purpose of this chapter an article
4 shall be deemed to be misbranded:

5 1. If the package or label shall bear any statement, design or
6 device regarding such article, or the ingredients, or substances con-
7 tained therein which shall be false or misleading in any particular.

8 2. If sold, offered or exposed for sale in package form and the
9 quantity of the contents be not plainly and correctly marked on the

10 outside of the package in terms of weight, measure or numerical
 11 count; provided, however, that reasonable variations shall be per-
 12 mitted and tolerances shall be established by rules and regulations
 13 made by the state dairy and food commissioner.

14 3. If it be an imitation or offered for sale under the name of an-
 15 other article.

16 4. If it be labeled or branded so as to deceive or mislead the
 17 purchaser, or if the contents of the package as originally put up shall
 18 have been removed in whole or in part and other contents shall have
 19 been placed in such package,

20 In the case of insecticides, other than paris green, and lead
 21 arsenate, and fungicides:

22 1. If it contains arsenic in any of its combinations or in the
 23 elemental form and the total amount of arsenic present, expressed as
 24 per centum of metallic arsenic, is not stated on the label.

25 2. If it contains arsenic in any of its combinations or in the
 26 elemental form and the amount of arsenic in water-soluble form, ex-
 27 pressed as per centum of metallic arsenic, is not stated on the label.

28 3. If it consists partially or completely of an inert substance or
 29 substances which do not effectively prevent, destroy, repel, or mitigate
 30 insects or fungi and does not have the names and percentage amounts
 31 of each and every one of such inert ingredients and the fact that they
 32 are inert plainly and correctly stated on the label: But, in lieu of
 33 naming and stating the percentage amounts of each and every one of
 34 such ingredients, the producer may, at his discretion, state plainly on
 35 the label the correct names and percentage amounts of each and every
 36 ingredient of the insecticide or fungicide having insecticidal or fun-
 37 gicidal properties, and make no mention of the inert ingredients, ex-
 38 cept in so far as to state the total percentage of inert ingredients
 39 present.

[37 G. A., ch. 385, § 8.]

SEC. 1545. Exemption from prosecution.

1 No dealer shall be prosecuted under the provisions of this chap-
 2 ter, when he can establish a guaranty signed by the wholesaler, jobber,
 3 manufacturer, or other party from whom he purchased such article,
 4 to the effect that the same is not adulterated or misbranded in the
 5 original unbroken package in which said article was received by said
 6 dealer within the meaning of this chapter, designating it. Said guar-
 7 anty, to afford protection, shall contain the name and address of the
 8 party or parties making the sale of such article to such dealers and in
 9 such case said party or parties shall be amendable to the prosecutions,
 10 fines and other penalties as provided for in this chapter, if the dealer
 11 shall continue to sell after notice by the state dairy and food commis-
 12 sioner that such article is adulterated or misbranded within the mean-
 13 ing of this chapter.

[37 G. A., ch. 385, § 9.]

SEC. 1546. Labeling.

1 All spray solution known as a lime and sulphur liquid shall be
 2 conspicuously labeled as to the strength of the solution, showing a
 3 guaranteed strength of lime and sulphur combined in solution as
 4 sulphates and sulphides, of which solution not less than seventy per
 5 cent by weight shall be sulphur, and such label or labels shall also con-
 6 tain a direction as to the proportions of water to be used in any mix-

7 ture containing a four per cent solution by weight of lime and sulphur
8 combined as sulphates and sulphides, of which solution not less than
9 seventy per cent by weight shall be sulphur. Every package of such
10 compound or solution sold, offered or exposed for sale shall be plainly
11 labeled with black-faced type, in letters of not less than one-half of an
12 inch in height stating the contents of the compound or solution and
13 the gravity test thereof.

[37 G. A., ch. 385, § 10.]

SEC. 1547. Seizure and confiscation.

1 Any insecticide or fungicide that is adulterated or misbranded
2 within the meaning of this chapter shall be liable to be proceeded
3 against in any district court of the state within the district wherein
4 the same is found and seized for confiscation by a process of libel for
5 condemnation.

6 And if such article is condemned as being adulterated or mis-
7 branded, within the meaning of this chapter, the same shall be dis-
8 posed of by destruction or sale as the said court may direct, and the
9 proceeds thereof, if sold, less the legal costs and charges, shall be paid
10 into the treasury of the state, but such goods shall not be sold in any
11 jurisdiction contrary to the provisions of this chapter, or the laws of
12 that jurisdiction; but upon the payment of the costs of such libel pro-
13 ceedings and the execution and delivery of a good and sufficient bond
14 to the effect that such articles shall not be sold or otherwise disposed
15 of contrary to the provisions of this chapter, or the laws of the state,
16 the court may by order direct that such articles be delivered to the
17 owner thereof.

[37 G. A., ch. 385, § 11.]

SEC. 1548. Construction.

1 When construing and enforcing the provisions of this chapter,
2 the act, omission, or failure of any officer, agent, or any other person
3 acting for or employed by any corporation, company, society or asso-
4 ciation, within the scope of his employment or office, shall in every
5 case be also deemed to be the act, omission, or failure of such corpora-
6 tion, company, society or association as well as that of the other person.

[37 G. A., ch. 385, § 12.]

CHAPTER 10.

PAINTS.

SECTION 1549. Duty of manufacturers and dealers.

1 Every person, firm or corporation who shall expose for sale, or
2 sell, within this state, any white lead, or paint, shall accurately label
3 the same as hereinafter required.

[S., '13, § 2510-b.]

SEC. 1550. "Paint" defined.

1 The term "paint" as used in this chapter shall include white lead
2 in oil or any compound intended for the same use, paste or semipaste,

3 and liquid or mixed paint ready for use, or any compound intended
4 for the same use.

[S., '13, § 2510-c.]

SEC. 1551. Labels.

1 Labels required by this chapter shall clearly and distinctly state
2 the name and address of the manufacturer of the article, or the dealer
3 therein, or of the party for whom the same is manufactured and show,
4 with substantial accuracy, the percentage of each ingredient, both
5 solid and liquid, contained therein, in continuous list with no inter-
6 vening matter of any kind; provided that in case of paint other than
7 white paint, the ingredients, other than the coloring material, may be
8 treated as one hundred per cent, in which case it shall be necessary to
9 state the description or trade name of such coloring matter and state,
10 with substantial accuracy, its chemical analysis. The label shall also
11 state, in case of liquid paints and other compounds, on packages hold-
12 ing one quart or more, the net measure of contents of each can, pack-
13 age or container. In case of white lead and other paints and com-
14 pounds, the label shall show on package weighing four pounds or more
15 the net weight of each can, package or container.

[S., '13, § 2510-d.]

SEC. 1552. Enforcement—bulletins.

1 It is hereby made the duty of the state dairy and food commis-
2 sioner to enforce the provisions of this chapter. The inspectors, as-
3 sistants and chemists appointed by the state dairy and food commis-
4 sioner shall perform the same duties and have the same authority
5 under this chapter as are prescribed by chapter one hundred sixty-six,
6 laws of the thirty-first general assembly. The state dairy and food
7 commissioner shall, from time to time, with the approval of the execu-
8 tive council, publish bulletins, giving the results of inspections and
9 analyses, together with such additional information as he may deem
10 suitable.

[S., '13, § 2510-g.]

Note.—Reference to the session law above is retained because the subject matter of the reference has been repealed and therefore there are no corresponding compiled numbers.

SEC. 1553. Penalty.

1 Whoever shall violate any of the provisions of this chapter shall
2 be guilty of a misdemeanor and shall, upon conviction thereof, be pun-
3 ished by a fine not exceeding one hundred dollars.

[S., '13, § 2510-h.]

CHAPTER 11.

LINSEED OILS.

SECTION 1554. "Raw linseed oil" defined.

1 No person, firm or corporation shall expose for sale, sell, or take
2 orders for sale and delivery within this state, any "raw linseed oil,"
3 unless the same is wholly obtained from the seeds of the flax plant

4 (Linum usitatissimum), and unless the same fulfills all the require-
5 ments recognized by the United States pharmacopœia.

[S., '13, § 2510-n.]

SEC. 1555. "United States Pharmacopœia."

1 The term "United States Pharmacopœia" as used in this chapter,
2 shall refer to the latest revision of the United States pharmacopœia,
3 official at the time of the sale in question.

[S., '13, § 2510-o.]

SEC. 1556. Boiled linseed oil—requirements.

1 No person, firm or corporation shall expose for sale, sell, or take
2 orders for sale and delivery within this state, any "boiled linseed oil"
3 or so-called "boiled oil," unless the same shall have been prepared by
4 heating pure raw linseed oil to a temperature of at least 107 degrees
5 centigrade, and, if desired, incorporating not to exceed three per cent
6 by weight of dryer. And for the purpose of this chapter, it shall also
7 be deemed a violation hereof if boiled linseed oil does not conform to
8 the following requirements:

9 1. Its specific gravity at 20° degrees centigrade must be not less
10 than 0.935 and not greater than 0.945.

11 2. Its saponification number must not be less than 186.

12 3. Its iodine absorption number shall not be less than 160.

13 4. Its acid value must not exceed 10.

14 5. The volatile matter expelled at 100 degrees centigrade must
15 not exceed one-half of one per cent.

16 6. No mineral oil shall be present, and the amount of unsaponifi-
17 able matter as determined by standard methods, shall not exceed two
18 per cent.

19 7. The film left after flowing the oil over glass and allowing it to
20 drain in a vertical position, must dry free from tackiness in not to ex-
21 ceed twenty hours, at a temperature of about 20 degrees centigrade.

[S., '13, § 2510-p.]

SEC. 1557. Labels.

1 No person, firm or corporation shall expose for sale or sell any
2 flaxseed or linseed oil unless it is exposed for sale or sold under its
3 true name, and each original unbroken tank car, tank, barrel, keg or
4 vessel containing such oil has distinctly and durably marked thereon
5 the true name of such oil, and the name and place of business of the
6 manufacturer thereof, in ordinary bold-faced capital letters not less
7 than five-line pica in size, the words "pure linseed oil—raw," "pure
8 linseed oil—boiled," as the case may be.

[S., '13, § 2510-q.]

SEC. 1558. Substitutes—how labeled.

1 No person, firm or corporation shall expose for sale, sell, or take
2 orders for sale and delivery within this state, any compound or mix-
3 ture of linseed oil (raw or boiled) with other products, or any product
4 which is intended to be used as a substitute for linseed oil (raw or
5 boiled), unless it is exposed for sale and sold under the name, "sub-
6 stitute for linseed oil," and, if the words "linseed" or "flaxseed" are
7 used other than in the name, the true name of each and every in-
8 gredient of said product shall also appear, giving preference of order

9 to the ingredients present in the greater proportion, but all letters
 10 used in naming the ingredients shall be of the same size and color,
 11 using the style of type as hereinafter specified. Each tank car, tank,
 12 barrel, keg, can, jug or vessel (both wholesale and retail), also all
 13 storage receptacles containing said product, shall be distinctly and
 14 durably marked in a conspicuous place, using the English language
 15 and kind of type as hereinafter specified, giving the name under which
 16 it is sold, the names of ingredients when required and the name and
 17 place of business of the manufacturer thereof, in continuous list, with
 18 no intervening matter of any kind, using ordinary bold-faced capital
 19 letters not less than five-line pica in size, and there shall be such a
 20 contrast between the color of the type and the background of the
 21 label as to render the same easily and plainly legible; provided that
 22 nothing in this section shall be construed as interfering with the sale
 23 of boiled linseed oil containing not to exceed three per cent by weight
 24 of dryer as defined in section fifteen hundred fifty-six.

[S., '13, § 2510-r.]

SEC. 1559. Failure to label—false label.

1 Any failure to label said article as above specified or any erasures,
 2 defacements or carelessness in printing or stamping labels or any
 3 statement regarding the composition of said article or any statements
 4 of any kind which are misleading, deceptive or which are not true are
 5 hereby declared a violation of this chapter.

[S., '13, § 2510-s.]

SEC. 1560. Duty of commissioner—bulletins.

1 It is hereby made the duty of the state dairy and food commis-
 2 sioner to enforce the provisions of this chapter. The inspectors, as-
 3 sistants and chemists appointed by the state dairy and food commis-
 4 sioner shall perform the same duties and have the same authority
 5 under this chapter as are prescribed by chapter ten-a, page ten hun-
 6 dred eighty-six, of the supplement to the code, 1907. The state dairy
 7 and food commissioner may, from time to time, with the approval of
 8 the executive council, publish bulletins, giving the results of inspec-
 9 tions and analyses, together with such additional information as he
 10 may deem suitable.

[S., '13, § 2510-t.]

Note.—Reference to the chapter of the supplement of 1907 above is retained be-
 cause the subject matter of the reference has been repealed and therefore there are no
 corresponding compiled numbers.

SEC. 1561. Penalty.

1 Whoever shall violate any of the provisions of this chapter shall
 2 be guilty of a misdemeanor and shall, upon conviction thereof, be pun-
 3 ished by a fine not exceeding one hundred dollars.

[S., '13, § 2510-u.]

CHAPTER 12.

TURPENTINE.

SECTION 1562. Turpentine—requirements.

1 No person, firm or corporation shall expose for sale, sell, or take
 2 orders for sale and delivery within this state, any "oil of turpentine"

3 or so-called "spirits of turpentine," "turpentine" or "turps," unless
4 the same is wholly the volatile portion obtained by distillation of the
5 oleoresinous exudation from various species of coniferous trees; and
6 for the purpose of this chapter, it shall also be deemed a violation
7 hereof if oil of turpentine does not conform to the following require-
8 ments:

9 1. Its specific gravity at 20° degrees centigrade must be not less
10 than 0.860 and not greater than 0.875.

11 2. Its index of refraction at 20 degrees centigrade must not be
12 less than 1.4680 and not greater than 1.4725.

13 3. Its iodine absorption number must not be less than 340.

14 4. The undissolved (unpolymerized) residue, or treatment of ten
15 cubic centimeters with forty cubic centimeters of a sulphuric acid
16 containing twenty per cent of the fuming acid, should not exceed ten
17 per cent by volume of the sample.

18 5. The initial boiling point must not be lower than 150 degrees
19 centigrade under ordinary atmospheric pressure, and ninety-five per
20 cent by volume must distill below 166 degrees centigrade.

21 6. The residue left after evaporation over a steam bath must not
22 exceed two per cent.

23 7. No mineral oil shall be present.

[S., '13, § 2510-v.]

SEC. 1563. Labels.

1 No person, firm or corporation shall expose for sale or sell any
2 oil of turpentine unless it is exposed for sale or sold under its true
3 name, and each original unbroken tank car, tank, barrel, keg or ves-
4 sel containing such oil has distinctly and durably marked thereon the
5 true name of such oil, and the name and place of business of the manu-
6 facturer thereof, in ordinary bold-faced capital letters not less than
7 five-line pica in size.

[S., '13, § 2510-v1.]

SEC. 1564. Substitutes—how labeled.

1 No person, firm or corporation shall expose for sale, or take or-
2 ders for sale and delivery within this state, any compound or mixture
3 of oil of turpentine with other products, or any product which is in-
4 tended to be used as a substitute for oil of turpentine unless it is ex-
5 posed for sale and sold under the name, "substitute for oil of turpen-
6 tine," and, if the word "turpentine" is used other than in the name,
7 the true name of each and every ingredient of said product shall also
8 appear, giving preference of order to the ingredients present in the
9 greater proportion, but all letters used in naming the ingredients shall
10 be of the same size and color, using the style of type as hereinafter
11 specified. Each tank car, tank, barrel, keg, can, jug or vessel, both
12 wholesale and retail, also all storage receptacles containing said prod-
13 uct, shall be distinctly and durably marked in a conspicuous place,
14 using the English language and kind of type as hereinafter specified,
15 giving the name under which it is sold, the names of ingredients when
16 required and the name and place of business of the manufacturer or
17 jobber thereof, in continuous list, with no intervening matter of any
18 kind, using ordinary bold-faced capital letters not less than five-line
19 pica in size, and there shall be such a contrast between the color of

20 the type and the background of the label as to render the same easily
21 and plainly legible.

[S., '13, § 2510-v2.]

SEC. 1565. Failure to label—false label.

1 Any failure to label said article as above specified or any erasures,
2 defacements or carelessness in printing or stamping labels, or any
3 statement regarding the composition of said article, or any statements
4 of any kind which are misleading or deceptive, or which are not true,
5 are hereby declared a violation of this chapter.

[S., '13, § 2510-v3.]

SEC. 1566. Duty of commissioner—bulletins.

1 It is hereby made the duty of the state dairy and food commis-
2 sioner to enforce the provisions of this chapter. The inspectors, as-
3 sistants, and chemists appointed by the state dairy and food commis-
4 sioner shall perform the same duties and have the same authority un-
5 der this chapter as are prescribed by chapter ten-a, page ten hun-
6 dred eighty-six, of the supplement to the code, 1907. The state dairy
7 and food commissioner may from time to time, with the approval of
8 the executive council, publish bulletins giving the results of inspec-
9 tions and analyses, together with such additional information as he
10 may deem suitable.

[S., '13, § 2510-v4.]

Note.—Reference to the chapter of the supplement of 1907 above is retained be-
cause the subject matter of the reference has been repealed and therefore there are no
corresponding compiled numbers.

SEC. 1567. Penalty.

1 Whoever shall violate any of the provisions of this chapter shall
2 be guilty of a misdemeanor and shall, upon conviction thereof, be pun-
3 ished by a fine not exceeding one hundred dollars.

[S., '13, § 2510-v5.]

CHAPTER 13.

WEIGHTS AND MEASURES.

SECTION 1568. Duty of commissioner—chief inspector.

1 The state dairy and food commissioner is hereby charged with
2 the duty of carrying into effect the provisions of this chapter, and
3 wherever the word "commissioner" is used in this chapter, it shall
4 refer to the dairy and food commissioner. The commissioner shall
5 appoint a chief inspector of weights and measures upon approval of
6 the executive council. The chief inspector of weights and measures
7 shall receive a salary of not to exceed eighteen hundred dollars per
8 annum. His salary shall be paid in the same manner as the salaries
9 of other state officers. All inspectors shall be allowed the expenses
10 necessarily incurred by them in the discharge of their duties. All
11 accounts shall be itemized and sworn to and, when approved by the
12 commissioner and the state board of audit, shall be paid by warrant

13 of the auditor upon the treasurer out of a sum appropriated for carry-
 14 ing on the work of the dairy and food commissioner. The chief in-
 15 spector and all inspectors appointed under this chapter shall perform
 16 such duties as may be assigned by the commissioner.

[C., '73, § 2052; C., '97, § 3019; S., '13, § 3009-a.]

SEC. 1569. State sealer.

1 The commissioner shall appoint an employee of the dairy and
 2 food commission to be state sealer of weights and measures. The
 3 state sealer shall take charge of the standards of the state, causing
 4 them to be kept at the capitol in a fireproof building belonging to the
 5 state, from which they shall not be removed except for repairs or
 6 for certification, and take all other necessary precautions for their
 7 safe keeping. He shall maintain the state standards in good order,
 8 and shall submit them once in ten years to the national bureau of
 9 standards for certification. He shall keep a seal which shall be so
 10 formed as to impress the letters "Iowa" upon the weights and meas-
 11 ures sealed by him. He shall have and keep a general supervision of
 12 the weights and measures, and the weighing and measuring devices of
 13 the state in use in the state. He shall, upon a written request of any
 14 citizen, firm or corporation, city, town or county, or educational insti-
 15 tution of the state, test or calibrate weights, measures, weighing or
 16 measuring devices, and instruments or apparatus used as standards
 17 in this state.

18 It is hereby made the duty of the department of physics at the
 19 state university of Iowa upon the request of the commissioner to as-
 20 sist the commissioner, the state sealer and all inspectors, in all such
 21 matters as may require the facilities of that laboratory or technical
 22 knowledge relating to physical measurements.

[C., '73, §§ 2053-2055; C., '97, § 3020; S., '13, § 3009-b.]

SEC. 1570. Standards.

1 The standard weights and measures received from the United
 2 States under a resolution of congress and approved June fourteenth,
 3 eighteen hundred thirty-six, and such new weights, measures, and
 4 other apparatus in addition thereto or in renewal thereof, and such
 5 as shall be made under the direction of the commissioner in con-
 6 formity therewith and certified to by the national bureau of standards,
 7 shall be the state standards.

[C., '51, § 937; R., '60, § 1775; C., '73, § 2037; C., '97, § 3009;
 S., '13, § 3009-c.]

SEC. 1571. Standard measurers of length and surface.

1 The units or standard measures of length and surface from which
 2 all other measures of extension, whether lineal, superficial or solid,
 3 shall be derived and ascertained, are the standards of length desig-
 4 nated in this chapter. For measures of cloth and other commodities
 5 commonly sold by the yard, the yard may be divided into halves,
 6 quarters, eighths, and sixteenths. The rod, pole, or perch contains
 7 five and one-half yards; the mile, one thousand seven hundred sixty
 8 yards. A chain for measuring land is twenty-two yards long and is
 9 divided into one hundred equal parts called links. The acre for land
 10 measure shall be measured horizontally and contain ten square

11 chains, equivalent in area to a rectangle sixteen rods in length and
 12 ten rods in breadth; six hundred forty acres being contained in a
 13 square mile.

[C., '73, §§ 2038-2041; C., '97, §§ 3010, 3011; S., '13, § 3009-d.]

SEC. 1572. Standards of weight.

1 The units or standards of weight, from which all other weights
 2 shall be derived and ascertained, shall be the standard weights desig-
 3 nated in this chapter. The hundredweight consists of one hundred
 4 avoirdupois pounds, and twenty hundredweight are a ton. When-
 5 nated in this chapter. The hundredweight consists of one hundred
 6 ever, hereafter, in this chapter, the word "pound" is used, it shall
 7 mean the avoirdupois pound unless otherwise distinctly specified.

[C., '51, § 938; R., '60, § 1776; C., '73, §§ 2042, 2043; C., '97, § 3012; S., '13, § 3009-e.]

SEC. 1573. Standards for commodities not liquid.

1 The units or standards or measure of capacity for commodities
 2 not liquids, from which all other measures shall be derived and ascer-
 3 tained, shall be the standards for such commodities designated in
 4 this chapter. The peck, half-peck, quarter-peck, quart, pint, and
 5 half-pint, measures for measuring commodities which are not liquids,
 6 shall be derived from the half-bushel by successively dividing the
 7 cubic inch capacity of that measure by two.

[C., '73, §§ 2046, 2047; C., '97, § 3014; S., '13, § 3009-f.]

SEC. 1574. Liquid measures.

1 The units or standards of measure of capacity for liquids, from
 2 which all other measures shall be derived and ascertained, shall be
 3 the standard liquid measures designated in this chapter. The gallon
 4 shall be divided by continual division by the number two, so as to
 5 make half-gallons, quarts, pints, half-pints and gills.

[C., '73, §§ 2044, 2045; C., '97, § 3013; S., '13, § 3009-g.]

SEC. 1575. Bushel measured by avoirdupois weight.

1 Wherever any of the articles or commodities mentioned in this
 2 section shall be sold by the bushel or fractional part thereof, and no
 3 special agreement shall be made in writing, the measure thereof shall
 4 be ascertained by avoirdupois weight, and shall be computed as
 5 follows:

6	Apples	forty-eight pounds
7	Apples, dried	twenty-four pounds
8	Alfalfa seed	sixty pounds
9	Barley	forty-eight pounds
10	Beans, green, unshelled	fifty-six pounds
11	Beans, dried	sixty pounds
12	Beans, Lima	fifty-six pounds
13	Beets	fifty-six pounds
14	Blue grass seed	fourteen pounds
15	Bran	twenty pounds
16	Bromus inermis	fourteen pounds
17	Broom corn seed	fifty pounds
18	Buckwheat	forty-eight pounds

19	Carrots	fifty pounds
20	Castor beans, shelled	fifty pounds
21	Charcoal	twenty pounds
22	Cherries	forty pounds
23	Clover seed	sixty pounds
24	Coal	eighty pounds
25	Coke	forty pounds
26	Corn on the cob (field).....	seventy pounds
27	Corn in the ear, unhusked (field).....	seventy-five pounds
28	Corn, shelled (field).....	fifty-six pounds
29	Corn meal	forty-eight pounds
30	Cucumbers	forty-eight pounds
31	Emmer	forty pounds
32	Flaxseed	fifty-six pounds
33	Grapes, with stems	forty pounds
34	Hempseed	forty-four pounds
35	Hickory nuts, hulled	fifty pounds
36	Hungarian grass seed.....	fifty pounds
37	Kaffir corn	fifty-six pounds
38	Lime	eighty pounds
39	Millet seed	fifty pounds
40	Oats	thirty-two pounds
41	Onions	fifty-two pounds
42	Onion top sets.....	twenty-eight pounds
43	Onion bottom sets	thirty-two pounds
44	Orchard grass seed	fourteen pounds
45	Osage orange seed	thirty-two pounds
46	Parsnips	forty-five pounds
47	Peaches	forty-eight pounds
48	Peaches, dried	thirty-three pounds
49	Peanuts	twenty-two pounds
50	Pears	forty-five pounds
51	Peas, green, unshelled	fifty pounds
52	Peas, dried	sixty pounds
53	Plums	forty-eight pounds
54	Popcorn on the ear.....	seventy pounds
55	Popcorn, shelled	fifty-six pounds
56	Potatoes	sixty pounds
57	Quinces	forty-eight pounds
58	Rape seed	fifty pounds
59	Redtop seed	fourteen pounds
60	Rutabagas	sixty pounds
61	Rye	fifty-six pounds
62	Salt	eighty pounds
63	Sand	one hundred thirty pounds
64	Shorts	twenty pounds
65	Sorghum saccharatum seed.....	fifty pounds
66	Spelt	forty pounds
67	Sweet corn	fifty pounds
68	Sweet potatoes	fifty pounds
69	Timothy seed	forty-five pounds
70	Tomatoes	fifty pounds
71	Turnips	fifty-five pounds
72	Walnuts, hulled	fifty pounds

73	Wheat	sixty pounds
74	All root crops not specified above.....	fifty pounds
	[C., '51, § 940; R., '60, §§ 1778, 1781-4; C., '73, § 2049; C., '97, § 3016; S., '13, § 3009-h.]	

SEC. 1576. Flour.

- 1 One hundred ninety-six pounds avoirdupois shall be considered
 2 a barrel of flour, and one-fourth barrel consisting of forty-nine pounds
 3 shall be considered one sack of flour.
 [37 G. A., ch. 57, § 1.]

SEC. 1577. Weight of flour—label.

- 1 Every barrel, bag, parcel or package of flour, containing one
 2 pound or more, offered or exposed for sale in the state of Iowa, for
 3 use within this state, shall have affixed thereto in a conspicuous place
 4 on the outside thereof, distinctly printed in the English language, in
 5 legible type not smaller than eight-point heavy gothic capital letters,
 6 a statement certifying the number of net pounds contained in the
 7 package. Any person who shall sell any package of flour which shall
 8 be stamped or labeled with a greater number of pounds net than such
 9 package actually contains, or shall sell flour in any manner contrary
 10 to the provisions of this section, shall be deemed guilty of a misde-
 11 meanor, and upon conviction thereof, shall be fined in a sum of not less
 12 than ten dollars nor more than one hundred dollars; provided that in
 13 determining the net weight at the time of sale, the reasonable and
 14 ordinary shrinkage, if any, may be included.
 [C., '97, § 5070; S., '13, § 5070-a.]

SEC. 1578. Hop boxes.

- 1 The standard size for all boxes used in packing hops shall be
 2 thirty-six inches long, eighteen inches wide, and twenty-three and
 3 one-fourth inches deep, inside measurement.
 [C., '73, § 2051; C., '97, § 3018.]

SEC. 1579. Mason work or stone.

- 1 The perch of mason work or stone consists of twenty-five feet,
 2 cubic measure.
 [C., '51, § 939; R., '60, § 1777; C., '73, § 2050; C., '97, § 3017.]

SEC. 1580. Small fruit—onion sets—capacity of boxes.

- 1 All sales of blackberries, blueberries, cranberries, currants, goose-
 2 berries, raspberries, cherries, strawberries, and similar berries, also
 3 onion sets, in packages of one peck or less, may be sold by the quart,
 4 pint, or half-pint, dry measure; and all berry boxes sold, used, or of-
 5 fered for sale within the state shall be of an interior capacity of one
 6 quart, pint, or half-pint, dry measure.
 7 All sales of grapes, other fruits and vegetables in climax baskets
 8 shall be made in such baskets conforming to the United States stand-
 9 ards therefor and all climax baskets for grapes and other fruits and
 10 vegetables sold, used or offered for sale within the state shall be of
 11 the size and capacity fixed by the United States standards for cli-
 12 max baskets for grapes and other fruits and vegetables, and until
 13 changed by the congress of the United States the standards for cli-

14 max baskets for grapes and other fruits and vegetables shall be the
15 two-quart basket, four-quart basket, and twelve-quart basket, re-
16 spectively:

17 1. The standard two-quart climax basket shall be of the follow-
18 ing dimensions; length of bottom piece, nine and one-half inches;
19 width of bottom piece, three and one-half inches; thickness of bottom
20 piece, three-eighths of an inch; height of basket, three and seven-
21 eighths inches, outside measurement; top of basket, length eleven
22 inches, and width five inches, outside measurement; basket to have
23 a cover five by eleven inches, when a cover is used.

24 2. The standard four-quart climax basket shall be of the follow-
25 ing dimensions: length of bottom piece, twelve inches; width of bot-
26 tom piece, four and one-half inches; thickness of bottom piece, three-
27 eighths of an inch; height of basket, four and eleven-sixteenths inches,
28 outside measurement; top of basket, length fourteen inches, width
29 six and one-fourth inches, outside measurement; basket to have
30 cover six and one-fourth inches by fourteen inches, when cover is used.

31 3. The standard twelve-quart climax basket shall be of the fol-
32 lowing dimensions; length of bottom piece, sixteen inches; width of
33 bottom piece, six and one-half inches; thickness of bottom piece,
34 seven-sixteenths of an inch; height of basket, seven and one-sixteenth
35 inches, outside measurement; top of basket, length nineteen inches,
36 width, nine inches, outside measurement; basket to have cover nine
37 inches by nineteen inches, when cover is used. Any berry boxes,
38 climax baskets or measure not conforming to this section shall be con-
39 fiscated by the inspector.

40 And further provided that nothing in this section shall be con-
41 strued to exempt commodities in the baskets and containers specified
42 in this section from the provisions as to net weight contained in the
43 fifth subdivision of section fourteen hundred seventy-seven.

[S. S., '15, § 3009-i; 37 G. A., ch. 251, § 1.]

SEC. 1581. Sale by standard weight.

1 All dry commodities, weighing ten ounces or more, except drugs,
2 section comb honey and those specified in section fifteen hundred
3 eighty, shall be bought or sold only by standard weight or numerical
4 count, lineal measure or surface measure, except where parties other-
5 wise agree in writing.

[S. S., '15, § 3009-j; 38 G. A., ch. 99, § 1.]

SEC. 1582. Sales other than by numerical count—hay.

1 When any product is sold and the selling price is determined other
2 than by numerical count, lineal or surface measure, and the product
3 does not have the net weight plainly written, stamped or printed
4 thereon, the seller shall at the time of delivery, upon the request of
5 the purchaser, furnish a plainly written or printed statement show-
6 ing the name of the article sold, the quantity in net weight thereof,
7 and the price paid for each item. No person, firm or corporation shall
8 sell, offer or expose for sale any bales of hay or straw without first
9 attaching thereto a plain and conspicuous statement of the minimum
10 net weight contained in such bales; but nothing in this section shall
11 be construed to require a statement of weight on each bale where

12 hay or straw is sold by the ton and a ticket showing the gross, tare
13 and net weight accompanies the delivery.

[S. S., '15, § 3009-j; 38 G. A., ch. 99, § 1.]

SEC. 1583. Bottomless measures.

1 The use of bottomless measures is hereby declared a violation of
2 this chapter, unless they conform in shape to the United States
3 standard measure.

[S. S., '15, § 3009-j; 38 G. A., ch. 99, § 1.]

SEC. 1584. Milk bottles—capacity—how marked.

1 Bottles used for the sale of milk and cream shall be of a capacity
2 of one-half gallon, three pints, one quart, one pint, one-half pint, one
3 gill, filled full to the bottom of the lip. Bottles or jars used for the
4 sale of milk shall have clearly blown or otherwise permanently marked
5 in the side of the bottle, the capacity of the bottle, and, on the bottom
6 of the bottle, the name, initials, or trademark of the manufacturer,
7 and designating number which designating number shall be different
8 for each manufacturer and may be used in identifying bottles. The
9 designating number shall be furnished by the commissioner on request.
10 The state sealer shall not be required to seal bottles or jars for milk
11 or cream, marked as in this section provided, but the inspectors shall
12 from time to time make tests of individual bottles in use, in order to
13 ascertain whether the above provisions are being complied with.

[S., '13, § 3009-k.]

SEC. 1585. Coal—charcoal—coke—sale and delivery tickets.

1 It shall be unlawful to sell or offer to sell in this state any coal,
2 charcoal, or coke in any other manner than by weight, or to call, claim,
3 or represent any coal, charcoal, or coke, as being the product of any
4 county, state, or territory, except that in which the said coal, char-
5 coal or coke was mined or produced, or to represent that said coal,
6 charcoal, or coke contains more British thermal units than it does, in
7 fact, contain. No person, firm or corporation shall deliver any coal,
8 charcoal, or coke, without each such delivery being accompanied by
9 a delivery ticket and a duplicate thereof, on each of which shall be in
10 ink or other indelible substance, distinctly expressed in pounds, the
11 gross weight of the load, the tare of the delivering vehicle, and the
12 net amount in weight of coal, charcoal or coke contained in the cart,
13 wagon or other vehicle used in such deliveries, with the name of the
14 purchaser thereof and the name of the dealer from whom purchased.
15 One of these tickets shall be surrendered by the person in charge of
16 the load to the inspector upon demand, for his inspection, and a ticket
17 or weight slip issued by the inspector, when the inspector desires to
18 retain the original, shall be delivered to said purchaser of said coal,
19 charcoal or coke, or his agent or representative, at the time of the
20 delivery of the fuel; and the other ticket shall be retained by the
21 seller of the fuel. When the buyer carries away the purchase, a de-
22 livery ticket, showing the actual number of pounds delivered must be
23 given to the purchaser at the time delivery is made. The commis-
24 sioner or any of his assistants, or inspectors, are hereby empowered
25 to compel the party or parties having charge of such coal, charcoal
26 or coke to bring same on demand to a scale designated by the said

27 commissioner or his assistant or inspector and weighed for the pur-
28 pose of proving the true net weight of the article or commodity.

[S., '13, § 3009-1; 37 G. A., ch. 80, § 1.]

SEC. 1586. Automatic weighing devices—license tag and fee.

1 It shall be unlawful for any person, firm or corporation by him-
2 self, or as the officer, servant, agent, or employee of any person, firm
3 or corporation to operate or use or display for use any scale or scales,
4 known as money in the slot or automatic scale or scales or any weigh-
5 ing device, apparatus, or machine, which is used or intended for use to
6 determine the weight of any person or persons, where compensation
7 is derived, or any public or custom scale for which a fee is charged or
8 accepted for weighing, unless said scale or device is licensed by the
9 commissioner. Upon payment of the license fee of three dollars, the
10 commissioner shall issue a metal license tag bearing the words "Li-
11 censed by the Dairy and Food Commissioner, State of Iowa, No.
12,," each tag to be numbered consecutively and bear the year for
13 which license is valid. The tag shall be displayed prominently on the
14 front of the weighing device and the defacing or wrongful removal
15 of such a tag shall be deemed a misdemeanor. Absence of the license
16 tag shall be prima facie evidence that the weighing device is being
17 operated contrary to law. No license shall be issued until the annual
18 fee of three dollars is paid to the commissioner for each scale or
19 weighing device operated or used. Any person desiring to secure said
20 license shall make application therefor upon blanks to be furnished
21 by the commissioner. The commissioner may withhold or revoke any
22 license for cause. All licenses issued under this chapter shall expire
23 on December thirty-first of each year. All license and inspection fees
24 collected under this chapter shall be paid into the state treasury by
25 the commissioner; but products weighed upon any scale bearing in-
26 spection card, issued by the dairy and food commission, shall not be
27 required to be reweighed by any ordinance of any city or town or
28 city under special charter or under the commission form of govern-
29 ment nor shall their sale, at the weights so ascertained, and because
30 thereof, be, by such ordinance, prohibited or restricted.

[S. S., '15, § 3009-m.]

SEC. 1587. Inspection of scales—jurisdiction—fee.

1 The commissioner and his assistants are each hereby empowered,
2 and it is hereby made their duty, to make an inspection of scales,
3 weights and measures wherever the same are kept for use in connec-
4 tion with the sale of merchandise or other commodities sold by weight
5 or measurement, or where the price to be paid for producing or manu-
6 facturing any article or commodity is based upon the weight or
7 measurement thereof, within the state.

8 The commissioner and his assistants may, for the enforcement
9 of this chapter and in the performance of their official duties, with
10 or without formal warrant, enter or go in or upon any stand, place,
11 building or premises; or may stop any wagon, auto truck, or vehicle
12 loaded with ice, coal, hay, grain, cattle, hogs, vegetables, junk, or any
13 other commodity being bought or offered for sale or sold, and order
14 the same reweighed for the purpose of obtaining the correct weight
15 thereof.

16 An inspection fee shall be charged the person owning or operat-
 17 ing the scale so inspected in accordance with the following schedule,
 18 to wit: Scales over five hundred pounds capacity up to and including
 19 four thousand pounds capacity, one dollar each; scales over four
 20 thousand pounds capacity up to and including twenty-one thousand
 21 pounds capacity, three dollars each; scales over twenty-one thousand
 22 pounds capacity not including railroad track scales, five dollars each;
 23 railroad track scales, ten dollars each; all hopper or automatic scales,
 24 two dollars each.

25 No person shall be required to pay more than two inspection fees
 26 for any one scale in any one year. When such inspection shall be made
 27 upon the complaint of any person other than the owner of the scale,
 28 and upon examination the scale is found by the inspector to be accu-
 29 rate for weighing, the inspection fee for such inspection shall be paid
 30 by the person making complaint.

31 When special request is made for an inspection of a scale the
 32 actual expenses of the same shall be paid by the owner of said scale,
 33 or the one making complaint as herein provided.

[S. S., '15, § 3009-n; 38 G. A., ch. 99; § 2.]

SEC. 1588. Inspection on complaint.

1 When complaint shall be made to the commissioner that any false
 2 or incorrect scales, weights or measures are being made use of by
 3 any person, firm or corporation in the purchase or sale of merchan-
 4 dise or other commodities or in weighing any article or commodity,
 5 the piece price paid for producing which is determined by weight
 6 or measure, it shall be his duty to cause the same to be inspected as
 7 soon as the duties of his office will permit, and he shall make such
 8 other inspection of weights and measures as in his judgment is nec-
 9 essary or proper to be made.

[S., '13, § 3009-o.]

SEC. 1589. Possession of false scales or measures.

1 If any person engaged in the purchase or sale of merchandise or
 2 other commodities by weight or measurement, or in the employment
 3 of labor where the price thereof is to be determined by weight or meas-
 4 urement of the articles or thing upon which such labor is bestowed,
 5 be found having in his place of business any inaccurate scales, weights
 6 or measures or other apparatus for determining the quantity of any
 7 commodity, which do not conform to the standards of weight and
 8 measurement of this state, he shall be guilty of a misdemeanor, and
 9 upon conviction shall be punished as provided in this chapter.

[S. S., '15, § 3009-p.]

SEC. 1590. Confiscation.

1 The inspector may confiscate and seize without warrant any in-
 2 correct scales, weights or measures, or any weighing apparatus or
 3 part thereof which do not conform to the state standards or upon
 4 which the license fee has not been paid. If any weighing or measur-
 5 ing apparatus or part thereof be found out of order the same may
 6 be tagged by the inspector "Condemned until repaired," which tag
 7 shall not be altered or removed until said apparatus is properly re-
 8 paired.

[S., '13, § 3009-q.]

SEC. 1591. Bulletins.

1 The commissioner may from time to time make a report in the
2 printed bulletins issued by the dairy and food commission of the work
3 undertaken and accomplished under this chapter, together with such
4 general information as may be deemed suitable.

[S., '13, § 3009-s.]

SEC. 1592. Penalty.

1 Any person, firm or corporation, or agent thereof, who refuses to
2 comply on demand, with any of the requirements of this chapter, or
3 who shall violate any of its provisions, or who shall obstruct or hinder
4 the commissioner, or any of his assistants, in the discharge of any
5 duty imposed by this chapter, shall be guilty of a misdemeanor, and
6 upon conviction thereof shall be punished by a fine of not less than
7 five dollars nor more than one hundred dollars, or by imprisonment in
8 the county jail not to exceed thirty days.

[S. S., '15, § 3009-r.]

SEC. 1593. Penalty.

1 For the purpose of this chapter, any person, firm or corporation
2 shall be deemed guilty of a misdemeanor and shall be punished by
3 a fine of not less than five dollars nor more than one hundred dollars,
4 or by imprisonment in the county jail not exceeding thirty days.

5 1. If any such person, firm or corporation sell, barter, trade, de-
6 liver, charge for or claim to have delivered to a purchaser an amount
7 of any commodity which is less weight or measure than that which is
8 asked for, agreed upon, claimed to have been delivered, or noted on
9 the delivery ticket.

10 2. If any such person, firm or corporation make settlement for
11 or enter credit, based upon any false weight or measurement for any
12 commodity purchased.

13 3. If any such person, firm or corporation make settlement for or
14 enter credit, based upon any false weight or measurement, for any
15 labor where the price for producing or mining is determined by weight
16 or measure.

17 4. If any such person, firm or corporation record a false weight
18 or measurement upon the weight ticket or book;

19 But reasonable variations shall be permitted, and tolerances and
20 exemptions as to small packages shall be established by rules and
21 regulations made by the state dairy and food commissioner.

[S. S., '15, § 3009-j; 38 G. A., ch. 99, § 1.]

SEC. 1594. Sealer for county—duties.

1 The board of supervisors of any county may, at any regular meet-
2 ing, provide for obtaining from the state sealer of weights and
3 measures such standards of weights and measures as it may deem nec-
4 essary for its county, and in case it orders such standards it shall ap-
5 point a county sealer of weights and measures, who shall hold his
6 office during the pleasure of the board. The county sealer shall take
7 charge of the county standards and standard balances, and provide
8 for their safe keeping, and provide cities and towns with such stand-
9 ard weights and measures and standard balances as may be wanting,

10 and compare them with those in his possession as often as once every
11 five years.

[C., '73, §§ 2057, 2058; C., '97, § 3022.]

SEC. 1595. Sealer for cities and towns.

1 A sealer of weights and measures may be appointed in any city
2 or town by the council thereof, who shall hold his office during its
3 pleasure, and it may obtain from the sealer of weights and measures
4 of the proper county such standards of weights and measures as may
5 be necessary; in case the board of supervisors of a county in which
6 any city or town is situated has not obtained such standards, then its
7 council may do so. Each sealer in cities and towns shall take charge
8 of and provide for the safe keeping of the town or city standards, and
9 see that the weights, measures, and all apparatus used for determin-
10 ing the quantity of commodities used throughout the town or city,
11 which shall be brought to him for that purpose, agree with the stand-
12 ards in his possession.

[C., '73, §§ 2059, 2060; C., '97, § 3023.]

SEC. 1596. Expenses.

1 All expenses directly incurred in furnishing the several counties,
2 cities and towns with standards, or in comparing those that may be
3 in their possession, shall be borne by them.

[C., '73, § 2061; C., '97, § 3024.]

SEC. 1597. Delivery to successor—penalty.

1 In case of the death of any sealer of weights and measures, his
2 representatives shall deliver to his successor in office such beams,
3 weights and measures, and, in case of refusal or neglect to do so,
4 the successor in office may maintain an action against the person so
5 refusing or neglecting, and recover for the use of such county, city
6 or town double the value thereof, and in every such action in which
7 judgment shall be rendered for the plaintiff he shall recover double
8 costs.

[C., '73, §§ 2062, 2063; C., '97, § 3025.]

SEC. 1598. Using false weights or measures—comparison.

1 If any person shall hereafter use any weights, measures, beams
2 or other apparatus for determining quantity of commodities, which
3 shall not be conformable to the standards of this state, in any coun-
4 ties whose standards have been obtained by the board of supervisors
5 or in any city or town after such standards have been obtained therein,
6 whereby any person shall be injured or defrauded, he shall pay five
7 dollars for each offense, to be collected by the county, city or town
8 sealer, and shall be liable to the person defrauded in treble damages
9 and costs. Every person keeping any store, grocery or other place
10 for the sale or purchase of such commodities as are usually sold by
11 weight or measure shall, once in each year, procure the weights and
12 measures used by him to be compared with the standard herein pro-
13 vided, and be subject to a penalty of five dollars for every neglect to
14 comply with this provision, to be recovered by anyone who shall prose-
15 cute therefor.

[C., '73, § 2064; C., '97, § 3026.]

SEC. 1599. Weighmasters of public scales.

1 All persons keeping public scales, before entering upon their
 2 duties as weighmasters, shall be sworn, before some person having
 3 authority to administer oaths, to keep their scales correctly balanced,
 4 to make true weights, and to render a correct account to the person
 5 having weighing done. Every scale shall be a public one for the use
 6 of which a charge is made.

[C., '73, § 2065; C., '97, § 3027.]

SEC. 1600. Correct weights—standard for testing.

1 Weighmasters are required to make true weights and keep a cor-
 2 rect register of all weighing done by them, giving the amount of each
 3 weight, date thereof, and the name of the person or persons for whom
 4 done, and give, upon demand, to any person having weighing done, a
 5 certificate showing the weight, date, and for whom weighed. Weigh-
 6 masters or keepers of public scales kept for the purpose of weighing
 7 stock or grain shall keep a standard of weight, not less than fifty
 8 pounds avoirdupois, for the purpose of testing such scales, and at
 9 least once a month, or oftener, if requested, make a satisfactory test
 10 of the correctness thereof.

[C., '73, §§ 2066, 2067; C., '97, § 3028.]

SEC. 1601. Penalty.

1 Any weighmaster or keeper of public scales, violating any of the
 2 provisions of the two preceding sections, shall be guilty of a misde-
 3 meanor, and fined in any sum not over twenty nor less than five dol-
 4 lars for each offense, and be liable to the person injured for all dam-
 5 ages sustained.

[C., '73, § 2068; C., '97, § 3029.]

SEC. 1602. Inspection of shingles and lumber.

1 The board of supervisors of each county, as often as may be nec-
 2 essary, shall appoint one inspector of lumber and shingles, who shall
 3 have power to appoint one or more deputies, for whose conduct he
 4 shall be liable.

[R., '60, § 1906; C., '73, § 2069; C., '97, § 3030.]

SEC. 1603. Oath—bond.

1 Before any inspector or deputy shall enter upon the duties of his
 2 office, he shall take an oath or affirmation that he will faithfully and
 3 impartially perform the duties required of him by law, and each in-
 4 spector shall give bond, with sureties to be approved by the county
 5 auditor, in such sum as the board of supervisors may require, payable
 6 to the state, which shall be deposited with the treasurer of the county,
 7 conditioned for the faithful and impartial performance of his duties;
 8 and any person who suffers injury by the incapacity, neglect or mis-
 9 conduct of such inspector or his deputy may recover damages therefor
 10 in an action on such bond, but such action shall be commenced within
 11 one year after the cause of action accrues.

[R., '60, §§ 1907, 1908; C., '73, §§ 2070, 2071; C., '97, § 3031.]

SEC. 1604. Duties—counterfeiting brand.

1 The inspectors or their deputies, within their respective counties,
 2 shall inspect all lumber, boards, and shingles, when applied to for
 3 that purpose, and, when inspected, stamp on the same, with branding
 4 irons made for that purpose, the name of the state and county where
 5 inspected, and the kind and quality of the article inspected, which iron
 6 shall be made and lettered as directed by the board of supervisors, and
 7 every inspector shall make, in a book kept for that purpose, distinct
 8 entries of all articles inspected by him or his deputies, with the names
 9 of the persons for whom said articles were inspected; and any person
 10 who shall counterfeit said brands or marks, or either of them, shall
 11 be guilty of forgery, and be punished accordingly.

[R., '60, §§ 1909, 1911; C., '73, §§ 2072, 2073; C., '97, § 3032.]

SEC. 1605. Size of shingles—qualities of lumber.

1 A shingle shall be sixteen inches in length, four inches wide, half
 2 an inch thick at the butt, clear of sap, designated as first and second
 3 quality, and each bundle branded with the quality and the name of
 4 the inspector. All lumber shall be divided into four qualities and
 5 designated as clear, first common, second common, and refusal.

[R., '60, § 1912; C., '73, § 2074; C., '97, § 3033.]

SEC. 1606. Compensation of inspector.

1 The inspector of lumber and shingles shall receive:
 2 1. For inspecting and measuring lumber, for each thousand feet,
 3 board measure, fifteen cents.
 4 2. For inspecting shingles, for each thousand, fifteen cents.

[R., '60, § 1913; C., '73, § 3803; C., '97, § 3036.]

CHAPTER 14.**CALCIUM CARBIDE.****SECTION 1607. How sold.**

1 When any calcium carbide or so-called carbide is exposed for sale
 2 or sold within this state for the purpose of producing acetylene gas for
 3 heating or illuminating purposes, the same shall be exposed for sale
 4 and sold in air and water-tight metallic containers.

[S., '13, § 2528-e.]

SEC. 1608. Containers—how labeled.

1 Each container shall be labeled to show the volume in cubic feet
 2 and decimal fractional parts thereof of acetylene gas, which will be
 3 liberated when an average sample of the carbide shall be mixed with
 4 water in the proportion of sixty-four parts of carbide to thirty-six
 5 parts of water. Said label shall be distinctly printed in the English
 6 language using type not smaller than eight-point heavy gothic caps
 7 and securely placed in a conspicuous place on the outside of the pack-
 8 age, and shall contain the name and place of business of the manu-
 9 facturer, packer or dealer.

[S., '13, § 2528-e1.]

SEC. 1609. Analysis—fee.

1 Any person, firm or corporation purchasing any calcium carbide
2 or so-called carbide for his or their own use may have the product
3 analyzed by submitting a true sample, carriage prepaid, to the chemist
4 of the dairy and food department and paying to the dairy and food
5 commissioner an analysis fee of fifty cents for each sample analyzed.

[S., '13, § 2528-e2.]

SEC. 1610. Sampling—how carried out.

1 The sampling of the calcium carbide is to be carried out as fol-
2 lows: Each container is to be turned over end for end three times to
3 get rid of any local accumulation of dust, then removing a sample
4 weighing not less than one pound, place the same into a dry Mason
5 jar or other air and water-tight vessel, then close air and water-tight.

[S., '13, § 2528-e3.]

SEC. 1611. Enforcement—prima facie evidence.

1 The state dairy and food commissioner is charged with the en-
2 forcement of this chapter. All fees collected for the analysis of sam-
3 ples of calcium carbide shall be paid into the state treasury. The
4 commissioner and his appointees may collect samples of calcium car-
5 bide when the same is offered or exposed for sale or sold, and if the
6 product is not packed and labeled as specified in this chapter, or if the
7 product is not truthfully branded as to the volume of acetylene gas
8 liberated by the test herein prescribed, it shall be deemed a violation
9 of this chapter. The having in possession by any person who is a
10 dealer in calcium carbide any calcium carbide shall be prima facie
11 evidence of having in possession with intent to sell.

[S., '13, § 2528-e4.]

SEC. 1612. Penalty.

1 Any person, firm or corporation or agent thereof who refuses to
2 comply on demand with any of the requirements of this chapter, or
3 who shall violate any of its provisions, or who shall obstruct or hinder
4 the commissioner or any of his assistants in the discharge of any
5 duty imposed by this chapter, shall be guilty of a misdemeanor, and
6 upon conviction thereof shall be punished by a fine of not exceeding
7 twenty-five dollars.

[S., '13, § 2528-e5.]

TITLE VIII.

DEPARTMENT OF AGRICULTURE, HORTICULTURE AND ANIMAL INDUSTRY.

CHAPTER 1.

STATE BOARD OF AGRICULTURE.

SECTION 1613. Department of agriculture.

1 For the promotion of agriculture, horticulture, forestry, animal
2 industry, manufactures, and the domestic arts, there is hereby es-
3 tablished a department to be known as the department of agriculture,
4 which shall embrace the district and county agricultural societies or-
5 ganized or to be organized under existing statutes and entitled to re-
6 ceive aid from the state, the state weather and crop service, and the
7 offices of the dairy and food commissioner, and state veterinarian.

[S., '13, § 1657-b.]

SEC. 1614. State board of agriculture—organization.

1 The department shall be managed by a board, to be styled the
2 state board of agriculture, of which the governor of the state, the
3 president of the state college of agriculture and mechanic arts, the
4 state dairy and food commissioner, and the state veterinarian shall be
5 members ex officio. The other members of the board shall consist of
6 a president, vice president, secretary, treasurer and one director from
7 each congressional district, to be chosen as hereinafter provided.

[S., '13, § 1657-c.]

SEC. 1615. Agricultural convention—delegates.

1 There shall be held at the capitol on the second Wednesday of
2 December, annually, a state agricultural convention, composed of the
3 state board of agriculture, together with the president or secretary
4 of each county or district society entitled to receive aid from the
5 state, or a regularly elected delegate therefrom accredited in writing,
6 who shall be a resident of the county; and in counties where there are
7 no agricultural societies the board of supervisors may appoint a dele-
8 gate who shall be a resident of the county. The president or an ac-
9 credited representative of the following named associations shall be
10 entitled to membership in the said convention, to wit: the state horti-
11 cultural society, the state dairy association, the improved stock breed-
12 ers' association, the swine breeders' association, and each farmers' in-
13 stitute organized under the provisions of section sixteen hundred
14 forty-five; provided, said farmers' institute has been organized at least
15 one year, and has reported to the state secretary of agriculture not
16 later than November first, through its president and secretary or
17 executive committee, that an institute was held according to law, the
18 date thereof, the names and postoffice address of its officers. They
19 shall also furnish the state secretary of agriculture with a copy of

20 program of each institute hereafter held and one or more papers read
21 before such institute, if papers are read. On all questions arising for
22 determination by the convention, including the election of members
23 of the board, each member present shall be entitled to but one vote,
24 and no proxies shall be recognized by the convention.

[R., '60, § 1701; C., '73, § 1103; C., '97, § 1653; S., '13, § 1657-d.]

SEC. 1616. Officers—directors—vacancies.

1 At the convention held on the second Wednesday in December,
2 nineteen hundred, there shall be elected a president and vice presi-
3 dent for the term of one year; also one director of the board of
4 agriculture from each congressional district; those from even-num-
5 bered districts to serve two years and those from odd-numbered
6 districts one year. At subsequent annual conventions, vacancies in the
7 list of district directors shall be filled for two years. But vacancies
8 occurring from death or other causes shall be filled for the unexpired
9 term; and the board may fill any vacancy in office until the next an-
10 nual convention.

[R., '60, § 1700; C., '73, § 1104; C., '97, § 1654; S., '13, § 1657-e.]

SEC. 1617. Duties of board.

1 The board shall have general supervision of the several branches,
2 bureaus and offices embraced in the department of agriculture; and it
3 shall be the duty of the board to look after and promote the interests
4 of agriculture, of agricultural education and animal and other indus-
5 tries throughout the state; to investigate all subjects relating to the
6 improvement of methods, appliances and machinery, and the diversi-
7 fication of crops and products; also to investigate reports of the
8 prevalence of contagious diseases among domestic animals, or de-
9 structive insects and fungus diseases in grains and grasses and other
10 plants, the adulteration of foods, seeds and other products, and to
11 report the result of investigation, together with recommendations of
12 remedial measures for prevention of damage resulting therefrom. It
13 shall be the duty of the Iowa agricultural experiment station to co-
14 operate with the department of agriculture in carrying on these in-
15 vestigations.

[S., '13, § 1657-g.]

SEC. 1618. Executive committee.

1 The president, vice president, and secretary shall constitute an
2 executive committee, which shall transact such business as may be
3 delegated to it by the board of agriculture. The president may call
4 meetings of the board when the interests of the department require it.

[S., '13, § 1657-h.]

SEC. 1619. State fair and grounds.

1 The board shall have full control of the state fair grounds and
2 improvements thereon belonging to the state, with requisite powers
3 to hold annual fairs and exhibits of the productive resources and in-
4 dustries of the state. They may prescribe all necessary rules and
5 regulations thereon. The board may delegate the management of the

6 state fair to the executive committee and two or more additional mem-
 7 bers of the board; and for special work pertaining to the fair they
 8 may employ an assistant secretary and such clerical assistance as
 9 may be deemed necessary. All expenditures connected with the fair,
 10 including the per diem and expenses of the managers thereof, shall
 11 be recorded separately and paid from the state fair receipts. The
 12 said board of agriculture shall have the power to authorize or forbid
 13 the construction of street railways within the state fair grounds, and
 14 may define the motive power by which the cars thereon shall be pro-
 15 pelled and to authorize or forbid the location and laying down of
 16 tracks for street railways in said grounds.

[S., '13, § 1657-i.]

SEC. 1620. Premium list and rules.

1 The premium list and rules of exhibition shall be determined and
 2 published by the board prior to the first day of May in each year.

[R., '60, § 1702; C., '73, § 1106; C., '97, § 1655; S., '13, §
 1657-r; 38 G. A., ch. 365, § 4.]

SEC. 1621. Bequests.

1 The department of agriculture is hereby authorized to take and
 2 hold property, real and personal, derived by gifts and bequests, and
 3 the president, secretary and treasurer shall have charge and control
 4 of the same, subject to the action of the board, and shall give bonds
 5 as required in case of executors, to be approved by the board of agri-
 6 culture and filed with the secretary of state.

[S., '13, § 1657-j.]

SEC. 1622. Office—supplies—salary of secretary.

1 The office of the department of agriculture shall be in rooms
 2 numbers eleven and twelve, in the capitol building; the said office
 3 shall be entitled to such supplies, stationery, postage and express as
 4 may be required, which shall be furnished by the executive council
 5 in the same manner as other officers are supplied. The secretary
 6 shall receive as salary such compensation as may be fixed and allowed
 7 by the state board of agriculture from the funds derived from the
 8 state fair, but said salary shall not be increased more than four hun-
 9 dred dollars in any one year, and, in no event, be more than four
 10 thousand dollars.

[S., '13, § 1657-n; 38 G. A., ch. 365, § 1.]

SEC. 1623. Treasurer—duties—bond—compensation.

1 The board shall elect a treasurer for a term of one year, whose
 2 duties shall be to keep a correct account of the receipts and disburse-
 3 ments of all moneys belonging to the department of agriculture, and
 4 shall make payments only on warrants signed by the president and
 5 secretary thereof, except in payment of premiums. He shall execute
 6 a bond for the faithful performance of his duty, to be approved by
 7 the board and filed with the secretary, and shall receive such compen-
 8 sation for his services as shall be fixed by the board, not exceeding
 9 two hundred fifty dollars per annum and actual and necessary travel-
 10 ing, hotel and other expenses.

[R., '60, § 1700; C., '73, § 1104; C., '97, § 1654; S., '13, §
 1657-o; 38 G. A., ch. 365, § 2.]

SEC. 1624. Elective members—compensation.

1 The elective members of the state board of agriculture, for at-
 2 tending the meetings of the board, and for the special work pertaining
 3 to the holding of the state fair shall be allowed ten dollars per day
 4 and actual and necessary traveling and hotel expenses, the claim for
 5 which shall be verified and paid as provided in section sixteen hundred
 6 nineteen.

[S., '13, § 1657-p; 38 G. A., ch. 365, § 3.]

SEC. 1625. Appropriations.

1 There is hereby appropriated, annually, for the support of the
 2 office of the department of agriculture, twenty-four hundred dollars,
 3 and for insurance and improvements of buildings on the state fair
 4 grounds the sum of ten hundred dollars or so much thereof as shall
 5 be necessary, and the auditor of state shall draw a warrant therefor
 6 upon the order of the department of agriculture signed by the presi-
 7 dent and secretary thereof, in such sums and at such times as the
 8 board shall deem necessary. The state shall not be liable for the pay-
 9 ment of any premiums offered by the state board of agriculture, nor
 10 for any expenses or liabilities incurred by said board, except, as ex-
 11 pressly provided for in this chapter.

[S., '13, § 1657-t.]

SEC. 1626. State farmers' institute.

1 In connection with the annual convention, either preceding or
 2 following the day on which the officers are elected, the board may hold
 3 a state farmers' institute, for the discussion of practical and scientific
 4 topics relating to the various branches of agriculture, the substance of
 5 which shall be published in the annual report of the board.

[S., '13, § 1657-f.]

SEC. 1627. Secretary—Iowa year book of agriculture.

1 The board shall elect a secretary for a term of one year, whose
 2 duties shall be such as usually pertain to the office of a secretary, un-
 3 der the direction of the board. He shall keep a complete record of
 4 the proceedings of the annual state agricultural convention and all
 5 meetings of the board; he shall draw all warrants on the treasurer
 6 and keep a correct account thereof; he shall compile and superintend
 7 the printing of the annual report of the state department of agricul-
 8 ture, which shall be entitled "The Iowa Year Book of Agriculture,"
 9 and shall include the annual report of the dairy and food commis-
 10 sioner, the state dairy association, and the Iowa agricultural experi-
 11 ment station, the annual report of the state veterinarian, the Iowa
 12 weather and crop service, the Iowa improved stock breeders' associa-
 13 tion, or such part thereof as the executive committee may approve,
 14 and such other reports and statistics as the board may direct, which
 15 shall be published by the state; he shall perform such other duties as
 16 the board may direct.

[R., '60, §§ 1700, 1703; C., '73, §§ 1104, 1107; C., '97, §§ 1654,
 '1656; S., '13, § 1657-k.]

SEC. 1628. Distribution of year book—competitive bids.

1 The Iowa year book of agriculture shall be printed and bound in
 2 cloth and such number as the executive council shall direct, to be dis-

3 tributed as follows: One copy to each state officer and member of the
 4 general assembly; ten copies to the state library and ten copies to
 5 the libraries of the state university and the state college of agricul-
 6 ture and mechanic arts; one copy to each library in the state open to
 7 the general public; one copy to the president and secretary of each
 8 county and district agricultural society, and one copy to the board of
 9 supervisors of each county in which there is no such agricultural so-
 10 ciety, and the balance as may be directed by the board of agriculture.
 11 The board of public printing and binding shall receive competitive
 12 bids for the printing and binding of the year book and let the con-
 13 tract to the lowest responsible bidder. Such bidding, however, shall
 14 be confined to concerns in Iowa and to persons or corporations paying
 15 the union scale of wages.

[C., '73, § 1108; C., '97, § 1657; S., '13, § 1657-l.]

SEC. 1629. Statistics—duty of assessors.

1 Each year the county auditor shall deliver to each assessor the
 2 necessary blanks for recording, as to each person whose property is
 3 listed, statistics of the previous year as to the number of acres,
 4 average and total yield of corn, oats, wheat, and such other crops and
 5 information as may be in their possession which may be called for
 6 relative to agriculture, agricultural production, agricultural labor,
 7 live stock, poultry and egg production, for publication in the Iowa
 8 year book of agriculture. The assessor shall require each person whose
 9 property is listed to make answers to such inquiries as may be neces-
 10 sary to enable him to return the foregoing statistics; and said blanks
 11 with such entries shall be returned to the county auditor on or before
 12 the fifteenth day of April, who shall tabulate the same by townships,
 13 and forward the returns thereof to the secretary of the state board
 14 of agriculture not later than the tenth day of May. The secretary of
 15 the state board of agriculture shall provide and cause to be delivered
 16 to the county auditor before the first week in January the blanks to
 17 be used by the assessors and county auditor for the proper return of
 18 the information required in this section.

[C., '97, § 1363; S., '13, § 1363.]

SEC. 1630. Financial report by state accountant.

1 Prior to the annual convention of the department of agriculture,
 2 the state accountant, provided for in section two hundred seventy-two,
 3 shall examine and report upon all financial business of the department
 4 of agriculture, said report to be made to the executive council. Such
 5 report shall be edited under the direction of the executive council and
 6 be published in accordance with the provisions of sections two hun-
 7 dred seventy-four and two hundred seventy-five.

[S., '13, § 1657-q.]

SEC. 1631. Terms defined.

1 Where the words "board of directors of the state agricultural
 2 society" occur in this code, the same shall be construed to mean and to
 3 refer to the state board of agriculture; and the words "state society"
 4 and "state agricultural society" shall be construed to mean and refer
 5 to the department of agriculture.

[S., '13, § 1657-s.]

CHAPTER 2.

COUNTY AND DISTRICT FAIRS OR AGRICULTURAL SOCIETIES.

SECTION 1632. County and district fairs.

1 County and district fair or agricultural societies may, annually,
 2 offer and award premiums to further the interest in, and to encour-
 3 age the improvement of, live stock, agricultural and educational prod-
 4 ucts, implements and mechanical devices, articles of domestic indus-
 5 try and such other articles as they may think proper, and so regulate
 6 the amount thereof and the classification as to induce general compe-
 7 tition.

[R., '60, § 1697; C., '73, § 1109; C., '97, § 1658; S., '13,
 § 1658; 38 G. A., ch. 175, §§ 1, 2.]

SEC. 1633. State aid—forfeiture.

1 Any county and district fair or agricultural society upon filing
 2 with the secretary of the state board of agriculture a report as herein
 3 provided for shall be entitled to receive from the state treasury a sum
 4 equal to seventy per cent of the first one thousand dollars, and sixty
 5 per cent of all subsequent amounts in excess of one thousand dollars,
 6 paid in cash premiums at its annual fair for the current year, but in
 7 no case shall the amount paid to any fair or society exceed the sum
 8 of fifteen hundred dollars in any one year.

9 When any county and district fair or agricultural society fails
 10 to report, according to law, on or before the first day of November,
 11 that fair or society shall not receive a warrant from the state auditor
 12 for that year, but the secretary of the state board of agriculture shall
 13 notify the county auditor of the county in which the fair or society is
 14 located of such failure and the board of supervisors may appoint a
 15 delegate to the state agricultural convention, said delegate to be a resi-
 16 dent of said county; and any county or district fair or agricultural
 17 society failing to have an accredited delegate in attendance at the
 18 state agricultural convention the second Wednesday in December of
 19 the year in which said fair was held shall have the amount of state aid
 20 which it would otherwise receive diminished in the sum of one hundred
 21 dollars.

[R., '60, § 1704; C., '73, § 1112; C., '97, § 1661; S. S., '15,
 § 1661-a; 38 G. A., ch. 175, §§ 1, 3.]

SEC. 1634. Statement filed with state board.

1 On or before the first day of November of each year the presi-
 2 dent, secretary and treasurer of each county and district fair or agri-
 3 cultural society claiming the benefit under this chapter shall file with
 4 the secretary of the state board of agriculture a sworn statement of
 5 the actual amount of cash premiums paid at the fair of the current
 6 year, which must correspond with the published offer of premiums
 7 and a further sworn statement that none of the amounts were paid
 8 for speed events, or to secure games or amusements, and that no gam-
 9 bling devices, sale of intoxicating liquor, or other violations of the
 10 law were permitted on the grounds of such county and district fair
 11 or agricultural society.

12 The said statement shall also contain a full and complete state-
 13 ment of receipts and expenditures and other statistical data relative
 14 to exhibits and attendance for the current year.

15 Each county and district fair or agricultural society shall an-
 16 nually publish an itemized list of the awards, and a financial state-
 17 ment of receipts and disbursements for the current year in one or
 18 more newspapers of the county. A copy of the published list of
 19 awards and financial statement, with proof of publication, shall accom-
 20 pany the statement filed with the secretary of the state board of agri-
 21 culture.

[R., '60, §§ 1698, 1704; C., '73, §§ 1110, 1112; C., '97, §§ 1659, 1661; S., '13, § 1659; S. S., '15, § 1661-a; 38 G. A., ch. 175, §§ 1, 4.]

SEC. 1635. Payment of state aid.

1 The auditor of state is hereby authorized and directed to draw
 2 warrants on the state treasurer for the funds hereinabove appropri-
 3 ated in favor of the several county and district fairs or agricultural
 4 societies who shall have complied with the provisions of this chapter.
 5 The auditor of state, before issuing a state warrant in favor of such
 6 county and district fair or agricultural society for any amount, shall
 7 demand the certificate of the secretary of the state board of agricul-
 8 ture that said fair or society has filed a report as provided for in this
 9 chapter, and upon the receipt of said certificate the auditor of state
 10 shall issue his warrant for the amount to which said fair or society is
 11 entitled, less the sum of one hundred dollars, which amount shall be
 12 withheld and paid to said fair or society by warrant of the state audi-
 13 tor only upon certificate of the secretary of the state board of agricul-
 14 ture that said fair or society had an accredited delegate in attendance
 15 upon the state agricultural convention as hereinbefore required.

[R., '60, § 1698; C., '73, § 1110; C., '97, § 1659; S., '13, § 1659; 38 G. A., ch. 175, §§ 1, 5.]

SEC. 1636. "Fair" defined.

1 Wherever the term "county and district fair or agricultural so-
 2 ciety" occurs in this chapter it shall be held to mean a bona fide exhibi-
 3 tion of live stock, together with agricultural products and farm
 4 implements and one duly incorporated under the laws of the state of
 5 Iowa.

[38 G. A., ch. 175, § 6.]

SEC. 1637. County aid to county or district fairs.

1 When a district or county agricultural society or fair shall have
 2 procured in fee simple, land for fair grounds, not less than ten acres
 3 in extent, or shall hold and occupy such amount of land by virtue of
 4 a lease, and own and have thereon buildings and improvements worth
 5 not less than two thousand dollars, the board of supervisors of the
 6 county wherein such agricultural society or fair is located, may appropri-
 7 ate and pay to it a sum not exceeding one hundred dollars for every
 8 thousand inhabitants in the county, to be expended by it in fitting up
 9 or purchasing such fair grounds, but for no other purpose, but the
 10 aggregate amount so appropriated shall not exceed ten hundred dol-
 11 lars to any one society or fair in any one year.

12 The board of supervisors are further authorized to purchase real
 13 estate for county or district fair purposes, in sums exceeding ten hun-
 14 dred dollars; provided, however, that the board of supervisors shall
 15 first have submitted to the legal voters of the county a proposition
 16 therefor, and voted for by a majority of all persons voting for and

17 against such proposition at a general or special election; notice to be
18 given as provided in section three thousand two hundred forty-two.

19 The board of supervisors shall not exceed in the purchase of such
20 real estate the amount so voted for; the title of such real estate when
21 purchased to be taken in the name of the county, and the board of
22 supervisors shall place such real estate under the control and manage-
23 ment of an incorporated county or district fair society, as long as an
24 annual county or district fair is maintained by such corporation on
25 said real estate; and said corporation is authorized to erect and main-
26 tain buildings and make such other improvements on said real estate
27 as is necessary, but the county shall not be liable for such improve-
28 ments, or the expenditures therefor.

29 The right of such county or district fair society to the control
30 and management of said real estate may be terminated by the board
31 of supervisors whenever well-conducted agricultural fairs are not an-
32 nually held thereon.

33 The board of supervisors of any county which has acquired real
34 estate for county or district fair purposes and which has a county or
35 district fair association using said real estate may levy a direct tax
36 upon all of the property of the county to produce an amount not to
37 exceed the sum of one thousand dollars in any one year; which money
38 shall be expended only for the erection and repair of buildings or other
39 permanent improvements on the fair grounds or for the payment of
40 debts contracted in the erection of such buildings or other permanent
41 improvements. Shares of stock, nonassessable, shall be issued to the
42 county at par value for the amount of money received by said society
43 from taxes raised under this section.

[C., '73, § 1111; C., '97, § 1660; S. S., '15, § 1660; 37 G. A.,
ch. 89, § 1; 38 G. A., ch. 140.]

SEC. 1638. Report to supervisors.

1 Each society receiving such appropriation shall, through its secre-
2 tary, make to the board of supervisors a detailed statement, accom-
3 panied with vouchers, showing the legal disbursement of all moneys
4 so received.

[C., '73, § 1113; C., '97, § 1662.]

SEC. 1639. Permits.

1 The president of a district or county agricultural society may
2 grant a written permit to such persons as he thinks proper, to sell
3 fruit, provisions, and other articles not prohibited by law, under such
4 regulations as the board of directors may prescribe.

[C., '73, § 1115; C., '97, § 1663.]

SEC. 1640. Appointment of police.

1 The president of any such society may appoint such number of
2 peace officers as may be necessary, and may arrest or cause to be
3 arrested any person violating any of the provisions of this chapter,
4 and cause him to be taken before some justice of the peace to be dealt
5 with as provided by law; and he may seize or cause to be seized all
6 intoxicating liquors, wine, or beer of any kind, with the vessels con-
7 taining the same, and all tools or other implements used in any gam-
8 bling, and remove or cause to be removed all shows, swings, booths,
9 tents, carriages, vessels, boats, or any other thing that may obstruct

10 or cause to be obstructed, by collecting persons around or otherwise,
 11 any thoroughfare leading to the inclosure in which such agricultural
 12 fair is being held. Any person owning, occupying or using any of
 13 such things causing such obstruction, who shall refuse or fail to remove
 14 the same when ordered to do so by the president, shall be liable to a
 15 fine of not less than five nor more than one hundred dollars for every
 16 such offense. During the time the fair is being held, no ordinance or
 17 resolution of any city or town shall in any way impair the authority
 18 of the society, but it shall have sole and exclusive control over and
 19 management thereof.

[C., '73, § 1116; C., '97, § 1664.]

SEC. 1641. Fraudulent entries of horses.

1 No person, partnership, company or corporation shall knowingly
 2 enter or cause to be entered any horse of any age or sex under an
 3 assumed name, or out of its proper class, to compete for any purse,
 4 prize, premium, stake or sweepstake offered or given by any agricul-
 5 tural or other society, association, person or persons in the state, or
 6 drive any such horse under an assumed name, or out of its proper
 7 class, where such prize, purse, premium, stake or sweepstake is to be
 8 decided by a contest of speed.

[C., '97, § 1665.]

SEC. 1642. Penalty.

1 Any person convicted of a violation of the preceding section shall
 2 be imprisoned in the penitentiary for a period of not more than three
 3 years, or in the county jail for not more than one year, and be fined
 4 in a sum not exceeding one thousand dollars.

[C., '97, § 1666.]

SEC. 1643. Entry under changed name.

1 The name of any horse, for the purpose of entry for competition
 2 in any contest of speed, shall not be changed after having once con-
 3 tested for a prize, purse, premium, stake or sweepstake, except as
 4 provided by the code of printed rules of the society or association
 5 under which the contest is advertised to be conducted, unless the
 6 former name is given.

[C., '97, § 1667.]

SEC. 1644. Class determined.

1 The class to which a horse belongs for the purpose of an entry in
 2 any contest of speed, as provided by the printed rules of the society or
 3 association under which such contest is to be made, shall be determined
 4 by the public record of said horse in any such former contest.

[C., '97, § 1668.]

CHAPTER 3.

FARMERS' INSTITUTES AND SHORT COURSES.

SECTION 1645. Farmers' institutes—state aid.

1 When forty or more farmers of a county organize a farmers' insti-
 2 tute, with a president, secretary, treasurer, and an executive commit-

tee of not less than three outside of such officers and hold an institute, remaining in session not less than two days in each year, which institute may be adjourned from time to time and from place to place in said county, the secretary of the state board of agriculture, upon the filing with him a report of such institute and an itemized statement under oath showing that the same has been organized and held and for what purposes the money expended has been used, shall certify the same to the auditor of state, which state auditor shall remit to the county treasurer of such county his warrant for the amount so expended not to exceed seventy-five dollars, and there is hereby appropriated out of the moneys in the state treasury not otherwise appropriated a sum not to exceed seventy-five dollars annually for such institute work in each county. No officer of any such farmers' institute shall receive directly or indirectly any compensation from said fund for said services as such officer. The report provided for in this section shall be filed with the secretary of the state board of agriculture on or before the first day of June of each year. When any institute fails to report on or before the first day of June, that institute shall not receive state aid for that year.

[C., '97, § 1675; S., '13, § 1675.]

SEC. 1646. Appropriation.

The money appropriated and paid into the county treasury shall be designated as a farmers' institute fund, and no warrant shall be drawn thereon, except by an order signed by a majority of the members of the executive committee. In case two or more organizations shall claim recognition as farmers' institutes in any county, a bill shall be audited by the board of supervisors, who shall divide said state fund as nearly as possible equitably, but in no case shall more than three institutes be held in one year in any county under the provisions of this chapter.

[C., '97, § 1676.]

SEC. 1647. Short course—state aid.

When one hundred citizens of any county in the state that does not have a county or district fair receiving the state aid as provided in chapter two of this title, or that in any year may not hold a county fair, shall organize what is known as a short course, with a president, secretary, treasurer and executive committee of not less than five members, and shall hold a session of four or more days at some place within the county and give a program, designated to promote the science of agriculture and domestic science, said short course organization upon filing with the auditor of state, by its president, secretary and treasurer, a statement showing what sums it has actually paid out in value for premiums during the period of the short course of that year, together with the certificate of the secretary of the state board of agriculture showing that it has reported according to law as provided in cases of county and district agricultural societies, shall be entitled to receive from the state treasurer a sum equal to forty per cent of the amount paid in premiums, but in no case shall the amount so received in any county exceed two hundred dollars. The payment from the state treasury herein provided for shall be made by warrant of the state auditor as soon as due proof is made to him of the holding of said short course as herein provided; and there is hereby appro-

21 priated out of any money in the state treasury not otherwise appro-
 22 priated the sum necessary to pay the amount contemplated in this
 23 section.

[S., '13, § 1661-a1.]

SEC. 1648. Farmers' institute fund—diversion to short course.

1 In all counties not holding a regular farmers' institute and where
 2 a short course is held, the money appropriated for such farmers' insti-
 3 tute as provided in section sixteen hundred forty-five shall apply and
 4 be payable to said short course upon proof of such organization and
 5 such short course having been held, being filed with the state board
 6 of agriculture by the officers of said short course.

[S., '13, § 1661-a2.]

CHAPTER 4.

WEATHER AND CROP SERVICE.

SECTION 1649. Establishment.

1 There is established, under the supervision of the state board of
 2 agriculture, a weather and crop service, which shall cooperate with
 3 the national weather bureau for the purpose of collecting weather and
 4 crop statistics and meteorological data, and disseminating the weather
 5 forecasts and storm and frost warnings among the people, and to pro-
 6 mote the growth of knowledge of meteorological science and the cli-
 7 matology of the state.

[C., '97, § 1677.]

SEC. 1650. Director.

1 The central station shall be at the seat of government, under the
 2 charge of a director and assistant, to be appointed by the governor
 3 for a term of two years, upon the recommendation of the state board
 4 of agriculture; the assistant to be an officer of the United States
 5 weather bureau, if one shall be detailed for that purpose.

[C., '97, § 1678.]

SEC. 1651. Stations—observers—bulletins—speakers.

1 The director shall cooperate with the state board of agriculture
 2 to establish volunteer stations at one or more places in each county
 3 in the state, and in appointing observers thereat; to supervise such
 4 stations, receive reports of meteorological events and crop conditions
 5 therefrom, and tabulate the same for permanent record; to issue
 6 weekly weather and crop bulletins during the season from April first
 7 to October first, and to edit and cause to be published a monthly
 8 weather and crop review, containing meteorological and agricultural
 9 matter of public interest and educational value. The printer shall
 10 print three thousand copies thereof, which shall be distributed from
 11 the office of department of agriculture. The board may require a
 12 larger issue for such subscribers as will pay the expense thereof. The
 13 director shall have advisory power to cooperate with the farmers'
 14 institute organizations of the several counties of the state, for the pur-
 15 pose of arranging dates and providing speakers or lecturers, with a

16 view to economy of time and travel in attending institutes; such insti-
 17 tutes to be held as nearly as practicable in circuits, and at such dates
 18 as will enable speakers to attend two or more such institutes each
 19 week.

[C., '97, § 1679; S., '13, § 1679.]

SEC. 1652. Report.

1 The director shall compile and make an annual report to the gov-
 2 ernor, which shall contain a complete review and summary of the
 3 results of the service for the year, which may include articles and
 4 papers upon subjects of meteorological science and climatology, and
 5 extracts from approved works and publications on such subjects,
 6 which shall be printed and bound in such numbers as the executive
 7 council shall direct, the expenses to be paid as in case of other reports.

[C., '97, § 1680.]

SEC. 1653. Appropriation.

1 There is hereby appropriated, out of any money in the state treas-
 2 ury not otherwise appropriated, the sum of thirty-seven hundred dol-
 3 lars annually, to be drawn and expended upon the order of the
 4 president and secretary of the department of agriculture, for such
 5 service, including the salary of the director, which shall not exceed
 6 fifteen hundred dollars per annum.

[C., '97, § 1681; S., '13, § 1681; 38 G. A., ch. 363, § 1.]

CHAPTER 5.

FARM AID ASSOCIATIONS.

SECTION 1654. Incorporation authorized.

1 For the purpose of improving and advancing the science and art
 2 of agriculture, domestic science, animal husbandry and horticulture,
 3 a body corporate is hereby authorized in each county in the state.

[S. S., '15, § 1683-a.]

SEC. 1655. Articles.

1 Such body corporate may be formed by the acknowledging and
 2 filing for record with the county recorder of such county, of articles
 3 of incorporation by at least ten farmers, landowners, or other busi-
 4 ness men of the county.

[S., '13, § 1683-b; 37 G. A., ch. 90, § 1.]

SEC. 1656. Articles—requirements.

1 The articles of incorporation shall be as follows:

2 We, the undersigned farmers, landowners and business resi-
 3 dents of county, Iowa, do hereby adopt the following
 4 articles of incorporation:

5 Article 1. The objects of this incorporation shall be to advance
 6 and improve, in county, Iowa, the science and art
 7 of agriculture, domestic science, horticulture and animal husbandry.

8 Article 2. The name of this incorporation shall be.....
 9 (inserting the name of the
 10 county of which the incorporators are residents).

11 Article 3. The affairs of this incorporation shall be conducted by
 12 a president, a vice president, a secretary and a treasurer, who shall
 13 perform the duties usually pertaining to such positions, and by a
 14 board of directors of nine members, all of which officers and directors
 15 shall be elected by the members of said incorporation at an annual
 16 meeting on the first Monday in January of each year. Not more than
 17 two directors shall be residents of the same township, when elected.
 18 All officers and directors shall hold their positions for one year and
 19 until their successors are elected. We, the said incorporators, have
 20 elected the following provisional officers to hold their respective posi-
 21 tions until their successors are elected at the annual meeting in the
 22 year

- 23 President
- 24 Vice president
- 25 Secretary
- 26 Treasurer
- 27 Board of directors:
- 28 1
- 29 2
- 30 3
- 31 4
- 32 5
- 33 6
- 34 7
- 35 8
- 36 9

37 Article 4. The yearly dues of the members of this incorporation
 38 shall be one dollar, payable at the time of applying for membership
 39 and on the first Monday in January of each year thereafter. No
 40 member having once paid dues shall forfeit his membership until his
 41 or her subsequent dues are six months in arrears.

42 Article 5. Any citizen of the county and any nonresident owning
 43 land in the county shall have the right to become a member of the
 44 incorporation by paying one year's dues and thereafter complying
 45 with the articles of incorporation and by-laws.

46 Article 6. This incorporation shall endure until terminated by
 47 operation of law.

[S. S., '15, § 1683-c.]

SEC. 1657. Recording of articles.

1 The articles of incorporation shall be recorded by the recorder
 2 of deeds without fee of any kind.

[S., '13, § 1683-f.]

SEC. 1658. Appropriation by board of supervisors.

1 When the articles of incorporation have been filed as provided
 2 by this chapter and the secretary and treasurer of said corporation
 3 have certified to the board of supervisors that the said organization has
 4 among its membership at least two hundred farmers or farm owners
 5 in said county and that said organization has raised from among its
 6 members a yearly subscription of not less than one thousand dollars,
 7 the board of supervisors shall appropriate to such organization, to be

8 paid from the general fund of said county, a sum double the amount
 9 of such subscription; not to exceed, however, a total of five thousand
 10 dollars in counties with a population of twenty-five thousand or over,
 11 and in counties with a smaller population, three thousand dollars in
 12 any one year.

[37 G. A., ch. 90, § 2; 38 G. A., ch. 36.]

SEC. 1659. Limitation on aid.

1 The only farm improvement associations which shall be entitled
 2 to receive this county aid shall be such as are organized, so as to
 3 cooperate with the United States department of agriculture and the
 4 Iowa state college of agriculture and mechanic arts.

[37 G. A., ch. 90, § 4.]

SEC. 1660. Funds advanced by federal government.

1 The president and secretary of said association shall, prior to the
 2 time of making any levy or advancing any funds, as herein provided,
 3 certify to the board of supervisors the amount, if any, advanced to
 4 said association by the government of the United States for the en-
 5 suing year in aid of its objects.

[S., '13, § 1683-p.]

SEC. 1661. Funds—how expended.

1 The treasurer of said incorporation shall receive all funds belong-
 2 ing to said incorporation and all taxes collected as herein provided
 3 and shall pay out the same only on bills allowed by the board of direc-
 4 tors, such allowance to be certified to by the president or secretary.

[S., '13, § 1683-m.]

SEC. 1662. Bond of treasurer.

1 The treasurer shall give bond, the amount to be fixed by the board
 2 of directors in double the amount of money likely to come into his
 3 hands, with sureties. Said bond shall be filed with and approved by
 4 the county auditor and recorded without fee. In no case shall the
 5 bond of the treasurer be less than five thousand dollars.

[S., '13, § 1683-i.]

SEC. 1663. Misuse of funds.

1 Any treasurer of such association who in any manner converts
 2 the funds or property of such association to his own use or pays out
 3 or disposes of the same in any manner different than as directed
 4 herein, shall be considered guilty of larceny and punished accordingly.

[S., '13, § 1683-o.]

SEC. 1664. Powers of board.

1 Such body corporate shall have power to establish and maintain
 2 a permanent agricultural school, in which the science of agriculture,
 3 horticulture, animal industry, and domestic science shall be taught;
 4 to employ one or more teachers, experts or advisers to teach, advance
 5 and improve agriculture, horticulture, animal industry, and domestic
 6 science, in said county, under such terms, conditions and restrictions
 7 as may be deemed advisable by the board of directors; to adopt by-
 8 laws; to take by gift, purchase, devise or bequest, real or personal

9 property; to have, and exercise all powers necessary, appropriate and
 10 convenient for the successful carrying out of the objects of said cor-
 11 poration. It shall have authority to use part or all of the sum annually
 12 received as dues from its members in payment of prizes offered in
 13 any department of work, including agricultural fairs, short courses,
 14 or farmers' institutes.

[S. S., '15, § 1683-e.]

SEC. 1665. Private property exempt—seal.

1 Such body corporate may sue and be sued, but the private prop-
 2 erty of the members shall be exempt from corporate debts. It may
 3 have a seal which it may alter at pleasure.

[S., '13, § 1683-d.]

SEC. 1666. Compensation.

1 No salary or compensation of any kind shall be paid to the presi-
 2 dent, vice president, treasurer or to any director.

[S., '13, § 1683-g.]

SEC. 1667. Dividends—diversion of funds or property.

1 No dividend shall ever be declared by this incorporation. Any
 2 diversion of the funds or property of such incorporation to any pur-
 3 pose except the purposes of incorporation shall constitute larceny and
 4 be punished accordingly.

[S., '13, § 1683-h.]

SEC. 1668. False certificate.

1 Any officer making a certificate as provided herein, knowing the
 2 same to be false or incorrect in any particular, shall be guilty of a
 3 misdemeanor and punished accordingly.

[S., '13, § 1683-n.]

SEC. 1669. Annual reports—records open to inspection.

1 The outgoing president and treasurer shall, on the first Monday
 2 of January of each year, file with the county auditor full and detailed
 3 reports under oath of all receipts and expenditures of said incorpora-
 4 tion, showing from whom received and to whom paid and for what
 5 purpose. A duplicate of said report shall also be laid before the
 6 members at the annual meeting. The books, papers and records of
 7 said incorporation shall at all times be open to the inspection of the
 8 board of supervisors and to anyone appointed by them to make exam-
 9 ination.

[S., '13, § 1683-j.]

SEC. 1670. Existing organizations.

1 Nothing in this act [37 G. A., ch. 90] shall be construed to affect
 2 the organization of associations heretofore organized under this
 3 chapter.

[37 G. A., ch. 90, § 3.]

CHAPTER 6.

CORN AND SMALL GRAIN ASSOCIATIONS.

SECTION 1671. Iowa corn and small grain growers' association.

1 When the organization now existing in and incorporated under
 2 the laws of the state of Iowa and known as the Iowa corn and
 3 small grain growers' association shall have filed with the secretary of
 4 state verified proofs of its organization, the names of its president,
 5 vice president, secretary and treasurer, and that it has five hundred
 6 bona fide members, such association shall be recognized as the Iowa
 7 corn and small grain growers' association of the state of Iowa and
 8 shall be entitled to the benefits of this chapter.

[37 G. A., ch. 187, § 9.]

SEC. 1672. Objects of association.

1 The objects of the Iowa corn and small grain growers' association
 2 shall be:
 3 1. To advance the interests of the farmers in securing better
 4 methods of selecting and caring for seed corn and small grain.
 5 2. To improve and develop varieties of corn and small grain
 6 especially adapted to Iowa.
 7 3. To encourage better and more thorough methods of produc-
 8 tion.
 9 4. To hold an annual convention for instruction in corn and small
 10 grain growing.
 11 5. To issue certificates of qualification to expert judging of corn
 12 and small grain.
 13 6. To publish an annual report of the exhibition and convention.
 14 7. To issue a seed directory which will indicate where good seed
 15 may be secured.
 16 8. To help in disseminating good seed especially adapted to Iowa
 17 conditions.
 18 To attain these objects the association shall conduct an annual
 19 state exhibition and convention at the same time as the farmers' win-
 20 ter short course, and shall publish a seed directory from time to time
 21 which will aid those who desire to secure good seed and shall help in
 22 what other ways the association may deem necessary to attain the
 23 objects already set forth in this chapter.

[37 G. A., ch. 187, § 10.]

SEC. 1673. Executive committee.

1 For all purposes of this chapter the said association shall act by
 2 and through an executive committee of five members, consisting of
 3 the president and secretary of the Iowa corn and small grain growers'
 4 association, the dean of agriculture of the Iowa state college of agri-
 5 culture and mechanic arts, and the professor of agronomy of the same
 6 institution, and the secretary of the state board of agriculture.

[37 G. A., ch. 187, § 11.]

SEC. 1674. Inspectors and instruction.

1 The said board may employ two or more competent persons who
 2 shall devote their entire time, while employed by the association, to
 3 carrying out the provisions as provided for in this chapter, and the

4 said board shall pay all expenses of conducting the annual exhibition,
5 including premiums.

[37 G. A., ch. 187, § 12; 38 G. A., ch. 350, § 4.]

SEC. 1675. Salaries and expenses.

1 The salaries of all persons employed under the provisions of this
2 and the two following chapters shall be paid monthly out of the ap-
3 propriation herein provided, and all traveling expenses and all general
4 expenses incurred by the associations in carrying out the purposes of
5 this and the two following chapters shall be paid out of the said appro-
6 priation and in the manner provided by sections seven hundred four-
7 teen, seven hundred fifteen and seven hundred seventeen, and upon
8 statements filed with the executive council, as therein provided, but
9 no bill shall be paid until after the executive committee of the board,
10 under whose authority such expense was incurred, have audited and
11 approved the bill in such manner as the committee shall provide.

[37 G. A., ch. 187, § 13.]

CHAPTER 7.

DAIRY ASSOCIATIONS.

SECTION 1676. Iowa state dairy association.

1 When the organization now existing in the state of Iowa, and
2 known as the Iowa state dairy association, shall have filed with the
3 secretary of state of the state of Iowa verified proofs of its organiza-
4 tion, the names of its president, vice president, secretary and treas-
5 urer, and that it has five hundred bona fide members, such association
6 shall be recognized as the Iowa state dairy association of the state of
7 Iowa, and be entitled to the benefits of this chapter.

[37 G. A., ch. 187, § 1.]

SEC. 1677. Inspection—instruction—executive committee.

1 For the purpose of aiding in the promotion and development of
2 the dairy industry of the state of Iowa, such association shall cause
3 to be made such inspection of dairy farms, dairy cattle, dairy barns
4 and other buildings, and appliances used in connection therewith,
5 dairy products and methods as they shall deem best, and to aid and
6 promote in conducting dairy test associations, shows and sales and
7 of publishing a breeders' directory, and shall arrange to furnish such
8 instruction and general assistance, either by institutes or otherwise,
9 as they deem proper to advance the general interests of the dairy
10 industry of the state.

11 For all purposes of this chapter, the said association shall act by
12 and through an executive committee of five members, consisting of
13 the president and secretary of the Iowa state dairy association, the
14 dean of the division of agriculture of the Iowa state college of agri-
15 culture and mechanic arts, and the professor of dairying of the same
16 institution, and the dairy and food commissioner of the state of Iowa.

[37 G. A., ch. 187, § 2.]

SEC. 1678. Inspectors and instructors.

1 They may employ two or more competent persons who shall de-
 2 vote their entire time, while employed by said association, to such
 3 inspection and instruction under the direction of the said executive
 4 committee, and who shall hold office at the pleasure of the committee,
 5 and who shall each receive a salary not to exceed two thousand dollars
 6 per annum and actual expenses while engaged in such work. The
 7 officers of said association shall serve without compensation, but their
 8 necessary expenses while engaged in the business of the association
 9 shall be paid out of said fund.

[37 G. A., ch. 187, § 3; 38 G. A., ch. 350, § 2.]

SEC. 1679. Annual report.

1 The said association may require such reports from their em-
 2 ployees as they deem proper, and shall make to the governor an annual
 3 report of their proceedings under this chapter, which report shall be
 4 published as a part of the proceedings of the annual convention of
 5 the Iowa state dairy association.

[37 G. A., ch. 187, § 4.]

CHAPTER 8.
BEEF CATTLE ASSOCIATIONS.**SECTION 1680. Iowa beef cattle producers' association.**

1 When the organization now existing in and incorporated under
 2 the laws of the state of Iowa, and known as the Iowa beef cattle pro-
 3 ducers' association, shall have filed with the secretary of state for the
 4 state of Iowa verified proofs of its organization, the names of its
 5 president, vice president, secretary and treasurer, and that it has five
 6 hundred bona fide members, such association shall be recognized as
 7 the Iowa state beef cattle producers' association of the state of Iowa,
 8 and entitled to the benefits of this chapter.

[37 G. A., ch. 187, § 5.]

SEC. 1681. Instruction—inspection—executive board.

1 It shall be the duty of the Iowa beef cattle producers' association
 2 to aid in the promotion of the beef cattle industry of the state, and
 3 to provide for the practical and scientific instruction in the breeding
 4 and raising of beef cattle, and to provide for the inspection of herds,
 5 premises and appliances, methods and feedstuffs used in the business
 6 of feeding for the purpose of making demonstrations and making and
 7 publishing suggestions beneficial to the business, and to aid and pro-
 8 mote in conducting beef cattle feeding contests, shows and sales, and
 9 of publishing of a breeders' directory. The said association shall act
 10 by and through an executive board to be composed of the dean of the
 11 department of agriculture of the Iowa state college of agriculture and
 12 mechanic arts and the professor of animal husbandry of the same insti-
 13 tution, and the secretary of the state agricultural society, and the
 14 president and secretary of the said Iowa beef cattle producers' asso-
 15 ciation.

[37 G. A., ch. 187, § 6.]

SEC. 1682. Inspectors and instructions.

1 The said board may employ two or more competent persons who
 2 shall devote their entire time while employed by the association in
 3 carrying out the provisions of this chapter under direction of said
 4 board. The officers of said association shall serve without compen-
 5 sation, but their necessary expenses, while engaged in the business of
 6 the association, shall be paid out of said fund. Such inspectors and
 7 instructors shall hold office at the pleasure of the board and shall each
 8 receive a salary not to exceed two thousand dollars per annum and
 9 actual expenses while engaged in the work.

[37 G. A., ch. 187, § 7; 38 G. A., ch. 350, § 3.]

CHAPTER 9.
POULTRY ASSOCIATIONS.
SECTION 1683. Iowa poultry associations—state aid.

1 When fifteen or more bona fide poultry raisers or dealers in poul-
 2 try products, residing in any one county, shall have organized in the
 3 capacity of a poultry association, membership in which shall be open
 4 to all persons on an equal basis, and with a minimum membership
 5 fee of twenty-five cents, or a maximum fee not to exceed one dollar,
 6 and with officers consisting of president, vice president, secretary,
 7 treasurer, and a directory board of not less than three persons other
 8 than such officers, and when the secretary shall have certified, through
 9 the county auditor to the auditor of state, that they have complied
 10 with all the provisions of this chapter, such an association shall be
 11 entitled to state aid as hereinafter provided.

[37 G. A., ch. 363, § 1.]

SEC. 1684. State aid—requirements—appropriation—conditions.

1 When a poultry association shall have held a poultry show and
 2 exhibition of not less than two working days, in which classes have
 3 been provided for standard bred poultry, market poultry, and com-
 4 mercial eggs, in dozen or case lots, and when such poultry association
 5 shall have provided a sum equal to the amount it would receive under
 6 this chapter, the county auditor upon satisfactory proof of such an
 7 organization, and of such poultry show having been held, together
 8 with an itemized statement showing manner in which the money
 9 herein appropriated has been expended, shall certify the same to the
 10 auditor of state, whose duty it shall be to remit to the county auditor
 11 a state warrant for one hundred dollars, and there is hereby appro-
 12 priated annually out of the moneys in the state treasury not otherwise
 13 appropriated a sum not to exceed one hundred dollars in any one year,
 14 for such poultry association's work in each county as hereinafter pro-
 15 vided.

[37 G. A., ch. 363, § 2; 38 G. A., ch. 279, § 1.]

SEC. 1685. State aid—division.

1 In case there is more than one such association in any county,
 2 said one hundred dollars shall be equally divided between such asso-
 3 ciations or clubs as shall have complied with this chapter, and an

4 association to be entitled to receive this aid must notify the county
5 auditor by November first of its intention of holding a poultry show.
[37 G. A., ch. 363, § 3.]

SEC. 1686. Reports.

1 After each exhibition held by any Iowa poultry association or
2 club the president and secretary of such association or club claiming
3 the benefits of any such appropriation shall file with the county au-
4 ditor a sworn statement of the actual amount of cash premiums paid
5 at the exhibition of the current season, which must correspond with
6 the published offer of premiums, as printed in their premium lists.
7 Such statement shall be accompanied by an itemized list of all pre-
8 miums which are to be paid from such one hundred dollars as claimed,
9 with the names and addresses of each farmer or poultry breeder en-
10 titled to same, and a copy of the published premium list and paid-up
11 membership list duly verified by the secretary and president of such
12 association or club.
[37 G. A., ch. 363, § 4.]

SEC. 1687. State poultry show—appropriation.

1 It is further provided that the sum of five hundred dollars is
2 appropriated annually for a state-wide poultry show in any one year.
[37 G. A., ch. 363, § 5; 38 G. A., ch. 279, § 2.]

SEC. 1688. Location of shows.

1 At the state poultry show, a convention shall be held to determine
2 the place of holding the next state show. Each association that has
3 complied with the provisions of this chapter, for county aid, shall be
4 entitled to send one delegate, who shall have one vote on all questions
5 that arise. The officers of the local association conducting the show
6 shall preside at the convention.
[37 G. A., ch. 363, § 7.]

SEC. 1689. Management.

1 The state show shall be conducted or managed by the officers of
2 the local association to which it has been voted, and said five hundred
3 dollars shall be expended in exactly the same manner and after the
4 same proofs have been certified to as the aforesaid one hundred dol-
5 lars or part thereof to which the local association is entitled under
6 the provisions of this chapter.
[37 G. A., ch. 363, § 8.]

SEC. 1690. Limitation as to state show.

1 The state-wide poultry show shall not be held oftener than once
2 in three years in the same town or city.
[37 G. A., ch. 363, § 9.]

CHAPTER 10.

STATE HORTICULTURAL SOCIETY.

SECTION 1691. Horticultural society—meetings.

1 The horticultural society shall hold its meetings each year for
 2 the transaction of business at such time as it may fix, at which a presi-
 3 dent, vice president, secretary, treasurer and librarian shall be elected,
 4 who shall serve one year; also one-half of a board of directors, the
 5 full board not to exceed twelve in number, who shall serve two years,
 6 but vacancies may be filled for the unexpired term.

[C., '73, § 1117; C., '97, § 1669.]

SEC. 1692. District and county societies.

1 The society shall encourage the organization of district and county
 2 societies, giving them representation therein, and in every way further
 3 the fruit and tree growing interests of the state.

[C., '73, § 1118; C., '97, § 1670.]

SEC. 1693. Annual report.

1 The secretary shall make an annual report to the governor, con-
 2 taining the proceedings of the society, with an itemized account show-
 3 ing all the expenditures and the purpose for which the same were made
 4 during the year, the general condition of horticultural interests
 5 throughout the state, together with such statements and recommenda-
 6 tions as he may think useful, to be published by the state, under the
 7 supervision of the society, on or before the fifteenth day of February
 8 of each year.

[C., '73, § 1119; C., '97, § 1671.]

SEC. 1694. Printing and distribution.

1 There shall be printed four thousand copies of the report, which
 2 shall be bound in muslin covers, uniform in style with the reports
 3 heretofore made, which shall be distributed by the secretary of state,
 4 as follows: Six copies each to the governor, lieutenant governor, sec-
 5 retary of state, auditor, treasurer, attorney general, judges of the
 6 supreme court, and each member of the general assembly; one hun-
 7 dred to the agricultural college, five copies to the university, two to
 8 each incorporated college in the state, one to each auditor, and clerk
 9 of the district court, to be kept in his office, and one to each newspaper
 10 published in the state; the remainder to be distributed by direction of
 11 the society.

[C., '73, § 1120; C., '97, § 1672; S., '13, § 1672.]

SEC. 1695. Appropriation.

1 The sum of four thousand dollars is hereby appropriated annually
 2 for the use and benefit of said society, which shall be paid upon the
 3 warrant of the auditor of state, upon the order of the president of
 4 said society, in such sums and at such times as may be for the interests
 5 of said society.

[C., '73, § 1121; C., '97, § 1673; S., '13, § 1673.]

SEC. 1696. Horticultural exposition—assistants.

1 The state horticultural society is hereby empowered, authorized
2 and directed to hold annually at such time and in such place in Iowa
3 as said society may select, an exposition of horticultural and manufac-
4 tured plant products, with practical and scientific demonstrations of
5 approved methods of crop production, manufactured products, grading,
6 packing, marketing and the establishment of standard market grades
7 pertaining to horticulture.

8 For the purpose of this chapter horticulture is interpreted to
9 include the culture and care of plants, their fruits and the manufac-
10 tured products thereof.

11 Said society, through its board of directors, is authorized and
12 empowered to appoint and fix the compensation of an assistant secre-
13 tary and of such clerical and other labor as may be needed to carry
14 out the provisions of this section. It may delegate to its executive
15 committee, consisting of the president, secretary and treasurer of said
16 society, the duty and power to make and execute all or any plans
17 authorized under the provisions of this section.

[38 G. A., ch. 395, § 1.]

SEC. 1697. Annual report of exposition.

1 The society shall make to the governor, annually, a report of said
2 exposition, which shall include a showing of all exhibits and awards
3 with a list of all receipts and disbursements under the provisions of
4 the preceding section, with complete vouchers therefor.

[38 G. A., ch. 395, § 2.]

SEC. 1698. Appropriation.

1 The sum of eight thousand dollars annually, or so much thereof
2 as may be needed to carry out the provisions of the two preceding
3 sections, and the payment of all expenses connected therewith, is
4 hereby appropriated out of any fund in the treasury of the state not
5 otherwise appropriated, and warrants therefor shall be issued on the
6 order of the president and secretary of the state horticultural society
7 from time to time by the auditor of state on the treasurer of state,
8 but no such warrant shall be issued until the president and secretary
9 of said society shall certify to the auditor of state that the same is
10 actually necessary for disbursement.

[38 G. A., ch. 395, § 3.]

CHAPTER 11.**FRUIT TREE AND FOREST RESERVATIONS.****SECTION 1699. State forestry commissioner.**

1 The secretary of the Iowa state horticultural society shall be state
2 forestry commissioner, without salary. It shall be his duty to pro-
3 mote the objects of this chapter, and he shall have power to appoint
4 deputies without salary for each county, or group of counties, who
5 shall assist him, and who shall make an annual report to him of

6 forestry matters and of the operations of this chapter, within their
7 respective territories, for the use of the state horticultural society.

[S., '13, § 1400-p.]

SEC. 1700. Forest and fruit-tree reservations.

1 On any tract of land in the state of Iowa, the owner or owners
2 may select a permanent forest reservation not less than two acres in
3 continuous area, or a fruit-tree reservation not less than one nor more
4 than ten acres in area, or both, and upon compliance with the pro-
5 visions of this chapter, such owner or owners shall be entitled to the
6 benefits hereinafter set forth.

[S., '13, § 1400-c; 38 G. A., ch. 224, § 1.]

SEC. 1701. Forest reservation.

1 A forest reservation shall contain not less than two hundred
2 growing forest trees on each acre. If the area selected is an original
3 forest containing the required number of growing forest trees, it
4 shall be accepted as a forest reservation under the provisions of this
5 chapter. If the area selected is an original forest containing less than
6 two hundred forest trees to the acre, or if it is an artificial grove, the
7 owner or owners thereof shall have planted, cultivated and otherwise
8 properly cared for the number of forest trees necessary to bring the
9 total number of growing trees to not less than two hundred on each
10 acre, during a period of not less than two years, before it can be
11 accepted as a forest reservation within the meaning of this chapter,
12 provided that no ground upon which any farm buildings stand shall
13 be recognized as part of any such reservation.

[S., '13, § 1400-d.]

SEC. 1702. Annual removal of trees.

1 Not more than one-fifth of the total number of trees in any forest
2 reservation may be removed in any one year, excepting in cases where
3 the trees die naturally.

[S., '13, § 1400-e.]

SEC. 1703. What considered forest trees.

1 The ash, black cherry, black walnut, butternut, catalpa, coffee
2 tree, the elms, hackberry, the hickories, honey locust, Norway and
3 Carolina poplars, mulberry, the oaks, sugar maple, European larch
4 and other coniferous trees, and all other forest trees introduced into
5 the state for experimental purposes, shall be considered forest trees
6 within the meaning of this chapter. In forest reservations which
7 are artificial groves, the willows, box elder, soft maple, cottonwood,
8 and other poplars, shall be included among forest trees for the pur-
9 poses of this chapter when they are used as protecting borders not
10 exceeding two rows in width around a forest reservation, or when
11 they are used as nurse trees for forest trees in such forest reserva-
12 tion, the number of such nurse trees not to exceed one hundred on
13 each acre; provided that only box elder and soft maple shall be used
14 as nurse trees.

[S., '13, § 1400-f.]

SEC. 1704. Groves.

1 The trees of a forest reservation shall be in groves not less than
2 four rods wide.

[S., '13, § 1400-g.]

SEC. 1705. Fruit-tree reservation.

1 A fruit-tree reservation shall contain not less than forty apple
2 trees, or seventy other fruit trees on each acre, growing under proper
3 care, that are pruned and sprayed annually, and may be claimed as
4 such for a period of eight years after planting.

[S., '13, § 1400-h; 38 G. A., ch. 224, § 2.]

SEC. 1706. What considered fruit trees.

1 The cultivated varieties of apples, crabs, plums, cherries, peaches
2 and pears shall be considered fruit trees within the meaning of this
3 chapter.

[S., '13, § 1400-i.]

SEC. 1707. Replacing trees.

1 When any tree or trees on a fruit-tree or forest reservation shall
2 be removed or die, the owner or owners of such reservation shall,
3 within one year, plant and care for other fruit or forest trees, in order
4 that the number of such trees may not fall below that required by
5 this chapter.

[S., '13, § 1400-j.]

SEC. 1708. Restraint of live stock.

1 Cattle, horses, mules, sheep, goats and hogs shall not be per-
2 mitted upon a fruit-tree or forest reservation.

[S., '13, § 1400-k.]

SEC. 1709. Penalty.

1 If the owner or owners of a fruit or forest reservation violate any
2 provision of this chapter within the two years preceding the making
3 of an assessment, the assessor shall not list any tract belonging to
4 such owner or owners, as a reservation within the meaning of this
5 chapter, for the ensuing two years.

[S., '13, § 1400-m.]

SEC. 1710. Duties of assessor.

1 It shall be the duty of the assessor to secure the facts relative
2 to fruit and forest reservations by taking the sworn statement, or
3 affirmation, of the owner or owners making application under this
4 chapter; and to make special report to the county auditor of all reser-
5 vations made in the county under the provisions of this chapter.

[S., '13, § 1400-n.]

SEC. 1711. Duties of county auditor.

1 It shall be the duty of the county auditor in every county to keep
2 a record of all forest and fruit-tree reservations within his county;
3 and to make report of the same to the secretary of the state horticul-
4 tural society on or before November fifteenth of each year.

[S., '13, § 1400-o.]

CHAPTER 12.

STATE VETERINARY SURGEON.

SECTION 1712. State veterinary surgeon—appointment.

1 The state veterinary surgeon shall be appointed by the governor,
 2 subject to removal by him for cause, who shall hold office for three
 3 years. He shall be a graduate of some regularly established veter-
 4 inary college, skilled in that science. He shall maintain an office at
 5 the capitol in a room assigned for his use by the executive council,
 6 and his postage, stationery and office supplies shall be furnished by
 7 the state.

[C., '97, § 2529; S., '13, § 2529.]

SEC. 1713. Salary and expenses.

1 The state veterinarian, who shall be the secretary and executive
 2 officer of the commission of animal health, shall receive an annual
 3 salary to be fixed by the commission not to exceed three thousand
 4 six hundred dollars per year, to be paid from the state treasury. He
 5 shall furthermore receive actual traveling and hotel expenses neces-
 6 sarily incurred and paid by him in the discharge of his duties, and
 7 such amount shall be paid out of the funds appropriated for the work
 8 of the commission of animal health.

[38 G. A., ch. 287, § 2.]

SEC. 1714. Report.

1 Said surgeon shall biennially make a full and detailed report of
 2 his doings since his last report to the governor, including his com-
 3 pensation and expenses, which report shall not exceed one hundred
 4 fifty pages of printed matter.

[C., '97, § 2532.]

CHAPTER 13.

VETERINARY MEDICINE AND SURGERY.

SECTION 1715. Unlawful practice.

1 It shall be unlawful for any person to practice veterinary medi-
 2 cine, surgery, or dentistry in this state who shall not have complied
 3 with the provisions of this chapter.

[S., '13, § 2538-a.]

SEC. 1716. Examining board.

1 The state veterinary surgeon and the two veterinarians upon
 2 the commission of animal health shall constitute a board for the
 3 examination of applicants to practice veterinary medicine, surgery and
 4 dentistry in the state.

[S., '13, § 2538-t.]

SEC. 1717. Compensation—expenses.

1 Each member of said board shall be entitled to receive five
 2 dollars per diem, also actual and necessary traveling expenses, incurred

3 while actually engaged in the discharge of his official duties, pro-
4 vided such compensation and expenses do not exceed said income of
5 fees accruing under this chapter.

[S., '13, § 2538-k.]

SEC. 1718. Powers.

1 This board shall have power to make all needed regulations for
2 its government and proper discharge of its duties in accordance with
3 this chapter, and shall have power to administer oaths, and take testi-
4 mony concerning all matters within its jurisdiction. It shall also have
5 the power to revoke any certificate issued by it when it is shown that
6 such certificate was procured by false representation or where good
7 cause for revocation of such certificate has arisen since the issuance
8 thereof.

[S., '13, § 2538-e.]

SEC. 1719. Meetings.

1 The meetings of the examining board shall be held at least once
2 a year, or at such times and places as it may elect. At any meeting of
3 the board, a majority shall constitute a quorum to transact business,
4 or to conduct examinations.

[S., '13, § 2538-f.]

SEC. 1720. Qualifications—examination—fee—license.

1 Any person not authorized to practice veterinary medicine, sur-
2 gery, and dentistry in this state, and desiring to enter upon such prac-
3 tice, shall be a graduate of a legally chartered and recognized veter-
4 inary college or veterinary department of a university or agricultural
5 college, and shall pass the examination required by said state board
6 of veterinary medical examiners. The fee for such examination shall
7 be fifteen dollars payable in advance to the secretary of the board.
8 The applicant shall be at least twenty-one years of age and of good
9 moral character. Any person conforming to these requirements shall
10 receive a license to practice veterinary medicine, surgery, or dentistry
11 within this state, signed by the members of the board, which license
12 shall be recorded in the office of the recorder of the county in which
13 said person resides, the recording fee to be paid by holder of cer-
14 tificate:

15 *a* A certificate of registration showing that an examination has
16 been made by the proper board of any state or foreign country, the
17 holder thereof having been at the time of said examination a graduate
18 of a legally chartered and authorized veterinary college, or veterinary
19 department of any university or agricultural college, recognized as in
20 good standing by the Iowa state board of veterinary medical exam-
21 iners.

22 *b* A certificate of registration, or license issued by proper board
23 of any state or foreign country, may be accepted as evidence of quali-
24 fication for registration in this state, provided that the holder thereof
25 was at the time of such registration the legal possessor of a diploma
26 issued by a legally chartered and authorized veterinary college or
27 veterinary department of any university or agricultural college in any
28 state or foreign country, and that the date thereto was prior to the

29 legal requirement of the examination test in this state. The fee for
30 such registration shall be fifty dollars.

[S., '13, § 2538-i.]

SEC. 1721. Reexaminations.

1 In case the examination of any person shall prove unsatisfactory
2 and his name be not registered, he shall be permitted to present him-
3 self for reexamination within any period not exceeding twelve months
4 next thereafter, and no charges shall be made for reexamination.

[S., '13, § 2538-o.]

SEC. 1722. Registration fee.

1 The fee for registration shall be five dollars, payable in advance
2 to the secretary of the board.

[S., '13, § 2538-h.]

SEC. 1723. Restrictions.

1 If by the laws of any state or foreign country, or rulings or deci-
2 sions of the appropriate officers of boards thereof, any burden, obliga-
3 tion, requirement, disqualification or disability is put upon veterina-
4 rians registered in any state or foreign country, or holding diplomas
5 from any legally chartered and authorized veterinary college, or vet-
6 erinary department of any university or agricultural college, recog-
7 nized as in good standing by the Iowa state board of veterinary med-
8 ical examiners, affecting the right of said veterinarians to be regis-
9 tered or admitted to practice in said state or foreign country, then the
10 same or like burdens, obligations, requirements, disqualifications or
11 disability shall be put upon the registration in this state of veterina-
12 rians registered in said state or foreign country or holding diplomas
13 from any legally chartered and authorized veterinary college, or vet-
14 erinary department of any university or agricultural college recog-
15 nized as in good standing by the Iowa state board of veterinary med-
16 ical examiners.

[S., '13, § 2538-i1.]

SEC. 1724. Register—treasurer to hold fees—bond—vouchers.

1 The board shall keep a register of all registered practitioners in
2 the state, setting forth such facts as the board shall see fit. All fees
3 accruing under this chapter shall be held by the treasurer of the board,
4 who shall execute good and sufficient bond to said board to faithfully
5 discharge his duties, and who shall pay out such funds, only, on vouch-
6 ers, certified by a majority of said board. It shall be the duty of
7 each person registered as a practitioner under this section, to pay to
8 the secretary of the board an annual fee of one dollar, on or before
9 June first of each year, as long as he shall continue in practice in the
10 state of Iowa.

[S., '13, § 2538-j.]

SEC. 1725. Accounting.

1 The board shall render under oath annually on January first to
2 the executive council an account of all fees collected and per diem

3 expenses paid, together with the necessary expenses of the board, and
4 pay over the balance into the state treasury.

[S., '13, § 2538-p.]

SEC. 1726. Exceptions.

1 Nothing in this chapter shall be construed to apply to commis-
2 sioned veterinarians in the United States army or to persons who
3 dehorn cattle, or castrate domestic animals, or to persons who gratui-
4 tously treat diseased animals.

[S., '13, § 2538-m.]

SEC. 1727. Veterinary title—unlawful use.

1 Any person who shall, without having been authorized so to do
2 legally, append any veterinary title to his name, or shall assume or
3 advertise any veterinary title in such a manner as to convey the
4 impression that he is a lawful practitioner of veterinary medicine or
5 any of its branches, shall be guilty of a misdemeanor, and punished
6 according to the provisions of the following section.

[S., '13, § 2538-n.]

SEC. 1728. Penalty.

1 Any person violating any of the provisions of this chapter shall be
2 guilty of a misdemeanor, and upon conviction shall be punished by a
3 fine of not less than twenty-five dollars nor more than one hundred
4 dollars, or by imprisonment in the county jail for a period of not more
5 than thirty days for each and every such offense. It shall be the duty
6 of the county attorney of the county in which violation occurs to con-
7 duct all proceedings against violators of this chapter.

[S., '13, § 2538-l.]

CHAPTER 14.

COMMISSION OF ANIMAL HEALTH.

SECTION 1729. Organization.

1 There is hereby created a commission to be known as a commis-
2 sion of animal health, which commission shall consist of the state
3 veterinary surgeon, who shall be the chairman and executive officer
4 thereof, two veterinarians and four stock raisers, all of whom shall
5 be appointed by the governor and confirmed by a two-thirds vote of
6 the senate. The veterinarians shall possess the same qualifications
7 required for the state veterinary surgeon. One such veterinarian shall
8 be appointed to serve until June thirtieth, nineteen hundred twelve,
9 and one until June thirtieth, nineteen hundred thirteen, and as their
10 terms expire their successors shall be appointed for three years. The
11 state veterinary surgeon shall be appointed to serve until June thir-
12 tieth, nineteen hundred fourteen, and thereafter his term shall be
13 three years. The other members of the commission shall be appointed,
14 one to serve until June thirtieth, nineteen hundred twelve, and the
15 other until June thirtieth, nineteen hundred thirteen, and as their
16 terms expire their successors shall be appointed for a term of two

17 years. One of the additional members provided by this act [38 G. A.,
18 ch. 238] shall serve for a term ending June thirtieth, nineteen hundred
19 twenty, and the other additional member provided by this act [38 G.
20 A., ch. 238] shall serve for the term ending June thirtieth, nineteen
21 hundred twenty-one, and the present members of said commission
22 shall serve until their present terms expire.

[S., '13, § 2538-r; 38 G. A., ch. 238, § 1.]

SEC. 1730. Compensation—expenses.

1 The members of the commission, other than the state veterinary
2 surgeon, shall receive as compensation for their services one hundred
3 dollars each per annum, together with their actual and necessary
4 traveling, hotel, and other expenses, and in addition thereto the veter-
5 inarians upon the commission shall receive one hundred dollars each
6 per annum for their services as members of the examining board, all
7 of which shall be paid upon vouchers duly approved by the state board
8 of audit.

[S., '13, § 2538-u.]

SEC. 1731. Meetings—rules and regulations.

1 The commission shall hold at least two meetings each year, one
2 in July and one in January, at the office of the state veterinary sur-
3 geon, and may meet at such other times and places, in the state, as
4 may seem necessary. It shall have the power and authority to make
5 such rules and regulations as it shall deem necessary for the pre-
6 vention, suppression, or against the spread of any contagious or infec-
7 tious disease among animals in or being driven or transported through
8 or brought into the state, and may provide for quarantining against
9 animals thus diseased or that have been exposed to others so diseased,
10 whether within or without the state. When such rules and regulations
11 have been submitted to and approved by the executive council they
12 shall be published and enforced by the veterinary surgeon and in the
13 performance of his duties he may call to his assistance any peace
14 officer.

[S., '13, § 2538-s.]

SEC. 1732. Powers and duties.

1 It shall be the duty of the commission of animal health to pro-
2 tect the health of the domestic animals of the state; to determine
3 and employ the most efficient and practical means for the prevention,
4 suppression, control and eradication of dangerous, contagious or infec-
5 tious diseases among the domestic animals; and for these purposes
6 it is hereby authorized and empowered to establish, maintain, en-
7 force and regulate such quarantine and other measures relating to
8 the movements and care of animals and their products, the disinfect-
9 tion of suspected yards, buildings and articles and the destruction of
10 animals, as it may deem necessary; and to adopt, from time to time,
11 all such regulations as may be necessary and proper for carrying out
12 the purposes of chapter fifteen, provided that the commission of ani-
13 mal health shall enact such rules and regulations only regarding inter-
14 state shipments of live stock as are in harmony with the rules and
15 regulations of the federal bureau of animal industry, except in case
16 there shall be an outbreak of a malignant or contagious disease in any

17 locality, state or territory, in which event the board shall have the
18 right to place an embargo on such locality, state or territory.

[38 G. A., ch. 287, § 1.]

SEC. 1733. Assistants—supplies.

1 The commission of animal health is hereby empowered to appoint
2 such assistants as may be required, and fix the compensation thereof,
3 and to purchase such supplies and materials as may be necessary from
4 the funds provided in this chapter. The commission is further empow-
5 ered to appoint one or more veterinarians in each county as assistants,
6 and fix the compensation thereof which may be collected of and paid
7 by the owner of the stock inspected by said veterinarians. Said veter-
8 inarians are hereby authorized to perform the work provided for in
9 chapter fifteen of this title under the direction of the commission of
10 animal health, and shall be furnished by said commission with the
11 necessary supplies and materials to carry out the provisions of chapter
12 fifteen of this title, and the commission and assistants herein provided
13 for are empowered to administer oaths or affirmations to any apprais-
14 ers appointed under chapter fifteen of this title.

[38 G. A., ch. 287, § 9.]

SEC. 1734. Appropriation.

1 It is hereby declared that the carrying out of the provisions of
2 sections seventeen hundred thirty-two to seventeen hundred fifty,
3 inclusive, is necessary for the public health and public welfare, and
4 there is hereby appropriated out of any money in the state treasury,
5 not otherwise appropriated, the sum of one hundred thousand dollars
6 annually.

[38 G. A., ch. 287, § 17.]

CHAPTER 15.

INFECTIOUS AND CONTAGIOUS DISEASES AMONG ANIMALS.

SECTION 1735. Sale or exposure of infected animals.

1 Every owner or person having charge of any animal, knowing the
2 same to have any infectious or contagious disease, who shall sell or
3 barter the same for breeding or dairy purposes or knowingly permit
4 such animal to run at large or come into contact with any other
5 animal or animals of another person, shall be punished by impris-
6 onment in the county jail for not less than ten nor more than thirty
7 days, or by a fine of not less than twenty-five dollars nor more than
8 one hundred dollars, and the seller or owner of such animal under the
9 conditions stated shall be liable to the purchaser to the extent of the
10 purchase price.

[38 G. A., ch. 287, § 7.]

SEC. 1736. Quarantine—destruction—rules.

1 The commission of animal health or its executive officer may
2 quarantine or kill any domestic animal infected with any such disease
3 referred to in section seventeen hundred forty-seven. Said commis-

4 sion may regulate or prohibit the arrival in, and departure from, the
 5 state of animals so infected or exposed to any highly contagious dis-
 6 ease, and in case of violation of any such regulation or prohibition,
 7 may detain any animal at its owner's cost. The commission of animal
 8 health may regulate or prohibit the bringing of domestic animals into
 9 the state, which, in its opinion, for any reason may injure the health
 10 of live stock therein. All rules and regulations adopted by the com-
 11 mission under authority of this and the preceding chapter shall be
 12 recorded in its minutes, and one week's published notice thereof shall
 13 be given by publication of said rules and regulations of the commis-
 14 sion in at least two daily papers with a wide circulation published in
 15 Iowa, except in such cases as the commission may deem immediate
 16 action necessary.

[38 G. A., ch. 287, § 4.]

SEC. 1737. Transportation of infected animals.

1 It shall be unlawful for any person or transportation company to
 2 bring into the state of Iowa, except to public live stock markets within
 3 the state of Iowa, under the jurisdiction of the federal bureau of ani-
 4 mal industry, or to take from any such live stock market in the state
 5 of Iowa any horses, mules, asses, cattle, sheep or swine, for work,
 6 breeding or dairy purposes, unless such animals have been examined
 7 and found free from the following contagious diseases: Glanders,
 8 farcy, tuberculosis, hog cholera, scabies, maladie du coit, or any other
 9 contagious or infectious diseases, which freedom from disease shall
 10 be established by a certificate of health signed by a veterinarian act-
 11 ing under the jurisdiction of the federal bureau of animal industry,
 12 or by a state veterinarian, or assistant state veterinarian, acting under
 13 the approval, order or discretion of the commission. A copy of such
 14 certificate shall be attached to the bill of lading accompanying the
 15 shipment, and a copy thereof shall be mailed to the secretary of the
 16 commission of animal health.

[38 G. A., ch. 287, § 14.]

SEC. 1738. Glanders.

1 The commission shall have full authority to cause the prompt
 2 destruction of any horses, mules or asses affected with glanders.
 3 Every owner or person having care and control of a horse or other
 4 animal having the glanders, who shall knowingly permit such animal
 5 to run at large or be driven upon any highway, or who shall sell or in
 6 any manner dispose of the same to any person, and every keeper of a
 7 public barn, who shall knowingly permit any horse or other animals
 8 having such disease to be stabled in such barn, shall be guilty of a
 9 misdemeanor and be punished by a fine of not less than twenty-five
 10 dollars or not more than one hundred dollars, or by imprisonment in
 11 the county jail for not less than ten or more than thirty days.

[38 G. A., ch. 287, § 5.]

SEC. 1739. Inspection of premises.

1 The commission of animal health, or any member thereof, or any
 2 of their duly authorized agents, shall at all times have the right to
 3 enter any premises, farms, fields, pens, abattoirs, slaughterhouses,
 4 buildings, cars or vessels where any domestic animal is at the time,
 5 or has been quartered, or wherever the carcass of one may be, for the

6 purpose of examining the animal carcass or premises in any way that
7 may be necessary to determine whether they are or were the subjects
8 of any contagious or infectious disease.

[38 G. A., ch. 287, § 8.]

SEC. 1740. Examination for tuberculosis — destruction — indemnity.

1 Owners of herds who desire to have their herds examined and
2 tested with a view to detecting the presence of tuberculosis, and with
3 a further view of freeing their herds from such disease, may apply
4 to the commission for testing and examination. A blank for such appli-
5 cation shall be furnished by the commission and shall include such an
6 agreement on the part of the person making the said application that
7 he will conform to and abide by the rules and regulations laid down
8 by said commission and follow the instructions of said commission
9 designated to prevent the reinfection of the herd and to suppress the
10 disease or prevent the spread thereof. Upon receiving such applica-
11 tion, or if herds or animals are examined on the commission's own
12 motion, the commission shall, as soon as practicable, cause such test
13 or an examination to be made.

14 If, after such an examination, tubercular animals are found
15 therein, the said commission shall have authority to order such dis-
16 position of them as it considers most desirable and economical. Before
17 being tested, such animals shall be appraised at their cash value for
18 breeding, dairy or beef purposes by a representative of the commis-
19 sion, or a representative of the United States bureau of animal indus-
20 try, or both together, with the owner. If these can not agree as to
21 the amount of the appraisal, there shall be appointed three competent
22 and disinterested men, one appointed by the commission, one by the
23 owner, and the third by the first two, to appraise such animals, which
24 appraisal shall be final.

25 The expense of such appraisal shall be borne by the state. In the
26 case of pure-bred cattle, the pedigree shall be proved by certificate of
27 registry from the herd books where registered. If it is deemed advis-
28 able to slaughter an animal reacting to the tuberculin test, the owner
29 shall be paid from the funds of the state treasury not otherwise appro-
30 priated, a sum equal to one-third of the difference between the pro-
31 ceeds from the sale of the salvage, which the owner receives, and the
32 appraised breeding value of the animal, provided the state does not
33 pay to the owner a sum in excess of eighty dollars for any pure-bred
34 animal and forty dollars for any grade. In all cases, it is provided the
35 animal has been owned at least six months, in the state, by the appli-
36 cant, prior to the condemnation thereof.

[38 G. A., ch. 287, § 10.]

SEC. 1741. Cattle killed when funds available.

1 No cattle infected with tuberculosis shall be killed without the
2 owner's consent under the provisions of this chapter unless there
3 shall be funds in the treasury, remaining from the aforesaid appro-
4 priation after all prior claims are paid.

[38 G. A., ch. 287, § 18.]

SEC. 1742. Isolation of infected animal.

1 If, after examination, an animal is, in the judgment of the officer
2 or agent of the commission making the examination, affected with
3 tuberculosis, and if the commission deems that a due regard for the
4 public health warrants it, said commission may enter into a written
5 agreement with the owner subject to such conditions as the commis-
6 sion may prescribe, for the separation and quarantine of such diseased
7 animal or animals. Subject to the regulations of the commission, such
8 diseased animal or animals may continue to be used for breeding
9 purposes.

[38 G. A., ch. 287, § 11.]

SEC. 1743. Accrediting approved herds.

1 When the commission deems that the conditions warrant it, said
2 commission may make provisions for accrediting such herds as have
3 their approval. When voluntary application has been made to the
4 said commission for the testing of either dairy or pure-bred herds, as
5 provided in this chapter, the party making the application, after agree-
6 ing to the rules and regulations of the commission, shall not be
7 required to pay the expenses of said test or examination.

[38 G. A., ch. 287, § 12.]

SEC. 1744. Tuberculin.

1 The commission shall have control of the sale, distribution and
2 use of all tuberculin used in the state, and shall formulate regulations
3 for its distribution and use. Only such persons as are authorized by
4 the commission, and any regular practicing veterinary surgeon of the
5 state, shall be entitled to administer tuberculin to any animal included
6 under this chapter.

[38 G. A., ch. 287, § 13.]

SEC. 1745. Exceptions.

1 No provision of this chapter pertaining to tuberculosis shall be
2 applicable to cattle to be kept or sold for feeding purposes only, nor
3 to transportation of same.

[38 G. A., ch. 287, § 16.]

SEC. 1746. Cooperation with federal department.

1 The commission is hereby authorized to cooperate with and ar-
2 range for such assistance from the United States department of agri-
3 culture in carrying out the provisions of sections seventeen hundred
4 thirty-two to seventeen hundred fifty, inclusive, as they may deem
5 wise and just.

[38 G. A., ch. 287, § 18.]

SEC. 1747. Duty of local boards.

1 All local boards of health shall assist the commission of animal
2 health in the prevention, suppression, control and eradication of con-
3 tagious and infectious diseases among domestic animals, whenever
4 requested so to do by the secretary or any member thereof.

[38 G. A., ch. 287, § 3.]

SEC. 1748. Obstructing officers.

1 Every person, who shall wilfully oppose or obstruct a health offi-
2 cer, physician or veterinarian charged with the enforcement of the
3 health laws in performing any legal duty, shall be guilty of a misde-
4 meanor.

[38 G. A., ch. 287, § 6.]

SEC. 1749. Penalties and liabilities.

1 Any person, transportation company, corporation or agent
2 thereof violating any of the provisions of sections seventeen hundred
3 thirty-two to seventeen hundred forty-eight, inclusive, shall be guilty
4 of a gross misdemeanor, and upon conviction thereof, shall be fined for
5 each offense not less than five hundred dollars, nor more than one
6 thousand dollars, or be imprisoned for not more than one year. Such
7 transportation company, corporation or agent shall be liable in a civil
8 action to any person injured for the full amount of damages that may
9 result from the violation of said sections. Action may be brought in
10 any county in the state in which said animals are sold, offered for
11 sale, or delivered to purchaser, or anywhere they may be detained in
12 transit.

[38 G. A., ch. 287, § 15.]

SEC. 1750. Violations—penalties.

1 Any person or persons violating any of the provisions of sections
2 seventeen hundred thirty-two to seventeen hundred forty-eight, inclu-
3 sive, or any of the rules and regulations adopted under the authority
4 of said sections, except as otherwise stated, shall be guilty of a mis-
5 demeanor and shall be punished by fine of not less than one hundred
6 dollars or not more than five hundred dollars, or by imprisonment in
7 the county jail for not less than thirty days, nor more than six months.

[38 G. A., ch. 287, § 19.]

SEC. 1751. Sheep inspector.

1 The board of supervisors of any county, when notified in writing
2 by five or more sheep owners of such county that sheep diseased with
3 scab, or any other malignant, contagious disease, exist in such county,
4 shall, at any regular or special meeting, appoint a suitable person as
5 county sheep inspector, who shall take the oath of office, whose duties
6 shall be as hereinafter prescribed, and whose term of office shall be for
7 two years and until his successor is appointed and qualified.

[C., '97, § 2343.]

SEC. 1752. Treatment of diseased sheep.

1 It shall be the duty of the sheep inspector, upon the complaint of
2 three or more sheep owners that any sheep within his jurisdiction
3 have the scab or any other malignant, contagious disease, to imme-
4 diately inspect and report in writing the result of his inspection to
5 the county auditor, to be filed by him for reference by the board of
6 supervisors or any party concerned. And if he deem it necessary, in
7 order to prevent the spread of the disease to the sheep of the other
8 owners, he shall command the owner or agent to dip or otherwise treat
9 such diseased sheep, and shall inspect such diseased sheep every
10 month thereafter until such disease shall be eradicated.

[C., '97, § 2344.]

SEC. 1753. Expenses.

1 It shall be the duty of the sheep inspector to dip or otherwise
2 treat such diseased sheep, should the owner or agent refuse to do so,
3 and all costs, expenses and charges, together with a per diem of three
4 dollars per day, shall be charged against the owner of such sheep, and
5 shall be a lien thereon, and may be recovered in an action.

[C., '97, § 2345.]

SEC. 1754. Compensation.

1 Such compensation for the inspector shall be three dollars per
2 day, and shall be paid by the owner of the sheep, or his agent, if the
3 disease is found to exist. In case no disease is found to exist, the com-
4 plainants shall pay such fee.

[C., '97, § 2346.]

SEC. 1755. Inspection of sheep from outside state.

1 Upon the arrival of any flock of sheep within the state from a
2 distance of more than twenty miles outside the boundaries of the
3 state, the owner or agent shall notify the inspector of the county in
4 which such sheep are being held, and he shall inspect the flock at the
5 expense of the owner or agent; and if the sheep are found sound shall
6 furnish the owner or agent a certificate, which shall be a passport to
7 any part of the state; but sheep in transport on board of railroad cars,
8 or passing through the state on such cars, shall not come within the
9 provisions of this section. Any violation of, or failure to comply with,
10 the provisions of this and the four preceding sections by the owner of
11 any sheep shall subject him to a forfeiture of not to exceed one
12 hundred dollars, which shall be a lien on such sheep, and shall be
13 recovered in an action by the county attorney in the name and for the
14 use of the county.

[C., '97, § 2347.]

SEC. 1756. Importing diseased sheep.

1 If the owner of sheep, or any person having the same in charge,
2 knowingly import or drive into this state sheep having any contagious
3 disease; or knowingly turn out or suffer any sheep having any con-
4 tagious disease to run at large upon any common, road or uninclosed
5 lands; or sell or dispose of any sheep, knowing the same to be so dis-
6 eased, he shall be fined in any sum not less than fifty nor more than
7 one hundred dollars.

[C., '73, § 4055; C., '97, § 5012.]

SEC. 1757. Importing diseased horses and mules.

1 If any person knowingly import or bring within the state any
2 horse, mule or ass affected by the diseases known as nasal gleet, gland-
3 ers or button-farcy, or suffer the same to run at large upon any com-
4 mon, road or uninclosed land, or use or tie the same in any public
5 place, or off his own premises, or sell, trade or offer for sale or
6 trade any such animal, knowing the same to be so diseased, he shall
7 be fined not less than fifty nor more than five hundred dollars, or be
8 imprisoned not to exceed one year in the county jail, or both.

[C., '73, § 4056; C., '97, § 5013.]

SEC. 1758. Allowing diseased horses and mules to run at large.

1 If any horse, mule or ass reasonably supposed to be diseased with
 2 nasal gleet, glanders or button-farcy be found running at large with-
 3 out any known owner, it shall be lawful for the finder thereof to take
 4 such animal, so found, before some justice of the peace, who shall
 5 forthwith cause the same to be examined by some veterinary surgeon,
 6 or other person skilled in such diseases, and if, on examination, it is
 7 ascertained to be so diseased, it shall be lawful for such justice of the
 8 peace to order such diseased animal to be immediately destroyed and
 9 buried; and the necessary expense accruing under the provisions of
 10 this section shall be defrayed out of the county treasury.

[C., '73, § 4057; C., '97, § 5014.]

SEC. 1759. Importing diseased cattle into state.

1 Any person driving any cattle into the state, or any agent, serv-
 2 ant or employee of any railroad or other corporation who shall carry,
 3 transport or ship any cattle into this state, or any railroad company
 4 or other corporation or person who shall carry, ship or deliver any
 5 cattle into this state, or the owner, controller, lessee or agent or
 6 employee of any stockyard, receiving into such stockyard, or in any
 7 other inclosure for the detention of cattle in transit or shipment or
 8 reshipment or sale any cattle brought or shipped in any manner into
 9 this state, which at the time they were either driven, brought, shipped
 10 or transported into this state, were in such condition as to infect with
 11 or to communicate to other cattle pleuro-pneumonia, or splenic or
 12 Texas fever, shall be fined not less than three hundred and not more
 13 than one thousand dollars, or be imprisoned in the county jail not
 14 exceeding six months, or both. This section shall not apply to ship-
 15 ments of cattle to points within the state of Iowa for immediate
 16 slaughter, when made in compliance with regulations of the United
 17 States department of agriculture.

[C., '73, § 4058; C., '97, § 5020; S. S., '15, § 5020.]

SEC. 1760. Action for damages.

1 Any person who shall be injured or damaged by any acts pro-
 2 hibited in the preceding section, in addition to the remedy therein
 3 provided, may recover the actual damages sustained by him from
 4 the person, agent, employee or corporation therein mentioned, and
 5 neither said criminal proceeding nor said civil action shall be a bar to
 6 a conviction or to a recovery in the other.

[C., '73, § 4059; C., '97, § 5021.]

SEC. 1761. Importation of registered cattle.

1 The importation of registered cattle or cattle eligible to registry
 2 for breeding and dairy purposes into this state is hereby prohibited,
 3 except when such cattle are accompanied with a certificate from an
 4 inspector whose competency and reliability are certified to by the
 5 authority charged with the control of domestic animals in the state
 6 from whence the cattle came, certifying that said cattle have been
 7 examined and subjected to the tuberculin test within sixty days next
 8 preceding the date of such importation, and are free from disease.

[S., '13, § 5028-j.]

SEC. 1762. Detention and inspection—quarantine.

1 In lieu of an inspection certificate as required in the preceding
2 section, cattle may be detained at suitable stockyards or other inclo-
3 sure within this state nearest to the state line, on the railroad or
4 highway over which they were shipped, driven or hauled, and there
5 examined at the expense of the owner, or may be shipped or driven to
6 their destination under quarantine, there to remain in quarantine
7 until properly examined at the expense of the owner, and released by
8 the state veterinary surgeon. Such expense shall be a lien upon the
9 cattle.

[S., '13, § 5028-k.]

SEC. 1763. Penalty.

1 Any person, firm, company, corporation or agent thereof, violat-
2 ing any of the provisions of the two preceding sections shall be guilty
3 of a misdemeanor, and upon conviction thereof shall be fined for each
4 offense not more than one hundred dollars, or be imprisoned in the
5 county jail not more than thirty days, or both fined and imprisoned,
6 at the discretion of the court. Such person, firm, company, corpora-
7 tion or agent shall be liable for the full amount of damages that may
8 result from the violation of the two preceding sections. Action may
9 be brought in any county in which said cattle are sold, offered for sale
10 or delivered to a purchaser, or in which they may be detained in
11 transit.

[S., '13, § 5028-l.]

SEC. 1764. Enforcement.

1 It shall be the duty of the state veterinary surgeon to enforce
2 the provisions of the three preceding sections.

[S., '13, § 5028-m.]

SEC. 1765. Regulations accepted.

1 The governor is hereby authorized to accept, on behalf of the
2 state, any rules and regulations prepared by the secretary of agri-
3 culture of the United States for the eradication of hog cholera or
4 swine plague, in one or more counties of this state, and he, together
5 with the state veterinary surgeon, may cooperate with the government
6 of the United States for the objects of the following sections of this
7 chapter.

[C., '97, § 2350.]

SEC. 1766. Federal inspectors.

1 The inspectors of the bureau of animal industry of the United
2 States department of agriculture shall have the right of inspection,
3 quarantine and condemnation of animals affected with hog cholera or
4 swine plague, or suspected to be so affected, or that have been exposed
5 to this disease, and for these purposes are hereby authorized and
6 empowered to enter upon any ground or premises. It is hereby made
7 the duty of sheriffs, constables and peace officers to assist such
8 inspectors when so requested; and said inspectors shall have the same
9 powers and protection as peace officers while engaged in the discharge
10 of their duties.

[C., '97, § 2351.]

SEC. 1767. Diseased animals destroyed—compensation.

1 When any swine in the district specified in the regulations are
2 found to be affected with or to have been exposed to hog cholera or
3 swine plague, said swine may be condemned and destroyed; and the
4 owners of all swine destroyed under the provisions of sections seven-
5 teen hundred sixty-five to seventeen hundred sixty-nine, inclusive,
6 shall be entitled to receive a reasonable compensation therefor, but
7 not more than the actual value in the condition when condemned. In
8 case of failure on the part of the inspector and the owner to agree as
9 to the amount of compensation, the swine shall be appraised by a
10 board of citizens of this state, one of whom may be appointed by the
11 inspector, one by the owner of the swine, and the two thus appointed
12 shall select a third, and these together shall proceed to appraise the
13 amount to be paid to the owner for the animals destroyed. Such
14 appraisals shall be made under oath, and shall be final when the value
15 of the animals does not exceed one hundred dollars, but in all other
16 cases either party shall have the right of appeal to the district court,
17 but such appeal shall not delay the destruction of the diseased or
18 exposed animals.

[C., '97, § 2352.]

SEC. 1768. Expenses.

1 All expenses of quarantine, condemnation and destruction of
2 swine under the provisions of sections seventeen hundred sixty-five to
3 seventeen hundred sixty-nine, inclusive, and the expenses of any and
4 all measures that may be used to eradicate hog cholera, shall be paid
5 by the United States, and in no case shall this state be liable for any
6 damages or expenses of any kind under the provisions of said sections.

[C., '97, § 2353.]

SEC. 1769. Penalty.

1 Any person violating any order of quarantine made under the
2 four preceding sections, or any regulations prescribed by the secretary
3 of agriculture and accepted by the governor of this state for the
4 eradication of hog cholera, shall be guilty of a misdemeanor, and upon
5 conviction shall be punished by a fine of not less than twenty-five
6 dollars nor more than one hundred dollars.

[C., '97, § 2354.]

CHAPTER 16.**FOOT AND MOUTH DISEASE.****SECTION 1770. "Foot and Mouth" disease—losses paid.**

1 Where live stock has been killed by order of the state veterinarian
2 and officers of the federal government on account of the disease known
3 as "foot and mouth" disease, the owners may file with the secretary of
4 the state board of audit a verified statement itemized so as to show the
5 number and kind of animals so killed and the appraised value of each
6 of such animals as fixed by the state and federal authorities under
7 the appraisement rules prescribed by the federal government. The

8 state board of audit shall examine such statements so filed and allow
 9 for each animal killed an amount equal to the appraised value thereof
 10 less the amount paid by the federal government.

[S. S., '15, § 2538-1a.]

SEC. 1771. Claims for services and expenses.

1 Any person who has rendered or who shall hereafter render serv-
 2 ice or incur expense at the requests of the state veterinarian in con-
 3 nection with the quarantine, care, destruction or burial of the stock
 4 in any districts under quarantine for the disease herein referred to,
 5 may file with the secretary of the state board of audit a verified and
 6 itemized statement of his claim for such services and expenses, which
 7 statements shall bear the personal approval of the state veterinarian
 8 and of the persons for and on account of whom such services were
 9 rendered. The state board of audit shall examine such statements so
 10 filed and allow to any claimant hereunder such amount as in its judg-
 11 ment is equitable, unless such person shall have received pay for such
 12 services from the federal government or owner of the stock, and in
 13 that event the amount received by such person from the federal gov-
 14 ernment or owner of the stock shall be deducted from the account,
 15 but in no event to exceed five dollars for services for each full calendar
 16 day for which claim is made.

[S. S., '15, § 2538-2a.]

SEC. 1772. Additional proof—disallowance.

1 The state board of audit may call for further and additional
 2 proof on any claim herein provided for and may disallow any claim
 3 for services and expenses filed as provided in the preceding section.

[S. S., '15, § 2538-3a.]

SEC. 1773. Fraud—penalty.

1 Any person filing any claim as herein provided for with intent to
 2 defraud or to recover an amount in excess of that to which such person
 3 shall be lawfully entitled, shall, on conviction thereof, be imprisoned
 4 in the county jail not to exceed one year, or be fined not to exceed one
 5 thousand dollars, or both.

[S. S., '15, § 2538-4a.]

SEC. 1774. Appropriation.

1 For the purpose of carrying out the provisions of the preceding
 2 sections of this chapter, there is hereby appropriated out of any money
 3 in the state treasury, not otherwise appropriated, the sum of one hun-
 4 dred thousand dollars, or so much thereof as may be necessary.

[S. S., '15, § 2538-5a.]

SEC. 1775. "Foot and Mouth" disease—appropriation.

1 There is hereby appropriated out of any money in the state treas-
 2 ury, not otherwise appropriated, the sum of fifty-two thousand, four
 3 hundred fifty-five dollars and fifty-two cents, or so much thereof
 4 as may be necessary, to reimburse all persons who have been damaged
 5 by reason of having stock killed by order of the state veterinarian or

6 the officers of the federal government for the purpose of preventing
7 the spread of the disease known as the "foot and mouth" disease.
[S. S., '15, § 2538-6a.]

SEC. 1776. Claims for stock killed.

1 Every person who has suffered damages by reason of his stock
2 having been killed in this state by order of the state veterinarian and
3 officers of the federal government by reason of the disease above
4 referred to, and who shall file with the state board of audit an item-
5 ized, verified account showing the number of head of stock of each
6 kind killed, together with a certificate of the state veterinarian show-
7 ing the appraised value of such stock as fixed by the state and federal
8 authorities, shall be entitled to receive one-half of the appraised value
9 thereof.

[S. S., '15, § 2538-7a.]

SEC. 1777. Allowance of claims.

1 Immediately upon receiving the verified, itemized account of any
2 person, together with the certificate of the state veterinarian as
3 above provided, the state board of audit shall audit such account, and
4 if found to be correct shall require the auditor of state to forthwith
5 issue warrant therefor in such amount as the claimant may be
6 entitled to under the provisions of the two preceding sections.

[S. S., '15, § 2538-8a.]

CHAPTER 17.

HOG CHOLERA SERUM AND OTHER BIOLOGICAL PRODUCTS.

SECTION 1778. Biological products—license—sale—penalty.

1 The commission of animal health shall have the power to make
2 such rules and regulations governing the manufacture of serum and
3 other biological products for use on domestic animals in laboratories
4 located within the state, and doing an intrastate business, as it deems
5 necessary to maintain the potency and purity of their products.

6 It shall have the right, and it shall be their duty through a duly
7 appointed inspector, to make such inspection of commercial plants
8 and of all distributing agencies representing serum manufacturers
9 located outside of the state doing business under a state permit as
10 will insure a full compliance with the rules and regulations made to
11 govern same. A person, firm, company or corporation, before selling
12 or offering for sale within this state any antihog cholera serum shall
13 first make application to the commission of animal health for permis-
14 sion to sell the same in the state.

15 Said application shall give the name of said person, firm, com-
16 pany or corporation with its place or places of business. Such other
17 information and samples of serum and other biological products shall
18 be furnished whenever required by the commission of animal health.

19 If the commission of animal health is satisfied that said person,
20 firm, company or corporation is fit, proper and reliable, they shall
21 issue to said person, firm, company or corporation a permit to sell said
22 serum within the state for a period of one calendar year or part

23 thereof, for which permit they shall collect the sum of fifteen dollars,
 24 which money shall be deposited in the state treasury for the use of
 25 the commission of animal health. Said permit may at any time be
 26 canceled or suspended by said commission of animal health when it
 27 becomes evident to them that the terms on which it was issued are
 28 being violated.

29 No antihog cholera serum or other biological products shall be
 30 sold or offered for sale or use or be used in this state which have
 31 not been produced at a plant holding a valid United States government
 32 license for the manufacture and sale of antihog cholera serum and
 33 biological products at the time said antihog cholera serum and other
 34 biological products were made.

35 A permit shall be granted a distributing agency for the distribu-
 36 tion of antihog cholera serum and hog cholera virus by the commis-
 37 sion of animal health on the same terms and subject to the same pro-
 38 visions as govern the granting of original permits.

[S. S., '15, § 2538-w3; 38 G. A., ch. 379, § 1.]

SEC. 1779. Virus—sale and distribution.

1 No person, firm, company or corporation shall distribute or sell
 2 any portion of virulent blood or virus from cholera-infected hogs
 3 except to holders of permits, to use the same, and shall report in writ-
 4 ing to the commission of animal health and under such regulations
 5 as they may issue.

6 No person shall use any portion of virulent blood or virus from
 7 cholera-infected hogs unless he has received special instructions in
 8 reference to such use of such virulent blood or virus which is satis-
 9 factory to the commission of animal health, and said commission has
 10 issued a permit to such person, which permit shall be issued by such
 11 commission of animal health to any person showing by examination
 12 or otherwise, under such rules as the commission may adopt, that he
 13 has received instruction in the use of such virus as to make him quali-
 14 fied to safely use the same, and such permit shall be canceled by said
 15 commission for cause which said commission may deem sufficient; but
 16 all virulent blood or virus used by such persons shall be reported to
 17 the commission of animal health in such manner as they may require.
 18 Any person, firm, company or corporation violating the terms herein
 19 stated shall be punished the same as provided for in section seventeen
 20 hundred eighty-one.

[S., '13, § 2538-w5; 37 G. A., ch. 329, § 1; 38 G. A., ch. 379,
 § 2.]

SEC. 1780. Seizure for examination.

1 The commission of animal health, or their duly qualified deputies
 2 or assistants, are hereby authorized to seize for examination, samples
 3 of any serum and other biological products and virus used and kept
 4 for use or for sale within this state, at any time or at any place, under
 5 the police regulations in force in this state. The commission of animal
 6 health shall have power to condemn or destroy any serum or virus
 7 which they deem to be unsafe.

[S., '13, § 2538-w6; 38 G. A., ch. 379, § 3.]

SEC. 1781. Unlawful sales.

1 Any person, firm, company or corporation offering or keeping for
 2 sale in this state any antihog cholera serum or other biological

3 products or virus in violation of the provisions of the three preceding
4 sections, or offering or keeping for sale any antihog cholera serum
5 and other biological products which are impotent, contaminated or
6 harmful, shall be fined in a sum of not less than one hundred dollars
7 nor more than five hundred dollars.

8 In default of the payment of such fine the individual, or, if it be a
9 company, firm or corporation offending, the managing agent or execu-
10 tive officer of such firm, company or corporation within the state, shall
11 be imprisoned in the county jail not less than thirty days nor more
12 than one hundred fifty days.

[S., '13, § 2538-w7; 38 G. A., ch. 379, § 4.]

SEC. 1782. Use—violation—penalty.

1 Any person, firm, company or corporation wilfully using or keep-
2 ing for use in this state any antihog cholera serum and other biolog-
3 ical products other than those manufactured at the state laboratory
4 or a plant operating under valid United States veterinary license, or
5 those sold by a holder of a valid permit issued by the commission of
6 animal health, or removing, defacing, or concealing the labels of the
7 bottles or packages of any antihog cholera serum or virus, or chang-
8 ing the contents from the original container except for immediate use,
9 shall be punished as provided for in the preceding section.

[S. S., '15, § 2538-w8; 38 G. A., ch. 379, § 5.]

SEC. 1783. Limitations of chapter.

1 No part of this chapter shall apply to the manufacture of antihog
2 cholera serum in the state biological laboratory or by the United
3 States department of agriculture.

[S., '13, §§ 2538-w9, 2538-w10, 2538-w11; S. S., '15,
§ 2538-w12; 38 G. A., ch. 379, § 6.]

CHAPTER 18.

USE AND DISPOSAL OF DEAD ANIMALS.

SECTION 1784. Disposing of dead animals.

1 No person, firm or corporation shall engage in the business of
2 disposing of the bodies of dead animals without first obtaining a
3 license so to do in the manner and upon the terms and conditions pro-
4 vided in this chapter.

[38 G. A., ch. 248, § 9.]

SEC. 1785. Definition.

1 Any person, firm or corporation which shall obtain from any other
2 person, firm or corporation, by purchase or otherwise, the body of
3 any animal for the purpose of obtaining the hide, skin or grease from
4 such dead animal in any way whatsoever, shall be deemed to have
5 engaged in the business of disposing of the bodies of dead animals and
6 shall be subject to all the provisions and penalties of this chapter.

[38 G. A., ch. 248, § 11.]

SEC. 1786. License to dispose of dead animals.

1 Any person, firm, or corporation desiring to engage in the busi-
2 ness of disposing of the bodies of dead animals by cooking, burying,
3 burning or feeding, or in any manner disposing of the same; and any
4 person, firm, or corporation in such business and desiring to continue
5 the same, shall procure from the commission of animal health of the
6 state of Iowa a license so to do, which license shall be for a period
7 of one year, and which license may be renewed annually as hereinafter
8 provided.

[38 G. A., ch. 248, § 1.]

SEC. 1787. Application for license—requirements.

1 Any person, firm, or corporation desiring a license to engage in
2 such business shall file with the state veterinarian of the state of
3 Iowa an application for such license. Such applicant shall, at the time
4 he files such application, pay to the commission of animal health the
5 sum of twenty-five dollars, which said sum shall be turned over and
6 paid to the state treasurer. The state veterinarian shall at once, in
7 person or by deputy, inspect the place where such applicant desires
8 to conduct such business, and shall ascertain whether or not such
9 applicant is a responsible and suitable person, firm or corporation to
10 be intrusted with a license to conduct such business. If the state vet-
11 erinarian shall find that such applicant is a responsible and suitable
12 person, firm or corporation to conduct such business, and that the
13 place where such business is to be conducted is a suitable and sanitary
14 place in which to dispose of the bodies of dead animals, and that the
15 same conforms to the rules and regulations made by the commission
16 of animal health, he shall issue to such applicant a certificate to that
17 effect.

18 Such applicant shall file such certificate with the commission of
19 animal health and shall pay through such commission to the state
20 treasurer the sum of twenty-five dollars for a license to conduct such
21 business. Upon the filing of such certificate and the payment of such
22 fees the commission of animal health shall issue a license to such
23 applicant.

24 In case the state veterinarian shall find that the place where such
25 applicant proposes to conduct such business is not a suitable and sani-
26 tary place in which to carry on such business, he shall notify the appli-
27 cant in what particulars such place fails to meet the requirements of
28 this chapter and of the rules and regulations of the commission of
29 animal health.

30 Upon being notified by the applicant that the defects in such
31 place have been remedied and that he believes that such place con-
32 forms to the requirements of this chapter and to said rules and regu-
33 lations, the state veterinarian shall make a second inspection, as
34 above provided; but the state veterinarian shall not be required to
35 make more than two inspections of the same place under one applica-
36 tion. In case such applicant is refused a license, no part of the fees
37 paid by him shall be repaid to him, but the same shall belong to the
38 general state fund.

39 Every person, firm, or corporation, that shall be licensed under
40 this chapter shall pay to the commission of animal health yearly for
41 the renewal of such license the sum of twenty-five dollars, which in
42 turn shall be paid by the commission of animal health to the treasurer

43 of the state of Iowa and upon such payment, inspection, and approval
44 of the commission of animal health the applicant shall have his former
45 license renewed for a period of one year.

[38 G. A., ch. 248, § 3.]

SEC. 1788. Disposal plants—burning and burial of animals.

1 No place shall be deemed a suitable or sanitary place for dispos-
2 ing of the bodies of dead animals unless it conforms to the following
3 specifications: A building adapted to the purposes intended, provided
4 with concrete or cement floors and provided with good drainage and
5 thoroughly sanitary, all to the approval of the state veterinarian. In
6 case such bodies are to be disposed of by cooking, the cooking vats
7 or tanks shall be air-tight except proper escapes or vents for live
8 steam used in cooking. Such steam shall be so disposed of as not to
9 cause unnecessary annoyance and so as not to cause a nuisance. All
10 skinning and dismembering of bodies shall be done within such build-
11 ing so that no annoyance shall be caused by the unsightly appearance
12 of such bodies. Such place shall be so situated, arranged and con-
13 ducted as not to interfere with the comfortable enjoyment of life
14 and property of the citizens of this state.

15 In case such bodies are disposed of by burying, they shall be
16 buried to such a depth that no part of any such body shall be nearer
17 than four feet to the natural surface of the ground, and every part
18 of such body or carcass shall be covered with quicklime and by at least
19 four feet of earth.

20 In case such bodies are disposed of by burning, the place for
21 such burning shall be so located, constructed and arranged as to cause
22 no annoyance to any of the citizens of this state by such burning and
23 so as not to essentially interfere with the comfortable enjoyment of
24 life and property. All parts of such bodies not entirely consumed by
25 such burning shall be disposed of by burying, as above provided, or
26 in such other manner as may be directed by the state veterinarian.
27 All carcasses of animals dying from disease or accident shall be dis-
28 posed of in the manner above provided within twenty-four hours after
29 death.

[38 G. A., ch. 248, § 4.]

SEC. 1789. Rules and regulations.

1 The commission of animal health shall make such reasonable
2 rules and regulations for the carrying on and conducting of such
3 business as it may deem advisable, and all persons, firms and corpo-
4 rations desiring to engage in such business, or being in such business,
5 shall conform to and obey such rules and regulations.

[38 G. A., ch. 248, § 5.]

SEC. 1790. Inspection before issuing certificate.

1 Before the commission of animal health shall issue to any person,
2 firm or corporation a certificate entitling him to a license under the
3 provisions of this chapter, the state veterinarian shall personally or by
4 deputy inspect the place where such business is to be conducted and
5 shall see that such place conforms to the specifications provided for
6 in section seventeen hundred eighty-eight and to the rules and regula-
7 tions of the commission of animal health.

[38 G. A., ch. 248, § 6.]

SEC. 1791. Certificate filed by applicant.

1 No such license shall be issued to any person, firm, or corpora-
 2 tion until the applicant for such license shall have filed with the com-
 3 mission of animal health a certificate signed by the state veterinarian
 4 of Iowa setting forth that such applicant is a responsible person, firm
 5 or corporation; that the applicant has a suitable and sanitary place
 6 in which to dispose of the bodies of dead animals; that such place
 7 conforms to the rules and regulations established by the commission
 8 of animal health and that such applicant is entitled to a license.

[38 G. A., ch. 248, § 2.]

SEC. 1792. Annual inspection—revocation of license.

1 The state veterinarian, in person or by deputy, shall inspect each
 2 place licensed under this chapter at least once each year, and as often
 3 as he deems necessary, and shall see that the licensee conducts the
 4 business in conformity to this chapter and to the rules and regula-
 5 tions made and established by the commission of animal health. For
 6 a failure or refusal to obey the provisions of this chapter or said rules
 7 and regulations by any licensee, the commission of animal health shall
 8 suspend or revoke the license held by such licensee.

[38 G. A., ch. 248, § 7.]

SEC. 1793. Blanks.

1 Proper blank applications for license and blank certificates of
 2 the state veterinarian shall be provided and furnished free to appli-
 3 cants by the secretary of the commission of animal health.

[38 G. A., ch. 248, § 8.]

SEC. 1794. Transportation of dead animals.

1 Any person, firm or corporation holding a license under the pro-
 2 visions of this chapter may haul and transport the carcasses of hogs
 3 and other animals that have died from disease, except those pro-
 4 hibited by the commission of animal health, in a covered wagon bed
 5 or tank which is water-tight and is so constructed that no drippings
 6 or seepings from such carcasses or hogs can escape from such wagon
 7 bed or tank; provided, however, such wagon bed or tank shall be so
 8 constructed as to conform to the rules and regulations that may be
 9 established by the commission of animal health and said carcasses
 10 shall not be moved from said wagon bed or tank except at the place
 11 of final disposal.

[38 G. A., ch. 248, § 10.]

SEC. 1795. Dead bodies—duty to dispose of.

1 It shall be unlawful for any person caring for or owning live stock
 2 or swine that have died to allow the carcasses to lie about the fields,
 3 yards, pens, and hog houses. Such carcasses shall be disposed of
 4 within twenty-four hours from such death by cooking, burying, or
 5 burning as provided in section seventeen hundred eighty-eight, or
 6 by disposing of them to a state licensed person, firm, or corporation
 7 authorized to render such carcasses under the rules and regulations
 8 of the commission of animal health.

[38 G. A., ch. 248, § 12.]

SEC. 1796. Penalty.

1 Any person, firm or corporation which shall violate any of the
 2 preceding provisions of this chapter shall be guilty of a misdemeanor
 3 and, upon conviction, shall be fined in any sum not less than fifty
 4 dollars nor more than five hundred dollars to which may be added
 5 imprisonment in the county jail for a period of time not less than
 6 ten days nor more than ninety days or both.

[38 G. A., ch. 248, § 13.]

SEC. 1797. Swine dying from disease.

1 The owner or person having charge of any swine any of which
 2 die or are killed on account of any disease, shall upon such fact
 3 coming to his knowledge, immediately burn the same.

[C., '97, § 5015.]

SEC. 1798. Dealing in dead swine.

1 No person shall buy, sell, deal in or give away, or offer to buy,
 2 sell or deal in any swine that have died of any disease, or that have
 3 been killed on account of any disease.

[S., '13, § 5016-a.]

SEC. 1799. Conveying along highway.

1 No person shall convey upon or along any public highway or other
 2 public ground, or any private land except that owned or leased by
 3 him, any diseased swine, or swine that have died of or have been
 4 killed on account of any disease. Upon the trial for the violations of
 5 the provisions of this section, the proof that any person has hauled
 6 or is hauling dead swine from a neighborhood in which swine have
 7 been dying, or are at the time dying, from any disease, shall be pre-
 8 sumptive evidence of his guilt.

[C., '97, § 5017.]

SEC. 1800. Allowing diseased hogs to escape.

1 It shall be unlawful for any person negligently or wilfully to allow
 2 his hogs or those under his control, infested with any disease, to
 3 escape his control or run at large.

[C., '97, § 5018.]

SEC. 1801. Penalty.

1 Any person violating or failing to comply with any provision of
 2 the four preceding sections shall be fined not less than five nor more
 3 than one hundred dollars, or be imprisoned in the county jail not to
 4 exceed thirty days, or both.

[C., '97, § 5019.]

CHAPTER 19.
REGISTRATION OF ANIMALS.**SECTION 1802. Stallions and jacks.**

1 No person, firm, company or corporation shall offer for public
 2 service, sale, exchange or transfer in this state as registered any stal-

3 lion or jack over two years old unless and until he shall have caused
 4 the name, age, color and pedigree of the animal to be enrolled by the
 5 secretary of the state board of agriculture and shall have procured
 6 from him a certificate of such enrollment. The secretary of the state
 7 board of agriculture shall recognize as registered only such animals
 8 as have been recorded in some stud book recognized by the depart-
 9 ment of agriculture of the state of Iowa, and the certificate of pedi-
 10 gree shall accompany the application for enrollment. The state of
 11 Iowa shall be paid the sum of one dollar for each annual certificate of
 12 soundness issued by the secretary of the state board of agriculture
 13 according to the methods hereinafter provided.

[S., '13, § 2341-f.]

SEC. 1803. Examination—certificate renewed—false report.

1 The owner or keeper of each and every stallion or jack over two
 2 years old kept for public service, sale, exchange or transfer shall cause
 3 said stallion or jack to be examined by a duly qualified veterinarian
 4 who shall be a graduate of a recognized college and registered as a
 5 graduate veterinarian by the Iowa board of veterinary examiners, or
 6 veterinarian licensed by said board, who shall make affidavit that such
 7 animal is free from hereditary, infectious, contagious or transmissible
 8 disease or unsoundness, and shall file the same with the secretary of
 9 the state board of agriculture. Any veterinarian who knowingly or
 10 wilfully makes a false report upon the disease or freedom from dis-
 11 ease, or soundness or unsoundness of the animal brought to him for
 12 examination or who fails to file with the department of agriculture a
 13 report of his findings on all stallions and jacks he is called upon to
 14 examine in accordance with the provisions of this chapter shall be
 15 punished by the revocation of his veterinarian certificate. The owner
 16 or keeper of each and every stallion or jack over two years old kept
 17 for public service or for sale, exchange or transfer shall between the
 18 dates of January first and April first of each year after their first
 19 enrollment make application for the renewal of the certificate in the
 20 form and manner as above described.

[S. S., '15, § 2341-g.]

SEC. 1804. Disqualification.

1 The presence of any one of the following named diseases shall
 2 disqualify a stallion or jack for public service and no state certificate
 3 shall be issued by the secretary of the state board of agriculture:
 4 . Glanders, farcy, maladie du coit (dourine), coital exanthema, urethral
 5 gleet, mange, melanosis, blindness, cataract and periodic ophthalmia
 6 (moon blindness).
 7 Stallions or jacks possessing any of the following named unsound-
 8 nesses may receive a state certificate but each certificate and every
 9 advertisement shall state in large type or writing that the stallion or
 10 jack is unsound and shall specify the unsoundness or unsoundnesses
 11 which said stallion or jack has: Amaurosis, laryngeal hemiplegia
 12 (roaring or whistling), pulmonary emphysema (heaves, broken wind),
 13 bog spavin, bone spavin, ringbone, side bone, navicular disease, curb,
 14 with curby formation of hock, chorea (St. Vitus' dance, crampiness,
 15 shivering, string halt). In cases where stallions or jacks possess
 16 any of the above named unsoundnesses in an aggravated or serious
 17 form, or if it is determined that any stallion or jack is transmitting

18 any of the said unsoundnesses, the department of agriculture may
 19 upon investigation and examination, as provided for in section
 20 eighteen hundred six, disqualify such stallion or jack from public
 21 service, if they consider him so unsound as to be unfit for breeding
 22 purposes.

[S. S., '15, § 2341-h.]

SEC. 1805. Posting certificate—grade stallion.

1 Any owner or keeper of a registered stallion or jack over two
 2 years old offered for public service or for sale, exchange or transfer
 3 who represents or holds such animal as registered, shall keep a copy
 4 of the state certificate of enrollment and certificate of soundness upon
 5 the door or stall of the stable where such animal is usually kept, and
 6 where such animals are advertised each and every advertisement shall
 7 contain a copy of such certificates or the substance thereof. Where
 8 state certificate of enrollment has heretofore been issued by the state
 9 board of agriculture an additional state certificate of enrollment shall
 10 not be required, but application for certificate of soundness shall be
 11 made as hereinbefore provided. Any owner or keeper of a stallion or
 12 jack over two years old other than registered offered for public service
 13 or for sale, exchange or transfer must secure certificates of soundness
 14 from the secretary of the state board of agriculture and advertise said
 15 stallion or jack by having and posting handbills or posters not less
 16 than five by seven inches in size, and said bills or posters must have
 17 printed thereon, immediately preceding or above the name of the
 18 stallion the words "grade stallion" or jack in type not smaller than
 19 one inch in height, said bills or posters to be posted in a conspicuous
 20 manner at all places where the said stallion or jack is kept for public
 21 service, sale, exchange or transfer, together with a copy of the
 22 certificate of soundness issued by the secretary of the state board of
 23 agriculture, and where such animals are advertised each and every
 24 advertisement shall contain a copy of the said certificate or the sub-
 25 stance thereof and the words "grade stallion" (or jack).

[S. S., '15, § 2341-i.]

SEC. 1806. Examination upon complaint—expenses.

1 When complaint is made to the state board of agriculture that a
 2 stallion or jack is diseased and on investigation it is by the depart-
 3 ment deemed necessary, an examination shall be made by the state
 4 veterinarian or his duly authorized deputy; the owner of such stallion
 5 or jack shall select some recognized graduate or licensed veterinarian
 6 to act with the state veterinarian and the said veterinarian shall, on
 7 receipt of a notice, act jointly with the state veterinarian and these
 8 two shall appoint a third graduate or licensed veterinarian to act with
 9 them and their decision shall be final. In case all three or any two of
 10 the experts declare the stallion or jack is eligible to receive or retain
 11 a license, then the expense of the consultation shall be paid by the
 12 state board of agriculture out of funds collected for registration fees,
 13 or if three or any two of the experts declare the stallion or jack not
 14 to be eligible in accordance with the provisions of this chapter, the
 15 expense incurred shall be paid by the person owning the animal and
 16 it may be collected in the same manner as in any case of appeal in
 17 civil action.

[S., '13, § 2341-j.]

SEC. 1807. Transfer of certificate—fee.

1 If the owner of any stallion or jack shall sell, exchange or trans-
 2 fer the same, he shall file certificate, accompanying the same with a
 3 fee of fifty cents, with the secretary of the state board of agriculture,
 4 who shall, upon receipt of the original state certificate, properly
 5 transferred, and the required fee, issue a new certificate to the then
 6 new owner of the animal, and all fees provided by this chapter shall
 7 go into the treasury of the department of agriculture.

[S. S., '15, § 2341-k.]

SEC. 1808. Imported stallions or jacks—certificates—temporary.

1 Every person, firm, company or corporation importing from
 2 foreign countries any stallion or jack into the state of Iowa for use
 3 or public service, sale, exchange or transfer shall secure certificates
 4 of freedom from diseases and unsoundness from a duly qualified or
 5 licensed veterinarian in this state, certifying that said animal is free
 6 from any or all diseases and unsoundnesses enumerated in section
 7 eighteen hundred four. Said certificate must be filed with the secre-
 8 tary of the state board of agriculture, who shall issue a certified copy
 9 of said certificate of soundness without charge to said importer which
 10 shall serve as a temporary permit to offer said stallion for public
 11 service, sale, exchange or transfer until such time as original certifi-
 12 cate of pedigree can be produced and state certificate of enrollment and
 13 soundness issued. Said temporary permit shall be invalid after ninety
 14 days from date of issue.

[S., '13, § 2341-l.]

SEC. 1809. Admission from other states—certificates.

1 No stallion or jack shall be brought into the state of Iowa from
 2 any other state, except for exhibition or racing purposes, unless accom-
 3 panied by a certificate of soundness issued by a duly qualified veter-
 4 inarian who must be approved by the state veterinarian of the state in
 5 which the animal is purchased, such examination to cover all diseases
 6 and unsoundnesses specified in section eighteen hundred four. A copy
 7 of said certificate shall be filed with the secretary of the Iowa depart-
 8 ment of agriculture and one copy of said certificate shall accompany
 9 the bill of lading.

[S. S., '15, § 2341-m.]

SEC. 1810. Certificate for transportation—penalty.

1 No railroad company, transportation company or common carrier
 2 shall transport into the state of Iowa except for exhibition or racing
 3 purposes, any stallion or jack unless accompanied by a state veter-
 4 inarian's certificate as provided in section four of this act [35 G. A.,
 5 ch. 188]. Violation of this provision shall be punished as provided in
 6 section eighteen hundred twelve.

[S., '13, § 2341-n.]

Note.—The word "act" in the above section is retained because the reference does not pertain to the matter indicated.

SEC. 1811. Permanent certificate—fee.

1 Any stallion or jack having successfully passed veterinary exam-
 2 ination for soundness for two consecutive years shall be entitled to a
 3 permanent state certificate of soundness. The last examination must
 4 have been made within the year in which said certificate was granted,

5 but said permanent certificate must be returned each year to the
6 secretary of the state board of agriculture with a fee of one dollar
7 for renewal.

[S. S., '15, § 2341-o.]

SEC. 1812. False pedigrees—penalty for publishing.

1 Any person who shall fraudulently represent any animal, horse,
2 cattle, sheep, swine, goats and poultry to be registered, or any person
3 who shall post or publish or cause to be posted or published any false
4 pedigree or certificate of soundness, or shall use any stallion or jack
5 over two years old for public service, or sell, exchange or transfer
6 any stallion or jack over two years old, representing such animal to
7 be registered, without first having such animal registered, and obtain-
8 ing the certificate of enrollment and certificate of soundness from the
9 state board of agriculture, as hereinbefore provided, or who shall
10 violate any of the preceding provisions of this chapter, shall be guilty
11 of a misdemeanor, and be punished by a fine of not more than one
12 hundred dollars, or imprisoned in the county jail not exceeding thirty
13 days or by both fine and imprisonment.

[C., '97, § 2341; S. S., '15, § 2341-q; 38 G. A., ch. 262, § 1.]

SEC. 1813. Blindness—examination—certificate.

1 The owner of any blind stallion or jack may upon application have
2 the same examined at the expense of the owner of said animal by a
3 board of three examiners, one to be the state veterinarian or his duly
4 authorized deputy, one to be selected by the owner of the animal, who
5 shall be a graduate or licensed veterinarian, and these two shall
6 appoint a third graduate or licensed veterinarian who shall act with
7 them, and if upon examination and proof furnished, all three or any
8 two members of said board declare that such blindness was caused by
9 accident or disease not transmissible, then upon affidavit of said board
10 the secretary of the state board of agriculture shall be authorized to
11 issue a state certificate.

[S., '13, § 2341-p.]

CHAPTER 20.

LIEN FOR SERVICES OF ANIMALS.

SECTION 1814. Lien on progeny of stallion.

1 The owner or keeper of a stallion kept for public services who has
2 complied with sections twenty-three hundred forty-one-a, twenty-three
3 hundred forty-one-b, twenty-three hundred forty-one-c and twenty-
4 three hundred forty-one-d of the supplement to the code, 1907, shall
5 have a prior lien upon the progeny of such stallion to secure the
6 amount due such owner or keeper for the service of such stallion,
7 resulting in said progeny, provided that where such owner or keeper
8 misrepresents such stallion by false pedigree no lien shall be obtained.

[S., '13, § 2341-s.]

Note.—Reference to sections in supplement to code, 1907, is left in this section because, they having been repealed, the law is in doubt as to liens.

SEC. 1815. Limitation of lien.

1 The lien herein provided for shall remain in force for a period of
 2 six months from the birth of said progeny and shall not be enforced
 3 thereafter.

[S., '13, § 2341-t.]

SEC. 1816. Enforcement of lien.

1 The owner or keeper of such stallion may enforce the lien herein
 2 provided by placing in the hands of any constable an affidavit contain-
 3 ing a description of the stallion and a description of the dam and the
 4 time and terms of service, and said constable shall thereupon take
 5 possession of said progeny and sell the same for nonpayment of
 6 service fee by giving the owner of said progeny ten days' written
 7 notice, which notice shall contain a copy of the affidavit and a full
 8 description of the progeny to be sold, the time and hour when, and the
 9 place at which the sale will take place, and posting for the same length
 10 of time in three public places in the township of such owner's resi-
 11 dence a copy of such notice. If payment of the service fee and the
 12 costs are not made before the date thus fixed, the constable may sell
 13 at public auction to the highest bidder such progeny and the owner
 14 or keeper of the stallion may be a bidder at such sale. The constable
 15 shall apply the proceeds, first, in the payment of the costs, second, in
 16 the payment of the service fee. Any surplus arising from sale shall
 17 be returned to the owner of the progeny.

[S., '13, § 2341-u.]

SEC. 1817. Right of contest—injunction.

1 The right of the owner or keeper to foreclose, as well as the
 2 amount claimed to be due, may be contested by anyone interested
 3 in so doing, and the proceeding may be transferred to the district
 4 court, for which purpose an injunction may issue, if necessary.

[S., '13, § 2341-v.]

CHAPTER 21.
MARKING AND BRANDING OF ANIMALS.**SECTION 1818. Marks and brands.**

1 The board of supervisors of each county shall procure, at the
 2 expense of the county, a book for each civil township, to be in the
 3 custody of the township clerk, in which to record the marks and
 4 brands of horses, sheep, hogs and other animals.

[C., '51, § 920; R., '60, § 1555; C., '73, § 1479; C., '97, § 2334.]

SEC. 1819. Record.

1 Any person wishing to mark or brand his domestic animals with
 2 any distinguishing mark may adopt his own mark, and have a descrip-
 3 tion thereof recorded by the clerk of the township in which the owner
 4 lives, for which such clerk shall receive a fee of twenty-five cents.

[C., '51, §§ 921, 923; R., '60, §§ 1556, 1558; C., '73, §§ 1480,
 3809; C., '97, § 2335.]

SEC. 1820. Mark previously recorded.

1 No person shall adopt a mark or brand previously recorded to
 2 another person residing in the same township, nor shall the clerk
 3 record the same one to two persons, unless on their joint application.
 [C., '51, § 922; R., '60, § 1557; C., '73, § 1481; C., '97, § 2336.]

CHAPTER 22.**ESTRAYS AND TRESPASSING ANIMALS.****SECTION 1821. Meaning of terms.**

1 As used in this chapter, the term "owner," used with reference
 2 to animals, means anyone entitled to the present possession thereof,
 3 the one having care or charge of them, and the person holding the
 4 legal title to them, and as to land, the person having title thereto, or
 5 the lessee or occupant thereof; the term "stock" means cattle, horses,
 6 mules and asses; the term "animals" means all animals which may be
 7 distrained under this chapter; and "trespassing stock or animals"
 8 means those unlawfully upon land, or running at large contrary to law
 9 or police regulations.

[C., '97, § 2311.]

SEC. 1822. Male animals.

1 The owner of any stallion, jack, bull, boar or buck shall restrain
 2 the same, and any person may take possession of any such animal
 3 running at large in the county in which such person resides, or in
 4 which he occupies or uses real estate, and give notice thereof to any
 5 constable in the county where taken, who shall sell the animal so taken
 6 at public auction to the highest bidder for cash, having given ten
 7 days' notice of the time and place of sale, describing the property, by
 8 posting the same in three public places in the township wherein such
 9 animal was found at large. Out of the proceeds of sale he shall pay
 10 all costs and any damage done by said animal, to be investigated and
 11 determined by him, and pay the remainder into the county treasury
 12 for the use of the county. If legal proof be made to the county
 13 auditor by the owner of said animal of his right thereto at any time
 14 within twelve months from the sale, he shall order the proper amount
 15 to be paid to the owner out of any money in the treasury not other-
 16 wise appropriated. If the owner, or any person for him, shall, on or
 17 before the day of sale, pay the costs thus far made, and all damages,
 18 to be determined by the constable if the parties cannot agree, and
 19 make satisfactory proof of his ownership, the constable shall release
 20 the animal to him.

[C., '51, § 894; R., '60, § 1522; C., '73, § 1447; C., '97, § 2312.]

SEC. 1823. Distraint damage feasant—recovery.

1 Any animal trespassing upon land fenced as provided by law may
 2 be distrained by the owner of such land, and held for all damages done
 3 thereon by it, unless it escaped from adjoining land in consequence of
 4 the neglect of such landowner to maintain his part of a lawful parti-
 5 tion fence. The owner of the land from which such animal escaped
 6 shall also be liable for such damages if it escaped therefrom in conse-

7 quence of his neglect to maintain his part of a lawful partition fence,
 8 or if the trespassing animal was not lawfully upon his land, and he
 9 had knowledge thereof. If there be no lawful partition fence, and the
 10 line thereof has not been assigned either by the fence viewers or by
 11 agreement of the parties, any animal trespassing across such partition
 12 line shall not be distrained, nor shall there be any liability therefor.

[C., '51, §§ 913, 914; R., '60, §§ 1548, 1549; C., '73, §§ 1448,
 1449; C., '97, § 2313.]

SEC. 1824. Animals not permitted to run at large.

1 Swine, sheep and goats at all times, and, during the time and as
 2 required by a police regulation adopted according to law, stock shall
 3 be restrained from running at large. Animals thus prohibited from
 4 running at large, when trespassing on land, or a road adjoining
 5 thereto, may be distrained by the owner of such land, and held for
 6 damages done by them, and for the costs provided in this chapter; but
 7 stock shall not be considered as running at large so long as it is upon
 8 unimproved lands and under the immediate care and efficient control
 9 of the owner, or upon the public roads for travel or driving thereon
 10 under like care and control. But where a partition fence is required
 11 by law to be erected or maintained, stock escaping across such parti-
 12 tion line shall be dealt with as provided in the preceding section.

[R., '60, § 287; C., '73, §§ 1446, 1448, 1452; C., '97, § 2314.]

SEC. 1825. Recovery of damages.

1 Instead of distraining trespassing stock or animals, the injured
 2 person may recover all damages caused thereby in an action against
 3 the owner thereof, and may join therein the owner of the land from
 4 which it escaped, if he is liable therefor. If distrained stock or ani-
 5 mals escaped or are released without the consent of the distraining
 6 party, he may recover his damages as above provided, with costs,
 7 and the costs of distraint made prior to such escape or release.

[C., '51, § 913; R., '60, § 1548; C., '73, § 1448; C., '97, § 2315.]

SEC. 1826. Apportionment of damages.

1 If there is more than one owner of distrained stock or animals,
 2 each may pay his ratable share of the damages and costs, and release
 3 his animals. If the injured party elects to sue therefor, he may join
 4 in one action all or any of such owners who have not paid their propo-
 5 tion of the damages and costs.

[C., '73, § 1452; C., '97, § 2316.]

SEC. 1827. Assessment of damages—sale.

1 Within twenty-four hours after an animal has been distrained,
 2 Sunday not included, the person distraining, or his agent, shall notify
 3 the owner of the animal thereof, and, if he fails to satisfy the damages
 4 and costs, such person shall within twenty-four hours after such notice
 5 to the owner, verbally or in writing, request the township trustees to
 6 appear upon the premises to view and assess the damages. When two
 7 or more trustees have met, one of them having previously informed
 8 the owner of the animal of the time and place of meeting, they shall
 9 assess the damages and costs. If the owner of the distrained animal
 10 refuses or neglects for two days thereafter to pay the amount thus
 11 assessed, one of said trustees shall put up in three conspicuous places

12 in the township notices, describing the property, and naming a time
 13 and place of sale, which place shall be where the property is distrained,
 14 and time not less than five nor more than ten days thereafter, that
 15 said property will be sold between the hours of one and three o'clock
 16 in the afternoon. At the time and place of sale, one of said trustees
 17 shall offer for sale and sell the property at public outcry to the high-
 18 est bidder for cash, but no sale shall be made after having realized a
 19 sufficient sum with which to pay the damages and costs, any remain-
 20 ing animals unsold to be at once returned to the owner, and also the
 21 surplus remaining, if any, out of any sold. If for any reason a trust-
 22 tee can not sit, the remaining trustees may appoint any disinterested
 23 citizen having the qualifications of a juror to act in his place.

[C., '51, §§ 916, 918, 919; R., '60, §§ 1551, 1553, 1554; C., '73,
 § 1454; C., '97, § 2317.]

SEC. 1828. Assessment made—appeal.

1 The trustees shall make their assessment in writing, and file the
 2 same with the township clerk, which shall be recorded by him. Any
 3 person aggrieved by the action of the trustees may appeal to the
 4 district court of the county. The appeal bond, conditioned to pay all
 5 costs and damages, shall be filed with and the sureties approved by
 6 the township clerk, in a penalty double the value of the property dis-
 7 trained, or, if the value of the property exceeds the amount of the
 8 damages claimed, then double the amount of the damages and costs.
 9 Notice of such appeal shall be given within five days, and in the same
 10 manner as in appeals from a judgment of a justice of the peace. The
 11 appellant shall file an appeal bond within three days, Sunday not
 12 included, from the filing of the finding of the trustees, and, when an
 13 appeal is thus taken by the claimant, the distrained stock or animals
 14 shall be held for the satisfaction of such judgment as may be rendered
 15 on appeal, but the owner of said stock or animals may release the same
 16 at any time, before judgment, by filing with the township clerk before
 17 the appeal is certified, or with the clerk of the district court thereafter,
 18 a bond with sufficient sureties to be approved by the clerk with whom
 19 filed, conditioned to pay all damages and cost recovered in said cause
 20 on appeal. The clerk receiving such bond shall file the same, and forth-
 21 with certify the fact to the person having charge of the distrained
 22 stock or animals, who shall thereupon release the same to the owner.
 23 Where the owner appeals and files a bond, as herein provided, it shall
 24 operate as a supersedeas, and the distrained stock or animals shall be
 25 released to him. Within five days after the taking of the appeal, the
 26 township clerk shall make out a certified transcript of the record of
 27 the finding of the trustees, and file the same, together with the notice
 28 of appeal, if in writing, and the bond with the clerk of the district
 29 court.

[C., '73, § 1455; C., '97, § 2318.]

SEC. 1829. Escape or release—recapture.

1 If any distrained animal escape or is unlawfully released, the
 2 injured person may recapture the same, and proceedings under this
 3 chapter shall continue until the assessment of damages is made, which
 4 shall be conclusive, unless appealed from. Notice of the sale of such
 5 animal shall be given by the trustees as soon as possession thereof is
 6 regained by the distrainer, and the property sold accordingly, unless

7 he regains such possession before the day of sale as originally fixed,
8 in which event the property shall be sold under the first notice.

[C., '97, § 2319.]

SEC. 1830. Unlawful release.

1 If anyone, without leave of the person having any animal under
2 restraint, release the same, he shall be guilty of a misdemeanor.

[C., '97, § 2320.]

SEC. 1831. Estrays.

1 Any animal of an unknown owner running at large or trespassing
2 within a lawful inclosure is an estray, and may be taken up by any
3 householder in the county, except an unbroken animal between the
4 first day of May and the first day of November, where such unbroken
5 animal is not required to be restrained by a police regulation.

[R., '60, §§ 1511-1513; C., '73, §§ 1456, 1464; C., '97, § 2321.]

SEC. 1832. Taking up.

1 If any animal, liable to be taken up as an estray, comes upon any
2 householder's premises, any person may notify him of the fact, and,
3 if he fail to take up such estray for more than five days thereafter,
4 any other householder in the same township may take it up and pro-
5 ceed with it as if taken upon his own premises, if he shall produce
6 proof to a justice of the peace of the service of such notice. All per-
7 sons taking up stray animals shall state under oath before said justice
8 where the same were taken up.

[R., '60, §§ 1511-1513; C., '73, § 1465; C., '97, § 2322.]

SEC. 1833. Notices posted.

1 Any person taking up an estray shall within five days thereafter
2 post up a written notice in three of the most public places in the
3 township, which notice shall contain a full description of said animal,
4 and a statement as to where the same was taken up. Unless such
5 estray shall have been previously claimed by the owner, the person
6 taking it up shall within ten days go before a justice of the peace in
7 the township in which the estray was taken up, or, in case there is no
8 justice in the township, then before the next nearest justice in the
9 county, and make oath to the correctness of said notice, together with
10 a statement attached thereto as to whether the marks or brands of
11 said animal have been altered to his knowledge, either before or after
12 the same was taken up, which notice shall be recorded by the justice
13 in his estray book, and within five days forwarded by him to the
14 county auditor, who shall enter the same in the estray book in his
15 office, and shall cause a copy of said notice to be posted at the court-
16 house door.

[R., '60, §§ 1511-1513; C., '73, § 1466; C., '97, § 2323.]

SEC. 1834. Publication.

1 If the estray is stock, the auditor shall cause the notice to be pub-
2 lished once each week for three weeks in some newspaper in the
3 county.

[R., '60, §§ 1511-1513; C., '73, § 1468; C., '97, § 2324.]

SEC. 1835. Fees and expenses.

1 The person taking up an estray shall pay the fee of the justice
 2 for administering the oath, recording the notice in his estray book,
 3 and forwarding the notice to the auditor, and shall also pay to the
 4 justice, to be transmitted to the auditor, the fee of the auditor for
 5 entering the notice in his estray book, and for posting a copy of the
 6 notice, and also, if the estray is stock, the sum of one dollar and fifty
 7 cents to cover the expense of publishing the notice, which amount
 8 so paid in advance for fees and expenses, together with the compen-
 9 sation allowed by law, shall be refunded to the person taking up such
 10 estray by the owner of it, in case restitution is made to him. If two
 11 or more estrays are taken up at the same time by the same person,
 12 they shall be included in one notice, and but one fee shall be paid
 13 therefor, and if only a part of the stock thus included is restored to
 14 the owner, a proportionate amount of such fees and expenses shall be
 15 refunded.

[R., '60, § 1520; C., '73, §§ 3822, 3823; C., '97, § 2325.]

SEC. 1836. Property vests when.

1 If the estray be stock, and be not claimed by the owner within one
 2 year, or, being any other domestic animal, be not claimed by the
 3 owner within six months from the time it is taken up, the property
 4 therein shall vest in the taker-up, if he has complied with the pro-
 5 visions of this chapter.

[R., '60, § 1515; C., '73, §§ 1471, 1472; C., '97, § 2326.]

SEC. 1837. Recovery by owner.

1 At any time before the property in the estray vests in the person
 2 who has taken it up, the owner shall be entitled to recover possession
 3 of it on paying to the person who has taken it up the compensation
 4 to which he is entitled by law, and the fees and expenses which he has
 5 paid out in advance, together with any reward which has been offered
 6 by the owner, and a reasonable allowance for the expenses of keeping
 7 such estray, taking into account the use which the person taking up
 8 has had of it, which allowance shall be made by the justice of the peace
 9 before whom a proceeding to recover the animal shall be brought in
 10 the event the owner and the taker-up can not agree with reference
 11 thereto.

[C., '73, § 1474; C., '97, § 2327.]

SEC. 1838. Value recovered.

1 At any time within six months after the property in an estray
 2 has vested in the taker-up, the owner shall be entitled on demand to
 3 be paid by the said taker-up the value of the estray, not including any
 4 increased value which has accrued since it was taken up, after de-
 5 ducting therefrom the compensation, reward, fees and expenses re-
 6 ferred to in the preceding section; or the taker-up may, at his option,
 7 elect to surrender the estray, if still in his possession, in which case
 8 the owner must pay such compensation, reward, fees and expenses.

[C., '73, § 1475; C., '97, § 2328.]

SEC. 1839. Use or appropriation.

1 Any person legally taking up an estray may use or work it, if
 2 he does so with care and moderation, and does not abuse or injure it.

3 But if any person unlawfully take up any estray, or take up any estray
4 and fail to comply with any of the provisions of this chapter, or use
5 or work it in any manner contrary to this chapter, or work it before
6 having it appraised, or keep it out of the county for more than five
7 days at any one time before he acquires a title to it, he shall forfeit
8 to the county twenty dollars, to be sued for by any person in the
9 county; and the owner of the estray may also recover of such offender
10 double the amount of the injury sustained, with costs. Estrays
11 adapted thereto may be bred and milked by the taker-up.

[C., '73, § 1473; C., '97, § 2329.]

SEC. 1840. Finder not liable.

1 If any estray, legally taken up, escape from the finder or die
2 without any fault on his part, he shall not be liable for the loss.

[C., '73, § 1476; C., '97, § 2330.]

SEC. 1841. Penalty against finder.

1 If any person shall sell, trade or take out of the state any estray
2 before the legal title shall have vested in him, he shall forfeit to the
3 owner double its value, and shall also be guilty of a misdemeanor.
4 But the auditor may authorize the taker-up to transfer the estray to
5 another, who shall take the place of his predecessor.

[C., '73, § 1477; C., '97, § 2331.]

SEC. 1842. Penalty against officer.

1 If any printer, auditor or justice of the peace fail to perform the
2 duties enjoined upon him in this chapter in relation to estrays, he
3 shall forfeit to the county not less than five nor more than fifty dol-
4 lars, to be sued for by any person in the county.

[C., '73, § 1478; C., '97, § 2332.]

SEC. 1843. Bond to release.

1 Before any property held under this chapter vests in the taker-up
2 it may be released at once upon the owner giving to the holder a bond
3 to be approved by the justice of the peace before whom the proceed-
4 ings concerning the property have been had, conditioned to pay to the
5 holder of the property, within twenty days after such approval, all
6 costs and damages to which he is entitled on account of his action
7 and loss in the matter.

[C., '73, § 1486; C., '97, § 2333.]

SEC. 1844. Compensation and fees.

1 The compensation for services under this chapter shall be as
2 follows:

3 1. For distraining stock, fifty cents for each head not exceeding
4 two, and twenty-five cents for each additional head taken on one dis-
5 traint.

6 2. For distraining each stallion, jack or bull, one dollar; for dis-
7 training each boar or buck, fifty cents.

8 3. For distraining any other animals, twenty-five cents each, not
9 exceeding four, and ten cents for each additional head.

10 4. For keeping male stock named in section eighteen hundred

11 twenty-two, fifty cents a day, and all other stock twenty-five cents a
12 day, from the time the same is taken up.

13 5. For keeping any other animals, ten cents a day from the time
14 the same is taken up.

15 6. For posting notices and selling male animals, the same fees
16 as are allowed constables for like services upon execution.

17 7. For taking up as an estray one head of stock, fifty cents, and
18 twenty-five cents for each additional head at one time.

19 8. For taking up any other kind of estray animals, fifteen cents
20 each.

21 9. To the justice of the peace, for all services in each case of
22 taking up estrays, fifty cents.

23 10. To the county auditor, for all services in each case of estrays,
24 including posting and publishing notice, but not including the fee of
25 the printer, fifty cents.

26 11. To the township trustees, for posting notices, twenty-five
27 cents, and services not otherwise provided for, the same fees as are
28 allowed in assessing damages done by trespassing animals, with five
29 cents mileage each way.

30 12. To the township clerk, ten cents per each hundred words en-
31 tered of record, the same fees for a copy thereof, and in addition
32 twenty-five cents for his certificate thereto, and fifty cents for filing
33 and approving an appeal bond.

[C., '51, § 893; R., '60, § 1520; C., '73, §§ 3821, 3822; C., '97,
§ 2349.]

SEC. 1845. Abandoned animals.

1 Any person may take charge of any animal whose owner has
2 abandoned it, or fails to properly take care and provide for it, and
3 may furnish the same with proper shelter, nourishment and care at
4 the owner's expense, and shall have a lien on such animal for the same,
5 which, at the expiration of three months, shall become a perfect title
6 to the property.

[C., '73, § 1482; C., '97, § 2337.]

SEC. 1846. Food and water supplied.

1 In case any animal impounded or otherwise confined shall be with-
2 out necessary food or water for more than twelve successive hours, it
3 shall be lawful for any person, as often as necessary, to enter the
4 pound, inclosure or building, and supply it with necessary food and
5 water so long as it shall remain so confined, and the reasonable cost
6 of the same may be collected by him of the owner of the animal.

[C., '73, § 1483; C., '97, § 2338.]

SEC. 1847. Disabled animals killed.

1 The sheriff, constable, police officer, officer of any society for the
2 prevention of cruelty to animals, or any magistrate shall destroy any
3 horse or other animal disabled and unfit for further use.

[C., '73, § 1484; C., '97, § 2339.]

SEC. 1848. Dogs running at large.

1 It shall be unlawful for any dog to run at large within this state
2 between sunset and sunrise, except dogs while in the chase or accom-
3 panied by their owner or trainer.

[37 G. A., ch. 50, § 1.]

SEC. 1849. Registration of dogs—fee—penalty.

1 No dog owned or harbored by any person in this state shall be
 2 permitted to run at large between sunrise and sunset unless it has
 3 been registered by the county auditor and shall wear a collar bearing
 4 said registration number. A registration fee of fifty cents shall be
 5 charged by the county auditor who shall furnish a suitable tag bear-
 6 ing the registration number to be placed upon the collar of such dog.
 7 Any person who shall remove such registration number tag from the
 8 collar of a dog owned by any other person, without the express au-
 9 thority of the owner of such dog, shall be guilty of a misdemeanor,
 10 and shall be fined not less than ten dollars nor more than one hundred
 11 dollars and stand committed until the fine and costs are paid, not to
 12 exceed thirty days.

[37 G. A., ch. 50, § 2.]

SEC. 1850. Trespassing dogs may be killed—exception.

1 Any dog found at large and upon the lands of one other than its
 2 owner contrary to the provisions hereof shall be deemed a trespasser,
 3 and may be lawfully killed by the owner, agent, employee or occupant
 4 of said lands, provided, however, that nothing in the two preceding
 5 sections shall be deemed to apply to dogs owned or harbored within
 6 the limits of cities and incorporated towns having their own dog regu-
 7 lation while running at large within the limits of such city or town.

[37 G. A., ch. 50, § 3.]

SEC. 1851. When lawful to kill dogs.

1 It shall be lawful for any person to kill any dog caught in the act
 2 of worrying, maiming or killing any sheep or lamb, or other domestic
 3 animal, or any dog attacking or attempting to bite any person, and
 4 the owner shall be liable to the party injured for all damages done,
 5 except when the party is doing an unlawful act. The provisions of this
 6 section shall not apply to any damage done by a dog affected with
 7 hydrophobia.

[C., '73, § 1485; C., '97, § 2340; S., '13, § 2340.]

TITLE IX.

CHARITABLE, CORRECTIONAL AND PENAL INSTITUTIONS.

CHAPTER 1.

BOARD OF CONTROL OF STATE INSTITUTIONS.

SECTION 1852. Nomination—salaries—removal—vacancies.

1 The governor shall, prior to the adjournment of the twenty-
2 seventh general assembly, nominate and, with the consent of two-
3 thirds of the members of the senate in executive session, appoint three
4 electors of the state, not more than two of whom shall belong to the
5 same political party, and no two of whom shall reside at the time of
6 their appointment in the same congressional district, as members of
7 a board to be known as a board of control of state institutions. Said
8 members shall hold office, as designated by the governor, for two,
9 four, and six years, respectively. Subsequent appointments shall be
10 made as above provided and, except to fill vacancies, shall be for a
11 period of six years. The board shall at all times be subject to the
12 above limitations and restrictions. No nomination shall be consid-
13 ered by the senate until the same shall have been referred to a com-
14 mittee of five, not more than three of whom shall belong to the same
15 political party, to be appointed by the president of the senate without
16 the formality of a motion, which committee shall report to the senate
17 in executive session, which report shall be made at any time when
18 called for by the senate. The consideration of nominations, by the
19 senate, shall not be had on the same legislative day the nominations
20 are referred. The chairman of the board for each biennial period
21 shall be the member whose term first expires, and each member thereof
22 shall receive a salary of three thousand dollars per annum. The gov-
23 ernor may, by and with the consent of the senate, during a session of
24 the general assembly, remove any member of the board for malfea-
25 sance or nonfeasance in office, or for any cause that renders him inelig-
26 ible to appointment, or incapable or unfit to discharge the duties of his
27 office, and his removal when so made shall be final. When the general
28 assembly is not in session the governor may suspend any member so
29 disqualified, and shall appoint another to fill the vacancy thus created,
30 subject, however, to the action of the senate when next in session.
31 All vacancies on said board that may occur while the general assembly
32 is not in session shall be filled by appointment by the governor, which
33 appointment shall expire at the end of thirty days from the time the
34 general assembly next convenes, and vacancies occurring during a ses-
35 sion of the general assembly shall be filled as regular appointments
36 are made and before the end of said session.

37 The term of office of the member of the board whose term expires
38 April, nineteen hundred twelve, is hereby extended to June thirtieth,
39 nineteen hundred thirteen; the term of office of the member of the
40 board whose term expires April, nineteen hundred fourteen, is hereby

41 extended to June thirtieth, nineteen hundred fifteen; and the term of
 42 office of the member of the board whose term expires April, nineteen
 43 hundred sixteen, is hereby extended to June thirtieth, nineteen hun-
 44 dred seventeen.

[S., '13, § 2727-a1.]

SEC. 1853. Oath—bond—examination.

1 Each member of the board shall take the oath, and qualify, as
 2 required by section six hundred nine, and shall devote his whole time
 3 to the duties of his office. Before entering on the duties of his office,
 4 each member shall give an official bond in the sum of twenty-five thou-
 5 sand dollars, conditioned as provided by law, signed by sureties, to be
 6 approved by the governor, and, when so approved, said bonds shall be
 7 filed in the office of the secretary of state. No member of the board
 8 of control shall be eligible to any other lucrative office in the state
 9 during his term of service or for one year thereafter, or to any posi-
 10 tion in any state institution during the term for which he was ap-
 11 pointed, nor within one year after his term shall have expired.

12 The said board of control shall be subject to the examination of
 13 the joint committee on retrenchment and reform, created by section
 14 thirty-nine. The claim that any testimony or evidence sought to be
 15 elicited or produced on such examination may tend to criminate the
 16 person giving or producing it, or expose him to public ignominy, shall
 17 not excuse him from testifying or producing evidence, documentary
 18 or otherwise; but no person shall be prosecuted or subjected to penalty
 19 or forfeiture for and on account of any matter or thing concerning
 20 which he may testify or produce such evidence, provided that he shall
 21 not be exempted from prosecution and punishment for perjury com-
 22 mitted in so testifying.

[S., '13, § 2727-a2.]

SEC. 1854. Secretary—salary—supplies.

1 The board shall be provided by the proper authorities with suit-
 2 ably furnished offices at the seat of government, and shall employ a
 3 competent secretary, who shall receive a salary not to exceed two
 4 thousand five hundred dollars per annum, and may also hire a stenog-
 5 rapher and such other employees as may be necessary. In the absence
 6 or disability of the secretary, and the business of the board requires
 7 it, the board of control may appoint a member of the board as acting
 8 secretary during such absence or disability, who shall at such time
 9 have the powers of the secretary of the board. Said appointment
 10 shall be made of record in the proceedings of the board, and no addi-
 11 tional compensation shall be paid because of the service of such acting
 12 secretary.

13 This board shall, by the proper authorities, be also furnished with
 14 all necessary books, blanks, stationery, printing, postage stamps, and
 15 such other office supplies as are furnished other state officers. It shall
 16 present to each general assembly an itemized account of its expendi-
 17 tures, to the end that the legislature may, for the future, fix the maxi-
 18 mum amount of such expenditures.

[S. S., '15, § 2727-a3.]

SEC. 1855. Official seal.

1 The board shall have an official seal, and every commission, order,
 2 or other paper executed by the board may, under its direction, be

3 attested with its seal affixed, by the secretary, or any member of the
4 board.

[S., '13, § 2727-a7.]

SEC. 1856. Traveling expenses.

1 In addition to the salaries paid the members of the board and the
2 secretary or other employees, they shall be entitled to the necessary
3 traveling expenses, by the nearest traveled and practicable route, in-
4 curred in going from Des Moines to the different institutions, or to
5 other places in the state, when on official business.

6 No expenditure for traveling expenses to other states shall be
7 made by the board, or by any officer or agent thereof, or by any officer,
8 employee, or agent of any state institution subject to this board, unless
9 the authority to make such trip is granted at a meeting of the board
10 of control upon a written resolution, adopted by the board, which shall
11 state the purpose of such trip, and the reason the same is deemed
12 necessary. Said resolution, if adopted, shall then be submitted to the
13 governor for his written approval, and, if he does not approve the
14 same, such trip shall not be made at the expense of the state.

[S., '13, § 2727-a5.]

SEC. 1857. Itemized statement.

1 Before any expenses of the members of the board, any officer, or
2 agent thereof, or before any expenses incurred by others under the
3 direction of the board, or the expenses of any officer or employee of
4 any institution under the charge of the board, shall be paid, a minutely
5 itemized statement of every expenditure shall be presented to the
6 proper authority, duly verified, which verification shall aver that the
7 expense bill is just, accurate and true, and is claimed for cash expendi-
8 tures, or cash disbursements, truly and actually made and paid to the
9 parties named, as shown by said statement. Unless the statement is
10 so verified and duly audited, payment thereof shall not be had. The
11 expense bills of the members of the board, the secretary and its other
12 employees, when so verified, shall be presented to the governor for
13 his written audit, before payment is made. The salaries and such
14 actual expenses of the board, and of the secretary and other officers,
15 and the salaries of employees, shall be paid monthly by the treasurer
16 of state, upon the warrant of the auditor of state.

[S., '13, § 2727-a6.]

SEC. 1858. Appropriation.

1 There is hereby appropriated from any funds in the state treas-
2 ury not otherwise appropriated sufficient thereof to pay the salaries
3 and expenditures hereby authorized.

[S., '13, § 2727-a4.]

SEC. 1859. Institutions under control.

1 The board of control shall have full power to manage, control
2 and govern, subject only to the limitations contained in this chapter,
3 the soldiers' home; the state hospitals for insane; the institution for
4 the feeble minded; the soldiers' orphans' home; the training school, in
5 both departments; the state penitentiary and men's reformatory.

[S., '13, § 2727-a8; 37 G. A., ch. 160, § 1.]

SEC. 1860. Powers—duties—annual statement.

1 The powers possessed by the governor and executive council, with
 2 reference to the management and control of the state penitentiaries,
 3 shall cease to exist in the governor and executive council, and shall
 4 become vested in the board of control; and the said board is, without
 5 further process of law, authorized and directed to assume and exercise
 6 all the powers heretofore vested in or exercised by the several boards
 7 of trustees, the governor, or the executive council with reference to
 8 the several institutions of the state herein named. The duties imposed
 9 on the executive council, by statute, to establish a uniform system
 10 of books and accounts for state institutions, and to cause the same to
 11 be examined annually by a skilled accountant, and to annually require
 12 a settlement with the officers of each state institution, are transferred
 13 from said council to the board of control as to the institutions herein
 14 named. Nothing herein contained shall limit the general supervisory
 15 or examining powers vested in the governor by the laws or constitu-
 16 tion of the state, or that are vested by him in any committee appointed
 17 by him. The board shall prepare annually for publication, in accord-
 18 ance with the provisions of section two hundred seventy-four, a state-
 19 ment of the cost for the preceding year of maintaining each of said
 20 institutions, including improvements, itemized so far as practicable,
 21 and so arranged as to show the cost of the various kinds of provisions
 22 and supplies.

[S., '13, § 2727-a9.]

SEC. 1861. Districts.

1 The board shall divide the state into proper districts from which
 2 the several institutions may receive patients or inmates. The limit
 3 of such districts may, from time to time, as the occasion warrants, be
 4 changed or altered. And in making such districts, or the rearrange-
 5 ment thereof, the superintendents, wardens, or executive heads of the
 6 institutions shall be consulted, at a time and place to be fixed by the
 7 board. When the districts are established, or a change thereof is
 8 had, the board shall notify the proper county or judicial officers of
 9 such establishment or change.

[S., '13, § 2727-a21.]

SEC. 1862. Questionable commitment.

1 The superintendents for the hospitals for the insane and the insti-
 2 tution for the feeble minded are required to immediately notify the
 3 board if there is any question as to the propriety of the commitment
 4 or detention of any person received at such institution, and said board,
 5 upon such notification, shall inquire into the matter presented, and
 6 take such action as may be deemed proper in the premises.

[S., '13, § 2727-a29.]

SEC. 1863. Power to transfer.

1 Patients shall be sent to the state hospital and convicts shall be
 2 sent to the penitentiary or reformatory located in the district embrac-
 3 ing the county from which they are committed. But the board may
 4 transfer the inmate in any hospital, or the convict in any penitentiary
 5 or reformatory, to another hospital or to the other penitentiary or
 6 reformatory, at the expense of the state, and shall see that proper

7 record thereof is made at the hospitals and penitentiaries, and in the
8 office of the board.

[S., '13, § 2727-a26.]

SEC. 1864. Records—transfer—managing officer.

1 The board shall keep in its office, accessible only to the members,
2 secretary and proper clerks, except by the consent of the board, or
3 on the order of a judge or court of record, a record showing the resi-
4 dence, sex, age, nativity, occupation, civil condition and date of en-
5 trance or commitment of every person, patient, inmate, or convict in
6 the several institutions governed by the board, the date of discharge
7 of every such person from the institution, and whether such discharge
8 was final, and the condition of the person at the time he left the insti-
9 tution. The record shall also indicate if a person is transferred from
10 one institution to another, and to what institution; and if dead, the
11 date and cause of death. This information shall be furnished to the
12 board by the several institutions, and such other obtainable facts as
13 the board may from time to time require. It is the duty of the man-
14 aging officer of each institution, who shall be named by the board,
15 within ten days after the commitment or entrance of a person, patient,
16 inmate or convict to the institution, to cause a true copy of his entrance
17 record to be made and forwarded to the office of the board of control.
18 When a patient or inmate leaves, or is discharged, transferred, or dies
19 in any institution, the superintendent or person in charge shall, within
20 ten days thereafter, send such information to the office of the board,
21 all of which information shall be furnished on forms which the board
22 may prescribe.

[S., '13, § 2727-a22.]

SEC. 1865. Rules—additional duties.

1 The board of control is authorized to make its own rules for the
2 proper execution of its powers, and may require the performance of
3 additional duties by the officers of the several institutions, so as to
4 fully enforce the requirements, intents and purposes of this chapter,
5 and particularly so much thereof as relates to the making of the esti-
6 mates and furnishing proper proofs of the expenditures or use of all
7 stocks of subsistence and supplies.

[S., '13, § 2727-a48.]

SEC. 1866. Triplicate estimates—purchase of supplies.

1 The superintendent, warden, or other chief executive officer, as
2 may be designated by the board of control, shall on or before the
3 fifteenth day of each month, cause to be prepared triplicate estimates
4 in minute detail, including estimated cost of each item, of all the ex-
5 penditures required for the institution for the ensuing month. Such
6 estimate shall also include a statement of the source and amount of
7 all the revenues received by the said institution and accounted for to
8 the state treasurer on the first day of each month. Two of said tripli-
9 cate estimates shall be sent to the office of the board, and the third
10 shall be kept by said superintendent, warden, or other chief executive
11 officer. The board may revise the estimates for supplies or other
12 expenditures, either as to quantity, quality or the estimated cost
13 thereof, and shall certify that it has carefully examined the same, and
14 that the articles contained in such estimate, as approved or revised

15 by it, are actually required for the use of said institution. When the
 16 estimates have been so certified and revised, a copy of such revised
 17 estimate, duly certified, shall be sent to the institution, and another
 18 copy retained by the board. The certified copy sent to the institution
 19 shall be sufficient authority to the management of the institution to
 20 purchase the supplies enumerated in said estimate, at prices not to
 21 exceed those therein named, and not otherwise. Said supplies shall
 22 be so purchased as to permit at least thirty days' time to pay therefor,
 23 and the steward, clerk, or other officer of the institution, designated
 24 by the board, shall require itemized bills to be rendered by the persons
 25 who furnish supplies, in duplicate, for all purchases, whether made
 26 upon contract or otherwise, which shall be in the following form:

27 The state of Iowa, on account of the.....
 28 institution (date).

29 To.....Dr. (Here insert an itemized account
 30 of goods or property purchased.)

31 The state of.....} ss.
 32 County of.....}

33 I,, on oath say that the foregoing
 34 bill of account is correct and just, and wholly unpaid; that the exact
 35 consideration therein charged for was received by the said institution;
 36 that neither the same nor any part thereof has since been commuted;
 37 and that neither bonus, commission, discount, nor any other consid-
 38 eration, directly or indirectly, has been given, or stipulated, within
 39 my knowledge or belief, because of the purchase thereof, as therein
 40 set forth, or for any other reason. (To be signed by the person hav-
 41 ing personal knowledge of the facts therein set forth.)

42
 43 Sworn to and subscribed before me this.....day
 44 of.....

45
 46 I hereby certify that the above account is correct, and that the
 47 articles therein charged have been received in good order by the.....
 48institution.

49
 50 Steward, clerk or other designated officer.

51 It shall be indorsed as follows:

52 No.....,Institution. \$.....

53 Passed upon by the board of control on the.....day
 54 of....., and ordered paid.

55
 56 Secretary of the board of control.

[S., '13, § 2727-a41.]

SEC. 1867. Contracts.

1 Contracts may be entered into under the direction of the board
 2 of control by the proper officers of one or more of the institutions for
 3 staples and other articles of supplies, as may be found feasible by
 4 the board for the institutions to purchase in bulk for use or consump-
 5 tion for periods longer than thirty days. Such contracts shall not,
 6 however, be made except in conformity with the provisions of this
 7 chapter relating to estimates. If thought advisable, such contracts
 8 may be executed by the representative of one institution, who may be
 9 designated by the board to act for other institutions.

[S., '13, § 2727-a49.]

SEC. 1868. Purchase of supplies between institutions.

1 Without complying with the provisions of this chapter, requiring
2 estimates to be made, the board of control is empowered to direct the
3 purchase of materials, or any articles of supply, for any institution
4 subject to its management, from any other institution under its con-
5 trol, which purchase shall be made at the reasonable market value of
6 the commodity so purchased, the value thereof to be ascertained and
7 fixed by the said board, and payments therefor shall be made as be-
8 tween institutions in the manner provided by law for payments for
9 supplies.

[S., '13, § 2727-a47.]

SEC. 1869. Purchase of supplies—rules and regulations.

1 It shall be the duty of the board to make specific rules and regu-
2 lations respecting the manner in which supplies shall be purchased
3 and contracts made for the several institutions, so as to insure the
4 competition and publicity necessary to secure the economical manage-
5 ment of each institution. Jobbers, or others desirous of selling sup-
6 plies to an institution shall, by filing with the chief executive officer
7 of such institution, or with the secretary of the board, a memorandum
8 showing their address and business, be afforded an opportunity to
9 compete for the furnishing of the supplies under such limitations and
10 rules as the board may prescribe. In purchasing all supplies, local
11 dealers and Iowa producers shall have the preference, when such can
12 be given without loss to the state. When samples are furnished the
13 same shall be properly marked and preserved for six months after
14 purchase of such merchandise.

[S. S., '15, § 2727-a50.]

SEC. 1870. Uniform system of records and accounts.

1 It shall prescribe the form of records and the kind of accounts to
2 be made and kept by the institutions heretofore specified. In pro-
3 viding for the books of accounts the said board shall establish as
4 uniform a system as possible, compelling similar institutions to keep
5 similar books in the financial operations of such institutions; and the
6 board shall institute and require the keeping of a perfected system
7 of accounts, and requisitions showing the purchase, storing and con-
8 sumption of supplies for subsistence, construction or other purposes.
9 For the purpose of establishing said system of accounts, the board is
10 authorized to employ competent and expert help, and to inaugurate
11 in the institutions the most modern and complete method of accounts.
12 The board shall determine the kinds and quality of provisions and
13 supplies for the several institutions subject to its charge.

[S., '13, § 2727-a14.]

SEC. 1871. Blanks and forms.

1 The board of control shall formulate and furnish to each insti-
2 tution proper blanks and forms for all statements and accounts neces-
3 sary to furnish the information required of such institution.

[S., '13, § 2727-a45.]

SEC. 1872. State architect—expenses—assistant draftsmen.

1 The board may employ an architect who shall be skilled in the
2 most improved method of sanitation, and competent to prepare plans,

3 specifications, estimates and details for the buildings, betterments,
 4 and every item of equipment which may be necessary in any of the
 5 institutions, whose duty shall be to perform the work usually done
 6 by architects in preparing plans and specifications, and supervising
 7 the work of construction on all the buildings, betterments and improve-
 8 ments done at institutions under the control of the board. Said archi-
 9 tect shall also perform such other labor as may be designated by the
 10 board, and shall receive a compensation to be by the board fixed, which,
 11 including expenses, shall in no event exceed three thousand dollars
 12 per annum.

13 In cases of sufficient magnitude, the board may secure the advice
 14 of a consulting architect, or may procure plans and specifications and
 15 drawings from other architects, but the expense thereof shall not ex-
 16 ceed fifteen hundred dollars in any one year. The state architect
 17 shall be entitled to receive in addition to the compensation for his
 18 services fixed by the board, his necessary traveling expenses within
 19 the state when engaged in official business, and the board may allow
 20 him compensation for assistant draftsmen for services performed for
 21 the state when, in the opinion of the board, such services are neces-
 22 sary; provided, however, that the total amount allowed for traveling
 23 expenses and draftsmen shall not exceed two thousand dollars in any
 24 biennial period.

[S., '13, § 2727-a23.]

SEC. 1873. Plans and specifications—limitation—penalty.

1 It shall prepare plans for all betterments, improvements or build-
 2 ings costing more than one thousand dollars for which it may recom-
 3 mend an appropriation. When an appropriation for any amount has
 4 been made, there shall be no expenditure thereof until the board has
 5 secured suitable plans and specifications prepared by a competent
 6 architect, and accompanied by a detailed statement of the amount,
 7 quality and description of all the material and labor required for the
 8 completion of said structure; and no plan or plans shall be adopted,
 9 and no betterments, improvements or buildings constructed, that con-
 10 template the expenditure of more money for completion than the
 11 amount appropriated by the legislature therefor, unless exempted
 12 from the provisions of this section by the act making such appro-
 13 priation.

14 In no event shall the board direct or permit an expenditure for
 15 any purpose in excess of the amount appropriated by law, or contem-
 16 plated by the statute, and the members of the board, its officers and
 17 agents, are subject to the provisions of sections forty, six hundred
 18 eighty, six hundred eighty-one, seven hundred twenty-three, seven
 19 hundred twenty-five, seven hundred twenty-six, eighty-nine hundred
 20 sixty and eighty-nine hundred sixty-one, to the same extent as if said
 21 named persons were particularly specified in said sections. The viola-
 22 tion of any of the provisions of either of the sections above named by
 23 any of such named officers or persons, shall be deemed a misdemeanor,
 24 and on conviction the offender shall be fined in any sum not less than
 25 two hundred dollars, nor more than five thousand dollars, in the dis-
 26 cretion of the court, or imprisoned in the county jail not exceeding
 27 one year, or by both such fine and imprisonment.

[S., '13, § 2727-a17.]

SEC. 1874. Letting of contracts—labor of inmates utilized.

1 Contracts for the erection, repairs or improvements of buildings,
2 grounds, or properties of the institutions under charge of this board,
3 and for which appropriations have been or may be made by the legis-
4 lature, must be let for the whole or for any part of the work to be
5 performed, by the chief executive officer of the institution, subject,
6 however, to the same rules and regulations as herein provided for the
7 furnishing of estimates by said institution to, and the approval and
8 revision thereof by the board of control.

9 If the cost of the erection or betterment is not in excess of three
10 hundred dollars, the board may permit the management of the insti-
11 tution to construct the same by day's labor, without contracting the
12 work. All plans or specifications for the said erections, repairs and
13 improvements, shall be prepared by the architect of the board, under
14 the board's direction. The board shall determine to what extent and
15 for what length of time, and by what means advertisements are to be
16 inserted in newspapers for proposals for the said erections, repairs
17 or improvements. All contracts shall be awarded by the management
18 of the institution to the lowest responsible bidder, subject to the pro-
19 visions of this chapter, and the approval of the board, prior to the
20 execution of the contract. The management of the institution has
21 the right to reject any and all bids, and to readvertise, upon the ap-
22 proval of the board. A preliminary deposit of money or certified
23 check upon a solvent bank in such amount as the board may prescribe
24 shall be required as an evidence of good faith, upon all proposals for
25 the construction of said buildings, repairs and improvements, which
26 deposit or certified check shall be held by the management of the insti-
27 tution under the direction of the board. The provision of this sec-
28 tion, which requires all work to be let by contract, shall not be
29 mandatory as to the labor on the construction work at the peniten-
30 tiaries, but the board shall establish such rules, and enforce the pro-
31 visions of this chapter so that the construction work at the peniten-
32 tiaries shall be performed in a manner agreeable thereto, with the
33 strictest accountability exacted in the consumption of all supplies for
34 construction purposes, and in the expenditure of the public moneys.

35 On proper representations the board is authorized to so construct
36 the erections, betterments and improvements at other institutions that
37 the work of inmates may be utilized, if it is found to be advantageous
38 to the state, and a substantial saving made, but the attempt to use
39 such labor shall not permit a substantial departure from the require-
40 ments of this section; and in no case shall any expenditure be made
41 except on estimates submitted to and approved by the board, as pro-
42 vided herein. No payment shall be authorized for construction pur-
43 poses until satisfactory proof has been furnished to the board of
44 control, by the proper officer or supervising architect, that the con-
45 tract has been complied with by the parties; and all payments shall
46 be made in a manner similar to that in which the current expenses
47 of the several institutions are paid.

[S., '13, § 2727-a51.]

SEC. 1875. Books and accounts.

1 It shall keep at its office a proper and complete system of books
2 and accounts with each institution, which shall show every expenditure
3 authorized and made thereat and said books shall exhibit an account

4 of each extraordinary or special appropriation made by the legislature,
5 with every item of expenditure thereof.

[S., '13, § 2727-a13.]

SEC. 1876. Establishment of industries.

1 The board of control is hereby authorized and empowered to estab-
2 lish such industries as it may deem advisable at the penitentiary, and
3 at the men's reformatory, and at or in connection with any of the
4 penal, reformatory or other institutions under its jurisdiction, and
5 the inmates may render service as herein limited and defined, at or
6 away from any of said institutions with the consent of said board of
7 control, but no service shall be rendered by any such inmate for any
8 person, firm or corporation at a less wage than is paid free labor for
9 a like service or its equivalent, and when so rendering service they
10 shall be held to be under the jurisdiction of the warden or superin-
11 tendent of the institution to which they are committed, and any escape
12 shall be punished as provided in sections ninety hundred one to ninety
13 hundred four, inclusive, even though said inmate is at the time work-
14 ing under the honor system.

[S. S., '15, § 5718-a11.]

SEC. 1877. Compensation to inmates—distribution.

1 When services are rendered by any inmate at any institution un-
2 der the supervision and jurisdiction of the board of control, the board
3 of control may, when practicable, allow such inmate compensation
4 which shall not exceed the amount paid to free labor for a like service
5 or its equivalent, less such amount that the state is put to for main-
6 tenance as the board of control may deem equitable, and in addition
7 to deducting an amount to defray the cost of maintenance, the board
8 of control may also deduct an amount sufficient to pay all or a part of
9 the costs taxed to any inmate by reason of his commitment.

10 When the board of control deducts an amount from the earnings
11 of any inmate for the purpose of defraying the costs taxed to such in-
12 mate by reason of his commitment, said board shall forward the
13 amount to the clerk of the district court, or proper official, and receive
14 his receipt therefor; provided further, that whenever money is earned
15 by an inmate under the provisions of this section, the board of control
16 may, when deemed advisable, pay all or any part of the same direct
17 to the husband or wife or any other member of the family of such
18 inmate dependent upon him or her for support, or deposit the same
19 to the account of such inmate until released, or allow said inmate a
20 certain per cent thereof for his personal benefit, and make all rules
21 and regulations in relation thereto, including the right to deposit funds
22 in any bank to the credit of such inmate and require such bank to pay
23 interest on any money so deposited by or for such inmate at rates not
24 to exceed the current rate of interest paid for similar deposits.

[S. S., '15, § 5718-a11a.]

SEC. 1878. Quarterly conferences.

1 A consultation and conference of the superintendents, wardens
2 and chief executive officers shall be held quarterly with the board at
3 its office in Des Moines, at a time to be designated by the board, at
4 which meeting all matters concerning the government and management
5 of the institutions shall be considered and discussed, and the chairman

6 of the board of control shall preside at such meetings, and full min-
7 utes thereof shall be preserved by the secretary of such board, who
8 shall be secretary of said meeting.

[S., '13, § 2727-a20.]

SEC. 1879. Annual appropriation—purpose.

1 There is hereby appropriated out of any money in the state treas-
2 ury not otherwise appropriated the sum of two hundred fifty dollars
3 annually for the payment of the actual and necessary expenses of per-
4 sons who shall, at the solicitation of the board of control of state in-
5 stitutions, read papers at the quarterly conferences of the chief execu-
6 tive officers of the state institutions under the management of said
7 board. The papers so read shall have especial application to the ob-
8 jects and work of one or more of said institutions.

[S., '13, § 2727-a69.]

SEC. 1880. How and when payable.

1 The money hereby appropriated shall be payable on the first day
2 of July of each year and shall be paid from the state treasury as the
3 expenses of the members of the board of control are paid.

[S., '13, § 2727-a70.]

SEC. 1881. Officers—term—removal—qualifications.

1 It shall be the duty of the board to appoint a superintendent,
2 warden or other chief executive officer of each institution under the
3 control of the board. The tenure of office of said officers shall be four
4 years from the date of their appointment. The superintendent, war-
5 den, or other chief executive officer of any of the institutions named,
6 may be removed by the board for misconduct, neglect of duty, incom-
7 petency, or other proper cause showing his inability or refusal to prop-
8 erly perform the duties of his office, but such removal shall be had only
9 after an opportunity is given such person to be heard before such
10 board upon preferred written charges, but the removal, when made,
11 shall be final. The officers of the several institutions shall have the
12 qualifications, and perform the duties now imposed and required of
13 them by the statute, except as the same are modified or abrogated in
14 this chapter. In case there is an alleged or seeming conflict between
15 the powers of the superintendents or other executive officers and the
16 board of control, the determination of such question by the board shall
17 be final.

[S., '13, § 2727-a24.]

SEC. 1882. Assistants—discharge.

1 The superintendent, warden, or other chief executive officer of
2 the several institutions shall appoint all assistants, guards and em-
3 ployees required in the management of the institution, the number of
4 whom shall be determined by the board. It is hereby declared a mis-
5 demeanor for the members of the board, or any officer thereof, to ex-
6 ert any influence, by solicitation or otherwise, on the managing officer
7 of an institution in the selection of any employee or assistant. The
8 said chief executive officer may, at his pleasure, discharge any person
9 employed, but shall keep in the record of employees the date of such
10 discharge, and shall place opposite his name the reason therefor.

[S., '13, § 2727-a37.]

SEC. 1883. Institution salaries.

1 The board shall annually fix, with the written approval of the
 2 governor, the annual or monthly salaries of all the officers and em-
 3 ployees in the several institutions, except such as are fixed by the gen-
 4 eral assembly. The board shall classify the officers and employees
 5 into grades, and the salaries and wages to be paid in each grade shall
 6 be uniform in similar institutions in the state. The schedule of wages
 7 so fixed shall become operative on July first of each year. The salaries
 8 and wages shall be included in the monthly estimates as provided in
 9 this chapter, and paid in the same manner as other expenses of the
 10 several institutions.

11 Officers entitled to food supplies for their families shall receive
 12 such allowances from the supplies furnished for the patients and in-
 13 mates of the institution. The word "family" shall be construed to mean
 14 only the wife and minor children of an officer.

[S., '13, § 2727-a38.]

SEC. 1884. Salaries.

1 The annual salary of the chief executive officer of the following
 2 institutions shall be: For the institution for feeble-minded children
 3 at Glenwood, three thousand dollars; for the training school, boys' de-
 4 partment, at Eldora, twenty-five hundred dollars; for the Iowa sol-
 5 diers' orphans' home at Davenport, twenty-four hundred dollars; for
 6 the training school, girls' department, at Mitchellville, two thousand
 7 dollars.

[S., '13, § 2727-3a; 37 G. A., ch. 54, §§ 1, 2; 38 G. A., ch. 75,
 § 1; 38 G. A., ch. 128, § 1; 38 G. A., ch. 390, §§ 1, 2.]

SEC. 1885. Official bonds.

1 It shall be the duty of the board of control to require its secre-
 2 tary and each officer and employee of said board, and of every institu-
 3 tion under its control who may be charged with the custody or control
 4 of any money or property belonging to the state, and who is not now
 5 required by statute to give bond, to give an official bond, properly
 6 conditioned, and signed by sufficient sureties, in a sum to be fixed by
 7 the board, which bond shall be approved by the board, and filed in
 8 the office of secretary of state.

[S., '13, § 2727-a31.]

SEC. 1886. Duties of institution officers.

1 The stewards of the hospitals for the insane, the clerks of the
 2 prisons, and the proper officer of the other institutions who shall be
 3 designated by the board, shall have charge of and be accountable for
 4 all the supplies and stores of such institution, and shall be charged
 5 therewith at their invoice value, and shall in conjunction with the
 6 chief executive officer of each institution, make or direct all purchases
 7 for such institution as may be ordered by the board, under the esti-
 8 mates as hereinbefore provided. Such officer shall issue all the stores
 9 upon requisition approved by the superintendent or other officer desig-
 10 nated by the board, which shall be his voucher therefor. He shall
 11 present monthly to the board of control an abstract of all expenditures,
 12 together with the accounts and pay rolls for the preceding month,
 13 and shall examine and register all goods delivered, according to their
 14 amount and quality, and if found to correspond with the samples, and

15 in good order, and correct in charge, he shall certify the bills as herein
16 provided. He shall quarterly take an account of the subsistence sup-
17 plies and stock in his possession and under his control, and transmit
18 a copy of such invoice, duly verified, to the board; and at the close of
19 the biennial period he shall make a consolidated report of all pur-
20 chases, and all other transactions of his department, to the state
21 board. If it shall appear that there is any shortage in the stores of
22 the institution, the board shall appoint a committee from its number
23 to investigate the cause thereof, and if it shall appear that the said
24 shortage resulted from unavoidable loss, without the negligence of
25 such steward, clerk or other designated officer, then such officer shall
26 be credited therewith; otherwise, he shall be charged with the amount
27 thereof, and shall be required to pay the same into the state treasury
28 within sixty days after the determination of the loss. If default shall
29 be made in said payment, he shall forfeit his office, and suit shall be
30 instituted upon his official bond to recover the same.

[S., '13, § 2727-a46.]

SEC. 1887. Inventory of stock and supplies.

1 The board shall require within thirty days after its organization,
2 the chief executive officer of each institution under its charge, to make
3 a complete, minute and accurate inventory of the stock and supplies
4 on hand, the amount and value thereof, which inventory shall be un-
5 der the following heads: Live stock, produce of the farm on hand,
6 carriages and vehicles, agricultural implements, machinery, mechan-
7 ical fixtures, real estate, beds and bedding in inmates' department,
8 other furniture in inmates' department, personal property of the state
9 in superintendent's department, ready-made clothing, dry goods, pro-
10 visions and groceries, drugs and medicines, fuel, library, and all other
11 property under such other heads as the board may deem proper. A
12 like inventory shall be submitted by the proper officer of each institu-
13 tion to the board when the annual report of said officer is submitted
14 to the board.

[S., '13, § 2727-a32.]

SEC. 1888. Monthly statement—affidavit.

1 The steward, clerk or other officer who may be designated by
2 the board, shall prepare a monthly statement showing purchases and
3 expenditures of every kind for the preceding month, which shall be
4 signed by such officer, approved by the chief executive officer of the
5 institution, and filed with the board on a day certain to be fixed by
6 said board. Attached thereto shall be the affidavit of such steward,
7 clerk, or officer, as the case may be, stating that the goods and other
8 articles therein specified were purchased and received by him or un-
9 der his direction at the institution, and were purchased at a fair cash
10 market price, on credit not exceeding thirty days, and that neither
11 he nor any person in his behalf had any pecuniary or other interest
12 in the purchases made, or received any pecuniary or other benefit
13 therefrom, directly or indirectly, by commission, percentage, deduc-
14 tions, or in any other manner whatever, and that the articles con-
15 tained in such bill conformed in all respects to the invoiced goods re-
16 ceived and ordered by him, or the samples from which the goods were
17 purchased, both in quality and quantity. If any invoice or statement,
18 or part thereof, is found objectionable, the board shall indorse its
19 disapproval thereon, with its reason therefor, and return it to the

20 management of the institution, and when the matter complained of is
21 corrected, said statement and invoice shall be returned to the board.
[S., '13, § 2727-a42.]

SEC. 1889. Pay roll—triplicate abstract.

1 When the monthly statement is so made, approved and verified,
2 it shall be forwarded to the board of control, together with the orig-
3 inal invoices of the purchases and a complete and itemized statement
4 of every expense of said institution, including the receipted pay roll,
5 for the examination and audit of the board, which board shall fix a
6 regular time for the auditing of the accounts of the institution for the
7 preceding month. The monthly pay roll of each institution shall show
8 the name of each officer and employee, when first employed, the
9 monthly pay, time paid for, the amount of pay, and any deductions
10 for the careless loss or destruction of property. This requirement
11 shall be observed in all cases, and in no event shall a substitute be
12 permitted to receive compensation in the name of the employee for
13 whom he is acting. When the said accounts are audited, the secre-
14 tary of the board of control shall, under the seal of the board, pre-
15 pare in triplicate an abstract showing the name, residence and amount
16 due each claimant, and the institution and the fund thereof on account
17 of which the payment is made, which abstract shall also be certified
18 by at least one member of the board, who shall be so authorized by
19 the board, and the proceedings granting such authority shall be pre-
20 served in the records of the board. He shall deliver one copy thereof
21 to the auditor of state, another to the treasurer of state, and the third
22 shall be retained in the office of the board. Upon such certificate the
23 auditor of state shall, if the institution named has sufficient funds,
24 issue his warrant upon the treasurer of state for the gross amount as
25 shown by such certified abstract. Said last named officer, upon being
26 furnished by the board with a certified copy of such abstract as
27 herein provided, shall send checks of the treasurer of state to the sev-
28 eral persons for the amounts of their respective claims, as certified
29 by the board of control. The treasurer of state shall preserve in his
30 books a record of each check and remittance in the proper manner,
31 showing the date of the issuance of each check, the name of the per-
32 son to whom it was made payable, and such other data as may be
33 evidence for the state, showing the payment of such indebtedness.
34 The pay roll of each institution can be paid by a single check sent to
35 the steward, clerk or other officer designated by the board of control.
36 If the treasurer of state shall require more clerical help because of
37 this enactment, the executive council may authorize him to employ
38 an assistant.

[S., '13, § 2727-a43.]

SEC. 1890. Contingent fund.

1 The board of control may permit such contingent funds as in
2 its judgment are deemed necessary, to remain in the hands of the
3 managing officer of each institution, from which expenditures may be
4 made for the payment of freight, postage, purchasing produce and
5 other commodities requiring a cash settlement, discounting bills, and
6 paying salaries to employees of the institution whose services ter-
7 minate during the month. A full, minute and itemized statement of
8 every expenditure made during the month from such funds shall be
9 submitted by the proper officer of said institution to the board under

10 such rules and regulations as may be by said board prescribed. If
11 necessary, the board shall make proper requisition upon the auditor
12 of state for a warrant on the state treasurer to secure the said con-
13 tingent funds for each institution.

[S. S., '15, § 2727-a44.]

SEC. 1891. Moneys remitted to state treasurer.

1 All moneys belonging to the state, derived from any source at any
2 of the institutions under the control of this board, shall be by the
3 proper executive officer, named by the board, accounted for and re-
4 mitted to the state treasurer on the first day of each month, and all
5 funds for the necessary expenditures of such institutions shall be
6 drawn from the state treasury, as provided in this chapter.

[S., '13, § 2727-a40.]

SEC. 1892. Annual vacations.

1 Each officer and employee of the state institutions under the con-
2 trol of the board of control of state institutions who shall have been
3 in the service of said state not less than one year continuously, giving
4 all his or her time to said service, shall be entitled to a vacation each
5 year on full pay as follows: after having served one year, to seven
6 days; and after having served two years, to ten days; and after hav-
7 ing served three years, to fourteen days.

8 The vacations authorized by this section shall not be taken by any
9 person in any institution unless the executive officer thereof shall have
10 given to that person a permit in writing to take such vacation, specifi-
11 ing in the permit the days on which the vacation may be taken. A
12 copy of such permit shall be attached to the pay roll of the institution
13 for the month during which the vacation was taken, and the pay roll
14 shall show the number of days the person was absent under the
15 permit.

[S., '13, § 2727-a74c.]

SEC. 1893. When granted.

1 It shall be the duty of the chief executive officer of each institu-
2 tion to arrange for the vacations hereby authorized to be taken at
3 such times as will interfere as little as possible with the work of the
4 institution, and be just to the employees.

[S., '13, § 2727-a74d.]

SEC. 1894. Not applicable to certain employees.

1 The two preceding sections shall not apply to any officer or other
2 employee who is not required to render service for twelve months
3 each year.

[S., '13, § 2727-a74e.]

SEC. 1895. Protection against fire—means of escape.

1 It shall be the duty of the board to compel the superintendent,
2 warden or other chief executive officer of each of the institutions un-
3 der the control of the board, to provide at each institution, adequate
4 and ready means of protection against fire, and to construct proper
5 means of escape for the inmates and attendants where the same are
6 not already constructed and to establish and enforce rigid rules and
7 regulations, by which the danger of fire shall be minimized, and pre-

8 vent, as far as possible, injury to the persons of the inmates, and the
9 loss or destruction, by any cause, of the property of the state.

[S., '13, § 2727-a30.]

SEC. 1896. Special policemen.

1 Upon the application and recommendation of the board of con-
2 trol of state institutions the governor shall commission any number
3 of employees of any institution under the control of said board, not
4 exceeding three, to be designated by the chief executive officer, to be
5 special policemen thereof; and such officer or officers shall take an
6 oath of office and shall have power to protect the property of such
7 institution, to suppress riots, disturbances and breaches of the peace,
8 and to enforce all laws for the preservation of good order, and may,
9 upon view or information, without warrant, arrest any person tres-
10 passing upon the grounds or destroying the property of such institu-
11 tion, or violating any of the existing laws of the state, and bring such
12 person so offending before the mayor or any justice of the peace within
13 such township, to be dealt with according to law. This section shall
14 not be construed to authorize any additional employees in any institu-
15 tion, or any increase of compensation to any employee so designated.

[S., '13, § 2727-a71.]

SEC. 1897. Personal property of deceased inmates—collection— disposition—record.

1 When an inmate of any institution under the control of the board
2 of control of state institutions dies intestate, leaving money, certifi-
3 cate of deposit, promissory note, or other evidence of indebtedness in
4 writing on deposit with the chief executive or other officer, or shall
5 leave in the possession of such institution or of any officer or employee
6 thereof any personal property, it shall be the duty of the chief execu-
7 tive officer of said institution to take into his possession, if he does
8 not already have it, such money, certificate of deposit, promissory
9 note or other evidence of indebtedness in writing, and to receive any
10 money which may have been due, or property which may have been
11 owned by the decedent, and to dispose of the same as follows:

12 *a* To deliver such money or other property to the legal represent-
13 ative of the decedent so soon as he shall have qualified and become
14 authorized to receive it.

15 *b* If administration be not granted within one year from the date
16 of the death of the decedent, and the value of the estate of decedent
17 is so small as to make the granting of administration under the gen-
18 eral law inadvisable, then delivery of the money and other property
19 left by the decedent may be made to the surviving spouse and heirs, if
20 known, of the decedent.

21 *c* If administration be not granted within one year from the date
22 of the death of the decedent and no surviving spouse or heir is known
23 to the institution, although diligent search for them shall have been
24 made, the chief executive officer of the institution shall be authorized
25 to collect the certificate of deposit, promissory note or other evidence
26 of indebtedness, and for that purpose is authorized to indorse the
27 name of decedent as made by himself in his official capacity, and such
28 indorsement shall have the same effect as though actually made by the
29 decedent in his lifetime; and said chief executive officer shall be au-
30 thorized to sell at either public or private sale, as shall be approved

31 in writing by the said board of control, all personal property of the
32 decedent which shall have come into his possession.

33 The money which shall be received by said chief executive officer
34 as aforesaid shall be transmitted to the treasurer of state at the end
35 of one year from the death of the intestate, or as soon thereafter as
36 is practicable, and shall be credited to the support fund of the institu-
37 tion from which it was sent.

38 A complete permanent record of the money so sent, showing by
39 whom and with whom it was left, its amount, the date of the death
40 of the owner, his reputed place of residence before he became an in-
41 mate of the institution, the date on which it was sent to the state
42 treasurer and any other facts which may tend to identify the intestate
43 and explain the case shall be kept by the chief executive officer of the
44 institution and a transcript thereof shall be sent to and kept by the
45 treasurer of state.

[S., '13, § 2727-a72.]

SEC. 1898. Payment to party entitled thereto.

1 The money so sent to treasurer of state, or any part thereof,
2 shall be paid at any time within ten years from the death of the in-
3 testate to any person who is shown to be entitled thereto by evidence
4 satisfactory to the board of control or to the district court of the
5 county in which the institution from which the money was sent is lo-
6 cated. Payment shall be made from the state treasury out of the sup-
7 port fund of such institution in the manner provided for the payment
8 of other claims from that fund.

[S., '13, § 2727-a73.]

SEC. 1899. Applicable to money now held.

1 The provision of the two preceding sections shall also apply to
2 all money left by inmates of institutions who have heretofore died
3 intestate and which is now held by the chief executive or other officer
4 of the institutions.

[S., '13, § 2727-a74.]

SEC. 1900. Religious worship.

1 It shall be the duty of the board of control, superintendents, war-
2 den, and other officers having the management of any penal, correc-
3 tional, charitable or educational institution, or other place of confine-
4 ment now existing or hereafter established and supported by public
5 funds, to permit all persons committed to, confined or detained in, or
6 otherwise held in such institutions, or other place of confinement,
7 spiritual advice, instruction, and ministrations from any recognized
8 clergyman of the church or denomination which such person so com-
9 mitted, confined, detained or received may profess to adhere to or
10 prefer; which said profession or choice shall be by such person com-
11 municated to the warden, superintendent or other officer in charge
12 of such institution. It shall be the duty of the warden, superintendent
13 or other officer receiving such person so committed, to inquire of such
14 committed person as to his religious preference and enter the same in
15 the book kept for the purpose, and cause the person making such
16 choice or preference to sign the same. And during the time of deten-
17 tion such person so committed, confined or detained shall be allowed
18 at suitable and reasonable times to receive the visits of clergymen be-

19 longing to the denomination or church so preferred at the time of
20 commitment, or chosen at any later period.

[S., '13, § 5718-a1.]

SEC. 1901. What permitted.

1 It shall be the duty of the superintendent, warden or other officer
2 having the control and management of such institution to allow the
3 person so committed or detained the privilege of communicating with
4 any clergyman of good standing of the church or denomination so
5 preferred for at least an hour on the first day of the week in each
6 week; and all facilities consistent with discipline and the proper care
7 of such person so detained or confined shall be allowed to the clergy-
8 man so ministering or teaching; and all opportunity for engaging in
9 religious services according to the rites of such church and denomina-
10 tion shall be freely allowed in so far as the same are consistent with
11 discipline and good order. In case of severe sickness of anyone so
12 committed, confined or detained, opportunity shall be given him for
13 spiritual ministrations according to laws, ritual, rites, and customs of
14 such denomination, so far as the same may be done without interfer-
15 ence with the efficient management and control of such institution.
16 Minister or ministers attending persons as provided by this and the
17 preceding section shall be entitled to no compensation for so doing.

[S., '13, § 5718-a2.]

SEC. 1902. Minors—rules and regulations.

1 In case any person so committed, detained or restrained is a
2 minor and has formed no choice, his preference may, at any time, be
3 expressed by himself with the approval of parents or guardian, if he
4 has any such. It shall be the duty of the officers or governing authori-
5 ties of any such institution to provide such rules and regulations as
6 may be necessary to carry into effect the provisions of this and the
7 two preceding sections.

[S., '13, § 5718-a3.]

SEC. 1903. Investigation—witnesses—contempt of court.

1 It shall be the duty of said board, or a committee thereof, to visit
2 and inspect, at least once in six months, the institutions named, and
3 investigate the financial condition and management of such institu-
4 tions; and in aid of any investigation the board shall have the power
5 to summon and compel the attendance of witnesses; to examine the
6 same under oath, which any member thereof shall have the power to
7 administer; and shall have access to all books, papers and property
8 material to such investigation, and may order the production of any
9 other books or papers material thereto. Witnesses other than those
10 in the employ of the state shall be entitled to the same fees as in civil
11 cases in the district court. The claim that any testimony or evidence
12 sought to be elicited or produced on such examination may tend to
13 criminate the person giving or producing it, or expose him to public
14 ignominy, shall not excuse him from testifying or producing evidence,
15 documentary or otherwise; but no person shall be prosecuted or sub-
16 jected to any penalty or forfeiture for and on account of any matter
17 or thing concerning which he may testify or produce such evidence,
18 provided that he shall not be exempted from prosecution and punish-
19 ment for perjury committed in so testifying. And it shall be the duty

20 of the board to cause the testimony so taken to be transcribed and
 21 filed in the office of the secretary of the board at the seat of govern-
 22 ment within ten days after the same is taken, or as soon thereafter as
 23 practicable and when so filed the same shall be open for the inspec-
 24 tion of any person. Any person failing or refusing to obey the orders
 25 of the board issued under the provisions of this section, or to give or
 26 produce evidence when required, shall be reported by the board to
 27 the district court or any judge thereof, and shall be dealt with by the
 28 court or judge as for contempt of court.

[S., '13, § 2727-a10.]

SEC. 1904. What to inspect.

1 The board or any member thereof at the stated visits to any of
 2 the institutions under its control shall inspect every part of each in-
 3 stitution, and all the places, buildings and grounds belonging thereto,
 4 or used in connection therewith. They shall make an examination
 5 of the general and special dietary, the stores, and methods of supply;
 6 as far as circumstances may permit they shall see every inmate of
 7 the soldiers' home, and the charitable institutions, especially those ad-
 8 mitted since the preceding visit, and shall give such as may require
 9 it, suitable opportunity to converse with the members of the board
 10 apart from the officers and attendants. They shall, if deemed neces-
 11 sary, examine under oath the officers, attendants, guards and other
 12 employees, and make such inquiries as will determine their fitness for
 13 their respective duties.

[S., '13, § 2727-a19.]

SEC. 1905. Charges against officers or employees of private and county institutions.

1 The board of control of state institutions may investigate charges
 2 of abuse, neglect or other misconduct made against the management
 3 or any officer or employee of any county or private institution in which
 4 insane persons are kept, and against any association or society com-
 5 ing within the provisions of the law as it appears in section twenty-
 6 one hundred thirty-nine. In aid of such investigations all of the pro-
 7 visions of the law as it appears in section nineteen hundred three, in
 8 regard to the power of the board of control and of its members, the
 9 rights, duties, liabilities and privileges of witnesses and others, shall
 10 apply and be in full force.

[S., '13, § 2727-a74b.]

SEC. 1906. Political activity or contributions prohibited.

1 Any member, employee, or officer of the board of control, or any
 2 officer or employee of a state institution subject to this board, who by
 3 solicitation or otherwise, exerts his influence directly or indirectly, to
 4 induce other officers or employees of the state to adopt his political
 5 views or to favor any particular person or candidate for office, or
 6 who shall in any manner contribute money or other thing of value to
 7 any person for election purposes shall be removed from his office or
 8 position by the proper authorities.

[S., '13, § 2727-a35.]

SEC. 1907. Collection of information—bulletins—forms.

1 The board shall gather and present information embodying the
 2 experience of soldiers' homes, charitable, reformatory and penal in-
 3 stitutions in this and other countries, regarding the best and most
 4 successful methods of caring for the insane, delinquent and criminal
 5 classes. And it shall encourage and urge the scientific investigation
 6 of the treatment of insanity and epilepsy by the medical staffs of the
 7 insane hospitals, and the institution for the feeble minded, and shall
 8 publish from time to time bulletins and reports of the scientific and
 9 clinical work now done in said institutions, or which it may require to
 10 be done therein. It shall also provide for the several institutions the
 11 forms for statistical returns to be made by them in their annual and
 12 other reports.

[S., '13, § 2727-a27.]

SEC. 1908. Report to governor.

1 It shall investigate and report to the governor any abuses or
 2 wrongs alleged to exist in the state institutions referred to in this
 3 chapter.

[S., '13, § 2727-a18.]

SEC. 1909. Biennial report.

1 The board shall make reports to the governor and legislature of
 2 its observations and conclusions respecting each and every of the in-
 3 stitutions named, including the regular biennial report to the legisla-
 4 ture, covering the biennial period ending June thirtieth, preceding
 5 the regular session of the general assembly. Said biennial report
 6 shall be made not later than November fifteenth in the year preceding
 7 the meeting of the general assembly, and shall also contain the reports
 8 which the executive officers of the several institutions are now or may
 9 be by the board required to make, also a statement of visitations to
 10 the several institutions and when and by whom made.

[S., '13, § 2727-a12.]

SEC. 1910. Contents of biennial report—daily record.

1 The board shall publish in its biennial report to the legislature
 2 the name and salary of every employee of said board, the name and
 3 salary of each officer and employee in the several institutions, subject
 4 to its control. It shall be the further duty of the board to require the
 5 proper officer of each institution to keep in a book prepared for the
 6 purpose, a daily record, to be made each day, of the time and the num-
 7 ber of hours of service of each employee, and the monthly pay roll
 8 shall be made from such time book, and shall be in accord therewith.
 9 When an appropriation is based on the number of inmates in or per-
 10 sons at an institution, the board shall require a daily record to be kept
 11 of the persons actually residing at and domiciled in such institution.

[S., '13, § 2727-a34.]

SEC. 1911. Biennial estimates of special appropriations.

1 It shall prepare for the use of the legislature, biennial estimates
 2 of appropriations necessary and proper to be made for the support
 3 of the said several institutions, and for the extraordinary and special
 4 expenditures for buildings, betterments, or other improvements.

[S., '13, § 2727-a15.]

SEC. 1912. Suggestions for legislation.

1 The board shall incorporate in its report to the legislature, sug-
2 gestions respecting legislation for the benefit of the several institu-
3 tions, or for the dependent, defective or criminal classes of the state.
4 The board and its secretary shall on request, attend the meetings of
5 legislative committees to which such questions may be submitted for
6 consideration, and furnish such committees such information in re-
7 gard to its doings and the conduct of such institutions as may be de-
8 manded.

[S., '13, § 2727-a16.]

SEC. 1913. State agents—appointment—salary—supplies.

1 The board of control of state institutions is hereby authorized to
2 appoint not more than six persons to act as state agents for the sol-
3 diers' orphans' home, the training schools and the women's reformatory.
4 The salaries of such agents shall be fixed by said board, in no
5 case to exceed one hundred dollars per month, and they may hold their
6 positions during its pleasure. The board shall procure and furnish
7 the agents with office room and such furniture, books, blanks and
8 supplies as may be necessary for the proper discharge of their duties,
9 in the same manner as supplies are now furnished other officers of
10 the board. The board may furnish such office room and supplies to
11 said agents at one or more of the institutions for which they are to
12 act, and may require the institutions to furnish the agents with room,
13 board and facilities for transacting business when stopping therein,
14 without charge.

[S. S., '15, § 2692-a; 37 G. A., ch. 54, § 1; 37 G. A., ch. 349,
§ 1; 37 G. A., ch. 370, § 1; 37 G. A., ch. 427, § 1; 38 G.
A., ch. 105, § 1.]

SEC. 1914. Duties.

1 The duties of the agents shall be as prescribed by law and by the
2 board of control. In addition to other duties they shall be required
3 to find suitable homes, positions and employment when desirable for
4 inmates of said institutions who are to be or have been released, to
5 inspect the homes of such persons, to exercise supervision over such
6 persons, examine into their conduct and environment, and when the
7 conduct of any such persons who have not been finally discharged has
8 been bad or in violation of any of the conditions of their release to
9 return them or cause them to be returned to the institutions from
10 which they were released, or in such cases or when the environment
11 or associations are bad to require them to obtain other homes or places
12 of employment. The state agent shall keep records of their acts and
13 report to the board of control when required the work they do, and re-
14 sults accomplished, the treatment received and the failure or progress
15 made by the persons under supervision and other information required
16 by the board.

[S., '13, § 2692-b.]

SEC. 1915. Appropriation—how expended—money advanced.

1 There is hereby appropriated out of any money in the state
2 treasury not otherwise appropriated the sum of fourteen thousand
3 dollars annually for the payment of salaries and expenses of the state
4 agents and other expenses incurred under the provisions of the two

5 preceding sections, such salaries and expenses to be paid in the man-
 6 ner provided by section eighteen hundred fifty-seven. The board of
 7 control may cause to be advanced from the funds hereby appropriated
 8 to each agent from time to time the sums to be used in defraying the
 9 official expenses of such agent, but the aggregate amount of money so
 10 advanced and not expended at any time shall not exceed the sum of
 11 two hundred fifty dollars, and the agent shall give security to be ap-
 12 proved by the board for the proper use and accounting each month
 13 of all money so advanced.

[S. S., '15, § 2692-c; 37 G. A., ch. 349, § 2; 37 G. A., ch. 370,
 § 2; 38 G. A., ch. 105, §§ 2, 3.]

CHAPTER 2.

SOLDIERS' HOME.

SECTION 1916. Object.

1 The Iowa soldiers' home, located at Marshalltown, shall be main-
 2 tained for dependent honorably discharged Union soldiers, sailors and
 3 marines, their dependent widows, wives, fathers and mothers, and
 4 dependent army nurses.

[C., '97, § 2601; S., '13, § 2601.]

SEC. 1917. Admission.

1 All persons named in the preceding section, not having sufficient
 2 means for his or her own support, who are disabled by disease,
 3 wounds, old age or otherwise, who served in Iowa regiments or bat-
 4 teries, or were accredited to the state of Iowa, or who have been resi-
 5 dents of the state for three years next preceding the date of applica-
 6 tion, shall be eligible to admission into said home.

[C., '97, § 2602; S., '13, § 2602.]

SEC. 1918. Certificate of residence.

1 Before admission such person shall file with the officer having
 2 charge of such home a certificate signed by the board of supervisors
 3 of the county in which such person resides stating that such person
 4 is a resident of such county. Such certificate shall be conclusive evi-
 5 dence of the residence of such person in all matters affecting the lia-
 6 bility of the county with respect to the expenses of such person in
 7 case of insanity or any other cause for which the county may be liable.
 8 If the applicant is entitled to admission and is not a resident of the
 9 state, a record shall be made thereof on admission. Nothing in this
 10 section shall be construed to bar any person from admission who is
 11 entitled to such admission under the preceding section.

[C., '97, § 2602; S., '13, § 2602.]

SEC. 1919. Members may pay cost of support—pension money.

1 It shall be lawful to receive in the soldiers' home persons who
 2 have sufficient means for their own support but are otherwise eligible
 3 to become members of the home, on payment of the cost of their sup-
 4 port, which cost shall be fixed from time to time by the board of con-
 5 trol of state institutions. All money paid under the provisions of this

6 section shall be received by the commandant and remitted each month
 7 to the treasurer of state and placed to the credit of the support fund
 8 of the home; provided, however, that no person having sufficient
 9 means for his or her own support shall be received or permitted to
 10 remain in the home unless there be room for all eligible applicants
 11 who do not have such means, but pension money received by any
 12 member of the home from the United States government shall not be
 13 taken from him for his support in the home.

[S., '13, § 2602-a.]

SEC. 1920. Rules for admission.

1 The board of control of state institutions may receive into the
 2 home, under such rules and regulations, and subject to such condi-
 3 tions as said board may prescribe, the dependent persons not having
 4 sufficient means or ability to support themselves, designated as fol-
 5 lows:

6 1. Honorably discharged Union soldiers, sailors and marines.
 7 2. Women who, prior to the year nineteen hundred five married
 8 honorably discharged Union soldiers, sailors or marines, and who
 9 have ceased to be the wives of such soldiers, sailors or marines by
 10 reason of their death or because divorced from them without fault on
 11 the part of the wives, and a subsequent marriage shall not deprive
 12 such women of their right to the benefits of the home, nor shall such
 13 right depend upon the presence of the husband in the home as a mem-
 14 ber of it.

15 3. Army nurses, and the wives, fathers and mothers of honorably
 16 discharged Union soldiers, sailors and marines.

17 The board may permit husbands and wives to occupy together
 18 cottages or other quarters on the home grounds.

[C., '97, § 2606; S. S., '15, § 2606; 38 G. A., ch. 196, § 1.]

SEC. 1921. Powers of board.

1 The board of control shall have power to determine the eligibility
 2 of applicants for admission to the home, and adopt all needed rules
 3 for the preservation of order, enforcement of discipline, the preserva-
 4 tion of the health of the members, and for the government of the
 5 home, and control of the grounds surrounding the same.

[C., '97, § 2603.]

SEC. 1922. Commandant—inferior officers—vacancy.

1 The board of control shall appoint a commandant to serve during
 2 the pleasure of the board, and who shall be one who has an honorable
 3 discharge from the United States army or navy, and whose salary
 4 shall not exceed twenty-eight hundred dollars per year, and use and
 5 occupancy of the commandant's house with lights, fuel, ice and water,
 6 which shall include all allowances. The commandant may appoint,
 7 subject to the approval of the board, the adjutant, quartermaster, sur-
 8 geon, and a chaplain, together with such assistant surgeons as may,
 9 from time to time, be required, and the said adjutant and quarter-
 10 master shall be of like qualifications, as to service in the army or navy,
 11 with himself, and also a matron and other necessary subordinate em-
 12 ployees, and they shall be subject to removal by him for misconduct
 13 or incompetency, but in the case of every removal a detailed state-
 14 ment of the cause shall be reported at once to the board of control and

15 subject to its approval. The board shall fix the compensation to be
 16 paid the subordinate officers and employees of the home, not to exceed
 17 that paid for like services in similar institutions; provided that the ad-
 18 jutant, quartermaster, surgeon and chaplain shall also be furnished
 19 without charge the houses erected by the state and now occupied by
 20 such officers, together with lights, heat, fuel, ice and water.

21 If at any time a vacancy shall exist in the office of commandant,
 22 adjutant, quartermaster or surgeon and a suitable person who has
 23 an honorable discharge from the United States army or navy is not
 24 available for the office, it shall be lawful to appoint any other person
 25 otherwise properly qualified to fill the vacancy.

26 Said commandant shall also be furnished, without cost, with main-
 27 tenance, including provisions, for self and family, consisting of wife
 28 and minor children, from supplies purchased for the institution.

[C., '97, § 2604; S. S., '15, § 2604; 37 G. A., ch. 395, § 1;
 38 G. A., ch. 307, § 1.]

SEC. 1923. Residence of discharged inmate.

1 When a member of the home is discharged therefrom, or volun-
 2 tarily leaves the same, or is adjudged insane, his residence shall be
 3 that of the county in which he was residing at the time of his admis-
 4 sion.

[C., '97, § 2605.]

SEC. 1924. Restriction as to pension money.

1 The board of control shall not adopt or enforce any rule in the
 2 Iowa soldiers' home which will deprive any member of the home of
 3 any part of the pension money which such member receives from the
 4 United States government, except as provided for in the two follow-
 5 ing sections.

[S., '13, § 2606-a.]

SEC. 1925. Penalty for intoxication.

1 Any member of the home, who shall, while a member of the
 2 home, be convicted twice by any court of justice, of violating the crim-
 3 inal statutes of the state, or who shall twice be found guilty by the
 4 commandant, or a court martial, if the member so elect, of intoxica-
 5 tion or other misdemeanors, shall be required to deposit the money
 6 received from the United States government as a pension, with the
 7 commandant, immediately on the receipt of his pension check. In
 8 cases where such pensioner has a wife, child, or parent dependent
 9 upon him for support, at least one-half of such pension money shall
 10 be sent to such dependent person, and if there be two or more de-
 11 pendent relatives the pensioner may determine to whom one-half of
 12 the pension received by him shall be sent. The other half of such pen-
 13 sion money, as well as all money received from such pensioners as
 14 have no dependent relatives, shall be kept on deposit by the com-
 15 mandant for such pensioner, subject to the direction of the board of
 16 control, and the money so deposited may be paid out with the consent
 17 of the depositor, subject to the approval of the commandant under
 18 such rules as the board of control may provide; but in case the pen-
 19 sioner abstain from intoxication and is not guilty of further violation
 20 of the criminal statutes of the state for a period of ten months from
 21 the date of conviction or of intoxication, as hereinbefore provided, he

22 shall be entitled to receive two dollars for the eleventh month and four
 23 dollars for the twelfth month following such conviction, from his said
 24 pension; and if, during these two months, he shall conduct himself in
 25 an orderly and sober manner, he shall then have the same control of
 26 his pension money as though he had not been twice convicted of violat-
 27 ing the criminal statutes, or of being intoxicated as provided in this
 28 section. In case any depositor is discharged from the said home, any
 29 balance of such deposit in the hands of the commandant, after his
 30 ticket has been purchased, shall be paid to such pensioner thirty days
 31 after his discharge, and in the case of the death of such depositor the
 32 money shall be paid to his heirs, legatees, or legal representatives.
 33 No assignment of the money deposited with the commandant, or any
 34 claim therefor shall be valid.

[S., '13, § 2606-b.]

SEC. 1926. Pension money—when deposited.

1 Each member of the home who receives a pension, and who has
 2 a wife or minor children, shall deposit with the commandant forth-
 3 with on receipt of his pension check one-half of the amount thereof,
 4 which shall be sent at once to the wife if she be dependent upon her
 5 own labor or others for support, or, if there be no wife, to the guard-
 6 ian of the minor child or children if dependent upon others for sup-
 7 port; provided, however, that the commandant if satisfied that the
 8 wife has deserted her husband, or is of bad character, or is not de-
 9 pendent upon others for support, may pay the money deposited as
 10 aforesaid to the guardian of the dependent minor child or children.

[S., '13, § 2606-c.]

SEC. 1927. Officers not to be interested in contracts.

1 No trustee or officer of the Iowa soldiers' home shall be in any
 2 way interested in any contract for the erection or purchase of any
 3 buildings or lands, for furnishing any materials or supplies of any
 4 kind whatsoever for the use of said home; and if any such trustee or
 5 officer shall be so interested he shall be deemed guilty of a misde-
 6 meanor and, on conviction, be fined in any sum not exceeding five
 7 thousand dollars.

[C., '97, § 2607.]

SEC. 1928. Annual appropriation—support.

1 For the general support of said home, there is hereby appropri-
 2 ated the sum of twenty-two dollars per month for each member, and
 3 ten dollars per month for each officer and employee not a member of
 4 the home, or so much thereof as may be necessary, to be estimated by
 5 the average number present for the preceding month, these appropri-
 6 ations to be drawn monthly from the state treasury and expended in
 7 the manner provided by chapter one, title nine. If the average num-
 8 ber of members shall be less than eight hundred fifty in any month,
 9 the auditor of state and treasurer of state shall credit the home with
 10 the sum of eighteen thousand seven hundred dollars for that month in
 11 addition to the monthly allowance for each officer and employee, and
 12 the sum so credited shall be drawn from the state treasury in the
 13 same manner and for the same purposes as the regular monthly per
 14 capita allowance is drawn.

[C., '97, § 2608; S., '13, § 2608; 37 G. A., ch. 266, § 2; 38 G.
 A., ch. 37, §§ 1, 3.]

CHAPTER 3.

STATE SANATORIUM FOR THE TREATMENT OF TUBERCULOSIS.

SECTION 1929. Establishment—incipient stages.

1 There is hereby established a state sanatorium for the care and
2 treatment of persons afflicted with incipient pulmonary tuberculosis
3 which shall be called the state sanatorium for the treatment of tuber-
4 culosis.

[S., '13, § 2727-a75.]

SEC. 1930. Control.

1 The board of control of state institutions shall have the same
2 power and control over said institution as is now given it with ref-
3 erence to the several institutions mentioned in chapter one, title nine,
4 and said chapter shall apply to and govern said sanatorium in every
5 respect in so far as it is not in conflict with the provisions of this
6 chapter.

[S., '13, § 2727-a77.]

SEC. 1931. Superintendent, officers and employees.

1 The officers and employees of said sanatorium shall consist of a
2 superintendent and such other officers and employees to be appointed
3 as the board of control of state institutions shall deem necessary for
4 the proper operation of said institution. Said superintendent shall
5 be a well-educated physician with an experience of at least five years
6 in actual practice of medicine. Said superintendent shall be appointed
7 by the board of control of state institutions for the term of four years
8 and shall receive such salary as the said board may fix, not exceeding
9 twenty-five hundred dollars per annum.

[S., '13, § 2727-a76; 38 G. A., ch. 171, § 1.]

SEC. 1932. Duties of superintendent.

1 In addition to the duties which may now be imposed by law, the
2 superintendent shall oversee and secure the individual treatment and
3 professional care of each and every patient residing in the sanatorium.
4 He shall prescribe rules subject to the approval of the board of con-
5 trol and not inconsistent with the statutes for the application, exam-
6 ination, reception and government of patients and their discharge,
7 and shall keep a full record of their condition and prospects. He shall
8 endeavor to stimulate the organization and assist in the establishment
9 of hospitals or dispensaries, in various counties or large centers of
10 population, for the treatment of patients with advanced tuberculosis.
11 He shall reside at the institution.

[S., '13, § 2727-a81.]

SEC. 1933. What patients received—applications—examination.

1 No patients shall be received except those afflicted with pulmon-
2 ary tuberculosis. Any person wishing to become a patient in the in-
3 stitution shall first make application to the superintendent who shall
4 thereupon furnish the necessary admission blanks. Such applicant
5 shall thereafter secure a thorough examination from his attending
6 physician, who shall for this purpose be a physician regularly licensed
7 to practice medicine in Iowa and who shall examine said applicant

8 fully with a view of ascertaining whether he is afflicted with pul-
9 monary tuberculosis, and shall so far as possible fill out the medical
10 blanks which are furnished for that purpose and shall mail the same
11 to the superintendent of the sanatorium.

12 If from this blank and other papers which said applicant shall
13 be required to furnish it shall appear that the applicant is a bona fide
14 resident of this state and in all other respects under the law entitled
15 to admission, he shall notify the applicant and shall receive the ap-
16 plicant as a patient, providing there is room. If no room be then
17 available he shall record the name in the order in which the applica-
18 tion is made and the applicant shall be admitted in said order when-
19 ever there is room.

20 In case it shall appear from the application or from the report
21 of the physician that the applicant does not come within the provi-
22 sions of the law, or in case the superintendent shall be in possession
23 of reliable information which convinces him that the applicant is not
24 entitled to the benefits of this chapter, he shall notify the applicant
25 that he can not be admitted as a patient. If, however, the superin-
26 tendent after receiving the report of the physician is in doubt as to
27 whether it is a case of pulmonary tuberculosis, he shall personally
28 examine the applicant in case he presents himself at the institution
29 for that purpose.

[S., '13, § 2727-a82; 38 G. A., ch. 171, § 2.]

SEC. 1934. Advanced stages—additional department.

1 A department for persons afflicted with pulmonary tuberculosis
2 in advanced stages is hereby established at the state sanatorium for
3 the treatment of tuberculosis. The board of control of state institu-
4 tions shall adopt rules and regulations for receiving patients and
5 managing said department. Whenever there shall not be sufficient
6 room to accommodate all applicants qualified for admission preference
7 shall be given to those most in need of the care of the institution and
8 whose condition is most dangerous to the public. Patients may be
9 transferred from the department for incipient cases to the department
10 for advanced cases and from the department for advanced cases to the
11 department for incipient cases, as may be deemed advisable by the
12 superintendent.

[S., '13, § 2727-a91.]

SEC. 1935. Transportation and other expenses.

1 In case an applicant who has been authorized to be received as a
2 patient in the sanatorium is without means to pay for the transporta-
3 tion and other necessary expenses to and from, including treatment
4 at the institution, and such fact is duly certified to by the board of
5 health of the city or incorporated town where the applicant resides,
6 or by the majority of the township trustees in case the applicant re-
7 sides outside of a city or incorporated town, and the superintendent is
8 satisfied that such is the fact, then such expense shall be paid by the
9 state out of any funds in the state treasury not otherwise appropri-
10 ated after the same is certified by said superintendent and approved
11 by the board of control.

[S., '13, § 2727-a84.]

SEC. 1936. Per capita allowance.

1 The board of control of state institutions shall fix the per capita
2 allowance which may be charged by the said institution for the care,
3 treatment and maintenance of each patient therein, which shall not
4 exceed the sum of fifty dollars per capita per month, which shall be
5 certified by the superintendent to said board of control and paid out
6 as provided by the law as it appears in this chapter of the supplement
7 to the code, 1907; provided that if the aggregate per capita allowance
8 for the patients shall not equal the sum of four thousand dollars for
9 any month, the auditor of state and treasurer of state shall credit the
10 institution with that sum for that month.

[S., '13, § 2727-a85; 38 G. A., ch. 37, § 8.]

Note.—The above reference to the supplement of 1907 is retained because it does not pertain to the subject matter indicated.

SEC. 1937. Charges for care, treatment and maintenance—liability of counties.

1 Each county shall be liable to the state for the support of all
2 patients from that county in the state sanatorium and the amounts
3 due shall be certified by the superintendent to the auditor of state,
4 and by him be collected from the counties liable, at the times and in
5 the manner required for the certification and collection of money from
6 counties for the support of insane patients and patients in the sana-
7 torium, and persons legally bound for their support shall be liable for
8 the maintenance of patients in the sanatorium. The provisions of
9 law for the collection by boards of supervisors of amounts paid by
10 their respective counties from the estates of insane patients and from
11 persons legally bound for their support shall apply in cases of patients
12 cared for in the sanatorium.

[S., '13, § 2727-a86.]

SEC. 1938. Appropriation for collection and dissemination of information.

1 There is hereby appropriated out of any funds in the state treas-
2 ury not otherwise appropriated the sum of five thousand dollars an-
3 nually, or so much thereof as may be necessary, to be used by the
4 board of control of state institutions for the collection and dissemina-
5 tion of information regarding tuberculosis. Said board of control
6 may arrange exhibits, employ lecturers, cooperate with other institu-
7 tions or organizations or use any means necessary to give to the people
8 of the state a practical knowledge of tuberculosis. Said board of con-
9 trol shall, with the superintendent or such assistance as it may deem
10 advisable, stimulate the organization of, and assist in establishing
11 hospitals or dispensaries or make other provisions, in the various
12 counties or large centers of population, for the treatment of patients
13 in the advanced stages of tuberculosis.

[S., '13, § 2727-a89.]

CHAPTER 4.**INSTITUTION FOR FEEBLE MINDED.****SECTION 1939. Objects and management.**

1 The institution located at Glenwood shall be known as the institu-
2 tion for feeble-minded children and be maintained for the training,

3 instruction, care and support of feeble-minded children. The board
4 of control shall have the general management of the affairs of the
5 institution, and may adopt such forms of application for admission as
6 may be needed, and shall biennially make to the governor a full report
7 of the disbursements of the institution and its condition, financial and
8 otherwise.

[C., '97, § 2693.]

SEC. 1940. Idiotic children.

1 The term "feeble minded" as used in connection with this insti-
2 tution shall be so construed as to include idiotic children, and it shall
3 provide a custodial department for the care of such as can not be
4 benefited by educational training.

[C., '97, § 2699.]

SEC. 1941. Admissions.

1 Every child and youth residing within the state, between the
2 ages of five and twenty-one years, who by reason of deficient intellect
3 is rendered unable to acquire an education in the common schools, is
4 entitled to receive the physical and mental training and care of this
5 institution at the expense of the state. The county superintendent in
6 each county shall, on the first day of October, report to the superin-
7 tendent of the institution the name, age and postoffice address of
8 every person in his county of such age who, by reason of feeble
9 mental and physical condition, is deprived of a reasonable degree of
10 benefit from the common schools, and state therein whether or not
11 such person has ever attended school, and if so how long, and also give
12 the postoffice address of the parents, guardian or nearest friend of
13 such person.

[C., '97, § 2695.]

SEC. 1942. Application.

1 Application for admission into the institution for such children
2 shall be made by the father and mother, or either of them if the other
3 be dead or adjudged insane, or by the guardian, or, if there be no
4 guardian, by the board of supervisors or county attorney of the county
5 in which the child or youth resides; and it shall be the duty of such
6 board of supervisors or county attorney to make such application for
7 any such child or youth who has no living, sane parent or guardian in
8 the state, unless otherwise comfortably provided for.

[C., '97, § 2696.]

SEC. 1943. Admission of certain women.

1 All feeble-minded women under forty-six years of age who are
2 residents of the state of Iowa may be admitted to the institution for
3 feeble-minded children at Glenwood.

[S., '13, § 2695-a.]

SEC. 1944. Statutes applicable.

1 The provision of this chapter in regard to the admission and
2 maintenance of children in said institution shall apply to the admis-
3 sion and maintenance of feeble-minded women authorized by the pre-
4 ceding section.

[S., '13, § 2695-b.]

SEC. 1945. Admission of certain men.

1 All feeble-minded men under forty-six years of age who are resi-
 2 dents of the state of Iowa, may be admitted to the institution for
 3 feeble-minded children at Glenwood.

[S., '13, § 2695-c.]

SEC. 1946. Statutes applicable.

1 The provision of this chapter in regard to the admission and
 2 maintenance of feeble-minded children in said institution shall apply
 3 to the admission and maintenance of feeble-minded men authorized
 4 by the preceding section.

[S., '13, § 2695-d.]

SEC. 1947. Inmates returned.

1 Any inmate of the institution, by order of the board of control
 2 made at any time, may be returned to his parents or guardian.

[C., '97, § 2698.]

SEC. 1948. Expenses.

1 Pupils not otherwise provided with clothing shall be supplied by
 2 the superintendent, the cost of which, if any there be, with that of
 3 the transportation of the pupil, shall stand as an account against him
 4 or his parent or guardian, and, being duly certified to by the superin-
 5 tendent, shall be presumed to be correct in all courts. A certified ac-
 6 count thereof shall be transmitted to the county auditor of the county
 7 of the pupil's residence, who shall proceed to collect it in the name of
 8 the county, and pay the same to the state treasurer. At the same time
 9 the account is forwarded to the auditor, a duplicate shall be sent to
 10 the state auditor, who shall credit the institution with the amount,
 11 and at the same time charge it to the proper county. If it is made
 12 to appear by the affidavits of three disinterested persons of such
 13 county, not of kin to an inmate, his parents or guardian, that the same
 14 ought not to be collected from them or either of them because of their
 15 financial condition, then the auditor shall credit the same to the state
 16 and report that fact to the board of supervisors, which board shall
 17 direct its payment to the state out of the county fund.

[C., '97, § 2697.]

SEC. 1949. Wards of state.

1 When any person becomes an inmate of the institution for feeble-
 2 minded children, such person shall thereupon be a ward of the state,
 3 and shall not be removed from such institution without an order in
 4 writing from the board of control of state institutions.

[38 G. A., ch. 281, § 1.]

SEC. 1950. Wrongful removal—recapture—expense.

1 If any inmate of the institution for feeble-minded children shall
 2 leave such institution or be removed therefrom without complying
 3 with the provisions of the preceding section, the superintendent of
 4 such institution shall cause immediate search to be made for him, and
 5 if he can not be found, shall cause notice of the fact that he has left
 6 said institution to be given forthwith to the clerk of the district court
 7 of the county where he belongs, and if found to be in that county the

8 clerk shall at once notify the superintendent of the place where the
 9 patient can be found, and when so notified or when otherwise informed
 10 of the place in which the inmate may be taken, the superintendent
 11 shall send an employee of the institution or other person for him and
 12 cause him to be returned to the institution unless for good reasons a
 13 different course be deemed advisable by the superintendent, and is
 14 approved by the board of control. In case of apparent necessity the
 15 inmate may be taken into custody and restrained by the local authori-
 16 ties until he is taken by the representative of the institution. All
 17 actual and necessary expenses incurred in the capture, restraint and
 18 return to the hospital of the inmate shall be paid on itemized vouch-
 19 ers, sworn to by the claimants and approved by the superintendent,
 20 and the board of control of state institutions, from any money in the
 21 state treasury not otherwise appropriated.

[38 G. A., ch. 281, § 2.]

SEC. 1951. Support.

1 For the support of the institution, there is appropriated out of
 2 any money in the state treasury not otherwise appropriated, the sum
 3 of seventeen dollars monthly for each inmate therein supported by
 4 the state, counting the actual time such person is an inmate and so
 5 supported. Upon the presentation to the state auditor of a sworn
 6 statement of the average number of inmates supported in the institu-
 7 tion by the state for the preceding month, he shall draw his warrant
 8 upon the state treasurer for such sum.

[C., '97, § 2700; S., '13, § 2700; 37 G. A., ch. 266, § 3; 38 G.
 A., ch. 37, §§ 1, 4.]

CHAPTER 5.

GUARDIANSHIP AND CUSTODY OF FEEBLE MINDED.

SECTION 1952. "Feeble minded" defined.

1 The words "feeble-minded person" in this chapter shall be con-
 2 strued to mean any person afflicted with mental defectiveness from
 3 birth or from any early age, so pronounced that he is incapable of
 4 managing himself and his affairs, or of being taught to do so, and
 5 requires supervision, control and care for his own welfare, or for the
 6 welfare of others, or for the welfare of the community, who is not
 7 classifiable as an "insane person" within the meaning of the provi-
 8 sions of the chapters of this title relating to the insane.

[38 G. A., ch. 356, § 1.]

SEC. 1953. Petition to adjudicate feeble-mindedness.

1 When any person residing in this state shall be supposed to be
 2 feeble minded, and by reason of such mental condition of feeble-
 3 mindedness and of social conditions, such as want of proper supervi-
 4 sion, control, care and support, or other causes, it is unsafe and dan-
 5 gerous to the welfare of the community for him to be at large without
 6 supervision, control and care, any relative, guardian, or any reputable
 7 citizen of the county in which the supposed feeble-minded person re-
 8 sides or is found, may, by leave of court first had and obtained, file

9 with the clerk of either the district court of the county or in the supe-
10 rior or municipal court of the city in which such feeble-minded person
11 resides or is found, a petition in writing, setting forth that the person
12 therein named is feeble minded, the fact and circumstances of the
13 social conditions, such as want of proper supervision, control, care and
14 support, or other causes making it unsafe or dangerous to the welfare
15 of the community for such person to be at large without supervision,
16 control or care; also the name and residence, or that such name or res-
17 idence is unknown to the petitioner, of some person, if any there be,
18 actually supervising, caring for or supporting such person, and of at
19 least one person if any there be, legally chargeable with such super-
20 vision, care or support, and also the names and residences, or that
21 same are unknown, of the parents or guardians.

22 The petition shall also allege whether or not such person has
23 been examined by a qualified physician having personal knowledge of
24 the condition of such alleged feeble-minded person. There shall be
25 indorsed on such petition the names and residences of witnesses known
26 to petitioner by whom the truth of the allegations of the petition may
27 be proved, as well as the name and the residence of a qualified physi-
28 cian, if any is known to the petitioner, having personal knowledge of
29 the case.

30 All persons named in such petition shall be made defendants by
31 name and shall be notified of such proceedings by notice, if residents
32 of this state, in the same manner as is now or may hereafter be re-
33 quired by law in chancery in this state, except only as herein otherwise
34 provided. All persons whose names are stated in the petition to be
35 unknown to the petitioner shall be deemed and taken as defendants
36 by the name and designation of "all whom it may concern". The pe-
37 tition shall be verified by affidavit, which shall be sufficient if it states
38 that it is based upon information and belief. Process shall be issued
39 against all persons made parties by the designation of "all whom it
40 may concern", by such description and notice given by publication as
41 required in this chapter, shall be sufficient to authorize the court to
42 hear and determine the suit as though the parties had been sued by
43 their proper names.

[38 G. A., ch. 356, § 2.]

SEC. 1954. Notice—pleadings—publication.

1 The notice shall require all defendants to personally appear at
2 the time and place stated therein, and to bring into court the alleged
3 feeble-minded person. No written answer shall be required to the
4 petition, but the cause shall stand for trial upon the petition on the
5 return day of the notice. The notice shall be made returnable at any
6 time within ten days after the date thereof, and may be served the
7 same as a notice in civil actions is served. No service of process shall
8 be necessary upon any of the defendants named, if they appear or are
9 brought before the court personally without service of notice.

10 Whenever it shall appear from the petition or from affidavit filed
11 in the cause that any named defendant, other than the alleged feeble-
12 minded person, resides or has gone out of the state, or on due inquiry
13 can not be found, or is concealed within this state, or that his place of
14 residence is unknown, so that process can not be served upon him, and
15 whenever any person is made a defendant under the name and desig-
16 nation of "all whom it may concern", the clerk of the court shall cause
17 publication to be made once in some newspaper of general circulation

18 published in his county, and if there be none published in his county,
19 then in a newspaper of general circulation published in the nearest
20 place to his county in this state, which publication shall be substan-
21 tially as follows:

22 “(Give names of such defendants and) To all whom it may con-
23 cern (if there be any defendant under such designation):

24 “TAKE NOTICE That on the.....day of.....A. D.,
25, a petition was filed by..... in the
26court of.....to have a person named
27declared feeble minded and to have the court
28 provide for the care and the detention of such person.

29 “Now unless you appear within ten days after the date of this
30 notice and resist the granting of the prayer of such petition, the
31 petition will be taken for confessed and a decree entered.

32 “Dated.....
33 “Clerk.”

34 The clerk shall also within ten days after the publication of such
35 notice send a copy thereof by mail, addressed to such defendants
36 whose place of residence is stated in the petition and who can not be
37 served with notice. Notice given by such publication shall be as ef-
38 fectual for every purpose as if such person or persons were duly
39 served with notice personally. The certificate of the clerk that he has
40 sent such notice pursuant to this section, shall be conclusive evidence
41 thereof. Every defendant who shall be duly notified shall be held
42 to appear and answer either in writing or orally in open court, on the
43 return day of the notice, and if the notice be served less than one day
44 prior to the return day thereof, then on the following day. Every
45 defendant who shall be notified by publication as herein provided,
46 shall be held to appear and answer, either in writing or orally, within
47 ten days after the date of the publication notice. The answer shall
48 have no greater weight as evidence than the petition.

49 In default of an answer at the time herein specified or at such
50 further time as by order of court may be granted to the defendant,
51 the petition may be taken as confessed against all defendants, except
52 the alleged feeble-minded persons.

[38 G. A., ch. 356, § 3.]

SEC. 1955. Custody pending hearing.

1 Upon the filing of the petition, or upon motion at any time there-
2 after, if it shall be made to appear to the court by evidence given
3 under oath that it is for the best interests of the alleged feeble-
4 minded person and the community that such person be at once taken
5 into custody, or that the service of a notice will be ineffectual to secure
6 the presence of such person, a warrant may issue in the order of the
7 court, directing that such person be taken into custody and brought
8 before the court forthwith or at such time and place as the judge
9 may appoint, and pending the hearing of the petition, the court may
10 make any order for the detention of such feeble-minded person, or
11 the placing of such feeble-minded person under temporary guardian-
12 ship of some suitable person, on such person entering into a recog-
13 nizance for his appearance, as the court shall deem proper. But no
14 such alleged feeble-minded person shall, during the pendency of the
15 hearing of the petition, be detained in any place provided for the de-

16 tention of persons charged with or convicted of any criminal or quasi
17 criminal offense.

[38 G. A., ch. 356, § 4.]

SEC. 1956. Continuances—examination.

1 At any time after the filing of the petition and pending the final
2 disposition of the case, the court may continue the hearing from time
3 to time, and may order such alleged feeble-minded person to submit
4 to the examination of some qualified physician or psychologist, and
5 the court may also require by rule or order that the petitioner answer
6 under oath such interrogatories as may be propounded, in a form to
7 be prescribed by the board of control.

[38 G. A., ch. 356, § 5.]

SEC. 1957. Hearing—advisory report.

1 The hearing on the petition shall be by the court, and a commis-
2 sion to be appointed by the court, of two qualified physicians or one
3 qualified physician and one qualified psychologist, residents of the
4 county, to be selected by the judge on account of known competency
5 and integrity, and evidence shall be heard and proceedings had as in
6 any other civil proceedings.

7 Evidence shall also be heard and inquiry made into the social
8 conditions, such as want of proper supervision, control, care or support,
9 and other causes making it unsafe or dangerous to the welfare of
10 the community for such person to be at large, without supervision,
11 control or care. The commission shall also make a personal exam-
12 ination touching the mental condition of the alleged feeble-bodied
13 person.

14 Upon the conclusion of a hearing, inquiry and examination, the
15 commission shall file with the clerk of the court a report in writing,
16 showing the result of their examination of the mental condition and
17 social conditions aforesaid setting forth their conclusions and recom-
18 mendations, and shall also file with such report their sworn answers
19 to such interrogatories as may be propounded in a form to be pre-
20 scribed by the board of control. Such answers may be based upon
21 their knowledge and belief.

[38 G. A., ch. 356, § 6.]

SEC. 1958. Report—rejection or confirmation.

1 The report shall have the same effect as the reports of masters
2 in chancery, and shall be subject to be set aside or overruled by the
3 court the same as reports of masters in chancery; provided, however,
4 that there shall be no need of making objections and taking excep-
5 tions to same and the court shall have the power to dismiss the pro-
6 ceedings, order a new hearing by the same or a new commission, or
7 make such findings of fact in lieu of the findings in such report as
8 may be justified by the evidence heard, and on the review of the court
9 of the findings and recommendations of the commission, the court
10 may hear such further evidence as it thinks fit.

[38 G. A., ch. 356, § 7.]

SEC. 1959. Order of commitment—guardianship.

1 If the court shall find such alleged feeble-minded person not to
2 be feeble minded as defined in this chapter, he shall order the peti-
3 tion dismissed and the person discharged. If the court shall find such

4 alleged feeble-minded person to be feeble minded, and subject to be
 5 dealt with under this chapter, having due regard to all the circum-
 6 stances appearing on the hearing, the guiding and controlling thought
 7 of the court throughout the proceedings to be the welfare of the
 8 feeble-minded person and the welfare of the community, it shall enter
 9 a decree, appointing a suitable person to be the guardian of the per-
 10 son of such feeble-minded person, or directing that such feeble-
 11 minded person be sent to a private institution, qualified and licensed
 12 under the laws of the state to receive such person whose managers
 13 are willing to receive him, or may direct that he be placed in a pub-
 14 lic institution for the feeble minded and such decree so entered shall
 15 stand and continue binding upon all persons whom it may concern
 16 until rescinded or otherwise regularly superseded or set aside; pro-
 17 vided, however, that any guardian appointed under this chapter shall
 18 be subordinate to any guardian previously or subsequently appointed
 19 under section sixty-six hundred seventy.

[38 G. A., ch. 356, § 8.]

SEC. 1960. Power of guardian.

1 An order that the feeble-minded person be placed under guard-
 2 ianship shall confer on the person named in the order as guardian
 3 such powers, subject to the regulations of the board of control, as
 4 would have been exercisable if he had been the father of the feeble
 5 minded, and the feeble-minded person had been under the age of
 6 fourteen.

[38 G. A., ch. 356, § 9.]

SEC. 1961. Guardian—removal or discharge of.

1 Where an order has been made that a feeble-minded person be
 2 placed under guardianship, the guardian may be removed by the
 3 court that appointed him, on the application of the feeble-minded
 4 person, or of any relative or friend of the feeble-minded person, or
 5 of any reputable citizen, or of the board of control; and when the
 6 guardian dies, resigns or is removed, the court may, on a like applica-
 7 tion, appoint a suitable person to act in his stead.

8 On application of the guardian, or of the feeble-minded person,
 9 or of any relative or friend of the feeble-minded person, or of any
 10 reputable citizen, or of the board of control, the court that appointed
 11 the guardian, on being satisfied that the case is, or has become one
 12 unsuitable for guardianship, may order that the feeble-minded per-
 13 son be discharged from guardianship and set free, or be sent to a
 14 private institution qualified, and licensed under the laws of the state
 15 to receive him, whose managers are willing to receive him or be sent
 16 to a public institution for the feeble minded, as seems best to the
 17 court, having regard to the circumstances appearing on the hearing.
 18 No order shall be made discharging or varying a prior order placing
 19 the feeble-minded person under guardianship without giving one or
 20 more of the relatives or a friend of the feeble-minded person, his
 21 guardian or the board of control, notice and an opportunity to be
 22 heard.

[38 G. A., ch. 356, § 10.]

SEC. 1962. Commitment.

1 Upon the entry of an order directing that a feeble-minded person
 2 be sent to an institution for feeble-minded persons, the clerk of the

3 court shall send a copy of the order to the superintendent of the in-
 4 stitution to which such feeble-minded person is ordered to be sent, and
 5 such superintendent shall receive such feeble-minded person as a
 6 charge in such institution; provided that if on account of the crowded
 7 condition of a public institution it is impossible to accommodate such
 8 feeble-minded person, the superintendent will inform the court with
 9 the promise that the court be notified at once when the next vacancy
 10 occurs and that such feeble-minded person be then received as a
 11 charge in such public institution.

[38 G. A., ch. 356, § 11.]

SEC. 1963. Expense of commitment—duplicate warrant.

1 For the conveyance of any feeble-minded person to any public
 2 or private institution for the feeble minded, admission thereto having
 3 been ordered by the court as herein provided, the clerk shall issue a
 4 warrant and duplicate directed to the petitioner, or to some suitable
 5 reputable person, as the judge may select, commanding him to take
 6 such feeble-minded person and deliver him to the superintendent of
 7 the institution. And if the judge thinks necessary he may direct
 8 the clerk to authorize the employment of one or more assistants, but
 9 no feeble-minded female shall be taken to the institution by any male
 10 person not her husband, father, brother or son, without the attend-
 11 ance of some woman of good character and mature age chosen for the
 12 purpose by the judge.

13 Upon receiving the feeble-minded person the superintendent of
 14 the institution shall indorse upon the warrant his receipt, naming
 15 the person or persons from whom the feeble-minded person is re-
 16 ceived, and one copy of the warrant so indorsed, shall be returned to
 17 the clerk of the court to be filed with the other papers in this case,
 18 and the other shall be left with the superintendent, and the person
 19 delivering the feeble-minded person shall indorse thereon that he has
 20 so delivered him, and said duplicate warrant shall be prima facie evi-
 21 dence of that fact set forth therein, and in said indorsement.

[38 G. A., ch. 356, § 12.]

SEC. 1964. Discharge—procedure.

1 No feeble-minded person admitted to an institution for the feeble
 2 minded pursuant to an order of the court as herein provided, shall be
 3 discharged therefrom, except as herein provided, except that nothing
 4 herein contained shall abridge the right of petition for a writ of
 5 habeas corpus.

6 At any time after the admission of the feeble-minded person to
 7 an institution for the feeble minded, pursuant to an order of court
 8 as herein provided, the feeble-minded person or any of the relatives
 9 or friends of the feeble-minded person or any reputable citizen or
 10 the superintendent of the institution having the feeble-minded person
 11 in charge, or the board of control, may petition the court that entered
 12 the order of admission, to discharge the feeble-minded person, or to
 13 vary the order of the court, sending the feeble-minded person to an
 14 institution. If, on the hearing of the petition, the court is satisfied
 15 that the welfare of the feeble-minded person or the welfare of others,
 16 or the welfare of the community required his discharge, or a modi-
 17 fication of the order, the court may enter such order of discharge or
 18 modification, as the court thinks proper.

19 Discharges and modifications of orders may be made for either
 20 of the following causes: Because the person adjudged to be feeble
 21 minded is not feeble minded; because he has so far improved as to be
 22 capable of caring for himself; because the relatives or friends of the
 23 feeble-minded person are able and willing to support, care for him
 24 and request his discharge and in the judgment of the superintendent
 25 of the institution having the person in charge, no evil consequences
 26 are likely to follow such discharge; but the enumeration of grounds
 27 of discharge or modification herein shall not exclude other grounds
 28 of discharge or modification which the court, in its discretion, may
 29 deem adequate, having due regard for the welfare of the person con-
 30 cerned, or the welfare of others, or the welfare of the community.

31 On any petition of discharge or variation, the court may discharge
 32 the feeble-minded person from all supervision, control and care, or
 33 may place him under guardianship, or may transfer him from a
 34 public institution to a private institution, or from a private institu-
 35 tion to a public institution, as the court thinks fit under all the cir-
 36 cumstances appearing on the hearing of the petition.

37 The superintendent of the institution having the feeble-minded
 38 person in charge, must be notified of the time and place of hearing
 39 on any petition for discharge or variation, as the court shall direct,
 40 and no order of discharge or variation shall be entered without giv-
 41 ing such superintendent a reasonable opportunity to be heard; and
 42 the court may notify such other persons, relatives and friends of the
 43 feeble-minded person as the court may think proper of the time and
 44 place of the hearing on any petition for discharge or variation of
 45 prior order.

46 The denial of one petition for discharge or modification shall be
 47 no bar to another on the same or different grounds within a reasonable
 48 time thereafter, such reasonable time to be determined by the court
 49 in its discretion, discouraging frequent, repeated, frivolous, or ill-
 50 founded petitions for discharge or modification of a prior order.

51 On reception of a feeble-minded person in an institution pursuant
 52 to an order of court under this chapter, the superintendent of the in-
 53 stitution under regulations of the board of control shall cause the
 54 and if upon such examination it is found the person is not feeble
 55 feeble-minded person to be examined touching his mental condition,
 56 minded, it shall be the duty of the superintendent to petition the
 57 court for a discharge or modification of the order sending him to the
 58 institution.

59 Any person sent to an institution pursuant to an order of court
 60 under this chapter shall have the right to at least one hearing on a
 61 petition for discharge or modification within one year after the date
 62 of the order sending him to an institution.

[38 G. A., ch. 356, § 13.]

SEC. 1965. Access of patient to relatives.

1 Every person admitted to any institution for the feeble minded
 2 shall have all reasonable opportunity and facility for communication
 3 with his friends, and be permitted to write and send letters, provid-
 4 ing they contain nothing of an immoral or personally offensive char-
 5 acter, and the letters written by any charge to any member of the
 6 board of control, or to any state or county official, shall be forwarded
 7 unopened. But no leave of absence shall be granted except for good
 8 cause to be determined and approved by the board of control in each

9 case who shall take appropriate measures to secure for the feeble-
10 minded person proper supervision, control and care during such leave
11 of absence, and no leave of absence shall be for a longer period than
12 two weeks in one calendar year.

[38 G. A., ch. 356, § 14.]

SEC. 1966. Inquest by coroner.

1 In the event of a sudden or mysterious death of a charge of any
2 public or private institution for the feeble minded, a coroner's inquest
3 shall be held as provided by law in other cases. Notice of the death
4 of such person, and the cause thereof, shall in all cases be sent to the
5 judge of the court having jurisdiction, over such person, and the fact
6 of the death, with the time, place and alleged cause shall be entered
7 upon the docket.

[38 G. A., ch. 356, § 15.]

SEC. 1967. Penalties.

1 Any person who shall knowingly contrive or who shall conspire
2 to have any person adjudged feeble minded under this chapter un-
3 lawfully and improperly, or any person who shall violate any provision
4 of this chapter, shall be deemed guilty of a misdemeanor, and upon
5 conviction thereof shall be fined not exceeding one thousand dollars,
6 or imprisoned not exceeding one year, or both, at the discretion of
7 the court in which such conviction is had.

[38 G. A., ch. 356, § 16.]

SEC. 1968. Costs.

1 The costs of proceedings in feeble-mindedness shall be defrayed
2 from the county treasury, unless otherwise ordered by the court as
3 herein provided. When, on the hearing of the petition, the person
4 alleged to be feeble minded is found not to be feeble minded, the
5 court, in its discretion, may require that the costs shall be paid by the
6 person who filed the petition, and may render judgment against him
7 therefor, except that judgment for costs shall not be rendered against
8 the petitioner who filed the petition pursuant to the direction of a
9 court as provided in sections nineteen hundred sixty-nine and nine-
10 teen hundred seventy.

11 The fees paid for attendance of witnesses and execution of legal
12 process, shall be the same as are allowed by law for similar service
13 in other cases. For service as commissioner, the sum of five dollars
14 per day and the actual and necessary traveling expenses shall be al-
15 lowed, to each person so employed.

16 When the proceedings are instituted in a court of any county of
17 which the alleged feeble-minded person is not a resident, in case a
18 judgment for costs is not rendered against the petitioner as above pro-
19 vided, the clerk of the district court of the county in which the said
20 feeble-minded person resides shall be furnished with a transcript of
21 the record and findings in the case, and thereupon the said county
22 shall be liable for the costs of the proceedings.

[38 G. A., ch. 356, § 17.]

SEC. 1969. Maintenance costs.

1 Where an order that a feeble-minded person be placed under
2 guardianship, or be sent to a private or public institution, is made
3 under this chapter, [the court] may at any time, on the application of

4 the petitioner or of the guardian, as the case may be, make an order
5 requiring the feeble-minded person, or any person liable or under-
6 taking to maintain him, to contribute such sums towards the expenses
7 of his guardianship, or his maintenance in the institution and any
8 charges incidental thereto, including the costs of the proceedings in
9 feeble-mindedness, of his conveyance to the institution, and in the
10 event of his death at the institution his funeral expenses, as seems
11 reasonable, having regard to the ability of the feeble-minded person,
12 or of the person liable or undertaking to maintain him. Any such
13 order may be enforced against any property of the feeble-minded
14 person, or of the person liable or undertaking to maintain him, in the
15 same way as if it were a judgment or decree for temporary alimony
16 in a divorce case.

[38 G. A., ch. 356, § 18.]

SEC. 1970. Proceedings in juvenile courts.

1 When a child is brought before a juvenile court as a dependent
2 or a delinquent child, if it appears to the court, on the testimony of
3 a physician or psychologist, or other evidence, that such person or
4 child is feeble minded within the meaning of this chapter, the court
5 may adjourn the proceedings and direct some suitable officer of the
6 court or some other suitable reputable person to file a petition under
7 this chapter; and the court may order that pending the preparation,
8 filing and hearing of such petitions, the person or child be detained
9 in a place of safety or be placed under the guardianship of some suit-
10 able person on that person entering into recognizance for his ap-
11 pearance.

[38 G. A., ch. 356, § 19.]

SEC. 1971. Suspension of criminal proceedings.

1 On the conviction by a court of record of competent jurisdiction
2 of any person of any crime, misdemeanor, or any violation of any ordi-
3 nance which is in whole, or in part, a violation of any statute of this
4 state; or on a child brought before the juvenile court for any delin-
5 quency, being found liable to be sent to a reformatory school, a train-
6 ing school or an industrial school, the court if satisfied on the testi-
7 mony of a physician or a psychologist, or other evidence that the
8 person or child is feeble minded within the meaning of this chapter,
9 may suspend any sentence or suspend entering an order sending the
10 child to a reformatory training or industrial school and direct that a
11 petition be filed under this chapter. When the court directs a petition
12 to be filed it may order that pending the preparation, filing and hear-
13 ing of the petition, the person or child be detained in a place of safety,
14 or be placed under the guardianship of any suitable person on that
15 person entering into a recognizance for his appearance. If upon the
16 hearing of said petition or upon any subsequent hearing under this
17 chapter the person is found not to be feeble minded the court shall
18 impose sentence.

[38 G. A., ch. 356, § 20.]

SEC. 1972. Transfer of inmates.

1 When the mental condition of a person under guardianship or in
2 an institution for feeble-minded persons, pursuant to an order of
3 court under this chapter, becomes or is found to be such that he

4 ought to be transferred to an institution for the insane, the superin-
5 tendent of the institution or the guardian of the person, or the board
6 of control, as the case may be, shall cause such steps to be taken as
7 may be necessary for his removal to an institution for the insane.
8 When the mental condition of a person in an institution for the
9 insane becomes or is found to be such that he ought to be transferred
10 to an institution for feeble-minded persons, or placed under guardian-
11 ship under this chapter, the superintendent of the institution for the
12 insane, or the board of control, may cause such steps to be taken as
13 may be necessary for having an order that he be sent to an institu-
14 tion entered by the court by original jurisdiction for feeble-minded
15 persons or placed under guardianship under this chapter.

[38 G. A., ch. 356, § 21.]

SEC. 1973. Clothing and money on discharge.

1 No person shall be discharged from a public institution for the
2 feeble minded without suitable clothing and a sum of money not ex-
3 ceeding twenty dollars, sufficient to defray his expenses home, which
4 shall be charged to the county in which the person resides, and col-
5 lected as other debts due the institution are collected. But the court
6 ordering the discharge may dispense with this requirement if the
7 court, in its discretion, thinks it fit and proper under the circum-
8 stances.

[38 G. A., ch. 356, § 22.]

SEC. 1974. Escape.

1 If any feeble-minded person shall escape from an institution for
2 the feeble minded, it shall be the duty of the superintendent of the
3 institution and his assistants, and of any sheriff or constable, or other
4 officer of the peace in any county in which he may be found, to take
5 and detain him without a warrant and report the same at once to a
6 judge who shall return him to the institution at the expense of the
7 county from which he was admitted.

[38 G. A., ch. 356, § 23.]

SEC. 1975. Separate docket.

1 Each court having jurisdiction under this chapter shall keep a
2 separate docket of proceedings in feeble-mindedness upon which shall
3 be made such entries as will, together with the papers filed, preserve
4 a complete and perfect record of each case, the original petitions,
5 writs, and returns made thereto, and the reports of commissions shall
6 be filed with the clerk of the court.

[38 G. A., ch. 356, § 24.]

SEC. 1976. Record by board of control.

1 The board of control shall keep a record of all persons adjudged
2 to be feeble minded, and of the orders respecting them by the courts
3 throughout the state, copies of which orders shall be furnished by
4 the clerk of the court without the board's application or upon the
5 board's application.

[38 G. A., ch. 356, § 25.]

SEC. 1977. Invalidity—effect.

1 The invalidity of any part of this chapter shall not be construed
 2 to affect the validity of any other part capable of having practical
 3 operation and effect without the invalid part.

[38 G. A., ch. 356, § 26.]

CHAPTER 6.**STATE COLONY FOR EPILEPTICS.****SECTION 1978. Object—management—transfer of patients.**

1 The state hospital and colony for epileptics shall be devoted to
 2 securing humane, curative, scientific and economical care and treat-
 3 ment of epileptics and shall be under the management, care and con-
 4 trol of the board of control of state institutions, which board shall
 5 make and enforce such rules and regulations as it may deem neces-
 6 sary for the management and control of the institution and for the
 7 admission and retention of all voluntary, involuntary and private pa-
 8 tients to such hospital, and for their treatment, care, education and
 9 discharge and shall fix the rate of compensation to be paid by private
 10 patients. The board shall have full power to transfer epileptics from
 11 any other state hospital or institution under the control of said board
 12 to the hospital and colony for epileptics, to transfer insane epileptics
 13 from the hospital and colony to other state institutions, and to re-
 14 transfer such epileptics if deemed expedient.

[S. S., '15, § 2727-a96.]

SEC. 1979. Admission.

1 All adults afflicted with epilepsy who have been residents of Iowa
 2 for at least one year preceding the application for admission and all
 3 children so afflicted whose parents or guardians have been residents
 4 of Iowa for a like period shall be eligible for admission.

[S., '13, § 2727-a95.]

SEC. 1980. Officers and employees—appointment—salaries.

1 The officers and employees of the hospital and colony shall consist
 2 of a superintendent and such other officers and employees to be ap-
 3 pointed by the superintendent as the board of control of state institu-
 4 tions may deem necessary for the proper operation and manage-
 5 ment of said institution, the number and compensation of such officers
 6 and employees to be fixed by the board of control. The superintendent
 7 shall be a well educated physician with at least five years' experience
 8 in the actual practice of medicine and shall be appointed by the board
 9 of control for a term of four years, and shall receive such salary as
 10 the board may fix not exceeding three thousand dollars per annum,
 11 and shall be furnished with a dwelling house and the necessary house-
 12 hold provisions and supplies for himself, wife and minor children.

[S. S., '15, § 2727-a96.]

SEC. 1981. Duty of superintendent—discipline.

1 In addition to the duties which may now be imposed by law, the
 2 superintendent shall oversee and secure the individual treatment and
 3 professional care of each and every patient residing in the hospital
 4 and colony, and shall enforce such rules as may be adopted by the
 5 board of control, for the reception, examination, retention and dis-
 6 charge of patients and shall keep a full and complete record of the
 7 condition of all patients and make notations as to their prospects of
 8 recovery. He shall have the general superintendency of the build-
 9 ings, grounds and farm with their furniture, equipment, stock and fix-
 10 tures and the immediate direction and control of all persons employed
 11 in and about the institution under such rules as may be adopted by
 12 the board of control, and he shall maintain salutary discipline among
 13 all employees, patients and inhabitants of the hospital and colony
 14 and shall have the immediate custody and control of every patient ad-
 15 mitted to the colony until properly discharged, and may restrain and
 16 discipline any patient in such manner as he may deem best for the
 17 welfare of the patient, subject at all times to such regulations as may
 18 be made by the board of control.

[S. S., '15, § 2727-a96.]

SEC. 1982. Custody of patients.

1 All persons admitted to said hospital and colony as sane epileptics
 2 shall until paroled or discharged be under the custody and control of
 3 the superintendent of said hospital, and said superintendent may re-
 4 strain any such patient when he deems it necessary for the welfare
 5 of the patient and the proper conduct of the institution. Any person
 6 admitted as a sane epileptic, who is of legal age, or the parent or
 7 guardian of such patient, if a minor, may at any time obtain the dis-
 8 charge of such patient from the institution by giving at least ten days'
 9 notice in writing to the superintendent of the desire to obtain such
 10 discharge, and when the patient is thus discharged he will not be
 11 again admitted except under a warrant of commitment as herein pro-
 12 vided. When a patient has been admitted as sane and afterwards
 13 becomes violent or insane, the board of control by and with the advice
 14 of the superintendent upon complaint being made by an officer or em-
 15 ployee of the institution may regularly commit such patient after a
 16 hearing to said hospital and colony as an insane epileptic and note that
 17 fact upon the records of the institution, and such action by the board
 18 shall have the same force and effect as though the commitment was
 19 made by order of the commissioners of insanity, and the person so
 20 committed shall have the same right to appeal from the action of the
 21 board as in cases before an insane commission.

[S. S., '15, § 2727-a96.]

SEC. 1983. Commitments—procedure.

1 The commissioners of insanity in each county shall have the
 2 same power and authority to commit persons to the state hospital
 3 and colony for epileptics, except in cases of voluntary commitments
 4 to such hospital and colony, as is now conferred by law upon such com-
 5 missioners in connection with the commitment of patients to the state
 6 hospital for the insane, and all laws relating to the admission of
 7 patients to the state hospital for the insane shall apply to admission of
 8 patients to the state hospital and colony for epileptics in all cases

9 where such laws may be applicable. Application for the commitment
 10 of any person to the state hospital and colony for epileptics, other than
 11 voluntary commitments, must be made in form of information verified
 12 by affidavit alleging that the person in whose behalf the application
 13 is made is believed by the informant to be afflicted with the disease
 14 known as epilepsy, and that such person is a fit subject for the care,
 15 custody, treatment and control of the state hospital and colony for
 16 epileptics, and that such person is found within the county where the
 17 information is filed, and shall also state the place of residence of such
 18 person if known, and if not known the best information or belief of
 19 the informant as to such residence according to the facts in each case.

[S. S., '15, § 2727-a96.]

SEC. 1984. Per capita allowance—appropriation.

1 The board of control of state institutions shall fix the per capita
 2 allowance which may be charged by the said state hospital and col-
 3 ony for epileptics for the care, treatment and maintenance of each
 4 patient therein, which shall not exceed the sum of twenty-four dollars
 5 per capita per month, which shall be based upon reports of the superin-
 6 tendent to the board of control and shall be credited to said institu-
 7 tion by the auditor and treasurer of state upon certificate of the board
 8 of control and may be drawn against as provided in chapter one, title
 9 nine; provided that until such time as the institution is actually treat-
 10 ing and caring for three hundred patients the sum of seven thousand
 11 dollars per month, or so much thereof as may be necessary, is hereby
 12 appropriated out of any money in the state treasury not otherwise
 13 appropriated for the support and maintenance of said institution.

[S. S., '15, § 2727-a96; 38 G. A., ch. 37, § 10.]

CHAPTER 7.

INEBRIATES AND DRUG HABITUATES.

SECTION 1985. State hospital for inebriates.

1 The industrial home for the adult blind at Knoxville shall here-
 2 after be called the state hospital for inebriates, and shall be used for
 3 the detention, care, and treatment of all male dipsomaniacs, inebriates,
 4 and persons addicted to the excessive use of morphine, cocaine, or
 5 other narcotic drugs.

[S., '13, § 2310-a6.]

SEC. 1986. Inebriate hospital abolished.

1 The hospital for inebriates located at Knoxville, Iowa, shall be
 2 abolished at such time as the board of control may determine, and
 3 on said date all inmates of said institution, except those committed
 4 on account of their excessive use of morphine, cocaine, or other nar-
 5 cotic drugs, shall be discharged and all other inmates shall be trans-
 6 ferred to such of the state institutions, except the hospitals for the
 7 insane, under the management of the state board of control, as the
 8 board of control may determine.

[38 G. A., ch. 366, § 1.]

SEC. 1987. Treatment and care of drug habituates.

1 The board of control shall, at such time as the board of control
2 may determine, provide and equip, at such of the state institutions
3 under the management of the board of control as they may deter-
4 mine, a ward for the detention, care and treatment of such persons
5 as may, under the provisions of the preceding section, be transferred
6 thereto, and also for the detention, care and treatment of such other
7 persons as may be committed to such institutions on account of being
8 addicted to the excessive use of narcotic drugs.

[38 G. A., ch. 366, § 2.]

SEC. 1988. Commitment of drug habituates.

1 At such time as the board of control may determine, all persons
2 found to be addicted to the excessive use of narcotic drugs and found
3 to be proper subjects for detention and treatment shall be committed
4 to the state institution provided in section nineteen hundred eighty-
5 six, situated nearest the court making the commitment at which a
6 ward has been equipped as provided in the preceding section, or to
7 such other state institution under the management of the state board
8 of control as the board of control may determine.

[38 G. A., ch. 366, § 3.]

SEC. 1989. Statutes applicable.

1 All statutes of the state providing for the trial, commitment, de-
2 tention and treatment of inebriates and other persons sent to the
3 state hospital for inebriates at Knoxville, Iowa, shall be applicable to
4 the trial, detention and treatment of all patients committed under the
5 above provisions, except in so far as they may be modified by the
6 provisions hereof.

[38 G. A., ch. 366, § 4.]

SEC. 1990. Control.

1 The board of control of state institutions shall have the same
2 power and control over said hospital as is now given it with reference
3 to the several institutions mentioned in chapter one, title nine, and
4 said chapter shall apply to and govern said hospital in every respect
5 in so far as they are not in conflict with the provisions of this chapter.

[S., '13, § 2310-a8.]

SEC. 1991. Male patients.

1 Said hospital shall receive all male patients regularly committed
2 to it who are dipsomaniacs, inebriates, or who are addicted to the ex-
3 cessive use of morphine, cocaine, or other narcotic drugs; provided,
4 however, that whenever in the opinion of the board of control of
5 state institutions it shall be necessary to restrict the number of ad-
6 mission for lack of room, said board may notify by mail each district
7 judge and each clerk of the district court in the state of the fact, and
8 that patients will not be admitted except on application approved by
9 the superintendent, and after such notice is given it shall not be law-
10 ful for the clerk of any court to issue a warrant for the commitment
11 of any patient to said hospital unless such clerk has been notified by
12 the superintendent in writing that the patient can be received, and
13 until such notice from the superintendent is received the order of

14 commitment shall be suspended. The superintendent shall in such
 15 cases grant applications for admission in the order in which they are
 16 received. When the board of control is of the opinion that the neces-
 17 sity for such restriction has ceased to exist it may discontinue it and
 18 give notice thereof as was required to establish it, and when such
 19 notice is given the restriction shall cease.

[S., '13, § 2310-a10.]

SEC. 1992. Commitment of females.

1 Females who are dipsomaniacs, inebriates, or addicted to the
 2 excessive use of morphine, cocaine, or other narcotic drugs, may be
 3 committed to a state hospital for the insane to be designated by the
 4 board of control, for treatment, and all the provisions of this chapter,
 5 so far as applicable and except as modified by this section, shall apply
 6 in such cases and also to the cases of such females as may remain
 7 in the hospital for inebriates connected with any state hospital.

[S., '13, § 2310-a22.]

SEC. 1993. Per capita allowance.

1 The board of control of state institutions shall fix the per capita
 2 monthly allowance which may be charged by said hospital for the
 3 care, treatment and maintenance of each patient therein, which shall
 4 not exceed the sum of twenty dollars per capita per month, which shall
 5 be certified by the superintendent to said board and paid out as pro-
 6 vided in chapter one, title nine, applicable to state hospitals for the
 7 insane; provided, however, that so much of the monthly sum as ex-
 8 ceeds fifteen dollars shall be paid by the state from any money in the
 9 state treasury not otherwise appropriated and shall not be charged
 10 to any county or person; provided that until the average number of
 11 patients in said hospital shall exceed two hundred per month, it shall
 12 be credited by the auditor of state and the treasurer of state with not
 13 to exceed the sum of four thousand dollars per month, which may be
 14 drawn as above provided.

[S., '13, § 2310-a16.]

SEC. 1994. Application for commitment.

1 Applications for commitment to said hospital shall be made to
 2 the judge of the district court of the district which embraces the
 3 county in which the person whom it is proposed to commit resides,
 4 and said application may be made in person by any dipsomaniac, in-
 5 ebriate, or user to excess of morphine, cocaine, or other narcotic drug,
 6 or it may be made against any such person by his wife, or other rela-
 7 tive, or by his guardian or by any other person, such person having
 8 first obtained the consent of the district judge for so doing.

[S., '13, § 2310-a11.]

SEC. 1995. Examination—commitment.

1 On presentation of the application provided for in the preceding
 2 section, unless made in person by an inebriate, dipsomaniac, or user
 3 to excess of narcotic drugs, the judge shall issue an order, which may
 4 be served by any peace officer, directing him to bring the accused per-
 5 son before him for examination, and on his appearance, unless he de-
 6 mands a formal trial, the judge shall hear any evidence which may
 7 be adduced touching the accusation. The accused may be represented

8 by counsel and the judge may, if he deems it necessary, require the
 9 county attorney of the county where the hearing is had to attend and
 10 assist in such hearing. In case said application be voluntarily or in-
 11 voluntarily made and the said judge shall determine that the accused
 12 is a proper person to be committed to said hospital, he shall make an
 13 order committing him thereto; otherwise he shall be discharged.
 14 The term of detention and treatment shall be until the patient is
 15 cured and not exceeding three years. Before a person shall be com-
 16 mitted to a state hospital for inebriates satisfactory evidence shall be
 17 submitted to the trial court or judge showing that the person com-
 18 mitted is not of bad repute or of bad character apart from his or her
 19 habit for which the commitment is made and that there is reasonable
 20 ground for believing that the person if committed will be cured of
 21 such habit; and provided further, that the board of control of state
 22 institutions may discharge any person committed to a state hospital
 23 under the provisions of this chapter on the recommendation of the
 24 superintendent when satisfied that such person will not receive sub-
 25 stantial benefit from further hospital treatment.

[S., '13, § 2310-a12.]

SEC. 1996. Formal trial.

1 If the accused shall not voluntarily apply for commitment and
 2 shall prior to the beginning of the hearing before the judge, demand
 3 a formal trial, the judge shall continue the hearing to the next term
 4 of the district court, or if the court shall be in session the case shall
 5 be transferred to it, and in either case the cause shall be docketed and
 6 tried as a civil case, and all papers used before the judge shall be filed
 7 with the clerk of the court; pending such hearing the judge may make
 8 such order in relation to the custody, restraint or control of the ac-
 9 cused as he shall deem necessary.

[S., '13, § 2310-a13.]

SEC. 1997. Warrant of commitment.

1 If on a formal trial the accusation is proven the judge of the
 2 court shall impose sentence of detention, as provided in section nine-
 3 teen hundred ninety-five, and the clerk of the court shall issue a war-
 4 rant of commitment in accordance therewith to said hospital. If the
 5 truth of the charge is not established he shall be discharged.

[S., '13, § 2310-a14.]

SEC. 1998. Costs and expenses.

1 All costs and expenses incurred in the arrest of the accused and
 2 other costs incurred in any hearing before the judge, and all costs
 3 and expenses of trial, and the costs and expenses incurred in taking
 4 the accused to the hospital, shall be taxed up on the proceeding or
 5 trial as the case may be and be made a matter of record in the proper
 6 books of the office of the clerk of the district court of the county where
 7 the accused resided and shall be paid by the county and may, if he be
 8 committed, be recovered by it of the accused.

[S., '13, § 2310-a15.]

SEC. 1999. Officers and employees.

1 The officers and employees of said hospital shall consist of a super-
 2 intendent, who shall be a reputable physician, and such other officers

3 and employees as the board of control of state institutions shall deem
4 necessary for the proper operation of said institution. Said superin-
5 tendent shall be appointed by the board of control of state institutions
6 for the term of four years and shall receive such salary as said board
7 may fix, not exceeding two thousand dollars per annum.

[S., '13, § 2310-a7.]

SEC. 2000. Rules and regulations—blanks.

1 The superintendent of said hospital, subject to the approval of
2 the board of control, shall prepare rules and regulations for the gov-
3 ernment of said hospital and its inmates, and said board of control
4 shall cause to be prepared a blank form of warrant or order of com-
5 mitment which shall contain such printed questions as may tend to
6 bring out the previous history, condition and treatment of the ac-
7 cused, which blanks shall be furnished to the district judges and to
8 the clerks of the district court. The judge when he investigates the
9 charge and the clerk of the court when the case is tried, shall, so far
10 as they are able, fill out said blanks.

[S., '13, § 2310-a17.]

SEC. 2001. Patients to labor—treatment.

1 Patients received at said hospital shall be required to labor if in
2 the opinion of the superintendent it is for their physical and mental
3 welfare, and the method of treatment shall be that which is deemed
4 best to eliminate the effects of the alcohol or narcotic drug and to
5 build up the system physically and mentally and which will tend to
6 strengthen the moral character of the patient and enable him to resist
7 the temptation to drink or use narcotic drugs.

[S., '13, § 2310-a18.]

SEC. 2002. Refusal to work—enforcement of rules by officers and employees.

1 Any patient in said hospital who shall be required to work as
2 hereinbefore provided, and who shall refuse so to do, or who shall vio-
3 late any of the rules and regulations of the hospital, shall be subject
4 to punishment therefor and shall not be paroled. For the purpose of
5 enforcing any of the laws, rules or regulations established for the
6 government of said hospital or the patients therein, the superintend-
7 ent thereof and all assistants and employees of the institution while
8 employed as such are hereby clothed with the powers of peace officers
9 so far as the management and government of such hospital and the
10 patients therein is concerned; and such superintendent, assistants and
11 employees, or any one thereof, shall have power to protect the prop-
12 erty of such institution, to suppress riots, disturbances, and breaches
13 of the peace, and to enforce all laws, rules or regulations established
14 for the regulation and government of the hospital and the patients
15 therein, and may upon view or information without warrant arrest
16 any person violating any of such laws, rules or regulations and may
17 hold any such offender to be dealt with as provided by law or the
18 rules and regulations established for the government of such insti-
19 tution.

20 This section shall not be construed to authorize any additional
21 employees in such institutions or any increase of compensation to any
22 employees on account thereof.

[S., '13, § 2310-a21.]

SEC. 2003. Labor—credit for.

1 All able-bodied patients of the hospital may be employed at labor
 2 on the farm, garden, grounds, in or on buildings, shops and other
 3 places owned or leased by the state and connected with said hospital
 4 when work can be provided, and each patient may be credited with the
 5 sum of one dollar for each full day's labor satisfactorily performed.
 6 Fifty cents of said sum shall be deducted for his maintenance and the
 7 balance, fifty cents, the superintendent shall pay monthly to those
 8 dependent upon him for support, if there be any; otherwise it shall
 9 be paid to said patient upon his legal release. All such payments
 10 shall be made from the general support fund of the hospital in the
 11 same manner as other obligations. No patient shall be entitled to re-
 12 munerated under this section until he is in the hospital ninety con-
 13 secutive days, and then only during such time as he conforms to the
 14 rules and regulations of the hospital.

[S. S., '15, § 2310-a37.]

SEC. 2004. Custodial department.

1 There is hereby created in the state hospital for inebriates at
 2 Knoxville, Iowa, a department to be known as the custodial depart-
 3 ment.

[S., '13, § 2310-a33.]

SEC. 2005. Persons confined.

1 Said department shall be for the confinement of all male persons
 2 hereinafter committed to said hospital who have been discharged un-
 3 der the provisions of section nineteen hundred ninety-five, all male
 4 persons committed to said hospital who are found by the court mak-
 5 ing the order of commitment to be habitual inebriates or drug habit-
 6 uates; and any person committed to the hospital who, in the judg-
 7 ment of the board of control of state institutions acting upon the
 8 recommendation of the superintendent, is believed to be a menace to
 9 the maintenance of the discipline of the hospital; and providing that
 10 patients of any department of the hospital who leave the institution or
 11 grounds thereof without due authority shall be subject to transfer to
 12 said custodial department upon order of the superintendent of the
 13 hospital.

[S., '13, § 2310-a34.]

SEC. 2006. Release—transfer.

1 No person confined in the custodial department shall be released
 2 therefrom until he shall have remained a full term of three years, but
 3 may be transferred to any other department of said hospital after
 4 two years' confinement, if, in the judgment of the board of control of
 5 state institutions acting upon the recommendation of the superin-
 6 tendent, such transfer would not be detrimental to the well-being of
 7 other patients or to the discipline of the hospital, and such transferred
 8 patients may be paroled as provided by law, provided nothing herein
 9 contained shall prevent the discharge of patients as is provided by
 10 section twenty hundred ten.

[S., '13, § 2310-a35.]

SEC. 2007. Segregation.

1 All habitual inebriates as defined in this chapter shall be kept and
2 provided for in buildings or apartments separate from all other pa-
3 tients of the hospital and shall not be allowed to mingle or associate
4 with them unless it be necessary in the performance of their duties.

[S., '13, § 2310-a36.]

SEC. 2008. Conditions of parole—violation.

1 Any patient whom the superintendent believes to be cured, or so
2 much improved as to make his release on trial advisable, may be
3 paroled, conditioned on said patient's signing a written pledge agree-
4 ing to refrain from the use of all intoxicating liquors as a beverage,
5 and from the use of morphine and cocaine or other narcotic drugs dur-
6 ing the term of his commitment, and shall avoid frequenting places
7 and the association of people tending to lead him back to his old hab-
8 its of inebriety.

9 Said paroled patient must make written reports to the superin-
10 tendent of said hospital at the beginning of each month on blanks to
11 be furnished the clerks of the district and superior courts for that
12 purpose, to the effect that he has not during the month past in any
13 respect violated any of the terms and conditions of his parole, which
14 reports must be investigated and approved by the clerk or judge of
15 the court which committed him, or if he shall have removed from the
16 county from which he was committed then by the clerk of the district
17 court of the county in which he actually resides at the time the re-
18 port is made, who may demand from said paroled patient satisfactory
19 evidence as to the truth of the statement. If at any time a patient on
20 parole shall fail to make said report, or shall fail in any respect to
21 fulfill all of the conditions upon which said parole was granted, he
22 may, without any further proceeding whatever and on the written
23 order of the superintendent of said hospital, be taken and returned
24 to the hospital, there to be detained and treated as provided herein.
25 Said patient so violating his parole may be returned by any peace
26 officer, or by any officer or person whom the superintendent of the
27 hospital may direct so to do, and in every such case all of the expenses
28 of such taking and return of such patient shall be paid out of any
29 money in the state treasury not otherwise appropriated on voucher
30 executed and approved as in other cases, unless otherwise paid.

31 The superintendent may parole patients into the care of reliable
32 and responsible persons whom he may select, and in such cases the
33 patient shall sign the written pledge, and monthly reports shall be
34 made as in other cases, and it shall be lawful for the superintendent
35 to take from the person into whose care such a patient is paroled an
36 obligation in writing which shall specify the undertaking of the obligor
37 and require him to pay all expenses which shall be incurred on account
38 of the paroling of the patient and in returning him for a violation of
39 his parole, and all the provisions of this chapter for returning a pa-
40 tient for a violation of his parole shall apply to patients paroled into
41 the care of other persons.

42 If the superintendent be satisfied in any case that it will impose
43 an unnecessary hardship upon a paroled patient to secure the approval
44 of the clerk of the district court to the monthly report he may waive
45 such approval when the report is approved by some other public
46 officer, to be designated by him.

[S., '13, § 2310-a19.]

SEC. 2009. Applicable to females.

1 The provisions of the preceding section shall apply to female pa-
2 tients who have been or shall be committed to a state hospital for the
3 insane under the law as it appears in this chapter.

[S., '13, § 2310-a19a.]

SEC. 2010. Parole when confinement is injurious.

1 Whenever the physical condition of any patient shall become such
2 that, in the judgment of the superintendent, further confinement will
3 prove injurious to the health of said patient, the state board of control
4 may parole him, under proper conditions and restrictions, for such
5 period of time as it may deem advisable.

[S., '13, § 2310-a29.]

SEC. 2011. Traveling expenses of paroled or discharged patients.

1 When an inebriate person is paroled or discharged from the state
2 hospital for inebriates at Knoxville or from any state hospital in which
3 female inebriates are kept and is unable to furnish or obtain money
4 for the necessary traveling expenses from the hospital to the place
5 of commitment, the superintendent of the hospital with the approval
6 of the board of control of state institutions may furnish said patient
7 with transportation to the place where he or she was committed or
8 to any other point he or she may select which is not more distant from
9 the hospital than the place of commitment.

[S., '13, § 2310-a32.]

SEC. 2012. Insane patients—expenses.

1 Whenever any person committed to and received in the hospital
2 for inebriates shall become insane, it shall be the duty of the superin-
3 tendent to file, or cause to be filed, with the commissioners of insanity
4 of Marion county, Iowa, an information charging the said patient with
5 insanity and the said insane commission shall proceed to inquire
6 into the sanity of said patient as provided in chapter eleven of this
7 title. In the event that said person shall be judged insane, he shall
8 be transferred to the hospital for the insane, where he shall be de-
9 tained until such time as that he shall be discharged by the superin-
10 tendent of the insane hospital, when he shall be returned to the hos-
11 pital for inebriates, where he shall remain under the terms of the
12 original commitment. All the expense incident to the commitment of
13 said patient to the state hospital for the insane, including the expense
14 of the hearing before the commissioners of insanity of Marion county,
15 and the expense of returning said patient to the hospital for inebriates
16 shall be paid out of any money in the state treasury not otherwise ap-
17 propriated on vouchers executed and approved as in other cases.

[S., '13, § 2310-a28.]

SEC. 2013. Escape—expenses of recapture.

1 In case of the escape of any patient from the hospital all neces-
2 sary expenses incurred in the recapture and recommitment of such pa-
3 tient shall be paid out of any funds in the state treasury not other-
4 wise appropriated on vouchers executed and approved as in other
5 cases.

[S., '13, § 2310-a30.]

SEC. 2014. Claims—how paid.

1 The board of control of state institutions is hereby authorized
 2 to permit the superintendent to pay any claims to which the three
 3 foregoing sections refer, from the contingent fund provided for by
 4 the law as it appears in section eighteen hundred ninety, and the in-
 5 stitution support fund shall be credited at the beginning of each month
 6 with the amount, if any, paid during the preceding month from such
 7 contingent fund, as shown by the certificate of the superintendent ap-
 8 proved by said board of control.

[S., '13, § 2310-a30a.]

SEC. 2015. Leaving hospital without authority—penalty.

1 Any patient in said hospital who shall without due authority
 2 leave the hospital, including its grounds and any other place to which
 3 he may be permitted to go, shall be guilty of a misdemeanor and shall
 4 upon conviction be punishable by imprisonment in the county jail not
 5 less than thirty nor more than ninety days, and the district court of
 6 the county in which the institution is situated, as well as the district
 7 court of any county in which the patient may be found, shall have
 8 jurisdiction in such cases. The board of supervisors of the county in
 9 which such prosecution is had shall certify to the board of control of
 10 state institutions an itemized statement of the costs of prosecution
 11 and maintenance incurred by the county wherein such prosecution is
 12 had, which certificate shall be indorsed by the trial judge stating that
 13 the amount as shown by said certificate is correct. On receipt of such
 14 certificate, the said board of control shall order a warrant issued in
 15 favor of the treasurer of the county wherein such prosecution is had,
 16 for the amount of the costs and expenses so incurred, which shall be
 17 payable out of the support or contingent fund of said hospital for
 18 inebriates.

[S., '13, § 2310-a20.]

SEC. 2016. Penalties.

1 Any person who shall furnish any patient of said hospital for
 2 inebriates, or any patient who has been or may hereafter be com-
 3 mitted to any insane hospital as an inebriate, dipsomaniac, or as one
 4 addicted to the excessive use of narcotics, any intoxicating liquor or
 5 narcotic drug, except on the written prescription of the superin-
 6 tendent, shall be guilty of a felony, and on conviction thereof shall
 7 be punished by imprisonment in the state penitentiary for not less
 8 than six months nor more than one year, or by a fine, not less than
 9 five hundred dollars nor more than ten hundred dollars, at the discre-
 10 tion of the court. Any person who shall knowingly furnish any in-
 11 toxicating liquor or narcotic drug to one who has been discharged
 12 from either of said institutions as cured, except upon the written pre-
 13 scription of a reputable practicing physician, shall be guilty of a mis-
 14 demeanor and upon conviction thereof shall be punished by a fine of
 15 not less than three hundred dollars and not more than ten hundred
 16 dollars and stand committed to the county jail until such fine is paid.

[S., '13, § 2310-a24.]

SEC. 2017. Subject to prosecution for public offenses.

1 Whenever any person shall have been committed to the state
 2 hospital for inebriates under the provisions of this chapter, he shall

3 still be subject to prosecution for any public offense committed against
 4 the penal statutes of the state and he shall, at all times, be subject to
 5 arrest notwithstanding such commitment. Such person shall, when
 6 discharged, be returned to said hospital at the expense of the county
 7 in which said prosecution was pending and concluded.

[S., '13, § 2310-a31.]

CHAPTER 8.

STATE HOSPITALS FOR INSANE.

SECTION 2018. State hospitals—names.

1 The hospital for the insane at Mount Pleasant shall be known by
 2 the name of "Mount Pleasant state hospital"; the one at Independence,
 3 "Independence state hospital"; the one at Clarinda, "Clarinda state
 4 hospital"; and the one at Cherokee, "Cherokee state hospital".

[R., '60, § 1471; C., '73, § 1383; C., '97, § 2253; S., '13,
 § 2253-a.]

SEC. 2019. Management.

1 The board of control of state institutions shall have the general
 2 control and management of the hospitals; make all regulations neces-
 3 sary for the government of the same, and conduct the affairs of the
 4 institutions in accordance with the rules and regulations thereof;
 5 shall appoint a superintendent, and, upon the nomination of the super-
 6 intendent, shall appoint an assistant physician or physicians, who
 7 shall reside in the hospital, and a steward and a matron, and they shall
 8 be styled resident officers of the same, and be governed by and sub-
 9 ject to all regulations for the government thereof. The same person
 10 shall not hold the office of superintendent and steward. The board
 11 may also, in its discretion and upon the nomination of the superin-
 12 tendent, appoint a chaplain and prescribe his duties; and shall, from
 13 time to time, fix the salaries and wages of the officers and other em-
 14 ployees of the hospital, and certify the same to the auditor of state,
 15 and may remove any officer of such institution.

[R., '60, § 1474; C., '73, §§ 1385, 1386; C., '97, § 2255.]

SEC. 2020. Superintendent.

1 The superintendent shall be a physician of acknowledged skill
 2 and ability in his profession, and authorized to practice medicine in
 3 the state. He shall be the chief executive officer of the hospital, and
 4 shall hold his office for six years, unless sooner removed. He shall
 5 have the entire control of the medical, mental, moral and dietetic
 6 treatment of the patients, and shall see that the several officers of the
 7 institution faithfully and diligently discharge their respective duties.
 8 He shall employ attendants, nurses, servants, and such other persons
 9 as may be necessary for the efficient and economical administration
 10 of the affairs at the hospital, assign them their respective places and
 11 duties, and may at any time discharge any of them from service; and
 12 [shall] provide an official seal, upon which shall be inscribed the name
 13 of the hospital under his charge, and the name of the state. He shall
 14 keep a book in which shall be entered all moneys or supplies received

15 for account of any patient, and a detailed account of disposition of the
 16 same. He shall annually, in the month of December, make to the
 17 county auditors of the respective counties from which he has patients
 18 a report of the mental and physical condition of each patient, and the
 19 probable safety of removing any patient to the county hospital. The
 20 salary of the superintendent shall in no case exceed three thousand
 21 dollars per annum.

[R., '60, §§ 1430, 1431; C., '73, §§ 1391, 1393; C., '97, § 2258.]

SEC. 2021. Seal.

1 The superintendent shall affix the seal of the hospital to any no-
 2 tice, order of discharge, or other paper required to be given by him or
 3 issued.

[C., '73, § 1430; C., '97, § 2294.]

SEC. 2022. Fees of superintendent as witness.

1 When the superintendent of the hospital, in obedience to a sub-
 2 poena, attends any court of the county in which the hospital is situ-
 3 ated, as a witness for either party in the case of a person on trial for
 4 criminal offense, and the question of the sanity of such person is
 5 raised, he shall be allowed on such account his necessary and actual
 6 expenses, and such daily pay as is allowed to other witnesses, which
 7 shall be paid by the state. When compelled so to attend in civil cases,
 8 he shall be entitled to the same compensation, to be paid by the party
 9 requiring his attendance.

[C., '73, § 1429; C., '97, § 2293.]

SEC. 2023. Assistant physicians.

1 The assistant physicians shall be of such character and qualifica-
 2 tions as to be able to perform the ordinary duties of the superintendent
 3 during his absence or inability to act.

[R., '60, § 1432; C., '73, § 1394; C., '97, § 2260.]

SEC. 2024. Discrimination in reception.

1 If at any time it is necessary to discriminate in the general re-
 2 ception of patients in a hospital, a selection shall be made as follows:

- 3 1. Cases of less duration than one year shall have the preference
 4 over all others.
- 5 2. Chronic cases, where the disease is of more than one year's
 6 duration, presenting the most favorable prospect for recovery, shall
 7 be next preferred.
- 8 3. Those for whom application has been longest on file, other
 9 things being equal, shall be next preferred.
- 10 4. Where cases are equally meritorious in all other respects, the
 11 indigent shall have the preference.

[R., '60, § 1438; C., '73, § 1422; C., '97, § 2286.]

SEC. 2025. Justification under warrant.

1 The warrant of the commissioners of insanity, authorizing the
 2 admission of any person to the hospital as a patient, accompanied by
 3 a physician's certificate as herein provided, shall shield the superin-
 4 tendent and other officers of the hospital against all liability to prose-
 5 cution of any kind on account of the reception and detention of such
 6 person in the hospital in accordance with law and the regulations for

7 its management, but no person shall be detained therein who is by the
8 superintendent thereof found to be sane or cured.

[C., '73, § 1411; C., '97, § 2278.]

SEC. 2026. Special care.

1 All patients in a hospital shall stand upon an equal footing, and
2 the several patients, according to their different conditions of mind
3 and body, and their respective needs, shall be provided for and treated
4 with equal care; but if the relatives or friends of any patient shall
5 desire it, and shall pay the expense thereof, such patient may have
6 special care and may be provided with a special attendant, as may be
7 agreed upon with the superintendent. In such cases, the charges for
8 such special care and attendance shall be paid quarterly in advance.

[C., '73, § 1420; C., '97, § 2284.]

SEC. 2027. Monthly visitation—female inspector.

1 The board, by a committee, or its secretary, shall visit each hos-
2 pital for the insane once each month, and in making such visits shall
3 be vested with the full power to examine all parts of said institution;
4 they shall visit each ward in the different buildings; shall examine
5 the food served the different inmates, and shall give each patient in
6 the hospital opportunity to talk with the visitor alone.

7 If the board deem it proper it may appoint a woman, whose duty
8 it shall be to visit such hospital and make such inspection as is directed
9 by the board, and to make a report in writing to the board of such
10 visit, and who shall be paid as compensation the sum of four dollars
11 per day for each and every day employed in the discharge of her du-
12 ties, and the necessary traveling expenses by the nearest practicable
13 route from her residence to the institution visited, to be paid from the
14 funds of the institution upon proper audit of the bill for such services
15 and expenses by the board in the manner provided for payment of
16 current expenses of institutions.

[C., '73, §§ 1435, 1441; C., '97, § 2299; S. S., '15, § 2727-a11.]

SEC. 2028. Inmates allowed to write.

1 The names of the board of control and their postoffice addresses
2 shall be kept posted in every ward in each hospital, and every inmate
3 therein shall be allowed to write once a week what he pleases to this
4 board and to any other person he may choose; but the superintendent
5 in his discretion may send letters addressed to other parties to the
6 board of control for inspection before forwarding them to the individ-
7 ual addressed.

[C., '73, § 1436; C., '97, § 2300.]

SEC. 2029. Writing material furnished.

1 Every person confined in any hospital shall be furnished by the
2 superintendent or party having charge of such person, at least once
3 in each week, with suitable materials for writing, inclosing, sealing
4 and mailing letters, if he requests the same, unless otherwise ordered
5 by the board of control, which order shall continue in force until
6 countermanded by said board of control.

[C., '73, § 1437; C., '97, § 2301.]

SEC. 2030. Letters to and from inmates.

1 The superintendent, or the party having charge of any person
 2 under confinement, shall receive, if requested to do so by the person
 3 so confined, at least one letter in each week, addressed to one of the
 4 members of the board of control, without opening or reading the
 5 same, and without delay deposit it in a postoffice, with a proper post-
 6 age stamp affixed thereto, and deliver to said person any letter or
 7 writing addressed to him. But such letters written to the person so
 8 confined may be examined by the superintendent, and if, in his opin-
 9 ion, the delivery of such letters would be injurious to the person so
 10 confined, he shall return the letters to the writer with his reasons for
 11 not delivering them.

[C., '73, § 1438; C., '97, § 2302.]

SEC. 2031. Escape—expenses of recapture.

1 If any patient shall escape from a state hospital for the insane
 2 the superintendent shall cause immediate search to be made for him
 3 and if he can not be found, shall cause notice of such escape to be
 4 given forthwith to the clerk of the district court of the county where
 5 he belongs and if found to be in that county the clerk shall at once
 6 notify the superintendent of the place where the patient can be found,
 7 and when so notified or when otherwise informed of the place in
 8 which the patient may be taken the superintendent shall send an em-
 9 ployee of the hospital or other person for him and cause him to be
 10 returned to the hospital unless for good reasons a different course
 11 be deemed advisable by the superintendent, and is approved by the
 12 board of control. In case of apparent necessity the patient may be
 13 taken into custody and restrained by the local authorities until he is
 14 taken by the representative of the hospital. All actual and necessary
 15 expenses incurred in the capture, restraint and return to the hospital
 16 of the patient shall be paid on itemized vouchers, sworn to by the
 17 claimants and approved by the superintendent and the board of con-
 18 trol of state institutions, from any money in the state treasury not
 19 otherwise appropriated.

[R., '60, § 1445; C., '73, § 1423; C., '97, § 2287; S., '13,
 § 2287.]

SEC. 2032. Power to investigate question of insanity.

1 The board shall have the power to investigate the question of
 2 the insanity and condition of any person committed to any state hos-
 3 pital, and shall discharge any person so committed or restrained, if,
 4 in its opinion, such person is not insane, or can be cared for after
 5 such discharge, without danger to others, and with benefit to the
 6 patient, but in determining whether such patient shall be discharged,
 7 the recommendation of the superintendent of such hospital shall be
 8 secured. The granting of this power to the board to serve as a com-
 9 mission for the determination of the insanity of a person is merely
 10 permissive, and does not repeal or alter any statute respecting the dis-
 11 charge or commitment of inmates to the state hospitals.

[S., '13, § 2727-a25.]

SEC. 2033. Discharge when cured.

1 Any patient who is cured shall be immediately discharged by the
 2 superintendent, who shall furnish him with a certificate to that effect,

3 and forward a copy thereof at once to the clerk of the district court
4 of the county from which the patient was committed, and he shall
5 record the same at length in the insane record in connection with the
6 record of commitment. Such record shall be prima facie evidence of
7 the recovery of such person, and restore him to all his civil rights.

8 Upon such discharge the superintendent shall furnish him, un-
9 less otherwise supplied, with suitable clothing and a sum of money
10 not exceeding twenty dollars, which shall be charged with the other ex-
11 penses of such patient in the hospital. The relatives of any patient
12 not susceptible of cure by remedial treatment in the hospital, and not
13 dangerous to be at large, shall have the right to take charge of and
14 remove him by the consent of the board of control.

[R., '60, § 1485; C., '73, § 1424; C., '97, § 2288.]

SEC. 2034. Discharge from hospital.

1 On the application of the relations or immediate friends of any
2 patient in the hospital who is not cured, and who can not be safely
3 allowed to go at liberty, the commissioners of the county where such
4 patient belongs, on making provisions for the care of such patient
5 within the county as in other cases, may authorize his discharge there-
6 from; but no patient who may be under criminal charge or convic-
7 tion shall be discharged without the order of the district court or
8 judge, and notice to the county attorney of the proper county.

[R., '60, § 1482; C., '73, § 1408; C., '97, § 2276.]

SEC. 2035. Discharge of incurables.

1 The board of control shall order the discharge or removal from
2 the hospital of incurable and harmless patients whenever it is neces-
3 sary to make room for recent cases.

[R., '60, § 1483; C., '73, § 1425; C., '97, § 2289.]

SEC. 2036. Notice to commissioners.

1 When patients are discharged from the hospital by the authori-
2 ties thereof without application therefor, notice of the order of dis-
3 charge shall at once be sent to the commissioners of the county where
4 they belong, and the commissioners shall forthwith cause them to be
5 removed, and shall at once provide for their care in the county as in
6 other cases, unless such patients are discharged as cured.

[R., '60, § 1484; C., '73, § 1426; C., '97, § 2290.]

SEC. 2037. Inquest.

1 If a death shall occur suddenly and without apparent cause, or a
2 patient die and his relatives so request, a coroner's inquest shall be
3 held as provided by law, but in the latter case the relatives making
4 the request shall be liable for the expenses of the same, and payment
5 therefor may be required in advance.

[C., '73, § 1439; C., '97, § 2303.]

SEC. 2038. Amount allowed for care of patients.

1 The board of control of state institutions of Iowa may from time
2 to time fix the monthly sum for the board and care of each patient in
3 the state hospitals for the insane at Mount Pleasant, Independence,
4 Clarinda and Cherokee, which sum shall not exceed twenty-four dol-
5 lars for each of said patients therein. Said sum shall be placed to the

6 credit of the hospital entitled thereto upon the certificate of the board
7 of control of state institutions, based upon reports of the superin-
8 tendent, and paid from the state treasury as provided by the law as
9 it appears in chapter one, title nine; and the certificate of the board
10 shall be competent evidence of the amount due for the time therein
11 stated.

[R., '60, § 1486; C., '73, § 1427; C., '97, § 2291; S., '13,
§ 2291-b; 37 G. A., ch. 266, § 1; 38 G. A., ch. 37, §§ 1, 2.]

SEC. 2039. Expenses paid by relatives.

1 The relatives or friends of any patient in a hospital shall have
2 the privilege of paying any portion or all of the expenses, and the
3 superintendent shall cause his or her account to be credited with any
4 sum so paid.

[C., '73, § 1421; C., '97, § 2285.]

SEC. 2040. Sterilization authorized—consent of husband or wife.

1 Whenever the superintendent of any state hospital for the insane
2 and a majority of his medical staff shall, after investigation and ex-
3 amination, agree that it is for the best interests of the patient and so-
4 ciety, they are hereby authorized to perform, or cause to be performed
5 by some capable physician or surgeon, the operation of sterilization
6 on any such patient confined in said institution afflicted with insanity,
7 idiocy, imbecility, feeble-mindedness or syphilis; provided that said
8 operation is approved by the board of control or a majority of the
9 members thereof; and provided further, that the superintendent of
10 the hospital shall have secured the written consent of the husband or
11 wife, if the patient is a married person, and if an unmarried person,
12 the written consent of the parent, guardian or next of kin, if any
13 there be within this state, that said operation be performed.

[S. S., '15, § 2600-s2.]

SEC. 2041. Operation defined.

1 The operation to be performed upon a male person shall be what
2 is known as vasectomy, and upon a female patient what is known as
3 section of the fallopian tubes with implantation in the uterine muscles.

[S. S., '15, § 2600-s3.]

SEC. 2042. Annual report.

1 The board of control shall make an annual report to the governor
2 of the state fully covering their proceedings under the authority of the
3 two preceding sections, and also their observations and statistics re-
4 garding its benefits.

[S. S., '15, § 2600-s4.]

SEC. 2043. Unauthorized operation—penalty.

1 Except as authorized in section twenty hundred forty every per-
2 son who shall perform, encourage, assist in, or otherwise promote the
3 performance of either of the operations described in section twenty
4 hundred forty-one for the purpose of destroying the power to pro-
5 create the human species, or any person who shall knowingly permit
6 either of such operations to be performed upon such person, unless
7 the same shall be a medical necessity, shall be fined not more than one

8 thousand dollars or imprisoned in the penitentiary not to exceed one
9 year, or both.

[S. S., '15, § 2600-s5.]

CHAPTER 9.

COUNTY AND PRIVATE HOSPITALS FOR INSANE.

SECTION 2044. County and private insane institutions—supervision.

1 All county and private institutions wherein insane persons are
2 kept are hereby placed under the supervision of the board of control
3 of state institutions.

[S., '13, § 2727-a58.]

SEC. 2045. Visitation by board of control.

1 It shall be the duty of said board of control, at least twice an-
2 nually, by one or more of its members, or by some competent and
3 disinterested person, whom the board shall appoint, to visit every
4 private and county institution wherein insane persons are kept. Said
5 visitor shall carefully examine into the capacity of said institutions
6 for the care of insane patients, the number kept therein, and their
7 sex, the arrangement of buildings and the method of their construc-
8 tion, their adaptation for the purposes intended, their condition as
9 to sewerage, ventilation, light, heat, cleanliness, means of water sup-
10 ply, fire escapes and fire protection, the care of patients, their food,
11 clothing, medical attendance and treatment, their employment, if any,
12 the number, kind and sex of employes, their duties and salaries, includ-
13 ing nurses, attendants and night watches, the cost to the state or
14 county maintaining patients, which shall in all cases be kept separate
15 and distinct from the cost of keeping paupers, and such other informa-
16 tion which the said board shall deem proper. Said visitors shall make
17 a written report including all of said matters to said board.

[S., '13, § 2727-a59.]

SEC. 2046. Patients to have a hearing.

1 The person making the visit above provided for shall see all pa-
2 tients in the institutions and shall give each an opportunity to con-
3 verse with him out of the hearing of any officer or employee of the
4 institution, and shall fully investigate and inquire into any complaint
5 by making inquiry from the persons in charge of said institution, and
6 others, and report the result thereof in writing to said board; but said
7 board, before acting on said report adversely to the institution, shall
8 give the persons in charge thereof a copy of such report and an oppor-
9 tunity to be heard thereon.

[S., '13, § 2727-a60.]

SEC. 2047. Compensation of inspector.

1 In case the inspection herein provided for shall be made by a
2 person appointed by the board of control of state institutions, such
3 person shall be allowed such a sum as the board may, in its discretion,
4 deem proper, not to exceed five dollars per day for the time actually

5 employed in said work and in going to and from the same. The actual
6 expenses of the person making the visit, and his per diem, if any, shall
7 be allowed and paid when itemized, sworn to and approved, as pro-
8 vided for in chapter one, title nine, in relation to the expenses of the
9 board.

[S., '13, § 2727-a61.]

SEC. 2048. Board to make rules and regulations.

1 As soon as all private and county institutions in which insane
2 persons may be kept shall have been visited and reports thereon re-
3 ceived, the board of control shall adopt reasonable rules and regula-
4 tions touching the care and treatment of, and make orders in relation
5 to, such insane patients as may be kept in said institutions, which
6 rules and regulations shall not interfere with the medical treatment
7 given to private patients by competent physicians. Copies of such
8 rules and regulations, when adopted, shall be mailed to the chief execu-
9 tive officer of each private institution, and to the clerk of the district
10 court, the chairman of the board of supervisors, and the officer in
11 charge of the institution in all counties having county institutions car-
12 ing for insane persons. The board shall allow in this case a reason-
13 able time for the management of these institutions to comply with
14 such rules and regulations.

[S., '13, § 2727-a62.]

SEC. 2049. Failure to comply with rules.

1 If any such institution shall fail, neglect, or refuse within the
2 time fixed by the board to comply substantially in all respects with
3 said rules, regulations and orders, said board is authorized to remove
4 all said insane persons kept therein at public expense, to the proper
5 state hospital, or to some private or county institution or hospital for
6 the care of the insane that has complied with the rules and regulations
7 prescribed by said board of control, at the expense of the county which
8 sent said patient to said institution, such removal of patients, if to a
9 state hospital, to be made by an attendant or attendants sent from
10 the state hospital, and the cost of such removal, including all expenses
11 of said attendant, shall be certified, by the superintendent of the hos-
12 pital receiving the patient, to the auditor of state, whereupon he shall
13 draw his warrant upon the treasurer of state for said sum, which shall
14 be credited to the support fund of said hospital and charged against
15 the general revenues of the state and collected by the auditor of state
16 from said county. And the board of control shall notify the guardian,
17 or one or more of the relatives of patients kept therein at private ex-
18 pense, that the rules as to their care are being disregarded, and of
19 the action taken by the board as to the other patients. And should
20 the board of control believe any person in any such institution sane,
21 or illegally restrained of liberty, it shall institute and prosecute pro-
22 ceedings in the name of the state of Iowa, before the proper officer,
23 board or court, for the discharge of such person. If the female is
24 removed under the provisions of this section, at least one attendant
25 shall be a female.

[S., '13, § 2727-a63.]

SEC. 2050. Removal of patient from one institution to another.

1 Whenever it shall be found by said board of control that any
2 patient cared for at public expense is confined in any private asylum

3 or county institution, who is violent and whose case is acute, and said
 4 board shall be of the opinion, after taking competent medical testi-
 5 mony, that said patient can be better cared for in the state hospital
 6 with better hopes of recovery, it may remove said patient to the proper
 7 state hospital, at the expense of the proper county, said expense to
 8 be recovered as provided for in the preceding section. And whenever
 9 said board shall find any patient in a state hospital, who shall have
 10 become chronic, or likely to do as well in a county or private institu-
 11 tion as in the state hospital, it may order the county to which the
 12 keeping of said patient is chargeable to remove him or her to some
 13 county or private institution in the state which shall have complied
 14 with the rules of said board relative to the keeping of insane patients;
 15 but in no case shall a patient, the relative or guardian of whom pays
 16 the expense of their keep in a state hospital, be thus transferred ex-
 17 cept upon the written consent of such relative or guardian; but a
 18 patient, the expense of whom is borne by the county, may be trans-
 19 ferred on the written request of the board of supervisors, or the com-
 20 missioners of insanity of the county to which the patient is charge-
 21 able, and of the board of control; nor shall a patient in a state hospital,
 22 who is not cured, be discharged without the consent of the board of
 23 control.

[S., '13, § 2727-a64.]

SEC. 2051. Insane of other counties.

1 The commissioners of insanity, with the consent of the board of
 2 supervisors of any county, having insane persons within such county,
 3 and having no proper facilities, either at a public or private institu-
 4 tion, for the care, keeping and treatment of such persons within the
 5 county, may, with the consent of the board of control, provide for
 6 their care at the expense of said county at any convenient private or
 7 county institution having proper facilities for the care of the same,
 8 and which will care for them to the satisfaction of the said board of
 9 control, and which will comply with the rules and regulations that may
 10 be prescribed by the board of control, relative to the care and keeping
 11 of insane persons.

[S., '13, § 2727-a65.]

SEC. 2052. Authority of private asylums.

1 No person shall be confined and restrained in any private insti-
 2 tution or hospital for the care or treatment of the insane, except upon
 3 the certificate of a board of commissioners of insanity of some county
 4 in the state, or of two reputable physicians, at least one of whom shall
 5 be a bona fide resident of the state of Iowa, who shall certify that such
 6 person is a fit subject for treatment and restraint in said institution
 7 or hospital, which certificate shall be the authority of the owners and
 8 officers of said hospital or institution for receiving and confining said
 9 patient or person therein.

[S., '13, § 2727-a66.]

SEC. 2053. Difference of opinion—how adjudicated.

1 When a difference of opinion exists between the board of control
 2 and the authorities in charge of any private or county asylum in
 3 regard to the removal of a patient or patients as herein provided, the
 4 matter shall be submitted to the district court, or judge thereof, of

5 the proper county and shall be summarily tried as an equitable action,
6 and the judgment of the district court or judge shall be final.

[S., '13, § 2727-a68.]

CHAPTER 10.

COMMISSIONERS OF INSANITY.

SECTION 2054. County commissioners of insanity.

1 In each county there shall be a board of three commissioners of
2 insanity, and in counties having two places where district court is
3 held there shall be one such board of commissioners at each place,
4 consisting of the clerk of the district court, or his deputy, who shall
5 be clerk of the same, also one physician in actual practice and of
6 good professional standing in the community, and one lawyer in actual
7 practice and of good standing in his profession and in the community,
8 residing as convenient as may be to the county seat, to be appointed
9 by the judge of the district court. Such appointment may be made
10 during a session of the court, or in vacation; if made in vacation, it
11 shall be by written order, signed by the judge and recorded by the
12 clerk. The appointment shall be for two years, and so that the term
13 of one commissioner shall expire every year. The appointment of
14 successors may be made at any time within three months prior to the
15 expiration of the term of the incumbent. In the temporary absence
16 or inability to act of two commissioners, the commissioner present
17 may call to his aid temporarily a person possessed of the qualification
18 required for a member, who, after qualifying as in other cases, may
19 act in the same capacity. But if one of the absent members is a clerk,
20 his deputy shall act. The record in such cases must show the facts.
21 The members shall organize by choosing one of their number presi-
22 dent, and hold their meetings at the office of the clerk, unless for good
23 reasons they shall fix on some other place, and shall also meet on notice
24 from the clerk or his deputy.

[C., '73, §§ 1395, 1396; C., '97, § 2261.]

SEC. 2055. Clerk.

1 The clerk of said board, or in his absence his deputy, shall sign
2 and issue all notices, appointments, warrants, subpoenas or other
3 process required to be given or issued by the board, affixing thereto
4 his seal as clerk of the court; shall file and preserve in his office all
5 papers connected with any inquest by the commissioners and properly
6 belonging to his office, with all notices, reports and other communi-
7 cations; and shall keep separate books in which to minute the pro-
8 ceedings of the board, and his entries therein shall be sufficiently full
9 to show, with the papers filed, a complete record of its findings, orders
10 and transactions. The notices, reports and communications herein
11 required to be given or made may be sent by mail, unless otherwise
12 expressed, and the facts and date of such sending and their reception
13 must be noted on the proper record.

[C., '73, § 1397; C., '97, § 2262.]

SEC. 2056. Jurisdiction and power.

1 The commissioners shall have cognizance of all applications for
2 admission to the hospital, or for the safe keeping otherwise of insane
3 persons within their respective counties, except in cases otherwise
4 specially provided for. For the purpose of discharging the duties
5 required of them, they shall have power to issue subpoenas and compel
6 obedience thereto, to administer oaths, and do any act of a court neces-
7 sary and proper in the premises.

[C., '73, § 1398; C., '97, § 2263.]

SEC. 2057. Compensation and fees.

1 The commissioners of insanity shall be allowed at the rate of
2 three dollars per day, each, for all the time actually employed in the
3 duties of their office. They shall also be allowed their necessary and
4 actual expenses, not including charges for board. The clerk, in addi-
5 tion to what he is entitled to as commissioner, shall be allowed one-
6 half as much more for making the required record entries in all cases
7 of inquest and of meetings of the board for any purpose, and for the
8 filing of any papers required to be filed. He shall also be allowed
9 twenty-five cents for each notice or process given or issued under seal,
10 as herein required. The examining physician shall be entitled to the
11 same compensation as a commissioner, and to mileage at the rate of
12 five cents per mile each way; but if such examining physician be a
13 member of the board of commissioners, he shall be entitled to no other
14 fee than the pay as such commissioner. Witnesses shall be entitled
15 to the same fees as witnesses in the district court. Fees on appeal
16 shall be the same as in ordinary actions. The compensation and ex-
17 penses provided for above, and the fees of the sheriff provided for in
18 such cases, shall be allowed and paid out of the county treasury in the
19 usual manner. Whenever the commissioners issue their warrant for
20 the admission of a person to the hospital, and funds to pay the expenses
21 thereof are needed in advance, they shall estimate the probable expense
22 of conveying such person to the hospital, including the necessary assist-
23 ance, and not including the compensation allowed the sheriff, and on
24 such estimate, certified by the clerk, the auditor of the county shall
25 issue an order on the county treasury for the amount, as estimated,
26 in favor of the sheriff or other person intrusted with the execution
27 of such warrant; the sheriff or other person executing such warrant,
28 shall accompany his return with a statement of the expenses incurred,
29 and the excess or deficiency may be deducted from or added to his
30 compensation, as the case may be. If funds are not so advanced, such
31 expenses shall be certified and paid in the manner above prescribed
32 on the return of the warrant. When the commissioners order the
33 return of a patient, compensation and expenses shall be in like manner
34 allowed.

[C., '73, §§ 1410, 3825; C., '97, § 2309.]

CHAPTER 11.

COMMITMENT AND DISCHARGE OF INSANE.

SECTION 2058. Admission to hospital.

1 Applications for admission to the hospital must be made in the
 2 form of an information, verified by affidavit, alleging that the person
 3 in whose behalf the application is made is believed by the informant
 4 to be insane, and a fit subject for custody and treatment in the hospital,
 5 and that such person is found in the county, and shall also state the
 6 place of residence of such person, or where it is believed to be, or that
 7 the same is not known, according to the facts.

[R., '60, § 1480; C., '73, § 1399; C., '97, § 2264.]

SEC. 2059. Investigation—certificate of physician.

1 On the filing of such information, the commissioners may examine
 2 the informant and other witnesses under oath, and, if satisfied that
 3 there is reasonable cause therefor, at once investigate the grounds
 4 thereof, and may require that the person for whom such admission
 5 is sought be brought before them, and that the examination be had
 6 in his presence. They may issue their warrant therefor, and provide
 7 for the custody of such person until their investigation shall be con-
 8 cluded, which warrant may be executed by the sheriff or any constable
 9 of the county; or, if they shall be of the opinion from such preliminary
 10 inquiries as they make that such course would probably be injurious
 11 to such person, or attended with no advantage, they may dispense with
 12 such presence. In their examination, they shall hear testimony for
 13 and against such application, if any is offered. Any citizen of the
 14 county, or relative of the person alleged to be insane, may appear and
 15 resist the application, and the parties may appear by counsel, if they
 16 elect. The commissioners, whether they dispense with the presence
 17 before them of such person or not, shall appoint some regular prac-
 18 ticing physician of the county to visit him and make a personal exam-
 19 ination touching the truth of the information and his actual condition,
 20 who shall forthwith report to them thereon. He may or may not
 21 be of their number, and shall certify that he has made a careful,
 22 personal examination as required, and that he finds the person in
 23 question insane, if such is the fact, and if otherwise, not insane; and,
 24 in connection with his examination, shall endeavor to obtain from the
 25 relatives of the person, or from others who know the facts, correct
 26 answers, so far as may be, to the interrogatories hereinafter required
 27 to be propounded, which interrogatories and answers shall be attached
 28 to his certificate.

[R., '60, § 1480; C., '73, § 1400; C., '97, § 2265.]

SEC. 2060. Application for admission to hospital.

1 In each case of application for admission to the hospital, correct
 2 answers to the following interrogatories, so far as they can be ob-
 3 tained, shall accompany the physician's certificate; and if, on further
 4 examination after the answers are stated, any of them are found to
 5 be erroneous, the commissioners shall cause them to be corrected:

- 6 1. What is the patient's name and age? Married or single? If
- 7 any children, how many? Age of youngest child?
- 8 2. Where was the patient born?
- 9 3. Where is his (or her) place of residence?

- 10 4. What has been the patient's occupation?
 11 5. Is this the first attack? If not, when did the others occur,
 12 and what was their duration?
 13 6. When were the first symptoms of this attack manifested, and
 14 in what way?
 15 7. Does the disease appear to be increasing, decreasing or sta-
 16 tionary?
 17 8. Is the disease variable, and are there rational intervals? If
 18 so, do they occur at regular periods?
 19 9. On what subjects or in what way is derangement now mani-
 20 fested? State fully.
 21 10. Has the patient shown any disposition to injure others?
 22 11. Has suicide ever been attempted? If so, in what way? Is
 23 the propensity now active?
 24 12. Is there a disposition to filthy habits, destruction of clothing,
 25 breaking of glass, etc.?
 26 13. What relatives, including grandparents and cousins, have
 27 been insane?
 28 14. Did the patient manifest any peculiarities of temper, habits,
 29 disposition or pursuits before the accession of the disease?—any pre-
 30 dominant passion, religious impressions, etc.?
 31 15. Was the patient ever addicted to intemperance in any form?
 32 16. Has the patient been subject to any bodily disease; epilepsy,
 33 suppressed eruptions, discharges of sores, or ever had any injury of
 34 the head?
 35 17. Has restraint or confinement been employed? If so, what
 36 kind, and how long?
 37 18. What is supposed to be the cause of the disease?
 38 19. What treatment has been pursued for the relief of the pa-
 39 tient? Mention particulars and effects.
 40 20. State any other matter supposed to have a bearing on the case.
 [R., '60, § 1490; C., '73, § 1407; C., '97, § 2275.]

SEC. 2061. Finding of commissioners—warrant—confinement.

1 On the return of the physician's certificate, the commissioners
 2 shall, as soon as practicable, conclude their investigation and find
 3 whether the person is insane; whether, if insane, a fit subject for
 4 treatment in the hospital; whether the legal settlement of such person
 5 is in their county, and, if not, where it is, if ascertained. If they
 6 find such person is not insane, they shall order his immediate dis-
 7 charge, if in custody, but if insane, and a fit subject for custody and
 8 treatment in the hospital, they shall order his commitment to the
 9 hospital in the district in which the county is situated, and unless he
 10 or some one in his behalf shall appeal therefrom, shall forthwith issue
 11 their warrant and a duplicate thereof, stating such finding, with the
 12 settlement of the person, if found, and, if not found, their informa-
 13 tion, if any, in regard thereto, authorizing the superintendent of the
 14 hospital to receive and keep him as a patient therein. Said warrant
 15 and duplicate, with the certificate and finding of the physician, shall
 16 be delivered to the sheriff, who shall execute the same by conveying
 17 such person to the hospital, and delivering him, with such duplicate
 18 and physician's certificate and finding, to the superintendent, who
 19 shall, over his official signature, acknowledge such delivery on the
 20 original warrant, which the sheriff shall return to the clerk of the
 21 commissioners, with his costs and expenses indorsed thereon. If the

22 sheriff and his deputy are both otherwise engaged, the commissioners
 23 may appoint some other suitable person to execute the warrant, who
 24 shall take and subscribe an oath faithfully to discharge his duty, and
 25 shall be entitled to the same fees as the sheriff. The sheriff, or any
 26 person appointed, may call to his aid such assistance as he may need
 27 to execute such warrant; but no female shall thus be taken to the
 28 hospital without the attendance of some other female or some relative.
 29 The superintendent, in his acknowledgment of delivery, must state
 30 whether there was any such person in attendance, and give the name
 31 or names, if any. But if any relative or immediate friend of the
 32 patient, who is a suitable person, shall so request, he shall have the
 33 privilege of executing such warrant, in preference to the sheriff or
 34 any other person, without taking such oath, and for so doing shall be
 35 entitled to his necessary expenses, but no fees. No person who shall
 36 be found to be insane shall, during investigation or after such finding,
 37 and pending commitment to the hospital, or when on the way there,
 38 be confined in any jail, prison or place of solitary confinement, except
 39 in cases of extreme violence, when it may be necessary for the safety
 40 of such person or of the public; and if such person be so confined,
 41 there shall, at all times during its continuance, be some suitable per-
 42 son or persons in attendance in charge of such person; but at no time
 43 shall any female be placed in such confinement without at least one
 44 female attendant remaining in charge of her.

[R., '60, § 1479; C., '73, § 1401; C., '97, § 2266.]

SEC. 2062. Appeal from finding.

1 Any person found to be insane in proceedings herein authorized
 2 may appeal from such finding to the district court by giving the clerk
 3 thereof, within ten days after such finding has been made, notice in
 4 writing that an appeal is taken, which may be signed by the party,
 5 his agent, guardian or attorney, and, when thus appealed, it shall stand
 6 for trial anew. Upon appeal it shall be the duty of the county attor-
 7 ney to prosecute the action on behalf of the informant without addi-
 8 tional compensation.

[C., '97, § 2267; S., '13, § 2267.]

SEC. 2063. Custody pending appeal.

1 If an appeal shall be taken, the appellant, pending the appeal,
 2 shall be discharged from custody, unless the commissioners find that
 3 he can not with safety be allowed to go at large, in which case they
 4 shall require him to be suitably provided for in the manner hereinafter
 5 specified.

[C., '97, § 2268.]

SEC. 2064. Final order.

1 If upon the trial of the appeal such person is found sane, he shall
 2 be immediately discharged, if in custody. If found insane, and a fit
 3 subject for custody and treatment in the hospital, an order of commit-
 4 ment shall be entered, and the clerk shall issue a warrant therefor,
 5 and the proceedings thereunder shall be as provided in cases before
 6 the board.

[C., '97, § 2269.]

SEC. 2065. Blanks.

1 The board of control shall provide for furnishing the commis-
 2 sioners of the counties entitled to send patients to the hospital with
 3 such blanks for warrants, certificates and other papers as will enable
 4 them with regularity and facility to comply with the provisions of
 5 this chapter, and also with copies of the regulations of the hospital,
 6 when printed.

[C., '73, § 1431; C., '97, § 2295.]

SEC. 2066. Custody outside hospital.

1 If any person found to be insane and a fit subject for custody
 2 and treatment in the hospital can not at once be admitted therein, or,
 3 in case of appeal from the finding of the commissioners, if such person
 4 can not with safety be allowed to go at liberty, the commissioners
 5 shall require that such person shall be suitably provided for otherwise
 6 until such admission can be had, or until the occasion therefor no
 7 longer exists. Such patients may be cared for as private patients
 8 whose relations or friends will obligate themselves to take care of and
 9 provide for them without public charge. In such case, the commis-
 10 sioners shall in writing appoint some suitable person special custodian,
 11 who shall have authority to, and shall in all suitable ways, restrain,
 12 protect and care for such patient in such manner as to best secure
 13 his safety and comfort, and to best protect the persons and property
 14 of others. In the case of public patients, the commissioners shall
 15 require that they be in like manner restrained and protected and cared
 16 for by the board of supervisors at the expense of the county, and they
 17 may, accordingly, issue their warrant to such board, who shall forth-
 18 with comply with the same. If there is no county home for the recep-
 19 tion of such patients, or if no more suitable place can be found, they
 20 may be confined in the jail of the county in charge of the sheriff; but
 21 no female may be confined in such county home or jail unless at all
 22 times under the personal care of a suitable female attendant, who
 23 shall hold a key of the apartment in which said person is confined.

[R., '60, § 1436; C., '73, § 1403; C., '97, § 2271; S., '13,
 § 2271.]

SEC. 2067. Custody outside hospital.

1 On application to the commissioners in behalf of persons alleged
 2 to be insane, whose admission to the hospital is not sought, made
 3 substantially in the manner above prescribed, and asking that pro-
 4 vision be made for their care as insane, either public or private, within
 5 the county, and on proof of their insanity and need of care, the com-
 6 missioners may provide for their restraint, protection and care, as in
 7 case of other applications.

[R., '60, § 1437; C., '73, § 1404; C., '97, § 2272.]

SEC. 2068. Destitute insane.

1 On information laid before the commissioners of any county that
 2 an insane person in the county is suffering for want of proper care,
 3 they shall forthwith inquire into the matter, and, if they find that
 4 such information is true, they shall make all needful provisions for
 5 the care of such person as provided in other cases.

[R., '60, § 1467; C., '73, § 1405; C., '97, § 2273.]

SEC. 2069. Transfer to hospital.

1 Insane persons who have been under care, either as public or
 2 private patients, outside of the hospital, by authority of the commis-
 3 sioners of any county may, on application, be transferred to the hos-
 4 pital, whenever they can be admitted thereto, on the warrant of such
 5 commissioners. Such admission may be had without another inquest,
 6 at any time within six months after the inquest already had, unless
 7 the commissioners shall think further inquest advisable.

[C., '73, § 1406; C., '97, § 2274.]

SEC. 2070. Discharge from custody.

1 Whenever it shall be shown to the satisfaction of the commis-
 2 sioners of insanity of any county that cause no longer exists for the
 3 care within the county of any person as an insane patient, they shall
 4 order his immediate discharge, and shall find if such person is sane
 5 or insane at the time of such discharge, which finding shall be entered
 6 of record by the clerk of the commission.

[C., '73, § 1409; C., '97, § 2277.]

SEC. 2071. Insane prisoners—inquiry—confinement.

1 On a written application made by any citizen, stating under oath
 2 that a person confined in any prison within the county, charged with
 3 a crime but not convicted thereof nor on trial therefor, is insane, the
 4 commissioners shall cause said prisoner to be brought before them,
 5 and if they find that he is insane they shall direct his removal to and
 6 detention in one of the hospitals for the insane, issuing their warrant
 7 therefor, and stating therein that he is under criminal charges, and
 8 the superintendent of the hospital designated in such warrant shall
 9 receive and keep such prisoner as a patient. The warrant shall be
 10 executed by the sheriff or his deputy by delivering the prisoner to
 11 the superintendent in person. After an investigation such as con-
 12 templated in this section, the commissioners shall not entertain a like
 13 application within six months on behalf of said person.

[R., '60, §§ 1458, 1459; C., '73, § 1412; C., '97, § 2279.]

SEC. 2072. Notice of recovery.

1 When any insane person shall be confined in either hospital under
 2 the preceding section, the superintendent in whose charge he may be
 3 shall, as soon as such person is restored to reason, issue his warrant
 4 to the sheriff of the county from which such person is received, direct-
 5 ing him to return such person to the jail of said county, which shall
 6 be done by said sheriff as soon as practicable, when the accused shall
 7 be returned to the jail of the proper county to answer to the charge
 8 against him. The sheriff shall make his return of service in writing
 9 thereon, and deliver such warrant and return to the clerk of the dis-
 10 trict court of his county, who shall forthwith make a copy of the war-
 11 rant and return, and mail the same to said superintendent, who shall
 12 file and preserve it.

[R., '60, § 1460; C., '73, § 1413; C., '97, § 2280.]

SEC. 2073. Meaning of terms "insane" and "idiot."

1 The term "insane" as used in this chapter includes every species
 2 of insanity or mental derangement. The term "idiot" is restricted

3 to persons foolish from birth, supposed to be naturally without mind.
4 No idiot shall be admitted to a hospital.

[R., '60, §§ 1468, 1491; C., '73, § 1434; C., '97, § 2298.]

SEC. 2074. Commission of inquiry—appointment by court.

1 On a statement in writing, verified by affidavit, addressed to a
2 judge of the district court of the county in which the hospital is situ-
3 ated, or of the county in which any person confined in a hospital has
4 his legal settlement, alleging that such person is not insane and is
5 unjustly deprived of his liberty, such judge shall appoint a commis-
6 sion of not more than three persons, in his discretion, to inquire into
7 the merits of the case, one of whom shall be a physician, and if two
8 or more are appointed, another shall be a lawyer. Without first sum-
9 moning the party to meet them, they shall proceed to the hospital
10 and have a personal interview with such person, so managed as to
11 prevent him, if possible, from suspecting its object; and they shall
12 make any inquiries and examinations they may deem necessary and
13 proper of the officials and records of the hospital, touching the merits
14 of the case. If they shall judge it prudent and advisable, they may
15 disclose to the party the object of their visit, and, either in his pres-
16 ence or otherwise, make further investigation of the matter. They
17 shall forthwith report to the judge making the appointment the result
18 of their examination and inquiries, such report to be accompanied
19 by a statement of the case, made and signed by the superintendent.
20 If on such report and statement, and the hearing of testimony if any
21 is offered, the judge shall find a person not insane, he shall order his
22 discharge; if the contrary, he shall so state, and authorize his con-
23 tinued detention. The finding and order of the judge, with the report
24 and other papers, shall be filed in the office of the clerk of the court
25 over which such judge presides, who shall enter a memorandum
26 thereof on his record, and forthwith notify the superintendent of the
27 hospital of the finding and order of the judge, and the superintendent
28 shall carry out the order. The commissioners appointed as provided
29 in this section shall be entitled to their necessary expenses and a rea-
30 sonable compensation, to be allowed by the judge, and paid by the
31 state out of any funds not otherwise appropriated, but the applicant
32 shall pay the same if the judge shall find that the application was
33 made without probable ground, and shall so order.

[C., '73, § 1442; C., '97, § 2304.]

SEC. 2075. How often.

1 The commission above provided for shall not be repeated oftener
2 than once in six months in regard to the same person; nor shall such
3 commission be appointed in the case of any patient within six months
4 of the time of his admission.

[C., '73, § 1443; C., '97, § 2305.]

SEC. 2076. Habeas corpus.

1 All persons confined as insane shall be entitled to the benefit of
2 the writ of habeas corpus, and the question of insanity shall be decided
3 at the hearing. If the judge shall decide that the person is insane,
4 such decision shall be no bar to the issuing of the writ a second time,
5 whenever it shall be alleged that such person has been restored to
6 reason.

[R., '60, § 1441; C., '73, § 1444; C., '97, § 2306.]

SEC. 2077. Punishment for cruelty or official misconduct.

1 If any person having the care of an insane person, and restrain-
 2 ing him, whether in a hospital or elsewhere, with or without authority,
 3 shall treat him with unnecessary severity, harshness or cruelty, or in
 4 any way abuse him, or if any officer required by the provisions of this
 5 and the three preceding chapters to perform any act shall wilfully
 6 refuse or neglect the same, or if any member of a board of super-
 7 visors or any county treasurer shall violate any provision of this chap-
 8 ter, he shall be guilty of a misdemeanor, and fined not to exceed five
 9 hundred dollars, or be imprisoned in the county jail not to exceed
 10 three months, and pay the costs of prosecution, or be both fined and
 11 imprisoned at the discretion of the court; and if any member of the
 12 visiting committee, superintendent of the hospital, or other person in
 13 charge of an insane person confined in the hospital, shall knowingly
 14 and wilfully violate any provision of this and the three preceding
 15 chapters, by failing and refusing to furnish material for writing, fail-
 16 ing or refusing to allow a party to write letters, to mail letters writ-
 17 ten, to receive and deliver letters written as provided herein to such
 18 person so confined, or in any other way, he shall be imprisoned in the
 19 penitentiary not to exceed three years, or pay a fine not to exceed one
 20 thousand dollars, or be both fined and imprisoned.

[C., '73, §§ 1415, 1416, 1440, 1445; C., '97, § 2307.]

CHAPTER 12.**SUPPORT OF INSANE.****SECTION 2078. Expenses—county of settlement liable.**

1 When the superintendent of the hospital has been notified that
 2 a patient sent to the hospital from one county has a legal settlement
 3 in another county, he shall thereafter hold and treat such patient as
 4 from the latter county; and such holding shall apply to expenses
 5 already incurred in behalf of such patient and remaining unadjusted.

[C., '73, § 1417; C., '97, § 2281.]

SEC. 2079. Settlement in another county.

1 If the commissioners find that the person committed to the hos-
 2 pital has or probably has a legal settlement in some other county,
 3 they shall, after the time allowed for an appeal, or, in case an appeal
 4 is taken, after the same is finally disposed of, immediately notify the
 5 auditor of such county of such finding and commitment, and the au-
 6 ditor so notified shall thereupon inquire and ascertain if possible
 7 whether the person in question has a legal settlement in that county,
 8 and shall immediately notify the superintendent of the hospital and
 9 the commissioners of the county from which such person was com-
 10 mitted of the result of such inquiry. If the legal settlement of a per-
 11 son committed can not for a time be ascertained, and is afterwards
 12 found, the notices required shall then be given. If in either of the
 13 above cases the auditor of the county in which it is alleged that the

14 patient has a legal settlement shall find adversely to the decision of
 15 the commissioners of the county from which the patient was com-
 16 mitted, and said commissioners are unwilling to accept his findings,
 17 they shall, through the auditor of their county, forthwith apply to the
 18 district court through proper legal proceedings for a determination
 19 of the case. Any county whose officials shall fail either in cases now
 20 in dispute or disputes which may hereafter arise to apply to the dis-
 21 trict court as herein provided, within six months from the date of
 22 the receipt of notice from the auditor of the county in which it is
 23 claimed the patient has a legal settlement shall be liable for the main-
 24 tenance of said patient.

25 If, upon hearing, the court shall find that the patient has no legal
 26 settlement in either of the counties in dispute, the board of control
 27 shall at once be notified by the auditor of the county from which the
 28 patient was committed, in accordance with the provisions of section
 29 twenty hundred eighty-two, and the proceedings thereafter with refer-
 30 ence to said patient shall be as provided in said section. The resi-
 31 dence of any person found insane who is an inmate of any state
 32 institution shall be that existing at the time of admission therein.

[C., '73, § 1402; C., '97, § 2270; S., '13, § 2270.]

SEC. 2080. Nonresidents of county—costs and expenses.

1 In all cases where the commissioners of insanity of a county find
 2 to be insane a person who does not have a legal settlement within that
 3 county, the necessary and legal costs and expenses of the arrest, care,
 4 investigation and commitment of such person, including quarterly
 5 support in a state hospital during the investigation, or time required
 6 to determine the residence of such person, also court costs in suit to
 7 determine the legal settlement of such patient, together with costs
 8 of appeal, if an appeal be taken, and the person is found to be insane
 9 on appeal, shall in the first instance be paid by the county in which
 10 such person is so found to be insane. If, upon investigation, such
 11 person is found to have a legal settlement in another county of this
 12 state, such necessary and legal costs and expenses shall be audited
 13 and paid by the supervisors of that county in the manner provided
 14 for the payment of other claims. If such person be found to have
 15 no legal settlement within this state such necessary and legal costs
 16 and expenses shall be paid out of any money in the state treasury not
 17 otherwise appropriated, on vouchers executed by the auditor of the
 18 county which has paid them, and approved by the board of control
 19 of state institutions. Such vouchers shall contain an itemized state-
 20 ment of the costs and expenses and payment shall be made to the
 21 treasurer of the county.

[S., '13, § 2308-a.]

SEC. 2081. Nonresident insane—support.

1 Patients in a hospital having no legal settlement in the state, or
 2 whose legal settlement can not be ascertained, shall be supported at
 3 the expense of the state. The board of control may authorize the
 4 superintendent to remove any patient who has no legal settlement
 5 within the state, the cost of such removal to be paid directly from the
 6 state treasury, upon a sworn statement of the superintendent and
 7 the approval of the board appended to each voucher.

[C., '73, § 1419; C., '97, § 2283; S., '13, § 2283.]

SEC. 2082. Nonresident insane—care and removal.

1 When the commissioners of insanity of any county shall find to
2 be insane a person who is a nonresident of this state, or whose resi-
3 dence is found by the commissioners to be unknown, they shall at once
4 report the case to the board of control of state institutions and fur-
5 nish it with a copy of the evidence taken on the question of the legal
6 settlement of the insane person. The board shall investigate the case
7 and if the legal settlement can not be ascertained the board shall cause
8 him to be taken to a state hospital for the insane as a charge of the
9 state, and if the legal settlement of the patient is found thereafter
10 to be in any county of this state the cost of maintaining him shall be
11 charged to that county and collected as provided by law in other cases.
12 If the board of control find that the insane person is a nonresident of
13 this state it may cause him to be conveyed to the place of his legal
14 settlement forthwith or to a state hospital for the insane, there to be
15 treated and cared for until released, at the cost of the state. When
16 the legal settlement of any nonresident patient received in a state
17 hospital is known or if then unknown is afterwards ascertained, he
18 may be transferred to the place of his legal settlement if his condition
19 permit such transfer, unless the cost thereof, or other reasons, shall,
20 in the opinion of the board of control, make the transfer inadvisable.
21 No patient to be maintained at the expense of the state shall be re-
22 ceived in a state hospital without the formal order of the board of
23 control.

[S., '13, § 2727-a28a.]

SEC. 2083. Transfers of insane persons—expenses.

1 The transfer of insane persons to state hospitals or to the places
2 of their legal settlement under the provisions of the preceding section
3 or under the provisions of section twenty hundred eighty shall be
4 made according to the directions of the board of control, and when
5 practicable by employees of state hospitals, and the actual and neces-
6 sary expenses of such transfers shall be paid on itemized vouchers
7 sworn to by the claimants and approved by the board of control from
8 any funds in the state treasury not otherwise appropriated.

[S., '13, § 2727-a28b.]

SEC. 2084. Resident insane—expense—liability.

1 The provisions herein made for the support of the insane at pub-
2 lic charge shall not be construed to release the estates of such persons
3 nor their relatives from liability for their support; and the auditors
4 of the several counties, subject to the direction of the board of super-
5 visors, are authorized and empowered to collect from the property
6 of such patients, or from any person legally bound for their support,
7 any sums paid by the county in their behalf, as herein provided; and
8 the certificate from the superintendent, and the notice from the au-
9 ditor of state, stating the sums charged in such cases, shall be pre-
10 sumptive evidence of the correctness of the sums so stated. If the
11 board of supervisors in the case of any insane patient who has been
12 supported at the expense of the county shall deem it a hardship to
13 compel the relatives of such patient to bear the burden of his support,
14 or charge the estate therewith, they may relieve such relatives or
15 estate from any part or all of such burden as may seem to them rea-

16 sonable and just. The estates of insane or idiotic persons who may
 17 be treated or confined in any county asylum or poorhouse, or in any
 18 private hospital or sanitarium, and the estates of persons legally
 19 bound for their support, shall be liable to the county for the reasonable
 20 expense, or so much thereof as may be determined by the board of
 21 supervisors.

[R., '60, § 1488; C., '73, § 1433; C., '97, § 2297; 38 G. A.,
 ch. 309, § 1.]

SEC. 2085. Nonresident insane—expense—liability.

1 The estates of all patients who are provided for and treated in
 2 state hospitals for the insane in this state, but who are nonresidents
 3 of this state, and all persons legally bound for the support of such
 4 patients shall be liable to the state for the reasonable value of the
 5 care, maintenance and treatment of such patients while in such hos-
 6 pitals, and the certificate of the superintendent of the state hospital
 7 in which any nonresident is or has been a patient, showing the amounts
 8 drawn from the state treasury or due therefrom as provided by law
 9 on account of any nonresident patient, shall be presumptive evidence
 10 of the reasonable value of the care, maintenance and treatment fur-
 11 nished such patient.

[S., '13, § 2297-a.]

SEC. 2086. Recovery.

1 Expenses incurred as provided by sections twenty hundred fifty-
 2 seven and twenty hundred eighty-seven by one county, on account
 3 of an insane person whose legal settlement is in another, shall be
 4 refunded, with lawful interest, by the county of such settlement, and
 5 shall be presented to the board of supervisors of the county sought
 6 to be charged, allowed, and paid the same as other claims. If the
 7 settlement is denied by the latter board, it may serve a notice similar
 8 to that provided for in cases of removal in the chapter relating to
 9 poor persons, and all the provisions of that chapter in regard to the
 10 determination of the disputed claim upon an order of removal shall
 11 apply to the change of settlement of an insane person.

[C., '73, § 1418; C., '97, § 2282.]

SEC. 2087. Charged to the counties—how certified and paid—tax levied.

1 The superintendents of the hospital for the insane and hospital
 2 for inebriates shall certify to the auditor of state on the first days of
 3 January, April, July and October, the amount not previously certified
 4 by him due the state from the several counties having patients charge-
 5 able thereto, and the auditor of state shall thereupon charge the same
 6 to the county so owing and the board of supervisors shall at the time
 7 of levying other taxes estimate the amount necessary to meet this
 8 expense the coming year, including cost of commitment and transpor-
 9 tation of patients, and shall levy a tax therefor. Taxes thus levied
 10 and collected can not be used for any other purpose or transferred to
 11 any other fund. Should any county fail to levy a tax sufficient to
 12 meet this expense the deficiency shall be paid from the general county
 13 fund. Should any county fail to pay these bills within sixty days
 14 from the date of certificate from the superintendent, the auditor of
 15 state shall charge the delinquent county the penalty of one per cent

16 per month on and after sixty days from date of certificate until paid.
 17 The superintendent shall, at the time of mailing certificate to the au-
 18 ditor of state, send a duplicate copy to the auditor of each county hav-
 19 ing a patient chargeable thereto, and the county auditor, upon receipt
 20 of such certificate, shall thereupon pass the same to the credit of the
 21 state in his ledger of state accounts, and at once issue a notice to his
 22 county treasurer, authorizing him to transfer the amount from the
 23 insane or county fund, to the general state revenue, which notice shall
 24 be filed by the treasurer as his authority for making such transfer,
 25 and shall include the amount so transferred in his next remittance
 26 of state taxes to the treasurer of state, designating the fund to which
 27 it belongs.

[R., '60, § 1487; C., '73, § 1428; C., '97, § 2292; S., '13,
 § 2292.]

SEC. 2088. County insane fund.

1 The board of supervisors, when levying taxes for general pur-
 2 poses, shall include therein a tax of one and one-half mills or less,
 3 as may be necessary, for the purpose of raising a fund for the support
 4 of such insane persons as are cared for and supported by the county
 5 in the insane ward of the county home, or elsewhere outside of any
 6 state hospital for the insane, which shall be known as the county
 7 insane fund, and shall be used for no other purpose than the support
 8 of such insane persons.

[C., '97, § 2308; S., '13, § 2308.]

CHAPTER 13.

CARE OF NEGLECTED, DEPENDENT AND DELINQUENT CHILDREN.

SECTION 2089. Terms defined—to whom applicable.

1 This chapter shall apply only to children under the age of sixteen
 2 years, not at the time inmates of a state institution or any training
 3 school for boys or for girls, or any institution incorporated under
 4 the laws of this state, and shall apply to all children of said age, except
 5 such as are charged with a commission of offenses punishable under
 6 the laws of the state with life imprisonment, or with the penalty of
 7 death. For the purpose of this chapter, the words "dependent chil-
 8 dren" or "neglected children" shall mean any child who for any reason
 9 is destitute or homeless or abandoned; or dependent upon the public
 10 for support; or who has not the proper parental care or guardianship;
 11 or who habitually begs or receives alms; or who is found living in
 12 any house of ill fame, or with any vicious or disreputable person; or
 13 whose home, by reason of neglect, cruelty or depravity on the part of
 14 its parents or guardian or other person in whose care it may be, is
 15 an unfit place for such child; and any child under the age of ten years,
 16 who is found begging, or giving any public entertainment upon the
 17 street for pecuniary gain for self or another; or who accompanies or
 18 is used in aid of any person so doing; or who, by reason of other
 19 vicious, base or corrupting surroundings, is, in the opinion of the
 20 court, within the spirit of this chapter. The words "delinquent child"
 21 shall include any child under the age of sixteen years, who violates
 22 any law of this state, or any city or village ordinance; or who is incor-

23 rigible; or who knowingly associates with thieves, vicious or immoral
 24 persons, or who is growing up in idleness or crime; or who knowingly
 25 frequents a house of ill fame; or who patronizes any policy shop or
 26 place where any gaming device is, or shall be operated; or who habit-
 27 ually wanders about any railroad yards or tracks, gets upon any mov-
 28 ing train or enters any car or engine without lawful authority. The
 29 word "child" or "children" may mean one or more children, and the
 30 word "parent" or "parents" may be held to mean one or both parents
 31 when consistent with the intent of this chapter. The word "associa-
 32 tion" shall include any corporation which includes in its purposes the
 33 care or disposition of children coming within the meaning of this
 34 chapter.

[S., '13, § 254-a14; 37 G. A., ch. 54, § 1.]

SEC. 2090. Jurisdiction—district and superior courts—juvenile court record.

1 The district court and superior courts are hereby clothed with
 2 original and full jurisdiction to hear and determine all cases coming
 3 within the purview of this chapter, and the proceedings, orders, find-
 4 ings and decisions of said courts shall be entered in a book or books
 5 to be kept for the purpose and known as the juvenile court record.
 6 Said courts shall always be open for the transaction of business com-
 7 ing under the purview of this chapter, but the hearing of any matter
 8 requiring notice shall be had only in term time or at such time and
 9 place as the judge may appoint.

[S., '13, § 254-a13.]

SEC. 2091. Probation officers—appointment—compensation.

1 The court shall have authority to appoint or designate one or
 2 more discreet persons of good character to serve as probation officers
 3 during the pleasure of the court; said probation officers to receive
 4 no compensation from the public treasury; provided, however, that
 5 the district court, in any county of this state having a population of
 6 more than thirty-five thousand, may designate and appoint not to ex-
 7 ceed four persons, of good character and special fitness, to serve as
 8 probation officers during the pleasure of the court, who are hereby
 9 vested with all of the powers and authority of sheriffs in and about
 10 the discharge of their duties as probation officers, and who shall each
 11 receive a compensation, to be fixed by the court, not to exceed one
 12 hundred twenty-five dollars per month. Any probation officer pro-
 13 vided for by this section, when performing the duties of his office
 14 under the order of the juvenile court or a judge thereof, shall be
 15 allowed such necessary expenses as may be authorized by the judge
 16 of said juvenile court, and the same shall be paid out of the county
 17 treasury as other court costs. In case a probation officer shall be
 18 appointed by any court, it shall be the duty of the clerk of the
 19 court, if practicable, to notify the said probation officer in advance
 20 when any child is to be brought before the said court; it shall be the
 21 duty of said probation officer to make such investigation as may be
 22 required by the court; to be present in court in order to represent
 23 the interests of the child when the case is heard; to furnish to the
 24 court such information and assistance as the judge may require, and
 25 to take such charge of any child before and after trial as may be
 26 directed by the court.

[S., '13, § 254-a18; 38 G. A., ch. 41, § 1.]

SEC. 2092. Juvenile court—judge—selection.

1 In all counties of the state having a population of one hundred
2 thousand or over, it shall be the duty of the judges of the district
3 court, after each election, to select one of their number to act as judge
4 of the juvenile court for the ensuing four years. Such judge so
5 chosen shall have charge of all matters pertaining to dependent and
6 neglected children, widows' pensions, and any and all matters which
7 are, by the laws of this state, now heard in the juvenile court, and
8 shall be vested with all the power and authority now vested in the
9 district court in relation to such matters.

[37 G. A., ch. 405, § 1.]

SEC. 2093. Clerk of juvenile court.

1 The clerk of the district court in such counties shall act as clerk
2 of the juvenile court.

[37 G. A., ch. 405, § 3.]

SEC. 2094. Probation officers—nurses—salaries.

1 The judge of the juvenile court shall have power to select a chief
2 probation officer, and not to exceed two deputy probation officers, one
3 of whom shall be a woman. He shall also have power to select a visit-
4 ing nurse and competent physician. Said probation officers shall have
5 all the power and authority of a sheriff in and about the discharge
6 of their official duties and shall be furnished with an office and all
7 necessary blanks, books and stationery necessary to the performance
8 of their duties. Said chief probation officer shall receive a salary
9 not to exceed fifteen hundred dollars per annum; the deputy probation
10 officers a salary not to exceed twelve hundred [dollars] per annum,
11 said salaries to be fixed by the judge of the juvenile court and to be
12 paid out of the county treasury.

[37 G. A., ch. 405, § 2.]

SEC. 2095. Physician—duties—salary.

1 The physician selected as provided in the preceding section shall
2 perform such duties as may be prescribed by the judge of the juvenile
3 court, and shall receive a compensation to be fixed by said judge, which
4 shall not exceed the sum of fifty dollars per month, the same to be paid
5 out of the county treasury.

[37 G. A., ch. 405, § 5.]

SEC. 2096. Nurses—duties—salary.

1 The nurse selected as provided herein shall be a graduate trained
2 nurse and shall perform such duties as may be prescribed by the judge
3 of the juvenile court, and shall receive a compensation to be fixed by
4 said judge, which shall not exceed the sum of one hundred dollars per
5 month, to be paid out of the county treasury.

[37 G. A., ch. 405, § 4.]

SEC. 2097. Expenses.

1 Each and every officer provided for in the five preceding sections
2 shall be allowed, in addition to their salary, their necessary and actual
3 expenses while performing the duties of their office.

[37 G. A., ch. 405, § 6.]

SEC. 2098. Petition in writing.

1 Any reputable person being a resident of the county, having
 2 knowledge of a child in his county who appears to be either dependent,
 3 neglected or delinquent, may file with the clerk of the court having
 4 jurisdiction of the matter, a petition in writing, setting forth the
 5 facts, verified by affidavit; it shall be sufficient if the affidavit is upon
 6 information and belief.

[S. S., '15, § 254-a15.]

SEC. 2099. Summons—trial—statutes applicable—costs—appeals.

1 Upon the filing of the petition, the court may cause a summons
 2 to issue requiring the person having custody or control of the child
 3 or with whom the child may be, to appear with the child at a time and
 4 place stated in the summons. The parents of the child, if living, and
 5 their residence is known, or its legal guardian, if one there be, or if
 6 there is neither parent nor guardian or if his or her residence is not
 7 known, then some relative, if there be one and his residence is known,
 8 shall be notified of the proceedings, and in any case the judge may
 9 appoint some suitable person to act in behalf of the child. If the
 10 person summoned as herein provided shall fail to appear or bring the
 11 child, without reasonable cause, and abide the order of the court, he
 12 may be proceeded against as in case of contempt of court. In case
 13 the summons can not be served or the party served fails to obey the
 14 same, and in any case when it shall be made to appear to the court
 15 that such summons will be ineffectual, a warrant may issue on the
 16 order of the court, either against the parent or guardian or the per-
 17 son having custody of the child or with whom the child may be, or
 18 against the child itself. On the return of the summons or other pro-
 19 cess, or as soon thereafter as may be, the court shall enter an order
 20 fixing the time and place for the hearing on the said petition, and at
 21 least ten days' notice of such hearing shall be served in writing upon
 22 the parents, guardian, or other person having custody of the said
 23 child. There shall be attached to such notice a copy of the petition
 24 containing all of the charges and accusations against the said child,
 25 parent, guardian, or other person, and a continuance may be granted
 26 upon application of any party to the said proceeding, including the
 27 child, parent or parents, guardians, or other persons having the cus-
 28 tody of said child; provided, however, that when in the opinion of the
 29 court, an emergency exists, temporary provision may be made for
 30 the custody of the child or children pending the further order of the
 31 court.

32 Such petition shall conform to and be subject to all the rules
 33 governing ordinary pleadings.

34 All such cases shall be tried to the court without a jury.

35 Upon appeal such cases shall be tried de novo in the supreme
 36 court.

37 Where the penalty for the offense committed exceeds a fine of one
 38 hundred dollars, or imprisonment for thirty days, the court shall make
 39 an examination and in conducting same shall be governed by the pro-
 40 visions of sections ninety-one hundred seventy, ninety-one hundred
 41 seventy-two, ninety-one hundred seventy-three, ninety-one hundred
 42 seventy-five to ninety-one hundred eighty-one, inclusive, and section
 43 ninety-one hundred ninety-five, and shall make certificate, order of
 44 discharge or commitment, issue warrant, require undertakings of
 45 witnesses and security and commit witnesses as provided by sections

46 ninety-one hundred eighty-two to ninety-one hundred eighty-nine,
 47 inclusive. If the child is unable to furnish the required bail, the child
 48 may, pending the final disposition of the case, be detained in the pos-
 49 session of the person having charge of the same, or may be kept in a
 50 suitable place provided by the city or county authorities. If the crime
 51 is not triable on indictment or if it appears on the examination that a
 52 public offense has been committed which is not triable on indictment
 53 the court may order any peace officer to file an information against
 54 the child before him and shall proceed to try the case before a jury of
 55 twelve men, selected as in a justice's court. The proceedings, costs
 56 and taxation thereof, shall be as provided for trials in the district
 57 court and the defendant shall be entitled to his exceptions and right
 58 of appeal.

[S. S., '15, § 254-a16.]

SEC. 2100. Custody of child—unlawful incarceration.

1 No court or magistrate shall commit a child not yet having
 2 reached his seventeenth birthday, to jail or police station, but if such
 3 child is unable to give bail it may be committed to the care of the
 4 sheriff, police officer, probation officer, or other person, who shall keep
 5 such child in some suitable place provided by the city or county, out-
 6 side the inclosure of any jail or police station. When any child shall
 7 be sentenced to confinement in any institution to which adult convicts
 8 are sentenced, it shall be unlawful to confine such child in the same
 9 yard or inclosure with such adult convicts, or to bring such child into
 10 any yard or building in which adult convicts may be present. Any
 11 such child, taken before any justice of the peace or police court, in
 12 such counties, charged with misdemeanor, shall, together with the
 13 case, be at once transferred by said justice of the peace or police court,
 14 to said district court and proper order shall be made therefor.

[S., '13, § 254-a24.]

SEC. 2101. Exclusion from courtroom.

1 The judge of such court shall designate a certain time for the
 2 hearing of such cases and is hereby empowered, when tried in a sum-
 3 mary manner as provided in section twenty hundred ninety-nine, to
 4 exclude from the courtroom at such hearing any and all persons that
 5 in his opinion are not necessary for the hearing of the case. The
 6 probation officer shall be present at every hearing in the interest of
 7 the child.

[S., '13, § 254-a19.]

SEC. 2102. Discretionary powers of court.

1 When any such boy or girl shall be found guilty of the commis-
 2 sion of a crime, not punishable with imprisonment for life, or the
 3 penalty of death, the court in its discretion may, instead of entering
 4 judgment of conviction, make order concerning such child in manner
 5 as hereinafter provided.

[S., '13, § 254-a17.]

SEC. 2103. Optional commitments—parole.

1 In the case of a dependent, neglected or delinquent child, the
 2 court may continue the hearing from time to time, and may commit
 3 the child to the care or custody of a probation officer, and may allow
 4 said child to remain in its own home subject to the visitation of the

5 probation officer, such child to report to the probation officer as often
 6 as may be required, and subject to be returned to the court for fur-
 7 ther or other proceedings whenever such action may appear to be
 8 necessary; or the court may cause the child to be placed in a suitable
 9 family home, subject to the friendly supervision of the probation offi-
 10 cer and the further order of the court; or it may authorize the child
 11 to be boarded out in some suitable family home, in case provision is
 12 made by voluntary contribution or otherwise for the payment of the
 13 board of such child, until a suitable provision may be made in a home
 14 without such payment; or in case of a delinquent child the court may
 15 commit such child, if a boy, to a training school for boys; or, if a girl,
 16 to a training school for girls; or the court may commit the child to
 17 any institution within the county, incorporated under the laws in this
 18 state, that may care for delinquent children, or be provided by a city
 19 or county, suitable for the care of such children, or to any state insti-
 20 tution which may be established for the care of delinquent boys or
 21 girls over the age of ten years. In no case shall a child be committed
 22 beyond his or her minority. A child committed to such institution
 23 shall be subject to the control of the board of managers thereof, and
 24 said board shall have power to parole the child on such conditions as
 25 it may prescribe; and the court shall, on the recommendation of the
 26 board, have power to discharge such child from custody whenever,
 27 in the judgment of the court, his or her reformation is complete; or
 28 the court may commit the child to the care and custody of some asso-
 29 ciation that will receive it, embracing in its objects the care of neg-
 30 lected or dependent children, and that has been duly accredited as
 31 hereinafter provided.

[S., '13, § 254-a23; 37 G. A., ch. 54, § 1; 38 G. A., ch. 246,
 § 1.]

SEC. 2104. Commitment—financial aid for widowed mother.

1 When any child of the age stated in section twenty hundred
 2 eighty-nine shall be found to be dependent or neglected, within the
 3 meaning of this chapter, the court may make an order committing
 4 the child to the care of some suitable state institution, or to the care
 5 of some reputable citizen of good moral character, or to the care of
 6 some training school, as provided by law, or to the care of some asso-
 7 ciation willing to receive it, embracing in its objects the purpose of
 8 caring for and obtaining homes for dependent and neglected children,
 9 which association shall have been accredited as hereinafter provided.
 10 If the court finds that the mother of such dependent or neglected
 11 child is a widow, and if the court further finds that such mother is
 12 poor and unable to properly care for said child, but is otherwise a
 13 proper guardian, and that it is for the welfare of such child to remain
 14 at home, the court may enter an order finding such fact and fixing
 15 an amount of money necessary to enable such mother to properly
 16 care for such child; and thereupon it shall be the duty of the county
 17 board of supervisors, through its overseer of the poor or otherwise,
 18 to pay to such mother, at such times as said order may designate, the
 19 amount so specified for the care of such dependent or neglected child
 20 until further order of the court; providing, however, that the amount
 21 to be paid for the care of any such child shall not exceed the sum of
 22 two dollars per week; and provided, further, that such payment shall
 23 cease upon any such child's attaining the age of sixteen years; and
 24 provided, further, that at any time after such allowance is made the
 25 overseer of the poor, or the board of supervisors, may make objections
 26 to the continuance of such allowance. When such objection is made

27 the court or judge thereof shall fix a time for hearing and order that
 28 notice be given to the person receiving the allowance and at the time
 29 fixed the court or judge shall summarily hear and determine the objec-
 30 tions made, and may revoke or modify the order for allowance there-
 31 tofore made and make such further order as shall be just and proper
 32 in the premises. The court may, when the health or condition of
 33 the child may require it, cause the child to be placed in a public hos-
 34 pital or institution for treatment or special care, or in a private hos-
 35 pital or institution which will receive it for like purposes without
 36 charge. No child under the age of ten years shall be committed to the
 37 training school for boys or the training school for girls; but such chil-
 38 dren shall be eligible to admission to the soldiers' orphans' home at
 39 Davenport, Iowa, under the laws and rules applying to the admission
 40 of other children to this institution.

[S., '13, § 254-a20; 37 G. A., ch. 54, § 1; 37 G. A., ch. 150,
 § 1; 38 G. A., ch. 12, § 1; 38 G. A., ch. 107, § 1.]

SEC. 2105. When considered widow.

1 Any mother whose husband is an inmate of any institution under
 2 the care of the board of control, shall, for the purposes of the preced-
 3 ing section, be considered a widow, but only while such husband is
 4 so confined.

[S., '13, § 254-a20a.]

SEC. 2106. Religious belief.

1 The court, in committing children, shall place them, as far as
 2 practicable, in the care and custody of some individual holding the
 3 same religious belief as the parents of said child, or with some asso-
 4 ciation which is controlled by persons of like religious faith with the
 5 parents of said child.

[S., '13, § 254-a27.]

SEC. 2107. Support of child.

1 In any case in which the court shall find a child dependent, neg-
 2 lected or delinquent, it may, in the same or subsequent proceedings,
 3 upon the parents of said child, or either of them, being duly summoned
 4 or voluntarily appearing, proceed to inquire into the ability of such
 5 parent or parents to support the child or contribute thereto, and if
 6 the court shall find such parent or parents able to support the child
 7 or contribute to its support, the court may enter such order or decree
 8 as shall be according to equity in the premises, and may enforce the
 9 same by execution or in any way in which a court of equity may en-
 10 force its orders or decrees.

[S., '13, § 254-a25.]

SEC. 2108. Guardianship—decree for adoption.

1 In any case where the court shall award a child to the care of any
 2 association or individual in accordance with the provisions of this
 3 chapter, the child shall, unless otherwise ordered, become a ward and
 4 subject to the guardianship of the association or individual to whose
 5 care it is committed. Such association or individual shall have author-
 6 ity to place such child in a family home, with or without indenture,
 7 and may be made party to any proceedings for the legal adoption of
 8 the child, and may by his or its attorney or agent, appear in any court

9 where such proceedings are pending and assent to such adoption. And
 10 such assent shall be sufficient to authorize the court to enter the proper
 11 order or decree for adoption. Such guardianship shall not include
 12 the guardianship of any estate of the child.

[S., '13, § 254-a21.]

SEC. 2109. Surrender of child by agreement.

1 It shall be lawful for the parent, parents, guardian or other per-
 2 son having a right to dispose of a dependent or neglected child to
 3 enter into an agreement with any association or institution incorpo-
 4 rated under any public law of this state for the purpose of aiding, car-
 5 ing for or placing in a home such children, and being approved as
 6 herein provided, for the surrender of such child to such association
 7 or institution, to be taken and cared for by such association or insti-
 8 tution or put in a family home. Such agreement may contain any
 9 and all proper stipulations to that end, and may authorize the asso-
 10 ciation or institution, by its attorney or agent, to appear in any pro-
 11 ceeding for the legal adoption of the child and consent to its adoption,
 12 and the order of the court made upon such consent shall be binding
 13 upon the child and its parents or guardian or other person the same
 14 as if such person were personally in court and consented thereto,
 15 whether made party to the proceeding or not.

[S., '13, § 254-a22.]

SEC. 2110. Detention home and school in certain counties.

1 In any county of this state having a population of more than
 2 forty thousand, it shall be the duty of the board of supervisors to
 3 provide and maintain, separate, apart and outside the inclosure of
 4 any jail or police station, a suitable detention home and school for
 5 dependent, neglected and delinquent children.

[S., '13, § 254-a29; 38 G. A., ch. 369, § 1.]

SEC. 2111. Tax for enforcement purposes.

1 For the purpose of providing for the enforcement of sections
 2 twenty hundred ninety-one and twenty-one hundred ten, the board of
 3 supervisors may levy a tax each year, in the counties of this state to
 4 which this chapter is applicable, not to exceed one mill on the dollar
 5 in any year, in addition to the taxes which they are now authorized
 6 to levy.

[S., '13, § 254-a30.]

**SEC. 2112. Supervision of institutions by board of control—
 annual reports.**

1 The board of control shall designate and approve the institutions
 2 and associations to have charge of juveniles under this chapter and
 3 shall have supervision, oversight and right of visitation (by all or any
 4 of its members or by such persons as it shall appoint thereto) to all
 5 institutions and associations having charge of juveniles under this
 6 chapter, and said court, institutions and associations shall make an-
 7 nual reports in the first fifteen days in January of each year to said
 8 board of control. The report of the court shall include the number
 9 of juveniles of each sex brought before it, the number for whom

10 homes have been obtained, the number sent to state institutions, and
11 the number under charge of such association.

[S., '13, § 254-a26.]

SEC. 2113. Statutes construed liberally.

1 This chapter shall be construed liberally to the end that its pur-
2 pose may be carried out, to wit: that the care, custody and discipline
3 of a child shall approximate, as nearly as may be, that which should
4 be given by its parents, and in all cases where it can properly be done,
5 the child to be placed in an approved family home and become a mem-
6 ber of the family by legal adoption or otherwise.

[S., '13, § 254-a28.]

CHAPTER 14.

COMPULSORY SUPPORT OF NEGLECTED CHILDREN.

SECTION 2114. Contributory dependency—who guilty of.

1 When any child is found to be dependent or neglected, as defined
2 by section twenty hundred eighty-nine, the parent, parents, person
3 or other person or persons having the care, custody, or control of
4 such child, or any other person or persons who shall by any act or
5 omission of duty encourage, counsel, or contribute to the neglect of
6 such child, or who, by reason of wilful neglect of any duty owing by
7 said parent or parents, person or persons to such child, is or are
8 responsible for its neglect or dependency, shall be guilty of contribu-
9 tory dependency, and proceeded against as provided herein.

[S., '13, § 254-a31.]

SEC. 2115. Jurisdiction—proceedings as in equity.

1 The district court shall have original and exclusive jurisdiction
2 to hear and determine all cases coming within the purview of this
3 chapter, and the proceedings hereunder shall be as in equity and may
4 be included with, and be a part of the proceedings in behalf of the
5 child, and the court may enforce obedience to its orders in any way
6 in which a court of equity may enforce its orders or decrees.

[S., '13, § 254-a32.]

SEC. 2116. Judgment—proceedings—release on probation—bond.

1 Whenever the court, upon hearing, finds a person guilty of con-
2 tributory dependency, the court may enter a judgment determining
3 such facts and requiring such person to do, or to omit to do, any
4 act or acts complained of in the petition; and for the purpose of
5 enforcing its judgment, the court, in its discretion, may continue the
6 proceedings from time to time and release such person on probation
7 during the period of two years. The court may further, in its discre-
8 tion, as part of its judgment, require such person to enter into a bond
9 to the state of Iowa, with or without surety, in such sum as the court
10 may direct, to comply with the orders of the court.

[S., '13, § 254-a33.]

SEC. 2117. Failure to execute bond—commitment.

1 If the judgment of the court be that the person proceeded against
 2 shall execute bonds as provided herein, such bond shall be executed
 3 within such time as the court may fix; if the person proceeded against
 4 should fail within the time fixed to execute such bond, the court shall
 5 commit such person to jail, there to remain until he shall give bond
 6 or perform the judgment of the court.

[S., '13, § 254-a34.]

SEC. 2118. Proceedings on bond—sum recovered for benefit of child.

1 If the court be satisfied by information, or evidence on oath, that
 2 at any time during the two years the person proceeded against has
 3 violated the terms of the court's order or the terms of said bond, the
 4 court may direct the county attorney to institute proceedings on said
 5 bond in any court having jurisdiction of the sum fixed in said bond;
 6 the sum so recovered on such bond shall be turned over to the chief
 7 probation officer to be by him safely kept and expended for the care
 8 and maintenance of such child under the direction and discretion of
 9 the court.

[S., '13, § 254-a35.]

SEC. 2119. Spendthrifts—drunkards—guardianship.

1 In case any person found guilty of contributory dependency shall
 2 be found to be a spendthrift who is squandering his property, or an
 3 habitual drunkard, incapable of managing his affairs, the court shall
 4 of its own motion, or on application, appoint a guardian as provided
 5 by statute, who shall also have the duty to see that such person is
 6 employed as much as possible.

[S., '13, § 254-a36.]

SEC. 2120. Failure to work—assistance—contempt—costs.

1 In case the contributory dependency shall, in whole, or in part,
 2 consist in the failure of such person to work when he is physically and
 3 mentally able to do so, and defendant claims that he can not find work,
 4 then the court may appoint some person to find suitable employment
 5 for such person, and if he fails and refuses to work at such employ-
 6 ment without reasonable excuse, after it has been approved by the
 7 court, he shall be guilty of contempt and be dealt with accordingly. It
 8 shall be the duty of the board of supervisors and of the cities of such
 9 counties, whether they be under special charter or not, to give
 10 preference and precedence to such persons, upon the application of
 11 such appointee, for such work as such counties or cities may have,
 12 in case such appointee, after reasonable effort to the satisfaction of
 13 the court, can find no other work elsewhere. In case defendant claims
 14 that he can find work and he does not go to work within a reasonable
 15 time, to be fixed by the court, he shall be guilty of contempt. This
 16 statute shall not be interpreted as allowing involuntary servitude, but
 17 it shall be liberally construed as punishing the party affected as for
 18 contempt, in case he does not do his parental duty and support his
 19 children as the law contemplates that he should do, after he has been
 20 ordered by the court to do so and efforts have been made to aid him
 21 in so doing. Any person who is able to properly support his children
 22 without labor, shall not come within the contemplation of this statute.

23 Section eighty-eight hundred forty-five is not hereby repealed and the
 24 court in its discretion may order prosecution under that statute as
 25 provided in section twenty-one hundred twenty-three. The costs of
 26 such probation including the compensation and expenses of such ap-
 27 pointee, shall be fixed, taxed, and paid as provided in the next succeed-
 28 ing section.

[S., '13, § 254-a37.]

**SEC. 2121. Commitment to hospital for inebriates—probation—
 expenses—costs.**

1 In every case where the contributory dependency consists in
 2 whole or in part of habitual drunkenness, it shall be the duty of the
 3 court to commit such person guilty thereof to such hospital for the
 4 cure of inebriates as the state may furnish, and, after his release
 5 therefrom, the court shall put him into the care of some person duly
 6 appointed as special probation officer, who shall aid and assist him
 7 toward reform and shall see that he is properly employed. Such
 8 probation shall terminate at the end of two years from and after the
 9 time of commitment as herein provided, and the provisions in regard
 10 to abandonment as set forth in section twenty-one hundred twenty-
 11 five shall apply. The court shall render a judgment against defendant
 12 for the cost of treatment at such hospital for inebriates, and the costs
 13 of suit, and may, in a proper case, allow him to pay the same in such
 14 installments as the court may fix during the period of his probation,
 15 the county of his residence to pay the same in the first instance. Such
 16 special probation officer shall have such compensation as the court
 17 may allow which shall be taxed as costs of the case.

[S., '13, § 254-a38.]

SEC. 2122. Failure to pay—no exemptions—garnishment.

1 In case no guardian is appointed and the person found guilty of
 2 contributory dependency fails to apply a sufficient sum for the benefit
 3 of his family and it be deemed necessary by the court to levy upon
 4 any of his property, including wages, for the benefit of the family, he
 5 shall not have the benefit of any exemptions as provided by statute,
 6 except such as are provided for an unmarried person. In such cases
 7 nothing further shall be necessary than the service of a copy of the
 8 order of the court which shall serve the purposes of an execution, and
 9 it may also take the place of a notice of garnishment, and any prop-
 10 erty belonging to, or debt owing such person shall be paid into court
 11 on or before a time to be fixed by the court, to be expended in such
 12 manner as the court may direct, and in case the person so garnished
 13 fails to turn over as herein provided, or there is any dispute in regard
 14 to the matter, such person may be summoned to appear before the
 15 court out of which the order issued, at a time for hearing to be fixed
 16 by the court, and a hearing may be had and judgment entered as may
 17 be proper in the premises. The principal defendant shall be given
 18 such notice of the proceedings as the court may direct.

[S., '13, § 254-a39.]

SEC. 2123. Criminal proceedings.

1 Nothing in this chapter shall be construed to be in conflict with, or
 2 to prevent proceedings under any statute of the state against any per-
 3 son for the commission of any act for which such person may be

4 proceeded against as provided herein, and upon the hearing of any
5 case herein, the court, in its discretion, may order and direct the
6 county attorney to take any and all needful steps to prosecute such
7 person in accordance with the laws of the state concerning the com-
8 mission of crimes.

[S., '13, § 254-a40.]

SEC. 2124. Disposition of child during probation.

1 When children are allowed to remain in the custody of such per-
2 son as is found guilty of contributory dependency, the court may pre-
3 scribe such conditions as seem most calculated to remove the cause
4 of such dependency and neglect, and in case the court deems it for the
5 best interests of the child to remove it from its home until the condi-
6 tions of the probation have been complied with, and the court is satis-
7 fied that such compliance will continue, then the court may place the
8 same in the care and custody of the juvenile detention home, where-
9 ever such is authorized, or of such other suitable institution provided
10 for by the juvenile court to act for such time during minority, as the
11 court may deem fit, and the court at any time thereafter may set
12 aside, change, or modify such order.

[S., '13, § 254-a41.]

SEC. 2125. May be declared abandoned.

1 A person guilty of contributory dependency shall fully comply
2 with all of the orders of the court, within such time as the court may
3 fix, to be not more than one year, and shall continue to comply with
4 such order thereafter for such period as will make the full term of
5 two years from and after the judgment establishing contributory
6 dependency, and, in case he fails to do so, the court may, in its discre-
7 tion, declare the child or children whose parent he is, to be aban-
8 doned children, and, in case any person who has been adjudged guilty
9 of contributory dependency and who has been ordered to pay for the
10 support of such child departs from the jurisdiction of the court render-
11 ing such judgment, and allows such support to remain unpaid for six
12 months, without excuse satisfactory to such court, such child or chil-
13 dren whose support he has been ordered to pay may, in the discretion
14 of the court, be adjudged to be abandoned; the making of such pay-
15 ments shall not prevent the finding and judgment of abandonment
16 after two years, in case there are other orders of court which have
17 not been complied with as hereinbefore provided. In case both parents
18 are living and neither one has been relieved of its duty, and both are
19 guilty of contributory dependency, both shall be proceeded against at
20 the same time.

[S., '13, § 254-a42.]

SEC. 2126. Disposal of abandoned children—adoption.

1 In case, at the end of two years, a child is declared to be aban-
2 doned by both of its parents as provided by the preceding section, the
3 court may order the clerk of the district court to sign papers for its
4 adoption, or it may be turned over to some home-finding association,
5 approved by the board of control, or to the soldiers' orphans' home
6 at Davenport, Iowa, with power to adopt such child out and to execute
7 papers of adoption.

[S., '13, § 254-a43.]

SEC. 2127. Inheritance from parents.

1 Any adoption as provided by the preceding section shall not
 2 prevent or cut off any inheritance he might be entitled to from his
 3 rightful or adoptive parents adjudged guilty of contributory depend-
 4 ency as hereinbefore provided, in accordance with the laws of descent
 5 of this state, such inheritance to be in addition to that to which he
 6 may be entitled by virtue of the adoption hereunder, and no will to
 7 the contrary shall be valid.

[S., '13, § 254-a44.]

SEC. 2128. Court to give aid—divorced parents.

1 In every cause in the juvenile court, the court shall investigate
 2 whether every person responsible for the care, custody, maintenance,
 3 education, medical treatment and discipline of the child or children
 4 involved, is doing his full duty by such child or children, and, in case
 5 the court finds that the parents or other persons in loco parentis are
 6 not doing their duties, the court shall try all lawful and proper means
 7 under this chapter to make them do so, giving them aid and assistance
 8 in case it be deemed necessary. The court may declare a child aban-
 9 doned by one parent while it may not be by the other. In case the
 10 parents are divorced and the one having the custody is adjudged to
 11 have abandoned the child, then the ability and propriety of the other
 12 parent shall be considered.

[S., '13, § 254-a45.]

SEC. 2129. Liberal construction for protection of child.

1 This chapter shall be liberally construed in favor of the state, for
 2 the purpose of the protection of the child from neglect, or omission
 3 of parental duty toward the child by its parents, or other persons
 4 standing in loco parentis, and further to protect the child from the
 5 effects of the improper conduct or acts of any person which may
 6 cause, encourage or contribute to the dependency and neglect of such
 7 child, although such person is in no way related to such child.

[S., '13, § 254-a47.]

CHAPTER 15.
PRIVATE INSTITUTIONS FOR FRIENDLESS AND DELINQUENT PERSONS.**SECTION 2130. Powers of societies.**

1 Any society legally incorporated under the laws of the state of
 2 Iowa for the purpose of receiving, caring for, placing out for adoption,
 3 or in any way improving the condition of abandoned, abused, illtreated,
 4 friendless, or orphan children, may receive, control and dispose of such
 5 minor children under the provisions of this chapter; and such corpo-
 6 ration shall be the legal guardian of the persons of all children so
 7 surrendered to it, and may exercise all the rights and authority of
 8 the parents of such children in regulating the apprenticing and adop-
 9 tion thereof.

[S., '13, § 3260-b.]

SEC. 2131. Surrender of children to.

1 Children may be surrendered to such society by the father and
2 mother jointly; by either father or mother, when the other is dead,
3 or hopelessly insane, an habitual drunkard, has abandoned his family,
4 is in prison for crime, or is an inmate or keeper of a house of ill fame;
5 by the mother alone if the child is illegitimate and in her care and
6 custody; by any court of record or judge thereof, or any mayor, or
7 justice of the peace in the county of the residence of such children or
8 their parents, upon complaint made and proceedings had thereon as
9 hereinafter provided.

[S., '13, § 3260-c.]

SEC. 2132. Commitment.

1 Whenever it shall be made to appear to any court, judge, mayor
2 or justice of the peace, as above provided, that any child within its
3 jurisdiction, by reason of orphanage, or neglect, abuse, crime, drunk-
4 enness, or gross immorality of one or both of the parents, or other
5 persons having custody of such child, is abandoned, illtreated, or
6 friendless, or in circumstances tending to induce such child to lead a
7 dissolute, immoral or vicious life, then it shall be the duty of such
8 court or magistrate to take such child away from its parents or those
9 having control thereof, and commit it to some society incorporated for
10 that purpose, or to some other person or guardian, as may seem to be
11 for the best interests of such child, and the society or person so adopt-
12 ing shall be required to keep such child, if over seven years of age and
13 under fourteen years of age, in school during the school sessions of
14 the school district in which said child is kept or in some parochial
15 school for like period.

[S., '13, § 3260-d.]

SEC. 2133. Written complaint—appeal.

1 All proceedings under the preceding section shall be by written
2 complaint duly verified, which complaint shall state the cause of
3 action and the relief asked. If it shall appear that such child is in
4 the custody and control of parents, guardians, or other persons, such
5 parents, guardians or other persons shall be served with a copy of said
6 complaint, and such notice of the time and place of the hearing thereof
7 as may be ordered by the court or magistrate by whom the case is to
8 be tried; which notice and copy shall be served in the same manner
9 as is provided in the service of original notices. An appeal may be
10 taken to the district court from the order of a magistrate at any
11 time within twenty days thereafter, in the same manner as appeals
12 are taken from judgments in justice courts, except that no bond shall
13 be required to stay proceedings.

[S., '13, § 3260-e.]

SEC. 2134. Custody of child during trial.

1 Upon filing of proper complaint, the magistrate may, if thought
2 best, issue a warrant directed to the sheriff or other peace officer,
3 requiring such peace officer forthwith to take into his custody the
4 child described in such complaint, and to retain possession of it sub-
5 ject to the order and direction of the court.

[S., '13, § 3260-f.]

SEC. 2135. Proceedings—county attorney to prosecute—costs.

1 Proceedings under this chapter may be brought by any citizen
2 of the state, acting by himself or his attorney. It shall be the duty
3 of the county attorney, when requested, to prepare complaints and
4 prosecute all such cases in behalf of the complainants. Court costs
5 shall be taxed the same as in criminal actions.

[S., '13, § 3260-i.]

SEC. 2136. Religious faith.

1 The court or magistrate in committing children shall place them
2 as far as practicable in the care and custody of some individual hold-
3 ing the same religious belief as the parents of said child, or with some
4 association which is controlled by persons of like religious faith as the
5 parents of said child; and when any home or society shall dispose of
6 the custody of any child, it shall be, as far as practicable, to some
7 person of the same religious faith as its parents, unless the parents or
8 former guardian otherwise consent.

[S., '13, § 3260-g.]

SEC. 2137. Habeas corpus.

1 Upon the hearing of any habeas corpus proceedings for the cus-
2 tody of any such child, if it appears that it has been surrendered
3 to the home under the provisions of this chapter, such fact shall be
4 presumptive evidence that it was done properly and that said home
5 was entitled to the custody and guardianship thereof.

[S., '13, § 3260-h.]

SEC. 2138. Jurisdiction to revoke.

1 The district court of any county in which any society or home
2 may be located shall have jurisdiction to revoke the powers herein
3 granted upon a showing that any such society or person has abused
4 the trust imposed in such society or person, or that the welfare of
5 its wards demands that they be taken from the control of such society
6 or person. It shall be the duty of the state board of control to institute
7 such proceedings whenever, in its judgment, they are advisable.

[S., '13, § 3260-k.]

SEC. 2139. Board of control to have supervision—annual reports.

1 All associations or societies receiving children under this chapter
2 shall be under supervision of the board of control of state institutions
3 and shall be subject to visitation by the board of control, its members,
4 or agents, which may require such information and statistics from
5 such associations as the board shall deem necessary, in order to enable
6 it to exercise proper supervision over them. Every such association
7 shall file with the state board of control, during the month of January
8 of each year, an annual written or printed report, which shall include
9 a statement of the number of children cared for during the preceding
10 year, the number of children received for the first time and the num-
11 ber returned from families, the number placed in homes, the number
12 deceased, the number returned to friends, and the number placed in
13 state institutions, the number and names and number of months of
14 each of those attending school; also a financial statement showing the
15 receipts and disbursements of such association. The statement of the

16 disbursements shall show the amount expended for salaries and other
 17 expenses, specifying the same, and the amount expended for lands,
 18 buildings, and investments. And no child shall be committed to the
 19 care of any association which shall not have filed a satisfactory report
 20 for the calendar year last preceding with the state board of control,
 21 unless it be a society organized within the current year.

[S., '13, § 3260-j.]

SEC. 2140. Expenses of inspection—appropriation to pay.

1 There is hereby appropriated out of any money in the state treas-
 2 ury not otherwise appropriated the sum of three thousand dollars
 3 annually for paying the expenses of inspecting county and private
 4 institutions in which insane persons are kept as required by sections
 5 twenty hundred forty-five and twenty hundred forty-six, and associa-
 6 tions, societies and homes receiving children as contemplated by the
 7 preceding section. The expenses specified shall be paid as provided
 8 by section twenty hundred forty-seven. At the end of each biennial
 9 period the board of control of state institutions shall cause to be trans-
 10 ferred to the general funds of the treasury any balance of the sums
 11 hereby appropriated not required for the payment of the expenses of
 12 the period.

[S., '13, § 3260-n; 38 G. A., ch. 308, § 1.]

SEC. 2141. Associations of other states.

1 No association which is incorporated under the laws of any other
 2 state than the state of Iowa shall place any children in any family
 3 home within the boundaries of the state of Iowa, either with or
 4 without indentures, or for adoption, unless the said association shall
 5 have furnished the state board of control with such guarantee as it
 6 may require, including an indemnity bond in favor of the state of
 7 Iowa in the penal sum of one thousand dollars, that no child shall be
 8 brought into the state of Iowa by such society or its agents, having
 9 any contagious or incurable disease, or having any deformity, or
 10 being of feeble mind, or of vicious character, and that said association
 11 will promptly receive and remove from the state any child brought
 12 into the state of Iowa by its agents, which shall become a public
 13 charge within the period of five years after being brought into this
 14 state. Provided that this section shall not be construed as prohibiting
 15 any person residing in Iowa from receiving and adopting into his
 16 family any child or children from another state.

[S., '13, § 3260-l.]

SEC. 2142. Commitment to institutions for girls.

1 Whenever under the provisions of chapter sixteen of this title
 2 any court or judge is authorized to commit any female within the ages
 3 therein prescribed to the state training school, said court or judge
 4 may, instead of committing said female to said training school as
 5 therein provided, commit the said female to the care of any reputable
 6 institution within this state devoted to the detention and reformation
 7 of wayward and fallen girls, in which event the provisions of said
 8 chapter and sections twenty-one hundred thirty-six, twenty-one hun-

9 dred thirty-eight and twenty-one hundred thirty-nine shall govern
10 so far as applicable.

[S., '13, § 2713-2a; 37 G. A., ch. 54, § 1.]

SEC. 2143. Monthly allowance.

1 The institution receiving and caring for any female under the
2 provisions of the preceding section shall be entitled as compensation
3 not to exceed a monthly allowance of sixteen dollars from the county
4 of the legal settlement of such female, the same to be allowed by the
5 board of supervisors and paid in the same manner as other claims
6 against said county are paid.

[S., '13, § 2713-3a.]

SEC. 2144. Report to governor.

1 Each institution above referred to shall, on or before the first day
2 of January in each year, make a report to the governor of the state
3 showing the number of inmates in such institution admitted under
4 the provisions of section twenty-one hundred forty-two, and the total
5 amount paid for each inmate.

[S., '13, § 2713-4a.]

SEC. 2145. Commitment of females to certain institutions.

1 In all cases in which any court, for the violation of any law, ordi-
2 nance or police regulation, has power to commit the accused to a
3 county, city or town jail, such court, in lieu of ordering the accused
4 committed to such jail, shall have power to order the accused, if a
5 female, committed to any institution as herein provided, which is situ-
6 ated within the judicial district, within any part of which such court
7 has jurisdiction, provided such institution is willing to receive the
8 accused under such commitment without expense to the state. No
9 female shall be so committed for a time longer than would be legal if
10 committed to a jail. If the court has already committed such female
11 to a jail and thereafter it appears that any such institution is willing
12 to receive such female under a commitment, and under the conditions
13 herein imposed, then, in such case, the court shall have power to make
14 an additional order, releasing such female from such jail and ordering
15 her committed to such institution for the unexpired time of the origi-
16 nal commitment. Any such female may be surrendered at any time
17 to the court, judge or presiding magistrate making the original order,
18 which court, judge or magistrate may make a further order com-
19 mitting the accused to a proper jail for the unexpired term of the
20 original commitment.

[S., '13, § 5442-a.]

SEC. 2146. Release on bond.

1 If, after any female is so committed to such institution, a bond is
2 given under which such female is entitled to a release from such com-
3 mitment, then such female shall be released by an order issued by the
4 officer approving said bond.

[S., '13, § 5442-b.]

SEC. 2147. Custody and control—labor—"institution" defined.

1 Any female committed to an institution as herein provided shall
 2 be in the legal custody and control of the person residing therein, and
 3 who is the immediate managing head of said institution, and such
 4 female, whether the commitment so provides or not, shall, while being
 5 held under such commitment, do and perform such reasonable, fit and
 6 proper labor as such managing head may direct, which labor shall be
 7 the sole compensation to such institution for the keep of such female.
 8 The term "institution" as herein used shall embrace any institution,
 9 society, association, corporation or organization having for its objects,
 10 in whole or in part, the furnishing of relief, care and assistance to the
 11 poor, dissolute, needy or unfortunate, or any other charitable or benev-
 12 olent object.

[S., '13, § 5442-c.]

SEC. 2148. Visitation by board of control.

1 Any institution having any such female in its custody shall be
 2 subject to visitation by the board of control, its members or agents,
 3 which may require such information from such institution as the said
 4 board shall deem necessary, in order to enable it to exercise proper
 5 supervision. Should the said board at any time deem any such insti-
 6 tution unfit to have the custody of any such female, it shall notify such
 7 institution through said managing head, whereupon all such females
 8 then in custody of such institution shall be at once surrendered to the
 9 court, judge or presiding magistrate, making the original commitment.

[S., '13, § 5442-d.]

CHAPTER 16.
TRAINING SCHOOLS.**SECTION 2149. Separate institutions—designation.**

1 The state training schools at Eldora and Mitchellville are hereby
 2 declared to be separate and distinct institutions. The school at Eldora
 3 shall be known and designated hereafter as the Iowa training school
 4 for boys and the school at Mitchellville shall be known and designated
 5 hereafter as the Iowa training school for girls.

[S., '13, § 2701-a; 37 G. A., ch. 54, §§ 1, 2.]

SEC. 2150. Commitment—conditions—procedure.

1 When a boy over the age of ten years and under eighteen, or a
 2 girl over the age of ten years and under eighteen, of sound mind,
 3 excepting married women, prostitutes, or any girl who is pregnant,
 4 shall be found guilty in any court of record of any crime excepting
 5 that of murder, the court in its discretion may, instead of entering
 6 judgment of conviction, order and direct the party to be sent to the
 7 training school, if a boy to the department at Eldora, if a girl, to that
 8 at Mitchellville, which order, certified by the clerk of the court and
 9 under its seal, shall be sufficient authority for his or her transfer to
 10 and confinement in said school.

11 If such a boy or girl is convicted before any inferior court of a
 12 crime, or shall be found to be guilty of being a disorderly person, he

13 or she may be forthwith sent by the court, accompanied with all the
14 papers filed in his office upon the subject, in custody of an officer, to a
15 judge of a court of record, who shall thereupon issue an order, directed
16 to the parent or guardian of the party, or to such person as may have
17 him or her in charge, or with whom he or she last resided, or one
18 known to be nearly related to him or her, or if he or she be alone and
19 friendless, then to any person the judge may appoint to act as guard-
20 ian for the purposes of the case, requiring him or her to appear at a
21 time and place stated and show cause why the party should not be
22 committed to the training school, which order shall be served by an
23 officer by delivering a copy to the party to whom it is addressed, or by
24 leaving it with some person of full age at the residence or place of
25 business of said party, and immediate return shall be made to the
26 judge of the service. At the time and place mentioned in the order, or
27 to which the hearing may be adjourned, on the appearance of the
28 parent or guardian, or, in case of their failure to appear, then after
29 the appointment of some suitable person as guardian for the purposes
30 of the case, the judge shall proceed to take the voluntary examination
31 of the boy or girl, to hear the statements of the party appearing for
32 him or her, and such testimony in relation to the case as may be pro-
33 duced, and if upon such examination and hearing he shall be satisfied
34 that the boy or girl is a fit subject for the training school, he may
35 commit him or her to said school, until he or she arrives at the age of
36 twenty-one years, by warrant, which warrant shall state the place in
37 which the party resided at the time of arrest, and his or her age, as
38 nearly as can be ascertained, and shall command the officer to take and
39 deliver without delay to the superintendent of said school or other
40 person in charge thereof the said boy or girl, and the statement as to
41 residence or age shall be conclusive thereof for the purposes of this
42 chapter. With the warrant, the judge shall also transmit a statement
43 of the nature of the complaint, and such other particulars concerning
44 the accused as he may be able to ascertain, including the date of birth,
45 and a brief statement of the habits and environment of the accused,
46 arrests if any for misconduct, influence and conduct of parents and
47 other members of the family, and the substance of the evidence sub-
48 mitted. If the judge is of the opinion that the boy or girl is not a fit
49 subject for the school, or if said boy or girl shall appeal from the
50 decision of the court in which the conviction was had, he shall remand
51 him or her to the custody of the officer who had him or her in charge.
52 to be returned to the magistrate before whom the conviction was had,
53 to be dealt with according to law.

[C., '73, §§ 1653-1658; C., '97, § 2708; S., '13, § 2708; 37 G.
A., ch. 54, § 1.]

SEC. 2151. Complaint by parent or guardian.

1 If any parent or guardian shall make complaint to a judge of a
2 court of record that any boy over the age of ten years and under
3 eighteen, or girl over the age of ten years and under eighteen, the
4 child or ward of such parent or guardian, is habitually vagrant, dis-
5 orderly or incorrigible, said judge shall issue a warrant to the sheriff
6 or constable to cause said boy or girl to be brought before him at such
7 time and place as he may appoint, when and where he shall examine
8 the parties, and if in his judgment the boy or girl is a fit subject for
9 the training school, he may issue an order, with the consent of said
10 parent or guardian indorsed thereon, to be executed by the sheriff or

11 constable, committing said boy or girl to the custody of the superin-
 12 tendent of said school for reformation and instruction until he or she
 13 attains the age of twenty-one years; but security for the payment of
 14 the expenses of said complaint, commitment and transportation to the
 15 school, and the expenses of board thereat, may, in the discretion of
 16 the judge, be required of said parent or guardian before such order
 17 is executed. No married woman, prostitute, or girl who is pregnant
 18 shall be committed under the provisions of this section.

19 With the order the judge shall also transmit a statement of the
 20 nature of the complaint, and such other particulars as he may be able
 21 to ascertain, including the date of birth and a brief statement of the
 22 habits and environment of the accused, arrests if any for misconduct,
 23 influence and conduct of parents and other members of the family, and
 24 the substance of the evidence submitted.

[C., '73, § 1659; C., '97, § 2709; S., '13, § 2709; 37 G. A., ch. 54, § 1.]

SEC. 2152. Instruction—employment.

1 The board of control shall cause the boys and girls in the schools
 2 to be instructed in piety and morality, in such branches of useful
 3 knowledge as are adapted to their age and capacity, and in some reg-
 4 ular course of labor, either mechanical, agricultural or manufactural,
 5 as is best suited to their age, strength, disposition and capacity, and
 6 promises best to secure the reformation and future well-being of the
 7 pupils. Instruction shall also be given in physiology and hygiene with
 8 special reference to the effect of alcoholic drinks, stimulants and nar-
 9 cotics upon the human system.

[C., '73, § 1648; C., '97, § 2706.]

SEC. 2153. Superintendent—powers and duties.

1 The superintendent, with such subordinate officers and employees
 2 as he may appoint, shall have charge and custody of the inmates of
 3 the school. He shall discipline, govern, instruct, employ, and use his
 4 best endeavors to reform the pupils in his care, so that, while preserv-
 5 ing their health, he may promote, as far as possible, moral, religious
 6 and industrious habits, regular, thorough and progressive improve-
 7 ment in their studies, trade and employment. He shall have charge
 8 of all the property of the institution.

[C., '73, §§ 1651, 1652; C., '97, § 2707; S., '13, § 2707.]

SEC. 2154. Report by superintendent.

1 The superintendent of the training school at Mitchellville shall, on
 2 or before the first day of January of each year, and at any other time
 3 when so requested by the board of control of state institutions, make
 4 a report to the said board in writing, touching all matters required of
 5 him by said board.

[S., '13, § 2705-b; 37 G. A., ch. 54, § 1.]

SEC. 2155. Placing of boys and girls under contract—conditions.

1 All boys and girls committed to and received in the training school
 2 may be placed by the superintendent, with the approval in writing of
 3 the board of control of state institutions, with any persons or in any
 4 families of good standing and character where they will be properly
 5 cared for and educated. They shall be so placed under articles of

6 agreement to be signed by the person or persons taking them and the
7 superintendent, approved by said board of control, which shall provide
8 for their custody, care, education, maintenance and earnings for a
9 time to be fixed in said articles, which shall not extend beyond the
10 time when the persons bound shall attain their majority. In case a
11 boy or girl so placed be not given the care, education, treatment and
12 maintenance required by such agreement, the board of control may
13 cause the boy or girl to be taken from the person or persons with whom
14 placed and returned to the institution, or may replace, release, or
15 finally discharge him or her as may seem best. It shall not be lawful
16 for any parent or other persons not a party to the placing of a boy
17 or girl to interfere in any manner or assume or exercise any control
18 over such boy or girl or his or her earnings which shall be used, held
19 or otherwise applied for the exclusive benefit of such boy or girl. In
20 case legal proceedings are necessary to enforce any right hereby con-
21 ferred on any boy or girl, the county attorney of the county in which
22 such proceedings should be instituted shall, on request of the super-
23 intendent, approved by the board of control, institute and carry on in
24 the name of the superintendent, the proceedings in behalf of the super-
25 intendent.

[C., '73, § 1649; C., '97, § 2704; S., '13, § 2704; 37 G. A.,
ch. 54, § 1.]

SEC. 2156. Discharge—parole.

1 No one shall be committed to the training school for a longer term
2 than until he or she attains the age of twenty-one years, and the board
3 of control of state institutions may at any time after one year's service
4 order the discharge or parole of any inmate as a reward for good
5 conduct. And the board may, in exceptional cases, discharge or parole
6 inmates without regard to the length of their service or conduct, when
7 satisfied that the reasons therefor are urgent and sufficient. If paroled
8 upon satisfactory evidence of reformation, the order may remain in
9 effect or terminate under such rules and regulations as the board may
10 prescribe. The binding out or the discharge of an inmate as reformed,
11 or having arrived at the age of twenty-one years, shall be a complete
12 release from all penalties incurred by the conviction for the offense
13 upon which he or she was committed to the school.

[C., '73, §§ 1660, 1661; C., '97, § 2711; S., '13, § 2711; 37
G. A., ch. 54, § 1.]

SEC. 2157. Return to county.

1 If any person committed to the training school shall prove unruly
2 or incorrigible, or if his or her presence shall be manifestly and con-
3 stantly dangerous or detrimental to the welfare of the school, the
4 board of control of state institutions may order his or her removal to
5 the county from which he or she came, and deliver to the jailer of
6 such county, where proceedings shall be resumed as if no committal
7 had been made to the training school.

[C., '73, § 1662; C., '97, § 2710; S., '13, § 2710; 37 G. A.,
ch. 54, § 1.]

SEC. 2158. Assisting to escape.

1 Whoever unlawfully aids or assists any inmate lawfully com-
2 mitted to the training school in escaping or attempting to escape there-

3 from, or knowingly conceals such inmate after escape, shall be pun-
 4 ished by a fine not exceeding one thousand dollars, or imprisonment
 5 in the penitentiary not exceeding five years.

[C., '73, § 1663; C., '97, § 2712; 37 G. A., ch. 54, § 1.]

SEC. 2159. Support—per capita allowance.

1 For the support of the training school for boys located at Eldora,
 2 there is hereby appropriated out of any money in the state treasury
 3 not otherwise appropriated, or so much thereof as may be necessary,
 4 twenty-four dollars monthly for each inmate actually supported in
 5 said school, counting the average number therein for the preceding
 6 month; provided, however, that when the average number of inmates
 7 in said school shall be less than four hundred eighty for any month,
 8 said school shall be credited by the auditor of state and treasurer of
 9 state with the sum of eleven thousand five hundred twenty dollars.
 10 For the support of the training school for girls located at Mitchellville,
 11 there is hereby appropriated out of any money in the state treasury
 12 not otherwise appropriated, the sum of twenty-four dollars monthly,
 13 or so much thereof as may be needed, for each inmate actually sup-
 14 ported in said school counting the average number therein for preced-
 15 ing month; provided, however, that when the average number of
 16 inmates in said school shall be less than two hundred thirty for any
 17 month, said school shall be credited by the auditor of state and treas-
 18 urer of state with the sum of fifty-five hundred twenty dollars. All
 19 money appropriated by this section shall be drawn from the state
 20 treasury and expended in the manner provided by chapter one, title
 21 nine.

[C., '97, § 2713; S. S., '15, § 2713; 37 G. A., ch. 54, § 1; 37 G.
 A., ch. 266, § 7; 38 G. A., ch. 37, §§ 1, 7.]

CHAPTER 17.

WOMEN'S REFORMATORY.

SECTION 2160. Women's reformatory.

1 There is hereby established an institution which shall be known
 2 as the women's reformatory.

[S. S., '15, § 2713-n1; 37 G. A., ch. 427, § 1.]

**SEC. 2161. By whom controlled—superintendent—salary—as-
 sistant.**

1 Said reformatory shall be under the control of the board of con-
 2 trol of state institutions, and the immediate management thereof shall
 3 be in charge of a female superintendent, who shall be appointed, and
 4 whose compensation shall be fixed, by the board of control at an
 5 amount not exceeding two thousand dollars per annum, and, in addi-
 6 tion she shall be allowed board and a dwelling for herself and minor
 7 children. The necessary subordinate officers and employees shall be
 8 appointed by the superintendent and the compensation to be paid all
 9 officers and employees shall be fixed according to the provisions of the
 10 law as it appears in chapter one, title nine, so far as applicable and

11 not otherwise specified, shall apply to and govern the business man-
12 agement and support of said reformatory and its inmates.

[S. S., '15, § 2713-n2.]

SEC. 2162. Duty of superintendent.

1 It shall be the duty of the said superintendent, under the direction
2 of the board of control, to provide instructors and appliances for and
3 to instruct and train the inmates of the reformatory according to their
4 capacity and needs in religion, morality, physical culture and in such
5 common school and other branches of learning, in domestic and me-
6 chanical arts, and in such other branches of industry as shall afford
7 the moral, mental and physical training and skill which shall seem
8 best to prepare the inmates to lead orderly and virtuous lives and to
9 become self-supporting and useful members of society. And the super-
10 intendent may require any inmate of the women's reformatory to
11 perform any service suited to her strength and attainments which
12 may be needed for the benefit or to accomplish the purposes of the
13 reformatory, or which may be furnished or approved by the board of
14 control.

[S. S., '15, § 2713-n11.]

SEC. 2163. Subordinate employees—number—how fixed—compensation—rules and regulations.

1 The board of control shall determine what subordinate officers and
2 employees are required to carry on and manage the women's reforma-
3 tory, and fix the number and compensation thereof, and shall provide
4 for their appointment by the superintendent. The board of control
5 is authorized to make from time to time such rules and regulations for
6 the government, discipline, and management of the women's reforma-
7 tory as the board shall deem advisable, including the power to segre-
8 gate said inmates.

[S. S., '15, § 2713-n3.]

SEC. 2164. Female convicts.

1 Any female heretofore or hereafter convicted of a felony and
2 sentenced to confinement in the penitentiary shall be kept in the
3 women's reformatory.

[S., '13, § 5718-a27; 37 G. A., ch. 427, § 1.]

SEC. 2165. Females—where committed.

1 All females, over sixteen years of age, hereafter convicted in any
2 district or superior court shall, if imprisonment be imposed, be com-
3 mitted to the women's reformatory herein created, provided any
4 female under sixteen years of age and over the age of twelve years
5 convicted of offenses punishable by life imprisonment, may be com-
6 mitted either to the training school or to said reformatory as the
7 court may see fit.

[S. S., '15, § 2713-n7; 37 G. A., ch. 54, § 1.]

SEC. 2166. Conviction on appeal—term of commitment.

1 Any such female hereafter convicted in either of said courts on
2 appeal from a conviction of an offense punishable by the inferior court
3 with a fine of not exceeding one hundred dollars or imprisonment not

4 exceeding thirty days, may, if imprisonment be imposed, be com-
5 mitted by said district or superior court to said reformatory for an
6 indeterminate period not exceeding ninety days.

[S. S., '15, § 2713-n8.]

**SEC. 2167. Females to be accompanied by a female attendant—
expenses.**

1 The judge who commits a girl or woman to the reformatory may
2 direct that she be taken there by a woman or other suitable person
3 to be designated in the warrant, or if taken by a sheriff or other
4 officer that she be accompanied by a woman so designated. The costs
5 and expenses allowed for taking girls and women to the reformatory
6 shall be the same as those allowed by law for taking girls to the train-
7 ing school for girls and shall be audited and paid in like manner by
8 the counties from which they are sent.

[S. S., '15, § 2713-n9; 37 G. A., ch. 54, § 1.]

**SEC. 2168. Board to notify judges and clerks—commitments
from inferior courts.**

1 The board of control may, from time to time, and whenever in
2 their judgment the women's reformatory will accommodate more
3 inmates than are then confined therein, notify each of the several
4 justices of the peace and judges of the police courts of the state that
5 said institution will receive other inmates and the number of such
6 inmates which may be received from any county during a given period
7 of time; and thereafter until notified by said board of control to the
8 contrary the said justices of the peace and judges of the police courts
9 throughout the state may commit all females sentenced to thirty days
10 to such reformatory.

[S. S., '15, § 2713-n5.]

SEC. 2169. Transfer to and from training school.

1 Any woman or girl over the age of fourteen years who is an
2 inmate of the training school for girls, who is unruly and incorrigible,
3 or whose presence is dangerous and detrimental to the school, may, on
4 the recommendation of the superintendent of the school and after an
5 investigation by the board of control of state institutions, be trans-
6 ferred by order of said board of control to the women's reformatory,
7 and the expenses of the transfer shall be paid from the funds of the
8 school. And the board may, on the recommendation of the superin-
9 tendent of the women's reformatory and after an investigation by the
10 board, transfer any inmate of the reformatory to the training school
11 for girls, and the expenses of the transfer shall be paid from the funds
12 of the reformatory. And, after a transfer to either institution is
13 made, the person transferred shall be subject to all the provisions of
14 law and regulations of the institution to which she is transferred the
15 same as though she had originally been committed thereto.

[S. S., '15, § 2713-n10; 37 G. A., ch. 54, § 1.]

SEC. 2170. Females—how long detained.

1 No female committed to the women's reformatory who was con-
2 victed of a felony shall be detained in the reformatory under one
3 commitment for a period longer than the maximum term of impris-
4 onment provided by law for the crime of which she was convicted, and

5 no female committed to the women's reformatory who was not con-
6 victed of a felony shall be detained therein under one commitment
7 longer than five years.

[S. S., '15, § 2713-n12.]

SEC. 2171. Parole and discharge.

1 The board of control shall have the power to order the parole or
2 discharge of any inmate of the women's reformatory as a reward for
3 good conduct and proficiency in studies and for satisfactory work in
4 the industrial department, if there be reasonable ground to believe
5 that such inmate if released will lead a virtuous and honorable life.
6 The board may also in unusual and special cases parole and discharge
7 inmates if the reasons therefor shall be deemed sufficient and urgent.
8 If the inmates be paroled, the parole may be on conditions which shall
9 be prescribed by the board of control and may be terminated for a
10 failure to comply with such conditions.

[S. S., '15, § 2713-n13.]

**SEC. 2172. Clothing and money on parole or discharge—em-
ployment.**

1 When an inmate is paroled or discharged, the superintendent may,
2 with the approval of the board of control, furnish her with a supply
3 of clothing and a receptacle therefor, and transportation to the place
4 where she is to be employed or if not employed, to the place from
5 which she was committed or to any place she may select not more
6 distant than the place of commitment, and with a sum of money not
7 exceeding twenty-five dollars. It shall be the duty of the superin-
8 tendent, so far as is practicable, to obtain for each inmate before she
9 is paroled or discharged a home and suitable employment if they are
10 not otherwise provided.

[S. S., '15, § 2713-n14.]

SEC. 2173. Arrest of those escaping or violating parole.

1 Any person committed to or confined in said reformatory who
2 shall escape may be arrested and taken or returned to said reforma-
3 tory, if found in the vicinity of the reformatory, by an officer or
4 employee thereof without any other authority than this chapter, and
5 by any peace officer or other person on the request in writing of the
6 superintendent.

7 If any paroled inmate shall violate the conditions of her parole,
8 she may be arrested and returned to the women's reformatory by any
9 officer or employee thereof, or by any peace officer or other person, on
10 the request in writing of the superintendent approved by the board
11 of control; and the reasonable expenses incurred in returning such
12 inmate shall be paid from the funds of the women's reformatory.

[S. S., '15, § 2713-n15.]

SEC. 2174. Assisting escape—penalty.

1 Whoever unlawfully aids or assists any inmate lawfully com-
2 mitted to the women's reformatory to escape therefrom, or knowingly
3 conceals such inmate after her escape, shall be punished by a fine not
4 exceeding one thousand dollars, or imprisonment in the penitentiary
5 not exceeding five years.

[S. S., '15, § 2713-n16.]

SEC. 2175. Temporary quarters in case of fire.

1 In case the buildings of the women's reformatory shall at any
 2 time become unfit for the purposes of the reformatory by reason of
 3 fire, storms, or other cause, the board of control shall make the best
 4 temporary provision practicable for the confinement and care of the
 5 inmates at some other place in the state. In case such temporary
 6 arrangement shall be made, all laws applicable to the women's reform-
 7 atory as established by this chapter shall apply to the reformatory
 8 in the new location, and the reasonable cost of the change, including
 9 the transfer of inmates, shall be paid from any money in the state
 10 treasury not otherwise appropriated.

[S. S., '15, § 2713-n18.]

SEC. 2176. Appropriation.

1 There is hereby appropriated out of any money in the treasury
 2 not otherwise appropriated for the purpose of maintaining the
 3 women's reformatory, including the payment of the compensation of
 4 officers and employees, for instruction of inmates, the furnishing of
 5 food, clothing, and all necessary supplies, and transportation for
 6 paroled and discharged inmates and return to the reformatory of
 7 paroled and escaped inmates, the sum of twenty-four dollars per
 8 month, or so much thereof as shall be necessary for each inmate,
 9 estimated on the basis of the average number of inmates for the
 10 preceding month; but, in case the average number of inmates shall
 11 be fewer in any month than one hundred sixty-five, then and in that
 12 case the appropriation shall be three thousand nine hundred sixty
 13 dollars, for each of such months, or so much thereof as shall be
 14 necessary.

[S. S., '15, § 2713-n17; 37 G. A., ch. 362, § 1; 38 G. A., ch.
 37, § 9.]

CHAPTER 18.
PENITENTIARY AND MEN'S REFORMATORY.**SECTION 2177. Warden**

1 The penitentiary and men's reformatory shall each be under the
 2 management and control of a warden, subject to the supervision of the
 3 board of control.

[R., '60, § 5174; C., '73, § 4746; C., '97, § 5661.]

SEC. 2178. Bond—oath.

1 Each warden shall, before entering upon the discharge of his duty,
 2 execute a bond payable to the state in the penal sum of twenty-five
 3 thousand dollars, with not less than five freehold sureties, to be
 4 approved by the board of control, conditioned that he will faithfully
 5 discharge all his duties as general superintendent of the said institu-
 6 tion; that he will impartially, and to the best of his ability, administer
 7 the disciplinary regulations of the institution so as to contribute to
 8 the health, safe-keeping and profitable employment of the convicts;
 9 that he will appoint no one to the office of clerk, deputy warden or
 10 guard through favoritism or other personal consideration, and no one

11 without due and proper regard to his qualifications for said stations;
 12 that he will render a faithful account of all the transactions of the
 13 institution to the board of control every thirty days, and oftener as
 14 he may be required; that he will not become directly or indirectly
 15 interested in any contract for supplying materials, labor, provisions,
 16 clothing or any other thing for the use of said penitentiary or men's
 17 reformatory, and that, at the expiration of his official term, he will
 18 surrender all books, papers, records, moneys or other property or
 19 securities belonging to said institution to his successor in office. Each
 20 shall also take and subscribe an oath or affirmation, which shall be
 21 indorsed on the back of said bond, that he will support the constitution
 22 of the United States and that of the state of Iowa, and that he will
 23 scrupulously observe all the stipulations and conditions of said bond,
 24 and faithfully discharge all his duties agreeably to law according to
 25 the best of his ability, which bond shall be filed with the secretary of
 26 state.

[R., '60, § 5175; C., '73, § 4747; C., '97, § 5662; S., '13,
 § 5662.]

SEC. 2179. Restrictions—clerk—guards.

1 The warden must not carry on nor be concerned in the business of
 2 trade or commerce during his continuance in office; he must reside
 3 constantly within the precincts of the prison, and shall take charge of
 4 the penitentiary or men's reformatory and of all the interests of the
 5 state connected therewith, and shall appoint some suitable person as
 6 clerk, who shall also act as commissary under the direction of the
 7 warden, one deputy, one assistant deputy, and as many guards as may
 8 be necessary to the safe-keeping and government of the convicts, not
 9 exceeding one for every ten convicts under his charge at Fort Madi-
 10 son, and one for every eight at Anamosa, and the warden under the
 11 direction of the board of control shall assign said guards to any duty
 12 that may be necessary to properly conduct the business of said peni-
 13 tentiary or men's reformatory. At no time shall there be less than
 14 forty-five guards at Fort Madison and forty-two guards at Anamosa.

[C., '51, § 3128; R., '60, § 5142; C., '73, § 4748; C., '97, § 5663;
 S., '13, § 5663.]

SEC. 2180. Clerk—bond—oath.

1 Each clerk of the penitentiary or men's reformatory shall receive
 2 his appointment from and hold his office during the pleasure of the
 3 warden, and be in all things responsible to him. Before entering upon
 4 the discharge of his duties, he shall give bond to the state in the
 5 penal sum of twenty thousand dollars, with two or more freehold
 6 sureties, to be approved by the governor, conditioned that he will keep
 7 a fair, honest, impartial and faithful record of the affairs of the peni-
 8 tentiary or men's reformatory, written in a legible hand, with proper
 9 indices; that he will discharge all his duties as clerk and commissary
 10 faithfully; and that he will not become interested, directly or indi-
 11 rectly, in any contract for furnishing supplies for the use of said insti-
 12 tution; and that he will yield strict and implicit obedience to the laws,
 13 rules and regulations of the institution, and to all the legal orders of
 14 the warden. He shall also take and subscribe an oath, which shall be
 15 indorsed on the bond, that he will support the constitution of the
 16 United States and that of this state, and that he will scrupulously
 17 observe all the conditions, stipulations and requirements thereof, and

18 will faithfully discharge his duty as clerk and commissary during his
 19 continuance in office, according to the best of his judgment and ability;
 20 which bond shall be filed in the office of the secretary of state, and
 21 action thereon may be brought for the violation of any of its condi-
 22 tions, in the name of the state, for the use of the warden or any other
 23 person injured by such violation.

[R., '60, § 5180; C., '73, § 4752; C., '97, § 5667; S., '13,
 § 5667.]

SEC. 2181. Deputy warden—assistants.

1 Each deputy warden and assistant deputy shall receive his
 2 appointment from the warden, and shall hold his office during his
 3 pleasure; he shall give bond with sureties and in the same manner,
 4 take a like oath, and be in all respects subject to like responsibilities,
 5 as the clerk, so far as the same are applicable; but the amount of
 6 the bond shall be five thousand dollars. The deputy warden shall
 7 keep a regular time-table of the convict labor, and record the same in
 8 a book to be kept for that purpose, and shall keep a record of all the
 9 business under his control, and return an account thereof, together
 10 with an account of the convict labor, to the clerk at the close of each
 11 day. The assistant deputy warden shall perform the duties of deputy
 12 warden in his absence or inability to act, and such other duties as
 13 shall be prescribed by the warden with the approval of the board of
 14 control of state institutions.

[R., '60, §§ 5169, 5182; C., '73, § 4754; C., '97, § 5669; S., '13,
 § 5669.]

SEC. 2182. Vacancy in office of warden.

1 Whenever the office of warden is vacant, or he is absent from the
 2 penitentiary or men's reformatory, or unable to perform the duties
 3 of his office, the deputy shall perform the duties and be subject to all
 4 the obligations and liabilities of the warden.

[C., '51, § 3137; R., '60, § 5151; C., '73, § 4792; C., '97,
 § 5690.]

SEC. 2183. Guards.

1 Each of the guards, when appointed, shall give bond to the war-
 2 den with sureties to be approved by him, in the penal sum of one
 3 thousand dollars, conditioned that he will faithfully discharge his
 4 duty and obey the lawful orders of the warden; and shall take and
 5 subscribe an oath, which shall be indorsed thereon, that he will sup-
 6 port the constitution of the United States and that of this state, and
 7 will scrupulously observe all the conditions and stipulations of his
 8 bond; which bond shall be filed in the office of the clerk of the peni-
 9 tentiary or men's reformatory, and a note thereof made on the record
 10 as to the date, amount and name of the principal and his sureties, and
 11 he shall hold his office during the pleasure of the warden.

[R., '60, §§ 5183, 5184; C., '73, §§ 4755, 4756; C., '97, § 5670.]

SEC. 2184. Steward.

1 There shall be a steward nominated by the warden, who shall
 2 receive his appointment from the warden, and whose duty it shall be
 3 to dispense the medicine prescribed by the physician, and to do all
 4 other things necessary to carry out the treatment as directed. He

5 shall act as guard or keeper of the prisoners in the hospital, and shall
6 receive the same wages as other day guards or keepers, and be subject
7 to the same rules and regulations.

[C., '73, § 4766; C., '97, § 5673.]

SEC. 2185. Matron.

1 The warden may appoint a matron of the women's department
2 who, under his general direction, shall have exclusive charge thereof,
3 and shall keep a time-table of female convict labor, recording the
4 same in a book for that purpose, and keep a record of all business
5 under her control, returning an account thereof with an account of
6 the female contract labor to the clerk at the close of each day.

[C., '97, § 5674.]

SEC. 2186. Overseers.

1 Persons having suitable knowledge and skill in the branches of
2 labor and manufactures carried on in the penitentiary or men's
3 reformatory may be employed as overseers, when practicable, and
4 they must, respectively, superintend such portions of the labor of
5 convicts for which they are most suitably qualified and which shall
6 be assigned to them by the warden, and all of them, as well as the
7 other subordinate officers thereof, must perform such services in the
8 management, superintending and guarding of the same as may be
9 prescribed by the rules and regulations or directed by the warden.

[C., '51, § 3140; R., '60, § 5153; C., '73, § 4793; C., '97,
§ 5691.]

SEC. 2187. Chaplain.

1 Each warden shall appoint some suitable minister of the gospel
2 chaplain of the penitentiary or men's reformatory, who shall hold his
3 office during the pleasure of the warden, and shall give as much of his
4 time as the condition and employment of the convicts will reasonably
5 justify in giving them moral and religious instruction, and who shall
6 at all times, when in the opinion of the warden the necessary labor of
7 the convicts or the safety of the prison does not render it imprac-
8 ticable, have access to the convicts for that purpose, and should any
9 of them be illiterate, the chaplain shall give them instruction in the
10 ordinary branches of learning.

[R., '60, § 5185; C., '73, § 4757; C., '97, § 5671.]

SEC. 2188. Physician—medical record.

1 Each warden shall appoint, with the approval of the board of
2 control, a physician for the penitentiary or men's reformatory under
3 his charge, who shall be a regular practicing physician under the laws
4 of this state, be possessed of sufficient surgical instruments to perform
5 all ordinary operations, who shall visit the prison at least once each
6 day, and oftener, if necessary, personally examine all prisoners who
7 are ill or claiming to be and reported to him, prescribe for such as in
8 his judgment require treatment, examine every prisoner when
9 admitted to the prison, keep a book to be called the hospital record,
10 make therein a record of the physical condition, age, constitution,
11 habits and health of all such, record the name of each patient treated,
12 his age, occupation, symptoms, disease and treatment; shall, when
13 visiting the prison, conform to the rules and regulations thereof,

14 express no opinion of the ability or disability of a prisoner, except in
 15 his record, which shall be authority for the officers in administering
 16 the regulations of the prison in relation to such prisoners, and, when
 17 a prisoner dies, he shall have the privilege of making a post-mortem
 18 examination of his remains, unless objection thereto shall be made
 19 by the relatives of such deceased, and shall record the result of it in
 20 the hospital record in connection with the record of treatment. He
 21 shall also be physician for the department for the criminal insane.

[C., '73, §§ 4758-4765; C., '97, § 5672.]

SEC. 2189. Compensation of officers and employees.

1 The officers and employees of the men's reformatory at Anamosa
 2 and the penitentiary at Fort Madison, hereinafter specified, shall be
 3 paid for their services each month sums to be fixed by the board of
 4 control of state institutions not exceeding, however, the sum specified
 5 as follows: The warden, two hundred fifty dollars; the deputy war-
 6 den, one hundred fifty dollars; the assistant deputy warden, one hun-
 7 dred twenty-five dollars; the clerk, one hundred fifty dollars; the
 8 chaplain, one hundred twenty-five dollars, and an additional chaplain,
 9 twenty-five dollars; the physician and surgeon, one hundred twenty-
 10 five dollars; the storekeeper, one hundred twenty-five dollars; the
 11 record clerk, receiving officer, and captains of the night guards, each
 12 one hundred ten dollars; but turnkeys and guards of the first class
 13 shall be paid one hundred dollars; turnkeys and guards of the second
 14 class, ninety dollars, and turnkeys and guards of the third class,
 15 eighty dollars.

16 Other officers and employees in the opinion of the board of con-
 17 trol of state institutions needed to carry on the various departments
 18 of the prisons, properly and efficiently, may be authorized and their
 19 salaries fixed by said board, subject to the approval of the governor as
 20 provided by the law as found in section eighteen hundred eighty-three.
 21 The salaries and wages herein authorized shall be paid by the state
 22 treasurer from any money in the state treasury not otherwise appro-
 23 priated, upon certified abstracts as provided by the law as it appears
 24 in section eighteen hundred eighty-nine.

[R., '60, § 5192; C., '73, §§ 4783, 4784; C., '97, § 5716; S. S.,
 '15, § 5716; 38 G. A., ch. 207, § 1.]

SEC. 2190. House rent of warden—assistants.

1 In addition to his salary, each warden shall be provided with a
 2 furnished house to be designated by the board of control, or house
 3 rent and water, heat, ice, and lights, and the labor of prisoners, not
 4 exceeding three at one time for household and domestic service, and
 5 shall be furnished, without cost, with provisions for self and family,
 6 consisting of wife and minor children, from supplies purchased for
 7 the institution; this to be in lieu of all allowances for what is known
 8 as "warden's support fund" and "warden's house fund" as now au-
 9 thorized by law. Each deputy warden shall be furnished with a house
 10 to be designated by the board of control, or house rent and water,
 11 heat, ice and lights, and domestic service by not more than one pris-
 12 oner at one time. The matron of the female department shall be al-
 13 lowed, in addition to her salary, a furnished apartment, heat, light,
 14 and domestic service within the building occupied by the women's
 15 department. The prison labor authorized by this section shall not be

16 used except on the premises and for the benefit of the person author-
 17 ized to use it, and for his family; provided, however, that no labor of
 18 prisoners shall be used in a manner to prejudice prison discipline.

[R., '60, § 5168; C., '73, § 4767; C., '97, § 5717; S. S., '15,
 § 5717.]

SEC. 2191. Discipline—discharge of officers.

1 Each warden shall see that the laws and disciplinary rules and
 2 regulations of the institution are faithfully executed by his under of-
 3 ficers and obeyed by the convicts; and it shall be his duty, upon failure
 4 or refusal of any clerk, deputy warden or guard to discharge his duty,
 5 forthwith to discharge him, and fill the vacancy by the appointment
 6 of another person; and disobedience by the convicts shall be punished
 7 by the infliction of such penalties as are provided by law and the rules
 8 which are prescribed for the government of said institution. The war-
 9 den shall keep a register of all punishments inflicted on any convict,
 10 and the cause for which they were inflicted.

[R., '60, § 5179; C., '73, § 4751; C., '97, § 5666.]

SEC. 2192. Removal of officers.

1 Any officer of the penitentiary or men's reformatory may be re-
 2 moved by the officer appointing him, and in the same manner.

[C., '97, § 5712.]

SEC. 2193. Delinquency of officers.

1 If any subordinate officer of the penitentiary or men's reforma-
 2 tory is guilty of negligence or unfaithfulness in the discharge of his
 3 duties, or of a violation of any of the laws, rules and regulations for
 4 the government thereof, the warden may deduct from the pay of
 5 such officer a sum not exceeding one month's pay.

[C., '51, § 3141; R., '60, § 5154; C., '73, § 4794; C., '97, §
 5692.]

SEC. 2194. Negligence of officers.

1 If any officer or other person employed in the penitentiary or
 2 men's reformatory or its precincts, negligently suffer any convict
 3 confined therein to be at large without its precincts, or out of the cell
 4 or apartment assigned to him, or to be conversed with, relieved or
 5 comforted contrary to law or the rules and regulations of the peniten-
 6 tiary or men's reformatory, he shall be punished by a fine not exceed-
 7 ing five hundred dollars.

[C., '51, § 3144; R., '60, § 5157; C., '73, § 4796; C., '97,
 § 5694.]

SEC. 2195. Penalty for failure of duty.

1 Should any person required to perform any duty relative to either
 2 penitentiary or men's reformatory wilfully fail or refuse to perform
 3 the same, he shall be punished by fine in any sum not exceeding one
 4 thousand dollars, and shall forfeit his office; and should said wilful
 5 failure or refusal result in the escape of any of the convicts, or in loss
 6 of any of the funds appropriated to the use and benefit of the peniten-
 7 tiary or men's reformatory, provided said sum so lost shall exceed the

8 amount of twenty dollars, he shall be punished by imprisonment in
 9 the penitentiary for a term not less than two nor more than ten years.
 [R., '60, § 5196; C., '73, § 4805; C., '97, § 5701.]

SEC. 2196. Interest in contracts.

1 Should any officer be or become in any manner interested in con-
 2 tracts for furnishing provisions, clothing or other necessities for the
 3 use of the penitentiary or men's reformatory, or be or become in any
 4 manner interested in contracts for buildings or the construction of
 5 buildings of any kind, in any way connected therewith, or for furnish-
 6 ing material of any kind for the construction of such buildings, or in
 7 any contract for the labor of convicts, such officer so interested shall,
 8 upon proof thereof being made, be removed from office and forfeit any
 9 interest he may have therein, and, on conviction thereof, shall be fined
 10 in any sum not more than two thousand, nor less than five hundred
 11 dollars.

[C., '73, § 4769; C., '97, § 5713.]

SEC. 2197. Prisoners of United States.

1 Convicts sentenced for a life or less term at hard labor by any
 2 court of the United States may be received by the warden into the
 3 penitentiary or men's reformatory and there kept in pursuance of
 4 their sentences.

[C., '51, § 3119; R., '60, § 5138; C., '73, § 4771; C., '97,
 § 5676.]

SEC. 2198. What prisoners retained in reformatory—transfer of life prisoners.

1 The board of control may retain in the men's reformatory such
 2 persons as have been or are committed for crimes committed on or
 3 prior to July fourth, nineteen hundred seven, except that all persons
 4 convicted of murder in the first degree and all persons sentenced to
 5 life imprisonment shall be kept and confined in the prison at Fort
 6 Madison and a transfer shall be made as soon as reasonably convenient
 7 after July fourth, nineteen hundred seven, from the reformatory to
 8 the prison at Fort Madison of the persons named in this exception,
 9 provided that prisoners committed for life who are now beyond fifty-
 10 five years of age shall not be removed.

[S., '13, § 5718-a9.]

SEC. 2199. Transfer when Fort Madison penitentiary is overcrowded.

1 Whenever there is unoccupied room in the men's reformatory and
 2 the prison at Fort Madison is overcrowded, the board of control may,
 3 in its discretion, transfer from the prison at Fort Madison well-be-
 4 haved and most promising convicts, who are confined for their first
 5 offense. The prison at Fort Madison shall be deemed to be over-
 6 crowded when the number of inmates exceeds the number of cells.

[S., '13, § 5718-a10.]

SEC. 2200. Transfer of prisoners for insubordination.

1 Any male prisoner confined in the men's reformatory may be
 2 transferred to the penitentiary at Fort Madison, upon order of the

3 board of control, for violation of the rules of the men's reformatory or
 4 for insubordination, and a like transfer may be ordered by said board
 5 whenever it shall be of the opinion that a prisoner is not a hopeful
 6 subject for reformatory treatment.

[S., '13, § 5718-a7.]

SEC. 2201. Transfer of prisoners.

1 If it shall appear at any time after conviction and incarceration
 2 in the men's reformatory that a prisoner was over thirty years of age
 3 at the time of commitment, he shall be at once transferred to the
 4 prison at Fort Madison, and he shall likewise be transferred if it shall
 5 appear that he had, prior to the last conviction, been convicted of a
 6 felony in Iowa or elsewhere.

[S., '13, § 5718-a8.]

SEC. 2202. Department for criminally insane.

1 The department for the criminally insane in the men's reforma-
 2 tory at Anamosa shall be under the control and management of the
 3 warden, and as a part thereof in which all insane convicts in the state
 4 of Iowa shall be confined and treated.

[S. S., '15, § 5709-a.]

SEC. 2203. Insane at Fort Madison transferred.

1 When it is by any person represented to the warden or to the
 2 board of control that any convict confined in the penitentiary at Fort
 3 Madison is insane, the matter shall be referred to the board of control,
 4 who shall cause a superintendent of one of the hospitals for the insane
 5 to make an examination of said convict and report to the board
 6 thereon, and if the report so warrant, said board shall order such con-
 7 vict transferred to the department for the insane at Anamosa and
 8 confined therein until he shall have served out his sentence or shall
 9 be pronounced sane, in which latter event he shall be returned to the
 10 penitentiary or held in the men's reformatory to serve out his un-
 11 expired sentence.

[S. S., '15, § 5709-b.]

SEC. 2204. Convicts at Anamosa transferred.

1 When it is by any person represented to the warden or to the
 2 board of control that any convict confined in the men's reformatory
 3 at Anamosa is insane, the like course shall be pursued.

[S. S., '15, § 5709-c.]

SEC. 2205. Insane at Anamosa—on what conditions transferred.

1 No convict confined in the men's reformatory at Anamosa found
 2 to be insane shall be removed to any other institution, except upon
 3 order of the board of control and after an examination of such convict
 4 and report to said board warranting the same, made by a superintend-
 5 ent of one of the hospitals for the insane.

[S. S., '15, § 5709-d.]

SEC. 2206. Examinations—by whom made.

1 Said board of control is hereby authorized to require any superin-
 2 tendent of any of the hospitals for the insane to make the examina-
 3 tions and reports herein specified.

[S. S., '15, § 5709-e.]

SEC. 2207. Examination at end of term.

1 No insane convict shall be discharged from the hospital depart-
 2 ment provided for the criminal insane until restored to reason, except
 3 as hereinafter provided. At the expiration of the term of sentence
 4 of such convict, an examination shall be made by competent physi-
 5 cians, and if it shall be found that he has not been restored to reason,
 6 such fact shall be certified to the board of control, who shall investi-
 7 gate the matter, and if in its opinion such convict should be trans-
 8 ferred to one of the hospitals for the insane, it may so order, or it may
 9 order that said convict shall be retained in the hospital department of
 10 the men's reformatory for criminal insane.

[C., '97, § 5710.]

SEC. 2208. Employment of inmates—escape—punishment.

1 The inmates of the penitentiary and of the men's reformatory
 2 shall be employed only on state account and for state use and on any
 3 public works; provided, however, that none of said employment for
 4 state account or state use shall be exercised or performed within the
 5 corporate limits of the city of Fort Madison or the city of Anamosa,
 6 unless performed on state premises, and excepting such employment
 7 as pertains exclusively for the benefit of the state. Said employment
 8 shall be conducive to the teaching of useful trades and callings so far
 9 as practicable, and the intellectual and moral development of such
 10 inmates.

[S. S., '15, § 5718-a11.]

SEC. 2209. Manufacture prohibited.

1 It shall not be lawful to manufacture for sale any pearl buttons
 2 or butter tubs in the penitentiary or men's reformatory of the state,
 3 and it shall be the duty of the board of control and wardens of said
 4 penitentiary or men's reformatory to enforce the provisions of this
 5 section, and to prohibit the manufacture of pearl buttons or butter
 6 tubs, in whole or in part, by the inmates confined in said penitentiary
 7 or men's reformatory.

[S., '13, § 5702-a.]

SEC. 2210. Hard labor—solitary confinement.

1 All punishment in the penitentiary by imprisonment must be by
 2 confinement to hard labor, and not by solitary imprisonment; but soli-
 3 tary imprisonment may be used as a prison discipline for the govern-
 4 ment and good order of the convicts.

[C., '51, § 3118; R., '60, § 5137; C., '73, § 4770; C., '97,
 § 5675.]

SEC. 2211. Work in stone quarries.

1 Able-bodied male persons sentenced to imprisonment in the peni-
 2 tentiary may be taken to the men's reformatory at Anamosa, or to the

3 penitentiary at Fort Madison, there confined and worked in places and
 4 buildings owned or leased by the state outside of the penitentiary or
 5 men's reformatory inclosures; but the labor of such convicts shall not
 6 be leased, and the warden shall keep a regular time-table of the con-
 7 vict labor and record thereof in a book provided for that purpose, and
 8 shall also keep a record of all the business under his control, returning
 9 to the clerk at the close of each day an account thereof, together with
 10 that of convict labor. He shall also have all stone which is not used
 11 for building purposes by the state, together with all refuse stone at
 12 the quarries, broken to be used for the improvement and macadamiz-
 13 ing of streets and highways, this work to be done by convict labor
 14 when not otherwise employed, but the warden may in his discretion
 15 make such disposition of any surplus refuse stone at the quarries as
 16 may be for the best interest of the state.

[C., '97, § 5707; S., '13, § 5707.]

SEC. 2212. Disposal of stone.

1 If any county, township, town, city or road district desires such
 2 stone for such purposes, the road supervisor or other officer having
 3 the supervision of streets and roads shall notify the county auditor,
 4 who, if satisfied the stone is needed for said purposes, shall issue his
 5 requisition upon the warden of the penitentiary or men's reformatory
 6 for the quantity desired, but this shall not exceed ten carloads to any
 7 county, township, town, city or road district per month, until all other
 8 like orders are filled; upon receipt of the requisition for the stone, the
 9 warden shall cause it to be loaded upon the cars, free of all charges,
 10 but the transportation thereof shall be at the expense of the party in
 11 whose favor the requisition is issued, and all such requisitions shall be
 12 filed in the office of the warden and filled in the order in which they
 13 were received, and the stone thus broken shall be used or disposed of
 14 for no other purpose, except by the state, or such other purposes as
 15 may be named in this chapter.

[C., '97, § 5708.]

SEC. 2213. Resistance to authority.

1 If a convict sentenced to the penitentiary or men's reformatory
 2 resists the authority of any officer, or refuses to obey his lawful com-
 3 mands, such officer shall immediately enforce obedience by the use of
 4 such weapons or other aid as may be effectual, and if, in so doing, any
 5 convict thus resisting be wounded or killed by such officer or his as-
 6 sistants, they are justified.

[C., '51, § 3145; R., '60, § 5158; C., '73, § 4797; C., '97, §
 5695.]

SEC. 2214. Insurrection.

1 Every officer and citizen of the state within reach shall, by every
 2 means within his power, suppress and aid in suppressing any insurrec-
 3 tion among the convicts in the penitentiary or men's reformatory, and
 4 prevent and aid in preventing the escape or rescue of any convict
 5 therefrom, or from any legal confinement, or from any person in whose
 6 custody a convict may be. If in the performance of this duty, or in
 7 arresting or assisting to arrest a convict who has escaped or been

8 rescued, such officer or person wound or kill the convict, or a person
9 aiding or assisting him, the same shall be held justifiable.

[C., '51, § 3146; R., '60, § 5159; C., '73, § 4798; C., '97, § 5696.]

SEC. 2215. Escape of prisoner—reward.

1 If a convict escapes from the penitentiary or men's reformatory,
2 the warden shall take all proper measures for his apprehension; and
3 for that purpose he may offer a reward, not exceeding fifty dollars, to
4 be paid by the state, for the apprehension and delivery of such convict.

[C., '51, § 3147; R., '60, § 5160; C., '73, § 4776; C., '97, § 5681.]

SEC. 2216. Pestilence among convicts—minors separated.

1 In case any pestilence or contagious sickness breaks out among
2 the convicts, the warden may cause those confined in the penitentiary
3 or men's reformatory, or any of them, to be removed to a suitable place
4 of security, where the sick shall receive all necessary care and medi-
5 cal attendance, and those removed must be returned as soon as may
6 be to the penitentiary or men's reformatory, to be confined according
7 to their respective sentences, if the same be unexpired. It shall be
8 the duty of the warden of the penitentiary or men's reformatory to
9 keep prisoners under the age of eighteen, when not under the per-
10 sonal supervision of the officers of the penitentiary or men's reforma-
11 tory, or at work, separate from the prisoners above that age, and to
12 prevent personal communication between such classes, except as to
13 such prisoner under eighteen years of age who is likely to or does exer-
14 cise an immoral influence over those with whom he is associated.
15 Any warden who shall fail or refuse to obey the provisions of this sec-
16 tion may be removed from office therefor.

[C., '51, § 3143; R., '60, § 5156; C., '73, § 4795; C., '97, § 5693.]

SEC. 2217. Property of convict.

1 The warden shall receive and care for any property any convict
2 may have on his person upon entering, and, if convenient, place the
3 same, if money, at interest for the owner's use, keeping an account
4 thereof, and on the discharge of the convict return, and if money,
5 repay the same with the interest so earned, to him or his legal repre-
6 sentatives, unless in the meantime it has been previously disposed of
7 according to law.

[C., '51, § 3149; R., '60, § 5162; C., '73, § 4778; C., '97, § 5683.]

SEC. 2218. Service of process upon prisoner.

1 All original or other legal notices addressed to a prisoner shall be
2 served upon him by the warden or his deputy, and all processes against
3 him, whether directed to the warden or any peace officer, shall be exe-
4 cuted by the warden or his deputy, and the returns made accordingly.

[C., '51, § 3130; R., '60, § 5144; C., '73, § 4772; C., '97, § 5677.]

SEC. 2219. Removal of prisoner for trial for murder.

1 Any person, now, or hereafter, confined in any prison or reformatory of this state, who is now, or shall hereafter be indicted charged with the crime of murder, may be removed from such prison or reformatory for trial on such indictment.

[S., '13, § 5718-b.]

SEC. 2220. Order.

1 After an indictment is returned against any person confined in such prison or reformatory charging the defendant with the crime of murder, the judge of the district court of the county in which such indictment is had, may enter an order under the seal of said court, directing that such person shall be produced for trial thereon; one copy of said order shall be delivered to the sheriff of said county and one copy thereof furnished to the warden, jailer or superintendent having the custody of such person, which shall be his authority for the delivery of such prisoner to the sheriff.

[S., '13, § 5718-c.]

SEC. 2221. Defendant returned—how punished.

1 On the trial of any person as provided herein, if the defendant be found not guilty, he shall be returned to the prison or reformatory from which he was taken, but if convicted under said indictment he shall be punished as provided by law.

[S., '13, § 5718-d.]

SEC. 2222. Discharge.

1 No convict shall be discharged from the penitentiary or men's reformatory until he has remained the full term for which he was sentenced, to be computed from and including the day on which he was received into the same, exclusive of the time he may have been in solitary confinement for any violation of the rules and regulations of the prison, unless he be pardoned or otherwise released by legal authority.

[C., '51, § 3148; R., '60, § 5161; C., '73, § 4777; C., '97, § 5682.]

SEC. 2223. Good conduct—diminution of sentence.

1 The deputy warden of the penitentiary or men's reformatory shall keep a book in which shall be entered a record of each infraction of the published rules of discipline committed by a prisoner, with his name, and he shall forfeit, as herein provided, any diminution of time earned under this section. Each prisoner who shall have no infraction of the rules and regulations of the penitentiary or men's reformatory, or laws of the state, recorded against him, and who performs in a faithful manner the duties assigned to him, shall be entitled to the diminution of time from his sentence as appears in the following table for the respective years of the sentence, and if the sentence be for less than a year, then the pro rata part thereof:

NO. OF YEAR OF SENTENCE.	GOOD TIME GRANTED.	TOTAL GOOD TIME MADE.	TIME TO BE SERVED IF FULL TIME IS MADE.
1st year.....	1 month.....	1 month.....	11 months.
2d year.....	2 months.....	3 months.....	1 year and 9 months.
3d year.....	3 months.....	6 months.....	2 years and 6 months.
4th year.....	4 months.....	10 months.....	3 years and 2 months.
5th year.....	5 months.....	1 year and 3 months....	3 years and 9 months.
6th year.....	6 months.....	1 year and 9 months....	4 years and 3 months.
7th year.....	6 months.....	2 years and 3 months....	4 years and 9 months.
8th year.....	6 months.....	2 years and 9 months....	5 years and 3 months.
9th year.....	6 months.....	3 years and 3 months....	5 years and 9 months.
10th year.....	6 months.....	3 years and 9 months....	6 years and 3 months.
11th year.....	6 months.....	4 years and 3 months....	6 years and 9 months.
12th year.....	6 months.....	4 years and 9 months....	7 years and 3 months.
13th year.....	6 months.....	5 years and 3 months....	7 years and 9 months.
14th year.....	6 months.....	5 years and 9 months....	8 years and 3 months.
15th year.....	6 months.....	6 years and 3 months....	8 years and 9 months.
16th year.....	6 months.....	6 years and 9 months....	9 years and 3 months.
17th year.....	6 months.....	7 years and 3 months....	9 years and 9 months.
18th year.....	6 months.....	7 years and 9 months....	10 years and 3 months.
19th year.....	6 months.....	8 years and 3 months....	10 years and 9 months.
20th year.....	6 months.....	8 years and 9 months....	11 years and 3 months.
21st year.....	6 months.....	9 years and 3 months....	11 years and 9 months.
22d year.....	6 months.....	9 years and 9 months....	12 years and 3 months.
23d year.....	6 months.....	10 years and 3 months....	12 years and 9 months.
24th year.....	6 months.....	10 years and 9 months....	13 years and 3 months.
25th year.....	6 months.....	11 years and 3 months....	13 years and 9 months.

[C., '97, § 5703.]

SEC. 2224. Forfeiture.

1 Any convict entitled to any diminution of his sentence under the
2 preceding section, who shall violate any of the rules, regulations or
3 laws for the government of the penitentiary or men's reformatory,
4 shall forfeit, for the first offense, two days; for the second, four days;
5 for the third, eight days; for the fourth, sixteen days, and, in addi-
6 tion thereto, whatever number of days more than one that he is in
7 punishment shall also be forfeited; for more than four offenses, or for
8 an escape or attempt to escape, the warden shall have the power,
9 with the approval of the board of control, to deprive him of any por-
10 tion or all of the good time that the convict may have earned, but not
11 less than as provided for the fourth offense.

[C., '97, § 5704.]

SEC. 2225. Separate sentences.

1 When a convict is committed under several convictions with sepa-
2 rate sentences, they shall be construed as one continuous sentence in
3 the granting or forfeiting of good time.

[C., '97, § 5705.]

SEC. 2226. Reduction in sentence granted to trustees—board to regulate.

1 Any inmate of the penitentiary, and any inmate of the men's re-
2 formatory, who may hereafter be engaged or employed in any service
3 or labor outside the walls of the institution to which he or she is sen-
4 tenced, or who may be listed as a "trustee," or "honor" inmate of such
5 institution, may, at the discretion of the said board of control, or at
6 the discretion of the warden of such institution acting under authority

7 of the said board of control, be given and allowed a special reduction
 8 in term of sentence at the rate of ten days for each and every month
 9 so employed or listed; and every month of such employment shall be
 10 counted one month and ten days in point of service on the sentence to
 11 be served in addition to the "good time" allowed by law for good be-
 12 havior; and the said board of control is hereby authorized and empow-
 13 ered to grant and allow such extra good time or special commutation
 14 of sentence, and to make all rules and regulations in relation thereto.
 [S. S., '15, § 5718-a11b.]

SEC. 2227. Registers and records.

1 The board of control shall cause to be kept at the men's reformatory and penitentiary such registers and records of prisoners for the
 2 use of the board of parole as may be approved by the executive council.
 3 [S., '13, § 5718-a12.]

SEC. 2228. On discharge.

1 When a convict is discharged, the warden shall furnish transpor-
 2 tation to him by means of a ticket for passage to the point in this state
 3 nearest his home, if he have one, or to any point of a like distance
 4 without the state, and, in addition thereto, the warden shall furnish
 5 him a suit of common clothing, and not less than three nor more than
 6 five dollars in money, all at the expense of the state, an account of
 7 which shall be kept by the warden.
 [C., '51, § 3150; R., '60, § 5163; C., '73, § 4779; C., '97, § 5684.]

SEC. 2229. Visitors—fees—how used.

1 Each of the wardens of the penitentiary and the men's reformatory shall demand and receive of each person, except state officers
 2 and others exempt by law and relatives of a prisoner confined therein,
 3 who visits the prison for the purpose of viewing the interior or pre-
 4 cincts, the sum of twenty-five cents, of which the warden shall render
 5 an account each month to the board of control of state institutions.
 6 The money so collected shall be applied in the discretion of said board
 7 in the purchase of books, periodicals, newspapers, and furniture and
 8 furnishings for library and reading rooms, and for lectures, concerts
 9 and other entertainments and musical instruments and musical sup-
 10 plies for the institution for which it was collected. If at any time in
 11 the opinion of said board there be money in the fund so created not
 12 needed for the uses specified it may be transferred on the order of said
 13 board to the support fund of the institution.
 14 [C., '51, § 3151; R., '60, § 5164; C., '73, § 4780; C., '97, § 5685; S., '13, § 5685-a.]

SEC. 2230. Who may visit.

1 The following persons are authorized to visit the penitentiary or
 2 men's reformatory at pleasure: The governor, secretary, auditor and
 3 treasurer of state, members of the general assembly, judges of the
 4 supreme, district and superior courts, county attorneys, and all regular
 5 officiating ministers of the gospel; and no other person shall be per-

6 mitted to go within the prison where convicts are confined except by
7 permission of the warden.

[C., '51, § 3152; R., '60, § 5165; C., '73, § 4781; C., '97,
§ 5686.]

SEC. 2231. Collection of debts due.

1 The state auditor shall cause all debts due the state on account
2 of the penitentiary or men's reformatory, or connected therewith, to
3 be collected, and to this end shall place all such claims in the hands
4 of the attorney general or the county attorney of the proper county,
5 to take such steps as may be required to accomplish the same. The
6 officer in whose hands such matters shall be placed shall give the same
7 personal attention. Action may be brought upon all demands in the
8 name of the state or the warden, and judgments rendered, collected
9 by execution and sale, at which sale the property may be bid off in the
10 name of the state, and held and disposed of by the governor as in other
11 cases of property owned by the state, for the use of the penitentiary
12 or men's reformatory.

[C., '73, §§ 4788-4790; C., '97, § 5688.]

SEC. 2232. Support of prisoners.

1 For the general support of the prisoners confined in the men's re-
2 formatory at Anamosa and the penitentiary at Fort Madison there
3 shall be paid from any money in the state treasury not otherwise ap-
4 propriated the sum of seventeen dollars monthly or so much thereof
5 as may be needed for each prisoner in each of said institutions, to be
6 estimated by the average number present during the preceding month.
7 If the average number of prisoners at Anamosa shall be less than six
8 hundred fifty in any month, the auditor of state and treasurer of state
9 shall credit said institution with the sum of eleven thousand fifty
10 dollars; and if the average number of prisoners at Fort Madison shall
11 be less than six hundred twenty-five in any month, the auditor of
12 state and treasurer of state shall credit said institution with the sum
13 of ten thousand six hundred twenty-five dollars; said sums to be in
14 addition to the monthly salary allowances for each officer and em-
15 ployee, and shall be drawn from the state treasury in the same manner
16 and for the same purposes as the regular per capita allowance is
17 drawn. All money appropriated by this section shall be drawn from
18 the state treasury and expended in the manner provided by chapter
19 one, title nine.

[C., '73, §§ 4785-4787; C., '97, § 5718; S., '13, § 5718; 37 G.
A., ch. 266, § 5; 38 G. A., ch. 37, § 1.]

CHAPTER 19.

CONVICT LABOR ON HIGHWAYS.

SECTION 2233. Employment of prisoners on highways or public works.

1 The board of control of state institutions, with the advice of the
2 warden of any penal institution of this state, is hereby authorized
3 to permit any able-bodied male prisoners to work upon the highways

4 of this state or upon any public works, but such labor shall not be
 5 leased to contractors and no prisoner shall be designated or permitted
 6 to work upon the highways or any public works whose character and
 7 disposition makes it probable that he would attempt to escape, or
 8 that he would likely be an unruly or ungovernable prisoner or violate
 9 any of the laws of the state while engaged in such work, or whose
 10 health would be impaired by such labor; and no prisoner who is op-
 11 posed to working upon the highways of this state or upon any public
 12 works shall be required to perform such labor.

[S., '13, § 5718-a28a.]

SEC. 2234. Jurisdiction of warden.

1 Prisoners employed upon the highways of this state or upon any
 2 public works, under the provisions of this chapter, shall at all times
 3 be under the charge and jurisdiction of the warden of the institution
 4 to which the prisoner was sentenced; said warden shall designate such
 5 guards, officers or agents to direct and supervise such prisoners as
 6 he shall deem necessary; said prisoners shall be considered under the
 7 custody of the warden at all times even when they are performing
 8 services under the honor system and without any guard or officer in
 9 their immediate presence.

[S., '13, § 5718-a28b.]

SEC. 2235. Supervision state highway commission.

1 The state highway commission shall supervise the work performed
 2 under the provisions of this chapter upon the highways of the state
 3 but may cooperate with the board of supervisors and local officials
 4 in the performance of said work.

[S., '13, § 5718-a28c.]

SEC. 2236. Care while absent from institution.

1 It shall be the duty of the board of control and the warden to
 2 prescribe the conditions and manner of keeping and caring for said
 3 prisoners while away from any of the penal institutions.

[S., '13, § 5718-a28d.]

SEC. 2237. Application by board of supervisors or other officials.

1 Whenever a county board of supervisors or other local officials
 2 shall desire to use prisoners upon the highways within their respective
 3 jurisdictions, they may apply therefor to the state highway commis-
 4 sion specifying the number of men desired, the character of work and
 5 the amount which they are willing to pay for said labor. If said
 6 highway commission can supervise the work and believe said pris-
 7 oners can be safely and advantageously employed at said place, they
 8 shall submit the matter to said board of control and the board of con-
 9 trol and warden shall arrange with such board of supervisors or local
 10 officials the terms and details of the contract including the compen-
 11 sation to be paid the state for the use of such prisoners.

[S., '13, § 5718-a28e.]

SEC. 2238. Payment for labor.

1 Boards of supervisors, or other local officials authorized to make
 2 road improvements, are hereby permitted to employ prisoners to work

3 upon the highways and pay for such services from any funds avail-
4 able for road or bridge work whenever in their judgment such pris-
5 oners may be employed advantageously.

[S., '13, § 5718-a28f.]

SEC. 2239. Allowances to prisoners or dependents.

1 The board of control is hereby authorized to allow prisoners who
2 work upon the highways of the state such part of the earnings re-
3 ceived by the prisoners as the board shall deem just and equitable
4 over and above the cost of maintenance of such prisoners, and may
5 deduct a part of such earnings and forward direct to the family or
6 person dependent upon such prisoner for support; and said board of
7 control and warden may also provide for the deposit of the earnings
8 of such prisoners in a bank or banks, to be given said prisoners upon
9 their release, except such part as may be allowed for current expenses.

[S., '13, § 5718-a28g.]

SEC. 2240. Clothing.

1 Prisoners who work upon the highways of the state shall not be
2 required or permitted to work in clothing which will make them look
3 ridiculous or unduly conspicuous.

[S., '13, § 5718-a28h.]

SEC. 2241. Violation of rules.

1 Any prisoner working upon the highway of the state may at any
2 time be returned to the prison for a violation of any of the rules pre-
3 scribed by the warden or board of control, or for a lack of industry,
4 acts of immorality, or if in the opinion of such warden or guard such
5 prisoners are likely to attempt to escape, or for any other reason or
6 cause making it necessary or advisable to return said prisoners to
7 the penitentiary or men's reformatory.

[S., '13, § 5718-a28i.]

CHAPTER 20.

PAROLES AND PARDONS.

**SECTION 2242. Board of parole—appointment—compensation—
secretary.**

1 The governor, with the advice and consent of the senate, shall
2 appoint three electors of the state, not more than two of whom shall
3 belong to the same political party, and one member of whom shall
4 be a duly licensed attorney at law, as members of a board to be known
5 as a board of parole. Said members shall hold office, as designated
6 by the governor, for two, four and six years, respectively; subsequent
7 appointments shall be made as provided above, and shall be for a term
8 of six years, except appointments to fill vacancies, which shall be for
9 the unexpired term. The terms of the members first appointed shall
10 commence July first, nineteen hundred seven, and the chairman
11 of the board shall be the member whose term first expires. Appoint-
12 ments made when the general assembly is not in session shall be sub-
13 ject to the approval of the senate when next in session.

14 A suitable office at the capitol shall be provided for the use of the
15 board, with such furniture and office supplies as shall be reasonably
16 necessary for the use of the same, and such board shall hold at least
17 four sessions each calendar year. They shall receive as compensation
18 ten dollars per day for the time actually spent in discharge of the
19 duties of this office, and all necessary expenses while on official busi-
20 ness.

21 The board of parole shall employ a competent secretary who shall
22 receive a salary not to exceed two thousand dollars per year and neces-
23 sary traveling expenses when on official business required and desig-
24 nated by the board. He shall keep records and perform such duties
25 as state agent or otherwise, as shall be prescribed by the board. They
26 may employ such other employees as the executive council may author-
27 ize by written resolution.

[S., '13, § 5718-a14.]

SEC. 2243. Traveling expenses—emergency trips.

1 The secretary and other employees shall be entitled to their neces-
2 sary traveling expenses by the nearest traveled and practicable routes
3 incurred in going from Des Moines to the penitentiary, the men's
4 reformatory or other places in the state when on official business. No
5 expenditure for traveling expenses to other states shall be made by
6 the board or any officer or agent thereof unless the authority to make
7 such trip is granted at a meeting of the board upon a written resolu-
8 tion adopted by the board, which shall state the purpose of such trip
9 and the reason the same is deemed necessary. Emergency trips may
10 be made upon written order of the chairman, which shall be reported
11 to the board at its next meeting.

[S., '13, § 5718-a16.]

SEC. 2244. Statement of expenditures—approval—payment.

1 Before any expenses or per diem of the members of the board
2 or any officer or agent thereof, or any expense incurred by others
3 under the direction of the board, shall be paid, a minutely itemized
4 statement of such expenditures shall be presented to the proper au-
5 thorities, duly verified, which certification shall aver that the expense
6 bill is just, accurate and true, and is claimed for cash expenditures
7 or cash disbursements truly and actually paid and made to the parties
8 named as shown by said statement herein. Unless the said statement
9 is so verified and duly audited, payment thereof shall not be made.
10 The expense bills of the members of the board, the secretary and its
11 other employees, when so verified, shall be presented to the state board
12 of audit for their written audit before payment is made. The salaries
13 and actual expenses of the board, the secretary and other employees
14 shall be paid monthly by the treasurer of the state upon the warrant
15 of the auditor of state.

[S., '13, § 5718-a17.]

SEC. 2245. Appropriation.

1 There is hereby appropriated from any funds in the state treas-
2 ury not otherwise appropriated sufficient thereof to pay the salaries
3 and expenditures herein authorized.

[S., '13, § 5718-a15.]

SEC. 2246. Duty of clerk and county attorney.

1 It shall be the duty of the clerk of any court in which a prisoner
2 shall be sentenced to the penitentiary, to furnish the board of parole
3 a record containing a copy of the indictment with the minutes of
4 testimony attached thereto; and the name and residence of the judge
5 presiding at the trial and of the county attorney who prosecuted the
6 prisoner; also the jurors and the witnesses sworn at the trial. The
7 county attorney who prosecuted said prisoner and the presiding judge
8 shall, when requested by the board of parole, furnish to it a full state-
9 ment of all the facts and circumstances connected with the commis-
10 sion of the crime of which the prisoner is convicted, so far as known
11 or believed by them.

[S., '13, § 5718-a25.]

SEC. 2247. Rules and regulations governing paroles.

1 The board of parole shall have power to establish rules and regu-
2 lations under which it may allow prisoners within the penitentiary or
3 men's reformatory other than prisoners serving life terms to go upon
4 parole outside of the penitentiary or men's reformatory buildings,
5 inclosures and appurtenances, but to remain while on parole in the
6 legal custody of the warden of the penitentiary or men's reformatory
7 and under the control of the said board of parole and subject, at any
8 time, to be taken back and confined within the penitentiary or men's
9 reformatory; it may, on the recommendation of the trial judge and
10 county attorney, and when it shall appear that the good of society
11 will not suffer thereby, parole, after conviction and before commit-
12 ment, persons not previously convicted of a felony; and the board shall
13 have full power to enforce such rules and regulations and to retake
14 and reimprison any such paroled convict. The order of said board
15 certified by its secretary shall be a sufficient warrant for any peace
16 officer to arrest and take into actual custody or to return to the peni-
17 tentiary or men's reformatory specified in the order any prisoner con-
18 ditionally released or paroled by said board; and it is hereby made
19 the duty of all peace officers to execute such order the same as any
20 other criminal process and they shall receive the same fees as sheriffs
21 for like services, the same to be paid out of the appropriation made
22 herein, but no person shall be released on parole before the expiration
23 of the maximum term provided by law for the punishment of the crime
24 of which he was convicted until the board of parole shall have satis-
25 factory evidence that arrangements have been made for his employ-
26 ment or maintenance for at least six months. The time when a
27 prisoner is upon parole or absent from the penitentiary or men's re-
28 formatory shall not be held to apply upon his sentence if he shall
29 violate the terms of his parole.

[S., '13, § 5718-a18.]

SEC. 2248. Inquiry relative to pardon or parole.

1 The board of parole may institute any inquiry it may deem expe-
2 dient in regard to any prisoner or application for pardon, final dis-
3 charge or parole; but said board shall not receive, unsolicited by them,
4 any petition or communication or argument in regard to said appli-
5 cation, unless provided for in their adopted rules.

[S., '13, § 5718-a19.]

SEC. 2249. Employment for paroled prisoners.

1 The board of parole may render such assistance as may be deemed
 2 necessary to the success of parole system, in the procuring of employ-
 3 ment with trustworthy employers for prisoners about to be paroled;
 4 and necessary expenses incident thereto, not already provided for,
 5 shall be paid as other expenses of the board. It is hereby made
 6 the duty of every public officer to whom inquiry may be addressed
 7 by the board of parole concerning any prisoner to give said board
 8 all information possessed or accessible to him which may throw light
 9 upon the question of the fitness of said prisoner to receive the benefits
 10 of parole.

[S., '13, § 5718-a26.]

SEC. 2250. Clothing and transportation.

1 Upon the release of any prisoner upon parole, he shall be fur-
 2 nished with clothing and money as provided in section twenty-two
 3 hundred twenty-eight, and transportation to his place of employment,
 4 provided that no further allowance shall be made if final discharge
 5 is granted while on parole.

[S., '13, § 5718-a22.]

SEC. 2251. Board to recommend pardon.

1 It shall be the duty of the board of parole to keep in communi-
 2 cation, so far as possible, with all persons who are on parole and when,
 3 in their opinion, any prisoner who has served not less than twelve
 4 months of his parole acceptably, has given such evidence as is deemed
 5 reliable and trustworthy that he is and will continue to be a law-
 6 abiding citizen and that his final release is not incompatible with the
 7 welfare of society; and when the said board of parole shall have pro-
 8 cured, as far as possible, all facts relating to the history of such
 9 paroled prisoner, both before and after his confinement and parole,
 10 and his record while detained, the board of parole shall recommend
 11 to the governor the discharge of such prisoner from further liability
 12 under his sentence.

13 In cases where a paroled man during his parole period entered
 14 the military, marine or naval service of the United States, or in like
 15 service with any of the countries with which the United States was
 16 allied or associated in the war with the central powers of Europe,
 17 during and prior to the year A. D. nineteen hundred eighteen, and
 18 has been honorably discharged from such service, or where a paroled
 19 man was during such war period employed upon or in public works
 20 by, or for the immediate benefit of the United States in the prosecu-
 21 tion of such war, and has been honorably released from such service,
 22 the board of parole shall have the power to recommend the final dis-
 23 charge of such parolee.

24 Said recommendation shall be entered on a proper record, kept
 25 by said board for that purpose, and a certified copy of the order of
 26 discharge, when made, by the governor, shall be filed with the clerk
 27 of the court in which said prisoner was sentenced to the penitentiary.
 28 All papers and documents relating to the pardon of any person shall,
 29 upon the granting of such pardon, become a part of the files of the
 30 governor's office.

[S., '13, § 5718-a20; 38 G. A., ch. 219, § 1.]

SEC. 2252. Investigation of applications for pardon.

1 It shall be the duty of the board of parole, under the direction
 2 of the governor, to take charge of all correspondence in reference to
 3 the pardon of persons convicted of crimes and to carefully investigate
 4 each application, and to file its recommendation with the governor
 5 with its reasons for the same.

[S., '13, § 5718-a23.]

SEC. 2253. Power of governor to grant reprieves and pardons.

1 Nothing in the preceding sections of this chapter shall be con-
 2 strued as impairing the power of the governor under the constitution,
 3 to grant a reprieve, pardon or commutation of sentence in any case.

[S., '13, § 5718-a21.]

SEC. 2254. Parole from bench—reports—pardon.

1 Whenever any person over the age of sixteen years shall be con-
 2 victed of any crime against the laws of this state, excepting treason,
 3 murder, rape, robbery and arson, if such conviction shall be the first
 4 conviction of the defendant for a felony, the trial judge before whom
 5 such conviction is had, and by whom the judgment of the court is pro-
 6 nounced, shall have the power to suspend the execution of the sentence
 7 of such person so convicted and place such person in custody and
 8 under the care and guardianship of any suitable person a resident
 9 and citizen of the state of Iowa, during good behavior of such person
 10 so convicted, and the judge so exercising this power of suspension of
 11 the execution of sentence shall enter same upon the calendar and cause
 12 the same to be journalized and made of record in the court in which
 13 such conviction is had, and the person having such custody, care and
 14 guardianship of the person, the execution of whose sentence has been
 15 suspended, shall make a full and complete report every thirty days,
 16 in writing, to the district court wherein such conviction was had,
 17 showing the whereabouts and conduct of the person thus placed in
 18 his care, custody and guardianship. Such person, however, may be
 19 pardoned by the governor at any time after the suspension of execu-
 20 tion of the sentence pronounced against him upon such conditions and
 21 with such restrictions and limitations as he may think proper.

[S., '13, § 5447-a; 37 G. A., ch. 206, § 1.]

SEC. 2255. Revocation of parole from bench.

1 After any such suspension of the execution of sentence shall have
 2 been granted the same may be revoked by the district court wherein
 3 such conviction was had or any judge thereof without notice, and the
 4 defendant committed in obedience to such judgment.

[S., '13, § 5447-b.]

SEC. 2256. Criminal statistics.

1 The clerk of the district court is required to report to the board of
 2 parole on or before the fifteenth day of July of each year, the number
 3 of convictions for all crimes and misdemeanors in that court in his
 4 county for the year ending June thirtieth preceding, and such report
 5 shall show the character of the offense and the sentence imposed, the
 6 occupation of the convict, whether he can read or write; also the num-
 7 ber of cases tried on which there were verdicts of acquittal, or cases in

8 which there were dismissals by the court without trial, and what
 9 crimes the indictments in cases of acquittal or dismissal were for; also
 10 the expenses of the county for criminal prosecutions during the year,
 11 including jurors' fees in all criminal cases; jurors' meals while in the
 12 trial of criminal cases; all bailiffs' fees for services while in attendance
 13 of the court or jury during the trial of criminal cases; the expense in-
 14 curred in taking convicted prisoners to prison or jail, attorney's fees
 15 allowed in the attendance of criminals; all the fees of grand jurors; all
 16 fees paid witnesses in the trial of criminal cases; all fees paid to the
 17 court reporter for reporting the trial of criminal cases and for tran-
 18 scriptions made at the expense of the county in criminal cases; all fees
 19 paid to witnesses brought before the grand jury; all fees paid to the
 20 clerk of the grand jury and compensation of the bailiff in attendance
 21 upon the grand jury; all fees and expenses of the sheriff and other
 22 officers paid by the county for services in connection with the work of
 23 the grand jury; all expenses made in connection with the jail, including
 24 board of prisoners; all jurors' fees, jurors' meals, witness fees, con-
 25 stable's fees, and justice fees paid by the county in all criminal cases
 26 before a justice of the peace, magistrate or police court; the com-
 27 pensation of the county attorney and his assistant and expenses in
 28 criminal cases.

[C., '51, § 148; R., '60, § 349; C., '73, § 203; C., '97, § 293;
 S., '13, § 293.]

SEC. 2257. Auditor to report statistics to clerk.

1 The county auditor shall report to the clerk of the district court,
 2 on or before the fifth day of July of each year, the expenses of the
 3 county in criminal prosecutions during the year ending June thirtieth
 4 preceding, including but distinguishing the compensation of the county
 5 attorney; and such report shall be so made as to include all the items
 6 of criminal expenses which appear in the records of his office and are
 7 required to be reported by the clerk of the district court to the board
 8 of parole as set out in the preceding section, and the clerk of the district
 9 court shall furnish to the auditor the blanks to be used in making such
 10 report.

[C., '97, § 475; S., '13, § 475.]

SEC. 2258. Remitting fines and granting pardons.

1 The governor shall have power to remit fines and forfeitures
 2 upon such conditions and with such restrictions and limitations as
 3 he may think proper. After conviction of a felony, no pardon shall
 4 be granted by the governor until he shall have presented the matter
 5 to and obtained the advice of the board of parole thereon, but he may
 6 commute a death sentence to imprisonment in the penitentiary for
 7 life. Before presenting the matter to the board of parole for its
 8 action, where the sentence is death or imprisonment for life, he shall
 9 cause a notice containing the reasons assigned for granting the par-
 10 don to be published in two newspapers of general circulation, one of
 11 which shall be published at the capital and the other in the county
 12 where the conviction was had, once each week, for four successive
 13 weeks, the last publication to be at least twenty days prior to the ses-
 14 sion of the board of parole to which the matter shall be presented.

[C., '51, §§ 3278, 3280, 3281; R., '60, § 5116; C., '73, § 4712;
 C., '97, § 5626; S., '13, § 5626; 38 G. A., ch. 173, § 1.]

SEC. 2259. Application for pardon or remission of fine.

1 When an application is made to the governor for a pardon, re-
 2 prievie or commutation, or for the remission of a fine or forfeiture,
 3 he may require the judge of the court, or the county attorney or at-
 4 torney general by whom the action was prosecuted, or the clerk of
 5 such court, to furnish him without delay a copy of the minutes of
 6 the evidence taken on the trial, and of any other facts having reference
 7 to the propriety of his exercise of his powers in the premises. He may
 8 also take the testimony of such persons, bearing upon such applica-
 9 tion, as he may deem advisable. Any person who, in giving such tes-
 10 timony, shall swear falsely, and any person who shall knowingly and
 11 corruptly make any false statements in an affidavit intended to be
 12 used in connection with an application for pardon, or for remission of
 13 fine or forfeiture, shall be guilty of perjury, and be punished accord-
 14 ingly.

[R., '60, § 5120; C., '73, § 4713; C., '97, § 5627.]

SEC. 2260. Return of pardon warrant.

1 When any convict is pardoned or reprieved, or his sentence com-
 2 muted, or any fine or forfeiture is remitted, the officer to whom the
 3 warrant is directed shall, as soon as may be after executing the same,
 4 make thereon a return in writing of his doings, sign the same with his
 5 name and official title, and file the same with the secretary of state,
 6 and file in the office of the clerk of the court in which the conviction
 7 was had, or in which it was to have been enforced, a certified copy of
 8 the warrant and return, the proper entries in relation to which shall
 9 be made by such clerk.

[C., '51, § 3279; R., '60, § 5121; C., '73, § 4714; C., '97,
 § 5628.]

SEC. 2261. Restoration to citizenship.

1 The governor shall have the right to grant any convict who has
 2 been confined in the penitentiary or reformatories, whom he shall
 3 think worthy thereof, a certificate of restoration to all his rights of
 4 citizenship, although such convict may have been guilty of an infrac-
 5 tion of the rules and regulations of the penitentiary or reformatories.
 6 The warden or superintendent, upon request of the governor, shall,
 7 in case of application for such restoration, furnish him with a state-
 8 ment of the convict's deportment during his imprisonment, and may
 9 at all times make such recommendations to the governor as he shall
 10 think proper respecting his restoration thereto.

[C., '97, § 5706.]

SEC. 2262. Repeal.

1 All acts and parts of acts which are in conflict with this act are
 2 hereby repealed in so far as they shall apply to persons convicted of
 3 crime committed after the fourth day of July, nineteen hundred seven.
 4 This act shall not operate, however, to repeal any of the laws now in
 5 force, in so far as they may relate to persons that have heretofore
 6 been convicted of a crime under the laws of the state of Iowa, or to
 7 any persons that shall hereafter be convicted of a crime committed on
 8 or before the fourth day of July, nineteen hundred seven, and the
 9 rights under the law of all prisoners that are now or hereafter may
 10 be committed to the penitentiary for crimes committed on or prior to

11 the fourth day of July, nineteen hundred seven, are expressly pre-
12 served to them. This act shall not operate in any way to repeal any
13 laws that refer to the sentence of persons hereafter convicted of mur-
14 der in the first or second degree, or treason.

[S., '13, § 5718-a24.]

Note.—The "act" above referred to is chapter one hundred ninety-two, acts thirty-second general assembly. It is commonly known as the "indeterminate sentence" law. It treats of numerous widely separated subject matters. It has not been practical to change the word "act" to any other term.

TITLE X.

EDUCATION.

CHAPTER 1.

ENGLISH—MEDIUM OF INSTRUCTION.

SECTION 2263. English—medium of instruction.

1 The medium of instruction in all secular subjects taught in all
 2 of the schools, public and private, within the state of Iowa, shall
 3 be the English language, and the use of any language other than Eng-
 4 lish in secular subjects in said schools is hereby prohibited; provided,
 5 however, that nothing herein shall prohibit the teaching and studying
 6 of foreign languages as such as a part of the regular school course in
 7 any such school, in all courses above the eighth grade.

[38 G. A., ch. 198, § 1.]

SEC. 2264. Violation—penalty.

1 Any person violating any of the provisions of this chapter shall
 2 be deemed guilty of a misdemeanor, and upon conviction shall be fined
 3 not less than twenty-five dollars nor more than one hundred dollars.

[38 G. A., ch. 198, § 2.]

CHAPTER 2.

SUPERINTENDENT OF PUBLIC INSTRUCTION.

SECTION 2265. Office—records—clerks—supplies.

1 The superintendent of public instruction shall have an office in
 2 the capitol. He shall file and preserve all reports, documents and cor-
 3 respondence that may be of permanent value, which shall be open to
 4 inspection under reasonable conditions, by any citizen of the state.
 5 He shall keep a record of the business transacted by him, and shall
 6 turn over to his successor all records, papers, reports, documents,
 7 books and other state property pertaining to his office. He shall be
 8 furnished by the executive council with sufficient office room and cler-
 9 ical and stenographic help, and with all necessary books, blanks, sta-
 10 tionery, printing, postage and office supplies, and with the reports of
 11 the supreme court of the state.

[C., '51, § 1078; C., '73, § 1578; C., '97, § 2621; S., '13,
 § 2627-d.]

SEC. 2266. Qualifications—oath.

1 The superintendent of public instruction shall be a graduate of an
 2 accredited university or college, or of a four-year course above high

3 school grade in an accredited normal school, and shall have had at
4 least five years' experience as a teacher or school superintendent. He
5 shall, before entering upon his duties, take and subscribe the constitu-
6 tional oath of office, which shall be filed in the office of the secretary
7 of state.

[S., '13, § 2627-b; 37 G. A., ch. 318, § 1.]

SEC. 2267. General supervision—duties.

1 The superintendent of public instruction shall have general su-
2 pervision and control over the rural, graded and high schools of the
3 state, and over such other state and public schools as are not under
4 the control of the state board of education, or board of control of state
5 institutions, and his office shall be known as the department of public
6 instruction. It shall be his duty:

7 1. *Inspection.* To ascertain, so far as practicable, by inspection
8 or otherwise, the conditions, needs and progress of the schools belong-
9 ing to his department.

10 2. *Recommendations.* To suggest, through public addresses, pam-
11 phlets, bulletins, and by meetings and conferences with school officers,
12 teachers, parents, and the public generally, such changes and improve-
13 ments as he may think desirable, and may publish and distribute such
14 views and information as he may deem important.

15 3. *Promotion of interest in education.* To endeavor to promote
16 among the people of the state a proper interest in the general subject
17 of education, including industrial and commercial education, agricul-
18 ture, manual and vocational training, domestic science and continua-
19 tion work.

20 4. *Classification.* To classify and define the various schools be-
21 longing to his department, and to formulate suitable courses of study
22 therefor, and to publish and distribute such classifications and courses
23 of study.

24 5. *Officers' and teachers' reports—forms.* To prescribe the re-
25 ports, both regular and special, which shall be made by public school
26 officers, superintendents and teachers, and other persons or officers
27 having the custody or control of public school funds or property, and
28 to prepare suitable forms therefor, and to furnish blanks for such
29 reports as are to be made to him.

30 6. *Days for special observance.* To publish and distribute from
31 time to time leaflets and circulars relative to such days and occasions
32 as he may deem worthy of special observance in the public schools.

33 7. *Appeals—opinions.* To examine and determine all appeals
34 made to him according to law and the rules relating thereto, and to
35 prescribe rules of practice therefor not inconsistent with law. He
36 shall also render written opinions upon questions submitted by school
37 officers pertaining to their duties.

38 8. *Reports.* He shall, on the first day of January of each year,
39 report to the auditor of state the number of persons of school age in
40 each county. He shall report biennially to the governor the condi-
41 tions of the schools under his supervision, including the number and
42 kind of school districts, the number of schools of each kind, the num-
43 ber and value of schoolhouses, the enrollment and attendance in each
44 county for the previous year, any plans matured or measures proposed
45 for the improvement of the public schools, and such financial and
46 statistical information as may be of public importance; he may also
47 include such general information relating to educational affairs and
48 conditions within the state or elsewhere as he may deem necessary.

49 9. *Plans and specifications for buildings.* He shall, when deemed
50 necessary, cause to be prepared and published a pamphlet containing
51 suitable plans and specifications for public school buildings, including
52 the most approved means and methods of heating, lighting and ven-
53 tilating the same, together with information and suggestions for the
54 proper and economical construction thereof. It is hereby made the
55 duty of the state architect to render such assistance and to perform
56 such services in preparing such plans and specifications as may be
57 requested by the superintendent of public instruction.

58 10. *Institutes.* He shall appoint county educational meetings or
59 institutes to be held in each county once each year and not more than
60 twice, and shall designate the time and place for holding them. The
61 program therefor, and the instructors and lecturers therein, shall be
62 subject to his approval.

63 11. *Examinations.* He shall prepare and supply questions for
64 the examination of applicants for teachers' certificates and for the ex-
65 amination of pupils completing the eighth grade in the rural schools.

[C., '51, §§ 1081, 1086; C., '73, §§ 1577, 1583; C., '97,
§§ 2622, 2623, 2625; S., '13, § 2627-c; 38 G. A., ch. 298,
§ 1.]

SEC. 2268. Teachers employment bureau.

1 He shall assist in the placement or employment of teachers in
2 public schools as hereinafter provided:

3 1. Any person having a certificate to teach in this state and who
4 is deemed by this department to be a suitable person for teaching,
5 shall on written application be entitled to enroll with the superintend-
6 ent of public instruction under such regulations as he may prescribe.

7 2. Upon request he shall furnish information to boards of educa-
8 tion, superintendents, principals, and other proper authorities of
9 public schools, desiring to employ teachers, and under such regula-
10 tions as he may prescribe, furnish teachers enrolled with the informa-
11 tion relative to vacancies in public schools; but no person connected
12 with the office of the superintendent of public instruction shall be
13 held responsible or be understood to vouch for the fitness or success
14 of any teacher who may secure a position through the agencies herein
15 provided.

16 3. The superintendent of public instruction may employ such addi-
17 tional clerical help as may be necessary to carry out the provisions
18 of this section, and shall make and publish the necessary rules and
19 regulations for carrying out said provisions, and for obtaining in-
20 formation as to the experience, qualifications and character of persons
21 enrolled or seeking enrollment.

22 4. There is hereby appropriated from any funds in the state
23 treasury not otherwise appropriated the sum of two thousand five
24 hundred dollars annually, for the purpose of carrying out the provi-
25 sions of this section.

[S., '13, § 2627-c; 38 G. A., ch. 298, § 1.]

SEC. 2269. School laws—publication.

1 He shall every four years, if deemed necessary, cause to be printed
2 in book form all school laws then in force, with such forms, rulings
3 and decisions, and such notes and suggestions as may aid school offi-
4 cers in the proper discharge of their duties; a sufficient number of

5 copies shall be sent to the county superintendent of each county to
 6 supply the school officers, directors, and superintendents therein. He
 7 may cause to be printed in pamphlet form after each session of the
 8 general assembly any amendments or changes in the school laws, with
 9 necessary notes and suggestions, which shall be distributed as above
 10 provided.

[C., '51, §§ 1083, 1085; C., '73, § 1579; C., '97, § 2624; S.,
 '13, § 2627-e.]

SEC. 2270. Compilation—number—distribution.

1 The superintendent of public instruction shall, every four years,
 2 if deemed necessary, cause to be printed, bound and distributed all
 3 school laws in force up to that time, the number to be determined by
 4 the executive council. Each county superintendent shall be furnished
 5 a sufficient number of copies to supply the school officers of the state
 6 and such others as may request them.

[C., '51, §§ 1083, 1085; C., '73, § 1579; C., '97, § 2624; S.,
 '13, § 2823-j.]

SEC. 2271. American citizenship to be taught.

1 All public and private schools located within the state of Iowa
 2 shall be required to teach the subject of American citizenship.

[38 G. A., ch. 406, § 1.]

SEC. 2272. Outline for teaching American citizenship.

1 The superintendent of public instruction shall prepare and dis-
 2 tribute to all elementary schools an outline of American citizenship
 3 for all grades from one to eight, inclusive.

[38 G. A., ch. 406, § 2.]

SEC. 2273. Minimum of instruction in American history and civics.

1 Public and private high schools, academies, and other institutions
 2 ranking as secondary schools which maintain three-year courses of
 3 instruction shall offer a minimum of instruction in American history
 4 and civics of the state and nation to the extent of two semesters, and
 5 schools of this class which have four-year courses shall offer in addi-
 6 tion one semester in social problems and economics.

[38 G. A., ch. 406, § 3.]

SEC. 2274. Distribution of outline of courses of study.

1 The superintendent of public instruction shall distribute to all
 2 high schools, academies, and institutions ranking as secondary schools,
 3 an outline of a course of study in American history, civics of the state
 4 and nation, social problems and economics prepared under his direc-
 5 tion.

[38 G. A., ch. 406, § 4.]

SEC. 2275. Reports of funds or school property—delinquency.

1 He may require from time to time reports under oath from all
 2 officers and persons who have any authority over, or who have any
 3 duties in connection with, public school affairs, or who have, or who
 4 have lately had, the custody or control of any public school funds or

5 property. He shall furnish the proper blanks for such reports, and
 6 any such officer or person who unreasonably neglects or refuses to
 7 make a report required by the superintendent of public instruction
 8 shall be deemed guilty of a misdemeanor.

[S., '13, § 2627-f.]

SEC. 2276. Deputy—chief clerk—inspectors.

1 He may appoint a deputy whose appointment must be approved
 2 by the governor of the state. The qualifications of the deputy shall
 3 be the same as required for state superintendent. The deputy shall
 4 qualify in like manner as his principal and, in the absence or inability
 5 of the superintendent, shall perform the duties of the office. He shall
 6 also appoint a chief clerk and such regular inspectors of the public
 7 schools of the state, including rural, graded and high schools, as he
 8 may deem necessary, not exceeding three.

[C., '73, §§ 766, 767, 770; C., '97, § 2621; S., '13, § 2627-g.]

SEC. 2277. Salaries—expenses.

1 The salary of the superintendent of public instruction shall be
 2 four thousand dollars per annum; the salary of his deputy shall be
 3 twenty-five hundred dollars per annum; the salary of the regular in-
 4 spectors in the department of public instruction shall be two thousand
 5 dollars per annum each; the salary of the chief clerk shall be fifteen
 6 hundred dollars per annum; all such salaries to be paid monthly upon
 7 the warrant of the state auditor. The superintendent of public in-
 8 struction and his deputy and the regular inspectors in his department
 9 shall also receive their actual necessary traveling expenses incurred
 10 in the performance of their official duties, to be allowed upon an item-
 11 ized and verified account filed with and approved by the state board
 12 of audit, and the state auditor shall draw his warrant on the state
 13 treasurer for the amount allowed.

[C., '51, § 1087; C., '73, §§ 1580, 3760; C., '97, § 2627; S.,
 '13, § 2627-h.]

CHAPTER 3.

VOCATIONAL TRAINING.

SECTION 2278. Provisions of federal act accepted.

1 The provisions of the act of congress, enacted by the sixty-fifth
 2 congress at the second session thereof, entitled an "Act to provide for
 3 the promotion of vocational education; to provide for cooperation
 4 with the states in the promotion of such education in agriculture and
 5 the trades and industries; to provide for cooperation with the states
 6 in the preparation of teachers of vocational subjects; and to appro-
 7 priate money and regulate its expenditure", and approved February
 8 twenty-third, nineteen hundred seventeen, be and the same is hereby
 9 accepted.

[37 G. A., ch. 300, § 1.]

SEC. 2279. Provisions of federal act accepted.

1 The benefits of all funds appropriated under the provisions of
2 such act are hereby accepted as provided in such act.

[37 G. A., ch. 300, § 2.]

SEC. 2280. Board—ex officio members.

1 A state board to be known as the state board for vocational edu-
2 cation is hereby created. Such state board for vocational education
3 shall consist of three members as follows: The state superintendent
4 of public instruction, who shall be chairman, the president of the state
5 board of education, and the commissioner of the bureau of labor
6 statistics.

[37 G. A., ch. 290, § 2.]

SEC. 2281. Managing board.

1 The state board for vocational education is hereby designated as
2 the state board as provided in such act of congress, is charged with
3 the duty and responsibility of cooperating with the federal board for
4 vocational education in the administration of such act, and is given
5 all power necessary to such cooperation.

[37 G. A., ch. 300, § 3.]

SEC. 2282. Executive officer—assistants.

1 The state superintendent of public instruction shall be the execu-
2 tive officer of the state board for the administration of this chapter.
3 He shall, with the approval of such board, appoint such assistants as
4 may be necessary to properly carry out the provisions of this chapter.

[37 G. A., ch. 290, § 7.]

SEC. 2283. Duties.

1 The state board shall have the duty and be given all necessary
2 power to provide for making studies and investigations relating to
3 prevocational and vocational training in agricultural, industrial, home
4 economics and commercial subjects; to promote and aid in the estab-
5 lishment of local communities of public schools, departments and
6 classes giving instruction in such subjects; to cooperate with local
7 communities in the maintenance of such schools, departments and
8 classes; to establish standards for, test the qualifications of, and to
9 certificate teachers of such subjects in such approved schools, depart-
10 ments and classes; and to cooperate in the maintenance of teachers'
11 training schools, departments and classes supported and controlled by
12 the public for the training of teachers and supervisors of such subjects.

[37 G. A., ch. 290, § 3.]

SEC. 2284. Standards—inspection—conditions to federal aid—disbursements.

1 The state board shall establish standards and annually inspect,
2 as a basis of approval, all schools, departments and classes applying
3 for federal moneys for instruction in agriculture, industrial, home
4 economics and commercial subjects under the provisions of this chap-
5 ter; and all teachers training schools, departments and classes apply-
6 ing for federal moneys for the training of teachers and supervisors
7 of such subjects. Approved schools, departments, and classes shall

8 be entitled under the provisions of this chapter, to federal moneys,
 9 and approved teachers training schools, departments and classes shall
 10 be entitled to such federal moneys, so long as they are approved by
 11 such board as to site, plant, equipment, number and qualification of
 12 teachers, employment of teachers, admission and number of pupils,
 13 courses of study, methods of instruction and expenditure of money.
 14 All disbursements of federal moneys to such approved schools, de-
 15 partments, and classes and to such approved teachers training schools,
 16 departments, and classes shall be made by the state treasurer on the
 17 requisition of such state board.

[37 G. A., ch. 290, § 6.]

SEC. 2285. Definition of terms.

1 The following words and phrases as used in this chapter shall
 2 have the following meanings:

3 1. "Approved school, department or class," shall mean a school,
 4 department or class approved by the state board for vocational educa-
 5 tion as entitled under the provisions of this chapter to federal moneys
 6 for the salaries of teachers of vocational subjects.

7 2. "Approved teachers training school, department or class," shall
 8 mean a school, department or class approved by the state board for
 9 vocational education as entitled under the provisions of this chapter to
 10 federal moneys for the training of teachers of vocational subjects.

[37 G. A., ch. 290, § 1.]

**SEC. 2286. State advisory committee—tenure—qualifications—
 duties—expenses.**

1 The state board shall appoint a committee to be known as the
 2 state advisory committee for vocational education, consisting of nine
 3 members; three of these members to serve for one year, three for two
 4 years, and three for three years, and all members thereafter for three
 5 years each. The membership of such state advisory committee shall
 6 consist of one member experienced in agriculture, one employer, one
 7 representative of labor, one woman experienced in woman's work, one
 8 person experienced in business and commerce, one person of ex-
 9 perience in social work, and three educators. Such state advisory
 10 committee shall meet in conference with the state board at least two
 11 times a year and at such other times as the state board shall deem ad-
 12 visable and shall have the duty and responsibility of giving advice
 13 and suggestions to the state board concerning prevocational and vo-
 14 cational education, the training of teachers of agriculture, industrial,
 15 household arts and commercial subjects, and the administration of
 16 this chapter. The members of such state advisory committee shall
 17 be reimbursed for their actual expenses incurred in attending such
 18 conferences.

[37 G. A., ch. 290, § 4.]

SEC. 2287. Duty of local community.

1 In order to meet the requirements, that for each dollar of federal
 2 money expended for the salaries of teachers in approved schools, de-
 3 partments and classes, the state or local community, or both, must
 4 expend an equal amount for the maintenance of such instruction, the
 5 state shall pay for the salaries of teachers of vocational subjects in
 6 such approved schools, departments and classes, an amount equal to

7 the amount of federal money which they receive for the same purpose
 8 for the same year. The state board for vocational education shall
 9 recommend to each session of the general assembly the amount of
 10 money which should be appropriated by the general assembly for ap-
 11 proved schools, departments and classes for each succeeding biennium;
 12 whenever in any year the federal and state funds available shall not
 13 be sufficient to meet the requirements of the schools, departments or
 14 classes thus formulated, the state board for vocational education shall
 15 as nearly as practicable prorate the moneys available for such purpose.

[37 G. A., ch. 290, § 5; 38 G. A., ch. 337, § 1.]

SEC. 2288. Local advisory committee.

1 The board of directors of any school district having a population
 2 of more than five thousand persons, maintaining a school, department
 3 or class receiving the benefit of federal moneys under the provisions
 4 of this chapter shall, as a condition of approval by such state board
 5 as herein provided, appoint a local advisory committee for vocational
 6 education, consisting of persons of experience in agriculture, indus-
 7 try, home economics or business, to give advice and assistance to such
 8 board of directors in the establishment and maintenance of such
 9 schools, departments, and classes. The state board may require the
 10 board of directors of any school district that maintains an approved
 11 school, department or class to appoint such an advisory committee.
 12 Such persons of experience shall serve on such advisory committee
 13 without compensation.

[37 G. A., ch. 290, § 9.]

SEC. 2289. Powers of boards of school directors.

1 The board of directors of any school district is hereby authorized
 2 to carry on prevocational and vocational instruction in agricultural,
 3 industrial, home economics, and commercial subjects, and to pay the
 4 expense of such instruction in the same way as the expenses for other
 5 subjects in the public schools are now paid.

[37 G. A., ch. 290, § 8.]

SEC. 2290. Salary and expenses.

1 The state board is hereby authorized to make such expenditures
 2 for the salaries of assistants and for such office and other expenses
 3 as the board may deem necessary to the proper administration of the
 4 funds allotted to the state of Iowa under the provisions of said act of
 5 congress.

[37 G. A., ch. 300, § 4.]

SEC. 2291. Expenses—salary—appropriation.

1 The state board for vocational education is hereby authorized to
 2 make such expenditure for the actual expenses of the board and of the
 3 the state advisory committee for vocational education incurred in the
 4 discharge of their duties as provided in this chapter, for the salaries of
 5 assistants, and for such office and other expenses as in the judgment of
 6 the board are necessary to the proper administration of this chapter;
 7 and there is hereby appropriated out of any funds in the state treas-
 8 ury not otherwise appropriated the sum of nine thousand dollars per
 9 annum for the actual expenses of said board for vocational education
 10 mentioned in this section.

[37 G. A., ch. 290, § 10; 38 G. A., ch. 337, § 2.]

SEC. 2292. Appropriation.

1 For the purpose of carrying out the provisions of section 2287,
 2 there is hereby appropriated out of any moneys in the state treasury,
 3 not otherwise appropriated, the sum of forty thousand dollars for the
 4 year ending June thirtieth, nineteen hundred twenty, and the sum of
 5 fifty thousand dollars for the year ending June thirtieth, nineteen
 6 hundred twenty-one.

[38 G. A., ch. 337, § 1.]

SEC. 2293. Custodian of funds.

1 The state treasurer is appointed as custodian of funds for voca-
 2 tional education, as provided in said act of congress; and is charged
 3 with the duty and responsibility of receiving and providing for the
 4 proper custody and for the proper disbursements on vouchers drawn
 5 by such state board, of moneys paid to the state from the appropria-
 6 tions made under the provisions of such act.

[37 G. A., ch. 300, § 5.]

SEC. 2294. Biennial reports.

1 The state treasurer as custodian of funds for vocational educa-
 2 tion shall make to the general assembly, at each biennial session
 3 thereof, a report of the receipts and disbursements of moneys received
 4 by him under the provisions of said act of congress and such state
 5 board shall make to the general assembly at each biennial session
 6 thereof a report of its administration of said act of congress and the
 7 expenditure of money allotted to the state under the provisions of
 8 said act of congress.

[37 G. A., ch. 300, § 6.]

CHAPTER 4.
EDUCATIONAL BOARD OF EXAMINERS.**SECTION 2295. Members.**

1 The educational board of examiners shall consist of the superin-
 2 tendent of public instruction, president of the university, president
 3 of the Iowa state teachers college, president of the Iowa state college
 4 of agriculture and mechanic arts, and two persons to be appointed
 5 by the governor, one of whom shall be a woman, the appointees to
 6 hold office for a term of four years and be ineligible as his or her suc-
 7 cessor, the superintendent of public instruction to be by virtue of his
 8 office president of the board.

[C., '97, § 2628; 37 G. A., ch. 340, § 1.]

SEC. 2296. Meetings—examinations.

1 The board shall meet for the transaction of business at such
 2 times and places as the president may direct, and shall annually hold
 3 at least two public examinations of teachers, to be conducted by a
 4 member or the secretary of the board or by such qualified person or
 5 persons as the board may select. All examinations shall be conducted
 6 in accordance with rules and regulations adopted by the board, not

7 inconsistent with the laws of the state, and a record shall be kept of
 8 all of its proceedings. It may issue state certificates and state di-
 9 plomas to such teachers as are found upon examination to possess a
 10 good moral character, thorough scholarship and knowledge of didac-
 11 tics, with successful experience in teaching, or with such other train-
 12 ing and qualifications as the board may require, or to those possessing
 13 satisfactory qualifications by reason of training and teaching ex-
 14 perience of not less than fifteen years as the board in its discretion
 15 may determine.

16 The examination for certificates and diplomas shall cover orthog-
 17 raphy, reading, writing, arithmetic, geography, English grammar,
 18 bookkeeping, physiology, history of the United States, algebra, bot-
 19 any, natural philosophy, drawing, civil government, constitution and
 20 laws of the state, and didactics; those for diplomas, in addition to the
 21 foregoing, geometry, trigonometry, chemistry, zoology, geology, as-
 22 tronomy, political economy, rhetoric, English literature, general his-
 23 tory, and such other studies as the board may require.

[C., '97, § 2629; S., '13, § 2629; 38 G. A., ch. 280, § 1.]

SEC. 2297. Special certificates.

1 The educational board of examiners may issue a special certifi-
 2 cate to any teacher of music, drawing, penmanship, or other special
 3 branches, or to any primary teacher, of sufficient experience, who
 4 shall pass such examination as the board may require in the branches,
 5 and methods pertaining thereto, for which the certificate is sought.
 6 Such certificates shall be designated by the name of the branch and
 7 shall not be valid for any other department or branch. The board
 8 shall keep a complete register of all persons to whom certificates or
 9 diplomas are issued.

[C., '97, § 2630; S., '13, § 2630-b.]

SEC. 2298. How long valid—revocation—fees.

1 A state certificate shall authorize the holder to teach in any public
 2 school in the state for five years thereafter, and a diploma shall con-
 3 fer such authority for life; but any certificate or diploma may be re-
 4 voked by the board for sufficient cause, or such cause as would, if
 5 known at the time, have prevented issuance thereof, provided the
 6 holder of such certificate or diploma shall have due notice, and shall
 7 be allowed to be present and make his defense. For each certificate
 8 issued the applicant shall pay two dollars, and for each diploma five
 9 dollars, which may be required before the examination is commenced.
 10 All moneys obtained from this source shall be paid into the state
 11 treasury.

[C., '97, § 2631; S., '13, § 2631.]

SEC. 2299. Graduates from accredited colleges.

1 The state educational board of examiners may accept graduation
 2 from the regular and collegiate courses in the state university, state
 3 teachers college, state normal schools, and the state college of agri-
 4 culture and mechanic arts, and from other institutions of higher learn-
 5 ing in the state having regular and collegiate courses of equal rank,
 6 as evidence that a teacher possesses the scholarship and professional
 7 fitness for a state certificate.

[S., '13, § 2634-f.]

SEC. 2300. Graduates of accredited colleges—same recognition.

1 Graduates of colleges and schools located in other states than
 2 Iowa, having regular and collegiate courses of equal rank with the
 3 accredited colleges and schools of Iowa, may be given the same rec-
 4 ognition as provided in the preceding section, providing they file with
 5 the board of educational examiners evidence of at least two years'
 6 successful experience as a teacher, principal or superintendent of
 7 schools.

[S., '13, § 2634-f1.]

SEC. 2301. State certificates granted.

1 In all cases where graduation shows the extent and quality of
 2 scholarship that is required by section twenty-two hundred ninety-six,
 3 and when the teacher possesses a good moral character and satisfies
 4 the board of being professionally qualified, there shall be granted by
 5 the said board of examiners a state certificate valid for five years to
 6 teach in any public school in the state.

[S., '13, § 2634-g.]

SEC. 2302. Validation authorized.

1 The state educational board of examiners is hereby empowered
 2 to validate certificates issued by state departments of education in
 3 other states, where such certificates were issued upon evidence of
 4 scholarship and experience equivalent to that required for like cer-
 5 tificates under the laws of this state. Such validated certificate shall
 6 authorize the holder to teach in any public school in the state for five
 7 years after the date of such validation.

[C., '97, § 2630; S., '13, § 2630-c.]

SEC. 2303. Renewal for life—fee.

1 All certificates referred to in sections twenty-two hundred ninety-
 2 six, twenty-two hundred ninety-seven, twenty-two hundred ninety-
 3 nine, twenty-three hundred one and twenty-three hundred two, shall
 4 be renewed for life by the state board of educational examiners upon
 5 the payment of a fee of five dollars and proof of at least five years'
 6 successful teaching, three of which shall have been during the time
 7 the said certificate (with renewals) has been in force.

[S., '13, § 2634-h.]

SEC. 2304. Conditions for renewal under certain sections—fee.

1 All certificates referred to in sections twenty-four hundred eighty-
 2 two, twenty-four hundred eighty-three and twenty-four hundred
 3 eighty-five, shall be renewed for life by the state board of educational
 4 examiners upon compliance by the holder with the following con-
 5 ditions:

6 1. The applicant shall show by testimonials from county or city
 7 superintendents or from the principals having immediate supervi-
 8 sion of his school work and from a member of the local school board
 9 that he has had at least five years' continuous successful teaching ex-
 10 perience, at least three of which shall have been immediately prior
 11 to the time validation is sought and under the grade of certificate for
 12 which such validation is desired.

13 2. The standing of such applicant in the several branches shown
 14 upon his certificate shall average not less than eighty-five per cent,

15 and in no branch shall the per cent be less than eighty per cent; pro-
16 vided that in case the standing is less than the per cent required,
17 either average or special, the holder of the certificate may, at any of
18 the times provided in section twenty-one hundred eighty-one, take
19 an examination in any branch or branches he may desire and the per
20 cent then received shall be entered upon his certificate.

21 3. The applicant shall furnish proof of professional study during
22 the entire five-year period such as is made necessary in the case of
23 term renewals of certificates.

24 Upon the issue of a life certificate as herein contemplated, the
25 applicant shall pay a fee of five dollars to be turned into the state
26 treasury.

[S., '13, § 2634-h1.]

SEC. 2305. Lapse of certificate.

1 All life certificates provided for in this chapter shall lapse pro-
2 vided the holder shall not teach during a period of five successive years.

[S., '13, § 2634-h2.]

SEC. 2306. Compensation—secretary—employees—salaries.

1 Each member of the board shall receive for the time actually em-
2 ployed in such service his actual necessary expenses, and those not
3 salaried officers or employees of the state or any institution thereof
4 shall be paid in addition, three dollars per day. The board shall have
5 power to employ a secretary and prescribe his duties. He shall re-
6 ceive a salary not exceeding one hundred twenty-five dollars per
7 month and actual necessary expenses while engaged in the perform-
8 ance of his duties at places other than the capitol. The board shall
9 have power to employ such persons as are necessary to assist in ex-
10 aminations and in reading answer papers and for clerical work and
11 other necessary assistance. Persons so employed shall receive not to
12 exceed fifty cents per hour for the time actually employed and actual
13 traveling expenses to and from the place where their services are
14 required. All expenditures authorized to be made under the provi-
15 sions of this chapter and sections twenty-four hundred seventy-nine
16 to twenty-five hundred inclusive, shall be certified by the chairman of
17 the educational board of examiners to the state board of audit for
18 payment. If found correct the state board of audit shall cause same
19 to be paid from any funds paid into the state treasury under the pro-
20 visions of section twenty-two hundred ninety-eight and sections
21 twenty-four hundred seventy-nine to twenty-five hundred inclusive.

[C., '97, § 2634; S. S., '15, § 2634-a.]

SEC. 2307. Account of moneys.

1 The board shall keep an accurate and detailed account of all
2 money received and expended, which, with a list of those receiving
3 certificates or diplomas, shall be published by the superintendent of
4 public instruction in his annual report.

[C., '97, § 2633.]

SEC. 2308. Printing.

1 The educational board of examiners shall have authority to obtain
2 all the necessary printing for the performance of their duties, as re-

3 quired by law, in the same manner as the printing is provided for
4 state officers.

[S., '13, § 2634-a1.]

CHAPTER 5.

NORMAL TRAINING OF TEACHERS.

SECTION 2309. Training of teachers for rural schools—normal courses in certain high schools.

1 For the purpose of increasing the facilities for training teachers
2 for the rural schools, by requiring a review of such common branches
3 as may be deemed essential by the superintendent of public instruc-
4 tion and for instruction in elementary pedagogy and the art of teach-
5 ing elementary agriculture and home economics, provision is hereby
6 made for normal courses of study and training in such four-year high
7 schools as the superintendent of public instruction may designate,
8 provided that such high schools shall be selected and distributed with
9 regard to their usefulness in supplying trained teachers for the rural
10 schools of all portions of the state, and with regard to the number of
11 teachers required for rural schools in each portion of the state. It is
12 further provided that where a township high school or a consolidated
13 school organized in accordance with the provisions of section twenty-
14 five hundred twenty-four can meet the requirements of the superin-
15 tendent of public instruction, it shall be given preference over a city
16 high school.

[S., '13, § 2634-b1.]

SEC. 2310. Private and denominational schools.

1 Private and denominational schools are eligible to the provisions
2 of this chapter, except as to receiving state aid.

[S., '13, § 2634-b2.]

SEC. 2311. State aid—reports—limitations.

1 Each high school approved under the provisions of this chapter
2 shall receive state aid to the amount of seven hundred fifty dollars
3 per annum, payable in two equal installments at the close of each se-
4 mester as hereinafter provided. The superintendent of each approved
5 training school shall at the close of each semester file such report with
6 the superintendent of public instruction as said officer may require.
7 Upon receipt of a satisfactory report, the superintendent of public
8 instruction shall issue a requisition upon the auditor of state for the
9 amount due the school corporation of said high school for said semes-
10 ter, whereupon the auditor of state shall draw a warrant on the state
11 treasury payable to said school corporation for the amount of said
12 requisition and forward the same to the secretary of said school cor-
13 poration. No high schools shall be approved as entitled to state aid
14 unless a class of ten or more shall have been organized, maintained
15 and instructed during the preceding semester in accordance with the
16 provisions of this chapter and the regulations of the superintendent
17 of public instruction.

[S., '13, § 2634-b3.]

SEC. 2312. Inspector—salary—expenses.

1 The appropriation provided by this chapter for instruction of
2 pupils in high schools in the science and practice of rural school teach-
3 ing and the teaching of elementary agriculture and home economics,
4 may be expended in part for inspection and supervision of such in-
5 struction by the superintendent of public instruction and by such
6 person as he may designate, and the expense of such inspection and
7 supervision shall be paid out of said appropriation on vouchers cer-
8 tified by the superintendent of public instruction. In accordance with
9 the foregoing provisions of this section, the superintendent of public
10 instruction is authorized to appoint an inspector of normal training
11 in high schools and private and denominational schools at a salary of
12 not to exceed two thousand dollars per year and necessary traveling
13 expenses while in the discharge of his duties.

[S., '13, § 2634-b4.]

SEC. 2313. Admission—course of instruction—rules—requirements for graduation.

1 The superintendent of public instruction shall prescribe the con-
2 ditions of admission to the normal training classes, the course of in-
3 struction, the rules and regulations under which such instruction
4 shall be given and the requirements for graduation subject to the pro-
5 visions of this chapter.

[S., '13, § 2634-b5.]

SEC. 2314. Examination for graduation—failure in certain branches—fee.

1 On the third Friday in January and the Wednesday and Thurs-
2 day immediately preceding and on the third Friday in May and the
3 Wednesday and Thursday immediately preceding, each year, in each
4 high school, private, and denominational school approved under this
5 chapter, an examination for graduation from the normal course shall
6 be conducted under such rules as the state board of examiners shall
7 prescribe, but the county superintendent of the county in which an
8 approved high school, private, and denominational school may be lo-
9 cated shall be designated as the conductor of said examination. Can-
10 didates for a certificate of graduation from the normal course, failing
11 in the examination in one or more subjects, may be permitted to enter
12 the above examinations or the regular July teachers' examination un-
13 der such regulations as the superintendent of public instruction shall
14 prescribe.

15 Each applicant for a certificate of graduation from the normal
16 course in a county shall pay a fee of one dollar, which shall entitle
17 him to one examination in each subject required; provided, however,
18 that applicants rewriting the examination in one or more subjects
19 at the July teachers' examination as herein provided shall pay an ad-
20 ditional fee of one dollar. One-half of the fees from the normal train-
21 ing examinations shall be paid into the state treasury on or before the
22 first day of the succeeding month, and the remaining one-half shall
23 be paid into the county institute fund of the county wherein the exam-
24 ination is held.

[S. S., '15, § 2634-b6; 37 G. A., ch. 346, § 1.]

SEC. 2315. Certificate—license to teach—renewal.

1 A certificate of graduation from the normal training course pro-
 2 vided for in this chapter shall be issued by the superintendent of pub-
 3 lic instruction, and shall be a valid license to teach in any public school
 4 in the state for a term of two years, subject to registration as pro-
 5 vided for other teachers' certificates. At the expiration of said cer-
 6 tificate the superintendent of public instruction is authorized to renew
 7 it for a period of three years under the same conditions that apply to
 8 the renewal of first grade uniform county certificates.

[S., '13, § 2634-b7.]

SEC. 2316. Record of students—sworn statement.

1 At the close of each school year, the principal or superintendent
 2 of each accredited school shall file with the board of examiners a
 3 sworn statement, showing the name, age, postoffice address, studies
 4 and attendance of each of the students in his school taking the pre-
 5 scribed teachers' course.

[S., '13, § 2634-e.]

SEC. 2317. Appropriation.

1 For the purpose of carrying out the provisions of this chapter,
 2 there is hereby appropriated out of any moneys in the state treasury,
 3 not otherwise appropriated, the sum of one hundred fifty thousand
 4 dollars annually hereafter.

[S., '13, § 2634-b8; 38 G. A., ch. 230.]

CHAPTER 6.
STATE BOARD OF EDUCATION.**SECTION 2318. How constituted—institutions governed.**

1 The state university, the college of agriculture and mechanic
 2 arts, including the agricultural experiment station, the state teachers
 3 college at Cedar Falls, the college for the blind at Vinton and the state
 4 school for the deaf at Council Bluffs shall be governed by a state
 5 board of education consisting of nine members, and not more than five
 6 of the members shall be of the same political party. Not more than
 7 three alumni of the above institutions and but one alumnus from each
 8 institution may be members of this board at one time.

[S., '13, § 2682-c; 37 G. A., ch. 160, § 1.]

**SEC. 2319. Appointment — terms — removal — suspension — va-
cancies.**

1 The governor shall, prior to the adjournment of the thirty-third
 2 general assembly, nominate, and, with the consent of two-thirds of the
 3 members of the senate in executive session, appoint nine persons from
 4 the state at large, and they shall be selected solely with regard to their
 5 qualifications and fitness to discharge the duties of their position. No
 6 nominations shall be considered by the senate until the same shall
 7 have been referred to a committee of five, not more than three of
 8 whom shall belong to the same political party, to be appointed by the
 9 president of the senate without the formality of a motion, which com-

10 mittee shall report to the senate in executive session, which report
 11 shall be made at any time when called for by the senate. The consid-
 12 eration of nominations, by the senate, shall not be had on the same
 13 legislative day that the nominations are so referred. Three of the
 14 members of said board of education shall hold office as designated by
 15 the governor for two years, three for four years and three for six
 16 years. Subsequent appointments shall be made as above provided,
 17 and, except to fill vacancies, shall be for a period of six years. The
 18 governor may, by and with the consent of a majority of the senate,
 19 during a session of the general assembly, remove any member of the
 20 board for malfeasance in office, or for any cause that renders him in-
 21 eligible to appointment, or incapable or unfit to discharge the duties
 22 of his office, and his removal, when so made, shall be final. When the
 23 general assembly is not in session, the governor may suspend any
 24 member so disqualified and shall appoint another to fill the vacancy
 25 thus created, subject, however, to the approval or disapproval of the
 26 senate when next in session. All vacancies on said board that may
 27 occur while the general assembly is not in session shall be filled by
 28 appointment by the governor, which appointment shall expire at the
 29 end of thirty days from the time the general assembly next convenes,
 30 and vacancies occurring during the session of the general assembly
 31 shall be filled as regular appointments are made and before the end
 32 of said session.

[S., '13, § 2682-d.]

SEC. 2320. Meetings.

1 The board shall meet four times a year. Special meetings may
 2 be called by the board, by the president of the board, or they may be
 3 called by the secretary of the board, upon the written request of any
 4 five members thereof.

[S., '13, § 2682-e.]

SEC. 2321. Organization—powers and duties.

1 The state board of education shall have power to elect a presi-
 2 dent from their number; a president and treasurer for each of said
 3 educational institutions, and professors, instructors, officers, and em-
 4 ployees; to fix the compensation to be paid to such officers and em-
 5 ployees; to make rules and regulations for the government of said
 6 schools, not inconsistent with the laws of the state; to manage and
 7 control the property, both real and personal, belonging to said edu-
 8 cational institutions; to execute trusts or other obligations now or
 9 hereafter committed to the institutions; to direct the expenditure of
 10 all appropriations the general assembly shall, from time to time, make
 11 to said institutions, and the expenditure of any other moneys; and to
 12 do such other acts as are necessary and proper for the execution of
 13 the powers and duties conferred upon them by law.

[S., '13, § 2682-f.]

SEC. 2322. Boards of regents and trustees abolished.

1 The board of regents and the boards of trustees now charged
 2 with the government of the state university, the college of agriculture
 3 and mechanic arts, and the normal school, shall cease to exist on the
 4 first day of July, A. D. nineteen hundred nine, and, on the same date,
 5 full power to manage said institutions, as herein provided, shall vest in

6 the said state board of education. Nothing herein contained shall
7 limit the general supervision or examining powers vested in the gov-
8 ernor by the laws or constitution of the state.

[S., '13, § 2682-g.]

SEC. 2323. Finance committee—organization—proceedings.

1 The said board of education shall appoint a finance committee
2 of three from outside of its membership, and shall designate one of
3 such committee as chairman and one as secretary. The secretary of
4 this committee shall also act as secretary of the board of education
5 and shall keep a record of the proceedings of the board and of the
6 committee and carefully preserve all their books and papers. All acts
7 of the board relating to the management, purchase, disposition, or
8 use of lands or other property of said educational institutions shall
9 be entered of record, and shall show who are present and how each
10 member voted upon each proposition when a roll call is demanded.
11 He shall do and perform such other duties as may be required of him
12 by law or the rules and regulations of said board. Not more than
13 two members of this committee shall be of the same political party,
14 and its members shall hold office for a term of three years unless
15 sooner removed by a vote of two-thirds of the members of the state
16 board of education.

[S., '13, § 2682-h.]

SEC. 2324. Oath—bond.

1 Each member of the board and each member of the finance com-
2 mittee shall take oath and qualify, as required by section six hundred
3 nine. The members of the finance committee, before entering upon
4 their official duties, shall each give an official bond in the sum of
5 twenty-five thousand dollars, conditioned as provided by law, signed
6 by sureties approved by the governor and, when so given, said bonds
7 shall be filed in the office of the secretary of state.

[S., '13, § 2682-i.]

SEC. 2325. Offices—supplies—official publications.

1 The board and the finance committee shall be provided by the
2 executive council with suitably furnished offices, at the seat of gov-
3 ernment, and shall be also furnished with all necessary books, blanks,
4 stationery, printing, postage, stamps and such other office supplies as
5 are furnished other state officers; and the board may publish from
6 time to time, and distribute, such circulars, pamphlets, bulletins and
7 reports as may by it be deemed necessary for the best interests of the
8 institutions under its control; but the board shall secure the approval
9 of the executive council therefor before incurring such expense, which
10 shall be paid out of any funds in the treasury not otherwise appro-
11 priated.

[S., '13, § 2682-j.]

SEC. 2326. Business offices—employees—visitation.

1 A business office shall also be maintained at each of the three
2 educational institutions, and the board may hire such employees as
3 may be necessary to enable the board to carry out the purposes of
4 its creation, and to assist the said finance committee in the perform-
5 ance of its duties, and shall present to each general assembly an item-

6 ized account of the expenditures of said committee. The members of
7 the finance committee shall, once each month, attend each of the in-
8 stitutions named for the purpose of familiarizing themselves with
9 the work being done, and transacting any business that may properly
10 be brought before them as a committee.

[S., '13, § 2682-k.]

SEC. 2327. Appropriation.

1 There is hereby appropriated from any funds in the state treas-
2 ury not otherwise appropriated, sufficient thereof to pay the salaries
3 and expenses of the board and the finance committee, including the
4 salaries and expenses of their assistants.

[S., '13, § 2682-l.]

SEC. 2328. Compensation—expenses—official residences.

1 Each member of the board shall be allowed seven dollars for
2 each day that he is actually and necessarily engaged in the perform-
3 ance of official duties, not exceeding sixty days in any one year, and
4 mileage at the rate of three cents per mile, by the nearest traveled
5 and practicable route, in going from his home to the different insti-
6 tutions, or to other places, and in returning to his home when on of-
7 ficial business. Members of the finance committee shall devote their
8 entire time to the work of said institutions and shall each receive a
9 salary of thirty-five hundred dollars a year. The members of the
10 finance committee and other employees shall maintain their official
11 residences at the places designated by the board, and shall be entitled
12 to the necessary traveling expenses therefrom, by the nearest traveled
13 and practicable route, incurred in visiting the different institutions
14 and other places and returning therefrom when on official business;
15 and to such other expenses as are actually and necessarily incurred
16 in the performance of their official duties.

[S., '13, § 2682-m; 38 G. A., ch. 74, § 1.]

SEC. 2329. Claims—approval.

1 All claims of members of the said board of education for attend-
2 ance upon meetings of the board for time actually and necessarily
3 spent in official duties, shall be itemized, showing the date of such
4 service and the nature thereof and shall be sworn to by such member
5 and certified by the secretary of the board. It shall then be filed with
6 the state board of audit, who shall compute the mileage due such claim-
7 ant by the nearest traveled and practicable route from his home to
8 the place of meeting and return, and shall enter such mileage on the
9 claim; and, if it be in due form of law, the auditor shall draw his
10 warrant upon the treasurer of state for the amount of said attend-
11 ance and mileage. No compensation shall be allowed any member of
12 such board except as provided herein.

[S., '13, § 2682-n.]

SEC. 2330. Blanks for claims.

1 The secretary of the executive council shall, upon request, fur-
2 nish proper blanks prepared in accordance with the preceding sec-
3 tion for the purpose of making claims by the members of such board.

[S., '13, § 2682-o.]

SEC. 2331. Itemized statement of expenditures.

1 Before any expenses of the members of the finance committee,
 2 or other person employed to assist such committee in the perform-
 3 ance of its duties, under the direction of the board, shall be paid, a
 4 minutely itemized statement of every item of expenditure, duly veri-
 5 fied and sworn to by the claimant and certified to by the secretary of
 6 the board, shall be filed with the state board of audit. The verification
 7 shall show that the expense bill is just, accurate and true, and is
 8 claimed for cash expenditures or cash disbursements, truly and ac-
 9 tually made and paid to the parties named, as shown by said statement.
 10 Unless the statement is so verified, and duly audited, payment thereof
 11 shall not be made.

[S., '13, § 2682-p.]

SEC. 2332. Auditor's report.

1 The auditor of state shall include in his report to the governor
 2 the amount paid for such services, expenses and mileage, and to whom
 3 paid.

[S., '13, § 2682-q.]

SEC. 2333. Financial agent—office abolished.

1 The office of the financial agent of the college of agriculture and
 2 mechanic arts shall cease to exist on the first day of July, A. D. nine-
 3 teen hundred nine, and on said date the said financial agent shall de-
 4 liver to the finance committee of the board of education all books,
 5 papers, and other property belonging to the state and then in his
 6 hands.

[S., '13, § 2682-r.]

SEC. 2334. Authority to loan funds—conditions.

1 The finance committee may loan said funds upon approved real
 2 estate security, subject to the following regulations:

3 1. Each loan shall be for a term not exceeding ten years, at a
 4 rate of interest to be fixed by said board, payable annually, and the
 5 borrower shall have the privilege of paying one hundred dollars or
 6 any multiple thereof on any interest pay day.

7 2. Each loan shall be secured by a mortgage paramount to all
 8 other liens upon approved farm lands in this state, the loan not to ex-
 9 ceed fifty per cent of the cash value thereof, exclusive of buildings.

10 3. A register containing a complete abstract of each loan and
 11 showing its actual condition shall be kept by the secretary of said
 12 board and be at all times open to inspection.

[S., '13, § 2682-s.]

SEC. 2335. Mortgages—foreclosure—lands bid in.

1 The finance committee of the board shall negotiate loans in ac-
 2 cordance with the provisions of the preceding sections and shall re-
 3 lease the mortgages securing loans when paid by a satisfaction piece
 4 signed by the chairman or secretary of said finance committee and
 5 the same shall be recorded in the office of the county recorder of the
 6 county where said mortgage is recorded, or by the chairman or secre-
 7 tary of said finance committee signing the same on the margin of the
 8 record of said mortgage, and shall take charge of the foreclosure of
 9 mortgages and collections from delinquent debtors to said fund. The

10 foreclosure of any mortgage belonging to the state university or to
11 the college of agriculture and mechanic arts shall be made in the name
12 of the state board of education for the use and benefit of the institu-
13 tion to which it belongs; and, in case of a sale upon execution under
14 foreclosure, the premises may be bid off in the name of the board of
15 education for the benefit of the institution to which it belongs; and
16 if a deed therefor is executed, the premises shall be held for the benefit
17 of such institution, and such lands shall be subject to lease or sale, the
18 same as its other lands.

[S. S., '15, § 2682-t.]

SEC. 2336. Reports.

1 The board shall make reports to the governor and legislature of
2 its observations and conclusions respecting each and every one of the
3 institutions named, including the regular biennial report to the legis-
4 lature covering the biennial period ending June thirtieth, preceding
5 the regular session of the general assembly. Said biennial report shall
6 be made not later than October first in the year preceding the meeting
7 of the general assembly, and shall also contain the reports which the
8 executive officers of the several institutions are now or may be by the
9 board required to make, including, for the use of the legislature,
10 biennial estimates of appropriations necessary and proper to be made
11 for the support of the said several institutions and for the extraor-
12 dinary and special expenditures for buildings, betterments and other
13 improvements.

[S., '13, § 2682-u.]

SEC. 2337. When made—what included.

1 The secretary of the state university, the secretary of the state
2 college of agriculture and mechanic arts and the secretary of the state
3 teachers college shall be required hereafter to make report to each
4 general assembly within three days after the said general assembly
5 shall have convened. Said reports shall show in plain manner the
6 amount available each fiscal year from state appropriations and all
7 other sources, for the erection, equipment, improvement and repair
8 of buildings, also the funds received from state appropriations, in-
9 terest on endowment funds, tuition, laboratory fees, janitor fees, do-
10 nations, rent of lands and from all sources whatsoever going to effect
11 the annual income of the support funds of said institutions. Any ap-
12 propriation or funds received for any special purpose whatsoever shall
13 also be reported. Hospital receipts and sales of departments shall be
14 listed separately. The report shall show how the moneys thus received
15 were expended, giving under separate heads the cost of instruction, ad-
16 ministration, maintenance and equipment of departments, and the
17 general expenses of the institutions. It shall clearly state the num-
18 ber of professors, instructors, fellows and tutors and the number of
19 students enrolled in each course during each year of the biennial pe-
20 riod. Students attending the short courses shall be reported sepa-
21 rately. The amount of unexpended balances of departments remain-
22 ing in the hands of the treasurer and the amounts undrawn from the
23 state treasury on the thirtieth of June of the last year of the biennial
24 period shall be given. The report of the secretary of the state college
25 of agriculture and mechanic arts shall also show the receipts of the

26 experiment station from all sources for each fiscal year and how
27 such funds were expended.

[S., '13, § 2682-b.]

SEC. 2338. Appropriations—paid in monthly installments.

1 All appropriations made payable annually to the state university,
2 the Iowa state college of agriculture and mechanic arts, the Iowa
3 state teachers college and the college for the blind, shall on and after
4 July first, nineteen hundred thirteen, be paid in twelve equal monthly
5 installments on the last day of each month on order of the Iowa state
6 board of education.

[S., '13, § 2682-y.]

SEC. 2339. Contracts for training teachers.

1 The board of directors of any school district in the state of Iowa
2 may enter into contract with the state board of education for fur-
3 nishing instruction to pupils of such school district, and for training
4 teachers for the schools of the state, in such particular lines of dem-
5 onstration and instruction as are deemed necessary for the efficiency
6 of the Iowa state teachers college, state university of Iowa and college
7 of agriculture and mechanic arts as training schools for teachers.

[38 G. A., ch. 187, § 1.]

SEC. 2340. Payment therefor.

1 The contract for such instruction shall authorize the payment for
2 such service furnished the school district or for such service furnished
3 the state, the amount to be agreed upon by the officers of the state
4 and of the school district thus cooperating.

[38 G. A., ch. 187, § 2.]

SEC. 2341. Contract to be in writing—not to exceed two years.

1 Such contracts shall be in writing and shall extend over a period
2 of not to exceed two years, and a copy thereof shall be filed in the
3 office of the superintendent of schools of the county.

[38 G. A., ch. 187, § 3.]

SEC. 2342. Colonel of cadets.

1 The commandant and instructor of military science and tac-
2 tics in the Iowa state university, the college of agriculture and me-
3 chanic arts and the state teachers college is given the rank of colonel
4 of cadets, and the governor of the state of Iowa is hereby authorized
5 to issue commissions therefor, upon the request of the president of
6 such educational institution.

[S., '13, § 2644-c.]

CHAPTER 7.

STATE UNIVERSITY.

SECTION 2343. Treasurer.

1 The treasurer, before entering upon the duties of his office, shall
2 take and subscribe an oath to the effect that he will faithfully perform

3 the same, and render a full and complete account of his doings therein,
 4 and turn over to his successor all money, books or other property be-
 5 longing thereto, and shall give a bond in the penalty of at least fifty
 6 thousand dollars, conditioned, in substance, the same as the required
 7 oath, with sureties to be approved by and filed with the secretary of
 8 state. He shall keep a true and faithful account of all money received
 9 and paid out, keep a set of books in which shall be recorded full and
 10 complete statements connected with the sale or disposition of uni-
 11 versity lands, the management of the fund arising therefrom, the
 12 parts and portions of lands sold, the prices obtained, to whom sold,
 13 how the proceeds have been invested, the security for the investment,
 14 the lands remaining unsold, where situated, and the estimated value.
 15 He shall, on the first day of June and of December, notify each per-
 16 son, in writing, in default of payment of either principal or interest
 17 of any funds loaned by or due to the university, and shall cause action
 18 to be commenced against such delinquents, if found advisable, and
 19 lapse of time shall in no case be a bar to such action.

[R., '60, § 1937; C., '73, §§ 1593-1595, 2542; C., '97, § 2637.]

SEC. 2344. Sale of lands.

1 No sale of university lands shall be made, save upon the order of
 2 the state board of education, made at a regular meeting or one called
 3 for that purpose, and then in such manner and upon such terms as
 4 the board shall prescribe. No member of the board shall be directly
 5 or indirectly interested in the purchase of any of the lands, nor shall
 6 the secretary or treasurer or other officer of the institution. Any por-
 7 tion of the permanent endowment fund not otherwise invested, and
 8 any surplus income not immediately required for other purposes, may
 9 be invested by the treasurer, upon the order or direction of the board,
 10 in bonds of the United States or this state, or by note and mortgage
 11 on unincumbered real estate worth double the amount of the sum
 12 loaned after deducting the value of perishable improvements thereon,
 13 and hold the same either as a permanent fund or as an income to de-
 14 fray current expenses, as said board may direct, but in no event shall
 15 any part of the permanent fund be used to defray the ordinary ex-
 16 penses of the institution.

[C., '51, §§ 1017, 1018; R., '60, § 1938; C., '73, § 1599; C., '97,
 § 2638.]

SEC. 2345. Apparatus—library—cabinet of natural history.

1 The state board of education may from time to time expend of
 2 the income of the university fund such portion as it may find expedient
 3 in the purchase of apparatus, library, and a cabinet of natural history,
 4 to provide suitable means to preserve and keep the same, and in pro-
 5 curing other necessary facilities for giving instruction. For the pur-
 6 pose of supplying a cabinet of natural history, all geological and min-
 7 eralogical specimens which are now or may hereafter be collected by
 8 the state geologists, or by others appointed by the state to investi-
 9 gate its natural history and physical resources, shall belong to and
 10 be the property of the university, under the charge of the professors
 11 of those departments.

[R., '60, §§ 1931, 1935; C., '73, §§ 1597, 1598; C., '97, § 2639.]

SEC. 2346. Object—departments—degrees.

1 The university shall never be under the exclusive control of any
 2 religious denomination. Its object shall be to provide the best and
 3 most efficient means of imparting to men and women, upon equal
 4 terms, a liberal education and thorough knowledge of the different
 5 branches of literature and the arts and sciences, with their varied ap-
 6 plications. It shall include a collegiate, law, and such other depart-
 7 ments, with such courses of instruction and elective studies, as the
 8 state board of education may determine, beginning the same in its
 9 collegiate department, so far as practicable, at the points where the
 10 same are completed in high schools; and no one shall be admitted who
 11 has not completed the elementary studies in such branches as are
 12 taught in the common schools throughout the state. Graduates in
 13 each of the several courses shall receive such degrees and diplomas
 14 or other marks of distinction as the state board of education may de-
 15 termine and such as are usually conferred and granted by other uni-
 16 versities.

[C., '51, § 1020; R., '60, §§ 1927, 1930, 1933; C., '73, §§ 1585,
 1586, 1589; C., '97, § 2640.]

SEC. 2347. Reports.

1 On the first day of October preceding the meeting of the general
 2 assembly, the president of the university shall make a report to the
 3 state board of education, which shall exhibit the condition and prog-
 4 ress of the institution, the different courses of study pursued, the
 5 branches taught, the means and methods of instruction adopted, the
 6 number of students, their names, classes and residences, with such
 7 other matters as he may regard important. The state board of edu-
 8 cation, on the fifteenth day of October in each even-numbered year,
 9 shall make report to the governor, which report shall show the num-
 10 ber of professors, tutors and other officers, the compensation of each,
 11 the condition of the university fund, the income received therefrom,
 12 the amount of expenditures with the items thereof, and such other
 13 information and such recommendations as it shall regard important.

[R., '60, § 1939; C., '73, §§ 1600, 1601; C., '97, § 2641; S.,
 '13, § 2641.]

SEC. 2348. Department of homeopathic materia medica and therapeutics.

1 The state board of education is hereby authorized and directed
 2 to establish and maintain a department of homeopathic materia med-
 3 ica and therapeutics in the college of medicine of the state university
 4 of Iowa, with suitable and sufficient hours and rooms for said depart-
 5 ment. The use of the university homeopathic hospital shall be left to
 6 the discretion of the board.

[S., '13, § 2640-a; 38 G. A., ch. 109, §§ 1-3.]

SEC. 2349. Iowa child welfare research station created.

1 The state board of education is hereby authorized to establish
 2 and maintain at Iowa City as an integral part of the state university
 3 the Iowa child welfare research station, having as its objects the inves-
 4 tigation of the best scientific methods of conserving and developing the

5 normal child, the dissemination of the information acquired by such
6 investigation and the training of students for work in such fields.
[37 G. A., ch. 282, § 1.]

SEC. 2350. Management.

1 The management and control of such station shall be vested in a
2 director appointed by the said board of education and an advisory
3 board of seven members to be appointed by the president of the uni-
4 versity from the faculty of the graduate college of said university.
[37 G. A., ch. 282, § 2.]

SEC. 2351. Appropriation.

1 There is hereby appropriated out of the money in the state
2 treasury not otherwise appropriated the sum of twenty-five thousand
3 dollars annually hereafter for the maintenance of such a station and
4 the furtherance of the objects, to be expended on the order and under
5 the direction of said board of education.
[37 G. A., ch. 282, § 3.]

SEC. 2352. Bacteriological laboratory—examinations.

1 The bacteriological laboratory of the medical department of the
2 state university at Iowa City is hereby established as a permanent
3 part of the medical department of the university work, and it shall
4 in addition to its regular work perform all scientific analyses and
5 tests, chemical, microscopical or other scientific investigations, which
6 may be required by the state board of health, and it shall make prompt
7 report of the results thereof, under such rules and regulations as the
8 said state board of health may from time to time adopt. This labora-
9 tory shall in addition to the above prescribed duties make or cause to
10 be made, bacteriological and chemical examinations of water when-
11 ever requested so to do by the state board of health or any state insti-
12 tution, or by any citizen, school or municipality, when in the judgment
13 of the local board of health such is necessary in the interest of the
14 public health and for the purpose of preventing epidemics of disease.
15 Such examinations shall be made without charge except for transpor-
16 tation charges, and actual cost of examination not to exceed two
17 dollars.

18 This laboratory shall also make the necessary investigations by
19 both laboratory and field work to determine the source of epidemics
20 of disease and to suggest methods of overcoming such epidemics and
21 to prevent the recurrence of such, whenever requested so to do by the
22 state board of health, the executive officer of a state institution, or
23 a local board of health. A copy of the report of every epidemiological
24 investigation shall be sent to the secretary of the state board of health.

[S. S., '15, § 2575-a7.]

SEC. 2353. Director—reports.

1 The professor of bacteriology of the medical department of the
2 state university shall be the director of said laboratory and shall make
3 or cause to be made all such analyses, tests and investigations as shall
4 be required by the state board of health as provided in the preceding
5 section, causing the same to be made without delay and giving such
6 analyses, tests or investigations the preference of the point of time
7 over all other work and shall make prompt report of the result thereof

8 to the board of health or to such person or persons as the board of
9 health may by rule or designation designate.

[S., '13, § 2575-a8.]

SEC. 2354. Appropriation—purposes.

1 There is hereby appropriated out of any money in the state treas-
2 ury not otherwise appropriated, for the purpose of more perfectly
3 equipping the present bacteriological laboratory at the state university
4 and for the purpose of enabling it to perform the duties imposed by the
5 two preceding sections, and to provide it with the necessary apparatus
6 and assistants to render the same effective, the sum of eight thousand
7 dollars annually or so much thereof as may be necessary, to be addi-
8 tional salary of the director, epidemiologists, water analysts and
9 other assistants, the expenses of said laboratory as may be necessary
10 by said sections, including postage, stationery, and other contingent
11 and miscellaneous expenses which may be incurred in the maintaining
12 of said laboratory and performing the duties required therein by the
13 provision of said sections. The director shall receive such additional
14 salary not to exceed twelve hundred dollars per year as the state board
15 of health may fix. The appropriations hereby provided shall be ex-
16 pended in the manner provided in sections twelve hundred sixty-six
17 and twelve hundred sixty-seven. The appropriation of five thousand
18 dollars provided for the epidemiology laboratory in the annual appro-
19 priation of the thirty-sixth general assembly to the state university is
20 hereby made available for the use of the laboratory and the work pro-
21 vided for in this chapter. All laboratory work of the state board of
22 health shall be done at or through the laboratory herein provided.

[S. S., '15, § 2575-a9; 37 G. A., ch. 285.]

CHAPTER 8.

PSYCHOPATHIC HOSPITAL.

SECTION 2355. Psychopathic hospital.

1 There shall be established a state psychopathic hospital, espe-
2 cially designed, kept and administered for the care, observation and
3 treatment of those persons who are afflicted with abnormal mental
4 conditions.

[38 G. A., ch. 235, § 1.]

SEC. 2356. Name—location.

1 It shall be known as the state psychopathic hospital, and shall be
2 located at Iowa City, Iowa, and connected with the college of medicine
3 of the state university of Iowa.

[38 G. A., ch. 235, § 2.]

SEC. 2357. Control of hospital.

1 The said state psychopathic hospital shall be under the control
2 of the Iowa state board of education.

[38 G. A., ch. 235, § 3.]

SEC. 2358. Under control state board of education.

1 The said Iowa state board of education shall have full power to
2 manage, control and govern the said hospital the same as other insti-
3 tutions already under its control.

[38 G. A., ch. 235, § 4.]

SEC. 2359. Medical director.

1 The said Iowa state board of education shall appoint a medical
2 director of the said hospital, who shall serve as professor of psychiatry
3 in the college of medicine of the state university of Iowa.

[38 G. A., ch. 235, § 5.]

SEC. 2360. Cooperation of hospitals—duties of medical director.

1 The medical director of the said hospital shall seek to bring about
2 systematic cooperation between the several state hospitals for the
3 insane and the said state psychopathic hospital. He shall be the
4 director and in sole charge of the clinical and pathological work of
5 the said hospital. He shall, from time to time, visit the state hos-
6 pitals for the insane, upon the request of the superintendents thereof,
7 or upon the request of the board of control of state institutions, and
8 may advise the medical officers of such state hospitals for the insane,
9 or the said board of control, in subjects relating to the phenomena of
10 insanity.

[38 G. A., ch. 235, § 6.]

SEC. 2361. Classes of patients—payment of expenses.

1 Patients admitted to the said state psychopathic hospital shall be
2 divided into four classes: First, voluntary private patients; second,
3 committed private patients; third, voluntary public patients; and,
4 fourth, committed public patients.

5 All voluntary private patients and committed private patients
6 shall be kept and maintained without expense to the state, and the
7 voluntary public patients and committed public patients shall be kept
8 and maintained by the state.

[38 G. A., ch. 235, § 7.]

SEC. 2362. Voluntary private patients.

1 Voluntary private patients may be admitted in accordance with
2 the regulations to be established by the Iowa state board of educa-
3 tion; and their care, nursing, observation, treatment, medicine and
4 maintenance shall be without expense to the state. However, the
5 charge for such care, nursing, observation, treatment, medicine and
6 maintenance shall not exceed the cost of the same to the state.

[38 G. A., ch. 235, § 8.]

SEC. 2363. Committed public patients—manner of admission.

1 Persons suffering from mental diseases may be admitted as com-
2 mitted public patients as follows: Any physician authorized to prac-
3 tice his profession in the state of Iowa or any citizen of the state may
4 file information with any district or superior court of the state or with
5 any judge thereof, alleging that the person named therein is suffering
6 from some abnormal mental condition that can probably be remedied
7 by observation, treatment and hospital care; and that he is, of him-

8 self or through those legally responsible for him, unable to provide
9 the means for such observation and hospital care.

10 Said judge of the district or superior court may, upon his own
11 motion or upon the information contained in such report filed as
12 aforesaid, appoint some physician who shall personally examine said
13 person with respect to his mental condition. Said physician shall
14 make a written report to the said judge, giving such a history of the
15 case as will be likely to aid in the observation, treatment and hospital
16 care of said person and describing the same all in detail, and stating
17 whether or not, in his opinion, the said person would probably be
18 helped by observation, treatment and hospital care in said state
19 psychopathic hospital. Such report shall be made within such time
20 as may be fixed by the court. It shall be the duty of the said judge
21 to have a thorough investigation made by the county attorney of the
22 county in which the said person resides, regarding his financial con-
23 dition and the financial condition of those legally responsible for him.

[38 G. A., ch. 235, § 9.]

SEC. 2364. Information — examination — report — hearing — notice—trial by jury—order.

1 Upon the filing of such report or reports, said judge of the district
2 or superior court as aforesaid shall fix a day for the hearing upon
3 the complaint and shall cause the person or those legally responsible
4 for him to be served with a notice of the hearing; and he shall also
5 notify the county attorney, who shall appear and conduct the proceed-
6 ings; and upon such complaint evidence may be introduced. Upon
7 such hearing the person against whom the complaint is made shall be
8 entitled to a trial by jury. If the judge or jury finds that the said
9 person is suffering from an abnormal mental condition which can
10 probably be remedied by observation, medical or surgical treatment
11 and hospital care, and that he or those legally responsible for him are
12 unable to pay the expenses thereof, said judge shall enter an order
13 directing that the said person shall be sent to the state psychopathic
14 hospital at the state university of Iowa, for observation, treatment and
15 hospital care as a committed public patient.

[38 G. A., ch. 235, § 10.]

SEC. 2365. Examination at hospital—nurse assigned—transfer.

1 When the patient arrives at said hospital it shall be the duty of
2 the director, or of some physician acting for him, to examine the said
3 patient and determine whether or not, in his judgment, he is a fit sub-
4 ject for such observation, treatment and hospital care. If, upon said
5 examination, he decides that such patient should be admitted to the
6 said hospital, the medical director shall provide him with a proper bed
7 in said hospital; and the physician or surgeon who shall have charge of
8 said patient shall proceed with such observation, medical or surgical
9 treatment and hospital care as, in his judgment, are proper and nec-
10 essary.

11 A proper and competent nurse shall also be assigned to look after
12 and care for such patient during such observation, treatment and care
13 as aforesaid.

14 If, upon such examination, the medical director decides that such
15 patient is not a fit subject for admission to the state psychopathic hos-
16 pital, it shall be the duty of the medical director, as hereinafter pro-

17 vided, to transfer said patient to the state hospital for the insane to
 18 which he would be committed under existing statutes if adjudged
 19 insane; and the superintendent of the said hospital for the insane shall
 20 receive him.

[38 G. A., ch. 235, § 11.]

SEC. 2366. Voluntary public patients—commitment—treatment.

1 If the said judge of the district or superior court, as aforesaid,
 2 finds from the physician's report which was filed under the provisions
 3 of section twenty-three hundred sixty-four, that the said person is
 4 suffering from an abnormal mental condition which can probably be
 5 remedied by observation, medical or surgical treatment and hospital
 6 care, and the report of the county attorney shows that he, or those
 7 legally responsible for him, are unable to pay the expenses thereof,
 8 said judge shall enter an order directing that the said person shall be
 9 sent to the state psychopathic hospital at the state university of Iowa
 10 for observation, treatment and hospital care as a voluntary public
 11 patient; provided that the said person, or those legally responsible
 12 for him, request the said court or judge to commit said person without
 13 the hearing which is required under the provisions of said section
 14 twenty-three hundred sixty-four.

15 When the said patient arrives at the said hospital, he shall receive
 16 the same treatment as is provided for committed public patients in
 17 the preceding section.

[38 G. A., ch. 235, § 12.]

SEC. 2367. Committed private patients—treatment.

1 If the said judge of the district or superior court, as aforesaid,
 2 finds in the hearing as provided for under the provisions of section
 3 twenty-three hundred sixty-four that the said person is suffering from
 4 an abnormal mental condition which can probably be remedied by
 5 observation, medical or surgical treatment and hospital care, and that
 6 he, or those legally responsible for him, are able to pay the expenses
 7 thereof, said judge shall enter an order directing that the said person
 8 shall be sent to the state psychopathic hospital at the state university
 9 of Iowa for observation, treatment and hospital care as a committed
 10 private patient.

11 When the said patient arrives at the said hospital, he shall receive
 12 the same treatment as is provided for committed public patients in
 13 section twenty-three hundred sixty-five.

[38 G. A., ch. 235, § 13.]

SEC. 2368. Patients transferred—payment.

1 If patients of the state psychopathic hospital are transferred by
 2 the medical director to the general hospital of the college of medicine
 3 of the state university of Iowa, all necessary expenses for the care of
 4 said patients while in the wards or rooms of the general hospital shall
 5 be paid to the general hospital by the said state psychopathic hospital.

[38 G. A., ch. 235, § 14.]

SEC. 2369. Accompanying patients to hospital—payment—sworn statement.

1 The court may, in his discretion, appoint some person to accom-
 2 pany said committed public patient or said voluntary public patient or

3 said committed private patient from the place where he may be to
 4 the state psychopathic hospital of the state university at Iowa City,
 5 or to accompany such patient from the said hospital to such place as
 6 may be designated by the court. Any person appointed by the court
 7 or judge to accompany said person to or from the hospital or to make
 8 an investigation and report on any question involved in the complaint,
 9 other than the physician making the examination, shall receive the
 10 sum of three dollars per day for the time actually spent in making
 11 such investigation (except in cases where the person appointed there-
 12 for receives a fixed salary or compensation) and his actual necessary
 13 expenses incurred in making such investigation or trip. The physician
 14 appointed to make the examination and report shall receive the sum
 15 of five dollars for each and every examination and report so made, and
 16 his actual necessary expenses incurred in making such investigation,
 17 in conformity with the requirements of this chapter. The person mak-
 18 ing claim to such compensation shall present to the court or judge an
 19 itemized sworn statement thereof, and when such claim for compen-
 20 sation has been approved by the court or judge, the same shall be filed
 21 in the office of the county auditor and shall be allowed by the board
 22 of supervisors and paid out of the funds of the county collected for
 23 the relief of the poor. If the patient be a female, the person appointed
 24 to accompany her must be a woman.

25 Whenever a patient is transferred to a hospital for the insane,
 26 it shall be the duty of the medical director of the state psychopathic
 27 hospital to designate an attendant to accompany said patient from
 28 Iowa City, Iowa, to the said hospital for the insane; and the pay of
 29 said attendant in accompanying said patient to the said hospital for
 30 the insane and in returning home therefrom shall not exceed three
 31 dollars a day for the time thus necessarily employed, and his actual,
 32 reasonable and necessary expenses incurred in accompanying said
 33 patient to the said hospital for the insane and in returning home
 34 therefrom. Said per diem and expenses shall be itemized and verified
 35 and presented to and allowed by the state board of audit in connection
 36 with the bills for maintenance as hereinafter provided; provided, how-
 37 ever, that if the party accompanying said patient to the said hospital
 38 for the insane is a parent or other relative or an officer or employee
 39 receiving other compensation, the said person shall receive no per
 40 diem, but only his actual, reasonable and necessary traveling expenses.

[38 G. A., ch. 235, § 15.]

SEC. 2370. Liability of committed private patients—payment of bills—collection by action.

1 Every committed private patient, if he has an estate sufficient
 2 for that purpose, or if those legally responsible for his support are
 3 financially able, shall be liable to the county and state for all expenses
 4 paid by them in behalf of such patient. All bills for the care, nursing,
 5 observation, treatment, medicine and maintenance of such patients
 6 shall be paid by the state board of audit in the same manner as those
 7 of committed and voluntary public patients as hereinafter provided,
 8 unless said patient or those legally responsible for him make such
 9 settlement with the medical director of said state psychopathic hos-
 10 pital. If the bills for such patient are audited by the state board of
 11 audit and paid by the state, it shall be the duty of the medical director
 12 of the said state psychopathic hospital to file a certified copy of the
 13 claim which has been audited by the state board of audit and paid by

14 the state, with the auditor of the proper county, who shall proceed to
 15 collect the same by action if necessary, in the name of the state psycho-
 16 pathic hospital, and when collected, pay the same into the state treas-
 17 ury. The said medical director shall also, at the same time, forward
 18 a duplicate of the account to the state auditor.

19 Unless said committed private patient or those legally responsible
 20 for him offer to make such settlement, it shall also be the duty of the
 21 county auditor of the proper county as aforesaid to proceed to col-
 22 lect, by action if necessary, in the name of the said county, the amount
 23 of all claims for per diem and expenses that have been approved by the
 24 said court or judge and paid by the county treasurer of said county
 25 as provided for under the provisions of section twenty-three hundred
 26 sixty-nine, and when collected to pay the same into the county treas-
 27 ury.

[38 G. A., ch. 235, § 16.]

SEC. 2371. Private patients—disposition of funds collected.

1 Until such time as the said state psychopathic hospital is actually
 2 treating and caring for one hundred patients, the medical director
 3 shall pay all moneys collected from voluntary private patients or from
 4 committed private patients into the state treasury. After said hos-
 5 pital is actually treating and caring for more than one hundred
 6 patients, all moneys collected from said patients shall be used for the
 7 support of the said hospital.

[38 G. A., ch. 235, § 17.]

SEC. 2372. Discharge—transfer.

1 The medical director of the state psychopathic hospital may dis-
 2 charge any patient in the following ways:

3 1. As improved, or not likely to be benefited by further treat-
 4 ment.

5 2. Any patient of the state psychopathic hospital may be trans-
 6 ferred by the medical director to the state hospital for the insane, in
 7 the district of which the said patient was a legal resident, whenever,
 8 after a satisfactory period of observation and treatment, it is found
 9 that said patient is insane and that further confinement at the state
 10 psychopathic hospital at the state university of Iowa is inadvisable;
 11 provided that whenever an insane person is to be transferred, due
 12 notice of such transfer shall be given to the judge who committed said
 13 patient to the said state psychopathic hospital, to the person making
 14 the application for the admission of said patient, and to the superin-
 15 tendent of the state hospital for the insane to which the patient is to
 16 be transferred.

[38 G. A., ch. 235, § 18.]

SEC. 2373. Appropriation.

1 The state shall pay to the state psychopathic hospital, out of
 2 any money in the state treasury not otherwise appropriated, all
 3 expenses for the administration of said hospital, and for the care,
 4 treatment and maintenance of committed and voluntary public patients
 5 therein, including their clothing and all other expenses of said hos-
 6 pital for said public patients. The bills for said expenses shall be
 7 rendered monthly in accordance with rules agreed upon by the state
 8 board of audit and the finance committee of the Iowa state board of

9 education; provided that, until such time as the said hospital is
 10 actually treating and caring for one hundred patients, the sum of
 11 nine thousand dollars per month, or as much thereof as may be neces-
 12 sary, is hereby appropriated, out of any money in the state treasury
 13 not otherwise appropriated, for the support and maintenance of said
 14 hospital.

[38 G. A., ch. 235, § 19.]

SEC. 2374. Blanks prepared and printed—duplicate reports.

1 The medical faculty of the hospital of the college of medicine of
 2 the state university of Iowa shall prepare blanks containing such
 3 questions and requiring such information as may be necessary and
 4 proper to be obtained by the physician who examines the patient under
 5 order of court; and such blanks shall be printed by the state and a
 6 supply thereof shall be sent to the clerk of each district and superior
 7 court of the state of Iowa; and the physician making such examina-
 8 tion shall make his report to the court in duplicate on said blanks,
 9 answering the questions contained therein and setting forth the infor-
 10 mation required thereby; and one of said duplicate reports shall be
 11 sent to the state psychopathic hospital with the patient, together
 12 with a certified copy of the order of the court. The state board of
 13 audit shall audit, allow and pay the cost of the bills as other bills
 14 for public printing are allowed and paid.

[38 G. A., ch. 235, § 20.]

CHAPTER 9.

MEDICAL AND SURGICAL TREATMENT FOR INDIGENT CHILDREN.

SECTION 2375. Medical and surgical treatment for indigent children.

1 Any district or superior court of the state, or any judge thereof,
 2 sitting or acting as a juvenile court, as provided by law, may on
 3 his own motion, or on complaint filed by any probation officer,
 4 school teacher or officer, superintendent of the poor, or physician
 5 authorized to practice his profession in the state of Iowa, alleging that
 6 the child named therein is under sixteen years of age and is afflicted
 7 with some deformity or suffering from some malady that can probably
 8 be remedied, and that the parents or other persons legally chargeable
 9 with the support of such child are unable to provide means for the
 10 surgical and medical treatment and hospital care of such child, shall
 11 appoint some physician who shall personally examine said child with
 12 respect to its malady or deformation. Such physician shall make a
 13 written report to the court or judge, giving such history of the case
 14 as will be likely to aid the medical or surgical treatment of such
 15 deformity or malady and describing the same, all in detail, and stating
 16 whether or not in his opinion the same can probably be remedied.
 17 Such report shall be made within such time as may be fixed by the
 18 court, and upon blanks to be furnished as hereinafter provided. The
 19 court or judge may also appoint some suitable person to investigate
 20 and report on the other matters charged in said complaint.

[S. S., '15, § 254-b.]

SEC. 2376. Hearing—duty of county attorney—order committing child to hospital—consent of parent.

1 Upon the filing of such report or reports, the court or judge shall
 2 fix a day for the hearing upon the complaint and shall cause the par-
 3 ent or parents, guardian or other person having the legal custody of
 4 said child to be served with a notice of the hearing, and shall also
 5 notify the county attorney, who shall appear and conduct the proceed-
 6 ings, and upon the hearing of such complaint evidence may be intro-
 7 duced. And if the court or judge finds that the said child is suffering
 8 from a deformity or malady which can probably be remedied by
 9 medical or surgical treatment and hospital care, and that the parent or
 10 parents, guardian or other person legally chargeable with his support
 11 is unable to pay the expenses thereof, the court or judge, with the
 12 consent of the parent or parents, guardian or other person having
 13 the legal custody of such child, shall enter an order directing that
 14 the said child shall be taken or sent to the hospital of the medical
 15 college of the state university of Iowa for free medical and surgical
 16 treatment and hospital care.

[S. S., '15, § 254-c.]

SEC. 2377. Hospital treatment at state university.

1 It shall be the duty of the person in charge of the hospital of
 2 the college of medicine of the state university, or other person desig-
 3 nated by the authorities in control of said medical college, upon such
 4 child being received into the hospital, to provide for such child, if
 5 available, a cot or bed, or room in the hospital, and such person shall
 6 also designate the clinic of the college of medicine at the state uni-
 7 versity hospital to which the patient shall be assigned for treatment
 8 of the deformity or malady in each particular case.

9 The said hospital shall not be required to receive any child into
 10 the hospital unless the physician or surgeon in charge of the depart-
 11 ment of said medical college in which such surgical or medical treat-
 12 ment is to be furnished shall be of the opinion that there is a reason-
 13 able probability that the child will be benefited by the proposed
 14 medical or surgical treatment.

15 If the physician or surgeon of the clinic to which such child has
 16 been assigned for treatment declines to treat such child, he shall make
 17 a report, in duplicate, of his examination of such child and state
 18 therein his reason or reasons for declining such treatment; and one
 19 of said duplicates shall be preserved in the records of said hospital and
 20 the other transmitted to the clerk of the court of said county where
 21 said order committing said child to the hospital was entered.

22 When any patient has been admitted to the clinic for treatment the
 23 physician or surgeon in charge thereof shall proceed with all proper
 24 diligence to perform such operation and bestow such treatment upon
 25 such patient as in his judgment shall be proper, and such patient shall
 26 receive proper hospital care while therein.

[S. S., '15, § 254-d.]

SEC. 2378. Treatment gratuitous.

1 No compensation shall be charged by or allowed to the physician
 2 or surgeon or nurse who shall treat such patient other than the com-
 3 pensation received from the university.

[S. S., '15, § 254-e.]

SEC. 2379. Record of treatment—expense—filing statement.

1 The superintendent of the university hospital, or other person
 2 designated by the authorities in control of the university college of
 3 medicine shall keep a correct account of the medicine, treatment, nurs-
 4 ing and maintenance furnished to said patient, and shall set forth
 5 therein the actual, reasonable and necessary cost thereof, and shall
 6 make and file with the secretary of the state board of audit an item-
 7 ized, sworn statement, as far as possible, of the expense so incurred
 8 at said hospital other than the free medical and surgical treatment and
 9 nursing, as hereinbefore provided, and the said statement shall be
 10 made in conformity with rules prescribed by the said board.

[S. S., '15, § 254-f.]

SEC. 2380. Expenses—how paid.

1 The secretary of the state board of audit shall present the said
 2 statement to the said board which, upon being satisfied that the same
 3 is correct and reasonable, shall approve the same, and shall direct
 4 that warrants be drawn by the auditor of state upon the treasurer of
 5 state for the amount of such bills as are allowed from time to time,
 6 and the said warrants shall be forwarded as drawn by the auditor
 7 of state to the treasurer of the state university of Iowa, and the same
 8 shall be by him placed to the credit of the university funds which
 9 are set aside for the support of the university hospital, and the treas-
 10 urer of state shall pay said warrants from the general funds of the
 11 state not otherwise appropriated.

[S. S., '15, § 254-g.]

SEC. 2381. Attendant for child—compensation—compensation of physician.

1 The court or judge may, in his discretion, appoint some person
 2 to accompany such child from the place where he may be, to the hos-
 3 pital of the medical college of the state university at Iowa City, Iowa,
 4 or to accompany such child from the said hospital to such place as may
 5 be designated by the court, the parent or parents, guardians or
 6 person having legal custody of said child, consenting.

7 Any person appointed by the court or judge to accompany said
 8 child to or from the hospital, or to make an investigation and report
 9 on any of the questions involved in the complaint other than the
 10 physician making the examination, shall receive the sum of three
 11 dollars per day for the time actually spent in making such investiga-
 12 tion (except in cases where the person appointed by the court is a
 13 parent or relative or where the officer appointed therefor receives a
 14 fixed salary or compensation, in which cases there shall be no com-
 15 pensation) and his actual necessary expenses incurred in making such
 16 investigation or trip. The physician appointed by the court to make
 17 the examination and report shall receive the sum of five dollars for
 18 each and every examination and report so made, and his actual neces-
 19 sary expenses incurred in making such investigation, in conformity to
 20 the requirements of this chapter. The person making claim to such
 21 compensation shall present to the court or judge an itemized sworn
 22 statement thereof, and when such claim for compensation has been
 23 approved by the court or judge the same shall be filed in the office of
 24 the county auditor, and shall be allowed by the board of supervisors

25 and paid out of the funds of the county collected for the relief
26 of the poor.

[S. S., '15, § 254-h.]

SEC. 2382. Returning child—expense—how paid.

1 The university hospital may in the discretion of the superintend-
2 ent or other person designated by the authorities in control thereof,
3 pay the actual, reasonable necessary expenses of returning the said
4 patient to his home, and pay the attendant not to exceed three dollars
5 per day for the time thus necessarily employed, unless said attendant
6 be a parent or other relative or be an officer or employee receiving
7 other compensation, and his actual, reasonable and necessary expenses
8 incurred in accompanying such patient to his home, and such per diem
9 and expenses shall be itemized and verified, and presented to and
10 allowed by the state board of audit, in connection with the bills for
11 hospital maintenance, as hereinbefore provided.

[S. S., '15, § 254-i.]

**SEC. 2383. Faculty to prepare blanks—printing—distribution—
report to accompany patient.**

1 The medical faculty of the university hospital shall prepare a
2 blank or blanks containing such questions and requiring such infor-
3 mation as may in its judgment be necessary and proper to be obtained
4 by the physician who examines the patient under order of court; and
5 such blanks shall be printed by the state and a supply thereof shall
6 be sent to the clerk of each superior and district court of the state of
7 Iowa; and the physician making such examination shall make his
8 report to the court in duplicate on said blanks, answering the questions
9 contained therein, and setting forth the information required thereby,
10 and one of said duplicate reports shall be sent to the university hos-
11 pital with the patient, together with a certified copy of the order of
12 court. The executive council of the state of Iowa shall determine the
13 number of such blanks to be printed and distributed to the clerks of
14 the superior and district courts of the state of Iowa, and the state
15 board of audit shall audit, allow and pay the bills therefor, as other
16 bills are allowed and paid for public printing.

[S. S., '15, § 254-j.]

**SEC. 2384. Patients in state institutions—authority to send to
state university hospital—authority to pay expense.**

1 The board of control of the state institutions of Iowa may, in its
2 discretion, send any inmate of any of said institutions, or any person
3 committed or applying for admission thereto, to the hospital of the
4 medical college of the state university of Iowa for treatment and care
5 as provided in this chapter, without securing an order of court as pro-
6 vided in other cases, and the said patient so sent to the hospital of
7 the medical college of the state university shall be accompanied by a
8 report and history of the case made by the physician in charge of the
9 institution to which said patient has been committed, or to which
10 application has been made for his admission, containing a history of
11 the case and information as required by said blanks, and the hospital
12 expenses of such patient shall be paid as in other cases. State board
13 of education for any such patient from the college for the blind and
14 the board of control for any such patient from any institution under

15 its control may pay the expenses of transporting such patient to and
 16 from the hospital out of any funds appropriated for the use of the
 17 institution from which such patient is sent, and may, when necessary,
 18 send an attendant with such patient, and pay his traveling expenses in
 19 like manner.

[S. S., '15, § 254-k.]

SEC. 2385. Treatment authorized—experimentation forbidden.

1 No child, under the terms of this chapter, shall be treated for any
 2 ailment except such as is described by the order of the court, unless
 3 permission for such treatment is granted by the parents or guardians;
 4 and no child shall be used for the purpose of experimentation.

[S. S., '15, § 254-l.]

CHAPTER 10.

MEDICAL AND SURGICAL TREATMENT OF INDIGENT PERSONS OVER SIXTEEN.

SECTION 2386. Medical and surgical treatment for indigent persons over sixteen—report to and order of court—examination by physician and report.

1 Whenever it shall appear to any physician, county supervisor,
 2 township trustee, public health nurse, overseer of the poor, policeman,
 3 priest or minister that there is any legal resident of his or her county
 4 over sixteen years of age, afflicted with any malady or deformity
 5 which can probably be remedied by proper care and medical or surgical
 6 treatment, if said person, or the parent, parents or guardian, or other
 7 person having legal custody of said person, as the case may be, is
 8 unable financially to provide proper care and medical or surgical treat-
 9 ment, it shall be the duty of such physician, county supervisor, town-
 10 ship trustee, public health nurse, overseer of the poor, policeman,
 11 priest or minister to report the same to the judge of the district or
 12 superior court having jurisdiction in the county in which said person
 13 resides.

14 Upon the filing of such report with the judge of the district or
 15 superior court as aforesaid, he shall appoint some physician who shall
 16 personally examine said person with respect to the malady or deform-
 17 ity. Such physician shall make a written report to said judge, giving
 18 such history of the case as will be likely to aid the medical or surgical
 19 treatment of such deformity or malady, and describing the same, all
 20 in detail, and state whether or not, in his opinion, the same can prob-
 21 ably be remedied. Such report shall be made within such time as
 22 may be fixed by the court and upon blanks to be furnished as here-
 23 inafter provided. It shall also be the duty of said judge to have a
 24 thorough investigation made by the county attorney of his county
 25 regarding the financial condition of the said person, or of the parent or
 26 parents, guardian or other person having legal custody of said person,
 27 as the case may be.

[38 G. A., ch. 78, § 1.]

SEC. 2387. Action of court on report of physician—time of hearing—order of court committing to state university hospital.

1 Upon the filing of such report or reports, said judge of the dis-
 2 trict or superior court, as aforesaid, shall fix a date for the hearing
 3 upon the complaint and shall cause the person, or the parent or
 4 parents, guardian or other person having legal custody of said person,
 5 as the case may be, to be served with a notice of the hearing and he
 6 shall also notify the county attorney who shall appear and conduct
 7 the proceedings and, upon such complaint, evidence may be introduced.
 8 If the judge finds that the said person is suffering from a deformity
 9 or malady which can probably be remedied by medical or surgical
 10 treatment or hospital care, and that the person, or the parent or
 11 parents, guardian or other person having legal custody of said person,
 12 as the case may be, is unable to pay the expenses thereof, said judge
 13 may, with the consent of the said person, or parent or parents, guard-
 14 ian or other person having legal custody of said person, as the case
 15 may be, enter an order directing that the said person shall be taken
 16 to the hospital of the college of medicine of the state university of
 17 Iowa at Iowa City for proper hospital care and medical or surgical
 18 treatment; the expense of such hospital care and treatment to be met
 19 in the manner hereinafter provided; provided that no such person
 20 shall be received into said hospital of the college of medicine of the
 21 state university of Iowa for care and treatment, unless, in the judg-
 22 ment of the admitting physician, there shall be a reasonable proba-
 23 bility of such person's being benefited by such hospital care and med-
 24 ical or surgical treatment.

[38 G. A., ch. 78, § 2.]

SEC. 2388. Duty of admitting officer at hospital.

1 It shall be the duty of the admitting officer of the said hospital of
 2 the college of medicine of the state university of Iowa, upon receiving
 3 any such person, to provide a proper bed in said hospital and to assign
 4 or designate the clinic of the said hospital to which such person shall
 5 be assigned for treatment; and the physician or surgeon in charge
 6 of said person shall proceed with proper care to perform such opera-
 7 tion and bestow such treatment upon said person as, in his judg-
 8 ment, shall be proper and necessary.

9 A proper and competent nurse shall also be assigned to look
 10 after and care for said person during such hospital care and medical
 11 or surgical treatment, as aforesaid.

[38 G. A., ch. 78, § 3.]

SEC. 2389. No compensation.

1 No compensation shall be charged or received by the admitting
 2 officer of the medical faculty, or by the physician or surgeon or nurse
 3 who shall treat and care for such persons, other than the salaries
 4 received by them provided by the Iowa state board of education.

[38 G. A., ch. 78, § 4.]

SEC. 2390. Record and report of expenses.

1 The superintendent of the hospital of the college of medicine of
 2 the state university of Iowa shall keep a correct account of all medi-
 3 cine, nursing, food and necessaries furnished to said persons and shall
 4 make and file with the state board of audit of the state of Iowa an

5 itemized, sworn statement of all expenses incurred at said hospital in
6 the treatment, nursing and care of said persons.

[38 G. A., ch. 78, § 5.]

SEC. 2391. State board of audit to pass upon expenses.

1 The state board of audit, upon being satisfied that the same is
2 correct and reasonable, shall approve the same and shall direct that
3 warrants be drawn by the auditor of state upon the treasurer of
4 state for the amount of said bills as they are allowed from time to
5 time; and the said warrants, as drawn by the auditor of state on the
6 treasurer of state, shall be forwarded to the treasurer of the state
7 university of Iowa, and the same shall be by him placed to the credit
8 of the university funds which are set aside for the support of the state
9 university hospital; and the treasurer of state shall pay the said war-
10 rants from the general funds of the state not otherwise appropriated.

[38 G. A., ch. 78, § 6.]

**SEC. 2392. Court may appoint person to accompany patient—ex-
penses.**

1 The court or judge may, in his discretion, appoint some person
2 to accompany said patient from the place where he may be to the
3 hospital of the college of medicine of the state university at Iowa City,
4 Iowa, or to accompany said patient from the said hospital to such
5 place as may be designated by the court; the said patient or the parent
6 or parents, guardian or other person having legal custody of said
7 patient, as the case may be, consenting.

8 The physician appointed by the judge of the district or superior
9 court as aforesaid to make such examination and report shall receive
10 therefor the sum of five dollars, together with the expenses incurred
11 by him in making such examination; and the said charges for services
12 and expenses, and all expenses incurred in conveying such person to
13 and from the said hospital of the college of medicine of the state uni-
14 versity of Iowa, shall, when approved by the judge ordering such serv-
15 ices, be filed with the superintendent of the state university hospital
16 and charged on the regular bill for maintenance; provided that if the
17 party conveying said patient to or from said hospital is a salaried
18 officer of a township, a county, a city, or a state institution, or a mem-
19 ber of the patient's immediate family, said officer or relative shall
20 receive no per diem, but only his actual traveling expenses. If another
21 person is appointed to conduct said patient to and from said hospital,
22 he shall receive compensation, in addition to his traveling expenses,
23 in the sum of three dollars a day.

[38 G. A., ch. 78, § 7.]

SEC. 2393. Expenses of returning patient to his home—how paid.

1 The superintendent of the hospital of the college of medicine of
2 the state university of Iowa or other person designated by the authori-
3 ties in control thereof may pay the actual, reasonable and necessary
4 expenses of returning the said patient to his home, and pay the attend-
5 ant not to exceed three dollars a day for the time thus necessarily
6 employed; provided that if such attendant is a salaried officer of a
7 township, a county, a city or a state institution, or a member of the
8 patient's immediate family, he shall receive the actual, reasonable and
9 necessary expenses incurred in accompanying said patient to his home.

10 Such per diem and expenses shall be itemized and verified and
 11 presented to and allowed by the state board of audit in connection
 12 with the bills for hospital maintenance as hereinbefore provided.

[38 G. A., ch. 78, § 8.]

**SEC. 2394. Preparation of blanks for examining physician—
 payment therefor—report of physician and order of court certi-
 fied to hospital authorities.**

1 The medical faculty of the hospital of the college of medicine of
 2 the state university of Iowa shall prepare blanks containing such ques-
 3 tions and requiring such information as may be necessary and proper
 4 to be obtained by the physician who examines the patient under order
 5 of court; and such blanks shall be printed by the state and a supply
 6 thereof shall be sent to the clerk of each district and superior court
 7 of the state of Iowa; and the physician making such examination shall
 8 make his report to the court in duplicate on said blanks, answering
 9 the questions contained therein and setting forth the information re-
 10 quired thereby, and one of said duplicate reports shall be sent to the
 11 hospital of the college of medicine of the state university of Iowa with
 12 the patient, together with a certified copy of the order of the court.
 13 The state board of audit shall audit, allow and pay the cost of the bills
 14 as other bills are allowed and paid for public printing.

[38 G. A., ch. 78, § 9.]

CHAPTER 11.

STATE COLLEGE OF AGRICULTURE AND MECHANIC ARTS.

SECTION 2395. Grant accepted.

1 Legislative assent is given to the purposes of the various congres-
 2 sional grants to the state for the endowment and support of a college
 3 of agriculture and mechanic arts, and an agricultural experiment sta-
 4 tion as a department thereof, upon the terms, conditions and restric-
 5 tions contained in all acts of congress relating thereto, and the state
 6 assumes the duties, obligations and responsibilities thereby imposed.
 7 All moneys appropriated by the state because of the obligations thus
 8 assumed, and all funds arising from said congressional grants, shall
 9 be invested or expended in accordance with the provision of such
 10 grant, for the use and support of said college located at Ames.

[R., '60, § 1714; C., '73, § 1604; C., '97, § 2645.]

SEC. 2396. Courses of study.

1 There shall be adopted and taught practical courses of study,
 2 embracing in their leading branches such as relate to agriculture and
 3 the mechanic arts, and such other branches as are best calculated to
 4 thoroughly educate the agricultural and industrial classes in the sev-
 5 eral pursuits and professions of life, including military tactics, and,
 6 as a separate department, a school of mines, in which a complete course
 7 in theoretical and practical mining in its different branches shall
 8 be taught.

[R., '60, § 1728; C., '73, § 1621; C., '97, § 2648.]

SEC. 2397. Tuition—admission.

1 Tuition in the college herein established shall be forever free to
 2 pupils from the state over sixteen years of age, who have been resi-
 3 dents of this state six months previous to their admission. Each
 4 county in this state shall have a prior right to tuition for three scholars
 5 from such county; the remainder, equal to the capacity of the college,
 6 shall be by the trustees distributed among the counties in proportion
 7 to the population, subject to the above rule. Transient scholars other-
 8 wise qualified may at all times receive tuition.

[R., '60, § 1730; C., '73, § 1619; C., '97, § 2649.]

SEC. 2398. Treasurer.

1 The treasurer shall receive and keep all notes and other evidence
 2 of indebtedness, contracts, and money arising from the income of the
 3 congressional grant, appropriations of the general assembly, sales of
 4 the products of the farm, payments by students, and all other sources,
 5 and pay out the same upon bills for which appropriation has been
 6 made, when audited as provided by law, and retain such bills with
 7 receipts for their payment as his vouchers. He shall keep an accurate
 8 account of the revenue and expenditures of the college from all
 9 sources, so that the receipts and disbursements of each of its several
 10 departments shall be apparent at all times, and report to the board
 11 of trustees at their annual meeting and such other times as they may
 12 direct. He shall execute duplicate receipts for all money received by
 13 him, specifying the source and the fund to which it belongs, one of
 14 which must be filed with the secretary, and no receipt shall be valid
 15 unless the duplicate is so filed. He shall be elected annually, and give
 16 bond in double the highest amount of money likely to be in his hands
 17 at any one time, which bond shall be filed with and the sureties thereon
 18 approved by the secretary of state. He may appoint a deputy, who
 19 shall receive such compensation as the board of trustees shall fix, and
 20 for whose acts he shall be responsible on his official bond.

[R., '60, § 1739; C., '73, § 1614; C., '97, § 2654.]

SEC. 2399. Offices.

1 The president shall have his office in, and the deputy treasurer
 2 shall reside at, the college.

[C., '73, §§ 1614, 1615; C., '97, § 2655.]

SEC. 2400. Sale of lands.

1 The state board of education may sell the lands granted to the
 2 state by act of congress, and any lands acquired by purchase or other-
 3 wise, for cash, or upon partial credit not exceeding ten years, at such
 4 price as shall be fixed by the board; deferred payments to draw inter-
 5 est at the rate of eight per cent per annum, payable annually in ad-
 6 vance. Upon a failure to pay the interest or principal within sixty
 7 days after it becomes due, and sixty days after notice thereof shall
 8 have been given in writing, by mail or otherwise, by the board or the
 9 land agent of the college to the holder of the lease, such holder shall
 10 forfeit all claim to said land and the improvements made thereon and
 11 all sums paid on said contract, unless an extension of time has been or
 12 is granted by said board.

[R., '60, § 1744; C., '97, § 2656.]

SEC. 2401. Leases.

1 It may lease such lands for a term not exceeding ten years, at
 2 an annual rent equal to eight per cent per annum upon the appraised
 3 value of the tract, payable annually in advance, granting the lessee,
 4 his heirs or assigns the privilege of purchasing at the expiration of
 5 the lease at the appraised value stated therein, or it may lease said
 6 lands without granting the privilege of purchase. A lessee failing
 7 to pay the annual rent or interest within sixty days after it becomes
 8 due, and sixty days after notice thereof shall have been given in
 9 writing, by mail or otherwise, by the board or the land agent of the
 10 college to the holder of the lease, shall forfeit the same, with the inter-
 11 est paid thereon and all improvements made.

[C., '73, § 1616; C., '97, § 2657.]

SEC. 2402. Accepting advance payment.

1 It may at its option cause to be received the purchase price of the
 2 land sold or leased, before the same becomes due, upon such terms and
 3 conditions of payment as it may regard for the best interests of the
 4 institution, and may renew leases as they expire.

[C., '97, § 2658.]

SEC. 2403. Sale for taxes.

1 After any leasehold interest has been sold for delinquent taxes,
 2 the holder of the tax sale certificate may pay any interest or principal
 3 due by the terms of the lease, or do any other act necessary to prevent
 4 a forfeiture of the lease, and the proper voucher for such payment
 5 shall be filed with the auditor of the county where the land is situated.

[C., '97, § 2659.]

SEC. 2404. Tax deed.

1 Where any leasehold interest has been sold for delinquent taxes,
 2 and a treasurer's deed issued thereon, the grantee therein, his heirs
 3 or assigns, shall be entitled to purchase the land so conveyed, at the
 4 price and on the terms specified in the lease, and receive a patent
 5 therefor. If such lease expires before the holder of the tax sale cer-
 6 tificate will be entitled to a treasurer's deed, such certificate holder
 7 may pay the amount required by the terms thereof to acquire the
 8 title thereto, and receive a conveyance of the same.

[C., '97, § 2660.]

SEC. 2405. Right of tax purchaser.

1 The right of the tax sale purchaser or his assigns to pay any
 2 amount due by virtue of any lease shall be shown by a copy of the
 3 certificate of tax sale or treasurer's deed thereunder, duly certified by
 4 the officer executing the same, and if no tax deed has been issued, the
 5 auditor shall certify that redemption from the sale has not been made.
 6 Such copy and certificate shall be filed with the secretary of the state
 7 board of education and become a part of the records of his office.

[C., '97, § 2661.]

SEC. 2406. Leases taxed.

1 The state board of education shall certify to the auditor of each
 2 county in which leased college lands are situated, on or before the

3 fifth day of January of each year, a list thereof subject to taxation,
 4 with the name of each lessee, the date and terms of each lease, the
 5 amounts to be paid thereunder, and the dates of maturity thereof.
 6 Each auditor shall deliver to the assessor of each township containing
 7 any of said lands, on or before the fifteenth day of January, such list,
 8 together with a statement of the names of the lessees of each tract,
 9 the amounts to be paid thereon, and the dates of payment.

[C., '97, § 2662.]

SEC. 2407. Assignment of leases.

1 All leases and renewals thereof shall be assignable, and the owner,
 2 whether holding one or more leases or renewals, who has made the
 3 annual payments therein required, shall be entitled to all the benefits
 4 thereof and have the privilege of purchasing the tract or tracts of
 5 land as provided therein, and upon the payment of such purchase
 6 money shall be entitled to a patent for the land described in said lease
 7 or leases.

[C., '97, § 2663.]

SEC. 2408. Conveyance of lands sold.

1 When a sale is made of any lands, the president shall execute to
 2 the purchaser a certificate, countersigned by the secretary, stating the
 3 fact of purchase, the name of the purchaser, the description of the
 4 land and its fixed value. Upon payment of the purchase price to the
 5 state treasurer, the buyer or his assigns will be entitled to a patent
 6 or patents therefor, and upon presentation of such certificate to the
 7 secretary of state, with the receipt of the treasurer showing full pay-
 8 ment, stating the amount, he shall issue to the purchaser, or his
 9 assigns, one or more patents for the tract or tracts of land therein
 10 described, signed by the governor and secretary of state, as other
 11 patents or deeds of land conveyed by the state, which shall vest in the
 12 purchaser all the right and title and interest of the state and of said
 13 college therein.

[R., '60, § 1744; C., '97, § 2664.]

SEC. 2409. Endowment fund.

1 The principal of all money so collected must be paid to and held
 2 by the treasurer of state, and shall be drawn out only for the purpose
 3 of investment, upon the order of the state board of education. The
 4 interest or rental collected must be paid at the end of each month to
 5 the treasurer of the college, and the agent collecting the same must
 6 at the same time file with the secretary of the board an itemized report
 7 of the amount collected.

[C., '73, § 1617; C., '97, § 2665.]

SEC. 2410. How invested.

1 The board shall manage and invest the endowment fund, which
 2 may be done in the bonds of the United States or this state, or in some
 3 other safe bonds yielding not less than five per cent on the par value
 4 thereof, but the proposed investment shall be submitted to and ap-
 5 proved by the executive council before being consummated.

[C., '73, § 1617; C., '97, § 2666.]

SEC. 2411. Loans.

1 It may loan said funds upon approved real estate security, sub-
2 ject to the following regulations:

3 1. Each loan shall be for a term not exceeding ten years, at a rate
4 of interest to be fixed by said board, payable annually.

5 2. Each loan shall be secured by a mortgage paramount to all
6 other liens upon improved farm lands in the state, the loan not to
7 exceed fifty per cent of the cash value thereof, exclusive of buildings.

8 3. Principal and interest shall be payable to the order of the
9 board at the office of the state treasurer, the notes and mortgages to
10 provide for the payment by the borrower of all expenses, attorney
11 fees and costs incurred in collecting the same.

12 4. A register containing a complete abstract of each loan, and
13 showing its actual condition, shall be kept by the secretary of said
14 board, and be at all times open to inspection. The attorney general,
15 under the direction of the executive council, shall prepare the neces-
16 sary blanks, forms and instructions to carry into effect the provisions
17 of this section and to keep such loans secure and unimpaired.

[C., '73, § 1617; C., '97, § 2667; S., '13, § 2667.]

SEC. 2412. Funds collected.

1 Money collected from delinquents shall at once be paid into the
2 state treasury, the principal of the fund to be there kept and drawn
3 out for the purpose of investment as above provided, subject to such
4 restrictions as may be imposed by the executive council. The state
5 treasurer shall make monthly reports to the secretary of the state
6 board of education, showing all payments of principal and interest
7 made, and remit to the treasurer of the college. All interest in his
8 hands, as shown by such report, shall be loaned as other funds, or
9 used to defray the expenses of the college.

[C., '97, § 2671.]

SEC. 2413. Agents.

1 The state board of education may appoint agents, or do any other
2 act necessary to carry out the provisions of the preceding sections,
3 where no such authority has already been given; but no agent shall
4 be permitted to receive money until he has executed a bond in a sum
5 double the amount he will be likely to receive, which bond, with the
6 sureties, shall be approved by the board. Such agent shall make
7 monthly itemized statements to the secretary of the board of the
8 amount of money received by him, and at the same time transmit to
9 the treasurer of the college all funds in his hands.

[C., '73, § 1618; C., '97, § 2672.]

SEC. 2414. Sale of liquors.

1 No person shall open, maintain or conduct any shop or other
2 place for the sale of wine, beer or spirituous liquors, or sell the same
3 at any place within a distance of three miles from the agricultural
4 college and farm; provided that the same may be sold for sacramental,
5 mechanical, medical or culinary purposes; and any person violating
6 the provisions of this section shall be punished, on conviction by any
7 court of competent jurisdiction, by a fine not exceeding fifty dollars

8 for each offense, or by imprisonment in the county jail for a term
9 not exceeding thirty days, or by both such fine and imprisonment.

[C., '73, § 1620; C., '97, § 2673.]

SEC. 2415. Department of ceramics.

1 The trustees of the Iowa state college of agriculture and mechanic
2 arts are hereby required to establish in said college a department of
3 ceramics for the technical and practical education of clay workers,
4 cement manufacturers and users, and other allied pursuits in all
5 branches of those arts which exist in this state or which can be profit-
6 ably introduced and maintained in this state from the mineral re-
7 sources thereof, including the geology and properties of clays, cement
8 materials, fuels, and other minerals required, and the testing of the
9 products thereof; also the manufacture of fire brick, pressed brick,
10 paving brick and of glazed and enameled brick of all kinds, of sewer
11 pipe, drain tile, fireproofing and terra cotta, of pottery, porcelain,
12 china and other specialties; also including the details of the manufac-
13 ture and uses of cement and the details of other allied industries.

[S., '13, § 2674-d.]

SEC. 2416. Investigation of clays, cement materials and mineral products.

1 The said college shall provide as a part of its engineering experi-
2 ment station work for the investigation of clays, cement materials,
3 fuels, and other mineral resources of the state with especial refer-
4 ence to their economic uses, and for the publication and dissemination
5 of information useful to such industries, and for the testing of the
6 products thereof.

[S., '13, § 2674-e.]

SEC. 2417. Cooperative agricultural extension work—assent to congressional act.

1 The assent of the legislature of the state of Iowa is hereby given
2 to the provisions and requirements of an act of congress approved
3 May eighth, nineteen hundred fourteen, providing for cooperative ag-
4 ricultural extension work between the agricultural colleges in the
5 several states receiving the benefits of the act of congress approved
6 July second, eighteen hundred sixty-two, and amendments thereto,
7 and the Iowa state board of education is hereby authorized and em-
8 powered to receive the grants of money appropriated under said act
9 and to organize and conduct agricultural and home economics exten-
10 sion work, which shall be carried on in connection with the Iowa
11 state college of agriculture and mechanic arts in accordance with the
12 terms and conditions expressed in the act of congress aforesaid.

[S. S., '15, § 2682-y1.]

SEC. 2418. State apiarist—appointment—tenure.

1 The state board of education is authorized and directed to appoint
2 a state apiarist, who shall work in connection with and under the su-
3 pervision of the director of agricultural extension and the professor of
4 entomology of the Iowa state college of agriculture and mechanic arts,
5 the term of said state apiarist to commence on the first day of July,

6 nineteen hundred seventeen, and continue during the pleasure of said
7 state board of education.

[37 G. A., ch. 289, § 1.]

SEC. 2419. Duties.

1 It shall be the duty of the said apiarist to give lectures and demon-
2 strations in the state of Iowa on the production of honey, the care of
3 the apiary, the marketing of honey, and upon other kindred subjects
4 relative to the care of the bees and the profitable production of honey.
5 Upon the written request of one or more beekeepers in any county of
6 the state, said apiarist shall examine the bees in that locality suspected
7 of being affected with foulbrood or any other contagious or infectious
8 disease common to bees. If upon examination the said apiarist finds
9 said bees to be diseased, he shall furnish the owner or person in charge
10 of said apiary with full written instructions as to the nature of the
11 disease and the best methods of treating same, which information shall
12 be furnished without cost to the owner.

13 Said apiarist shall also make an annual report to the governor,
14 stating the number of apiaries visited, number of demonstrations held,
15 number of lectures given, the number of examinations made upon
16 request of the beekeepers, together with such other matters of general
17 interest concerning the business of beekeeping as in his judgment shall
18 be of value to the public.

[37 G. A., ch. 289, § 2.]

SEC. 2420. Sale or disposition of diseased bees.

1 Anyone who knowingly sells, barter, or gives away, moves or
2 allows to be moved, a diseased colony or colonies of bees, without the
3 consent of the state apiarist, or exposes any infected honey or infected
4 appliances to the bees, or who wilfully fails or neglects to give proper
5 treatment to diseased colonies, shall be deemed guilty of a misde-
6 meanor and upon conviction thereof, before any justice of the peace
7 of the county, shall be fined not exceeding the sum of fifty dollars or
8 imprisoned in the county jail not exceeding thirty days.

[37 G. A., ch. 289, § 3.]

SEC. 2421. Appropriation.

1 There is hereby appropriated out of the general funds of the state
2 treasury not otherwise appropriated the sum of fifteen hundred dollars
3 annually to carry out the provisions of the three preceding sections.

[37 G. A., ch. 289, § 4.]

**SEC. 2422. Hog cholera and serum laboratory—establishment—
directors—assistants.**

1 The state board of education is hereby authorized and directed
2 to establish at Ames, Iowa, in connection with the Iowa state college
3 of agriculture and mechanic arts, a laboratory for the manufacture
4 of hog cholera serum, toxins, vaccines and biological products and
5 to provide the necessary equipment therefor. The president of said
6 college shall appoint the director of said laboratory and such assistants
7 and inspectors as are deemed necessary to efficiently carry on said
8 work and shall, with the approval of said board, fix the salaries of said
9 assistants and inspectors.

[S. S., '15, § 2538-w.]

SEC. 2423. Sale of serum.

1 The director of said laboratory shall, on application, furnish said
2 serum to any practicing veterinarian or any person within the state
3 of Iowa, together with specific instructions for the use of same, at
4 the approximate cost of manufacture, and such cost shall be stated
5 on the package. Any surplus serum or other biological products may
6 be sold by said director at a reasonable profit to any applicant outside
7 of the state. The director of the serum laboratory is authorized to
8 purchase serum or other biological products which he deems reliable
9 and he may sell the same at approximate cost in the same manner as
10 products of the laboratory are sold, at any time it appears to him that
11 the available supply will not be sufficient to meet the demand.

[S. S., '15, § 2538-w1.]

SEC. 2424. Receipts—how deposited—expenses.

1 The director shall issue receipts for all moneys received by him
2 for serum and other biological products sold and shall deposit all such
3 funds with the treasurer of the college, which treasurer shall be re-
4 sponsible on his bond for the same. Upon receipt of said moneys the
5 said treasurer shall issue duplicate receipts therefor, one of which
6 he shall deliver to the director and the other to the secretary of the
7 state board of education. Said moneys shall be kept by said treasurer
8 in a separate fund to be known as the serum fund, and he shall pay
9 out from said fund as other college funds are expended, but only for
10 expenses directly connected with the maintenance and development
11 of said laboratory and for grounds and buildings necessary for the
12 manufacture, purchase and distribution of said serum and biological
13 products.

[S. S., '15, § 2538-w2.]

SEC. 2425. State entomologist—ex officio—duties—assistants—fees.

1 The entomologist of the state experiment station is hereby con-
2 stituted the state entomologist and charged with the execution of this
3 and the three following sections. He may appoint such qualified
4 assistants as may be necessary, fix a reasonable compensation for their
5 labor, and pay the same; and their acts shall have the same validity
6 as his own. He shall, by himself or his assistants, between the first
7 day of June and the fifteenth day of September, in each year, when
8 requested by the owner or agent or where he has reasonable grounds
9 to believe any dangerously injurious insect or plant disease exists,
10 carefully examine any nursery, fruit farm, or other place where trees
11 or plants are grown for sale, and if found apparently free from any
12 dangerously injurious insect or plant disease, he shall issue his cer-
13 tificate stating the facts, and shall collect therefor a fee of not less
14 than five dollars, nor more than fifteen dollars, according to the amount
15 of stock inspected. It shall be unlawful to sell, or offer for trans-
16 portation, any nursery stock unless accompanied by a copy of this
17 certificate.

[S., '13, § 2575-a47.]

SEC. 2426. Quarantine—treatment—collection of cost.

1 The state entomologist shall have authority, when requested by
2 the owner or agent, or when he has reasonable grounds to believe any

3 dangerously injurious insect or plant disease exists, to enter upon any
 4 grounds, public or private, for the purpose of inspection, and, if he
 5 finds any nursery, orchard, garden, or other place infested by the
 6 scale, he may, by himself or his assistants, enter upon such premises
 7 and establish quarantine regulations. If in his judgment any dan-
 8 gerously injurious insect or plant disease may be eradicated by treat-
 9 ment, he may, in writing, order such treatment, and prescribe its kind
 10 and character. In case any trees, shrubs, or plants are found so
 11 infested that it would be impracticable to treat them, he may order
 12 them burned. Whenever in the judgment of the state entomologist
 13 it is found that any other dangerous crop pests or carriers exist, he
 14 shall take such additional measures as seem fit to protect the crop or
 15 industry concerned. After notification by the state entomologist, it
 16 shall be unlawful for any person, firm or corporation to receive, ship,
 17 or accept for shipment, transport, sell, or offer for sale, give away,
 18 deliver, plant, or permit to exist on his or its premises any plant of
 19 the harmful barberry or any other plant that acts as an alternate
 20 host or carrier of a dangerous insect pest or plant disease. The term,
 21 harmful barberry, shall be interpreted to consist of any species of
 22 Berberis or Mahonia susceptible to infection by Puccinia graminis,
 23 commonly called black stem rust of grain, but not including Japanese
 24 barberry (*B. thunbergii*). It shall be the duty of the state entomol-
 25 ogist and his assistants to enforce the provisions of this section, and
 26 he is hereby empowered to eradicate any such insect pest, plant dis-
 27 ease or carrier of insect or plant disease. If the owner shall refuse
 28 or neglect to eradicate such pest or carrier, within ten days after
 29 receiving a written notice, the state entomologist shall eradicate or
 30 cause the same to be eradicated and ascertain the cost thereof. He
 31 shall certify the amount of such cost to the owner or person in charge
 32 of the premises; and if the same is not paid to him within sixty days
 33 thereafter he shall certify the amount to the county auditor, who shall
 34 spread the same upon the tax books, to be collected as other special
 35 taxes, and turned over to the entomologist to become a part of the
 36 fund provided in section twenty-four hundred thirty.

[S., '13, § 2575-a48; 38 G. A., ch. 8, § 1.]

SEC. 2427. Inspection of nursery stock shipped into state.

1 Where nursery stock is shipped into this state, accompanied by a
 2 certificate as by law provided, it shall be held prima facie evidence
 3 of the facts therein stated, but the state entomologist, by himself or
 4 his assistants, when they have reason to believe any such stock is
 5 infested with any dangerously injurious insect or plant disease, shall
 6 be authorized to inspect the same and subject it to like treatment as
 7 provided in the preceding section.

[S., '13, § 2575-a49.]

SEC. 2428. Certificate of inspection—penalties.

1 It shall be unlawful for any person, firm or corporation to bring
 2 into this state any trees, plants, vines, cuttings, or buds, commonly
 3 known as nursery stock, unless accompanied by a certificate of inspec-
 4 tion, signed by the state entomologist of the state of Iowa, or by
 5 another inspector duly approved by him, showing that the stock has
 6 been carefully inspected and found apparently free from any danger-
 7 ously injurious insect or plant disease. Any person violating or neg-
 8 lecting to carry out the provisions of the three preceding sections, or

9 offering any hindrance to the carrying out of said sections, shall be
 10 adjudged guilty of a misdemeanor and upon conviction before a jus-
 11 tice of the peace shall be fined not less than ten dollars, nor more than
 12 one hundred dollars, for each and every offense, together with all the
 13 costs of the prosecution, and shall stand committed until the same are
 14 paid. All amounts so recovered shall be paid over to the state ento-
 15 mologist, and added to the fund provided in section twenty-four hun-
 16 dred thirty.

[S., '13, § 2575-a50.]

SEC. 2429. Compensation—expenses.

1 The state entomologist shall be allowed and paid for his services
 2 while engaged in this work, all his necessary traveling expenses and
 3 the sum of five dollars per day. All funds coming into his hands
 4 shall be paid over to the state treasurer, with an itemized statement
 5 of the source whence received. He shall certify the amount of his
 6 expenses and per diem to the auditor of state, who shall thereupon
 7 draw his warrant upon the treasurer of state for the amount, which
 8 shall be paid out of the funds provided for carrying out the provisions
 9 of the four preceding sections. The state entomologist, with the con-
 10 sent of the executive council, is authorized to purchase all supplies
 11 and equipment, necessary to enable him to carry out the duties im-
 12 posed upon him by law.

[S., '13, § 2575-a51 ; 38 G. A., ch. 305, § 1.]

SEC. 2430. Annual appropriation.

1 There is hereby appropriated out of any moneys not otherwise
 2 appropriated the sum of four thousand five hundred dollars annually,
 3 or so much thereof as may be necessary, for carrying out the pro-
 4 visions of the five preceding sections.

[S. S., '15, § 2575-a52.]

CHAPTER 12.

IOWA STATE TEACHERS COLLEGE.

SECTION 2431. Official designation—board of trustees—officers.

1 The normal school at Cedar Falls, for the special instruction and
 2 training of teachers for the common schools of Iowa, shall be officially
 3 designated and known as the "Iowa State Teachers College". The
 4 treasurer shall not be a member of the board, and shall give bond in
 5 the sum of twenty thousand dollars, with good and sufficient sureties,
 6 to be filed with and approved by the secretary of state, which bond
 7 shall be conditioned for the safe keeping and proper disbursement of
 8 all money coming into his hands by virtue of his office.

[C., '97, § 2675 ; S., '13, § 2675.]

SEC. 2432. Powers of board—admissions—fees.

1 The board shall have power to employ a sufficient number of suit-
 2 able and competent teachers and other assistants; fix their compen-
 3 sation; make all necessary rules and regulations for the management
 4 of the school, the admission of pupils from the several counties in the

5 state, giving to each county its proper representation therein in pro-
 6 portion to the population thereof, and to all teachers in the state equal
 7 rights, requiring that each one received as a pupil shall furnish satis-
 8 factory evidence of good moral character and the honest intention of
 9 following the business of teaching school in the state; and make such
 10 arrangements as it may for the lodging and boarding of pupils, which
 11 shall be paid for by them. It may charge a fee for contingent ex-
 12 penses not to exceed one dollar monthly, and a tuition fee of not more
 13 than six dollars a term, if necessary for the proper support of the
 14 institution, and shall determine what part of the year the school shall
 15 be open, its sessions to continue, however, for at least twenty-six
 16 weeks of each year.

[C., '97, § 2676.]

SEC. 2433. Branches of study.

1 Physiology and hygiene shall be included in the branches of study
 2 regularly taught to and studied by all pupils in the school, and special
 3 reference shall be made to the effect of alcoholic drinks, stimulants
 4 and narcotics upon the human system, and the state board of educa-
 5 tion shall provide the means for the enforcement of the provisions of
 6 this section and see that they are obeyed.

[C., '97, § 2677.]

SEC. 2434. Contract with school districts.

1 The state board of education may contract with the board of
 2 directors of the school township or independent district in which the
 3 school is situated, and those contiguous thereto, for a period not ex-
 4 ceeding two years at a time, to receive the pupils thereof into the state
 5 teachers college and furnish them with instruction, payment therefor
 6 to be made out of the general fund of such townships or districts,
 7 which shall not exceed fifty cents, weekly, for each pupil; the contract
 8 to be in writing, and a copy filed with the county superintendent.

[C., '97, § 2678; 37 G. A., ch. 386, § 11.]

SEC. 2435. Teachers' reports—tuition.

1 If such a contract is entered into, all reports required by law
 2 to be made to the board of directors of such townships or districts
 3 and the county superintendent, by the teachers thereof, shall be made
 4 by the president of the state teachers college, and all sums paid for
 5 tuition shall go to its general fund.

[C., '97, § 2679; 37 G. A., ch. 386, § 11.]

SEC. 2436. Report to governor.

1 The board shall biennially, through its secretary, make a detailed
 2 report to the governor of its proceedings during the preceding two
 3 years, which report shall show the number of teachers employed, the
 4 compensation of each, the number of pupils and classification, an item-
 5 ized statement of receipts and expenditures, and such further informa-
 6 tion with such recommendations as may be regarded important to the
 7 interests of the institution, and with reference to its connection with
 8 the educational work of the state.

[C., '97, § 2680; S., '13, § 2680.]

CHAPTER 13.

SCHOOL FOR THE BLIND.

SECTION 2437. Principal—assistants—steward—removal.

1 One of the teachers shall be principal, who shall nominate to the
2 board of education assistants, who shall be responsible to him for the
3 faithful performance of their duties, and he to the board for himself.
4 It shall appoint a steward and fix his compensation, who, under its
5 direction, shall purchase all supplies for the institution. It may re-
6 move any appointee for cause.

[R., '60, § 2154; C., '73, §§ 1670, 1671; C., '97, § 2714.]

SEC. 2438. Admission.

1 All blind persons, residents of the state, of suitable age and capac-
2 ity, shall be entitled to an education in this institution at the expense
3 of the state, and nonresidents may also be entitled to the benefits
4 hereof, if they can be accommodated therein, upon paying to the treas-
5 urer sixty-six dollars quarterly in advance.

[R., '60, §§ 2147, 2148; C., '73, §§ 1672, 1680; C., '97, § 2715;
S., '13, § 2715.]

SEC. 2439. Expenses.

1 When pupils are not supplied with clothing, they shall be fur-
2 nished therewith by the principal, who shall make out an account
3 therefor against the parent or guardian, if the pupil be a minor, and
4 against him or her, if he or she has no parent or guardian, or has
5 attained the age of majority, which shall be certified to be correct by
6 him, and, thus certified, shall be presumptive evidence of its correct-
7 ness in any of the courts, and he shall forthwith send such account
8 to the auditor of the proper county, who may proceed to collect the
9 same by action, if necessary, in the name of the college, and, when
10 collected, pay the same into the state treasury. He shall also at the
11 same time forward a duplicate of the account to the state auditor, who
12 shall credit the amount thereof to the college, charging the proper
13 county therewith, and it shall be paid out of the county fund.

[C., '73, § 1678; C., '97, § 2716.]

SEC. 2440. Report.

1 On or before the fifteenth day of August in each even-numbered
2 year, the principal of the college shall report to the governor the num-
3 ber of pupils in attendance, the name, age, sex, residence, place of
4 nativity and cause of blindness, with the studies pursued, trades
5 taught, and a complete statement of the expenditures made, and the
6 number, kind and value of articles manufactured and sold.

[R., '60, § 2149; C., '73, § 1677; C., '97, § 2717; S., '13,
§ 2717.]

CHAPTER 14.

SCHOOL FOR THE DEAF.

SECTION 2441. Trustees—officers.

1 The school for the deaf at Council Bluffs shall be under the man-
 2 agement and control of the state board of education. It shall appoint
 3 a superintendent, employ teachers and servants to do any other act
 4 or thing necessary and proper to be done to carry into effect the
 5 objects of the institution, fix the salary to be paid the superintendent
 6 and other employees, which salary may include residence in the insti-
 7 tution, and board from the funds or supplies of the institution—no
 8 such allowance, however, to be made, save by express contract in
 9 advance—and may utilize the labor of any inmate on the farm, in the
 10 workshops, in the erection of buildings belonging to the institution,
 11 or domestic service thereof, so far as practicable, without interference
 12 with their proper education.

[R., '60, §§ 2157-2159, 2162; C., '73, §§ 1685, 1686, 1690; C., '97, § 2723; 37 G. A., ch. 160, § 1.]

SEC. 2442. Qualifications of superintendent.

1 The superintendent of the school for the deaf shall be proficient
 2 in the use of the sign language.

[S., '13, § 2727-3a.]

SEC. 2443. Admission.

1 Every resident of the state of Iowa who is not less than five nor
 2 more than twenty-one years of age who is deaf and dumb, or so deaf
 3 as to be unable to acquire an education in the common schools, and
 4 every such person who is over twenty-one and under thirty-five years
 5 of age who has the consent of the state board of education, shall be
 6 entitled to receive an education in the institution at the expense of
 7 the state; and nonresidents similarly situated may be entitled to an
 8 education therein, upon the payment of sixty-six dollars quarterly, in
 9 advance. Each superintendent of common schools, on or before the
 10 first day of November of each year, shall report to the superintendent
 11 of the institution the name, age and postoffice address of each deaf
 12 and dumb person, or person so deaf as to be unable to acquire an edu-
 13 cation in the common schools, between the ages of five and thirty-five
 14 years and residing in his county so far as he may ascertain.

[R., '60, §§ 2156, 2160; C., '73, §§ 1688, 1689; C., '97, § 2724; S., '13, § 2724; 37 G. A., ch. 160, § 1.]

SEC. 2444. Report.

1 The superintendent of the institution shall biennially report to
 2 the governor the number of pupils in attendance, their names, age,
 3 sex, residence, place of nativity and cause of deafness, if known, the
 4 studies pursued, trades taught, with a full detailed statement of all
 5 money received, expenditures made, the salaries paid to each officer
 6 and teacher, and the kind, number and value of articles manufactured
 7 and sold.

[R., '60, § 2161; C., '73, § 1694; C., '97, § 2725.]

SEC. 2445. Expenses—charged to county—how certified and paid.

1 When pupils are not supplied with clothing, or transportation, it
 2 shall be furnished by the superintendent, who shall make out an
 3 account therefor against the parent or guardian, if the pupil be a
 4 minor, and against the pupil if he have no parent or guardian, or has
 5 attained the age of majority, which bill shall be certified by him to be
 6 correct, and shall be presumptive evidence thereof in all courts. The
 7 superintendent shall, on the first days of April and October of each
 8 year, certify to the auditor of state the amounts due from the several
 9 counties, and the auditor of state shall thereupon pass the same to
 10 the credit of the institution, and charge the amount to the proper
 11 county. The superintendent shall, at the time of sending certificate
 12 to the auditor of state, send a duplicate copy to the auditor of the
 13 county of the pupil's residence, who shall, when ordered by the board
 14 of supervisors, proceed to collect the same by action if necessary, in
 15 the name of the county, and when so collected, shall pay the same into
 16 the county treasury. The county auditor shall, upon receipt of said
 17 certificate, pass the same to the credit of the state, and thereupon
 18 issue a notice to the county treasurer authorizing him to transfer the
 19 amount from the general county fund to the general state revenue,
 20 which shall be filed by the treasurer as his authority for making such
 21 transfer, and shall include the amount in his next remittance of state
 22 taxes to the treasurer of state, designating the fund to which it
 23 belongs.

[C., '73, § 1695; C., '97, § 2726; S., '13, § 2726.]

SEC. 2446. Residence during vacation.

1 The residence of indigent or homeless children may, by order of
 2 the state board of education, be continued during vacation months.

[S., '13, § 2727-a.]

CHAPTER 15.
IOWA SOLDIERS' ORPHANS' HOME.**SECTION 2447. Trustees and officers.**

1 The Iowa soldiers' orphans' home, located at Davenport, shall be
 2 under the management and control of the board of control of state
 3 institutions. The board shall examine all applications for admission,
 4 and reject any for good and sufficient cause. It shall appoint a
 5 superintendent, who shall hold his or her office at its pleasure, subject
 6 to its direction. The superintendent, subject to the board, shall have
 7 charge of the institution and its conduct.

[C., '73, §§ 1623, 1624, 1629, 1632; C., '97, § 2683; S., '13,
 § 2683.]

SEC. 2448. Superintendent.

1 The superintendent shall give a bond in such sum as shall be
 2 fixed by the board of control, conditioned for the faithful performance
 3 of his or her duties, which shall be filed and approved by the secretary
 4 of state. He or she may appoint such assistants as the work may
 5 require, subject to removal by the board for incompetency or other

6 sufficient cause, and make all needed purchases for the home, and
7 quarterly settlements therefor, which settlements shall be conducted
8 by the board of control. All accounts shall be itemized, verified, and
9 accompanied with the original bills of purchase and all other bills or
10 vouchers; which accounts, thus presented, with the accompanying
11 bills and vouchers, shall be filed and kept as a part of the records of
12 the home.

[C., '73, §§ 1624, 1628; C., '97, § 2684.]

SEC. 2449. Admissions.

1 All destitute children of soldiers, sailors and marines, residents of
2 the state, orphans of soldiers under fifteen years of age, who are
3 destitute or unable to care for themselves, shall be admitted upon
4 applications approved by the board of control and become wards of
5 the state, and such other destitute children of like age who have a
6 legal settlement in the state, and whose applications for admission
7 are approved by the board of supervisors or a judge of a court of rec-
8 ord, shall be received into the home, but none in the latter class shall
9 be so admitted as long as there are applicants denied in the former; all
10 applications in the latter class to be made to a judge in the district of
11 the applicant's residence, or the board of supervisors of the county in
12 which the applicant is living.

[C., '97, § 2685; S., '13, § 2685.]

SEC. 2450. Enumeration of soldiers' orphans.

1 When making the biennial assessment, the assessor shall take an
2 enumeration of the children of deceased soldiers who were in the mili-
3 tary service of the government, naming the company or organization to
4 which the soldiers belonged, with the age and sex of the children, and
5 make return thereof with the report of the assessment made by him.
6 For this purpose the auditors of the several counties shall furnish the
7 assessors with the proper blanks for taking such lists. The lists so
8 returned shall be revised from time to time, as may be necessary,
9 by the board of supervisors, and a record made of such action.

[C., '73, §§ 1635-1637; C., '97, § 2686.]

SEC. 2451. Regulations.

1 All children admitted to the home shall be subject to the rules
2 and regulations of the same, and, subject to the approval of the board
3 of control, may be expelled by the superintendent for disobedience
4 and refusal to submit to proper discipline. They shall also be dis-
5 charged upon arriving at the age of sixteen years, or sooner if pos-
6 sessed of sufficient means to provide for themselves.

[C., '73, § 1634; C., '97, § 2688; S., '13, § 2688.]

SEC. 2452. Instruction.

1 Children admitted to the home shall be provided with the means
2 of obtaining, during the time they are inmates, a common school edu-
3 cation, and have regular employment furnished them in some useful
4 pursuit, and after discharge therefrom the board of control and super-
5 intendent shall assist them in finding a home and employment. The
6 children shall also be instructed in physiology and hygiene as taught
7 in the common schools. Any profits arising from labor at the home
8 shall be placed at interest in some savings bank, and each inmate

9 paid, when discharged, in proportion as his or her labor contributed to
10 the fund.

[C., '97, § 2689.]

SEC. 2453. Placing of child by adoption.

1 Any child in the Iowa soldiers' orphans' home who is an orphan
2 or has been abandoned by its parents, and any child in the home who is
3 not an orphan and who has not been abandoned, with the consent in
4 writing of its parents, or if but one be living, with the consent in
5 writing of the survivor, may be adopted by any citizen of this state
6 on the recommendations of the superintendent with the approval of
7 the board of control of state institutions. The adoption shall be by
8 an instrument in writing to be signed by the superintendent, subject
9 to the approval, in writing, of the board of control, and by the person
10 adopting and, except as herein otherwise provided, such instrument
11 shall be signed and recorded as provided by chapter nine of title
12 twenty-six, and the adoption shall create the rights and liabilities
13 provided by said chapter as amended.

[C., '73, § 1634; C., '97, § 2690; S., '13, § 2690-a.]

SEC. 2454. Placing of child by contract.

1 All children received in the soldiers' orphans' home, whether
2 admitted on application of a parent, guardian or other person or
3 committed as dependent or neglected under the law as it appears in
4 chapter thirteen, title nine, shall, when received, become wards of the
5 state. Any child so received, unless adopted as authorized under the
6 law as it appears in section twenty-four hundred fifty-three, may be
7 placed by the superintendent with any person or family of good stand-
8 ing and character where it will be cared for and educated properly.
9 Such child shall be placed under articles of agreement to be signed
10 by the person or persons taking the child and the superintendent,
11 approved in writing by the board of control of state institutions,
12 which articles shall provide for the custody, care, education, main-
13 tenance and earnings of the child for a time to be therein fixed, which
14 shall not extend beyond the time when the child shall attain its
15 majority.

[S., '13, § 2690-b.]

SEC. 2455. Recovery of possession of child.

1 In case any child, whether adopted or placed under articles of
2 agreement for a term of years, is not furnished the care, education,
3 treatment and maintenance required by the articles of adoption or
4 agreement, the board of control may cause the child to be taken from
5 the person or persons with whom it is placed, and may make such
6 other disposition of it as shall seem to be for its best interests. And
7 in case legal proceedings are necessary to recover the possession of
8 such child they may be instituted and carried on in the name of the
9 superintendent, and the county attorney of the county in which the
10 child is placed shall, if requested by the superintendent, act as his
11 attorney in the proceedings.

[S., '13, § 2690-c.]

SEC. 2456. Interference of parent or other person prohibited.

1 It shall not be lawful for any parent or other person not a party
2 to the placing of a child by adoption or for a term of years under the

3 provisions of the three preceding sections, to interfere in any manner
 4 with or to assume or exercise any control over such child or his earn-
 5 ings while so placed, but such earnings shall be used, held, or other-
 6 wise applied for the exclusive benefit of the child.

[S., '13, § 2690-d.]

SEC. 2457. Appropriation—per capita allowance.

1 For the support of the home there is hereby appropriated out of
 2 any money in the state treasury not otherwise appropriated the sum
 3 of twenty-five dollars per month, or so much thereof as may be
 4 needed, for each child actually supported, and in addition the expense
 5 of his transmission to the home, which sums shall be drawn from the
 6 state treasury and expended in the manner provided by chapter one
 7 of title nine. The number of children shall be ascertained by taking
 8 the average attendance for the preceding month; provided, however,
 9 that if the average number of children shall be less than three hun-
 10 dred sixty in any month, the auditor of state and treasurer of state
 11 shall credit the home with the sum of nine thousand dollars for that
 12 month and the sum so credited shall be drawn from the state treasury
 13 in the same manner and for the same purposes as the regular monthly
 14 per capita allowance is drawn.

[C., '73, §§ 1630, 1631; C., '97, § 2691; S., '13, § 2691; S. S.,
 '15, § 2691; 37 G. A., ch. 266, § 6; 38 G. A., ch. 37,
 §§ 1, 6.]

SEC. 2458. Counties liable.

1 Each county shall be liable for sums paid by the home in support
 2 of all its children, other than the children of soldiers, to the extent of
 3 seven dollars per month for each child, and when the average number
 4 of children shall be less than five hundred in any month each county
 5 shall be liable for its just proportion for each child of the amount
 6 credited to the home for that month. The sums for which each county
 7 is so liable shall be charged to the county, and collected as a part of
 8 the taxes due the state, and paid by the county at the same time
 9 state taxes are paid.

[C., '97, § 2692; S. S., '15, § 2692.]

CHAPTER 16.

JUVENILE HOME.

SECTION 2459. Juvenile home established—purpose.

1 The board of control of state institutions is hereby authorized,
 2 and it shall be the duty of the state board of control of state institu-
 3 tions to, at once, establish a fit and proper juvenile home for the recep-
 4 tion and care and education of dependent, neglected, delinquent or
 5 destitute children, residents of Iowa, as now or hereafter defined by
 6 the laws of the state of Iowa, and it shall procure or cause to be pro-
 7 cured, build or erect suitable and necessary grounds, buildings, furni-
 8 ture and fixtures and equipment therefor.

[38 G. A., ch. 165, § 1.]

SEC. 2460. Superintendent—employees—salaries—rules.

1 The said board of control shall appoint a general superintendent
2 who shall, subject to the approval of the board of control, appoint
3 such assistants, teachers, physicians and other employees as shall
4 in the judgment of the board of control be necessary, and said board
5 of control shall fix and determine the salaries, wages and remunera-
6 tion to be paid to each of the persons employed at said home. Said
7 board of control may make such rules and regulations for the govern-
8 ment and control of said home and prescribe such duties for the said
9 superintendent and for any officer or employee connected therewith as
10 in its judgment shall be deemed advisable.

[38 G. A., ch. 165, § 2.]

SEC. 2461. Instruction.

1 It shall be the duty of the superintendent, under the direction of
2 the board of control, to provide for instruction for the inmates of said
3 home and to provide instructors and appliances for teaching and giving
4 instruction in common school and higher branches, science and arts,
5 so far as practicable, and in such manual training as shall best physic-
6 ally and otherwise develop and fit such inmates to become good citi-
7 zens and obtain for themselves a livelihood upon discharge from said
8 home, and may also provide for instruction and exercise in elementary
9 military tactics.

[38 G. A., ch. 165, § 3.]

SEC. 2462. Time of opening—duty of board and courts.

1 It shall be the duty of the said board of control to notify all judges
2 of the district and superior courts of the state of Iowa, not less than
3 thirty days before the opening of said home, of the time when said
4 home is to be opened, and, after that date, the district and superior
5 courts of the state shall send to said home all mentally and physically
6 normal resident children who may be by said courts adjudicated to be
7 dependent, neglected, delinquent or destitute children, unless it shall
8 appear to the court, in the exercise of its discretion, to be the best
9 interest of said child or children to make other lawful provision for
10 such child or children.

[38 G. A., ch. 165, § 4.]

SEC. 2463. Admission destitute children without adjudication.

1 Destitute children, not adjudicated to be such by the juvenile
2 court, and who have legal settlement in the state, may be admitted to
3 said home upon application for admission when said application is
4 approved by the board of supervisors of the county of legal settlement
5 or a judge of a court of record having jurisdiction in said county.

[38 G. A., ch. 165, § 5.]

SEC. 2464. Children under fifteen years admitted.

1 Such dependent, neglected or destitute and delinquent children as
2 are under the age of fifteen years shall be eligible to admission in
3 said home when this chapter and other laws of the state of Iowa
4 applying thereto have been complied with.

[38 G. A., ch. 165, § 6.]

SEC. 2465. Adoption.

1 Any child in said home who is an orphan or has been abandoned
2 by its parents, and any child in the home who is not an orphan and
3 who has not been abandoned, with the consent, in writing, of its par-
4 ents, or if but one be living, the consent of the survivor, may be
5 adopted by any citizen of this state upon the recommendation of the
6 superintendent of the home, with the approval of the board of con-
7 trol of state institutions. The adoption shall be by an instrument in
8 writing to be signed by the superintendent, subject to the approval, in
9 writing, of the board of control, and by the person adopting, and
10 except as herein otherwise provided such instrument shall be signed
11 and recorded as provided by chapter nine, of title twenty-six, and
12 the adoption shall create the rights and liabilities provided by said
13 chapter as amended.

[38 G. A., ch. 165, § 7.]

SEC. 2466. Wards of state—care under articles of agreement.

1 All children received in the home, whether admitted on application
2 of a parent, guardian or other person or committed as dependent or
3 neglected under the law as it appears in chapter thirteen, title nine,
4 shall, when received, become wards of the state. Any child so received,
5 unless adopted as authorized under the law as it appears in section
6 twenty-four hundred fifty-three, may be placed by the superintendent
7 with any person or family of good standing and character where it
8 will be cared for and educated properly. Such child shall be placed
9 under articles of agreement, to be signed by the person or persons
10 taking the child and the superintendent, approved in writing by the
11 board of control of state institutions, which articles shall provide for
12 the custody, care, education, maintenance and earnings of the child
13 for a time to be therein fixed which shall not extend beyond the time
14 when the child shall attain its majority.

[38 G. A., ch. 165, § 8.]

SEC. 2467. Recovery of possession of child by home.

1 In case any child, whether adopted or placed under articles of
2 agreement for a term of years, is not furnished the care, education,
3 treatment and maintenance required by the articles of adoption or
4 agreement, the board of control may cause the child to be taken from
5 the person or persons with whom it is placed, and may make such
6 other disposition of it as shall seem to be for its best interests. And
7 in case legal proceedings are necessary to recover possession of such
8 child they may be instituted and carried on in the name of the super-
9 intendent, and the county attorney of the county in which the child is
10 placed shall, if requested by the superintendent, act as his attorney
11 in the proceedings.

[38 G. A., ch. 165, § 9.]

SEC. 2468. Interference prohibited.

1 It shall not be lawful for any parent or other person not a party
2 to the placing of a child by adoption, or for a term of years, under the
3 provisions of this chapter, to interfere in any manner with or to
4 assume or exercise any control over such child or his earnings while

5 so placed, but such earnings shall be used or otherwise applied for the
6 exclusive benefit of the child.

[38 G. A., ch. 165, § 10.]

SEC. 2469. Appropriation.

1 For the support of the home there is hereby appropriated out
2 of any money in the state treasury not otherwise appropriated, or so
3 much thereof as may be needed, twenty-five dollars for each child
4 actually supported, and in addition the expense of his transmission to
5 the home, which sum shall be paid upon abstracts and certificates as
6 required by law as it appears in sections eighteen hundred eighty-
7 eight, eighty-nine hundred fifty-eight and eighty-nine hundred fifty-
8 nine. The number of children shall be ascertained by taking the av-
9 erage attendance for the preceding month; provided, however, that if
10 the average number of children shall be less than three hundred sixty
11 in any month, the auditor of the state and treasurer of the state shall
12 credit the home with nine thousand dollars for that month, and the
13 sum so credited shall be drawn from the state treasury in the same
14 manner and for the same purposes as the regular monthly per capita
15 allowance is drawn.

[38 G. A., ch. 165, § 11.]

SEC. 2470. Counties liable for support.

1 Each county shall be liable for sums paid by the home in support
2 of all its children, to the extent of one-half of the per capita cost per
3 month for each child, and when the average number of children be
4 less than three hundred sixty in any month each county shall be liable
5 for its just proportion for each child of the amount credited to the
6 home for that month. The sum for which each county is so liable
7 shall be charged to the county, and collected as a part of the taxes
8 due the state, and paid by the county at the same time state taxes
9 are paid.

[38 G. A., ch. 165, § 12.]

SEC. 2471. Management.

1 The board of control shall have full power to manage, control and
2 govern the said home subject only to the limitations of this chapter.

[38 G. A., ch. 165, § 14.]

CHAPTER 17.

COUNTY HIGH SCHOOLS.

SECTION 2472. How established.

1 Any county may establish a high school in the following manner:
2 When the board of supervisors shall be presented with a petition
3 signed by one-third of the electors of the county, as shown by the
4 returns of the last preceding election, requesting the establishment of
5 a county high school at a place in the county named therein, it shall
6 submit the question, together with the amount of tax to be levied to
7 erect the necessary buildings, at the next general election to be held
8 in the county, or at a special one called for that purpose, first giving

9 twenty days' notice thereof in one or more newspapers published in
10 the county, if any be published therein, and by posting such notice,
11 written or printed, in each township of the county, at which election
12 the vote shall be by ballot, for or against establishing the high school,
13 and for or against the levying of the tax, the vote to be canvassed in
14 the same manner as that for county officers. Should a majority of all
15 the votes cast upon the question be in favor of establishing such
16 school, and the levying of such tax, the board of supervisors shall at
17 once appoint six trustees, residents of the county, not more than two
18 from the same township, who, with the county superintendent of
19 schools as president, shall constitute a board of trustees for said
20 high school.

[C., '73, §§ 1697-1699, 1701; C., '97, § 2728; S., '13, § 2728.]

SEC. 2473. Trustees—officers.

1 The trustees, within ten days after appointment, shall qualify by
2 taking the oath of civil officers, and giving bond in such sum as the
3 board of supervisors may require, with sureties to be approved by it,
4 and shall hold office until their successors are elected and qualified,
5 who shall be elected at the general election following. The trustees
6 then elected shall be divided into two classes of three each and hold
7 their office two and four years respectively, their several terms to be
8 decided by lot; and at each general election thereafter three trustees
9 shall be elected for the term of four years, the trustees so elected to
10 qualify in the same manner and at the same time as other county
11 officers, and all vacancies occurring to be filled by appointment by the
12 board of supervisors, the appointee to hold the office until the next
13 general election, and a majority of which trustees shall constitute a
14 quorum for the transaction of business. At the first meeting held in
15 each year, the board shall appoint a secretary and treasurer from their
16 own number, who shall perform the usual duties devolving upon like
17 officers. The treasurer, in addition to his bond as trustee, shall give
18 one as treasurer, in such sum and with such sureties as may be fixed
19 by the board, and receive all moneys from all sources belonging to the
20 funds of the school, and pay them out as directed by the board of
21 trustees, upon orders drawn by the president and countersigned by
22 the secretary; both of which officers shall keep an accurate account
23 of all moneys received and paid out, and at the close of each year, and
24 whenever required by the board, shall make a fully itemized and
25 detailed report.

[C., '73, §§ 1699, 1700, 1704, 1711; C., '97, § 2729; S., '13,
§ 2729.]

SEC. 2474. Site—tax—approval of electors.

1 As soon as convenient after the organization of the board, it shall
2 proceed to select the best site that can be obtained without expense
3 to the county, at the place named in the petition upon which the vote
4 was taken, for the erection of the necessary school buildings, the title
5 to be taken in the name of the county, and shall procure plans and
6 specifications for the erection of such buildings, and make all neces-
7 sary contracts for the erection of the same, the cost of which, when
8 completed, shall not exceed the amount of the tax so levied therefor.
9 They shall also annually make and certify to the board of supervisors
10 on or before the first Monday of September of each year, an estimate
11 of the amount of funds needed for improvements, teachers' wages and

12 contingent expenses for the ensuing year, designating the amount for
13 each, which, in the aggregate, shall not exceed in any one year one mill
14 on the dollar upon the taxable property of the county. No expendi-
15 tures for buildings or other improvements shall be made, or contract
16 entered into therefor by said board, involving an outlay of to exceed
17 five hundred dollars in any one year, without the same first being
18 submitted to the electors of the county in which said school is to be
19 located, for their approval; the tax to be levied and collected in the
20 same manner as other county taxes, and paid over by the county
21 treasurer in the same manner as school funds are paid to district
22 treasurers.

[C., '73, §§ 1702, 1703, 1705; C., '97, § 2730; S. S., '15, § 2730.]

SEC. 2475. Management.

1 Said board shall make no purchases, nor enter into any contracts
2 in any year, in excess of the funds on hand and to be raised by the
3 levy of that year. It shall employ, when suitable buildings have been
4 furnished, a competent principal teacher to take charge of the school,
5 and such assistant teachers as may be necessary, and fix the salaries
6 to be paid them, and in the conduct of the school may employ
7 advanced students to assist in the work. Annual reports shall be
8 made by the secretary to the board of supervisors, which report shall
9 give the number of students, with the sex of each, who have been in
10 attendance during the year, the branches taught, the textbooks used,
11 number of teachers employed, salary paid to each, amount expended
12 for library, apparatus, buildings, and all other expenses, the amount
13 of funds on hand, debts contracted, and such other information as
14 may be deemed important, and this report shall be printed in at least
15 one newspaper in the county, if any is published therein, and a copy
16 forwarded to the superintendent of public instruction. And for their
17 services the trustees shall each receive the sum of two dollars per
18 day for the time actually employed in the discharge of official duties,
19 claims for services to be presented, audited, and paid out of the county
20 treasury, in the same manner as other accounts against the county.

[C., '73, §§ 1705, 1706, 1710, 1712; C., '97, § 2731; S., '13,
§ 2731.]

SEC. 2476. Regulations.

1 The principal of any such high school, with the approval of
2 the board of trustees, shall make such rules and regulations as is
3 deemed proper in regard to the studies, conduct and government of
4 the pupils, and such rules and regulations shall prohibit the use of
5 tobacco in any form by any student of such school; and any pupil who
6 will not conform to and obey such rules may be suspended or expelled
7 therefrom by the board of trustees. Said board of trustees shall make
8 all necessary rules and regulations in regard to the age and grade of
9 attainments necessary to entitle pupils to admission into the school,
10 and shall on or before the tenth day of July of each year make an
11 apportionment between the different school corporations of the county,
12 of the pupils that shall attend said school, and shall apportion to each
13 of said school corporations its proportionate number, based upon the
14 number of pupils that can be reasonably accommodated in said school,
15 and the number of pupils of school age, actual residents of such school
16 corporations, as shown by the county superintendent's report last filed
17 with the county auditor of said county; said apportionment shall be

18 published in the official papers of such county, to be paid for as other
 19 county printing; pupils from the said school corporations to the num-
 20 ber so designated in such apportionment shall be entitled to admission
 21 into said school, tuition free, and none others, and it shall be unlawful
 22 to accredit pupils so attending to any other school corporation than
 23 the one in which they are enumerated for school purposes. Should
 24 there be more applicants for such admission from any school corpo-
 25 ration than its proportionate number, so determined, then the board of
 26 directors of such school corporation shall designate which of said appli-
 27 cants shall be entitled to so attend. If the school shall be capable of
 28 accommodating more pupils than those attending under such appor-
 29 tionment, others may be admitted by the board of trustees, preference
 30 at all times being given to pupils desiring such admission, who are resi-
 31 dents of the county. The board of trustees shall fix reasonable tuition
 32 for such pupils. If such pupils are residents of the county the school
 33 corporation from which they attend shall pay their tuition out of its
 34 general fund. The principal of such high school shall report to the
 35 said board of trustees under oath, at the close of each term, the names
 36 and number of pupils attending such school during said term, from
 37 what school corporation they attended, and the amount of tuition, if
 38 any, paid by each, the same to be included in the annual report of the
 39 secretary of the board of trustees to the board of supervisors, pro-
 40 vided for in section twenty-four hundred seventy-five, the tuition so
 41 paid to be turned over to the treasurer of the board of trustees, to be
 42 used in paying the expense of said school under the direction of said
 43 board.

[C., '73, § 1709; C., '97, § 2732; S., '13, § 2732.]

SEC. 2477. Petitions to abolish—election.

1 Whenever citizens of any county having a county high school
 2 desire to abolish the same or to dispose of any part of the buildings
 3 or property thereof, they may petition the board of supervisors at any
 4 regular session thereof in relation thereto, and sections thirty-three
 5 hundred seventy-one, thirty-three hundred seventy-two, thirty-three
 6 hundred seventy-three and thirty-three hundred seventy-four shall
 7 apply to and govern the whole matter, including the manner of pre-
 8 senting and determining the sufficiency of such petitions and remon-
 9 strances thereto, so far as applicable. If an election is ordered the
 10 same shall be held at the time of the general election or at a special
 11 election called for that purpose and the proposition shall be submitted
 12 and the election conducted in the manner provided in title four of the
 13 code. If any proposition as herein provided be legally submitted and
 14 adopted, the board of supervisors is hereby empowered to carry the
 15 same into effect.

[C., '97, § 2733; S., '13, § 2733-a.]

CHAPTER 18.

COUNTY SUPERINTENDENT.

SECTION 2478. Election of county superintendent of schools by convention—county board of education.

1 On the first Tuesday in April in the year nineteen hundred fifteen,
 2 and each third year thereafter, and whenever a vacancy occurs in the

3 office of county superintendent of schools, a convention shall be held
4 at the county seat for the purpose of electing a county superintendent
5 of schools, at which convention each school township, city, town or
6 village independent district and each independent consolidated district
7 in the county shall be entitled to one vote. Each such school corpo-
8 ration shall be represented at the convention by the president of the
9 school board, or in his absence or inability to act, by some member of
10 such school board, to be selected by the board. It is further provided,
11 however, that where a congressional township is composed in whole or
12 in part of rural independent districts that such rural independent dis-
13 tricts shall be entitled to one vote in the convention, which vote shall
14 be cast by such person as may be selected by the presidents of the
15 component rural independent districts within such township at a meet-
16 ing to be held at such time and place as the county auditor shall fix
17 in the written notice hereinafter provided for. All representatives to
18 such convention shall serve until a county superintendent is elected
19 and qualified. Such conventions shall be called by the county auditor
20 by mailing a written notice to the president and secretary of each
21 school corporation at least ten days prior to the date of such conven-
22 tion and by the publication of such notice in the official newspapers
23 published in the county. The county auditor shall be the secretary of
24 such convention and shall call same to order and submit a list of the
25 school corporations entitled to participate in such conventions. Said
26 convention shall organize by the selection of a chairman and when
27 so organized, shall elect a county superintendent of schools, who shall
28 possess the qualifications required by law and shall hold the office for
29 the term of three years and until his successor is elected and qualified.
30 Such convention may by a majority vote select a committee consist-
31 ing of five members whose duty shall be to investigate the various
32 candidates for the office of county superintendent and report to said
33 convention at a subsequent day to which the convention may adjourn;
34 or by a three-fourths vote of such convention, said committee may be
35 authorized to elect a county superintendent and file its election with
36 the county auditor, and said person shall be deemed duly elected to
37 such office. There shall also be held one of such conventions on the
38 first Monday of April, nineteen hundred nineteen, at which there shall
39 be elected six persons outside the membership of such convention, who
40 with the county superintendent, ex officio, shall constitute the county
41 board of education. Such persons shall be reputable citizens of the
42 county, of good educational qualifications and whose term of office
43 shall begin the first day of May, nineteen hundred nineteen, and con-
44 tinue until their successors are selected and qualified, three of whom
45 shall be elected for the term of two years and three for the term of
46 five years, and thereafter beginning with the regular convention in
47 nineteen hundred twenty-one, three members shall be elected every
48 three years for the term of six years, and until their successors are
49 selected and qualified. All persons elected or appointed on said board
50 shall qualify on or before ten days following their election or appoint-
51 ment, and at the time of their election or appointment must be citizens
52 of the United States, over twenty-one years of age, and residents of
53 the state for a period of six months, and the county sixty days, prior
54 to their election or appointment, and the members of said board may
55 be of either sex, and not more than one member, other than the
56 county superintendent, shall be from the same school corporation.
57 Vacancies in said board to be filled by the board until the next regular

58 convention, when such convention shall fill all vacancies, provided,
 59 however, if the members of said board be reduced below a quorum a
 60 convention shall be called as provided by law, to fill vacancies. A
 61 majority of said board shall constitute a quorum for the transaction
 62 of business. The members of said board shall take an oath of office
 63 as provided by law for all county officers. The members of said
 64 board, except the county superintendent, shall serve without pay, but
 65 shall be allowed their actual necessary expenses in performing their
 66 duties not to exceed forty dollars each, annually, to be audited by the
 67 board of supervisors and paid out of the general fund. Meetings of
 68 said board shall be held on the second Monday of August and February
 69 in each year at the office of the county superintendent, and other meet-
 70 ings on call of the county superintendent, or on written request of any
 71 three members filed with the county superintendent. Said board shall
 72 perform all duties prescribed by law for the county board of educa-
 73 tion, and upon all matters referred to them by him shall act as an
 74 advisory board to the county superintendent, and shall cooperate with
 75 him in formulating plans and regulations for the advancement and
 76 welfare of the school under his supervision. A majority of represent-
 77 atives herein provided shall constitute a quorum, such representatives
 78 to receive ten cents per mile one way for the distance necessarily
 79 traveled in attending such convention, to be paid from the county
 80 treasury.

[R., '60, § 2063; C., '73, § 589; C., '97, § 1072; S., '13, § 1072;
 37 G. A., ch. 317, § 1; 38 G. A., ch. 56, § 2.]

SEC. 2479. Qualifications—powers and duties—deputy.

1 The county superintendent, who may be of either sex, shall be the
 2 holder of a regular five-year state certificate or a life diploma, and
 3 shall have had at least five years' experience in teaching or superin-
 4 tending; provided that any county superintendent of schools now
 5 serving shall be deemed eligible to reappointment or reelection. The
 6 county superintendent shall, under the direction of the superintendent
 7 of public instruction, serve as the organ of communication between
 8 the department of public instruction and the various officers and
 9 instructors in his county, and shall transmit or deliver to them all
 10 books, pamphlets, circulars or communications designed for them.
 11 He shall visit the different schools in his county at least once during
 12 the school year and also when requested by a majority of the directors
 13 of any school corporation. He shall also, at the request of the super-
 14 intendent of public instruction, visit and report upon such schools
 15 as may be designated. He may appoint a deputy with the approval of
 16 the board of supervisors entered of record, for whose acts he shall be
 17 responsible, and who may act in his stead except in visiting schools
 18 and trying appeals, the salary of such deputy to be fixed by the board
 19 of supervisors, but the said salary shall not be less than seven hun-
 20 dred fifty dollars. He shall, on the first Monday of each month, file
 21 with the county auditor an itemized and verified statement of his
 22 actual and necessary expenses incurred during the previous month
 23 in the performance of his official duties within his county, and such
 24 expenses shall be paid by the county board of supervisors out of the
 25 county fund, but the total amount so paid for any one year for such
 26 purposes shall not exceed the sum of four hundred dollars.

[R., '60, §§ 2069, 2073, 2074; C., '73, §§ 1770, 1774, 1776; C.,
 '97, §§ 2734, 2735, 2742; S. S., '15, § 2734-b; 38 G. A.,
 ch. 301, § 1.]

SEC. 2480. Term—vacancy.

1 The term of office of the county superintendent of schools shall
 2 be for three years and until his successor is elected and qualified, and
 3 such term shall begin on the first secular day of September after his
 4 election, and the terms of county superintendents now in office are
 5 hereby extended until the first day of September, nineteen hundred
 6 fifteen, and until their successors are elected and qualified. Should a
 7 vacancy in such office occur, by death, removal, resignation, or other-
 8 wise, the county auditor shall at once call a special meeting for the
 9 purpose of filling such vacancy.

[S., '13, § 2734-b1.]

SEC. 2481. Examinations.

1 On the last Friday, and Wednesday and Thursday preceding, in
 2 the months of January, June, July and October, the county super-
 3 intendent shall meet and, with such assistants as may be necessary,
 4 examine all applicants for a teacher's certificate. Such examinations
 5 shall be held at the county seat, in a suitable room which shall be
 6 provided for that purpose by the board of supervisors; but the county
 7 superintendent may at his discretion cause to be held at the time of
 8 any regular examination an additional examination at some other
 9 place in the county. The questions used in such examinations shall
 10 be furnished by the educational board of examiners, who shall cause
 11 the same to be printed, and the examinations shall be conducted
 12 strictly under rules prescribed by the board.

13 On the last Friday of August and the Wednesday and Thursday
 14 preceding, the county superintendent of each county shall conduct
 15 an additional examination, to which only such persons as file certifi-
 16 cates of attendance during the summer immediately preceding at a
 17 summer school approved for the twelve weeks of normal training
 18 provided for in section twenty-four hundred ninety-three shall be ad-
 19 mitted.

20 This examination shall be under the same regulations as to
 21 preparation of questions, grading of papers, granting of certificates
 22 as the four examinations provided for in the first part of this section.

[C., '51, § 1148; R., '60, §§ 2066, 2068, 2073; C., '73, §§ 1766,
 1774; C., '97, § 2735; S. S., '15, § 2734-c.]

SEC. 2482. Subjects.

1 The examination for the first grade certificate shall include com-
 2 petency in and ability to teach orthography, reading, writing, arith-
 3 metic, geography, grammar, history of the United States, didactics,
 4 elementary civics, elementary algebra, political economy, elementary
 5 economics, elementary physics, elements of vocal music, physiology
 6 and hygiene, which in each division of the subject shall include special
 7 reference to the effects of alcohol, stimulants and narcotics upon the
 8 human system.

[C., '51, § 1148; R., '60, §§ 2066, 2068, 2073; C., '73, §§ 1766,
 2736; S., '13, § 2734-d.]

SEC. 2483. Special certificates.

1 A special certificate may be issued for any subject, or any group
 2 of subjects, taught in the public schools of Iowa, upon examination
 3 in such special subject or group of subjects and per cents therein

4 such as are required for the issue of a first grade county certificate.
 5 A special certificate shall be issued for a term of three years, and shall
 6 be renewable under the same conditions as apply to the renewal of
 7 first grade certificates. It shall state the names of the subjects for
 8 which it is issued, and shall not be valid for the teaching of any other
 9 subjects.

[S., '13, § 2734-e.]

SEC. 2484. Record kept.

1 A record shall be kept by the county superintendent of all exam-
 2 inations taken within his county, with the name, age and residence of
 3 each applicant and the date of examination.

[R., '60, § 2067; C., '73, § 1768; C., '97, § 2736; S., '13,
 § 2734-f.]

SEC. 2485. First grade certificate—renewal.

1 Applicants who have taught successfully for at least thirty-six
 2 weeks and whose examination entitles them to the first grade certifi-
 3 cate, shall receive the same for a term of three years from the date
 4 thereof, and such certificates shall be renewable without examina-
 5 tion provided the applicants shall show by testimonials from super-
 6 intendants or principals who had immediate supervision of their
 7 professional study that at least one line of professional inquiry has
 8 been successfully conducted during the life of the certificate, it being
 9 made the duty of the board to forward with each certificate subject
 10 to renewal, outlines setting forth various lines of professional study.
 11 It is provided further that each application for renewal shall be accom-
 12 panied by such proof of successful experience and professional spirit
 13 as the educational board of examiners may require.

[R., '60, § 2067; C., '73, § 1767; C., '97, § 2737; S., '13,
 § 2734-g.]

SEC. 2486. Second grade certificate—renewal.

1 Applicants whose examination entitles them to second grade cer-
 2 tificates only, shall receive the same for not to exceed two years with
 3 the privilege of renewal of the same without further examination
 4 under the same conditions as govern the renewal of first grade cer-
 5 tificates. The holder of a second grade certificate may at any of the
 6 examinations provided for in section twenty-four hundred eighty-one,
 7 take an examination in any one or more of the additional branches,
 8 required for the issue of a first grade certificate, or he may at any
 9 such time be reexamined in any branch or branches in which he desires
 10 to raise his grade, and in each case the new per cent shall be placed
 11 on his certificate, and when he has thus successfully passed in all the
 12 branches required for the issue of a first grade certificate, such certifi-
 13 cate shall then be issued to him, provided he has had at least thirty-six
 14 weeks' successful experience in teaching; if not, then at the conclu-
 15 sion of such experience. In like manner third grade certificates may
 16 be changed into those of the second or first grade, and in all cases
 17 whether the certificate be of the first, second or third grade, credit
 18 shall be given for all examinations taken under the auspices of the
 19 board, it being the intention of the law that an examination once
 20 taken shall be final unless the certificate holder desires to be reexam-

21 ined in any one or more branches with a view of raising his per cent
22 in such branches or his general average.

[S., '13, § 2734-h.]

SEC. 2487. Third grade certificate—renewal.

1 Applicants whose examination entitles them to third grade certifi-
2 cates only, shall receive the same for one year, at the end of which
3 time, upon proof of successful teaching and the payment of a fee of
4 one dollar, one renewal shall be granted.

[S., '13, § 2734-i.]

SEC. 2488. Applicants without experience.

1 Applicants who have had no experience in teaching, but whose
2 examination entitles them to the first grade, shall receive a second
3 grade certificate for two years; provided that when they have taught
4 successfully under such certificate for not less than thirty-six weeks
5 they shall be entitled to receive a first grade certificate on the condi-
6 tions herein provided for a renewal of a certificate.

[S., '13, § 2734-j.]

SEC. 2489. Proof of good character.

1 Before admitting anyone to the examination, the county super-
2 intendent must be satisfied that the person seeking a certificate is of
3 good moral character, of which fact he may require proof, and is in all
4 respects other than in scholarship possessed of the necessary quali-
5 fications as an instructor.

[R., '60, § 2067; C., '73, § 1767; C., '97, § 2737; S., '13,
§ 2734-l.]

SEC. 2490. Examination papers graded—certificates issued.

1 As soon as the examination is completed the county superintend-
2 ent shall forward to the superintendent of public instruction a list of
3 all applicants examined, with the standings of each in didactics and
4 oral reading, and his estimate of each applicant's personality and gen-
5 eral fitness, other than scholarship, for the work of teaching. He
6 shall at the same time forward to the superintendent of public instruc-
7 tion the answer papers written, with the exception of those in didac-
8 tics. Under the supervision of the educational board of examiners,
9 the papers shall be graded and the scholastic qualifications determined.
10 The result of such examination of persons who pass the same shall be
11 entered upon a certificate provided by such board, and shall be trans-
12 mitted to the county superintendent of the county in which the person
13 entitled thereto resides.

[S., '13, § 2734-m.]

SEC. 2491. Readers—clerical help—compensation.

1 Immediately following each examination authorized by this
2 chapter, the board of examiners shall call to their assistance a suffi-
3 cient number of competent readers previously selected by the board,
4 ten of whom shall be county superintendents. The county superintend-
5 ents so chosen shall be known as head readers and shall also consti-
6 tute a review board in cases of doubt. They shall also make a list of
7 applicants from each county, nearest the passing mark for a third

8 grade certificate. The head readers shall receive necessary traveling
 9 expenses only. All other readers shall receive actual traveling ex-
 10 penses to and from the capitol and not to exceed fifty cents an hour
 11 for time actually employed in reading and marking answer papers.
 12 Such additional clerical help as may be required may be employed by
 13 the board at not to exceed thirty cents per hour for time actually
 14 employed.

[S., '13, § 2734-n.]

SEC. 2492. Expenditures certified and paid.

1 All expenditures authorized by this act [31 G. A., ch. 122] shall
 2 be certified by the superintendent of public instruction to the state
 3 board of audit, who shall cause the auditor of the state to draw war-
 4 rants therefor upon the treasurer of state, but not to exceed the
 5 fees paid into the treasury under the provisions of said act.

[S., '13, § 2734-o.]

SEC. 2493. Fees—normal training necessary—exceptions.

1 Each applicant for a certificate shall pay a fee of one dollar,
 2 one-half of which shall be paid into the state treasury on or before
 3 the first day of the succeeding month, and one-half shall be paid into
 4 the county institute fund; provided, however, that all applicants for
 5 teachers' certificates shall have had, before receiving a certificate to
 6 teach, at least twelve weeks of normal training and shall furnish a
 7 certificate from the institution where such training has been received,
 8 which certificate shall have printed thereon the subjects taken and the
 9 standing in each subject; but the examination in all subjects other
 10 than didactics may be taken at any regular examination prior to, or
 11 after, the term of normal training has been taken; the examination
 12 shall not be complete until the normal training has been certified as
 13 herein provided.

14 It is further provided that this section shall not apply to the
 15 regular graduates of the state university, state teachers college, state
 16 college of agriculture and mechanic arts, any accredited college of the
 17 state, or any other school of like character outside the state.

18 It is further provided that, in the case of graduates of four-year
 19 courses in approved or accredited high schools, the grades made in
 20 didactics in an approved normal training course in any of the institu-
 21 tions mentioned in this section may be accepted by the state board of
 22 educational examiners and by the county superintendent in lieu of the
 23 examination in didactics.

[S., '13, § 2734-p; 38 G. A., ch. 156, § 1.]

SEC. 2494. Experience as qualification.

1 The provisions of the preceding section shall in no way bar any
 2 teacher who can furnish evidence of at least six months' successful
 3 teaching experience; provided such experience is not obtained on a
 4 provisional certificate.

[S., '13, § 2734-p1; 38 G. A., ch. 408, § 1.]

SEC. 2495. Registration fee.

1 No person shall teach in any public school in this state whose
2 certificate has not been registered with the county superintendent of
3 the county in which such school is located.

[S., '13, § 2734-q.]

SEC. 2496. Third grade certificates, when not to be registered.

1 In case a sufficient number of life diplomas, state certificates,
2 first grade certificates, special certificates and second grade certifi-
3 cates are held in any county to supply the schools thereof, it shall not
4 be incumbent on the county superintendent to register third grade
5 certificates.

[S., '13, § 2734-r.]

SEC. 2497. Special examination—provisional certificates.

1 When a sufficient number of licensed teachers can not be secured
2 to fill the schools of any county, the board of examiners may, upon the
3 request of the county superintendent, appoint a special examination
4 for such county to be conducted in all respects as a regular examina-
5 tion and the answer papers to be forwarded to the president of the
6 board as required in regular examinations, and thereupon provisional
7 certificates may be issued by the educational board of examiners; pro-
8 vided that the provisional certificate shall be valid for the balance of
9 the school year in which it is issued.

[S., '13, § 2734-s; 38 G. A., ch. 408, § 3.]

SEC. 2498. Certificates, where valid—revocation.

1 All certificates provided for in sections twenty-four hundred
2 eighty-one to twenty-five hundred, inclusive, shall be valid in any
3 county within the state, when registered in such county, but a pro-
4 visional certificate shall be valid, upon registration, only in the county
5 in which it is issued and shall be issued for the same time and sub-
6 ject to the same extension as a third grade certificate, but no person
7 shall be entitled to receive more than one provisional certificate, except
8 upon the approval of the county superintendent. Any certificate or
9 diploma issued by the board may be revoked for any cause which
10 would have authorized or required a refusal to grant the same, or in
11 case the holder thereof violates any of the provisions of said sections.

[R., '60, § 2070; C., '73, § 1771; C., '97, § 2737; S., '13,
§ 2734-t.]

SEC. 2499. Revocation of certificate—charges—trial—appeal.

1 When in the judgment of the county superintendent there is prob-
2 able cause for the revocation of a certificate or diploma held by any
3 teacher employed in his county, or when charges are preferred, sup-
4 ported by affidavits charging incompetency, immorality, intemperance,
5 cruelty or general neglect of the business of the school, the county
6 superintendent shall within ten days transmit to such person a written
7 statement of the charges preferred and set the time and place for the
8 hearing of the same, at which trial the teacher shall be privileged to
9 be present and make defense. If in the judgment of the county super-
10 intendent there is sufficient grounds for the revocation of the certifi-
11 cate or diploma, he shall at once issue in duplicate an order revoking

12 the certificate or diploma, and the same shall become operative and
 13 of full force and effect ten days after the date of its issue, one copy
 14 of the order to be mailed to the holder of the certificate and the other
 15 to be mailed to the superintendent of public instruction. Provided that
 16 the person aggrieved by such order shall have the right of appeal to
 17 the superintendent of public instruction within ten days from the
 18 date of such mailing and in case of appeal the revocation shall not be
 19 effective until the same is affirmed, after full hearing, by the super-
 20 intendent of public instruction; provided further, that in the case of
 21 life diplomas or state certificates of whatever class, the revocation
 22 shall not be effective until affirmed by the educational board of exam-
 23 iners after full review by said board.

[S., '13, § 2734-u.]

SEC. 2500. List of persons holding certificates and attending normal institute.

1 The county superintendent shall annually, on the first Monday of
 2 September, file with the president of the educational board of exam-
 3 iners a list of all persons who for the preceding year have held cer-
 4 tificates and have attended the normal institute, with the number of
 5 days' attendance of each. A similar report of summer school attend-
 6 ance shall be secured by the president of the board. In any subse-
 7 quent examination or renewal the board may give such credit for
 8 institute or summer school attendance as it may determine, any rule
 9 adopted to apply equally to all similar cases.

[S., '13, § 2734-v.]

**SEC. 2501. Normal institutes—adjournment of schools—attend-
 ance—lectures—funds—reports—summer schools—fees.**

1 The county superintendent shall hold annually at least one, but
 2 not more than two, county teachers' institutes at such times as the
 3 schools of the county are generally in session; and shall, with the con-
 4 currence of the superintendent of public instruction, procure such
 5 assistance as may be necessary to conduct the same.

6 The school board of every school district, except in city inde-
 7 pendent school districts where twenty-five or more teachers are regu-
 8 larly employed, shall adjourn the school or schools of said district for
 9 not less than two days in each school year in order to allow teachers
 10 to attend county teachers' institutes held in the county, without loss
 11 of salary. The county superintendent shall issue a certificate of
 12 attendance to each teacher showing number of days of attendance at
 13 said institute, and any teacher failing to attend said teachers' institute
 14 two days shall forfeit his or her average daily salary for each day of
 15 nonattendance, except when excused by the county superintendent for
 16 physical disability to perform his or her duties in the schoolroom.

17 In city independent districts, where twenty-five or more teachers
 18 are regularly employed, the county superintendent shall cooperate
 19 with the city superintendent in arranging for educational lectures
 20 relating to the professional work of the teacher and to such matters of
 21 public education as may best meet the needs of the teachers in such
 22 districts and at such times as may be approved by the city superin-
 23 tendent and city board of education, in so far as the condition of the
 24 county institute fund shall permit. All arrangements concerning plans
 25 for professional teachers' meetings in said city districts shall be sub-

26 ject to final approval by the superintendent of public instruction. It
27 shall be the duty of teachers in said districts to attend said lectures
28 and the county superintendent shall issue a certificate of attendance
29 showing number of lectures attended as provided by this section.

30 To defray the expenses of said teachers' institutes, in addition to
31 the fifty dollars received annually from the state and one-half of all
32 examination fees collected in the county, one hundred fifty dollars from
33 the general county fund shall be available for that purpose in counties
34 having a population of thirty thousand or less, which amount shall be
35 appropriated by the board of supervisors of such county at their Jan-
36 uary session in each year, and in counties of over thirty thousand, two
37 hundred dollars shall be thus appropriated for such purpose.

38 No part of the county teachers' institute fund received from the
39 aforesaid sources may be used for any other purpose than to pay
40 instructors, for special supplies needed in order to properly conduct
41 said teachers' institutes, for janitor service, and rent for building in
42 which to conduct said institute if necessary.

43 On the first secular day of each month, the county superintendent
44 shall transmit to the county treasurer all moneys received for exam-
45 ination fees and the state appropriation for institutes, which, together
46 with the county appropriation, shall be designated as the county teach-
47 ers' institute fund; he shall also report monthly the names of all appli-
48 cants for teachers' certificates to the county auditor. All disburse-
49 ments of the institute fund shall be by warrants drawn by the county
50 auditor, who shall draw said warrants upon the written order of the
51 county superintendent, and said written order must be accompanied
52 by an itemized bill for services rendered or expenses incurred in con-
53 nection with the institute, which bill must be signed and sworn to by
54 the party in whose favor the order is made and must be verified by
55 the county superintendent. All said orders and bills shall be kept on
56 file in the auditor's office until the final settlement of the county super-
57 intendent with the board of supervisors at the close of his term of
58 office. No warrant shall be drawn by the auditor in excess of the
59 institute fund then in the county treasury. The county superintendent
60 shall furnish to the county board of supervisors a certified itemized
61 account of the receipts and disbursements of all moneys collected and
62 paid out by him for teachers' institutes and summer schools, which
63 account they shall examine, audit and publish a summary thereof with
64 the proceedings of the regular June meeting of the board. The county
65 superintendent shall report to the board of supervisors on the first of
66 January annually a summary of his official financial transactions for
67 the previous year.

68 County superintendents are hereby authorized by law to conduct
69 from four to six weeks' summer school where it may be deemed advis-
70 able, for the purpose of giving teachers and prospective teachers
71 academic instruction. A fee shall be collected from each attendant
72 sufficient in the aggregate to meet all necessary expenses for the
73 support of said summer school. The fee so collected shall be paid into
74 the county institute fund and a list of the names of all attendants
75 shall be filed with the county auditor. Warrants for the purpose of
76 paying instructors employed in summer schools shall be drawn by the
77 county auditor, who shall draw said warrant upon written order of the
78 county superintendent, and said written order must be accompanied
79 by a certified itemized bill for services rendered or expenses incurred
80 in connection with said summer school, but no warrant shall be issued

81 in excess of the fees received from the summer school and deposited
82 with the county treasurer.

[C., '97, § 2738; S., '13, § 2738.]

SEC. 2502. Normal institute.

1 It shall be the duty of each county superintendent to have taught
2 annually in the normal institute the elements of vocal music.

[S., '13, § 2823-t.]

SEC. 2503. Reports.

1 The county superintendent shall annually, on the last Tuesday in
2 August, make a report to the superintendent of public instruction,
3 giving a full abstract of the several reports made to him by the secre-
4 taries and treasurers of school boards, stating the manner in and
5 extent to which the requirements of the law regarding instruction in
6 physiology and hygiene are observed, and such other matters as he
7 may be directed by the state superintendent to include therein, or he
8 may think important in showing the actual condition of the schools in
9 his county. At the same time, he shall file with the county auditor a
10 statement of the number of persons of school age in each school town-
11 ship and independent district in the county. He shall also report, as
12 provided by law, to the superintendent of the college for the blind,
13 the name, age, residence and postoffice address of every person, resi-
14 dent of the county, so blind as to be unable to acquire an education in
15 the common schools; to the superintendent of the institution for the
16 deaf and dumb, with the same detail, all persons of school age whose
17 faculties in respect to hearing or speaking are so deficient as to pre-
18 vent them from acquiring an education in such schools; and to the
19 institution for the feeble minded, all persons of like age who, because
20 of mental defects, are entitled to admission therein.

[R., '60, § 2071; C., '73, §§ 1772, 1775; C., '97, § 2739; S.,
'13, § 2739.]

SEC. 2504. Enforcing laws.

1 The county superintendent shall see that all provisions of the
2 school law, so far as it relates to the schools or school officers within
3 his county, are observed and enforced, especially those relating to the
4 fencing of schoolhouse grounds with barb wire, and the introduction
5 and teaching of such divisions of physiology and hygiene as relate to
6 the effects of alcohol, stimulants and narcotics upon the human sys-
7 tem, and those relating to compulsory attendance of pupils within
8 the ages prescribed therein, and those relating to the exclusive use
9 of the English language in the schools of his county as prescribed by
10 law; and to this end he may require the assistance of the county attor-
11 ney, who shall at his request bring any action necessary to enforce the
12 law or recover penalties incurred.

[C., '97, § 2740; 38 G. A., ch. 340, § 1.]

SEC. 2505. Penalty.

1 Should he fail to make the report herein required of him to
2 the superintendent of public instruction or the county auditor, he
3 shall forfeit to the school fund of his county the sum of fifty dollars,
4 to be recovered in an action brought by the county for the use of the

5 school fund, and in addition shall be liable for all damages occasioned
6 thereby.

[R., '60, § 2072; C., '73, § 1773; C., '97, § 2741.]

SEC. 2506. Compensation.

1 Each county superintendent of schools shall receive for his serv-
2 ices the following compensation: In counties having a population of
3 less than ten thousand, sixteen hundred dollars; in counties having a
4 population of ten thousand and less than twenty thousand, seventeen
5 hundred dollars; in counties having a population of twenty thousand
6 and less than thirty thousand, eighteen hundred dollars; in counties
7 having a population of thirty thousand and less than forty thousand,
8 nineteen hundred dollars; in counties having a population of forty
9 thousand and less than fifty thousand, two thousand dollars; in coun-
10 ties having a population of fifty thousand or more, the sum of twenty-
11 five hundred dollars; and in all cases such superintendent shall receive
12 the expenses of necessary office stationery and postage and those
13 incurred in attending upon meetings called by the superintendent of
14 public instruction; claims therefor to be made by verified statement
15 filed with the county auditor, who shall draw his warrant upon the
16 county treasurer therefor; provided that, where county superintend-
17 ents are now receiving by action of the board of supervisors a sum
18 greater than the amount fixed herein, this shall not be construed so as
19 to reduce said sum. Any increase in salaries provided for in this sec-
20 tion shall not apply after June thirtieth, nineteen hundred twenty-one.

[R., '60, § 2074; C., '73, § 1776; C., '97, § 2742; S., '13, § 2742;
38 G. A., ch. 293, § 6.]

CHAPTER 19.

SCHOOL DISTRICTS.

SECTION 2507. School districts—corporate powers.

1 Each school district now existing shall continue a body politic as
2 a school corporation, unless hereafter changed as provided by law,
3 and as such may sue and be sued, hold property, and exercise all the
4 powers granted by law, and shall have exclusive jurisdiction in all
5 school matters over the territory therein contained.

[C., '51, § 1108; R., '60, §§ 2022, 2026; C., '73, §§ 1713, 1716;
C., '97, § 2743.]

SEC. 2508. Names.

1 District townships now existing shall hereafter be called school
2 townships, subdivisions of which shall be called subdistricts. School
3 corporations shall be designated as follows: the school township of
4 (naming civil township), in the county of (naming county), state of
5 Iowa; or, the independent school district of (naming city, town, or
6 village, and if there are two or more districts therein, including some
7 appropriate name or number), in the county of (naming county),
8 state of Iowa; or, the rural independent school district of (some appro-

9 priate name or number), township of (naming township), in the county
10 of (naming county), state of Iowa.

[C., '51, § 1108; R., '60, § 2026; C., '73, § 1716; C., '97,
§ 2744; S., '13, § 2744.]

SEC. 2509. Directors.

1 The affairs of each school corporation shall be conducted by a
2 board of directors, the members of which in all independent school
3 districts shall be chosen for a term of three years, and in all subdis-
4 tricts of school townships for a term of one year.

[C., '97, § 2745.]

SEC. 2510. Division of school township into subdistricts.

1 The board of any school township may, by a vote of a majority
2 of all the members thereof, at the regular meeting in July, or at any
3 special meeting called thereafter for that purpose, divide the school
4 township into subdistricts such as justice, equity and the interests of
5 the people require, and may make such alterations of the boundaries
6 of subdistricts heretofore formed as may be deemed necessary, and
7 shall designate such subdistricts and all subsequent alterations in a
8 distinct and legible manner upon a plat of the school township pro-
9 vided for that purpose, and shall cause a written description of the
10 same to be recorded in the records of the school township, a copy of
11 which shall be delivered by the secretary to the county treasurer and
12 also to the county auditor, who shall record the same in his office.
13 The boundaries of subdistricts shall conform to the lines of con-
14 gressional divisions of land, and the formation or alteration of sub-
15 districts as contemplated in this section shall not take effect until
16 the first Monday in March thereafter, at which time a director shall
17 be elected for any subdistrict newly formed.

[R., '60, § 2038; C., '73, §§ 1725, 1738, 1796; C., '97, § 2801;
S., '13, § 2801.]

SEC. 2511. New township.

1 When a new civil township is formed, the same shall constitute a
2 school township, which shall go into effect on the first Monday in
3 March following the completed organization of the civil township.
4 The notices of the first meeting shall be given by the county superin-
5 tendent, and at such meeting a board of three directors shall be
6 chosen.

[R., '60, § 2022; C., '73, § 1713; C., '97, § 2790.]

SEC. 2512. Attaching territory to adjoining corporation.

1 In any case where, by reason of natural obstacles, any portion
2 of the inhabitants of any school corporation in the opinion of the
3 county superintendent can not with reasonable facility attend school
4 in their own corporation, he shall, by a written order, in duplicate,
5 attach the part thus affected to an adjoining school corporation, the
6 board of the same consenting thereto, one copy of which order shall
7 be at once transmitted to the secretary of each corporation affected
8 thereby, who shall record the same and make the proper designation
9 on the plat of the corporation. Township or county lines shall not
10 be a bar to the operation of this section.

[C., '73, § 1797; C., '97, § 2791.]

SEC. 2513. Restoration.

1 Where territory has been or may hereafter be set off to an adjoining school township in the same or another county, or attached for school purposes to an independent district so situated, it may be restored to the territory to which it geographically belongs upon the concurrence of the respective boards of directors, and shall be so restored by said boards upon the written application of two-thirds of the electors residing upon the territory so set off or attached, together with a concurrence of the county superintendent and the board of the school corporation which is to receive back the territory.

[C., '73, § 1798; C., '97, § 2792.]

SEC. 2514. Boundary lines changed.

1 The boundary lines of contiguous school corporations may be changed by the concurrent action of the respective boards of directors at their regular meetings in July, or at special meetings thereafter, called for that purpose. The corporation from which territory is detached shall, after the change, contain not less than four government sections of land, and its boundary lines must conform to the lines of congressional divisions of land. In the same manner, the boundary lines of contiguous school corporations may be so changed that one corporation shall be included in and consolidated with the other as a single corporation. When boundary lines are changed by concurrent action, school districts affected thereby shall not be required to elect new boards of directors, and the boards then in office may make final settlement of all assets and liabilities as provided in section twenty-five hundred sixteen, and in case of a consolidation of districts under this section the officers and members of the board of directors of the independent district having the larger number of inhabitants, shall continue to be the officers and directors of the independent district as consolidated for the period for which such officers and directors were elected.

[C., '97, § 2793; S., '13, § 2793; 38 G. A., ch. 113, § 1.]

SEC. 2515. Corporation limits changed.

1 When the boundary line between a school township and an independent city or town district is not also the line between civil townships, such boundary may be changed at any time by the concurrence of the boards of directors; but in no case shall a forty-acre tract of land, by the government survey, be divided; and such subdivisions shall be excluded or included as entire forties. The boundaries of the school township or the independent district may in the same manner be extended to the line between civil townships, even though by such change one of the districts shall be included within and consolidated with the other as a single district. When the corporate limits of any city or town are extended outside the existing independent district or districts, the boundaries of said independent district or districts shall be also correspondingly extended. But in no case shall the boundaries of an independent district be affected by the reduction of the corporate limits of a city or town.

[S., '13, § 2793-a.]

SEC. 2516. Changes of boundaries—division of assets and liabilities.

1 When any changes are made in the boundaries of any school cor-
 2 porations the new corporation shall elect a board of directors in ac-
 3 cordance with the new boundaries, and such new boards shall organize
 4 as provided in section twenty-five hundred forty-eight. The boards
 5 of directors in office at the time the changes are made in the boundaries
 6 of the school corporations shall continue to act until the boards of
 7 directors representing the newly formed districts have been duly
 8 organized, whereupon the new boards shall make an equitable division
 9 of all assets and liabilities of the corporations affected; and, if they
 10 can not agree, the matters upon which they differ shall be decided by
 11 disinterested arbitrators, one selected by each board having an inter-
 12 est therein, and if the number thus selected is even then one shall be
 13 added by the county superintendent, and the decision of the arbitrators
 14 shall be made in writing, either party having the right to appeal there-
 15 from to the district court.

[C., '73, § 1715; C., '97, § 2802; S., '13, § 2802.]

SEC. 2517. Formation of independent district.

1 Upon the written petition of any ten voters of a city, town or
 2 village of over one hundred residents, to the board of the school cor-
 3 poration in which the portion of the town plat having the largest
 4 number of voters is situated, such board shall establish the boundaries
 5 of a proposed independent district, including therein all of the city,
 6 town or village, and also such contiguous territory as is authorized
 7 by a written petition of a majority of the resident electors of the con-
 8 tiguous territory proposed to be included in said district, in not smaller
 9 subdivisions than entire forties of land, in the same or any adjoining
 10 school corporations, as may best subserve the convenience of the people
 11 for school purposes, and shall give the same notices of a meeting as
 12 required in other cases, at which meeting all voters upon the territory
 13 included within the contemplated independent district shall be allowed
 14 to vote by ballot for or against such separate organization. When it
 15 is proposed to include territory outside the town, city or village, the
 16 voters residing upon such outside territory shall be entitled to vote
 17 separately upon the proposition for the formation of such new district,
 18 by presenting a petition of at least twenty-five per cent of the voters
 19 residing upon such outside territory, and if a majority of the votes
 20 so cast is against including such outside territory, then the proposed
 21 independent district shall not be formed, provided that a subdistrict
 22 containing a village with a population of seventy-five or more, may,
 23 under the provisions of this section, organize into an independent
 24 school district.

[R., '60, §§ 2097, 2105; C., '73, §§ 1800, 1801; C., '97, § 2794;
 S. S., '15, § 2794.]

SEC. 2518. Organization.

1 If the proposition to establish an independent district carries,
 2 then the same board shall give the usual notice for a meeting to choose
 3 a board of directors. Two directors shall be chosen to serve until
 4 the next annual meeting, two until the second, and one until the third
 5 annual meeting thereafter. The board shall organize by the election
 6 of officers in the usual manner.

[R., '60, §§ 2099, 2100, 2106; C., '73, § 1802; C., '97, § 2795.]

SEC. 2519. Taxes certified and levied.

1 The organization of such independent district shall be effected
2 on or before the first day of August of the year in which it is
3 attempted, and, when completed, all taxes certified for the school town-
4 ship or townships of which the independent district formed a part
5 shall be void so far as the property within the limits of the independ-
6 ent district is concerned, and the board of such independent district
7 shall fix the amount of all necessary taxes for school purposes, includ-
8 ing schoolhouse taxes, at a meeting called for such purpose at any
9 time before the third Monday of August, which shall be certified to
10 the board of supervisors on or before the first Monday of September,
11 and it shall levy said tax at the same time and in the same manner
12 that other school taxes are required to be levied.

[C., '73, § 1804; C., '97, § 2796.]

SEC. 2520. Rural independent districts.

1 At any time before the first day of August, upon the written
2 request of one-third of the legal voters in each subdistrict of any
3 school township, the board shall call a meeting of the voters of the
4 subdistrict, giving at least thirty days' notice thereof by posting three
5 notices in each subdistrict in each school township, at which meet-
6 ing the voters shall vote by ballot for or against rural independ-
7 ent district organization. If a majority of the votes cast in each sub-
8 district shall be favorable to such independent organization, then each
9 subdistrict shall become a rural independent district, and the board
10 of the school township shall then call a meeting in each rural inde-
11 pendent district for the choice of three directors, to serve one, two
12 and three years, respectively, and the organization of the said rural
13 independent district shall be completed.

[C., '97, § 2797.]

**SEC. 2521. Rural independent districts united into school town-
ship.**

1 A township which has been divided into rural independent dis-
2 tricts may be erected into a school township by a vote of the electors,
3 to be taken upon the written request of one-third of the legal voters
4 residing in such civil township. Upon presentation of such written
5 request to the township trustees, they shall call a meeting of the elect-
6 ors at the usual place or places of holding the township election, upon
7 giving at least ten days' notice thereof by posting three written notices
8 in each rural independent district in the township, and by publication
9 in a newspaper, if one be published in such township, at which meet-
10 ing the said electors shall vote by ballot for or against a school town-
11 ship organization. If a majority of the votes east at such election
12 be in favor of such organization, each rural independent district shall
13 become a subdistrict of the school township, and shall organize as
14 such on the first Monday in March following by the election of a direc-
15 tor, notice of which shall be given as in other cases by the secretary
16 of each of the rural independent districts, and the directors so elected
17 shall organize as a board of directors of the school township on the
18 first day of July following, unless that date falls on Sunday, in which
19 case on the day following.

[C., '73, §§ 1815-1820; C., '97, § 2800; S., '13, § 2800.]

SEC. 2522. Subdivision of independent districts.

1 Independent districts may subdivide for the purpose of forming
 2 two or more independent districts, or have territory detached to be
 3 annexed with other territory in the formation of an independent dis-
 4 trict or districts, the board of directors of the original independent
 5 districts to establish the boundaries of the districts thus formed, such
 6 new districts to contain not less than four government sections of
 7 land each; but in case a stream or other obstacle shall debar a number
 8 of children of school privileges, an independent district may be thus
 9 organized containing less territory; or, if such new district shall
 10 include within its territory a town or village with not less than one
 11 hundred inhabitants, it may in like manner be made up of less terri-
 12 tory; but in neither case shall the new district contain less than two
 13 government sections of land, nor be organized except on a majority
 14 vote of the electors of each proposed district, and the proceedings for
 15 such subdivision shall in all respects be like those provided in the
 16 section relating to organizing cities and towns into independent dis-
 17 tricts, so far as applicable.

[C., '97, § 2798.]

SEC. 2523. Uniting independent districts.

1 Independent districts located contiguous to each other may unite
 2 and form one and the same independent district in the manner fol-
 3 lowing: At the written request of any ten legal voters residing in
 4 each of said independent districts, or, if there be not ten, then a ma-
 5 jority of such voters, their respective boards of directors shall require
 6 their secretaries to give at least ten days' notice of the time and place
 7 for a meeting of the electors residing in each of such districts, by
 8 posting written notices in at least five public places in each of said
 9 districts, at which meeting the electors shall vote by ballot for or
 10 against a consolidated organization of said independent districts, and,
 11 if a majority of the votes cast at the election in each district shall be
 12 in favor of uniting said districts, the secretaries shall give similar
 13 notice of a meeting of the electors as provided for by law for the organ-
 14 ization of independent districts, including cities and towns.

[C., '73, § 1811; C., '97, § 2799.]

**SEC. 2524. Consolidated independent school districts—petition—
notice—hearing—appeal—election—buildings.**

1 1. *Organization—petition—election—board of directors.* When
 2 a petition describing the boundaries of contiguous territory contain-
 3 ing not less than sixteen sections, within one or more counties, asking
 4 for the establishment of a consolidated independent school district
 5 and signed by one-third of the qualified voters residing therein, is
 6 filed with the county superintendent of the county in which the largest
 7 number of qualified voters in the proposed district reside, he shall
 8 within ten days give public notice of the place and date when all objec-
 9 tions shall be filed. Such petition shall be accompanied by an affidavit
 10 showing the number of qualified voters in the proposed consolidated
 11 district, and in case such district is in two or more counties such affi-
 12 davit shall show separately, as to each county, the number of qualified
 14 Such affidavit shall be made by some qualified voter residing in the
 13 voters in the part of each county included in the proposed district.
 15 proposed district, and shall be taken as true, unless objections are

16 filed to it prior to the final decision on said petition. All notices under
17 this paragraph shall be by one publication in a newspaper published
18 within the proposed district, or, if there be none, then in a newspaper
19 having general circulation within the proposed consolidated district,
20 which publications shall be made not less than five days nor more than
21 fifteen days prior to the hearing or election to which they refer. Ob-
22 jections may be made by any person residing upon or owning land
23 within such proposed boundaries, or who would be injuriously affected
24 by the formation of the proposed district, and shall be on file not later
25 than twelve o'clock noon of the day fixed for receiving objections.
26 Within five days after such filings the county superintendent shall
27 review all papers filed in his office and after careful review and inves-
28 tigation of their merits shall overrule or sustain the objections filed
29 and fix and determine the boundary lines of the proposed consolidated
30 district. In determining these boundaries he shall so locate the bound-
31 ary lines as will in his judgment form the best possible consolidated
32 district, having due regard also to the welfare of adjoining districts.
33 He shall also notify at once all objectors by registered letter of his
34 decision. Any person having filed objections and being aggrieved by
35 the ruling of the county superintendent, may appeal from his decision
36 to the county board of education within ten days after the decision
37 is rendered, by serving written notice on the said county superintend-
38 ent. Within five days after said notice has been received, the county
39 superintendent shall file with the county board of education all of the
40 original papers, together with his decision, and fix the time and place
41 where such appeal will be heard, and shall give notice to appellants by
42 registered letter as heretofore provided. The time fixed for such
43 hearing shall be not less than ten nor more than fifteen days from the
44 date his decision is rendered. The county board of education shall
45 determine such appeal within five days after the submission thereof,
46 which decision shall be final as to said boundaries. If no objections
47 be filed or if the objections be not sustained, it shall be the duty of
48 the county superintendent with whom said petition has been filed to
49 call an election in the proposed consolidated district, legal notice of
50 which shall be given as hereinbefore provided. At the election all
51 qualified voters residing in the proposed consolidated district shall
52 be entitled to vote by ballot for or against the establishment thereof.
53 When it is proposed to include in such district a school corporation
54 containing a city, town or village with a population of two hundred
55 or more inhabitants, the voters residing upon the territory outside
56 the limits of the said school corporation shall vote separately upon
57 the proposition to create such new district. The judges of said elec-
58 tion shall provide separate ballot boxes in which shall be deposited
59 the votes cast by the qualified voters from their respective territory,
60 and if a majority of the votes cast by the qualified voters residing
61 either within or without the limits of the aforesaid school corporation
62 is against the proposition to form a consolidated independent corpora-
63 tion, then the proposed corporation shall not be formed. If a major-
64 ity of the votes so cast in each territory shall be in favor of such
65 independent organization, the organization of the proposed consoli-
66 dated independent school corporation shall be completed by the elec-
67 tion of a board of directors for said school corporation. Said election
68 shall be called by the same county superintendent and by giving the
69 same notice as provided for the calling of the election to establish said
70 consolidated independent district. At such election two directors
71 shall be chosen to serve until the next annual meeting, two until the

72 second, and one until the third annual meeting thereafter. It is fur-
73 ther provided that when a consolidated independent district is so
74 organized it shall not be reduced to less than sixteen sections unless
75 dissolved as provided by law. No remaining portion of any school
76 corporation from which territory is taken to form such a consolidated
77 independent corporation shall, after the change, contain less than four
78 government sections, which territory shall be contiguous and so situ-
79 ated as to form a suitable corporation. In the formation of such con-
80 solidated school corporation the boundary lines shall conform to those
81 of school corporations or subdistricts already established; provided,
82 however, that the county board of education, on hearing, may fix other
83 boundaries than herein prescribed, when, because of meandering
84 streams, irregular boundaries of existing subdistricts, or school cor-
85 porations, or the location of highways, the welfare of the consolidated
86 district and adjoining districts may be better served. In case the
87 boundary of such subdistricts be a public highway, then the said con-
88 solidated district may include such tracts of one hundred sixty acres
89 or less as are contiguous to the said highway. And where, after the
90 formation of such consolidated school corporation, there is left in any
91 school township one or more pieces of territory containing four or
92 more government sections, each of such pieces of territory shall
93 thereby become a rural independent school corporation, unless two
94 or more subdistricts remain in a contiguous body, in which event such
95 remaining portion of territory shall constitute a school township, and
96 it shall be the duty of the officers of the former school township to call
97 an election in each of such remaining pieces of territory for the pur-
98 pose of electing school officers in the manner provided by law for the
99 election of officers in rural independent school and school township
100 corporations. The judges of the elections herein provided for shall
101 be appointed by the county superintendent with whom the petition
102 was filed. Such judges shall be qualified voters of the territory or
103 district in which they are to serve. If any judge fails to appear at
104 the proper time, his place shall be filled by the judge or judges pres-
105 ent. In all cases in which, at the time of the taking effect of this
106 act [38 G. A., ch. 277], proceedings for the formation of a consoli-
107 dated independent school district had been commenced but not com-
108 pleted, the formation of such districts may be completed under the
109 provisions of the law in force prior to the passage of this act [38
110 G. A., ch. 277], except that all elections hereafter held in such cases
111 shall be held under the provisions of this act [38 G. A., ch. 277].
112 And in all cases in which proceedings have been instituted to organ-
113 ize a consolidated independent school district under the provisions
114 of section twenty-seven hundred ninety-four-a, supplemental supple-
115 ment to the code, nineteen hundred fifteen, as amended by chapter
116 four hundred thirty-two of the acts of the thirty-seventh general
117 assembly, and an election has been held at which there has been sub-
118 mitted the question of forming a consolidated independent school
119 district, and a majority of the votes cast have been in favor of the
120 formation of such district, and such district has been organized by
121 the election of a board of directors, the formation and organization
122 of such district is hereby legalized.

123 2. *Organization of board—taxes previously certified—levy for*
124 *general fund.* The organization of the school board in consolidated
125 independent school corporations shall be effected on or before the
126 first day of July following their election, and when completed, all
127 taxes previously certified shall be void so far as the property within

128 the limits of the consolidated independent school corporation is con-
129 cerned, and the board of said consolidated independent school cor-
130 poration shall at a regular meeting, or a special meeting called for
131 the purpose, at any time prior to the third Monday in August of each
132 year, levy for the general fund of said school the amount of all neces-
133 sary taxes for all school purposes, which shall not exceed sixty-five
134 dollars for each person of school age, except that where an approved
135 high school course is maintained in such school the levy may be
136 eighty dollars for each person of school age, the amount so levied to
137 be certified by them to the county board of supervisors on or before
138 the first Monday of September in each year, and the board of super-
139 visors shall levy said tax at the same time, and in the same manner
140 that other school taxes are required to be levied.

141 3. *Central school—transportation.* It shall be the duty of the
142 school board of any consolidated independent school corporation and
143 school townships maintaining a central school to provide suitable
144 transportation to and from school, for every child of school age living
145 within said district, and outside the limits of any city, town or vil-
146 lage, but the board shall not be required to cause the vehicle of trans-
147 portation to leave the public highway to receive or discharge occu-
148 pants thereof. The board shall from time to time, by resolution
149 regularly adopted, number and designate the route to be traveled by
150 each conveyance in transporting children to and from school. The
151 school board may require that children living an unreasonable dist-
152 tance from school shall be transported by the parent, or guardian,
153 a distance of not to exceed two miles, to connect with any vehicle of
154 transportation to and from school; or may, in the discretion of the
155 board, contract with an adjoining school corporation for the instruc-
156 tion of any child living an unreasonable distance from school, and
157 they shall allow a reasonable amount of compensation for the trans-
158 portation of children to and from the point where they are taken
159 over, or discharged from, the vehicle used to convey them to and
160 from school, or for transporting to an adjoining district. In deter-
161 mining what an unreasonable distance would be, consideration shall
162 be given to the number and age of the children, the condition of the
163 roads, and the number of miles to be traveled in going to and from
164 school. The board shall have the right on account of inclemency of
165 the weather to suspend the transportation of any route upon any
166 day or days when in the judgment of the said board it would be a
167 hardship on the children, or when the roads to be traveled are unfit
168 or impassable.

169 4. *Contracts for transportation—rules and regulations.* The
170 school board of any consolidated independent school corporation shall
171 contract with as many suitable persons as they deem necessary for
172 the transportation of children of school age to and from school, such
173 contract to be in writing and shall state the number of the route,
174 the length of time contracted for, the compensation to be allowed per
175 week of five school days, or per month of four school weeks, and
176 may provide that two weeks' salary shall be retained by the board
177 pending full compliance therewith by the party contracted with, and
178 shall always provide that any party or parties to said contract, and
179 every person in charge of vehicles conveying children to and from
180 school, shall be at all times subject to any rules or regulations said
181 board shall adopt for the protection of the children, or to govern the
182 conduct of the person in charge of said conveyance.

183 5. *School building—tax levy—location.* It shall be the duty of
 184 the school board of any consolidated independent district to provide
 185 a suitable school building within such district, and shall at any
 186 regular meeting or at a special meeting called for that purpose submit
 187 the question of levying a tax for the building of any school building
 188 suitable for the needs of the district, or for the building of a super-
 189 intendent's and teachers' house, or for the repairing of any school
 190 building where the cost of such repairs exceeds the sum of two thou-
 191 sand dollars, to the qualified voters of said district, and all moneys
 192 received from such source to be placed in the schoolhouse fund of
 193 said corporation and to be used for such purposes only. In locating
 194 said building they shall take into consideration the geographical position,
 195 number and convenience of the scholars, and may submit the
 196 question of location to the voters of the district at any regular meet-
 197 ing or special meeting called for that purpose; providing that when-
 198 ever a city, town or village containing a school population of twenty-
 199 five or more is included within any consolidated independent district,
 200 then said building shall be located within the limits of said city, town
 201 or village, or upon lands contiguous to such limits, on such a site as
 202 the school board may determine.

203 6. *Dissolution—petition—election—boards of directors—divi-*
 204 *sion of assets and liabilities.* Whenever a petition signed by one-
 205 third of the electors in a consolidated independent school corporation
 206 asking that said district be dissolved and describing the boundaries
 207 of the district or districts proposed to be organized out of the terri-
 208 tory then included in such consolidated independent school corpora-
 209 tion and having the approval of the county superintendent, if one
 210 county, and the superintendent of each if more than one county, and
 211 by the state superintendent of public instruction if the county super-
 212 intendents do not agree, is filed with the board of said consolidated
 213 independent district, it shall be the duty of said board within ten
 214 days to call an election for which they shall give the same notices
 215 as are required in sections twenty-five hundred thirty-five and twenty-
 216 five hundred thirty-eight, at which election all voters residing within
 217 the district shall be allowed to vote by ballot for or against such
 218 dissolution. If a majority of all votes cast at said election be in
 219 favor of dissolving the consolidated district, same shall be dissolved
 220 and the organization of a new district or districts be forthwith com-
 221 pleted by the election of a board of directors as provided by statute;
 222 provided, however, that such dissolution shall become effective only
 223 when the reorganization of the territory included in the original con-
 224 solidated district is completed. The assets and liabilities of any such
 225 school corporation thus dissolved shall be equitably divided as pro-
 226 vided in section twenty-five hundred sixteen.

227 7. *Violation of transportation rules and regulations—penalty.*
 228 Any person driving, managing, or in charge of any vehicle used in
 229 transporting children to and from school, in any consolidated inde-
 230 pendent school corporation, who shall be found guilty of violating
 231 any of the rules and regulations adopted by the board of said school
 232 for the guidance of any person in charge of such conveyance, shall be
 233 guilty of a misdemeanor, and for the first offense shall be fined not
 234 less than five dollars or more than ten dollars, and for a subsequent
 235 offense shall be fined not less than twenty-five dollars or more than
 236 fifty dollars, and shall be dismissed from the service.

[S. S., '15, § 2794-a; 37 G. A., ch. 432; 38 G. A., ch. 116, § 1;
 38 G. A., ch. 149, § 1; 38 G. A., ch. 277, § 1.]

SEC. 2525. State aid to consolidated schools — equipment and maintenance — two-room building — agriculture and home economics.

1 All consolidated schools organized in accordance with the pro-
2 visions of the preceding section, which are now or hereafter estab-
3 lished with suitable grounds and a two-room school building and the
4 necessary departments and equipment for teaching agriculture and
5 home economics, or other industrial and vocational subjects, and em-
6 ploying teachers holding a certificate showing their qualifications to
7 teach said subjects, and in which said subjects are provided as a part
8 of the regular course in such schools, subject to the approval of the
9 superintendent of public instruction, shall be awarded and paid from
10 the state treasury, from moneys not otherwise appropriated, the sum
11 of two hundred fifty dollars towards the equipment required, and the
12 further sum of two hundred dollars annually.

[S., '13, § 2794-b.]

SEC. 2526. State aid to consolidated schools—three-room building—manual training.

1 All such schools established with a three-room school building
2 and suitable grounds and the necessary departments and equipment
3 for teaching agriculture, home economics and manual training, or
4 other industrial and vocational subjects, and employing teachers hold-
5 ing a certificate showing their qualification to teach said subjects, and
6 in which said subjects are provided as a part of the regular course
7 in such schools, subject to the approval of the superintendent of public
8 instruction, shall be awarded and paid from the state treasury, from
9 moneys not otherwise appropriated, the sum of three hundred fifty
10 dollars towards the equipment required, and the further sum of five
11 hundred dollars annually.

[S., '13, § 2794-c.]

SEC. 2527. State aid to consolidated schools—four-room building.

1 All such schools established with four rooms or more and suitable
2 grounds and the necessary departments and equipment for teaching
3 agriculture, home economics and manual training, or other industrial
4 and vocational subjects, and employing teachers holding a certificate
5 showing their qualifications to teach said subjects, and in which said
6 subjects are provided as a part of the regular course in such schools,
7 subject to the approval of the superintendent of public instruction,
8 shall be awarded and paid from the state treasury, from moneys not
9 otherwise appropriated, the sum of five hundred dollars towards the
10 equipment required, and the further sum of seven hundred fifty dol-
11 lars annually.

[S., '13, § 2794-d.]

SEC. 2528. Report by secretary—requisition—warrant.

1 The secretary of each school corporation shall, at the close of
2 each school year, report to the superintendent of public instruction as
3 said officer may require; upon receipt of a satisfactory report, the
4 superintendent of public instruction shall issue a requisition upon the
5 auditor of state for the amount due such school corporation for said
6 year; whereupon the auditor of state shall draw a warrant on the
7 state treasury payable to such school corporation for the amount of

8 said requisition, and forward the same to the secretary of such school
9 corporation.

[S., '13, § 2794-e.]

SEC. 2529. No additional aid for normal course in high school.

1 No consolidated school having a high school department shall re-
2 ceive additional aid for maintaining the normal training course in
3 high schools as provided in chapter five of this title.

[S., '13, § 2794-f.]

SEC. 2530. Annual appropriation.

1 For the purpose of carrying out the provisions of this act [35
2 G. A., ch. 250] there is hereby appropriated annually out of any money
3 in the state treasury, not otherwise appropriated, the sum of one hun-
4 dred fifty thousand dollars, or so much thereof as may be necessary.
5 In the event the foregoing appropriation shall be insufficient in any
6 year to pay in full the state aid to which the schools described in sec-
7 tions twenty-five hundred twenty-five, twenty-five hundred twenty-six
8 and twenty-five hundred twenty-seven, the said appropriation shall
9 be distributed among the several schools pro rata in proportion to the
10 amount they would have received had said appropriation been suffi-
11 cient to pay in full the amounts provided for in said sections.

[S. S., '15, § 2794-g; 38 G. A., ch. 291, § 1.]

SEC. 2531. Consolidation authorized.

1 In all cities of the first class containing a population of fifty thou-
2 sand or over, according to any census taken by the authority or under
3 the direction of the state of Iowa or of the United States, all the terri-
4 tory embraced within the corporate limits of any such city may be
5 consolidated into and become one independent school district, known
6 as the independent school district of (naming the city), state of Iowa,
7 in the manner following.

[S., '13, § 2820-e.]

**SEC. 2532. Petition—question submitted—consolidation effect-
ed—board of directors—officers.**

1 When a written petition, requesting the establishment of a con-
2 solidated independent district whose territory shall be coextensive
3 with that of such city, signed by one hundred voters of such city, is
4 filed with the board of the school corporation therein having the larg-
5 est number of voters, it shall be the duty of said board within ten
6 days, to call an election, at which all the voters residing in the pro-
7 posed district shall be allowed to vote by ballot for or against the
8 proposition, "Shall all the territory within the city of (naming it)
9 be united into one school district?" The board calling said election
10 shall divide the territory within the proposed district into such num-
11 ber of precincts as the board shall determine, and the judges of elec-
12 tion shall make and certify a return of the vote to the secretary of the
13 same board which shall, on the next Monday after the election, canvass
14 the returns made to the secretary, ascertain the result of the election,
15 declare the same and cause a record to be made thereof, and in all
16 other respects, except as inconsistent with the provisions of sections
17 twenty-five hundred thirty-one to twenty-five hundred thirty-four,
18 inclusive, the election shall be conducted as provided by law for elec-

19 tions in independent school districts in cities of the first class. If a
 20 majority of the votes cast at such election is favorable to the propo-
 21 sition, the consolidation and formation of said independent district
 22 shall thereby be effected, and the board of directors, treasurer, and
 23 other officers of the school corporation then holding office in the dis-
 24 trict affected by such consolidation having the largest number of
 25 voters, shall become the board of directors, treasurer and other offi-
 26 cers of such consolidated district, and shall continue to hold their
 27 respective offices until the terms for which they were originally elected
 28 shall expire. The terms of office of all directors, treasurers and offi-
 29 cers of boards in all the other districts affected by sections twenty-five
 30 hundred thirty-one to twenty-five hundred thirty-four, inclusive, lying
 31 wholly within such consolidated district and holding office at the time
 32 of such consolidation, shall cease and determine, and in case of dis-
 33 tricts lying partly without such consolidated district, the directors,
 34 officers and treasurers shall continue to have authority only over the
 35 territory lying within their districts, and without the consolidated
 36 district; provided that nothing herein contained shall affect the terms
 37 of employment of superintendents, principals, or teachers for the cur-
 38 rent school year in which such consolidation may be effected.

[S., '13, § 2820-f.]

SEC. 2533. Taxes.

1 All taxes previously certified during that year shall be void so
 2 far as the property within the limits of the consolidated independent
 3 district is concerned. And all taxes necessary for the new corpora-
 4 tion for that year shall be certified and levied as provided in section
 5 twenty-five hundred nineteen. All property belonging to districts
 6 affected by such consolidation shall become the property of the con-
 7 solidated district, except that in case of districts lying partly without
 8 such city, the liabilities and assets of such districts shall be equitably
 9 apportioned in accordance with section twenty-five hundred sixteen,
 10 but nothing herein contained shall affect the rights of existing
 11 creditors.

[S., '13, § 2820-g.]

SEC. 2534. Election expense.

1 The expense of such election shall be borne by the consolidated
 2 district, in case such district shall be formed, otherwise by the separate
 3 districts in proportion to the assessed valuation therein within the
 4 proposed consolidated district.

[S., '13, § 2820-h.]

CHAPTER 20.

SCHOOL MEETING—ELECTION OF DIRECTORS—POWERS AND DUTIES— GENERAL PROVISIONS.

SECTION 2535. Annual meeting of corporation.

1 A meeting of the voters of each school corporation shall be held
 2 annually on the second Monday in March for the transaction of the
 3 business thereof. Notice in writing of the place, day, and hours dur-
 4 ing which the meeting will be in session, specifying the number of

5 directors to be elected, and the terms thereof, and such propositions
6 as will be submitted to and be determined by the voters, shall be posted
7 by the secretary of the board in at least five public places in said cor-
8 poration, for not less than ten days next preceding the day of the
9 meeting. The president and secretary of the board, with one of the
10 directors, shall act as judges of the election. If any judge of election
11 is absent at the organization of the meeting, the voters present shall
12 appoint one of their number to act in his stead. The judges of elec-
13 tion shall issue certificates to the directors elected.

[C., '51, §§ 1111, 1114; R., '60, §§ 2027, 2031; C., '73, §§ 1717,
1719; C., '97, § 2746.]

SEC. 2536. Electors.

1 To have the right to vote at a school meeting a person must have
2 the same qualifications as for voting at a general election, and must
3 be at the time an actual resident of the corporation or subdistrict.
4 In any election hereafter held in any school corporation for the pur-
5 pose of issuing bonds for school purposes or for increasing the tax
6 levy, the right of any citizen to vote shall not be denied or abridged
7 on account of sex, and women may vote at such elections the same as
8 men, under the same restrictions and qualifications, so far as ap-
9 plicable.

[C., '97, § 2747.]

SEC. 2537. Powers.

1 The voters assembled at the annual meeting shall have power:
2 1. To direct a change of textbooks regularly adopted.
3 2. To direct the sale or make other disposition of any schoolhouse
4 or site or other property belonging to the corporation, and the appli-
5 cation to be made of the proceeds of such sale.
6 3. To determine upon added branches that shall be taught, but
7 instruction in all branches except foreign languages shall be in Eng-
8 lish.
9 4. To instruct the board that school buildings may or may not
10 be used for meetings of public interest.
11 5. To direct the transfer of any surplus in the schoolhouse fund
12 to the general fund.
13 6. To authorize the board to obtain, at the expense of the cor-
14 poration, roads for proper access to its schoolhouses.
15 7. To vote a schoolhouse tax, not exceeding ten mills on the dollar
16 in any one year, for the purchase of grounds, construction of school-
17 houses, the payment of debts contracted for the erection of school-
18 houses, not including interest on bonds, procuring libraries for and
19 opening roads to schoolhouses.

20 The board may, or, upon the written request of five voters of any
21 rural independent district, or of ten voters of any school township,
22 or of twenty-five voters of any city or town independent district hav-
23 ing a population of five thousand or less, or of fifty voters of any other
24 city or town independent district, shall, provide in the notice for the
25 annual meeting for submitting any proposition authorized by law to
26 the voters. All propositions shall be voted upon by ballot in substan-
27 tially the following form: "Shall a change of textbooks be directed?"
28 (or other question as the case may be); and the voter shall designate

29 his vote by writing the word "yes" or "no" in an appropriate place
30 on the ballot.

[C., '51, § 1115; R., '60, §§ 2028, 2033; C., '73, §§ 1717, 1807;
C., '97, § 2749; 37 G. A., ch. 386, § 2.]

SEC. 2538. Special meeting of voters.

1 The board of directors may call a special meeting of the voters
2 of any school corporation by giving notice in the same manner as for
3 the annual meeting, which shall have the powers given to a regular
4 meeting with reference to the sale of school property and the appli-
5 cation to be made of the proceeds, and to vote a schoolhouse tax for
6 the purchase of a site and the construction of a necessary schoolhouse,
7 and for obtaining roads thereto.

[C., '97, § 2750; S., '13, § 2750.]

SEC. 2539. Subdistrict meeting.

1 The meeting of the voters of each subdistrict of a school town-
2 ship shall be held annually on the first Monday in March, and shall
3 not organize earlier than nine o'clock a. m., nor adjourn before twelve
4 o'clock m. Notice in writing of the time and place of such meeting
5 and the amount of schoolhouse tax to be voted shall be given by its
6 director, or if there is none by the school township secretary, by post-
7 ing in three public places in the subdistrict for five days next preced-
8 ing the same. The voters shall select a chairman and secretary of
9 the meeting who shall act as judges of election, and shall also elect
10 a director for the subdistrict by ballot. The vote shall be canvassed
11 by the judges of election, and the person receiving the highest vote
12 shall be declared elected.

[C., '51, § 1111; R., '60, §§ 2030, 2031; C., '73, §§ 1718, 1719,
1789; C., '97, § 2751.]

SEC. 2540. Special schoolhouse tax—subdistricts.

1 At the annual subdistrict meeting, or at a special meeting called
2 for that purpose, the voters may vote to raise a greater amount of
3 schoolhouse tax than that voted by the voters of the school township,
4 ten days' previous notice having been given, but the amount so voted,
5 including the amount voted by the school township, shall not exceed
6 in the aggregate the sum of fifteen mills on the dollar. The sum thus
7 voted shall be certified forthwith by the secretary of said subdistrict
8 meeting to the secretary of the school township, and shall be levied
9 by the board of supervisors only on the property within the subdistrict.

[R., '60, §§ 2033, 2034, 2037, 2088; C., '73, § 1778; C., '97,
§ 2753.]

SEC. 2541. Number of directors.

1 The board of directors of a school township shall be composed
2 of one director from each subdistrict. But when there is an even
3 number of subdistricts another member shall be elected at large by
4 all the voters of the school township. When the school township is
5 not divided into subdistricts, a board of three directors shall be elected
6 at large, on the second Monday in March, by all the voters of the school
7 township.

[C., '51, § 1112; R., '60, §§ 2031, 2035, 2075; C., '73, §§ 1720,
1721; C., '97, § 2752; S., '13, § 2752.]

SEC. 2542. Elections in independent districts—tie vote—nominations—ballot.

1 At the annual meeting in all independent districts members of
2 the board shall be chosen by ballot. In any district including all or
3 part of a city of the first class, or a city under special charter, the
4 board shall consist of seven members, three of whom shall be chosen
5 on the second Monday in March, eighteen hundred ninety-eight, two
6 on the second Monday in March, eighteen hundred ninety-nine, and
7 two on the second Monday in March, nineteen hundred. In all other
8 independent city, town, or village districts, and in all rural independ-
9 ent districts, where the board now consists of six members, the board
10 shall consist of five members, one of whom shall be chosen on the
11 second Monday in March, eighteen hundred ninety-eight, two on the
12 second Monday in March, eighteen hundred ninety-nine, and two on
13 the second Monday in March, nineteen hundred. In all independent
14 city, town, or village districts where the board now consists of three
15 members, such board shall hereafter consist of five members, three
16 of whom shall be elected on the second Monday in March, eighteen
17 hundred ninety-eight, one for one year, one for two years, and one
18 for three years. In all other rural independent districts the board
19 shall consist of three members, one of whom shall be chosen on the
20 second Monday in March, eighteen hundred ninety-eight, and one each
21 year thereafter. In districts composed in whole or in part of cities
22 or towns, a treasurer shall be chosen in like manner, whose term shall
23 begin on the first day of July, unless that date falls on Sunday, in
24 which case on the day following, and continue for two years, or until
25 his successor is elected and qualified. In such districts the polls must
26 remain open not less than five hours, and in rural independent dis-
27 tricts and school townships not less than two hours. In each case the
28 polls shall open at one o'clock p. m., except as provided in section
29 twenty-five hundred forty-four. A tie vote for any elective school
30 office shall be publicly determined by lot forthwith, under the direc-
31 tion of the judges. The names of all persons nominated as candidates
32 for office in all independent city or town districts shall be filed with
33 the secretary of the school board not later than seven days previous
34 to the day on which the annual school election is to be held, each can-
35 didate to be nominated by a petition signed by not less than ten quali-
36 fied electors of the district. The secretary of the school board shall
37 cause to be printed ballots, upon which shall appear in alphabetical
38 order the names of all candidates for each office, filed as herein pro-
39 vided, and a blank line for each such officer to be elected, and there
40 shall be at the left of each name and each blank line a square and
41 there shall also be a direction to the voter as to the number of candi-
42 dates to be voted for at said school election. Ballots shall be printed
43 upon plain substantial paper of uniform quality and shall have no
44 party designation or mark whatever. The secretary of the board
45 shall cause to be delivered at the several polling places, a sufficient
46 number of ballots. In all other respects the said school election in
47 independent city or town districts shall be conducted under the gen-
48 eral election laws of the state of Iowa, so far as same may be ap-
49 plicable.

[C., '73, §§ 1789, 1808; C., '97, § 2754; S., '13, § 2754.]

SEC. 2543. School elections — precincts — registration — duty of secretary.

1 Each school corporation having six thousand or more inhabitants
2 may be divided into such number of precincts as the board of direc-
3 tors shall determine, in each of which a poll shall be held at a con-
4 venient place, fixed by the board of directors, for the reception of the
5 ballots of voters residing in such precinct. The clerk of the city shall
6 furnish to the board of directors the last registers of elections, and
7 these registers shall be used at and have the same force and effect at
8 school elections held under this section in reception of votes thereat
9 as at general elections. The board of directors of such school cor-
10 poration, on or before the last Monday preceding such election, shall
11 appoint two suitable persons to be registrars in each of the election
12 precincts of such school corporation for the registration of voters
13 therein, who shall have the same qualifications as registrars appointed
14 for general elections and shall qualify in the same manner, and receive
15 the same compensation to be paid by the school corporation. The reg-
16 istrars shall meet on the day of election at the voting place in the
17 precinct in which they have been appointed and shall hold continuous
18 session from nine o'clock in the forenoon until seven o'clock in the
19 afternoon. Any person claiming to be a voter, and who is not already
20 registered in the proper precinct, may appear before them in the elec-
21 tion precinct where he claims he is entitled to vote and make and sub-
22 scribe under oath a statement in the registry book, which oath and
23 statement shall be of the same general character as that prescribed
24 by section four hundred eleven, and shall thereupon be granted a cer-
25 tificate of registration. Nothing in this section shall be construed to
26 prohibit women from voting at all elections at which they are entitled
27 to vote. The secretary must post a notice of the meeting in a public
28 place in each precinct at least ten days before the meeting, and by
29 publication once each week for two consecutive weeks preceding the
30 same in some newspaper published in the corporation, such notice to
31 state the time, respective voting precincts, and the polling place in
32 each precinct, and also to specify what questions authorized by law,
33 in addition to the election of director or directors, shall be voted upon
34 and determined by the voters of the several precincts. No register
35 shall be prepared nor shall registration be required in any school cor-
36 poration containing a city in which registration is not required at the
37 general or city elections.

[C., '97, § 2755; S., '13, § 2755; 37 G. A., ch. 225, § 1; 37 G.
A., ch. 334, § 1.]

SEC. 2544. Conduct of elections.

1 As judges of the election referred to in the preceding section, the
2 board shall appoint three voters of the precinct, one of whom shall
3 act as clerk, who shall be sworn as provided in case of a general elec-
4 tion. Such judges may or may not be members of the board, as the
5 board may determine; provided that not more than one member of
6 the school board shall act as such judge at any one voting precinct.
7 If any person so appointed fails to attend, the judge or judges attend-
8 ing shall fill the place by the appointment of any voter present, and
9 like action shall follow a refusal to serve or to be sworn. Should all
10 of the appointees fail to attend, their places shall be filled by the voters
11 from those in attendance. The board shall provide the necessary bal-

12 lot box and poll book for each precinct, and the judges shall make and
 13 certify a return to the secretary of the corporation of the canvass of
 14 the votes for office and upon each question submitted. On the next
 15 Monday after the meeting the board shall canvass the returns made
 16 to the secretary, ascertain the result of the voting with regard to every
 17 matter voted upon, declare the same, cause a record to be made thereof,
 18 and at once issue a certificate to each person elected. At all meetings
 19 held under this and the next preceding section, the polls shall be kept
 20 open from nine o'clock a. m. until seven o'clock p. m.

[C., '97, § 2756; S., '13, § 2756.]

SEC. 2545. Qualification of directors—vacancies.

1 Any member of the board may administer the oath of qualifica-
 2 tion to any member-elect, and to the president of the board. Each
 3 director elected shall qualify on or before the date for the organiza-
 4 tion of the board of the corporation in which he was elected, by taking
 5 an oath to support the constitution of the United States and that of
 6 the state of Iowa, and that he will faithfully discharge the duties of
 7 his office; and shall hold the office for the term to which he is elected,
 8 and until a successor is elected and qualified. In case of a vacancy,
 9 the office shall be filled by appointment by the board until the next
 10 annual meeting.

[C., '51, §§ 1113, 1120; R., '60, §§ 2032, 2079; C., '73, §§ 1752,
 1790; C., '97, § 2758; S., '13, § 2758.]

SEC. 2546. Officers—qualifications.

1 A school officer or member of the board may be of either sex, and
 2 must at the time of election or appointment be a citizen and a resident
 3 of the corporation or subdistrict, and over twenty-one years of age,
 4 and, if a man, he must be a qualified voter of the corporation or sub-
 5 district.

[C., '97, § 2748.]

SEC. 2547. Surrendering office to successor.

1 Each school officer, upon the termination of his term of office,
 2 shall immediately surrender to his successor all books, papers and
 3 moneys pertaining or belonging to the office, taking a receipt therefor.

[R., '60, § 2080; C., '73, § 1791; C., '97, § 2770.]

SEC. 2548. Meetings of directors—election of officers.

1 The board of directors of all independent city, town and village
 2 corporations, school townships maintaining school or schools with
 3 high school departments, and consolidated independent school dis-
 4 tricts, shall organize on the third Monday in March, and those of all
 5 other school corporations on the first day of July, unless that date
 6 falls on Sunday, in which case the day following. Such organization
 7 shall be effected by the election of a president from the members of
 8 the board, who shall be entitled to vote as a member. Such special
 9 meetings may be held as may be determined by the board, or called
 10 by the president, or by the secretary upon the written request of a
 11 majority of the members of the board, upon notice specifying the time
 12 and place, delivered to each member in person, but attendance shall
 13 be a waiver of notice. Such meetings shall be held at any place within
 14 the civil township in which the corporation is situated. On the first

15 day of July, unless that date falls on Sunday, in which case on the
 16 day following, the boards of all independent city, town and village cor-
 17 porations, school townships maintaining school or schools with high
 18 school departments, and consolidated independent school districts and
 19 the retiring boards in all other school corporations, shall meet, examine
 20 the books of, and settle with the secretary and treasurer for the year
 21 ending on the thirtieth day of June preceding, and for the transaction
 22 of such other business as may properly come before it. On the same
 23 day the board of each independent city, town and village corporation,
 24 school townships maintaining school or schools with high school de-
 25 partments, and consolidated independent school districts, except as
 26 provided in section twenty-five hundred forty-two, and the new board
 27 of every other school corporation shall elect from outside the board
 28 a secretary and treasurer, but in independent districts no teacher or
 29 other employee of the board shall be eligible as secretary. All officers
 30 shall be elected by ballot and the vote shall be recorded by the secre-
 31 tary. Should the secretary or treasurer fail to report as provided
 32 in sections twenty-six hundred one and twenty-six hundred five, it
 33 shall be the duty of the new board to take any action necessary to
 34 secure a proper settlement.

[C., '51, §§ 1119, 1121; R., '60, §§ 2035, 2036, 2076; C., '73,
 §§ 1721, 1722; C., '97, § 2757; S. S., '15, § 2757.]

**SEC. 2549. Temporary officers—course of study—regulations—
 use of tobacco prohibited.**

1 The board shall appoint a temporary president and secretary, or
 2 either of them, in the absence of the regular officers, and shall pre-
 3 scribe a course of study for the schools of the corporation, make rules
 4 and regulations for its own government and that of the directors,
 5 officers, teachers and pupils, and the care of the schoolhouse, grounds
 6 and property of the school corporation, and aid in the enforcement
 7 of the same, and require the performance of duty by said persons
 8 not in conflict with law and said rules and regulations, and such rules
 9 and regulations shall prohibit the use of tobacco in any form by any
 10 student of such schools and such board may suspend or expel such
 11 student for any violation of such rule.

[R., '60, § 2037; C., '73, §§ 1730, 1737; C., '97, § 2772; S.,
 '13, § 2772.]

SEC. 2550. Quorum of board—filling vacancies.

1 A majority of the board of directors of any school corporation
 2 shall constitute a quorum for the transaction of business, but a less
 3 number may adjourn from time to time. Vacancies occurring among
 4 the officers or members shall be filled by the board by ballot, and the
 5 person receiving the highest number of votes shall be declared elected,
 6 and shall qualify as if originally elected or appointed. When the
 7 board is reduced below a quorum, by resignation or otherwise, the
 8 secretary of the board, or if there be no secretary, the county super-
 9 intendent, shall call a special election to fill the vacancies, giving notice
 10 in the same manner as for the annual meeting on the second Monday
 11 in March. In the case of any school corporation, including consoli-
 12 dated school districts, where no director has been elected, or where
 13 no director who has been elected has qualified, the county superin-
 14 tendent of the county in which said district or the larger portion of
 15 said district is located shall be authorized and empowered to appoint

16 a board of directors of such school corporation, who shall act as such
 17 board of directors until their successors have been elected and quali-
 18 fied. The county superintendent, when making such appointments to
 19 fill vacancies, shall designate which term or terms each director ap-
 20 pointed shall fill.

[R., '60, §§ 2037, 2038; C., '73, §§ 1730, 1738; C., '97, § 2771;
 S., '13, § 2771; 38 G. A., ch. 201, § 1.]

SEC. 2551. Contracts—election of teachers—employment of teachers in subdistricts.

1 The board shall carry into effect any instruction from the annual
 2 meeting upon matters within the control of the voters, and shall elect
 3 all teachers and make all contracts necessary or proper for exercising
 4 the powers granted and performing the duties required by law. But
 5 the board may authorize any subdirector to employ teachers for the
 6 schools in his subdistrict. Contracts with teachers must be in writ-
 7 ing, and shall state the length of time the school is to be taught, the
 8 compensation per week of five days or month of four weeks, and such
 9 other matters as may be agreed upon, signed by the president and
 10 teacher, and filed with the secretary before the teacher commences
 11 to teach under such contract.

[R., '60, §§ 2037, 2055; C., '73, §§ 1723, 1757; C., '97, § 2778;
 S. S., '15, § 2778; 38 G. A., ch. 310, § 1.]

SEC. 2552. Validity of contracts—must contain what.

1 No contract entered into by a board of school directors with a
 2 teacher who is then under contract to teach with another board of
 3 school directors in the state of Iowa covering the same period of time,
 4 shall be of any validity until such former contract shall have been
 5 released or canceled. All teachers' contracts hereafter entered into
 6 shall contain a reference to this act [38 G. A., ch. 310] and recite the
 7 section in said amendment after the word "but."

[38 G. A., ch. 310, §§ 1, 2.]

SEC. 2553. School superintendent may be employed by certain districts—term—contract.

1 The board of directors of each independent school district of any
 2 city, town, village, and of each consolidated independent school dis-
 3 trict, shall have the power to employ a superintendent of schools for
 4 a term of not to exceed three years, who shall execute the orders and
 5 regulations of the board and have such powers and duties as they may
 6 prescribe, with such duties and powers as are now or may hereafter
 7 be prescribed by the laws of the state; provided, however, that no such
 8 contract be made until a superintendent has served at least one year
 9 in the position to which it is proposed to elect him for the longer
 10 period.

[R., '60, §§ 2037, 2055; C., '73, §§ 1723, 1757; C., '97, § 2778;
 S. S., '15, § 2778; 38 G. A., ch. 310, § 1.]

SEC. 2554. President—employment of counsel.

1 The president of the board of directors shall preside at all of its
 2 meetings, sign all warrants and drafts, respectively, drawn upon the
 3 county treasurer for money apportioned and taxes collected and be-
 4 longing to his school corporation, and all orders on the treasurer

5 drawn as provided by law, sign all contracts made by the board, and
 6 appear in behalf of his corporation in all actions brought by or against
 7 it, unless individually a party, in which case this duty shall be per-
 8 formed by the secretary. In all cases where actions may be instituted
 9 by or against any school officer to enforce any provision of law, the
 10 board may employ counsel, for which the school corporation shall be
 11 liable.

[C., '51, §§ 1122, 1123, 1125; R., '60, §§ 2039, 2040; C., '73,
 §§ 1739, 1740; C., '97, § 2759.]

SEC. 2555. Instruction as to stimulants, narcotics and poisons.

1 The board shall require all teachers to give and all scholars to
 2 receive instruction in physiology and hygiene, which study in every
 3 division of the subject shall include the effects upon the human system
 4 of alcoholic stimulants, narcotics and poisonous substances. The
 5 instruction in this branch shall of its kind be as direct and specific as
 6 that given in other essential branches, and each scholar shall be re-
 7 quired to complete the part of such study in his class or grade before
 8 being advanced to the next higher, and before being credited with
 9 having completed the study of the subject.

[C., '97, § 2775.]

SEC. 2556. Dental clinics in certain districts.

1 Boards of school directors in all school districts containing one
 2 thousand or more inhabitants are hereby authorized to establish and
 3 maintain in connection with the schools of such districts, a dental
 4 clinic for children attending such schools, and to offer courses of
 5 instruction on mouth hygiene. Said boards are hereby empowered
 6 to employ such legally qualified dentists and dental hygienists as may
 7 be necessary to accomplish the purpose of this section, and pay the
 8 expense of the same out of the general fund.

[38 G. A., ch. 91, § 1.]

SEC. 2557. Elementary agriculture—domestic science—manual training—instruction—teachers' examination.

1 The teaching of elementary agriculture, domestic science and
 2 manual training shall be required in the public schools of the state;
 3 and the state superintendent of public instruction shall prescribe the
 4 extent of such instruction in the public schools. Elementary agricul-
 5 ture and domestic science or manual training shall be included among
 6 the subjects required in the examination of those applicants for teach-
 7 ers' certificates who are required by the provisions of this section to
 8 teach agriculture and domestic science; provided, however, that noth-
 9 ing in this section shall prevent the board of directors from dispensing
 10 with the teaching of said subjects in rural schools at its discretion.

[S. S., '15, § 2775-a; 37 G. A., ch. 319, § 1.]

SEC. 2558. Instruction in music.

1 The elements of vocal music, including when practical the singing
 2 of simple music by note, shall be taught in all of the public schools
 3 of Iowa, and all teachers teaching in schools where such instruction
 4 is not given by special teachers shall be required to satisfy the county
 5 superintendent of their ability to teach the elements of vocal music
 6 in a proper manner; provided, however, that no teacher shall be re-

7 fused a certificate or the grade of his or her certificate lowered on
8 account of lack of ability to sing.

[S., '13, § 2823-s.]

SEC. 2559. Kindergarten department.

1 The board may establish within any independent school district,
2 in connection with the common schools, kindergarten departments for
3 the instruction of children, to be paid for in the same manner as other
4 grades and departments. Any teacher in kindergartens shall hold a
5 certificate from the county superintendent certifying that the holder
6 thereof has been examined upon kindergarten principles and methods,
7 and is qualified to teach in kindergartens.

[C., '97, § 2777.]

SEC. 2560. Higher schools—union schools.

1 It shall have power to maintain in each district one or more
2 schools of a higher order, for the better instruction of all in the dis-
3 trict prepared to pursue such a course of study, and it may establish
4 graded or union schools and determine what branches shall be taught
5 therein, but the course of study shall be subject to the approval of the
6 superintendent of public instruction; and it may select a person who
7 shall have general supervision of the schools in any district subject
8 to the control of the board.

[R., '60, § 2037; C., '73, § 1726; C., '97, § 2776.]

SEC. 2561. Allowance of claims—settlements—compensation of officers—treasurer.

1 It shall audit and allow all just claims against the corporation,
2 and no order shall be drawn upon the treasury until the claim therefor
3 has been audited and allowed; it shall from time to time examine the
4 accounts of the treasurer and make settlements with him; shall pre-
5 sent at each regular meeting of the electors a full statement of the
6 receipts had and expenditures made since the preceding meeting, with
7 such other information as may be considered important; and shall fix
8 the compensation to be paid the secretary. But no member of the
9 board or treasurer shall receive compensation for official services.

[C., '51, §§ 1146, 1149; R., '60, §§ 2037, 2038; C., '73, §§ 1732,
1733, 1738, 1813; C., '97, § 2780; S., '13, § 2780.]

SEC. 2562. Financial statement.

1 It shall publish in each independent city or town district, inde-
2 pendent school district or school township, two weeks before the an-
3 nual school election, by one insertion in one or more newspapers, if
4 any are published in such district, or by posting up in writing in not
5 less than three conspicuous places in the district, a detailed and spe-
6 cific statement of the receipts and disbursements of all funds expended
7 for school and building purposes for the year preceding such annual
8 election. And the said board of directors shall also at the same time
9 publish in detail an estimate of the several amounts which, in the
10 judgment of such board, are necessary to maintain the schools in
11 such district for the next succeeding school year.

[C., '51, § 1146; R., '60, § 2037; C., '73, § 1732; C., '97,
§ 2781; 37 G. A., ch. 223, § 1.]

SEC. 2563. Visiting schools—regulations—discharge of teacher—expulsion of scholar.

1 It shall provide for visiting the schools of the district by one or
 2 more of its members and aid the teachers in the government thereof,
 3 and enforcing the rules and regulations of the board. It may, by a
 4 majority vote, discharge any teacher for incompetency, inattention to
 5 duty, partiality, or any good cause, after a full and fair investigation
 6 made at a meeting of the board held for that purpose, at which the
 7 teacher shall be permitted to be present and make defense, allowing
 8 him a reasonable time therefor. It may, by a majority vote, expel
 9 any scholar from school for immorality, or for a violation of the regu-
 10 lations or rules established by the board, or when the presence of the
 11 scholar is detrimental to the best interests of the school, and it may
 12 confer upon any teacher, principal or superintendent the power tem-
 13 porarily to dismiss a scholar, notice of such dismissal being at once
 14 given in writing to the president of the board. When a scholar is
 15 dismissed by the teacher, principal or superintendent, as above pro-
 16 vided, he may be readmitted by such teacher, principal or superin-
 17 tendent, but when expelled by the board he may be readmitted only
 18 by the board or in the manner prescribed by it.

[C., '51, § 1147; R., '60, §§ 2037, 2054; C., '73, §§ 1734, 1735,
 1756; C., '97, § 2782.]

SEC. 2564. Secret societies and fraternities prohibited in schools.

1 It shall be unlawful for any pupil, registered as such, and attend-
 2 ing any public high school, district, primary, or graded school, which
 3 is partially or wholly maintained by public funds, to join, become a
 4 member of, or to solicit any other pupil of any such school to join,
 5 or become a member of any fraternity or society wholly or partially
 6 formed from the membership of pupils attending any such schools,
 7 or to take part in the organization or formation of any such frater-
 8 nity or society, except such societies or associations as are sanctioned
 9 by the directors of such schools.

[S., '13, § 2782-a; 37 G. A., ch. 158, § 1.]

SEC. 2565. Enforcement.

1 The directors of all schools shall enforce the provisions of the
 2 preceding section, and shall have full power and authority to make,
 3 adopt, and modify all rules and regulations which, in their judgment
 4 and discretion, may be necessary for the proper governing of such
 5 schools and enforcing all the provisions of the preceding section.

[S., '13, § 2782-b.]

SEC. 2566. Suspension or dismissal.

1 The directors of such schools shall have full power and authority,
 2 pursuant to the adoption of such rules and regulations made and
 3 adopted by them, to suspend, or dismiss any pupil or pupils of such
 4 schools therefrom, or to prevent them, or any of them, from graduat-
 5 ing or participating in school honors when, after investigation, in
 6 the judgment of such directors, or a majority of them, such pupil or
 7 pupils are guilty of violating any of the provisions of section twenty-
 8 five hundred sixty-four, or who are guilty of violating any rule, rules,

9 or regulations adopted by such directors for the purpose of governing
10 such schools or enforcing said section.

[S., '13, § 2782-c.]

SEC. 2567. Rushing or soliciting to join prohibited—jurisdiction—penalty.

1 It is hereby made a misdemeanor for any person, not a pupil of
2 such schools, to be upon the school grounds, or to enter any school
3 building for the purpose of "rushing" or soliciting, while there, any
4 pupil or pupils of such schools to join any fraternity, society, or asso-
5 ciation organized outside of said schools. All municipal courts and
6 justice courts in this state shall have jurisdiction of all offenses com-
7 mitted under this section, and all persons found guilty of such offenses
8 shall be fined not less than two dollars nor more than ten dollars, to
9 be paid to the city or village treasurer, when such schools are situated
10 inside of the corporate limits of any city or village, and to the county
11 treasurer, when situated outside of the corporate limits of any such
12 city or village, or upon failure to pay such fine, to be imprisoned for
13 not more than ten days.

[S., '13, § 2782-d.]

SEC. 2568. Use of general fund—free textbooks.

1 It may provide and pay out of the general fund to insure school
2 property such sum as may be necessary, and may purchase diction-
3 aries, library books, including books for the purpose of teaching vocal
4 music, maps, charts and apparatus for the use of the schools thereof
5 to an amount not exceeding two hundred dollars in any one year for
6 each school building under its charge; and may furnish schoolbooks
7 to indigent children when they are likely to be deprived of the proper
8 benefits of the school unless so aided; and shall, when directed by a
9 vote of the district, purchase and loan books to scholars, and shall
10 provide by levy of general fund therefor.

[C., '73, § 1729; C., '97, § 2783; S., '13, § 2783; 37 G. A., ch.
386, § 7; 38 G. A., ch. 345, § 1.]

SEC. 2569. Water-closets.

1 It shall give special attention to the matter of convenient water-
2 closets or privies, and provide on every schoolhouse site, not within
3 an independent city or town district, two separate buildings located
4 at the farthest point from the main entrance to the schoolhouse, and
5 as far from each other as may be, and keep them in wholesome con-
6 dition and good repair. In independent city or town districts, where
7 it is inconvenient or undesirable to erect two separate outhouses, sev-
8 eral closets may be included under one roof, and if outside the school-
9 house each shall be separated from the other by a brick wall, double
10 partition, or other solid or continuous barrier, extending from the
11 roof to the bottom of the vault below, and the approaches to the out-
12 side doors for the two sexes shall be separated by a substantial close
13 fence not less than seven feet high and thirty feet in length.

[C., '97, § 2784.]

SEC. 2570. Powers of directors—subdistricts—contracts.

1 The board of directors of a school township may authorize the
2 director of each subdistrict, subject to its regulations, to make con-

3 tracts for the purchase of fuel, the repairing or furnishing of school-
 4 houses, and all other matters necessary for the convenience and
 5 prosperity of the schools in his subdistrict. Such contracts shall be
 6 binding upon the school township only when approved by the presi-
 7 dent of the board, and must be reported to the board. Each director
 8 shall, between the first and fifteenth days of June in each year, pre-
 9 pare a list of the heads of families in his subdistrict, the number and
 10 sex of all children of school age, and by the twentieth day of said
 11 month report this list to the secretary of the school township, who
 12 shall make full record thereof. The powers specified in this section
 13 can not be exercised by individual directors of independent districts.

[C., '51, §§ 1124, 1142; R., '60, §§ 2052, 2053; C., '73, §§ 1753-
 1755; C., '97, § 2785; S., '13, § 2785.]

SEC. 2571. Industrial exposition.

1 The board of any school corporation, or the director of any sub-
 2 district deeming it expedient, may, under the direction of the county
 3 superintendent, hold and maintain an industrial exposition in con-
 4 nection with the schools of such district, such exposition to consist
 5 in the exhibit of useful articles invented, made or raised by the pupils,
 6 by sample or otherwise, in any of the departments of mechanics, manu-
 7 facture, art, science, agriculture and the kitchen, such exposition to
 8 be held in the schoolroom, on a school day, as often as once during
 9 a term, and not oftener than once a month, at which the pupils par-
 10 ticipating therein shall be required to explain, demonstrate or present
 11 the kind and plan of the articles exhibited, or give its method of cul-
 12 ture; and work in these several departments shall be encouraged, and
 13 patrons of the school invited to be present at each exhibition.

[C., '97, § 2786.]

SEC. 2572. Shade trees.

1 The board of each school corporation shall cause to be set out
 2 and properly protected twelve or more shade trees on each schoolhouse
 3 site where such trees are not growing. The county superintendent,
 4 in visiting the several schools of his county, shall call the attention of
 5 any board neglecting to comply with the requirements of this section
 6 to any failure to carry out its provisions.

[C., '97, § 2787.]

**SEC. 2573. Display of United States flag—duty of board—flag-
 staff.**

1 It shall be the duty of the board of directors of each school cor-
 2 poration of this state to provide a suitable flagstaff on each public
 3 school building maintained under the authority of such board of direc-
 4 tors and to provide each of such school buildings with a suitable flag,
 5 and such flag shall be raised over such building on all days when
 6 weather suitable therefor shall prevail.

[S., '13, § 2804-a.]

SEC. 2574. Flag upon all public buildings.

1 It shall be the duty of the custodians of all public buildings of
 2 the state of Iowa to raise over such building the flag of the United
 3 States of America, upon each secular day when weather conditions
 4 are favorable, and it shall be the duty of any board of public officers

5 charged with the duty of providing for the supplies of any such public
6 building to provide, in connection with other supplies for any such
7 building of the state of Iowa, a suitable flag for the purposes herein
8 provided.

[S., '13, § 2804-c.]

SEC. 2575. Bible not excluded.

1 The bible shall not be excluded from any public school or insti-
2 tution in the state, nor shall any child be required to read it contrary
3 to the wishes of his parent or guardian.

[R., '60, § 2119; C., '73, § 1764; C., '97, § 2805.]

SEC. 2576. School age—nonresidents.

1 Persons between five and twenty-one years of age shall be of
2 school age. Nonresident children and those sojourning temporarily
3 in any school corporation may attend school therein upon such terms
4 as the board may determine. The parent or guardian whose child
5 or ward attends school in any independent district of which he is not
6 a resident shall be allowed to deduct the amount of school tax paid
7 by him in said district from the amount of the tuition required to
8 be paid.

[C., '73, § 1795; C., '97, § 2804.]

SEC. 2577. Attending school in another corporation.

1 A child residing in one corporation may attend school in another
2 in the same or adjoining county if the two boards so agree. In case
3 no such agreement is made, the county superintendent of the county
4 in which the child resides and the board of such adjoining corporation
5 may consent to such attendance, if the child resides nearer a school-
6 house in the adjoining corporation and one and one-half miles or more
7 from any public school in the corporation of his residence. But before
8 granting such consent the county superintendent shall give notice to
9 the board where the child resides and hear objections, if any. In case
10 such consent is given, the board of the district of the child's residence
11 shall be notified thereof in writing, and shall pay to the other district
12 the average tuition per week for the school or room thereof in which
13 such child attends. If payment is refused or neglected, the board
14 of the creditor corporation shall file an account thereof certified by
15 its president with the auditor of the county of the child's residence,
16 who shall, at the time of the making of the next semiannual apportion-
17 ment, deduct the amount from the sum apportioned to the debtor dis-
18 trict, and cause it to be paid to the corporation entitled thereto.

[C., '51, § 1143; R., '60, § 2024; C., '73, § 1793; C., '97,
§ 2803; 37 G. A., ch. 386, § 8.]

SEC. 2578. Attendance at schools outside home district—tuition.

1 Any person of school age who is a resident of a school corpora-
2 tion which does not offer a four-year high school course, and who
3 has completed the course as approved by the department of public
4 instruction for such corporation, shall be permitted to attend any
5 public high school or county high school in the state approved in like
6 manner, that will receive him. Any person applying for admission
7 to any high school under the provisions of this section shall present
8 the officials of said high school the affidavit of his or her father,

9 mother, guardian, or if he have neither, his next friend, that such
10 applicant is entitled to attend the public schools and a resident of a
11 school district of this state, specifying the district. He shall also
12 present a certificate signed by the county superintendent showing pro-
13 ficiency in the common school branches, reading, orthography, arith-
14 metic, physiology, grammar, civics of Iowa, geography, United States
15 history, penmanship and music. The school corporation in which
16 such student resides shall pay to the secretary of the corporation in
17 which such student shall be permitted to enter a tuition fee of not
18 to exceed eight dollars per month, but in districts in which there is
19 a city of the first class a tuition fee of eight dollars per month may
20 be charged, in the high school department in the latter corporation
21 during the time he so attends, not exceeding, however, a total period
22 of four school years; provided that such tuition shall in no case exceed
23 the average cost of said tuition in such high school; such payment
24 to be made out of the general fund of the debtor corporation, and
25 such tuition fee as collected by the secretary shall be turned over by
26 him, with an itemized statement, to the treasurer of the school funds
27 on or before February fifteenth and June fifteenth of each year. If
28 payment is refused or neglected the board of the creditor corporation
29 shall file with the auditor of the county of the pupil's residence a
30 statement certified by its president specifying the amount due for
31 tuition and for contingent expenses respectively, and the time for
32 which the same is claimed; and the auditor shall transmit to the county
33 treasurer an order directing such treasurer to transfer the amount
34 of such account from the debtor corporation to the creditor corpora-
35 tion, and the treasurer shall pay the same in accordance therewith.
36 No school corporation situated in a county maintaining a county high
37 school shall be required to pay the tuition of pupils at any high school
38 other than such county high school, but this shall not apply to pupils
39 who, while residing at home, attend some high school other than that
40 of the school corporation in which they reside; and the tuition to be
41 paid by school corporations in such county shall be three and one-half
42 dollars per pupil per month; provided that, in counties having a high
43 school where a child resides at home and attends a high school out-
44 side the district of his residence other than the county high school,
45 and the school corporation where the child resides pays the tuition
46 for such child, and at the end of the school year it is found that less
47 pupils have attended the county high school from the district where
48 such child resides than was entitled to attend under the county high
49 school apportionment, then and in that case the school corporation
50 where such child resides shall be entitled to be reimbursed from the
51 county high school funds for the tuition so paid, not exceeding in the
52 aggregate an amount equal to the taxes contributed by such district
53 to said county high school funds for the tax year preceding, fair and
54 equitable credit being given to the county high school fund for pupils
55 actually attending said county high school during said school year
56 from the district where said child resides. The county superintend-
57 ent shall, on being applied to for such purpose, determine in writing
58 the amount due such corporation from the county high school fund,
59 and furnish such corporation with a copy of such finding. Within
60 twenty days thereafter such corporation may appeal to the district
61 court from such finding by serving written notice on the county super-
62 intendent of the taking of such appeal. On the service of said notice
63 the county superintendent shall file a copy of his finding in the office
64 of the clerk of the district court and the clerk shall docket the cause

65 without fee. The matter shall be tried on appeal as in equity and
 66 without formal pleading. The decision of the district court shall be
 67 final. The treasurer shall, upon the filing with him of any final deci-
 68 sion, immediately transfer from the county high school funds to the
 69 credit of the corporation entitled to the same the amount directed to
 70 be transferred.

[S. S., '15, § 2733-1a; 37 G. A., ch. 386, § 1; 38 G. A., ch. 72,
 § 1; 38 G. A., ch. 160, § 2.]

SEC. 2579. Penalties.

1 Any school officer wilfully violating any law relative to common
 2 schools, or wilfully failing or refusing to perform any duty imposed
 3 by law, shall forfeit and pay into the treasury of the particular school
 4 corporation in which the violation occurs the sum of twenty-five dol-
 5 lars, action to recover which shall be brought in the name of the
 6 proper school corporation, and be applied to the use of the schools
 7 therein.

[C., '51, § 1137; R., '60, §§ 2047, 2081; C., '73, §§ 1746, 1786;
 C., '97, § 2822.]

SEC. 2580. Provisions apply to all corporations—issuance of bonds.

1 The provisions of law relative to common schools shall apply alike
 2 to all districts, except when otherwise clearly stated, and the powers
 3 given to one form of corporation, or to a board in one kind of cor-
 4 poration, shall be exercised by the other in the same manner, as nearly
 5 as practicable. But school boards shall not incur original indebted-
 6 ness by the issuance of bonds until authorized by the voters of the
 7 school corporation.

[C., '97, § 2823.]

CHAPTER 21.

EVENING SCHOOLS AND PART-TIME VOCATIONAL SCHOOLS.

SECTION 2581. Evening schools authorized.

1 The school board of any organized school district within the state
 2 is hereby authorized and empowered under the control and supervision
 3 of the city or county superintendent to establish and maintain public
 4 evening schools as a branch of the public schools when said school
 5 board shall deem advisable for the public convenience and welfare,
 6 and said evening schools shall be available to all persons over sixteen
 7 years of age who from any cause are unable to attend the public day
 8 schools of such district.

[37 G. A., ch. 97, § 1.]

SEC. 2582. Evening schools—when holding mandatory.

1 Whenever in any organized school district within the state there
 2 shall be residing ten or more persons over sixteen years of age, who
 3 desire instruction at an evening school in the common branches, it
 4 shall be the duty of the school board of such organized school district
 5 to establish and maintain an evening school for such instruction

6 throughout a period of not less than three months of every school
7 year and for not less than two hours at least two times each week
8 during the term of such evening school, which school shall be under
9 the control and supervision of the city or county superintendent.

[37 G. A., ch. 97, § 2.]

SEC. 2583. Part-time schools—when organized—course of study.

1 The board of directors of any organized school district may estab-
2 lish and maintain part-time schools, departments, or classes in aid of
3 vocational and other education for minors between the ages of four-
4 teen and sixteen years holding work certificates, or who have not com-
5 pleted the eighth grade and are employed in a store or mercantile
6 establishment, where eight or a less number of persons are employed,
7 or in establishments or occupations which are owned or operated by
8 their own parents, or who have completed the eighth grade and are
9 not engaged in some useful occupation; and such board of directors
10 shall organize such a part-time school, department, or class whenever
11 there are fifteen minors as defined above resident in the district. The
12 courses of study of such part-time schools, departments, or classes
13 may include any subject given to enlarge the civic or vocational intelli-
14 gence of the pupils attending.

[38 G. A., ch. 94, § 1.]

SEC. 2584. Support part-time schools.

1 The board of directors may raise and expend money for the sup-
2 port of such part-time schools, departments, or classes in the same
3 manner in which it is authorized to raise and expend funds for other
4 school purposes.

[38 G. A., ch. 94, § 2.]

SEC. 2585. Standards established—time of instruction.

1 Such part-time schools, departments, or classes, for the attend-
2 ance of children over fourteen and under sixteen years of age, shall
3 be organized in accordance with standards established by the state
4 board for vocational education, and shall provide for not less than
5 eight hours of instruction per week during the length of term for
6 which public schools are established in the district. Such part-time
7 schools, departments, or classes shall be held between the hours of
8 eight o'clock a. m. and six o'clock p. m.

[38 G. A., ch. 94, § 3.]

SEC. 2586. District reimbursed for certain expenditures.

1 Whenever any such part-time school or class shall have been
2 approved by the state board for vocational education, the board of
3 directors shall be entitled to reimbursement on account of expenditure
4 made for the salaries of teachers in such part-time schools, depart-
5 ments, or classes from any federal and state funds appropriated in
6 aid of vocational education, as provided in the statutes governing such
7 appropriations.

[38 G. A., ch. 94, § 4.]

SEC. 2587. Powers state vocational board over such schools.

1 The state board for vocational education is hereby authorized
2 to fix standards for the establishment of part-time schools, depart-

3 ments, or classes; to fix the requirements of teachers, and to approve
4 courses of study for such part-time schools, departments, or classes.

[38 G. A., ch. 94, § 5.]

SEC. 2588. Violation of requirements—punishment.

1 When such part-time school shall have been established, any
2 parent or person in charge of such minor as defined in section twenty-
3 five hundred eighty-three who shall violate the provisions of sections
4 twenty-five hundred eighty-three to twenty-five hundred eighty-nine,
5 inclusive, shall be punished by a fine of not less than ten dollars nor
6 more than fifty dollars, or any person unlawfully employing any such
7 minor shall be punished by a fine of not less than twenty dollars nor
8 more than one hundred dollars, or be imprisoned in the county jail
9 not to exceed thirty days.

[38 G. A., ch. 94, § 6.]

SEC. 2589. Enforcement.

1 The enforcement of sections twenty-five hundred eighty-three to
2 twenty-five hundred eighty-eight, inclusive, shall rest with the school
3 board in the district in which such part-time school, department or
4 class shall have been established, and the state department of public
5 instruction through its inspectors and the state board for vocational
6 education through its supervisors of vocational education, in conjunc-
7 tion with the county superintendent of schools, are empowered to
8 require enforcement of the same on the part of school boards.

[R., '60, §§ 2139, 2140; C., '73, §§ 1835, 1836; C., '97, § 2820.]

CHAPTER 22.

APPEAL FROM DECISIONS OF BOARDS OF DIRECTORS.

SECTION 2590. Appeal to county superintendent.

1 Any person aggrieved by any decision or order of the board of
2 directors of any school corporation in a matter of law or fact may,
3 within thirty days after the rendition of such decision or the making
4 of such order, appeal therefrom to the county superintendent of the
5 proper county; the basis of the proceedings shall be an affidavit filed
6 with the county superintendent by the party aggrieved within the time
7 for taking the appeal, which affidavit shall set forth any error com-
8 plained of in a plain and concise manner.

[R., '60, §§ 2133-2135; C., '73, §§ 1829-1831; C., '97, § 2818.]

SEC. 2591. Hearing and decision.

1 The county superintendent shall, within five days after the filing
2 of such affidavit in his office, notify the secretary of the proper school
3 corporation in writing of the taking of such appeal; the latter shall,
4 within ten days after being thus notified, file in the office of the county
5 superintendent a complete transcript of the record and proceedings
6 relating to the decision complained of, which transcript shall be certi-
7 fied to be correct by the secretary; after the filing of the transcript
8 aforesaid the county superintendent shall notify in writing all persons

9 adversely interested of the time and place where the matter of the
 10 appeal will be heard by him. At the time fixed for the hearing, he
 11 shall hear testimony for either party, and he shall make such decision
 12 as may be just and equitable, which shall be final unless appealed
 13 from as hereinafter provided.

[R., '60, §§ 2136-2138; C., '73, §§ 1832-1834; C., '97, § 2819.]

SEC. 2592. Witnesses—fees.

1 The county superintendent in all matters triable before him shall
 2 have power to issue subpoenas for witnesses, which may be served by
 3 any peace officer, compel the attendance of those thus served, and
 4 the giving of evidence by them, in the same manner and to the same
 5 extent as the district court may do, and such witnesses and officers
 6 may be allowed the same compensation as is paid for like attendance
 7 or service in such court, which shall be paid out of the general fund
 8 of the proper school corporation, upon the certificate of the superin-
 9 tendent to and warrant of the secretary upon the treasurer; but if the
 10 superintendent is of the opinion that the proceedings were instituted
 11 without reasonable cause therefor, or if, in case of an appeal, it shall
 12 not be sustained, he shall enter such findings in the record, and tax
 13 all costs to the party responsible therefor. A transcript thereof shall
 14 be filed in the office of the clerk of the district court and a judgment
 15 entered thereon by him, which shall be collected as other judgments.

[C., '97, § 2821; 37 G. A., ch. 386, § 11.]

SEC. 2593. Appeal to state superintendent—no money judgment.

1 An appeal may be taken from the decision of the county superin-
 2 tendent to the superintendent of public instruction in the same man-
 3 ner as provided in this chapter for taking appeals from the board of a
 4 school corporation to the county superintendent, as nearly as appli-
 5 cable, except that thirty days' notice of the appeal shall be given by
 6 the appellant to the county superintendent, and also to the adverse
 7 party. The decision when made shall be final. Nothing in this chapter
 8 shall be so construed as to authorize either the county or state super-
 9 intendent to render judgment for money; neither shall they be
 10 allowed any other compensation than is now allowed by law. All
 11 necessary postage must first be paid by the party aggrieved.

[R., '60, §§ 2139, 2140; C., '73, §§ 1835, 1836; C., '97, § 2820.]

CHAPTER 23.

SECRETARY AND TREASURER.

SECTION 2594. Bonds of secretary and treasurer.

1 The secretary and treasurer shall each give bond to the school cor-
 2 poration in such penalty as the board may require, and with sureties
 3 to be approved by it, which bond shall be filed with the president, con-
 4 ditioned for the faithful performance of his official duties, but in no
 5 case less than five hundred dollars. Each shall take the oath required
 6 of civil officers, which shall be indorsed upon the bond, and shall com-
 7 plete his qualification within ten days. In case of a breach of the

8 bond, the president shall bring action thereon in the name of the
9 school corporation.

[C., '51, § 1144; R., '60, §§ 2035, 2037, 2076; C., '73, §§ 1721,
1731; C., '97, § 2760.]

SEC. 2595. Duties of secretary.

1 The secretary shall file and preserve copies of all reports made to
2 the county superintendent, and all papers transmitted to him pertain-
3 ing to the business of the corporation; keep a complete record of all
4 the proceedings of the meetings of the board and the voters of the
5 corporation in separate books; keep an accurate, separate account of
6 each fund with the treasurer, charge him with all warrants and drafts
7 drawn in his favor, and credit him with all orders drawn on each
8 fund; and he shall keep an accurate account of all expenses incurred
9 by the corporation, and present the same to the board for audit and
10 payment. At the annual meeting he shall record, in a book provided
11 for that purpose, the names of all persons voting thereat, the number
12 of votes cast for each candidate, and for and against each proposition
13 submitted. The secretary of each independent town or city district
14 shall file monthly, on or before the tenth day of each month, with
15 the board of directors, a complete statement of all receipts and dis-
16 bursements from the various funds during the preceding month, and
17 also the balance remaining on hand in the various funds at the close
18 of the period covered by said statement, which monthly statements
19 shall be open to public inspection.

[C., '51, §§ 1126, 1128; R., '60, §§ 2041, 2042; C., '73, §§ 1741,
1743; C., '97, § 2761; S., '13, § 2761.]

SEC. 2596. Warrants.

1 He shall countersign all warrants and drafts upon the county
2 treasurer drawn or signed by the president; draw each order on the
3 treasurer, specify the fund on which it is drawn and the use for which
4 the money is appropriated; countersign and keep a register of the
5 same, showing the number, date, to whom drawn, the fund upon which
6 it is drawn, the purpose and the amount; and at each regular annual
7 meeting furnish the board with a copy of the same.

[C., '51, §§ 1122, 1123, 1126; R., '60, §§ 2039, 2041, 2061; C.,
'73, §§ 1739, 1741, 1782; C., '97, § 2762; S., '13, § 2762.]

**SEC. 2597. Notice of special meetings in school corporations—
divided into precincts.**

1 The secretary of the board of directors of any school corporation
2 which is divided into precincts, shall give notice of all special meetings
3 of the voters, as provided by section twenty-five hundred forty-three.
4 Each notice shall state the date, place and hours during which the
5 meeting will be in session, and the object of the meeting.

[C., '51, § 1129; R., '60, § 2043; C., '73, §§ 1742, 1822; C., '97,
§ 2763; S., '13, § 2763-a.]

SEC. 2598. Incorporations of certain cities and towns.

1 The secretary of the board of directors for any school corpora-
2 tion, located wholly within or partly within the corporate limits of
3 cities of the first class, cities of the second class, or incorporated towns,
4 which may not have adopted the provisions of section twenty-five hun-

5 dred forty-three, and divided into precincts, shall give notice of spe-
 6 cial meeting to the voters in the same manner as for the annual
 7 meeting, by posting at least five notices in five public places within
 8 said corporation, for not less than ten days next preceding the day of
 9 special meeting. Each notice shall state the date, place and hours
 10 during which the meeting will be in session, and the object of the
 11 meeting.

[S., '13, § 2763-b.]

SEC. 2599. In other school corporations.

1 The secretary of the board of directors for any school township
 2 or for any school corporation not included in the preceding section
 3 shall give ten days' printed or written notice of special meeting to the
 4 voters, posted in at least five public places within the corporation. The
 5 notice shall be posted at the door of each schoolhouse, and also at or
 6 near the last place of meeting; and each notice shall state the date,
 7 place and hours during which the meeting will be in session, and the
 8 object of the meeting.

[S., '13, § 2763-c.]

SEC. 2600. Register of persons of school age.

1 He shall, between the first day of June and the first day of
 2 July of each year, enter in a book made for that purpose, the name,
 3 sex and age of every person between five and twenty-one residing in
 4 the corporation, together with the name of the parent or guardian.

[C., '97, § 2764; S., '13, § 2764.]

SEC. 2601. Reports.

1 He shall notify the county superintendent when each school is to
 2 begin and its length of term, and, within five days after the regular
 3 July meeting in each year, file with the county superintendent a report
 4 which shall give the number of persons in the corporation, male or
 5 female, of school age, the number of schools and branches taught, the
 6 number of scholars enrolled and average attendance in each school,
 7 the number of teachers employed and the average compensation paid
 8 per month, distinguishing the sexes, the length of school in days, and
 9 the average cost of tuition per month for each scholar, the textbooks
 10 used, number of volumes in library, the value of apparatus belonging
 11 to the corporation, the number of schoolhouses and their estimated
 12 value, the name, age and postoffice address of each deaf and dumb or
 13 blind person in the corporation between the ages of five and twenty-
 14 one years, and this shall include those who are so blind or deaf as to
 15 be unable to obtain an education in the common schools, a like report
 16 as to all feeble-minded children of and between such ages, and the
 17 number of trees set out and in a thrifty condition on each schoolhouse
 18 ground.

[C., '51, § 1127; R., '60, § 2046; C., '73, §§ 1744, 1745; C.,
 '97, § 2765; S., '13, § 2765.]

SEC. 2602. Officers reported.

1 He shall report to the county superintendent, auditor and treas-
 2 urer the name and postoffice address of the president, treasurer and
 3 secretary of the board as soon as practicable after the qualification
 4 of each.

[C., '73, § 1736; C., '97, § 2766.]

SEC. 2603. Certifying tax.

1 Within five days after the board has fixed the amount required
 2 for the general fund, he shall certify to the board of supervisors the
 3 amount so fixed, and at the same time shall certify the amount of
 4 schoolhouse tax voted at any regular or special meeting. In case a
 5 schoolhouse tax is voted by a special meeting after the above certifi-
 6 cate has been made and prior to the first day of September follow-
 7 ing, he shall forthwith certify the same to the board of supervisors.
 8 He shall also certify to such board any provision made by the board
 9 of directors for the payment of principal or interest of bonds lawfully
 10 issued.

[R., '60, §§ 2037, 2044; C., '73, §§ 1777, 1823; C., '97, § 2767;
 37 G. A., ch. 386, § 3.]

SEC. 2604. Duties of treasurer—payment of warrants—deposit of funds—interest.

1 The treasurer shall receive all moneys belonging to the corpora-
 2 tion, pay the same out only upon the order of the president counter-
 3 signed by the secretary, keeping an accurate account of all receipts
 4 and expenditures in a book provided for that purpose. He shall regis-
 5 ter all orders drawn and reported to him by the secretary, showing
 6 the number, date, to whom drawn, the fund upon which drawn, the
 7 purpose and amount. The money collected by tax voted or the pro-
 8 ceeds of the sale of bonds valid for the purpose of building school-
 9 houses shall be called the schoolhouse fund, and all other moneys
 10 received for any other purpose shall be called the general fund, and he
 11 shall keep a separate account with each fund, paying no order that
 12 fails to state the fund upon which it is drawn and the specific use to
 13 which it is to be applied. Whenever an order can not be paid in full
 14 out of the fund upon which it is drawn, partial payment may be made.
 15 All school orders shall draw lawful interest after being presented to the
 16 treasurer and by him indorsed as not paid for want of funds. It is
 17 hereby made the duty of the treasurer of each school corporation to
 18 deposit all funds in his hands as such treasurer in some bank or banks
 19 in the state at interest at the rate of at least two per cent per annum
 20 on ninety per cent of the daily balances payable at the end of each
 21 month, all of which shall accrue to the benefit of the general fund of
 22 such school corporation; but before such deposit is made, such bank
 23 shall file a bond with sureties to be approved by the treasurer and
 24 the board of directors of such corporation in double the amount depos-
 25 ited, conditioned to hold the school corporation harmless from all loss
 26 by reason of such deposit or deposits; provided that in cases where
 27 an approved surety company's bond is furnished, said bond may be
 28 accepted in an amount equal to ten per cent more than the amount
 29 deposited. Said bond shall be filed with the president of the school
 30 board and action may be brought thereon either by the treasurer or
 31 the school corporation as the board may elect.

[C., '51, §§ 1138-1140; R., '60, §§ 2048-2050; C., '73, §§ 1747-
 1750; C., '97, § 2768; S., '13, § 2768; 37 G. A., ch. 386,
 § 4.]

SEC. 2605. Financial statement.

1 He shall render a statement of the finances of the corporation
 2 whenever required by the board, and his books shall always be open

3 for inspection. He shall make an annual report to the board at its
 4 regular July meeting, which shall show the amount of the general fund
 5 and the schoolhouse fund held over, received, paid out, and on hand,
 6 the several funds to be separately stated, and he shall immediately
 7 file a copy of this report with the county superintendent.

[C., '51, § 1141; R., '60, § 2051; C., '73, § 1751; C., '97, § 2769;
 S., '13, § 2769; 37 G. A., ch. 386, § 5.]

CHAPTER 24.

COMMON SCHOOL LIBRARIES.

SECTION 2606. Library fund.

1 The treasurer of each school township and each rural independent
 2 district in this state shall withhold annually, from the money received
 3 from the apportionment for the several school districts, not less than
 4 five nor more than fifteen cents, as may be ordered by the board, for
 5 each person of school age residing in each school corporation, as shown
 6 by the annual report of the secretary, for the purchase of books as
 7 hereinafter provided. When so ordered by the board of directors, the
 8 provisions of this section shall apply to any independent district.

[S., '13, § 2823-n.]

SEC. 2607. Purchase of books—distribution.

1 Between the third Monday of September and the first day of
 2 December in each year the president and secretary of the board, with
 3 the assistance of the county superintendent of schools, shall expend all
 4 money withheld by the treasurer as provided in section twenty-six
 5 hundred six, in the purchase of books selected from the lists prepared
 6 by the state board of educational examiners as hereinafter provided,
 7 for the use of the school district; in school townships the secretary
 8 shall distribute the books thus selected to the librarians among the
 9 several subdistricts, and at least semiannually collect the same and
 10 distribute others.

[S., '13, § 2823-o.]

SEC. 2608. State board of educational examiners to prepare lists of books.

1 It is hereby made the duty of the state board of educational exam-
 2 iners to prepare at its discretion lists of books suitable for use in school
 3 district libraries, and furnish copies of such lists to each president,
 4 secretary, and each county superintendent, as often as the same shall
 5 be published or revised, from which lists the several presidents and
 6 secretaries and county superintendents shall select and purchase
 7 books.

[S., '13, § 2823-p.]

SEC. 2609. Record book.

1 It shall be the duty of each secretary to keep in a record book,
 2 furnished by the board of directors, a complete record of the books
 3 purchased and distributed by him.

[S., '13, § 2823-q.]

SEC. 2610. Librarian.

1 Unless the board of directors shall elect some other person, the
 2 secretary in independent districts and director in subdistricts in
 3 school townships shall act as librarian and shall receive and have the
 4 care and custody of the books, and shall loan them to teachers, pupils,
 5 and other residents of the district, in accordance with the rules and
 6 regulations prescribed by the state board of educational examiners
 7 and board of directors. Each librarian shall keep a complete record
 8 of the books in a record book furnished by the board of directors.
 9 During the periods that the school is in session the library shall be
 10 placed in the schoolhouse, and the teacher shall be responsible to the
 11 district for its proper care and protection. The board of directors
 12 shall have supervision of all books, and shall make an equitable dis-
 13 tribution thereof among the schools of the corporation.

[S., '13, § 2823-r.]

CHAPTER 25.**STANDARDIZATION OF PUBLIC SCHOOLS.****SECTION 2611. Standard schools—maintenance—requirements.**

1 Any school maintained by a district wholly outside a city, town,
 2 or village corporation or consolidated independent district which has
 3 complied with the provisions of sections twenty-six hundred eleven to
 4 twenty-six hundred eighteen, inclusive, shall be known as a standard
 5 school. Every standard school, before it may be designated as such,
 6 shall have been maintained for eight school months during the pre-
 7 vious year and shall conduct school for eight months of each suc-
 8 ceeding year. It shall have a suitable schoolhouse, grounds and
 9 outbuildings in proper condition and repair; be equipped with needful
 10 apparatus, textbooks, supplies; an adequate system of heating and
 11 ventilation; have done efficient work and have complied with such
 12 requirements as shall be specified by the superintendent of public
 13 instruction.

[38 G. A., ch. 364, § 1.]

SEC. 2612. Minimum requirements.

1 It shall be the duty of the superintendent of public instruction to
 2 prescribe and promulgate the requirements he shall deem necessary
 3 for standard schools as to minimum requirements for standards of
 4 teaching, general equipment, heating and ventilation, lighting, seating,
 5 water supply, library, care of grounds, safety against fire, and such
 6 other requirements as will conserve the health, safety and welfare
 7 of the children attending school; and prescribe such other require-
 8 ments as he shall deem necessary for the upbuilding and improvement
 9 of such schools.

[38 G. A., ch. 364, § 2.]

SEC. 2613. County superintendent—reports.

1 On or before June thirtieth of each year, and at such other times
 2 as the superintendent of public instruction may direct, the county
 3 superintendent of schools shall make reports and furnish such other

4 data in regard to said schools as the department of public instruction
5 may desire on blanks to be furnished by the superintendent of public
6 instruction.

[38 G. A., ch. 364, § 3.]

SEC. 2614. State aid.

1 State aid shall be given to rural districts maintaining one or more
2 standard schools to the amount of six dollars for each pupil who has
3 attended said schools in said district at least six months of the pre-
4 vious year.

[38 G. A., ch. 364, § 4.]

SEC. 2615. Teacher's certificate and contract—number of pupils.

1 No school shall be deemed a standard school unless the teacher
2 is the holder of a first-grade uniform county certificate or its equiva-
3 lent, has contracted for the entire school year, and unless such school
4 shall have maintained an average daily attendance of at least ten
5 pupils.

[38 G. A., ch. 364, § 5.]

SEC. 2616. Door plate.

1 Each standard school shall be furnished by the superintendent of
2 public instruction with a suitable door plate or mark of identification,
3 and the expense of the same shall be paid from the fund created by
4 this chapter for the promotion of standard schools.

[38 G. A., ch. 364, § 6.]

SEC. 2617. State aid—how obtained and expended.

1 Upon receiving from the county superintendent a satisfactory
2 report showing that any rural school has fulfilled the requirements of
3 a standard school, the superintendent of public instruction shall issue
4 a requisition upon the auditor of state for the amount due any rural
5 school district entitled to state aid for the school year just past;
6 whereupon the auditor of state shall draw a warrant on the treasurer
7 of state payable to the secretary of the school corporation entitled
8 thereto and forward to the secretary of said school corporation, who
9 shall cause the same to be deposited with the other funds of the dis-
10 trict. The money shall be expended in the district or districts main-
11 taining standard schools in amounts proportionate to the number of
12 pupils upon which state aid was granted. The secretary shall issue a
13 warrant in favor of the teacher to the amount of one-half the subsidy
14 due each such school, and the school board shall, with the assistance
15 of the county superintendent, expend the remainder in improvements
16 and necessary apparatus. If more than one teacher is employed in a
17 school the amount shall be apportioned between them according to the
18 time of their employment.

[38 G. A., ch. 364, § 7.]

SEC. 2618. Appropriation.

1 For the purpose of carrying out the provisions of this chapter
2 there is hereby appropriated out of any money in the state treasury
3 not otherwise appropriated the sum of one hundred thousand dollars
4 annually, which fund, if not all used, shall be allowed to accumulate,

5 and shall not be turned back into the state treasury nor used for any
6 purpose other than herein provided.

[38 G. A., ch. 364, § 8.]

CHAPTER 26.

TEACHERS.

SECTION 2619. Teacher—qualifications.

1 No person shall be employed as a teacher in a common school
2 which is to receive its distributive share of the school fund without
3 having a certificate of qualification given by the county superintendent
4 of the county in which the school is situated, or a certificate or diploma
5 issued by some other officer duly authorized by law, and no compensa-
6 tion shall be recovered by a teacher for services rendered while with-
7 out such certificate or diploma.

[R., '60, § 2062; C., '73, § 1758; C., '97, § 2788.]

SEC. 2620. Keep register—report.

1 Each teacher shall keep a daily register which shall correctly
2 exhibit the name or number of the school, the district and county in
3 which it is located, the day of the week, month, year, and the name,
4 age and attendance of each scholar, and the branches taught; and
5 when scholars reside in different districts separate registers shall be
6 kept for each district, and a certified copy of the register shall, im-
7 mediately at the close of the school, be filed by the teacher in the office
8 of the secretary of the board. The teacher shall file with the county
9 superintendent such reports and in such manner as he may require.

[R., '60, § 2062; C., '73, §§ 1759, 1760; C., '97, § 2789.]

SEC. 2621. Minimum teachers' wage—based on certificate grade.

1 All teachers in the public schools of this state, shall be paid for
2 their services a minimum wage of not less than the amounts herein-
3 after set forth:

4 1. A teacher who has completed a four-year college course and
5 received a degree from an approved college, and who is the holder of a
6 state certificate or a state diploma, shall receive a minimum wage of
7 one hundred dollars per month until a successful teaching experience
8 of two years in the public schools shall have been established. There-
9 after the minimum wage shall be one hundred and twenty dollars per
10 month.

11 2. A teacher who has completed a two-year course in education
12 in a state normal school, or other school whose diploma is recognized
13 as an equivalent diploma by the state board of educational examiners,
14 and who shall be the holder of a state certificate, or who shall be the
15 holder of a state certificate issued upon examination, shall receive a
16 minimum wage of eighty dollars per month, until a successful teaching
17 experience of two years in the public schools shall have been estab-
18 lished. Thereafter the minimum wage shall be one hundred dollars
19 per month.

20 3. A teacher who has completed a normal course in a normal
21 training high school, and who has had less than one year of success-

22 ful teaching experience, shall receive a minimum wage of sixty-five
 23 dollars per month. A teacher who has completed a normal course in
 24 a normal training high school, and who shall have had one year of
 25 successful teaching experience, and a teacher holding a first-grade
 26 uniform county certificate, shall receive a minimum wage of seventy-
 27 five dollars per month until a successful experience of two years in
 28 the public schools shall have been established. Thereafter the mini-
 29 mum wage shall be eighty dollars per month.

30 4. A teacher who is the holder of a second-grade uniform county
 31 certificate shall receive a minimum wage of sixty dollars per month
 32 until a successful experience of one year's duration in the public
 33 schools shall have been established. Thereafter the minimum wage
 34 shall be sixty-five dollars per month.

35 5. A teacher holding a third-grade uniform county certificate
 36 shall receive a minimum wage of fifty dollars per month.

[S., '13, § 2778-a; 38 G. A., ch. 351, § 1.]

SEC. 2622. Increase of salary—how obtained.

1 The holder of any certificate, in order to become entitled to the
 2 increase in salary provided by the preceding section because of suc-
 3 cessful teaching experience must file with the county superintendent
 4 his certificate, also proofs of one or two years of teaching experience,
 5 as the law requires. If in the opinion of the county superintendent
 6 the proofs are satisfactory, he shall indorse such findings on the back
 7 of said certificate and return the same to the holder thereof, and any
 8 certificate properly indorsed by the county superintendent shall be
 9 evidence of qualifications for the increase of salary provided by the
 10 preceding section for such teaching experience.

[38 G. A., ch. 351, § 2.]

SEC. 2623. Contracts for less than minimum wage prohibited.

1 It shall be unlawful for any school board or any school officer to
 2 contract for or pay a less wage to any teacher in the public schools
 3 of this state than the minimum amounts herein fixed. But nothing
 4 herein shall be construed as limiting the right to make a lawful con-
 5 tract for a higher wage than herein specified as a minimum.

[S., '13, § 2778-c; 38 G. A., ch. 351, § 1.]

SEC. 2624. Violation—penalty.

1 Any school officer violating the provisions of the three preceding
 2 sections shall be fined a sum of not less than twenty-five dollars, nor
 3 more than one hundred dollars, in the discretion of the court, and
 4 shall be suspended from office.

[S., '13, § 2778-d.]

SEC. 2625. Pension system authorized.

1 Any independent school district having a population of seventy-
 2 five thousand or more may establish a pension and annuity retirement
 3 system for the public school teachers of such district.

[37 G. A., ch. 387, § 1.]

SEC. 2626. Fund—how created.

1 The fund for such retirement system shall be created by an
2 annual tax not exceeding two-tenths of a mill on the dollar, by an
3 assessment of the teachers not exceeding one per cent of their salaries
4 in any one year, and by the interest on any permanent fund which
5 may be created by gift, bequest or otherwise.

[37 G. A., ch. 387, § 2.]

SEC. 2627. Management.

1 The board of directors of the independent school district shall
2 constitute the board of trustees and shall formulate the plan of the
3 retirement; and shall make all necessary rules and regulations for
4 the operation of said retirement system.

[37 G. A., ch. 387, § 3.]

SEC. 2628. Services for raising of flag.

1 At the commencement of each school day the teacher, superin-
2 tendent, principal or whoever has the general supervision of the school
3 administration within any such building, may arrange for the raising
4 of such flag, as provided by section twenty-five hundred seventy-three,
5 over the said building, with appropriate services, when weather con-
6 ditions will permit, at the beginning of each school day.

[S., '13, § 2804-b.]

CHAPTER 27.**INSTRUCTION OF DEAF.****SECTION 2629. Instructors for deaf children.**

1 Any school corporation within the state having residing therein
2 deaf children of school age may provide one or more special instructors
3 for such deaf children, the instruction given under such special
4 instructors to be substantially equivalent to that given other children
5 of corresponding age in the graded schools.

[37 G. A., ch. 308, § 1.]

SEC. 2630. State aid.

1 To any school corporation providing such instruction and com-
2 plying with all of the provisions of this chapter there shall be granted
3 and paid as hereinafter provided state aid in an amount to be com-
4 puted at eleven dollars for each month that each child not more than
5 ten years of age is instructed under the provisions of this chapter. No
6 child more than ten years of age shall be admitted to such instruction.

[37 G. A., ch. 308, § 2.]

SEC. 2631. State board of education to supervise.

1 When any school corporation shall elect to proceed under the pro-
2 visions of this chapter, it shall, through its proper officers, communi-
3 cate that fact to the state board of education, and the state board of
4 education shall have general supervision of all matters arising under

5 this chapter, and no instructor shall be appointed hereunder and no
6 courses or methods of instruction shall be installed hereunder without
7 the approval of such state board of education.

[37 G. A., ch. 308, § 3.]

SEC. 2632. State aid—when payable.

1 The state aid herein provided for shall be paid annually at the end
2 of the school year upon properly authenticated and verified claim in
3 form as may be required by the state board of education, and when
4 such claim is approved by the state board of education the auditor of
5 state shall draw warrant accordingly.

[37 G. A., ch. 308, § 4.]

SEC. 2633. Appropriation.

1 For the purpose of paying the state aid granted under this chap-
2 ter there is hereby appropriated out of any funds in the state treasury
3 not otherwise appropriated a sum sufficient therefor, such appropria-
4 tion to be available for the school year nineteen hundred seventeen-
5 nineteen hundred eighteen and annually thereafter.

[37 G. A., ch. 308, § 5.]

CHAPTER 28.

INDEBTEDNESS OF SCHOOL DISTRICTS.

SECTION 2634. Indebtedness authorized in certain districts.

1 Any school corporation shall be allowed to become indebted for
2 the purpose of building and furnishing a schoolhouse or schoolhouses
3 and additions thereto, gymnasium, teachers' or superintendent's home
4 or homes; and procuring a site or sites therefor, or for the purpose of
5 purchasing land to add to a site already owned, to an amount not to
6 exceed in the aggregate, including all other indebtedness, five per
7 centum of the actual value of the taxable property within such school
8 corporation, such value to be ascertained by the last county tax list
9 previous to the incurring of such indebtedness, anything contained in
10 section forty hundred fifty-four to the contrary notwithstanding.

[S., '13, § 2820-d1; 38 G. A., ch. 314, § 1.]

SEC. 2635. Petition for election.

1 Before such indebtedness can be contracted in excess of one and
2 one-quarter per centum of the actual value of the taxable property
3 ascertained as provided in sections twenty-six hundred thirty-four to
4 twenty-six hundred thirty-eight, inclusive, a petition signed by a num-
5 ber equal to twenty-five per cent of those voting at the last school
6 election shall be filed with the president of the board of directors,
7 asking that an election shall be called, stating the purpose for which
8 the money is to be used, and that the necessary schoolhouse or houses
9 can not be built and furnished, or that sufficient land can not be pur-
10 chased to add to a site already owned, within the limit of one and
11 one-quarter per centum of the valuation.

[S., '13, § 2820-d2.]

SEC. 2636. Submission of question—notice—ballot.

1 The president of the board of directors, on receipt of such peti-
 2 tion shall, within ten days, call a meeting of the board who shall
 3 call such election, fixing the time and place thereof, which may be
 4 at the time and place of holding the regular school election. Four
 5 weeks' notice of such election shall be given by publication once each
 6 week, in some newspaper published in the said town or city, or if none
 7 be published therein, in the next nearest town or city in the county.
 8 At such election the ballot shall be prepared and used in substantially
 9 the following form:

10	<input type="checkbox"/>	Yes	Shall the (naming the school district) issue bonds in the sum of.....dollars (\$.....) for the purpose of constructing or equipping schoolhouses?
11	<input type="checkbox"/>	No	

12 [S., '13, § 2820-d3.]

SEC. 2637. Bonds.

1 If a majority of all the qualified voters voting at such election
 2 vote in favor of the issuance of such bonds, the board of directors
 3 shall issue the same and make provision for the payment of the same
 4 and the interest thereon as provided in sections twenty-six hundred
 5 fifty-six, twenty-six hundred sixty, twenty-six hundred sixty-one and
 6 twenty-six hundred sixty-two.

[S., '13, § 2820-d4; 38 G. A., ch. 134, § 1.]

SEC. 2638. To what applicable.

1 But this chapter shall in no wise affect pending litigation nor act
 2 or acts of any school board under the statute or statutes herein
 3 repealed; but the transaction, if any, may be completed with the same
 4 force and effect as if the statute were not repealed.

[S., '13, § 2820-d5.]

CHAPTER 29.**SCHOOLHOUSES AND SCHOOLHOUSE SITES.****SECTION 2639. Schoolhouse site—division of district—length of school.**

1 The board of any school district may fix the site for each school-
 2 house, taking into consideration the geographical position, number
 3 and convenience of the scholars, provide for the fencing of school-
 4 house sites, determine the number of schools to be taught, divide the
 5 corporation into such wards or other divisions for school purposes
 6 as may be proper, determine the particular school which each child
 7 shall attend, and designate the period each school shall be held beyond
 8 the time required by law, except that no contract shall be entered into
 9 with any teacher to teach any school in the school corporation when
 10 the average attendance in said school the last preceding term therein
 11 was less than five pupils, unless a showing is made to the county super-
 12 intendent that the number of children of school age in said school
 13 district has increased so that ten or more will be enrolled in such school
 14 and will attend therein, in which case, or when natural obstacles to

15 transportation of pupils to another district or other conditions make
 16 it clearly inadvisable that such schools be closed, the county superin-
 17 tendent may consent to maintaining a school in said district for the
 18 ensuing term. It shall be the duty of the member of the school board
 19 residing in said district to make the showing referred to herein, or
 20 any resident of said district may, upon his own motion, make said
 21 showing. Every school shall be free of tuition to all actual residents
 22 between the ages of five and twenty-one years, and to resident honor-
 23 ably discharged soldiers, sailors, and marines as many months after
 24 becoming twenty-one years of age as they have spent in the military
 25 and naval service of the United States before they became twenty-
 26 one, and each school regularly established shall continue for at least
 27 thirty-two weeks of five school days each in each school year com-
 28 mencing the first of July. In case a school in any district be closed
 29 as herein provided, then the board of such school corporation shall
 30 provide for the instruction of the pupils in said district in another
 31 school as conveniently as may be, and shall provide for the transporta-
 32 tion of such pupils to such other school when any one or more of such
 33 pupils reside more than one and a half miles from the school to which
 34 they have been assigned, or shall allow to the parent or guardian of
 35 such pupil or pupils a reasonable sum for transporting such child or
 36 children to such other school. The school board of the corporation
 37 in which the school that is closed under the provisions of this section
 38 is situated shall pay to the secretary of the school corporation in
 39 which children attend from the closed school the average cost of tui-
 40 tion and other expenses in the school wherein such children attend.

[R., '60, §§ 2023, 2037; C., '73, §§ 1724, 1727, 1762; C., '97,
 § 2773; S., '13, § 2773; 38 G. A., ch. 24; 38 G. A., ch. 143,
 §§ 1, 2; 38 G. A., ch. 160, § 1.]

SEC. 2640. Schoolhouse sites.

1 Any school corporation may take and hold so much real estate as
 2 may be required for schoolhouse sites, for the location or construction
 3 thereon of schoolhouses, and the convenient use thereof, but not to
 4 exceed two acres exclusive of public highway, except in a city, town
 5 or village or cities under special charters; it may include two blocks
 6 or area equal thereto exclusive of the street or highway as the case
 7 may be, for any one site, and may also take and hold such additional
 8 real estate, not exceeding five acres, as may be required for school
 9 playground or other purposes for each such site or districts consoli-
 10 dated under the provisions of section twenty-five hundred twenty-
 11 four, may take and hold not to exceed ten acres, for any one site,
 12 unless such additional ground may be acquired by donation, which site
 13 must be upon some public road already established or procured by the
 14 board of directors, and shall, except in cities, towns or villages, be at
 15 least thirty rods from the residence of any owner who objects to its
 16 being placed nearer, and not in any public park. The directors in
 17 any independent district whose territory is composed wholly or in
 18 part of territory occupied by any city of the first class or city under
 19 special charter may, at their regular meeting in July, or at a special
 20 meeting called for that purpose, between the time designated for such
 21 regular meeting and the third Monday in August, certify an amount
 22 not exceeding four mills to the board of supervisors, and they shall
 23 levy the amount so certified, and the tax so levied shall be placed in
 24 the schoolhouse fund and used only for the purchase of sites in and

25 for said school district. Anything contained in section twenty-five
26 hundred thirty-seven to the contrary notwithstanding.

[C., '73, §§ 1825, 1826; C., '97, § 2814; S., '13, § 2814; 37 G.
A., ch. 26, § 1; 37 G. A., ch. 400, § 1; 38 G. A., ch. 125,
§ 1.]

SEC. 2641. Schoolhouse sites—limitation—exceptions.

1 Any school corporation in which there was organized and
2 founded, prior to the year nineteen hundred two, a university with
3 not to exceed forty acres of land upon which a school building or
4 buildings have been erected which could be used for public school pur-
5 poses, and said university did, prior to the year nineteen hundred
6 fourteen, abandon said school and place its property upon the market,
7 and the same is now owned by a church organization, said school cor-
8 poration may purchase said land and buildings where the same are
9 located in a city of the first class; provided the owner of said land
10 and buildings and the school corporation can agree as to the terms
11 of sale and purchase price thereof. Said lands and buildings, when
12 so purchased, may be used for grade or high school purposes, school-
13 house site or sites, playgrounds, athletic field, demonstration grounds,
14 agricultural experiment grounds and other educational or school pur-
15 poses.

[C., '97, § 2814; S., '13, § 2814; 37 G. A., ch. 400.]

SEC. 2642. Condemnation—procedure.

1 If the owner of any of the real estate desired for a schoolhouse
2 site or sites, or a public road thereto, or for school playgrounds or
3 other purposes for which any school corporation is, or may be, author-
4 ized to take and hold real estate, refuses or neglects to convey the
5 same, or is deceased, or is unknown or can not be found, or if in the
6 judgment of the board of directors of said school corporation they
7 can not agree with such owner, the county superintendent of the
8 county in which said school corporation is located shall, upon the appli-
9 cation of either party in interest, appoint three freeholders of said
10 county, not interested in the same or a like question, as referees, who
11 shall take and subscribe an oath to the effect that they will faithfully
12 and impartially discharge the duties laid upon them. The county
13 superintendent shall give notice of the time and place of making the
14 assessments of damages to the owner of such real estate as shown
15 by the transfer books in the office of the county auditor of such county,
16 and to the person in possession thereof; or, if such owner as so shown
17 by such transfer books is deceased, then such notice shall be given
18 to the person or persons in possession of such real estate and to the
19 owners of the beneficial interest therein, such notice in either event
20 to be given for the same length of time and in the same manner as
21 for the commencement of actions in the district court. Such referees
22 shall inspect the grounds proposed to be taken, fix the damage sus-
23 tained as near as may be on the basis of the value of the real estate
24 so appropriated, and report in writing to the county superintendent
25 their doings and findings, which report shall be filed and preserved in
26 his office; and upon the amount found by the referees being deposited
27 with the county treasurer, for the use of such owner or owners, posses-
28 sion may at once be taken of such real estate and the necessary build-
29 ings erected and occupied. From the assessment so made either party
30 may appeal to the district court by giving notice thereof as in case

31 of taking private property for works of internal improvement within
 32 ten days after receiving notice of the award made. If such appeal is
 33 not taken, the assessment shall be final; if taken, the board may pro-
 34 ceed with the construction of improvements, and may take possession
 35 of such real estate, if the deposit hereinbefore provided has been or
 36 shall be made. Such proceedings shall be void if the school corpora-
 37 tion fails to deposit the amount due as hereinbefore provided within
 38 sixty days from and after the final determination of the proceedings,
 39 upon appeal or otherwise. Upon such appeal the school corporation
 40 shall not be liable for costs unless the owner shall be allowed a greater
 41 sum than given by the referees; all cost of making the referees' assess-
 42 ment to be paid by the school corporation.

[C., '73, § 1827; C., '97, § 2815; 37 G. A., ch. 26, § 2.]

SEC. 2643. Erection or repair of schoolhouse.

1 The board of directors shall not erect a schoolhouse without first
 2 consulting with the county superintendent as to the most approved
 3 plan for such building and securing his approval of the plan sub-
 4 mitted, nor shall any schoolhouse be erected or repaired at a cost
 5 exceeding three hundred dollars, save under an express contract
 6 reduced to writing, and upon proposals therefor, invited by advertise-
 7 ment for four weeks in some newspaper published in the county in
 8 which the work is to be done, and the contract shall be let to the lowest
 9 responsible bidder, bonds with sureties for the faithful performance
 10 of the contract being required, but the board may reject any and all
 11 bids and advertise for new ones.

[R., '60, § 2037; C., '73, § 1723; C., '97, § 2779.]

SEC. 2644. Uses for other than school purposes.

1 The board of directors of any school corporation may authorize
 2 the use of any schoolhouse and its grounds within such corporation
 3 and not within the limits of a city or town for the purpose of meetings
 4 of granges, lodges, agricultural societies and similar rural secret
 5 orders and societies, and for election purposes; such use to be for such
 6 compensation and upon such terms and conditions as may be fixed by
 7 said board for the proper protection of the schoolhouse and the prop-
 8 erty belonging therein, including that of pupils. Any compensation
 9 for such use shall be paid into the general fund and be expended
 10 in the upkeep and repair of such school property, and in purchasing
 11 supplies therefor; provided, however, that if at any time the voters
 12 of such corporation at any annual meeting forbid such use of any such
 13 schoolhouse or grounds, the board shall not thereafter permit such
 14 use until the said action of such voters shall have been rescinded by
 15 the voters at an annual meeting, or at a special meeting called for
 16 that purpose.

[37 G. A., ch. 229; 37 G. A., ch. 386, § 11.]

SEC. 2645. Renting room—instruction in other schools—transportation of children.

1 It may, when necessary, rent a room and employ a teacher, where
 2 there are ten children for whose accommodation there is no school-
 3 house; and when the board is released from its obligation to maintain
 4 a school, or when children live at an unreasonable distance from their
 5 own school, the board may contract with boards of other school town-

6 ships or independent districts for the instruction of children thus
 7 deprived of school advantages, in any school therein, and the cost
 8 thereof shall be paid from the general fund. And when there will
 9 be a saving of expense, and children will also thereby secure increased
 10 advantages, it may arrange with any person outside the board for
 11 the transportation of any child to and from school in the same or in
 12 another corporation, and such expenses shall be paid from the general
 13 fund.

[C., '73, § 1725; C., '97, § 2774; 37 G. A., ch. 386, § 6.]

SEC. 2646. Use of barbed wire.

1 Barbed wire shall not be used to inclose any school buildings or
 2 grounds, nor for any fence or other purpose within ten feet of any
 3 such grounds. Any person violating the provisions of this section
 4 shall be punished by fine not exceeding twenty-five dollars.

[C., '97, § 2817.]

SEC. 2647. Duty of boards of school directors—fence.

1 It shall be the duty of all boards of school directors in school
 2 districts where the schoolhouse site adjoins the cultivated or improved
 3 lands of another to build and maintain a lawful fence between said
 4 site and cultivated or improved lands.

[S., '13, § 2745-a.]

SEC. 2648. Rights of owner of adjoining lands.

1 The owner of lands adjoining any schoolhouse site shall have the
 2 right to connect the fence on his lands with the fences around any
 3 schoolhouse site, but he shall not be liable to contribute to the main-
 4 tenance of the fence around said site.

[S., '13, § 2745-b.]

SEC. 2649. Reversion.

1 In school districts wholly outside any city or incorporated town,
 2 in case of nonuser for school purposes for two years continuously of
 3 any real estate acquired for a schoolhouse site, it shall revert, with
 4 improvements thereon, to the owner of the tract from which it was
 5 taken, upon payment of the market value thereof, together with the
 6 value of the improvements thereon, to be determined by arbitration,
 7 and upon such payment the school corporation shall make a convey-
 8 ance to such owner. If such owner refuses to accept the property
 9 at its appraised value, the school corporation may sell the same to any
 10 other person upon the payment of the appraised value, or at public
 11 auction to the highest bidder. In either of the above cases the site
 12 and the improvements thereon may be sold separately. Schoolhouses
 13 and school sites no longer necessary for school purposes, because of
 14 being located in consolidated school districts, may be sold immediately
 15 after the organization of such consolidated school district in the man-
 16 ner above provided. During its use no person owning a right of
 17 reversion shall have any interest in or control over the premises.
 18 This law shall not apply to districts in which schools have been tem-
 19 porarily closed by law on account of small attendance.

[C., '73, § 1828; C., '97, § 2816; S., '13, § 2816; 38 G. A.,
 ch. 342, § 1.]

CHAPTER 30.

SCHOOL TAXES AND BONDS.

SECTION 2650. School taxes—transportation fund—contract for use of library.

1 The board of each school corporation shall at its regular meeting
 2 in July, or at a special meeting called for that purpose between the
 3 time designated for such regular meeting and the third Monday in
 4 August, estimate the amount required for the general fund, not ex-
 5 ceeding sixty dollars for each pupil of school age, but each school cor-
 6 poration may estimate not to exceed six hundred fifty dollars for each
 7 school thereof, and such additional sum as may be necessary not
 8 exceeding five dollars for each person of school age for transporting
 9 children to and from school; also such additional sum as may be
 10 authorized in section twenty-six hundred ninety-five. No tax shall be
 11 estimated by the board after the third Monday in August in each
 12 year. School corporations containing territory in adjoining counties
 13 may vote and estimate all taxes for school purposes in mills. The
 14 board shall apportion any tax voted by the annual meeting for school-
 15 house fund among the several subdistricts in such a manner as jus-
 16 tice and equity may require, taking as the basis of such apportionment
 17 the respective amounts previously levied upon said subdistricts for
 18 the use of such fund. The board of directors of any school corpora-
 19 tion in which there is no free public library shall have power to con-
 20 tract with any free public library for the free use of such library by
 21 the residents of such school district as provided in section thirty-seven
 22 hundred fifty-two and to pay such library the amount agreed therefor,
 23 and to certify annually a tax not exceeding one mill on the dollar of
 24 the taxable property of such district, to be used exclusively therefor;
 25 and during the existence of such contract a tax sufficient to pay such
 26 library the consideration agreed upon, not exceeding one mill on the
 27 dollar, shall be certified annually by such board. Each school cor-
 28 poration making such contract shall, during the existence of such
 29 contract, be relieved from the requirements of section twenty-six hun-
 30 dred six. This section shall not be construed to apply in townships
 31 where a contract is in existence under the provisions of section thirty-
 32 four hundred forty-three.

[C., '51, § 1152; R., '60, §§ 2033, 2034, 2037, 2038, 2044,
 2088; C., '73, §§ 1738, 1777, 1778; C., '97, § 2806; S.,
 '13, § 2806; 37 G. A., ch. 32, § 1; 37 G. A., ch. 386, § 9;
 38 G. A., ch. 77, § 1.]

SEC. 2651. Levy by board of supervisors.

1 The board of supervisors shall at the time of levying taxes for
 2 county purposes levy the taxes necessary to raise the various funds
 3 authorized by law and certified to it by law, but if the amount certified
 4 for any such fund is in excess of the amount authorized by law, it
 5 shall levy only so much thereof as is authorized by law. If a school-
 6 house tax is voted at a special meeting and certified to said board after
 7 the regular levy is made, it shall at its next regular meeting levy such
 8 tax and cause the same to be forthwith entered upon the tax list to
 9 be collected as other school taxes. It shall also levy a tax for the
 10 support of the schools within the county of not less than one nor more

11 than three mills on the dollar on the assessed value of all the taxable
12 property within the county.

[R., '60, §§ 2057, 2059; C., '73, §§ 1779, 1780; C., '97, § 2807.]

SEC. 2652. Apportionment.

1 The county auditor shall, on the first Monday in April and the
2 first Monday in October of each year, apportion the school tax, together
3 with the interest of the permanent school fund and rents on unsold
4 school lands to which the county is entitled as shown in notice from
5 the auditor of state, and all other money in the hands of the county
6 treasurer belonging in common to the schools of the county and not
7 included in any previous apportionment, among the several corpora-
8 tions therein, in proportion to the number of persons of school age,
9 as shown by the report of the county superintendent filed with him
10 for the year immediately preceding. He shall immediately notify the
11 county treasurer of such apportionment and of the amount due thereby
12 to each corporation. The county treasurer shall thereupon give notice
13 to the president of each corporation, and shall pay out such appor-
14 tionment moneys in the same manner that he is authorized to pay
15 other school moneys to the treasurers of the several school districts.

[R., '60, §§ 1966, 2060, 2061; C., '73, §§ 1781, 1782, 1841;
C., '97, § 2808; S., '13, § 2808.]

SEC. 2653. County auditor to report.

1 The county auditor shall, on the first Monday in January of each
2 year, forward to the superintendent of public instruction a certificate
3 of the election or appointment and qualification of the county super-
4 intendent, and shall also on the first day of January of each year
5 make out and transmit to the auditor of state, in accordance with
6 such forms as said auditor may prescribe, a report of the amount of
7 permanent school funds held by the county and also the amount of
8 interest due prior to January first, still remaining unpaid, and shall
9 file said report with the auditor of state on or before the first day of
10 February.

[C., '73, § 1783; C., '97, § 2809; S., '13, § 2809.]

SEC. 2654. Taxes paid over.

1 Before the third Monday of January, April, July and October
2 in each year, the county treasurer shall give notice to the president of
3 the board of each school corporation in the county of the amount col-
4 lected for each fund to the first day of such month, and the president
5 of each board shall draw his draft therefor, countersigned by the sec-
6 retary, upon the county treasurer, who shall pay such taxes to the
7 treasurers of the several school boards only on such draft. He shall
8 also keep the amount of tax levied for schoolhouse purposes separate
9 in each subdistrict where such levy has been made directly upon the
10 property of the subdistrict, and shall pay over the same quarterly to
11 the treasurer of the school township for the benefit of such subdistrict.

[C., '73, §§ 1784, 1785; C., '97, § 2810.]

SEC. 2655. Judgment tax.

1 When a judgment shall be obtained against a school corporation,
2 its board shall order the payment thereof out of the proper fund by
3 an order on the treasurer, not in excess, however, of the funds avail-

4 able for that purpose. If the proper fund is not sufficient, then, unless
 5 its board has provided by the issuance of bonds for raising the amount
 6 necessary to pay such judgment, the voters thereof shall at their
 7 annual meeting vote a sufficient tax for the purpose. In case of failure
 8 or neglect to vote such tax, the school board shall certify the amount
 9 required to the board of supervisors, who shall levy a tax on the prop-
 10 erty of the corporation for the same.

[R., '60, § 2095; C., '73, § 1787; C., '97, § 2811.]

SEC. 2656. Tax to pay bonds.

1 The board of each school corporation shall, when estimating and
 2 certifying the amount of money required for general purposes, esti-
 3 mate and certify to the board of supervisors of the proper county the
 4 amount required to pay interest due or that may become due for the
 5 year beginning January first thereafter, upon lawful bonded indebt-
 6 edness, and in addition thereto such amount as the board may deem
 7 necessary to apply on the principal; but the amount estimated and
 8 certified to apply on principal and interest for any one year shall not
 9 exceed five mills on the dollar of the actual valuation of the taxable
 10 property of the school corporation.

[C., '73, § 1823; C., '97, § 2813; S., '13, § 2813.]

SEC. 2657. Tax levy.

1 The board of supervisors of the county to which the certificate
 2 is addressed within the contemplation of the preceding section shall
 3 levy the necessary tax to raise the amount estimated, or so much
 4 thereof as may be lawful and within the limitation of the preceding
 5 section, which levy shall be made as other taxes for school purposes.

[S., '13, § 2813-a.]

SEC. 2658. To what applicable.

1 The two preceding sections shall apply to estimates heretofore
 2 made, certificates furnished, or taxes levied, together with such as
 3 may hereafter be made, furnished or levied for the purposes contem-
 4 plated by the two preceding sections.

[S., '13, § 2813-b.]

SEC. 2659. School funding or refunding bonds.

1 For the purpose of providing for the payment of any indebted-
 2 ness of any school corporation represented by judgments or bonds,
 3 the board of directors of such school corporation, at any time or times,
 4 may provide by resolution for the issuance of bonds of such school
 5 corporation, to be known as funding or refunding bonds. The pro-
 6 ceeds derived from the negotiation of such funding or refunding bonds
 7 shall be applied in payment of such indebtedness; or said funding
 8 bonds or refunding bonds may be issued in exchange for the evidences
 9 of such indebtedness, par for par.

[S., '13, § 2812-c; 37 G. A., ch. 262, § 1.]

SEC. 2660. School building bonds.

1 For the purpose of borrowing money necessary to erect, com-
 2 plete, equip, furnish or improve a schoolhouse, or to purchase sites
 3 therefor, the board of directors of any school corporation, when they

4 have been heretofore, or when they may hereafter be, authorized by
 5 the voters at the annual meeting or at a special meeting called for that
 6 purpose, may issue the negotiable interest-bearing bonds of said school
 7 corporation, said bonds to be known as school building bonds.

[S., '13, § 2812-d.]

SEC. 2661. Form—duration—rate of interest—where registered.

1 All of said bonds shall be substantially in the form provided for
 2 county bonds, but, subject to changes that will conform them to the
 3 action of the board providing therefor, shall run not more than twenty
 4 years, and may be sooner paid if so nominated in the bond; be in
 5 denomination of not more than one thousand dollars or less than one
 6 hundred dollars each, to bear a rate of interest not exceeding five per
 7 centum per annum, payable semiannually, to be signed by the presi-
 8 dent and countersigned by the secretary of the board of directors, and
 9 shall not be disposed of for less than par value, nor issued for other
 10 purposes than this chapter provides. All of said bonds shall be regis-
 11 tered in the office of the county auditor. The expenses of engraving
 12 and printing of bonds may be paid out of the general fund.

[S. S., '15, § 2812-e; 37 G. A., ch. 386, § 11.]

SEC. 2662. Redemption—treasurer to keep record.

1 Whenever the amount in the hands of the treasurer, belonging
 2 to the funds set aside to pay bonds, is sufficient to redeem one or more
 3 of the bonds which by their terms are subject to redemption, he shall
 4 give the owner of said bonds thirty days' written notice of the readi-
 5 ness of the district to pay and the amount it desires to pay. If not
 6 presented for payment or redemption within thirty days after the date
 7 of such notice, the interest on such bonds shall cease and the amount
 8 due thereon shall be set aside for its payment whenever it is presented.
 9 All redemptions shall be made in the order of their numbers. The
 10 treasurer shall keep a record of the parties to whom the bonds are
 11 sold, together with their postoffice addresses, and notice mailed to the
 12 address as shown by such record shall be sufficient.

[S., '13, § 2812-f.]

CHAPTER 31.

COMPULSORY EDUCATION.

SECTION 2663. Duties of parents and guardians—penalty—exceptions.

1 Any person having control of any child of the age of seven to
 2 sixteen years, inclusive, in proper physical and mental condition to
 3 attend school, shall cause such child to attend some public, private, or
 4 parochial school, where the common school branches of reading, writ-
 5 ing, spelling, arithmetic, grammar, geography, physiology, and United
 6 States history are taught, or to attend upon equivalent instruction
 7 by a competent teacher elsewhere than school, for at least twenty-four
 8 consecutive school weeks in each school year, commencing with the
 9 first week of school after the first day of September, unless the board
 10 of school directors shall determine upon a later date, which date shall

11 not be later than the first Monday in December; but the board of
 12 school directors in any city of the first or second class may require
 13 attendance for the entire time the schools are in session in any school
 14 year. Provided that this section shall not apply to any child who
 15 lives more than two miles from any school by the nearest traveled
 16 road except in those districts in which the pupils are transported at
 17 public expense, or who is over the age of fourteen and is regularly
 18 employed; or has educational qualifications equal to those of pupils
 19 who have completed the eighth grade; or who is excused for sufficient
 20 reasons by any court of record or judge thereof; or while attending
 21 religious service or receiving religious instructions. Any person who
 22 shall violate the provisions of this section shall be guilty of a misde-
 23 meanor, and upon conviction thereof shall pay a fine of not less than
 24 three dollars nor more than twenty dollars for each offense.

[S., '13, § 2823-a.]

SEC. 2664. Reports to secretary.

1 Upon notice from the secretary of the school corporation within
 2 which such school is conducted, it shall be the duty of each principal
 3 of each private or parochial school, once during each school year, and
 4 at any time when requested in individual cases, and within ten days
 5 from the receipt of such notice, to furnish to such secretary a cer-
 6 tificate and report of the names, ages and attendance of the pupils in
 7 attendance at such school during the preceding year and from the
 8 time of the last preceding report to the time at which a report is
 9 required; and any person having the control of any child between
 10 seven and fourteen years of age, inclusive, who shall place the same
 11 under private instruction, not in a regularly conducted school, upon
 12 receiving notice from the secretary of the school corporation, shall
 13 furnish a like certificate stating the name and age of such child and
 14 the period of time during which said child has been under said private
 15 instruction; and any person having the control of such child who is
 16 physically and mentally unable to attend school, public or private,
 17 shall furnish proofs by affidavit or affidavits as to the physical or
 18 mental condition of such child. All such certificates, reports and
 19 proofs shall be filed and preserved in the office of the secretary of the
 20 school corporation as a part of the records of his office.

[S., '13, § 2823-b.]

SEC. 2665. Certified copies.

1 It shall be the duty of the secretary of the school corporation to
 2 furnish to any person interested, where so requested, certified copies
 3 of all certificates contemplated by this chapter on file in his office.

[S., '13, § 2823-c.]

SEC. 2666. Truant schools.

1 The board of directors of any school corporation may establish
 2 truant schools, or set apart separate rooms in any public school build-
 3 ing, for the instruction of children who are habitually truant from
 4 instruction, as contemplated by this act [29 G. A., ch. 128]. Such
 5 directors may provide for the confinement, maintenance, and instruc-
 6 tion of such children in such schools, under such reasonable rules and
 7 regulations as they may prescribe. If any child, committed or sent
 8 to the truant school, shall prove insubordinate and escape from such

9 school during school hours, or absent himself or herself therefrom
 10 without the consent of the persons in charge thereof, then it shall be
 11 the duty of the person in charge of said school, with the consent of
 12 the parent or guardian, to file information before the judge of a court
 13 of record, who may, if the charge be found to be true and the said
 14 child be habitually vagrant, disorderly, or incorrigible, commit such
 15 child to one of the training schools of the state, under the same pro-
 16 ceeding as is provided by section twenty-one hundred fifty; so far as
 17 the same may be applicable.

[S., '13, § 2823-d.]

SEC. 2667. Truant officers.

1 The board of directors of each school corporation may, and in
 2 school corporations having a population of twenty thousand or more
 3 shall, at their annual meeting in each year, appoint one or more truant
 4 officers, who shall serve for one year, and who may be a constable or
 5 a member of the police force, whose duty it shall be to report viola-
 6 tions of said act to the secretary of the school corporation, and see to
 7 the enforcement of the provisions of said act. It shall be the duty
 8 of said truant officer or officers to apprehend and take into custody
 9 without warrant any child of the age of seven to fourteen years, inclu-
 10 sive, who habitually frequents or loiters about public places during
 11 school hours without lawful occupation, or can not produce a cer-
 12 tificate as provided in section twenty-six hundred sixty-four, also any
 13 truant child who absents himself or herself from school, and place
 14 him or her in charge of the teacher having charge of any school which
 15 said child is entitled to attend, and which school may be designated
 16 to said officers by the person having legal control of such child; pro-
 17 vided, however, in case the school so designated by the parent or per-
 18 son having the care and control of said child be a public school, it
 19 shall be such as directed by the rules and regulations of the school
 20 board and the statutes of the state, and if other than a public school,
 21 the maintenance of said child in such school shall be without expense
 22 to the school corporation or state. Upon failure of such child to prop-
 23 erly attend, or when, on report of the teacher having the custody of
 24 such child, said child is shown to not properly conduct itself in the
 25 school where placed as herein provided, the child may be removed
 26 therefrom by the board of directors and placed either in a public school
 27 or a truant school conducted in said district. The truant officer or
 28 officers shall be entitled to such compensation for service rendered
 29 under said act, as shall be fixed by the board of directors appointing
 30 him or them, which compensation shall be paid from the general
 31 fund of said district. In towns and cities of the second class, the
 32 independent school district may employ the marshal or other police
 33 officer of such city or town to act as truant officer, and pay him a
 34 salary in addition to that received from such city or town of not to
 35 exceed five dollars per month.

[S., '13, § 2823-e; 37 G. A., ch. 386, § 11.]

SEC. 2668. Enforcement.

1 It shall be the duty of the director or president of any board of
 2 directors, or any truant officers appointed by such board of directors,
 3 to enforce the provisions of said act, to sue for and recover the pen-
 4 alties herein provided, and to institute criminal prosecution against any
 5 person violating the provisions of said act, and any such officers neg-

6 lecting to do so within thirty days after a written notice has been
 7 served upon him by any citizen of said district, or the county superin-
 8 tendent of the county within which the offending person shall reside,
 9 shall himself be liable for a fine of not less than ten dollars nor more
 10 than twenty dollars for each offense.

[S., '13, § 2823-f.]

SEC. 2669. Teachers and school officers—duties.

1 All teachers of the public schools of the state and county superin-
 2 tendents and school officers and employees shall promptly report to
 3 the secretary of the school corporation any violations of the preceding
 4 provisions of this chapter of which they have knowledge or informa-
 5 tion, and he shall promptly inform the president of the board of direc-
 6 tors thereof and such president shall, if necessary, call a meeting of
 7 the board of directors to take such action thereon as the facts shall
 8 justify, and any child placed in any truant school may be discharged
 9 therefrom at the discretion of the board, upon sufficient assurance of
 10 the future good conduct of such child.

[S., '13, § 2823-g.]

SEC. 2670. Provisions for punishment.

1 The board of directors of every school corporation is hereby au-
 2 thorized to provide such reasonable methods of punishment of children
 3 who are habitually truant from school, or who habitually frequent or
 4 loiter about public places during school hours without lawful occupa-
 5 tion, as may be necessary to carry out and make effectual the pro-
 6 visions of said act.

[S., '13, § 2823-h.]

SEC. 2671. School census.

1 It shall be the duty of all officers empowered to take the school
 2 census to ascertain the number of children of the ages of seven to
 3 sixteen years, inclusive, in their respective districts, the number of
 4 such children who do not attend school, and so far as possible the
 5 cause of failure to attend school.

[S., '13, § 2823-i.]

SEC. 2672. Deaf and blind persons—enumeration.

1 It shall be the duty of the assessor at the time of making the
 2 assessments, as provided by law, to record the names, ages, sex and
 3 postoffice address of all deaf or blind persons who reside within his
 4 jurisdiction.

[S., '13, § 1354-a.]

SEC. 2673. Blanks provided.

1 It shall be the duty of the secretary of state to supply the county
 2 auditors in each county with suitable blanks for the purpose of carry-
 3 ing out the provisions of the preceding section, which blanks shall be
 4 furnished to each assessor by the county auditor at the time he sup-
 5 plies the assessor with the blank assessment rolls and books.

[S., '13, § 1354-b.]

SEC. 2674. Returns—forwarded by county auditor.

1 It shall be the duty of the county auditor to forward to the secre-
 2 tary of the state board of education the returns of the assessor, as
 3 provided in the second preceding section, within thirty days after
 4 the returns are filed in his office.

[S., '13, § 1354-c.]

SEC. 2675. Compulsory attendance.

1 Children, residents of the state, between the ages of seven and
 2 nineteen years, who are so deaf as to be unable to obtain an education
 3 in the common schools must be sent each by his parents or guardian
 4 to attend the Iowa school for the deaf, unless exempted as hereinafter
 5 provided.

[S., '13, § 2718-c; 38 G. A., ch. 120, § 1.]

SEC. 2676. Failure to comply—penalty.

1 Any person having such a child under his control who fails to
 2 comply with any of the provisions of this act [38 G. A., ch. 120], and
 3 any person who induces or attempts to induce any deaf child to absent
 4 himself or herself from school, or employs or harbors any such child
 5 while such school is in session, shall be deemed guilty of a misde-
 6 meanor, and shall be imprisoned in the county jail not more than
 7 thirty days or be fined not to exceed one hundred dollars.

[S., '13, § 2718-d; 38 G. A., ch. 120, § 2.]

SEC. 2677. Exceptions.

1 The superintendent of the Iowa school for the deaf, with the
 2 approval of the state board of education in the individual case, may
 3 excuse attendance when satisfied:

4 1. That the child is in such bodily or mental condition as to pre-
 5 vent or render futile his or her attendance at school.

6 2. That the child is so diseased or possesses such habits as to
 7 render his or her presence a menace to the health or morals of other
 8 pupils.

9 3. That the child is a regular attendant at a day school for the
 10 deaf as provided by law, or is efficiently taught for the scholastic year
 11 in a private or other school devoted to instruction of the deaf, or by a
 12 private tutor, the branches taught in the public schools.

[S., '13, § 2718-f; 37 G. A., ch. 160, § 1; 38 G. A., ch. 120, § 3.]

SEC. 2678. Board of education to appoint agent — salary — expenses.

1 The state board of education is hereby authorized to employ an
 2 agent to aid in the enforcement of the provisions of this act [38 G.
 3 A., ch. 120]. It shall be the duty of such agent, under the direction
 4 of the state board of education, to seek out children who should be
 5 in attendance at the school for the deaf, and who are not in such
 6 attendance, and see to it that they are properly enrolled and installed
 7 as students in such school unless exempted as heretofore provided,
 8 and to file information against and to appear in proceedings against
 9 any person or persons who may interfere or attempt to interfere with
 10 the carrying out of the provisions of said act. Such agent shall be
 11 allowed compensation at a rate fixed by the state board of education

12 and also necessary actual traveling and hotel expenses while away
13 from home in the performance of such duty.

[38 G. A., ch. 120, § 4.]

SEC. 2679. Appropriation.

1 For the purpose of carrying out the provisions of said act there
2 is hereby appropriated out of any moneys in the state treasury not
3 otherwise appropriated such sum as may be necessary, and such ap-
4 propriation shall be available for the school year nineteen hundred
5 nineteen-nineteen hundred twenty and annually thereafter, and war-
6 rants against the same shall be drawn by the auditor of state upon
7 certification by the state board of education, when passed by the
8 state board of audit.

[38 G. A., ch. 120, § 5.]

SEC. 2680. Law applicable to blind children.

1 The provisions of the five preceding sections shall apply likewise
2 to blind children of the state of like ages with regard to attendance
3 at the college for the blind, and the agent appointed by the state board
4 of education under section twenty-six hundred seventy-eight shall per-
5 form the same duties with regard to blind children as those imposed
6 herein with regard to deaf children.

[38 G. A., ch. 120, § 7.]

CHAPTER 32.

PUBLIC RECREATION AND PLAYGROUNDS.

SECTION 2681. Establishment—maintenance—supervision.

1 Boards of school directors in school districts containing or con-
2 tained in cities of the first or second class, cities under special charter,
3 or cities under the commission plan of government, are hereby author-
4 ized to establish and maintain for children in the public school build-
5 ings and on the public school grounds under the custody and
6 management of such boards, public recreation places and playgrounds
7 and necessary accommodations for same, without charge to the resi-
8 dents of said school district; also to cooperate with the commissioners
9 or boards having the custody and management in such cities of public
10 parks and public buildings and grounds of whatever sort, and by mak-
11 ing arrangements satisfactory to such boards controlling public parks
12 and grounds to provide for the supervision, instruction and oversight
13 necessary to carry on public educational and recreational activities,
14 as described in this section in buildings and upon grounds in the cus-
15 tody and under the management of such commissioners or boards
16 having charge of public parks and public buildings on grounds of
17 whatever sort, in such cities of the first or second class, cities under
18 special charter, or cities under commission plan of government.

[S., '13, § 2823-u.]

SEC. 2682. Tax levy—petition—submission.

1 The board of directors of any school district containing, or con-
2 tained in, any city of the first or second class, city under special

3 charter, or city under the commission plan of government, may, and
 4 upon petition to that effect signed by legally qualified voters aggre-
 5 gating not less than twenty-five per cent of the number voting at the
 6 last preceding school election, shall submit to the electors of such
 7 school district the question of levying a tax as provided in the follow-
 8 ing section; and if a majority of the votes cast upon such proposition
 9 be in favor thereof, then the board of school directors shall proceed
 10 to organize the work as authorized in sections twenty-six hundred
 11 eighty-one to twenty-six hundred eighty-seven, inclusive, and levy a
 12 tax therefor at the time and in the manner provided in the following
 13 section. If at the time of filing said petition it shall be more than
 14 three months till the next regular school election, then the board of
 15 school directors shall submit said question at a special election within
 16 sixty days.

[S., '13, § 2823-u1.]

**SEC. 2683. Certification to board of supervisors—collection—lim-
 itation.**

1 Boards of school directors in such districts shall fix and certify to
 2 the board of supervisors on or before the first Monday of September
 3 the amount of money required for the next fiscal year for the support
 4 of the aforementioned activities, in the same manner as the amount of
 5 necessary taxes for other school purposes is certified, and said board
 6 of supervisors shall levy and collect a tax upon all the property subject
 7 to taxation in said school district at the same time and in the same
 8 manner as other taxes are levied and collected by law, which shall
 9 be equal to the amount of money so required for such purposes by the
 10 said board of school directors; provided that the tax so levied upon
 11 each dollar of the assessed valuation of all property, real and personal,
 12 in said district, subject to taxation, shall not in any one year exceed
 13 two mills for the purpose of the activities hereinbefore mentioned in
 14 section twenty-six hundred eighty-one; the said tax shall not be used
 15 or appropriated directly or indirectly for any other purpose than pro-
 16 vided in said section.

[S., '13, § 2823-u2.]

SEC. 2684. Duties of school treasurer.

1 All moneys received by, or raised in such city for the aforemen-
 2 tioned purpose shall be paid over to the treasurer of the school district,
 3 to be disbursed by him on orders of such board of school directors in
 4 such district in the same manner as other funds of said school district
 5 are disbursed by him, but the tax provided in the preceding section
 6 shall not be levied or collected nor shall the board of school directors
 7 have authority to certify the amount of taxes necessary for this pur-
 8 pose until after the question of the levy of such tax shall have been
 9 authorized by a majority vote at a regular or special election.

[S., '13, § 2823-u3.]

SEC. 2685. Annual levy.

1 After the question of the levy of such special tax has been sub-
 2 mitted to and approved by the voters, the authority shall remain, and
 3 such tax shall be levied and collected annually until such time as the
 4 voters of the school district of such city shall by majority vote order
 5 the discontinuance of the levy and collection of such tax.

[S., '13, § 2823-u4.]

SEC. 2686. Discontinuance of levy—submission of question.

1 The board of school directors in any district governed by the pre-
 2 ceding sections of this chapter may, and on petition to that effect
 3 signed by legally qualified voters aggregating not less than twenty-
 4 five per cent of the number voting at the last preceding school elec-
 5 tion shall, submit to the electors of such school district the question
 6 of discontinuing the levying of such tax as may have been previously
 7 authorized under the said provisions, and if a majority of the votes
 8 cast upon such proposition be in favor thereof, then the levying of
 9 such tax shall be discontinued and shall not be resumed unless again
 10 authorized under the provisions of section twenty-six hundred eighty-
 11 two.

[S., '13, § 2823-u5.]

SEC. 2687. Appropriation by city.

1 The board of school directors in any district governed by the
 2 preceding sections of this chapter is also empowered to receive and
 3 expend for the purpose thereof any sums of money appropriated and
 4 turned over to them by the city council or commissioners of such city
 5 for such purposes; and the city council, or commissioners of such
 6 city, shall have authority to appropriate and turn over to the board
 7 of school directors of the school district containing or contained in
 8 such city any reasonable sums of money which the said council or
 9 commissioners may desire to appropriate out of the general funds of
 10 such city and turn over to the said board of school directors for the
 11 purposes herein set forth.

[S., '13, § 2823-u6.]

SEC. 2688. Power to acquire land for school garden or farm—summer home—objects and purposes.

1 The school board in cities, including cities under special charters
 2 and commission form, having a population of twenty thousand or
 3 more, is hereby empowered to purchase or lease for educational pur-
 4 poses a tract of land outside of the boundaries of such city, for a
 5 school garden or school farm in like manner and under the same re-
 6 strictions as in the case of school property in the said city and to
 7 erect suitable buildings thereon, and to furnish the same, and to
 8 appoint managers in a suitable manner; the said tract of land to be
 9 maintained for the purpose of providing a summer home for pupils of
 10 the city who may desire to continue their study all the year round,
 11 and for supplying to them an opportunity to perform productive work
 12 in such vocational lines as agronomy, olericulture, viticulture, apicul-
 13 ture, pomology, agriculture, and the auxiliary arts, carpentry, mason-
 14 ry, and any other wholesome and voluntary employment, and to
 15 diversify such work with open air exercises and recreations of both
 16 physical and intellectual character; also for enabling the pupils of the
 17 elementary schools and of the high school opportunities for visitation
 18 and observational study at all seasons in connection with their school
 19 work; it being the intent and purpose of this statute to develop in the
 20 state of Iowa the educational principle and work commonly comprised
 21 in the name "Park Life", as exemplified experimentally and discussed
 22 educationally and sociologically in this state.

23 Where such school garden or school farm is maintained, the said
24 school board shall seek to correlate its functions with the regular work
25 of the schools in the most practical and efficient manner.

[S. S., '15, § 2823-u7.]

SEC. 2689. State aid.

1 Whenever a school board, acting under and in accordance with
2 the provisions of the preceding section, shall provide agricultural
3 training, work and recreation of a practical character upon suitable
4 grounds easily accessible to the school children of that district for at
5 least three consecutive years for not less than six nor more than ten
6 weeks' duration during each year, and with a bona fide enrollment
7 of at least fifty pupils during each year of said period, and shall
8 make an exhibit showing a successful experience in carrying out such
9 enterprise or activities over a period of at least two years, the school
10 district providing such training shall be paid annually, commencing
11 with the third year, out of the state school fund, not otherwise appro-
12 priated, a sum equal to two dollars per capita per week for each pupil
13 who pursues such wholesome and voluntary activities during at least
14 two-thirds of the period during which such opportunity is provided.

[38 G. A., ch. 354, § 1.]

SEC. 2690. State aid.

1 Whenever a school board, acting under and in accordance with
2 the provisions of section twenty-six hundred eighty-eight, shall pro-
3 vide the necessary grounds, equipment and instruction for the train-
4 ing of teachers and young people in nature study and experimenta-
5 tion in forestry, gardening, fish culture and the fostering of fruit
6 life and animal life, correlating the same with regular school work
7 of the district, the school district providing such training shall be
8 paid annually out of the state school fund, not otherwise appropri-
9 ated, an amount equal to one-half the sum annually appropriated by
10 said school board and actually expended by it in carrying out the pur-
11 pose contemplated by said section.

[38 G. A., ch. 354, § 2.]

SEC. 2691. Use of school apparatus.

1 The school board of any district carrying out any of the pro-
2 visions of said section may, at its option, in carrying out of any such
3 enterprise, use its apparatus, school furnishing or other necessary
4 equipment.

[38 G. A., ch. 354, § 3.]

**SEC. 2692. Itemized claims presented to auditor of state—war-
rant—payment.**

1 The secretary of any school board acting under the provisions of
2 said section shall, if such district is entitled to state funds under the
3 provision of sections twenty-six hundred eighty-nine to twenty-six
4 hundred ninety-three, inclusive, prepare a voucher for the amount
5 due his school district by the state of Iowa, which voucher shall be
6 fully itemized, verified by the secretary of said school board and have
7 attached thereto the certificate of the superintendent of said school
8 board certifying to what such school district has actually done during
9 the preceding year in carrying out the purpose of the said sections;

10 and when such voucher so prepared is presented to the auditor of
 11 state, he is hereby authorized and directed to thereupon draw a state
 12 warrant, payable to said school district, for the amount called for in
 13 said voucher upon the school funds of the state; and the treasurer of
 14 state is hereby authorized and directed, when presented with such
 15 warrant properly indorsed, to pay the amount of such warrant to the
 16 school district named as payee therein out of said state school fund
 17 not otherwise appropriated.

[38 G. A., ch. 354, § 4.]

SEC. 2693. Appropriation.

1 There is hereby appropriated out of any money in the state
 2 school fund, not otherwise appropriated, the sum of two thousand
 3 dollars for the purpose of carrying out the provisions of sections
 4 twenty-six hundred eighty-nine to twenty-six hundred ninety-two,
 5 inclusive.

[38 G. A., ch. 354, § 5.]

CHAPTER 33.

UNIFORMITY, LOANING AND PURCHASE OF TEXTBOOKS.

SECTION 2694. Adoption—contract—agent.

1 The board of directors of each and every school corporation in the
 2 state of Iowa is hereby authorized and empowered to adopt textbooks
 3 for the teaching of all branches that are now or may hereafter be
 4 authorized to be taught in the public schools of the state, and to con-
 5 tract for and buy said books and any and all other necessary school
 6 supplies at said contract prices, and to sell the same to the pupils
 7 of their respective districts at cost, and said money so received shall
 8 be returned to the general fund. The books and supplies so pur-
 9 chased shall be under the charge of the board, who may select one or
 10 more persons within the county to keep said books and supplies for
 11 sale, and, to insure the safety of the books and moneys, the board
 12 shall require of each person so appointed a bond in such sum as may
 13 seem to the board to be desirable.

[C., '97, § 2824; 37 G. A., ch. 386, § 11.]

SEC. 2695. Use of general fund—additional tax.

1 All the books and other supplies purchased under the provisions
 2 of this chapter shall be paid for out of the general fund, and the board
 3 of directors shall annually certify to the board of supervisors the addi-
 4 tional amount necessary to levy for the general fund of said district
 5 to pay for such books and supplies. But such additional amount shall
 6 not exceed in any one year the sum of one dollar and fifty cents for
 7 each pupil residing in the school corporation, and the amount so levied
 8 shall be paid out on warrants drawn for the payment of books and
 9 supplies only, but the district shall contract no debt for that purpose.

[C., '97, § 2825; 37 G. A., ch. 386, § 10.]

SEC. 2696. Purchase—exchange.

1 In the purchasing of textbooks it shall be the duty of the board
2 of directors or the county board of education to take into consideration
3 the books then in use in the respective districts, and they may buy
4 such additional number of said books as may from time to time become
5 necessary to supply their schools, and they may arrange on equitable
6 terms for exchange of books in use for new books adopted.

[C., '97, § 2826.]

SEC. 2697. Suit on bond.

1 If at any time the publishers of such books as shall have been
2 adopted by any board of directors or county board of education shall
3 neglect or refuse to furnish such books when ordered by said board in
4 accordance with the provisions of this chapter, at the very lowest
5 price, either contract or wholesale, that such books are furnished any
6 other district or state board, then said board of directors or county
7 board of education may and it is hereby made their duty to bring suit
8 upon the bond given them by the contracting publisher.

[C., '97, § 2827.]

SEC. 2698. Bids.

1 Before purchasing textbooks under the provisions of this chapter,
2 it shall be the duty of the board of directors, or county board of edu-
3 cation, to advertise, by publishing a notice, once each week, for three
4 consecutive weeks in one or more newspapers published in the county;
5 said notice shall state the time up to which all bids will be received,
6 the classes and grades for which textbooks and other necessary sup-
7 plies are to be bought, and the approximate quantity needed; and said
8 board shall award the contract for said textbooks and supplies to any
9 responsible bidder or bidders offering suitable textbooks and supplies
10 at the lowest prices, taking into consideration the quality of material
11 used, illustrations, binding, and all other things that go to make up a
12 desirable textbook; and may, to the end that they may be fully
13 advised, consult the county superintendent, or, in case of city inde-
14 pendent districts, with city superintendent or other competent person,
15 with reference to the selection of textbooks; provided that the board
16 may reject any and all bids, or any part thereof, and readvertise
17 therefor as above provided.

[C., '97, § 2828; S., '13, § 2828.]

SEC. 2699. Change—question submitted.

1 It shall be unlawful for any board of directors or county board
2 of education, except as provided in section twenty-six hundred ninety-
3 seven, to displace or change any textbook that has been regularly
4 adopted or readopted under the provisions of this chapter, before the
5 expiration of five years from the date of such adoption or readoption,
6 unless authorized to do so by a majority of the electors present and
7 voting at their regular annual meeting in March, due notice of said
8 proposition to change or displace said textbooks having been included
9 in the notice for the said regular meeting.

[C., '73, § 1728; C., '97, § 2829.]

SEC. 2700. Samples—lists—bonds.

1 Any person or firm desiring to furnish books or supplies under
 2 this chapter in any county shall, at or before the time of filing his bid
 3 hereunder, deposit in the office of the county superintendent samples
 4 of all textbooks included in his bid, accompanied with lists giving the
 5 lowest wholesale and contract prices for the same. And said samples
 6 and lists shall remain in the county superintendent's office, and shall
 7 be delivered by him to his successor in office, and shall be kept by him
 8 in such safe and convenient manner as to be open at all times to the
 9 inspection of such school officers, school patrons and school teachers
 10 as may desire to examine the same and compare them with others, for
 11 the purpose of use in the public schools. The board of directors and
 12 county board of education mentioned shall require of any person or
 13 persons with whom they contract for furnishing any books or sup-
 14 plies to enter into a good and sufficient bond, in such sum and with
 15 such conditions and sureties as may be required by such board of
 16 directors or county board of education, for the faithful performance
 17 of any such contract. But bonds of surety companies duly authorized
 18 under the laws of Iowa shall be accepted.

[C., '97, § 2830.]

SEC. 2701. County board of education—question as to county uniformity.

1 When petitions shall have been signed by one-third the school
 2 directors in any county, other than those in cities and towns, and filed
 3 in the office of the county superintendent of such county at least thirty
 4 days before the annual school elections, asking for a uniform series
 5 of textbooks in the county, then such county superintendent shall
 6 immediately notify the other members of the county board of educa-
 7 tion in writing, and within fifteen days after the filing of the petitions
 8 said board of education shall meet and provide for submitting to the
 9 electors at the next annual meeting the question of county uniformity
 10 of school textbooks.

[C., '97, § 2831; S., '13, § 2831; 38 G. A., ch. 56, § 1.]

SEC. 2702. Selection of books—depositories—distribution—itemized accounts.

1 Should a majority of the electors voting at such elections favor
 2 a uniform series of textbooks for use in said county, then the county
 3 board of education shall meet and select the school textbooks for the
 4 entire county, and contract for the same under such rules and regu-
 5 lations as the said board of education may adopt. When a list of text-
 6 books has been so selected, they shall be used by all the public schools
 7 of said county, except as hereinafter provided, and the board of educa-
 8 tion may arrange for such depositories as it may deem best, and may
 9 pay for said schoolbooks out of the county funds, and sell them to the
 10 school districts at the same price as provided for in section twenty-six
 11 hundred ninety-four, and the money received from said sales shall be
 12 returned to the county funds by said board of education monthly.
 13 The boards of school officers, who are hereby made the judges of the
 14 school meetings, shall certify to the board of supervisors the full re-
 15 turns of the votes cast at said meetings the next day after the holding
 16 of said meetings, who shall, at their next regular meeting, proceed to
 17 canvass said votes and declare the result. Unless otherwise ordered

18 by the board of education, the county superintendent shall have charge
 19 of such textbooks and of the distribution thereof among the deposi-
 20 tories selected by the board; he shall render to the board at each meet-
 21 ing thereof itemized accounts of his doings, and shall be liable on his
 22 official bond therefor.

[C., '97, § 2832; S., '13, § 2832.]

SEC. 2703. Proceedings of county board.

1 The county superintendent shall in all cases be chairman of the
 2 county board of education and a full and complete record shall be kept
 3 of their proceedings in a book kept for that purpose in the office of
 4 the county superintendent. A list of textbooks so selected, with their
 5 contract prices, shall be reported to the state superintendent with the
 6 regular annual report of the county superintendent.

[C., '97, § 2833; 38 G. A., ch. 56, § 1.]

SEC. 2704. Officers not to be agents.

1 It shall be unlawful for any school director, teacher or member
 2 of the county board of education to act as agent for any school text-
 3 books or school supplies during such term of office or employment, and
 4 any school director, officer, teacher or member of the county board of
 5 education who shall act as agent or dealer in school textbooks or
 6 school supplies, during the term of such office or employment, shall be
 7 deemed guilty of a misdemeanor, and shall, upon conviction thereof,
 8 be fined not less than ten dollars nor more than one hundred dollars,
 9 and pay the costs of prosecution.

[C., '97, § 2834.]

SEC. 2705. City schools.

1 The provisions of sections twenty-seven hundred one, twenty-
 2 seven hundred two and twenty-seven hundred three shall not apply to
 3 schools located within cities or towns, nor shall the electors of said
 4 cities or towns vote upon the question of county uniformity; but noth-
 5 ing herein shall be so construed as to prevent such schools in said
 6 cities and towns from adopting and buying the books adopted by the
 7 county board of education at the prices fixed by them, if by a vote of
 8 the electors they shall so decide.

[C., '97, § 2835.]

SEC. 2706. Free textbooks—question submitted.

1 Whenever a petition signed by ten per cent of the qualified voters,
 2 to be determined by the school board of any school corporation, shall
 3 be filed with the secretary thirty days or more before the annual meet-
 4 ing of the electors, asking that the question of providing free text-
 5 books for the use of pupils in the public schools thereof be submitted
 6 to the voters at the next annual meeting, he shall cause notice of such
 7 proposition to be given in the call for such meeting.

[C., '97, § 2836; 37 G. A., ch. 56, § 1.]

SEC. 2707. Loaning—discontinuance.

1 If, at such meeting, a majority of the legal voters present and
 2 voting by ballot thereon shall authorize the board of directors of said
 3 school corporation to loan textbooks to the pupils free of charge, then
 4 the board shall procure such books as shall be needed, in the manner

5 provided by law for the purchase of textbooks, and loan them to the
 6 pupils. The board shall hold pupils responsible for any damage to,
 7 loss of, or failure to return any such books, and shall adopt such
 8 rules and regulations as may be reasonable and necessary for the
 9 keeping and preservation thereof. Any pupil shall be allowed to
 10 purchase any textbook used in the school at cost. No pupil already
 11 supplied with textbooks shall be supplied with others without charge
 12 until needed. The electors may, at any election called as provided in
 13 this section, direct the board to discontinue the loaning of textbooks
 14 to pupils.

[C., '97, § 2837.]

CHAPTER 34.

SCHOOL FUNDS.

SECTION 2708. Permanent fund.

1 The permanent school fund, the interest of which only can be
 2 appropriated for school purposes, shall consist of five per cent of the
 3 net proceeds of the public lands of the state, which shall be paid to
 4 the state treasurer and be apportioned by the state auditor among
 5 the several counties, taking into consideration the amount of the
 6 permanent school fund already in possession of and constantly loaned
 7 in said county; the proceeds of the sale of the five hundred thousand
 8 acres of land granted the state under the eighth section of an act of
 9 congress passed September fourth, A. D. eighteen hundred forty-one,
 10 entitled: "*An act to appropriate the proceeds of all sales of public*
 11 *lands, and to grant preemption rights*"; the proceeds of all intestate
 12 estates escheated to the state; and the proceeds of the sales of the six-
 13 teenth section in each township, or lands selected in lieu thereof. The
 14 proceeds of all lands sold, and all sums due from escheats, shall be
 15 payable to the treasurer of the county in which the lands or escheated
 16 estates are situated or found.

[R., '60, §§ 1962, 1964, 1965; C., '73, §§ 1837, 1839, 1840;
 C., '97, § 2838.]

SEC. 2709. Temporary fund.

1 The temporary school fund, which shall be received and appro-
 2 priated annually in the same manner as the interest of the permanent
 3 fund, shall consist of all forfeitures which are authorized to be made
 4 for the benefit of the school fund, the proceeds of all fines collected for
 5 violation of the penal laws, for the nonperformance of military duty,
 6 and the proceeds of the sale of lost goods and estrays; which several
 7 funds shall be payable to the county treasurer of the several counties
 8 in which they arise, accounted for to the board of supervisors, and
 9 apportioned by it among the several school townships and independent
 10 districts of the county as provided by law.

[R., '60, §§ 1963, 1966; C., '73, §§ 1838, 1841; C., '97, § 2839.]

SEC. 2710. Division and appraisement.

1 The board of supervisors may, at such time as it may fix, and
 2 as preliminary to a sale, authorize the trustees of any township,
 3 where the sixteenth section or land selected in lieu thereof has not

4 been sold, to lay out the same into such tracts as in their judgment
 5 will be for the best interests of the school fund, conforming, as far
 6 as the interests of said fund will permit, to the legal subdivisions of
 7 the United States surveys, and appraise each tract at what they believe
 8 to be its true value, and certify to it the divisions and appraisements
 9 made by them. Said division and appraisal shall be approved or
 10 disapproved by said board at its first meeting after such report, and
 11 in case it disapproves the same it may at once order another division
 12 and appraisal. If the board of supervisors approves, the county
 13 auditor shall make and keep a record of such division, appraisal
 14 and approval; but no school lands of any kind shall be sold for less
 15 than the appraised value per acre, except as hereinafter provided; nor
 16 shall any member of the board of supervisors, county auditor, town-
 17 ship trustee, or any person who was engaged in the division and ap-
 18 praisal of said land, be directly or indirectly interested in the pur-
 19 chase thereof; and any sale made, where such parties or any of them
 20 are so interested, shall be void.

[R., '60, §§ 1970, 1971; C., '73, §§ 1845-1847; C., '97, § 2840.]

SEC. 2711. Notice—sale.

1 When the board of supervisors shall offer for sale the sixteenth
 2 section or lands selected in lieu thereof, or any portion of the same,
 3 or any part of the five hundred thousand acre grant, the county audi-
 4 tor shall give at least forty days' notice, by written or printed notices
 5 posted in five public places in the county, two of which shall be in the
 6 township in which the land to be sold is situated, and also publish a
 7 notice of said sale, once each week, for four weeks preceding the same
 8 in a newspaper published in the county, describing the land to be sold
 9 and the time and place of such sale. At such time and place, or at
 10 such other time and place as the sale may be adjourned to, he shall
 11 offer to the highest bidder, subject to the provisions of this chapter,
 12 and sell, either for cash, or one-third cash and the balance on a credit
 13 not exceeding ten years, with interest on the same at the rate of not
 14 less than six per cent per annum, to be paid at the office of the county
 15 treasurer of said county on the first day of January in each year, de-
 16 linquent interest to bear the same rate as the principal.

[R., '60, § 1971; C., '73, § 1846; C., '97, § 2841; S., '13,
 § 2841.]

SEC. 2712. Sale without appraisalment.

1 When the board of supervisors of any county has once offered for
 2 sale any school lands in compliance with the requirements of this chap-
 3 ter, and they remain unsold, and it is unable to obtain therefor the
 4 appraised value thereof, and in the opinion of said board it is for the
 5 best interests of the school fund that the same be sold for a less price,
 6 it may instruct the auditor to transmit to the secretary of state a cer-
 7 tified copy of its proceedings in relation to the order of sale thereof
 8 and subsequent proceedings in relation thereto, including the action
 9 of the township trustees, and the price per acre at which the land had
 10 been appraised, which transcript the secretary of state shall submit
 11 to the executive council; and if it approves of a sale at a less sum it
 12 shall certify such approval to the auditor of the county from which
 13 said transcript came, which certificate shall be transcribed in the min-
 14 ute book of the board of supervisors, and thereupon said land may

15 again be offered and sold to the highest bidder, after notice given as
16 in case of sales in the first instance, without being again appraised.
[C., '73, § 1849; C., '97, § 2842.]

SEC. 2713. Sale on credit—taxation—waste.

1 When lands are sold upon a partial credit, the contract therefor
2 shall be at once reduced to writing, signed by the proper parties, re-
3 corded in the county where the land is situated, and immediately
4 thereafter filed in the office of the county auditor. Any purchaser or
5 his assigns may at any time pay the full amount for lands with ac-
6 crued interest, and receive from the county auditor a certificate of
7 purchase, which shall be at once transmitted to the state land office,
8 and will entitle the holder to a patent for the lands, to be issued by
9 the governor. All school lands sold in pursuance of law shall be sub-
10 ject to taxation from and after the execution and delivery of a con-
11 tract of purchase. All sales made, where the full price is not paid,
12 shall be subject to the law relative to the prevention or punishment of
13 waste, and in all such cases the township trustees in each township
14 are charged with the duty of preventing the commission of waste upon
15 any school lands lying in their township, and, if attempted, they shall
16 apply by petition for an injunction to stay the same, and if granted
17 the writ shall issue without bond, and the court issuing it may make
18 such order in the premises as shall be equitable and best calculated to
19 prevent threatened injury, and may adjudge damages for any injury
20 done, the costs to abide the event of the action, and the damages
21 adjudged shall be paid to the county treasurer and become a part of
22 the permanent school fund.

[R., '60, §§ 1972, 1973, 1976-1978; C., '73, §§ 1851, 1852, 1856-
1858; C., '97, § 2843.]

SEC. 2714. Sale of lands bid in.

1 When lands have been sold and bid in by the state in behalf of the
2 school fund upon a judgment in favor of such fund, the land may be
3 sold in like manner as other school lands, and when lands have been
4 conveyed to the counties in which they are situated for the use of the
5 school fund, instead of to the state, such conveyance shall be valid and
6 binding, and upon proper certificates of sales patents shall issue in
7 like manner as in cases where the conveyances were properly made
8 to the state.

[C., '73, § 1850; C., '97, § 2844.]

SEC. 2715. Cash or collateral security.

1 When, in the judgment of the board of supervisors, any school
2 lands are of such a character that a sale upon partial credit would be
3 unsafe or incompatible with the interest of the school fund, and espe-
4 cially in the case of timbered lands, the board of supervisors may in
5 its discretion exact the whole of the purchase money in advance; or
6 if it sells such land upon a partial credit, as hereinbefore prescribed,
7 it shall require good collateral security for the payment of the part
8 upon which credit is given.

[R., '60, § 1974; C., '73, § 1853; C., '97, § 2845.]

SEC. 2716. Default in interest.

1 In all cases where money is due to the university or school fund,
2 either for loans or deferred payments of the purchase price of land
3 sold, the interest shall be made payable on the first day of January of
4 each year, and if the debtor fails to pay the interest within six months
5 thereafter, the entire amount of both principal and interest shall be-
6 come due, and in case of the university fund, the treasurer thereof
7 shall make report of the delinquent to the county attorney of the
8 county where the debtor resides, or where the real estate given as
9 security is situated, and in case the delinquent is a purchaser or bor-
10 rower from the school fund, the county auditor shall make a like report
11 to the county attorney, who shall immediately commence action for the
12 collection of the amount reported to him as due, and this section, and
13 each provision thereof, is hereby declared to be a part of every con-
14 tract made by virtue of this chapter, whether expressed therein or not.

[R., '60, § 1975, 1979; C., '73, §§ 1854, 1855; C., '97, § 2846.]

SEC. 2717. Losses made good—apportionment of interest.

1 The state auditor shall keep the school fund accounts in books
2 provided for that purpose, separate and distinct from the revenue
3 books; he shall audit all losses to the permanent school or university
4 fund which shall have been occasioned by the defalcation, mismanage-
5 ment or fraud of the agents or officers controlling and managing the
6 same, and for this purpose shall prescribe such regulations for those
7 officers as may be necessary to ascertain such losses, and when any
8 sum not less than one thousand dollars shall be so audited and so be-
9 come a debt of the state to the fund, as provided by the constitution,
10 he shall issue the bond or bonds of the state in favor of the fund, bear-
11 ing six per cent interest, payable semiannually on the first day of Janu-
12 ary and July after issuance, and the amount to pay the interest as it
13 becomes due is appropriated out of any funds in the state treasury.
14 Immediately after making the apportionment in the interest of the
15 permanent school fund, he shall notify the auditor of each county of
16 the sum to which his county is entitled, and, if a county has less thereof
17 than it is entitled to under the apportionment, he shall authorize the
18 treasurer of any such county to transfer enough of the state revenue
19 to said fund to cover such deficiency, which notice shall be filed by the
20 treasurer, and be a sufficient voucher for the amount so transferred.
21 If a county has an excess of such interest above the amount appor-
22 tioned to it, the notice shall direct the treasurer to transfer the excess
23 to the state revenue and charge it to the interest fund, which notice
24 shall be by him filed, and be a sufficient voucher therefor, and such
25 excess shall be paid into the state treasury.

[R., '60, § 1969; C., '73, §§ 1842-1844; C., '97, § 2847.]

SEC. 2718. Management of funds and lands in each county.

1 The board of supervisors shall hold and manage the securities
2 given to the school fund in its county, and all judgments and lands be-
3 longing to said fund. It may have any part of the school lands sur-
4 veyed when necessary, and employ the county surveyor therefor, who
5 shall be paid out of the county treasury upon proof made of the re-
6 quest and performance of the service. All actions for and in behalf
7 of said fund may be brought in the name of the county for the use of
8 the school fund, by the county attorney or such other attorney as the

9 board may select. Each county shall be liable for all losses upon loans
10 of the school fund, principal or interest, made in such county, unless
11 the loss was not occasioned by reason of any default of its officers or
12 by taking insufficient or imperfect securities, or from a failure to bid
13 at an execution sale the full amount of the judgment and costs. All
14 claims for exemption from liability on account of losses shall be exam-
15 ined into and adjusted by the state auditor, upon proof submitted to
16 him in writing in behalf of the county within three months after the
17 county auditor shall be advised by the state auditor of his readiness
18 to receive the proof. In the absence of evidence, or if that submitted
19 is insufficient, the loss may be charged against the county and be con-
20 clusive, but if found sufficient, the state auditor shall present the facts
21 in his report to the next general assembly.

[R., '60, § 1980; C., '73, §§ 1859, 1860; C., '97, § 2848.]

SEC. 2719. Loans.

1 The permanent school fund shall be loaned out by the county
2 auditor, as it comes into the hands of the county treasurer, in sums
3 of five thousand dollars or less to one person or company, in case it
4 is found impracticable to keep the whole amount of funds loaned in
5 sums of five hundred dollars or less to one person or company. In the
6 event it can be kept loaned out in sums of five hundred dollars or less
7 to one person or company, then no loan shall exceed five hundred dol-
8 lars, nor shall a loan of said fund be made to or be carried by the
9 county auditor, treasurer or member of the board of supervisors.
10 Each loan shall be made for at least one and not more than five years,
11 evidenced by promissory notes bearing not less than five per cent per
12 annum, payable annually, and delinquent interest to draw the same
13 rate, to be secured by a mortgage on unincumbered real estate, situ-
14 ated in the county in which the loan is made, and appraised, as here-
15 inafter provided, for at least double the sum borrowed; the appraise-
16 ment to be made by three persons under oath, selected by the county
17 auditor, who shall not in making the valuation take into considera-
18 tion the buildings upon the lands, for which service each shall be al-
19 lowed fifty cents, to be paid by the borrower, who shall also pay for
20 recording the mortgage.

[R., '60, §§ 1981-1983; C., '73, §§ 1861-1863; C., '97, § 2849;
S., '13, § 2849.]

SEC. 2720. Applications—taking up incumbrances.

1 All applications to borrow from the permanent school fund shall
2 be made to the auditor of the county in which the land is situated
3 which it is proposed to mortgage as security, who shall cause the
4 proper appraisal to be made, and, if satisfactory, shall examine
5 any abstract of title which the proposed borrower may submit, or he
6 may cause an abstract to be prepared at such proposed borrower's ex-
7 pense. If the title is found to be perfect, and the lands unincumbered,
8 he shall certify this fact and submit the application and all the papers
9 connected therewith to the board of supervisors at its next meeting,
10 regular or called, at which meeting the loan shall be approved or dis-
11 approved. If the application is accepted, the auditor shall complete
12 the contract by taking a note payable to the county, and a mortgage
13 upon the lands securing the same, and certify the same to the treas-
14 urer, who shall pay over to the borrower the amount named in the
15 note, less a fee of two dollars to be paid to the auditor for his services.

16 The board may reject the application for any good cause. And if it
 17 shall happen that a loan is made upon real estate which is in fact in-
 18 cumbered other than for taxes, the board of supervisors may, when
 19 necessary for the safety of the loan, appropriate out of any school
 20 fund on hand, if such incumbrance does not exceed one-half of the
 21 real value of the lands, so much as may be needed to take up and pur-
 22 chase the same, and may also at any meeting, by resolution, assign
 23 without recourse, upon payment of the amount due, any school fund
 24 note and mortgage to one holding a subsequent lien upon the mort-
 25 gaged real estate.

[R., '60, § 1984; C., '73, §§ 1864, 1868, 1869, 1875; C., '97,
 § 2850; S. S., '15, § 2850.]

SEC. 2721. Loans reported—examination—additional security.

1 Each loan made, when fully completed, shall be by the auditor
 2 reported to the board of supervisors, and a minute of such report shall
 3 be entered upon its records, and from time to time, and at least once
 4 a year, all loans, with the security given, shall be carefully examined
 5 and report made to the board, which examination shall be conducted
 6 by a member thereof, or some competent person selected by it. When
 7 a report shows that the security in a given case has for any cause de-
 8 preciated so that it is no longer sufficient, or it appears that there was
 9 a prior incumbrance thereon which materially affects the value of the
 10 security, the board shall order the debtor to furnish additional se-
 11 curity, and fix a reasonable time within which the same shall be given,
 12 and if the party so ordered fails to comply therewith for thirty days
 13 after service upon him of a copy of the order, the entire debt shall be-
 14 come due, and an action may be brought to enforce the collection
 15 thereof, and these provisions shall enter into and form a part of all
 16 contracts of loans, whether incorporated therein in words or not.

[R., '60, § 1985; C., '73, §§ 1866, 1870; C., '97, § 2851.]

SEC. 2722. Renewal—limitation of action.

1 When a loan has been made, and the borrower desires to renew
 2 the same for one or more years, it may be done in the same manner as
 3 the loan was made in the first instance, but no new abstract, except a
 4 continuation of the same down to the time, nor examination of title
 5 prior to the original loan, nor new mortgage, need be given, unless
 6 the mortgage is to be given upon other lands. The time of payment,
 7 without further security, may be extended in writing, to be recorded
 8 as the original security was, and before maturity of the claim, when
 9 the board of supervisors for cause shall so order; but such extension
 10 of time shall not operate to release any security held, and lapse of
 11 time shall in no case be a bar to any action to recover any part of the
 12 school fund, nor shall it prevent the introduction of evidence in such
 13 an action, any provision in this code to the contrary notwithstanding.

[R., '60, § 1993; C., '73, §§ 1871, 1879, 1880, 2542; C., '97,
 § 2852.]

SEC. 2723. Payments—accounts—settlements.

1 All payments to the school fund upon contracts, or loans of any
 2 other nature, shall be made to the treasurer of the county upon a cer-
 3 tificate from the auditor showing the amount due; and the auditor
 4 shall, when the debt is paid, release any mortgage or issue a certifi-

5 cate of purchase, as the case may be, and report the same to the board
 6 of supervisors at its next meeting, which report shall be carried into
 7 the records of the board. The auditor shall also keep in his office, in
 8 books to be provided for that purpose, an account to be known as the
 9 "school fund account," in which a memorandum of all notes, mort-
 10 gages, bonds, money, and assets of every kind and description which
 11 may come into his hands and those of the treasurer shall be entered,
 12 and separate accounts of principal and interest be kept; and the coun-
 13 ty treasurer shall keep a like account and record of all school funds
 14 coming into his hands. Settlements of such account shall be made
 15 with the board of supervisors at its January and June sessions, which
 16 settlements shall be recorded with the proceedings of the board.

[R., '60, §§ 1986, 1990, 1991; C., '73, §§ 1867, 1876, 1877;
 C., '97, § 2853.]

SEC. 2724. Suits—attorneys' fees—purchase on execution.

1 When outstanding contracts for the sale of school lands or notes
 2 for money of the school fund loaned, or interest thereon, are due, the
 3 auditor shall by mail at once notify the debtor to make payment thereof
 4 within three months. If such debtor shall neglect to comply with
 5 such notice, the auditor shall report the same to the county attorney,
 6 who shall bring an action to recover the same, and an injunction may
 7 issue for cause, without bond when so prayed, and there shall be al-
 8 lowed in the judgment, entered and taxed as a part of the costs in the
 9 case, a reasonable sum as compensation to plaintiff's attorney, not ex-
 10 ceeding the amount as provided by law for attorneys' fees. Upon a
 11 sale of lands under an execution founded upon a school fund claim or
 12 right, the auditor shall bid such sum as the interests of the fund re-
 13 quire, and, if struck off to the state, it shall be thereafter treated in all
 14 respects the same as other lands belonging to said fund.

[C., '73, §§ 1872-1874; C., '97, § 2854.]

SEC. 2725. Lands bid in—losses—interest—rents.

1 When lands have been bid in by the county for the state under
 2 foreclosure of school fund mortgages and the time for redemption has
 3 expired, a sheriff's deed shall be issued to the state for the use and
 4 benefit of the permanent school fund. The county auditor shall there-
 5 upon notify the auditor of state, who shall give the county credit for
 6 the amount of principal in the original notes remaining unpaid. All
 7 lands hereafter acquired by the state under foreclosure proceedings
 8 shall be resold within two years from date of foreclosure, and all such
 9 lands heretofore acquired shall be resold on or before January first,
 10 nineteen hundred nine. Such lands shall be appraised, advertised and
 11 sold in the manner provided for the appraisement, advertisement and
 12 sale of the sixteenth section or lands selected in lieu thereof. When
 13 a resale is made the county auditor shall notify the auditor of state,
 14 who shall thereupon charge the county with the full amount of the re-
 15 sale, except that when the lands are sold for more than the unpaid por-
 16 tion of the principal, the excess shall be applied to reimburse the
 17 county for the costs of foreclosure and the interest paid by the county
 18 to the state by reason of default of payment of same by the makers of
 19 the notes, previous to the time when the right of redemption has ex-
 20 pired, not, however, to exceed three years. Any excess over and above
 21 the amount of the unpaid portion of the principal, costs of foreclosure
 22 and interest on the principal as above provided, shall inure to the

23 state and be credited to the permanent school fund account. If the
 24 lands shall be sold for a less amount than the unpaid portion of the
 25 principal, the loss shall be sustained by the county, and the board of
 26 supervisors shall at once order the amount of such loss transferred
 27 from the general fund of the county to the permanent school fund
 28 account. County auditors shall, on or before the first day of January
 29 of each year, report to the auditor of state the amount of all sales and
 30 resales made during the year previous, of the sixteenth section, five
 31 hundred thousand acres grant, escheat estates, and lands taken under
 32 foreclosure of school fund mortgages, and the auditor of state shall
 33 charge the same to the counties with interest from the date of such
 34 sale or resale to January first, at the rate of four and one-half per
 35 cent per annum. The auditor of state shall, also, on the first day of
 36 January, charge to each county having permanent school funds un-
 37 der its control, interest thereon at the rate of four and one-half per
 38 cent per annum for the preceding year, or such part thereof as such
 39 funds shall have been in the control of the county, which shall be taken
 40 as the whole amount of interest due from each county. All interest
 41 collected above the four and one-half per cent charged by the state
 42 shall be transferred to the general county fund. If any county fails
 43 or refuses to collect the amount of interest due the state, the deficiency
 44 shall be paid to the state from the general county fund. Any county
 45 delinquent in the payment of interest due the state shall be charged
 46 one per cent per month on the amount delinquent until paid. County
 47 auditors shall, upon the first day of January of each year, report to
 48 the auditor of state the amount of rents collected during the preced-
 49 ing year on unsold school lands and lands taken under foreclosure of
 50 school fund mortgages then in the hands of the county treasurer, and
 51 the auditor of state shall include the amount so reported in his semi-
 52 annual apportionment of interest.

[C., '73, §§ 1881, 1882, 1884; C., '97, § 2855; S., '13, § 2855.]

SEC. 2726. Transfer of funds.

1 When there are funds belonging to the permanent school fund in
 2 any county, amounting to one thousand dollars, that can not be loaned,
 3 the county auditor may certify the fact to the auditor of state, who
 4 shall order a transfer thereof to some other county or counties, where
 5 in his opinion it can be loaned. Upon such transfer being made, he
 6 shall give the county making the transfer credit for the amount, and
 7 shall charge the county or counties to which the transfer is made with
 8 the amount transferred, and shall afterwards charge interest on the
 9 actual amount in possession of each county.

[C., '73, § 1883; C., '97, § 2856.]

SEC. 2727. Penalty against county auditor.

1 Any county auditor, failing or neglecting to perform any of the
 2 duties which are required of him by the provisions of this chapter,
 3 shall be liable to a penalty of not less than one hundred nor more than
 4 five hundred dollars, to be recovered in an action brought in the dis-
 5 trict court by the board of supervisors, the judgment to be entered
 6 against the party and his bondsmen, and the proceeds to go to the
 7 school fund.

[R., '60, § 1992; C., '73, § 1878; C., '97, § 2857.]

CHAPTER 35.

STATE LIBRARY AND HISTORICAL ASSOCIATIONS.

SECTION 2728. Board of trustees — librarian — curator — regulations.

1 The state library shall be under the management and control of
 2 a board of trustees, consisting of the governor, judges of the supreme
 3 court, secretary of state, and superintendent of public instruction, of
 4 which the governor shall be president. They shall, on and after May
 5 first, nineteen hundred, appoint a librarian, and a curator of historical
 6 collections who shall act as secretary of the board during its sessions
 7 relating to the historical department, and the board shall have full
 8 power to make and carry into effect such rules and regulations, not in
 9 conflict with law, for the management and care of the books, maps,
 10 charts, papers and furniture contained therein, and for the arrange-
 11 ment and safe keeping of the same, as it may think proper. And shall
 12 have the power to remove such officers, by a two-thirds vote of said
 13 board, for immorality, incompetency or inattention to their duties.

[C., '51, §§ 445, 447, 452; R., '60, §§ 690, 692, 703, 707; C.,
 '73, §§ 1885, 1886, 1890; C., '97, § 2858.]

SEC. 2729. Authorized—board of trustees.

1 The board of trustees of the Iowa state library and the board of
 2 trustees of the Iowa historical department be and the same are hereby
 3 empowered and directed to consolidate the miscellaneous portion of
 4 the Iowa state library (exclusive of the law section), or so much
 5 thereof as shall be regarded by said board as advisable, with the his-
 6 torical department; the aforesaid consolidation to take effect on the
 7 first day of January, nineteen hundred one, or at any such later date
 8 as said trustees may direct; and that on and after January first, nine-
 9 teen hundred one, the board of trustees of the Iowa state library and
 10 the board of trustees of the Iowa state historical department shall
 11 cease to exist as such, and the aforesaid boards shall become the board
 12 of trustees of the state library and the historical department of Iowa,
 13 and the newly constituted board shall thereafter be charged with all
 14 the duties and responsibilities imposed upon the boards aforemen-
 15 tioned and possess all the powers thereof.

[S., '13, § 2881-a.]

SEC. 2730. Taking out books.

1 Members of the general assembly and congress, judges of the su-
 2 preme and federal courts, state officers, and when the supreme court
 3 is in session the attorneys of said court, shall be permitted, under
 4 proper restrictions, penalties and forfeitures, and upon executing a
 5 receipt therefor, to take from the library any books, save those which
 6 the trustees may determine ought not to be removed; but no book,
 7 map, chart or paper belonging to it shall at any time or under any
 8 authority be taken from the capitol building, except as hereinafter
 9 provided.

[C., '51, § 451; R., '60, §§ 695, 696; C., '73, §§ 1887, 1888; C.,
 '97, § 2859.]

SEC. 2731. Librarian—term of office—bond.

1 The librarian shall hold office for the term of two years, commenc-
 2 ing on the first day of May in each even-numbered year, and until a
 3 successor shall be appointed and qualified. Before entering upon the
 4 duties of the office, he shall give a bond with good and sufficient sure-
 5 ties, in the penal sum of five thousand dollars, conditioned for the per-
 6 formance of all the duties required by law and for the observance of
 7 all the rules prescribed by the trustees, which shall be filed with and
 8 approved by the secretary of state.

[C., '51, § 446; R., '60, § 691; C., '73, § 1890; C., '97, § 2860.]

SEC. 2732. State librarian—curator—assistant librarian—reports.

1 After such consolidation the state librarian shall have general
 2 charge of the historical department and of the consolidated and law
 3 libraries. The curator of the museum and art gallery shall have
 4 charge of the museum, the art gallery, the newspapers, and historical
 5 periodicals. The assistant to librarian shall have charge of the law
 6 library, under the direction of the state librarian. The above officers
 7 shall serve out the terms for which they shall have been appointed, at
 8 the expiration of which their successors shall be appointed by the
 9 board of trustees, and shall hold their respective offices for the term
 10 of six years. The state librarian shall submit to the governor bien-
 11 nially a report giving the history of said consolidated libraries for the
 12 preceding two years, accompanied by a like report by the curator of
 13 the museum and art gallery.

[S., '13, § 2881-b.]

SEC. 2733. Duties.

1 The librarian shall have charge of the library, and shall give his
 2 personal attention to it, keep it open every day, except Sundays and
 3 legal holidays, during such hours as the trustees shall direct, and per-
 4 form such other duties as shall be imposed upon him by law or pre-
 5 scribed by the rules and regulations of the trustees.

[C., '51, § 449; R., '60, § 693; C., '73, §§ 1889, 1891; C., '97,
 § 2861.]

SEC. 2734. Catalogue.

1 He shall label and catalogue the books of the library and addi-
 2 tions thereto, as the trustees shall direct, and prepare for publication
 3 any such catalogue or supplementary catalogue as they may order,
 4 and publish the same.

[R., '60, §§ 699, 700; C., '73, §§ 1892, 1893; C., '97, § 2862.]

SEC. 2735. Report of books taken out by members of legislature.

1 He shall report to the governor, five days before the adjourn-
 2 ment of any session of the general assembly, the number of books
 3 taken out of the library by the members thereof, giving the names of
 4 all members that have any books at the date of such report, with the
 5 title and number of such book.

[C., '73, § 1894; C., '97, § 2863.]

SEC. 2736. Fines.

1 All fines, penalties and forfeitures imposed by the rules and regu-
 2 lations of the library for any violation of the same may be recovered
 3 in an action in the name of the state and applied to the use of the
 4 library, under the direction of the trustees.

[C., '73, § 1895; C., '97, § 2864.]

SEC. 2737. Liability for lost books.

1 Any person injuring, defacing, destroying or losing a book shall
 2 pay to the librarian twice the value thereof; if it be one of a series,
 3 he shall be liable to pay the value of such series, and the librarian shall
 4 prosecute therefor, unless, within a reasonable time to be fixed by
 5 him, such person shall replace the book so injured or lost.

[R., '60, § 702; C., '73, § 1896; C., '97, § 2865.]

SEC. 2738. Reports by librarian.

1 The librarian shall report to the trustees semiannually, or oftener
 2 if required, a list of books and other property missing from the
 3 library, an account of fines and forfeitures imposed and collected, the
 4 amount uncollected, a list of the accessions to the library since the last
 5 report, and all other information required by them. He shall also
 6 make a full and specific report biennially to the governor as required
 7 by law.

[C., '51, § 453; R., '60, §§ 689, 704; C., '73, § 1897; C., '97,
 § 2866.]

SEC. 2739. Appropriation for library.

1 The trustees may expend annually, in the purchase of new books
 2 or in binding or rebinding books already on hand, the sum of five
 3 thousand dollars, or so much thereof as may be needed, and said sum
 4 is annually appropriated for said purposes, to be paid out of any money
 5 in the state treasury not otherwise appropriated.

[C., '73, § 1899; C., '97, § 2867.]

SEC. 2740. Associate libraries.

1 Any public, incorporated school or college library in the state
 2 may, upon compliance with the provisions of the rules prescribed by
 3 the board of trustees of the state library, become an associate library
 4 with the state library, and be entitled to all the privileges accorded to
 5 associate libraries. It shall be the duty of the state librarian to issue
 6 to any eligible library complying with such rules a certificate of asso-
 7 ciation, showing that such library has become an associate library.
 8 The associate relationship may be terminated at any time by a sur-
 9 render of said certificate and the return of all books and other prop-
 10 erty belonging to the state library, whereupon the state librarian
 11 shall return to such associate library any bonds or deposit held for
 12 the security of said books or other property. The associate relation-
 13 ship may also be terminated by a violation of such rules as may be
 14 prescribed by said board of trustees for the regulation and manage-
 15 ment of said associate libraries.

[C., '97, § 2868.]

SEC. 2741. Loans of books.

1 Under such reasonable rules and regulations as may be prescribed
 2 therefor by said board of trustees and the state librarian, said state
 3 librarian, upon the requisition of such associate library, may lend to
 4 such associate library books or collections of books from the duplicate
 5 department of said state library, or from books especially procured
 6 for such purpose, or any books in the state library; but this section
 7 shall not authorize the removal of such books, pamphlets, papers,
 8 maps or documents as in the discretion of said board of trustees and
 9 the state librarian can not, consistent with the best interests of the
 10 state library, be allowed to be taken therefrom; but all expense of
 11 transportation shall in all cases be paid by the associate library bor-
 12 rowing such book or other property.

[C., '97, § 2870.]

SEC. 2742. Instructions.

1 The officers, directors, managers or librarian of any such asso-
 2 ciate library shall be entitled to ask from the state librarian any needed
 3 advice or instruction as to buildings, furniture, equipment, manage-
 4 ment, service, rules for readers, selections of books, buying, catalogu-
 5 ing, shelving, binding books, or other matter pertaining to the estab-
 6 lishment, organization or administration of a public library. It shall
 7 be the duty of the state librarian to impart such advice or instruction,
 8 whenever so requested, consistent with his other duties.

[C., '97, § 2871.]

SEC. 2743. Privileges forfeited.

1 If the responsible officers or managers of any associate library
 2 shall disregard, violate or refuse to comply with such rules and regu-
 3 lations as may be made under the provisions of this chapter, such as-
 4 sociate library shall be debarred the privileges herein granted.

[C., '97, § 2872.]

SEC. 2744. Records, reports and regulations.

1 The state librarian shall keep a complete record of such associate
 2 libraries and of the transactions therewith, and shall include in his
 3 annual report a summary of the facts of public interest and value in
 4 relation thereto. It shall also be the duty of the state librarian to
 5 provide lists of the books, or collections of books, which may be thus
 6 available for such purposes, which shall be furnished upon applica-
 7 tion, together with such requisites, rules and regulations as may be
 8 prescribed for the obtaining and management of the same.

[C., '97, § 2873.]

SEC. 2745. Loans to colleges or associations.

1 Where no such library exists, and whenever twenty-five resident
 2 taxpayers petition therefor, such books, or collection of books, may
 3 be lent to any college, school, university, extension center, chautauqua
 4 circle, literary society, reading course, study club, or other association
 5 approved by the rules prescribed by said board of trustees of the state
 6 library, under such rules, securities and guarantees for the preserva-
 7 tion, care, control and management of the same as may be prescribed
 8 by said board of trustees.

[C., '97, § 2874.]

SEC. 2746. Medical department.

1 A medical department shall be established in the state library, to
 2 be under the direction of the state librarian and under control of the
 3 board of trustees of the state library and historical department, to
 4 which department shall be turned over all the medical and surgical
 5 works and periodicals now in the miscellaneous department of the
 6 state library, and all the medical and surgical works and periodicals
 7 already contributed, or to be contributed, to the state library, the
 8 same to be catalogued and shelved in suitable rooms in connection with
 9 the miscellaneous department of the state library, and make available
 10 for reference use by physicians and surgeons and students of medicine
 11 and surgery, and kindred sciences; also to members of the board of
 12 health, the board of control, the pure food department and to the gen-
 13 eral public.

[38 G. A., ch. 367, § 1.]

SEC. 2747. Appropriation.

1 There shall be annually appropriated from any money in the state
 2 treasury not otherwise appropriated the sum of two thousand dollars
 3 for the use of the medical department of the state library, the money
 4 to be expended under the direction of the board of trustees of the
 5 state library and historical department, in the purchase of books and
 6 periodicals deemed necessary to the upbuilding of said department,
 7 and the purchase and transmission of material and information to
 8 the physicians and surgeons of the state.

[38 G. A., ch. 367, § 2.]

SEC. 2748. Salary.

1 There shall be annually appropriated, from any money in the
 2 state treasury not otherwise appropriated, the sum of two thousand
 3 dollars as a salary for an expert librarian trained in medicine and
 4 surgery and in the languages in which medical and surgical literature
 5 is most commonly written and published.

[38 G. A., ch. 367, § 3.]

SEC. 2749. No discrimination.

1 No preference shall ever be given to any school or schools of
 2 medicine, but all shall be treated alike; and books, periodicals and
 3 pamphlets shall be secured for any and every legally recognized school
 4 without discrimination.

[38 G. A., ch. 367, § 4.]

SEC. 2750. Curator of historical department.

1 The curator of historical collections shall hold his office for six
 2 years and until his successor is appointed and qualified. It shall be
 3 his duty, under the direction and authority of the board of trustees
 4 of the state library, to collect and arrange books, maps, charts, public
 5 documents, manuscripts and other papers and materials illustrative
 6 of the history of the state in particular, and of the west generally; to
 7 procure from early pioneer settlers narratives of their experiences,
 8 exploits, perils and adventures; to procure facts and statements rela-
 9 tive to the history, progress and decay of the Indian tribes, so as to
 10 exhibit as far as practicable the antiquities of the past; to procure

11 books relating to the history and natural history of the state, and of
 12 the central region of the continent of which it forms a part; to sub-
 13 scribe for and preserve files of at least two papers in each county of
 14 the state containing the official publications, and cause the same to
 15 be bound at the end of every four years; to thoroughly catalogue all
 16 such collections for convenient reference, and biennially prepare for
 17 publication a report of all collections made under authority of this
 18 chapter. County histories and files of newspapers in the state library
 19 may, in the discretion of the board of trustees, be transferred to the
 20 library of the historical department.

[C., '97, § 2875.]

SEC. 2751. Collection of memorials and mementos.

1 The curator shall, with the approval of the trustees, collect me-
 2 morials and mementos of the pioneers of Iowa and the soldiers of all
 3 our wars, including portraits, specimens of arms, clothing, army let-
 4 ters, commissions of officers, and other military papers and documents.

[C., '97, § 2876.]

SEC. 2752. Ethnology and archaeology.

1 He shall also receive and arrange in cases, to be provided for
 2 that purpose, objects illustrative of the ethnology and prehistoric
 3 archaeology of this and surrounding states, all duplicate specimens to
 4 be divided as equally as possible between the university, agricultural
 5 college and normal school.

[C., '97, § 2877.]

SEC. 2753. Rooms for historical collection.

1 The custodian of the capitol, under the direction of the trustees
 2 of the library, shall provide rooms in the capitol for the historical col-
 3 lection as they may be needed therefor. The curator shall keep the
 4 rooms and collections open to the free inspection of the people during
 5 such hours each day, Sundays and legal holidays excepted, as the trus-
 6 tees of the library may direct, and Sunday afternoons during the ses-
 7 sions of the general assembly.

[C., '97, § 2878.]

SEC. 2754. Appropriation for historical department.

1 There is appropriated annually, for the support of the historical
 2 department, the sum of six thousand dollars, out of which shall be
 3 paid all of the expenditures of said department, all accounts to be
 4 audited by the state board of audit, after being approved by the trus-
 5 tees of the library.

[C., '97, § 2879.]

SEC. 2755. Curator—assistants—expenses.

1 The curator shall be allowed such assistants, postage, stationery
 2 and incidental expenses as the trustees may authorize.

[C., '97, § 2880.]

SEC. 2756. Public archives—custody.

1 For the care and preservation of the public archives the curator
 2 of the historical department of Iowa is hereby given the custody of

3 all the original public documents, papers, letters, records and other
4 official manuscripts of the state executive and administrative depart-
5 ments, offices or officers, councils, boards, bureaus and commissions,
6 ten years after the date or current use of such public documents, pa-
7 pers, letters, records or other official manuscripts; provided that the
8 executive council shall have the power and authority to order the
9 transfer of such records or any part thereof at any time prior to the
10 expiration of the limit of ten years hereinbefore provided, or to retain
11 the same in the respective offices beyond such limit, according as in
12 the judgment of the council, the public interest or convenience may
13 require.

[S. S., '15, § 2881-p.]

SEC. 2757. Heads of departments authorized to deliver records.

1 The several state executive and administrative departments, offi-
2 cers or offices, councils, boards, bureaus and commissioners, are hereby
3 authorized and directed to transfer and deliver to the historical de-
4 partment such of the public archives as are designated in the preced-
5 ing section, except such as in the judgment of the executive council
6 should be longer retained in the respective offices.

[S. S., '15, § 2881-q.]

SEC. 2758. Curator authorized to receive records.

1 The curator of the historical department is hereby authorized
2 and directed to receive such of the public archives and records as are
3 designated in the second preceding section and provide that the same
4 be properly arranged, classified, labeled, filed, calendared and indexed,
5 all under the direction of the board of trustees of the state library and
6 historical department.

[S. S., '15, § 2881-r.]

SEC. 2759. Executive council to equip receiving rooms.

1 For the care and permanent preservation by the curator of the
2 historical department of the public archives hereinbefore designated,
3 the executive council is hereby authorized and directed to furnish and
4 equip such room or rooms in the historical, memorial and art building
5 as may be deemed necessary, and the room or rooms thus provided
6 for shall be known as the division of public archives.

[S. S., '15, § 2881-s.]

SEC. 2760. Curator to certify to copies—conditions authorizing removal—fees.

1 Upon and after the receipt by the historical department into its
2 division of public archives of any such public archives, copies thereof
3 may be made, certified and authenticated by the curator in the same
4 manner and with the same validity as the officer from whom the same
5 were secured. The curator shall have and exercise the same custody
6 and control over said public archives as had theretofore been exercised
7 by those from whose offices they were received, but they shall not be
8 removed from the historical department except by the consent of the
9 curator and upon the subpoena of a court of record or the order in
10 writing of the person from whose office they were originally derived.
11 Said curator shall charge and collect for certified copies the same fees
12 as are allowed by law to the secretary of state for certified copies,

13 which fees shall be turned into the state treasury. Such certificates
 14 issued by the curator shall have the same legal effect as like certifi-
 15 cates issued by the secretary of state.

[S. S., '15, § 2881-t.]

SEC. 2761. Curator authorized to accept gifts.

1 The curator of the historical department of the state of Iowa
 2 is hereby authorized and empowered, as trustee for the state of Iowa,
 3 to accept gifts of property, real, personal or mixed, for the benefit or
 4 endowment of the historical department of Iowa, or for the com-
 5 memoration of the lives of worthy citizens, or for the purpose of per-
 6 petuating historic events, or for scenic or scientific purposes. Any
 7 gift accepted shall be immediately reported to the board of trustees
 8 of said historical department.

[37 G. A., ch. 333, § 1.]

SEC. 2762. Investments—rules.

1 The curator and the board of trustees of the historical depart-
 2 ment of Iowa shall have authority and power to invest, in accordance
 3 with the provisions of the trust, any such gifts or endowments, and
 4 establish and enforce rules for the purpose of governing and main-
 5 taining such endowments or memorials, as may be created, or estab-
 6 lished under and pursuant to the preceding section.

[37 G. A., ch. 333, § 2.]

SEC. 2763. Assignment of rooms.

1 The board of trustees shall have the control of the respective de-
 2 partments above named, and shall assign rooms to be occupied by
 3 each of said officers.

[S., '13, § 2881-d.]

SEC. 2764. Appropriations.

1 There shall be annually appropriated from any money in the
 2 state treasury not otherwise appropriated the sum of six thousand
 3 dollars for the use of the law department and legislative reference
 4 bureau; six thousand dollars for the use of the miscellaneous depart-
 5 ment, and six thousand dollars for the historical department, the
 6 money to be expended under the direction of the board of trustees of
 7 the state library and historical department.

[S., '13, § 2881-e.]

SEC. 2765. State librarian—curator—law librarian—salaries.

1 The salary of the state librarian shall be the sum of twenty-four
 2 hundred dollars per annum; of the curator of the museum and art
 3 gallery, the sum of eighteen hundred dollars per annum; and of the
 4 law librarian, the sum of eighteen hundred dollars per annum.

[C., '51, § 450; R., '60, § 694; C., '73, § 3762; C., '97,
 §§ 2880, 2881; S., '13, § 2881-f.]

SEC. 2766. Other assistants—salaries.

1 As assistants (in addition to the curator of the museum and art
 2 gallery and the law librarian), the state librarian may employ one

3 first assistant at an annual salary of eleven hundred dollars; and one
 4 second assistant at an annual salary of ten hundred dollars; and one
 5 third assistant at an annual salary of nine hundred dollars.

[C., '73, § 3762; C., '97, § 2881; S., '13, § 2881-g.]

SEC. 2767. Salaries—how paid.

1 The salaries provided for in the two preceding sections shall be
 2 paid in monthly installments out of any money in the state treasury
 3 not otherwise appropriated.

[S., '13, § 2881-i.]

SEC. 2768. Bonds.

1 The state librarian shall give bond in the sum of five thousand
 2 dollars, and the curator of the museum and art gallery and the assist-
 3 ant to librarian shall each give bond in the sum of one thousand dol-
 4 lars, conditioned upon the faithful performance of their respective
 5 duties and a full and accurate accounting of all moneys coming into
 6 their hands in virtue of their respective offices. Said bonds shall be
 7 approved by the board of trustees of the state library and historical
 8 department.

[C., '51, § 446; R., '60, § 691; C., '73, § 1890; C., '97, § 2860;
 S., '13, § 2881-h.]

CHAPTER 36.

LIBRARY COMMISSION AND FREE PUBLIC SCHOOL TRAVELING LIBRARY.

SECTION 2769. State library commission—term—chairman.

1 The governor shall appoint four persons, at least two of whom
 2 shall be women, who, with the state librarian and superintendent of
 3 public instruction and president of the state university, shall consti-
 4 tute a state library commission. The first members appointed by the
 5 governor shall be appointed for terms of two, three, four and five
 6 years from the first day of July, nineteen hundred, and all subsequent
 7 appointments shall be for terms of five years, except appointments to
 8 fill vacancies. The commission shall annually elect a chairman.

[S., '13, § 2888-a.]

SEC. 2770. Duties.

1 The commission shall give advice and counsel to all free and other
 2 public libraries, and to all communities which may propose to establish
 3 them, as to the best means of establishing and maintaining such
 4 libraries, the selection of books, cataloguing, and other details of
 5 library management. It may print such lists and circulars of informa-
 6 tion as it shall deem necessary and as approved by the executive coun-
 7 cil. It may also conduct a summer school of library instruction, a
 8 clearing house for periodicals for free gift to local libraries and per-
 9 form such other public service as may seem to it for the best interests
 10 of the state.

[S., '13, § 2888-c.]

SEC. 2771. Traveling libraries.

1 The state library board shall transfer to the Iowa library com-
2 mission all associate and traveling libraries belonging to the state,
3 and the said library commission is authorized to accept the same; and
4 it shall be the duty of said commission to operate the said associate
5 and traveling libraries, also to properly equip and circulate the books
6 thus acquired, or subsequently purchased to be loaned within the state
7 to libraries, schools, colleges, universities, library associations, farm-
8 ers' institutes, granges, study clubs, charitable and penal institutions,
9 and individuals, free of cost except for transportation, under such
10 conditions and rules as shall protect the interests of the state and best
11 increase the efficiency of the service it is expected to render the public.

[S., '13, § 2888-d.]

SEC. 2772. Secretary—assistants—duties—expenses—office.

1 Said commission shall employ a secretary not of its own number,
2 who shall serve at the will of the commission, and under such condi-
3 tions as it shall determine. It may also employ such other assistants
4 as shall be requisite in the performance of the work of the commis-
5 sion as set forth in sections twenty-seven hundred seventy and twenty-
6 seven hundred seventy-one, and number of assistants and their sal-
7 aries and the salary of the secretary shall be fixed by the committee
8 on retrenchment and reform. It shall be the duty of said secretary
9 to keep a record of the proceedings of the commission, to keep accurate
10 accounts of its financial transactions, and to act under the direction
11 of the commission in supervising the work of the traveling libraries,
12 in organizing new libraries and improving those already established,
13 and in general to perform such other duties as may be assigned him
14 by the commission. In addition to their salaries the necessary travel-
15 ing expenses shall be allowed the secretary and assistants while ab-
16 sent from the office in the service of the commission, the same to be
17 verified and certified and paid in the same manner as other expenses
18 incurred by the commission.

[S., '13, § 2888-e.]

SEC. 2773. Biennial report.

1 The secretary of the commission shall make a full report to the
2 governor on library conditions and progress in Iowa on July first,
3 nineteen hundred three, with sketches of the free public libraries and
4 illustrations of such library buildings as said commission may deem
5 expedient; two thousand copies of this report shall be printed, one
6 thousand of which shall be bound in cloth; and biennially thereafter a
7 like report shall be made to the governor, two thousand copies of
8 which shall be printed, one thousand of the same to be bound in cloth;
9 these reports to be printed and bound by the state the same as other
10 public documents, and to be distributed under the direction of the
11 commission, and such other printing and binding provided by this
12 chapter shall be done by the state when allowed by the executive
13 council.

[S., '13, § 2888-f.]

SEC. 2774. Reports from libraries.

1 The commission shall each year obtain from all free public libra-
2 ries reports showing condition, growth, development and manner of

3 conducting said libraries, and shall obtain reports from other libraries
 4 in the state at their discretion, and shall furnish annually to the sec-
 5 retary of state such information for publication in the Iowa official
 6 register as may be deemed of public interest.

[S., '13, § 2888-g.]

SEC. 2775. Expenses—appropriation.

1 No member of the commission shall ever receive any compensa-
 2 tion for services as a member, but the traveling expenses of members
 3 in attending meetings of the commission, or in visiting or establishing
 4 libraries and other incidental and necessary expenses connected with
 5 the work of the commission, shall be paid, including the necessary
 6 expense in the maintenance and extension of the traveling library
 7 system; provided that the whole amount of said expense and salaries
 8 shall not exceed the sum of fifteen thousand dollars in any one year,
 9 not more than nine thousand dollars of said sum to be used in the
 10 payment of salaries. All bills and accounts incurred by the commis-
 11 sion or by its members under the law, and all expenses of the mem-
 12 bers of the commission, and its secretary and its assistants, shall be
 13 itemized, verified and certified by the chairman and secretary of the
 14 commission, and be audited and allowed by the state board of audit
 15 before being paid. The state auditor shall issue warrants therefor
 16 upon the state treasurer; and there is hereby annually appropriated
 17 from any funds in the state treasury, not otherwise appropriated, the
 18 sum of fifteen thousand dollars to carry into effect the provisions of
 19 this chapter, and any balance not expended in any one year may be
 20 added by the commission to the expenditure for any ensuing year.

[S. S., '15, § 2888-h.]

CHAPTER 37.

STATE HISTORICAL SOCIETY.

SECTION 2776. Appropriation—objects.

1 There is annually appropriated for the support of the state his-
 2 torical society at Iowa City, in connection with and under the auspices
 3 of the university, out of any money in the state treasury not other-
 4 wise appropriated, one thousand dollars, or so much thereof as may
 5 be needed, to be expended by that society in collecting, embodying,
 6 arranging, and preserving in authentic form, a library of books, pam-
 7 phlets, maps, charts, manuscripts, papers, paintings, statuary, and
 8 other materials illustrative of the state and its history, to save from
 9 oblivion the memory of its early pioneers, to obtain and preserve nar-
 10 ratives of their exploits, perils and hardy adventures, to secure facts
 11 and statements relative to the history, genius and progress or decay
 12 of our Indian tribes, to exhibit faithfully the antiquities and past and
 13 present resources of the state, and to aid in the publication of such of
 14 the collections of the society as it from time to time regards of value
 15 and interest, to aid in binding its books, pamphlets, manuscripts and
 16 papers, and in paying other necessary and incidental expenses of the
 17 society.

[R., '60, § 1959; C., '73, § 1900; C., '97, § 2882.]

SEC. 2777. Annual appropriation—purposes.

1 There is hereby appropriated to the state historical society of
2 Iowa, out of any money in the state treasury not otherwise appropri-
3 ated, the sum of seventy-five hundred dollars, annually hereafter as
4 permanent support: For the continued publication of the Iowa journal
5 of history and politics; for the continuation of the compilation and
6 publication of the messages and proclamations of the governors of
7 Iowa; for the collection, compilation and publication of documentary
8 materials, relating to the history of Iowa, including such of the
9 archives of the state and territory of Iowa as are of historical im-
10 portance; for the publication of historical monographs, biographies,
11 essays, lectures, bibliographs and indexes; for the proper maintenance
12 of the library of the society, the collection and purchase of publica-
13 tions bearing upon Iowa and American history, and the proper classi-
14 fying, cataloguing and indexing of such material; for the carrying
15 out of a systematic and scientific anthropological survey of the state;
16 for conducting public lectures of a historical character; and for meet-
17 ing the incidental and other necessary expenses incurred in connec-
18 tion with the prosecution of the work of the said state historical so-
19 ciety of Iowa, as indicated in this section and section twenty-seven
20 hundred seventy-six.

[S., '13, § 2882-a.]

SEC. 2778. Appropriation—purposes.

1 There is hereby appropriated to the state historical society of
2 Iowa, out of any money in the state treasury not otherwise appropri-
3 ated, the sum of twenty thousand dollars annually hereafter as perma-
4 nent support and for the continuation of applied history researches
5 and publications.

[S., '13, § 2882-c.]

SEC. 2779. When and how paid.

1 The permanent annual appropriation herein provided for shall
2 take the place and be in lieu of all other permanent annual appropria-
3 tions heretofore made to the state historical society of Iowa, and the
4 same shall be paid in quarterly installments on the order of the board
5 of curators of the said state historical society of Iowa, the first install-
6 ment to be paid July first, nineteen hundred thirteen.

[S., '13, § 2882-b.]

SEC. 2780. Appropriation for additional support.

1 There is hereby appropriated to the state historical society of
2 Iowa, out of any money in the state treasury not otherwise appro-
3 priated, the sum of four thousand dollars annually hereafter as addi-
4 tional permanent support.

[37 G. A., ch. 252, § 1.]

SEC. 2781. How paid.

1 Said sum shall be paid in quarterly installments on the order of
2 the board of curators of the state historical society of Iowa, the first
3 installment to be paid in July, nineteen hundred seventeen.

[37 G. A., ch. 252, § 2.]

SEC. 2782. Board of curators—meetings.

1 The board of curators of the society shall consist of eighteen per-
2 sons, nine of whom shall be appointed by the governor, and nine elected
3 by members of the society. Their term of office shall be two years,
4 and they shall receive no compensation. The governor shall make his
5 appointments on or before the last Wednesday in June in each even-
6 numbered year, and the terms of the persons appointed shall com-
7 mence on that day; and, at the annual meeting of the society in each
8 odd-numbered year, the others shall be elected by ballot from the
9 members of the society, for the term next ensuing, which annual
10 meeting shall be held at Iowa City on the Monday preceding the last
11 Wednesday in June.

[C., '73, §§ 1901, 1903; C., '97, § 2883.]

SEC. 2783. Members.

1 Members may be admitted to the society at any time under such
2 rules as may be adopted by the board of curators.

[C., '73, § 1902; C., '97, § 2884.]

SEC. 2784. Officers.

1 The board shall appoint annually, or oftener if need be, a corre-
2 sponding secretary, recording secretary, treasurer and librarian from
3 the members of the society outside of their own number, who shall
4 hold office for one year, unless sooner removed by a majority vote of
5 the board. Said officers shall hold the same position in the society as
6 upon the board of curators, and their respective duties shall be deter-
7 mined by said board. No officer of the society or board shall receive
8 any compensation from the state appropriation thereto.

[C., '73, § 1904; C., '97, § 2885.]

SEC. 2785. President.

1 It shall also appoint from its members a president, who shall be
2 the executive head of the board, and hold office for one year and until
3 his successor is elected.

[C., '73, § 1905; C., '97, § 2886.]

SEC. 2786. Executive board.

1 The curators, a majority of whom shall reside in the vicinity of
2 the university, and five of whom shall constitute a quorum, shall be
3 the executive board of the society, and have full power to manage its
4 affairs. It shall keep a full and complete account of all of its doings,
5 and of the receipt and expenditure of all funds collected or granted
6 for the purposes of the society, and shall biennially report the same
7 to the governor on or before the fifteenth day of September.

[R., '60, § 1960; C., '73, § 1906; C., '97, § 2887.]

SEC. 2787. Reports and documents furnished.

1 Twenty copies of the reports of the supreme court and all other
2 books and documents published by the state or upon its order shall
3 be delivered to the society for the purpose of effecting exchanges with
4 similar societies in other states and countries, and for preservation
5 in its library, or other purposes of the society.

[R., '60, § 1961; C., '73, § 1907; C., '97, § 2888.]

CHAPTER 38.

GEOLOGICAL SURVEY.

SECTION 2788. Board.

1 The geological survey of the state shall be under the direction of
2 the geological board, consisting of the governor, the auditor of state
3 and the presidents of the agricultural college, the state university and
4 the Iowa academy of sciences.

[C., '97, § 2497.]

SEC. 2789. State geologist and assistants.

1 Such board shall appoint a state geologist and such expert as-
2 sistants, recommended by him, as may be necessary, and annually
3 furnish for publication a report of the operations of the survey.

[R., '60, §§ 180, 181; C., '97, § 2498.]

SEC. 2790. Survey—cabinet.

1 The state geologist shall be director of the survey and make a
2 complete survey of the natural resources of the state in all their eco-
3 nomic and scientific aspects, including the determination of the order,
4 arrangement, dip and comparative magnitude of the various forma-
5 tions; the discovery and examination of all useful deposits, their rich-
6 ness in mineral contents and their fossils; and the investigation of
7 the position, formation and arrangement of the different ores, coals,
8 clays, building stones, glass sands, marls, peats, mineral oils, natural
9 gases, mineral and artesian waters, and such other mineral or other
10 materials as may be useful, with particular regard to the value thereof
11 for commercial purposes and their accessibility; the characters of the
12 various soils and their capacities for agricultural purposes; and the
13 growth of timber, and other scientific and natural history matters
14 that may be of practical importance and interest. A complete cabinet
15 collection may, at the option of the board, be made to illustrate the
16 natural products of the state, and the board may also furnish suits of
17 materials, rocks and fossils for colleges and public museums within
18 the state, providing it can be done without impairing the general state
19 collection.

[R., '60, §§ 182, 185, 187; C., '97, § 2499.]

SEC. 2791. Detailed reports—cooperation with other surveys.

1 He shall make detailed maps and reports of counties and districts
2 as fast as the work is completed, which shall embrace such geological,
3 mineralogical, topographical and scientific details as are necessary to
4 make complete records thereof, and, when the information obtained
5 warrants it, the results of any special investigation made by him may
6 be brought together in a report for publication, accompanied by proper
7 illustrations and diagrams. He shall cooperate with the United States
8 geological survey and with adjoining state surveys in the making of
9 topographic maps and the study of geologic problems of the state
10 when in the opinion of the geological board such cooperation will re-
11 sult in profit to the state. He shall, before the first day of January of
12 each year, make to the geological board a full report of the work in
13 the preceding year, together with such minor reports and papers as
14 may be considered desirable for publication.

[R., '60, § 184; C., '97, § 2500; S., '13, § 2500.]

SEC. 2792. Annual report—bulletins.

1 The annual report, together with bulletins of educational and
2 scientific value, and special bulletins containing information neces-
3 sary for the immediate use of the people at large, shall be published
4 by the state under the direction of the board, and disposed of as other
5 published reports of state officers when no special provision is made,
6 but the copies remaining in the control of the board after such dis-
7 tribution, after retaining a sufficient number to supply probable fu-
8 ture demands, shall be sold to persons making application therefor at
9 the cost price of publication, the money thus accruing to be turned
10 into the treasury of the state.

[C., '97, § 2501; S., '13, § 2501.]

SEC. 2793. Expenses.

1 The members of the board shall be allowed actual expenses in-
2 curred in attending to the duties assigned to them by this chapter.
3 Postage, stationery and office expenses of the state geologist shall be
4 paid by the state, as are the expenses of the other state officers, but
5 all other expenses of the survey shall be audited and allowed by the
6 state board of audit; and the entire expenses provided for under this
7 chapter, aside from the above exception relating to office supplies and
8 expenses, and that of the publication and distribution of reports and
9 bulletins, shall not exceed the sum of eight thousand dollars per an-
10 num, which amount is hereby appropriated annually, to be paid out
11 on warrants of the state auditor on the presentation of bills duly
12 audited and allowed as provided in this section.

[C., '97, § 2502; S., '13, § 2502.]

TITLE XI.

HIGHWAYS.

CHAPTER 1.

ESTABLISHMENT, ALTERATION AND VACATION OF HIGHWAYS.

SECTION 2794. Jurisdiction over.

1 The board of supervisors has the general supervision of the roads
2 in the county, with power to establish, vacate and change them as
3 herein provided, and to see that the laws in relation to them are car-
4 ried into effect.

[C., '51, § 514; R., '60, § 819; C., '73, § 920; C., '97, § 1482.]

SEC. 2795. Width.

1 Roads hereafter established, unless otherwise fixed by the board,
2 shall be at least sixty-six feet wide, and in no case less than forty;
3 within these limits they may be increased or diminished in width,
4 altered in direction, or vacated, by pursuing the course prescribed in
5 this chapter.

[C., '51, §§ 515, 516; R., '60, §§ 820, 821; C., '73, § 921; C.,
'97, § 1483; S., '13, § 1483; 37 G. A., ch. 30, § 1.]

SEC. 2796. Petition.

1 Any person desiring the establishment, vacation or alteration of
2 a road shall file in the auditor's office of the proper county a petition,
3 in substance as follows:

4 To the board of supervisors of county:

5 The undersigned asks that a road commencing at
6 and running thence and terminating at
7 be established, vacated, or altered (as the case may be).

[C., '73, § 922; C., '97, § 1484.]

SEC. 2797. Bond.

1 Before filing such petition, the auditor shall require the peti-
2 tioner to give a bond, with sureties to be approved by him, conditioned
3 that all expenses growing out of the application will be paid by the
4 obligors, in case the contemplated road is not finally established, al-
5 tered or vacated, as asked in the petition.

[C., '51, § 521; R., '60, § 826; C., '73, § 923; C., '97, § 1485.]

SEC. 2798. Commissioner.

1 When the foregoing requirements have been complied with, the
2 auditor shall appoint some suitable and disinterested elector of the
3 county as commissioner, to examine into the expediency of the pro-
4 posed establishment, alteration or vacation, and report accordingly.

[C., '51, § 523; R., '60, § 828; C., '73, § 924; C., '97, § 1486.]

SEC. 2799. Expediency.

1 The commissioner is not confined to the precise matter of the peti-
 2 tion, but may inquire and determine whether that or any road in the
 3 vicinity, answering the same purpose and in substance the same, be
 4 required; but no road shall be established through any burying ground,
 5 nor through any garden, orchard, or ornamental ground contiguous
 6 to any dwelling house, or so as to cause the removal of any building,
 7 without the consent of the owner.

[C., '51, § 525; R., '60, § 830; C., '73, § 925; C., '97, § 1487.]

SEC. 2800. Report.

1 In forming his judgment, he must take into account the public
 2 and private convenience, and the expense of the proposed road, and,
 3 if he thinks the public convenience requires it, shall proceed at once
 4 to lay the same out, if the circumstances are such as to enable him to
 5 do so without having the same surveyed; but if, in his judgment, such
 6 road should not be established, or the alteration or vacation made,
 7 he shall proceed no further, and in either case shall, within thirty
 8 days after the day of his appointment, file his report in the auditor's
 9 office.

[C., '51, §§ 526-528, 535, 536; R., '60, §§ 831-833, 840, 841;
 C., '73, §§ 926-928, 934; C., '97, § 1488.]

SEC. 2801. Survey made—commissioner sworn.

1 If the precise location of the road can not otherwise be given, he
 2 must cause the line thereof to be surveyed and plainly marked out,
 3 and, if he is a person other than the county engineer, must be sworn
 4 to faithfully and impartially discharge his duty, and, after thus quali-
 5 fying, he shall have authority to swear any assistants employed, to
 6 faithfully and impartially perform their duties in aiding him in lay-
 7 ing out or altering the road.

[C., '51, §§ 529, 530; R., '60, §§ 834, 835; C., '73, §§ 929, 930;
 C., '97, § 1489.]

SEC. 2802. Mileposts and stakes.

1 Mileposts must be set up at the end of every mile, and the dis-
 2 tance marked thereon, and stakes must be set at each change of direc-
 3 tion, on which shall be marked the bearings of the new course. Stakes
 4 must also be set at the crossing of fences and streams, and at intervals
 5 in the prairie not exceeding a quarter of a mile each; in the timber
 6 the course must be indicated by trees suitably blazed.

[C., '51, § 531; R., '60, § 836; C., '73, § 931; C., '97, § 1490.]

SEC. 2803. Bearing trees—monuments.

1 Bearing trees must, when convenient, be established at each angle
 2 and milepost, and the position of the road relative to the corners of
 3 sections, the junction of streams, or any other natural or artificial
 4 monument or conspicuous object, must, as far as convenient, be stated
 5 in the field notes and shown on the plat.

[C., '51, § 532; R., '60, § 837; C., '73, § 932; C., '97, § 1491.]

SEC. 2804. Plat and field notes.

1 A correct plat of the road or alteration, together with a copy of
2 the field notes of the surveyor, if one has been employed, must be filed
3 as a part of the commissioner's report.

[C., '51, § 533; R., '60, § 838; C., '73, § 933; C., '97, § 1492.]

SEC. 2805. Report—objections—claims for damages.

1 If the commissioner's report is in favor of the establishment, al-
2 teration or vacation of the road, it shall show the number of bridges
3 required, and the probable cost thereof; and the auditor shall appoint
4 a day, not less than sixty nor more than ninety days from such time,
5 when the petition and report will be acted upon, on or before which
6 day all objections to the establishment, alteration or vacation of the
7 road, and all claims for damages by reason of its establishment or
8 alteration, must be filed in the auditor's office.

[C., '51, §§ 535, 536; R., '60, §§ 840, 841; C., '73, § 934; C.,
'97, § 1493.]

SEC. 2806. Day fixed.

1 The time for the commissioner to commence the examination
2 shall be fixed by the auditor, and if he fails to so commence, or so re-
3 port as prescribed in the preceding section, the auditor may fix another
4 day, or extend the time for making such report, or may appoint an-
5 other commissioner.

[C., '51, § 524; R., '60, § 829; C., '73, § 935; C., '97, § 1494.]

SEC. 2807. Notice served.

1 Within twenty days after the day is fixed by the auditor as above
2 provided, a notice shall be served on each owner of land lying in the
3 proposed road, or abutting thereon, as shown by the transfer books in
4 the auditor's office, who resides in the county, in the manner provided
5 for the service of original notices. If the owner of the land as thus
6 shown does not reside in the county, similar notice shall be served upon
7 any person who is in the actual occupancy of such land. In any case,
8 notice shall be published, once each week, for four weeks in some
9 newspaper printed in the county. The notice may be in the following
10 form:

11 To all whom it may concern: The commissioner appointed to lo-
12 cate, vacate, or alter (as the case may be) a road commencing at
13 in county, running thence (describe in
14 general terms all the points as in the commissioner's report, giving
15 the names of the owners of the land through which the proposed road
16 passes as they appear upon the transfer books of the auditor's office)
17 and terminating at, has reported in favor of the estab-
18 lishment, vacation or alteration thereof, and all objections thereto,
19 or claims for damages, must be filed in the auditor's office on or before
20 noon of the day of, A. D.,
21 or such road will be established, vacated or altered without reference
22 thereto.

23
24

.....
County Auditor.

[C., '51, § 519; R., '60, § 824; C., '73, § 936; C., '97, § 1495;
S., '13, § 1495.]

SEC. 2808. Auditor may act—approved by board.

1 If no objections or claims for damages are filed on or before
 2 noon of the day fixed therefor, and the auditor is satisfied the pro-
 3 visions of the preceding section have been complied with, he shall
 4 proceed to establish, alter or vacate such road as recommended by
 5 the commissioner, upon the payment of costs. If such costs are not
 6 paid within ten days, the auditor shall report his action in the prem-
 7 ises to the board of supervisors at its next session, who may affirm
 8 the action of the auditor, or establish such road at the expense of
 9 the county.

[C., '73, § 937; C., '97, § 1496.]

SEC. 2809. New notice given.

1 If the auditor is satisfied that the notice has not been given, he
 2 shall appoint another day, and cause such notice to be served or pub-
 3 lished as required in the first instance, and thereafter proceed as
 4 provided above.

[C., '73, § 938; C., '97, § 1497.]

SEC. 2810. Objections or claims.

1 If objections to the establishment of the road or claims for dam-
 2 ages are filed, the further hearing of the application shall stand con-
 3 tinued to the next session of the board of supervisors held after the
 4 commissioners appointed to assess the damages have reported. All
 5 claims for damages and objections to the establishment, alteration or
 6 vacation of the road must be in writing, and the statements in the
 7 application for damages shall be considered denied in all subsequent
 8 proceedings.

[C., '51, § 537; R., '60, § 842; C., '73, §§ 939, 941; C., '97,
 § 1498.]

SEC. 2811. Appraisers appointed.

1 Upon the expiration of the time for filing claims for damages, if
 2 any are filed, the auditor shall appoint three disinterested electors of
 3 the county as appraisers, to assess the amount of damages any claim-
 4 ants may sustain by reason of the establishment or alteration of such
 5 road, and shall give them notice of their appointment, and fix a day
 6 and hour at which they shall meet at his office, or that of some justice
 7 of the peace, to qualify; and if they do not all appear at the time and
 8 place named, or within one hour thereafter, the auditor or justice, as
 9 the case may be, shall fill any vacancies by the appointment of others,
 10 and swear such appraisers to faithfully and impartially assess the
 11 damages claimed. Such appraisers shall proceed at once to perform
 12 their duties, and, after assessing the damages sustained by the claim-
 13 ants, respectively, shall report the amount sustained by each, in writ-
 14 ing, to the auditor, within thirty days from the date of their ap-
 15 pointment.

[C., '51, §§ 538-542; R., '60, §§ 843-847; C., '73, §§ 940, 942,
 943; C., '97, § 1499.]

SEC. 2812. Postponement—costs.

1 Should the report not be filed in time, or should any good cause
 2 for delay exist, the auditor may postpone the time for final action on

3 the subject, and may, if necessary, appoint other appraisers. Should
4 no damages be awarded the applicants therefor, all the costs growing
5 out of their claims shall be paid by them.

[C., '51, §§ 543, 545; R., '60, §§ 848, 850; C., '73, §§ 944,
945; C., '97, § 1500.]

SEC. 2813. Final action.

1 When the time for final action arrives, the board may hear testi-
2 mony, receive petitions for and remonstrances against the establish-
3 ment, vacation or alteration, as the case may be, of such road, and
4 may establish, vacate or alter, or refuse to do so, as in their judgment,
5 founded on the testimony, the public good may require. Said board
6 may increase or diminish the damages allowed by the appraisers, and
7 may make such establishment, vacation or alteration conditioned upon
8 the payment, in whole or in part, of the damages awarded, or expenses
9 in relation thereto.

[C., '51, § 546; R., '60, § 851; C., '73, § 946; C., '97, § 1501.]

SEC. 2814. Unconditional order.

1 In the latter case, a day shall be fixed for the performance of the
2 condition, which must be before the next session of the board, and, if
3 the same is not performed by that day, it shall at such session make
4 some final and unconditional order in the premises.

[C., '51, § 547; R., '60, § 852; C., '73, § 947; C., '97, § 1502.]

SEC. 2815. Record.

1 Any order made or action taken in the establishment, alteration
2 or vacation of a road shall be entered in the road record, distinguish-
3 ing between those made or taken by the auditor and those by the board
4 of supervisors.

[C., '73, § 948; C., '97, § 1503.]

SEC. 2816. Plat and field notes recorded—road opened.

1 After a road has been finally established or altered, the plat and
2 field notes must be recorded by the auditor, who shall certify the same
3 to the township clerk, and the superintendent of roads shall be directed
4 by him to have the same opened and worked, subject to the provisions
5 of the next section.

[C., '51, § 550; R., '60, § 855; C., '73, § 949; C., '97, § 1504.]

SEC. 2817. Fences—crops.

1 A reasonable time must be allowed to enable the owners of land
2 to erect the necessary fences adjoining the new road; and when crops
3 have been planted or sowed before the road is finally established, the
4 opening thereof shall be delayed until the crop is harvested.

[C., '51, §§ 551, 552; R., '60, §§ 856, 857; C., '73, § 950; C.,
'97, § 1505.]

SEC. 2818. Minors—insane persons.

1 The rights and interests of minors and insane persons in relation
2 to the establishment, vacation and alteration of roads, and all matters
3 connected therewith, are under the control of their guardians.

[C., '51, § 555; R., '60, § 860; C., '73, § 951; C., '97, § 1506.]

SEC. 2819. County line roads.

1 The establishment, vacation or alteration of a road, either along
 2 or across a county line, may be effected by the concurrent action of
 3 the respective boards of supervisors in the manner above prescribed.
 4 The commissioners in such cases must act in concert, and the road
 5 shall not be established, vacated or altered in either county until it
 6 is so ordered in both.

[C., '51, § 556; R., '60, § 861; C., '73, § 955; C., '97, § 1510.]

SEC. 2820. Consent highways.

1 Roads may be established without the appointment of a commis-
 2 sioner, if the written consent of all the owners of the land to be used
 3 for that purpose be first filed in the auditor's office; and the board, if
 4 satisfied that the proposed road is of sufficient public importance to
 5 be opened and worked by the public, shall make an order establishing
 6 the same. If a survey is necessary, the board, before ordering the
 7 same, may require the parties asking such establishment to pay or
 8 secure the payment of the expenses thereof.

[C., '51, §§ 553, 554; R., '60, §§ 858, 859; C., '73, §§ 957, 958;
 C., '97, § 1512.]

SEC. 2821. Appeals—from what taken.

1 Any applicant for damages caused by the establishment or alter-
 2 ation of any road may appeal from the final decision of the board to
 3 the district court of the county in which the land lies, notice of which
 4 appeal must be served on the county auditor within twenty days after
 5 the decision is made. If the road has been established or altered on
 6 condition that the petitioners therefor pay the damages, such notice
 7 shall be served on the four persons first named in the petition, if there
 8 be that many residing in the county, in the manner in which an orig-
 9 inal notice may be served.

[R., '60, § 873; C., '73, § 959; C., '97, § 1513.]

SEC. 2822. Appeal by petitioner.

1 An appeal may be taken by the petitioner as to amount of dam-
 2 ages, if the establishment or alteration has been made conditional
 3 upon paying the damages, by serving notice thereof on the county
 4 auditor and applicant for damages, in the manner in which original
 5 notices are served, and within twenty days after the decision of the
 6 board, and filing a bond in the office of such auditor, with sureties to
 7 be approved by him, conditioned for the payment of all costs occasioned
 8 by such appeal, if the appellant fails to recover a more favorable judg-
 9 ment in the district court than was allowed him by such board.

[R., '60, § 874; C., '73, § 960; C., '97, § 1514.]

SEC. 2823. Transcript filed.

1 When an appeal has been taken, the auditor shall, within ten days
 2 thereafter, make out and file in the office of the clerk of said court a
 3 transcript of the papers on file in his office, and proceedings of the
 4 board of supervisors in relation to such damages. The claimant for
 5 damages shall be plaintiff and the petitioners defendants, except the
 6 damages have been ordered paid out of the county treasury, in which
 7 case the county shall be defendant.

[R., '60, § 873; C., '73, § 961; C., '97, § 1515.]

SEC. 2824. Proceedings in court.

1 The amount of damages the claimant is entitled to shall be ascer-
 2 tained by the court in the same manner as in actions by ordinary pro-
 3 ceedings, and the amount ascertained shall be entered of record, but
 4 no judgment rendered therefor. The amount thus ascertained shall
 5 be certified by the clerk to the board of supervisors, who shall there-
 6 after proceed as if such amount had been by it allowed the claimant
 7 as damages.

[C., '73, § 962; C., '97, § 1516.]

SEC. 2825. Costs.

1 If the appeal be taken by the petitioners, they shall pay the costs,
 2 unless the claimant recovers a less amount than was allowed them by
 3 the board. In all other cases the taxing of the costs shall rest in the
 4 discretion of the court.

[R., '60, § 873; C., '73, § 963; C., '97, § 1517.]

SEC. 2826. Highways established to avoid bridging.

1 The board of supervisors of any county shall have the power, on
 2 its own motion, to change and establish highways along streams, where
 3 it can avoid building a bridge or bridges over such streams, and said
 4 highways shall be placed in good traveling condition by such board
 5 of supervisors; and all costs accruing in the establishment of said
 6 road shall be paid out of the county bridge fund.

[C., '97, § 427.]

SEC. 2827. Damages—appeal.

1 Whenever it is found necessary to establish such highway, the
 2 board of supervisors, at any regular session, may appoint three dis-
 3 interested citizens as appraisers to assess the damages occasioned
 4 thereby, and may hear evidence, and increase or decrease the damages
 5 allowed by the appraisers as to it may seem just. Any party ag-
 6 grieved by its action may appeal therefrom to the district court in
 7 the same time and manner, and with the same effect, as is provided
 8 in relation to the establishment of highways.

[C., '97, § 428.]

SEC. 2828. Petition for change of highway or stream—survey by engineer—purchase of right of way.

1 Ten freeholders of any county by a petition to the board of super-
 2 visors of said county or the county engineer may, at any time, recom-
 3 mend the expediency and advisability of changing the course of any
 4 part of any road or stream within any county, in order to avoid unnec-
 5 essarily expensive bridges, grades or railroad crossings, or to
 6 straighten any road, or to cut off dangerous corners on the highway
 7 or to widen any road above statutory width, or for the purpose of
 8 preventing the encroachment of a stream upon a public highway,
 9 specifying clearly the change recommended, and whether any part of
 10 any highway already established should be vacated and abandoned,
 11 and what part. The board may, thereupon, order the engineer to
 12 make a survey and report on such proposed change, and in order to
 13 comply with such order, the engineer shall have a right to enter upon
 14 the premises proposed to be taken and make said survey. If, from

15 a consideration of the survey and report on such proposed change, the
 16 board deems the change advisable, it shall have power to buy such
 17 right of way and take conveyance thereof in the name of the county
 18 and to pay for the same out of either the county road or bridge fund
 19 or out of both of said funds, as may appear advisable.

[S. S., '15, § 1527-r1.]

SEC. 2829. Condemnation—procedure.

1 If, for any reason, the board is unable to acquire such right of
 2 way by agreement with the owner, the county auditor shall appoint
 3 three disinterested appraisers who shall appraise the damages sus-
 4 tained by the landowners through whose land said proposed right of
 5 way extends and who shall within ten days make return of their
 6 appraisal to the county auditor, and the board shall fix a day at
 7 such place in the county as it may determine, at which it will hear
 8 all objections to said change and at which time it will determine all
 9 damages to each claimant by reason of such proposed change. Such
 10 hearing shall not be less than ten days after completed service on the
 11 owner. All owners of land bordering or abutting upon such proposed
 12 change of road or stream, and all owners through whose land such
 13 change will extend, as shown by the transfer books in the office of the
 14 county auditor, shall be served with notice of such hearing. Such
 15 owners who are residents of the county shall be personally served in
 16 the manner original notices are required to be served. Such owners
 17 who do not reside in the county and such owners who reside in the
 18 county, when the officer returns that they can not be found in the
 19 county, shall be served by publishing the notice in some newspaper
 20 in the county, once each week, for two weeks, and in addition, notice
 21 shall be served personally upon the actual occupant of the land. Per-
 22 sonal notice outside the county but within the state, in the manner
 23 original notices are required to be served, shall be deemed personal
 24 service and shall take the place of publication service.

[S. S., '15, § 1527-r2.]

**SEC. 2830. Hearing on objections—hearing on damages—pay-
 ment—appeal from allowance—change for benefit of township
 system.**

1 Service shall be deemed complete on the date when personal serv-
 2 ice is made, or on the date of the last publication, as the case may be.
 3 All objections to said change and all claim for damages by reason
 4 thereof, must be filed on or before the expiration of ten days from
 5 the date of completed service or the same will be waived. Different
 6 dates may be fixed for hearing the objections and claims for damages
 7 of different owners. At the time and place fixed for such hearing
 8 as to any owner, the board shall meet and proceed to a hearing on the
 9 objections or claims for damages of any such owner of whom it has
 10 acquired jurisdiction by proper service of notice or, if there be such
 11 owners over whom jurisdiction has not been acquired, the board may
 12 adjourn such hearing until such date (of which all parties must take
 13 notice), when jurisdiction will be complete as to all owners. At such
 14 final hearing, the board shall pass upon the objections filed. If the
 15 objections or any of them be sustained, the proceeding to effect the
 16 change shall be dismissed. If the objections be overruled, the board
 17 shall then proceed to a determination of the damages to be awarded
 18 to each claimant who has filed such claim. If the amount of damages

19 so awarded are, in the opinion of the board, excessive, the proceedings
 20 shall be dismissed. If such damages, in the opinion of the board, be
 21 not excessive, the board may, by proper order, establish such proposed
 22 change in the road or stream, as the case may be, and pay such dam-
 23 ages as in case of right of way secured by agreement. Provided,
 24 however, that if by the change of any road herein contemplated, any
 25 part of the highway abandoned reverts to the owner of the land con-
 26 demned, then and in that case the owner, by reason of the relocation
 27 of such highway, shall be entitled to such damages for the locating
 28 of such new highway which exceeds the damages sustained by reason
 29 of the old highway, taking into consideration the value of the premises
 30 immediately before and after such old road is abandoned and the new
 31 road established. The board shall order the auditor to issue warrants
 32 in favor of each claimant for the amount of damages awarded, and
 33 in such case shall have the right to enter upon such right of way and
 34 improve the same. The damages thus awarded shall be paid for out
 35 of the county road or bridge fund or out of both of said funds. Claim-
 36 ants for damages may appeal to the district court from the award of
 37 damages, in the manner and time for taking appeals from the estab-
 38 lishment of highways generally. The acceptance at any time of the
 39 amount awarded shall constitute a waiver of the right to appeal. If
 40 possession of the right of way is not taken and improved prior to
 41 the determination of the amount of damages on appeal, the board
 42 may, on the appeal being determined, dismiss the proceeding to effect
 43 the change, if, in the opinion of the board, the damages finally awarded
 44 are excessive. The making of a change in a stream shall be done by
 45 the board of supervisors and paid for out of either the county road
 46 or bridge fund or out of both of said funds. When the change of a
 47 road is made upon or for the benefit of the township road system, the
 48 improvement shall be made as now provided for the doing of road
 49 work upon the township road system.

[S. S., '15, § 1527-r3.]

SEC. 2831. Orchards not to be disturbed.

1 No such change shall be established through any orchard or orna-
 2 mental grounds contiguous to any dwelling house or so as to cause
 3 the removal of buildings, without the consent of the owner, nor
 4 through any burying ground.

[S. S., '15, § 1527-r4.]

SEC. 2832. Delays.

1 Should delay occur in the acquisition of such right of way, such
 2 delay shall not prevent the board from proceeding with the improve-
 3 ment of any part of the highway, not affected by the proposed change.

[S. S., '15, § 1527-r5.]

SEC. 2833. Notice—form.

1 The notice herein provided for shall be in substantially the fol-
 2 lowing form:

3 To whom it may concern:

4 The engineer appointed by the board of supervisors of.....
 5 county to make survey and report of the road (describe the same in
 6 a general way) has made report and has recommended that the fol-
 7 lowing change be made in said road: (Here clearly describe the pro-

8 posed change and the location and course thereof and give the names
 9 of the owners of the land through and abutting upon which the pro-
 10 posed change will extend.) And the said board of supervisors pro-
 11 pose to establish said change as above described, and all objections
 12 to said change and all claims for damages by reason of said change
 13 must be filed in the office of the county auditor before the expiration
 14 of ten days from the service of this notice or the same will be waived.
 15 You will take further notice that said board will, on the day
 16 of, 19....., at, or as
 17 soon thereafter as possible, proceed to determine all objections to said
 18 change and all damages caused thereby and will, in case such objec-
 19 tions are overruled and the damages awarded be not excessive, estab-
 20 lish said change.

21
 22

.....
 County Auditor.

[S. S., '15, § 1527-r6.]

SEC. 2834. Abandonment of highway—notice to owner affected.

1 The foregoing provision with reference to changes in the high-
 2 way shall not be construed as compelling the board to abandon any
 3 part of a highway already established, but if it be proposed to abandon
 4 any part of a highway already established, notice shall be served as
 5 herein provided; upon the said record owners as aforesaid through
 6 which or abutting upon which said highways so proposed to be aban-
 7 doned, extends.

[S. S., '15, § 1527-r7.]

SEC. 2835. By trustees of state institutions.

1 The state board of education or board of control of the institu-
 2 tions belonging to the state may vacate, alter, change or establish
 3 public highways through the lands belonging to the state, and for the
 4 use of such institutions, as the said board of education or board of
 5 control may deem for the best interests of the state and the public,
 6 subject, however, to the approval of the board of supervisors of the
 7 county, or the city council of the city, wherein such lands are situated.

[C., '73, § 954; C., '97, § 1509; S., '13, § 1509.]

SEC. 2836. General control—concurrent action.

1 All roads, whether established by the board of control of state
 2 institutions or by the state board of education under the statute or
 3 by the county authorities, are subject to the provisions of this chapter,
 4 and those established by the joint action of boards of supervisors of
 5 two or more counties can be altered or discontinued only by the joint
 6 action of the boards of the counties in which situated. Subject to
 7 these provisions, they shall be in all other respects treated, managed
 8 and controlled as provided in this title. The term "road" as used in
 9 this code means any public highway, unless otherwise specified.

[R., '60, § 879; C., '73, § 956; C., '97, § 1511.]

SEC. 2837. Lost field notes—resurvey.

1 When, by reason of the loss or destruction of the field notes of
 2 the original survey, or of defective surveys or record, or of numerous
 3 alterations since the original survey, the location of any road can not

4 be accurately determined, the board of the proper county may cause
5 it to be resurveyed, platted and recorded, as hereinafter provided.

[R., '60, § 913; C., '73, § 964; C., '97, § 1518.]

SEC. 2838. Plat and field notes filed—notice given.

1 A copy of the field notes, together with the plat of any road sur-
2 veyed under the provisions of the preceding section, shall be filed in
3 the office of the county auditor, and thereupon he shall give notice,
4 in some newspaper published within the county, that at some term of
5 the board therein named, not less than twenty days from the publi-
6 cation, it will, unless good cause be shown against so doing, approve
7 of such survey and plat, and order them to be recorded as in cases
8 of the original establishment of a public road.

[R., '60, § 914; C., '73, § 965; C., '97, § 1519.]

SEC. 2839. Proceedings—record.

1 In case objection shall be made by any person claiming to be
2 injured by the survey so made, the board shall have power to hear
3 and determine the matter, and may, if thought advisable, order a
4 change to be made in the survey. If, upon the final determination,
5 the board shall find said survey is correct, it shall approve the same,
6 and cause the field notes and plat thereof to be recorded as in case
7 of the establishment or alteration of roads, and thereafter such records
8 shall be received by all courts as conclusive proof of its establishment
9 according to such survey and plat.

[R., '60, § 915; C., '73, § 966; C., '97, § 1520.]

SEC. 2840. Road plat book.

1 If the same has not been heretofore done, the county auditor shall
2 cause every road in his county, the legal existence of which is shown
3 by the records and files in his office, to be platted in a book to be
4 obtained and kept for that purpose and known as the "road plat book".
5 Each township shall be platted separately, on a scale of not less than
6 four inches to the mile, and such auditor shall have all changes in or
7 additions to the roads legally established immediately entered upon
8 said plat book, with appropriate references to the files in which the
9 papers relating to the same may be found. The auditor shall, from
10 time to time, notify the clerk of each township of all changes made
11 in the roads thereof, and on receipt of such notice he shall immediately
12 make corresponding changes on the highway plat book in his office,
13 and shall, in case such plat book is lost or is found to be substantially
14 inaccurate, procure a new one, or cause corrections to be made, at
15 a reasonable expense, to be paid out of the general township fund.

[R., '60, § 889; C., '73, §§ 967, 968; C., '97, § 1521.]

SEC. 2841. Laying out public highways—fees.

1 The following fees shall be paid persons engaged in laying out
2 and changing roads:

- 3 1. Commissioners, for each day, two dollars.
- 4 2. Surveyor, for each day, four dollars.
- 5 3. Chain carriers, markers, and other assistants, for each day,
- 6 one dollar and fifty cents.

7 If the road extends into more than one county, such expenses
8 when so adjudged shall be paid by the several counties in proportion
9 to the length of time occupied on the road in each county.

[C., '51, § 534; R., '60, §§ 839, 872, 877; C., '73, § 3824; C.,
'97, § 1527.]

CHAPTER 2.

DRAINAGE OF HIGHWAYS.

SECTION 2842. Drainage of highways—survey and report.

1 When in the opinion of the board of supervisors it is necessary
2 to drain any part of any public highway under its jurisdiction and
3 the land abutting upon or adjacent thereto in order that said high-
4 way may be preserved and improved, and made more convenient,
5 it may direct the county engineer to make a survey and report on any
6 part of said highway. In directing the engineer to make such survey
7 the board shall specify in a general way what highway or part thereof
8 they desire surveyed for the purpose of draining the same.

[S. S., '15, § 1989-b.]

SEC. 2843. Survey — what it may include — names of landown- ers—plans.

1 Upon receiving such direction the county engineer shall make a
2 survey and report. He shall not be confined to the exact locality
3 included in the direction of the board of supervisors. His survey and
4 report may include any portion of the county road system or any por-
5 tion of the township road system, or may include a portion of each
6 of said systems. He shall include in his report a specific designation
7 of such drainage district as in his opinion is necessary to be estab-
8 lished in order to better preserve and improve said highway and to
9 render the same of greater use and convenience. The report shall
10 be made at the earliest reasonable time, and if his report recommends
11 the establishment of a drainage district, it shall also include the names
12 of the owners of all land situated within said district, as shown by
13 the transfer books in the office of the county auditor. Said report
14 shall also include the plans and specifications for doing the work rec-
15 ommended and the estimated cost thereof.

[S. S., '15, § 1989-b1.]

SEC. 2844. Notice—objections—damages—waiver.

1 Upon the filing of said report, plans and specifications, the board
2 of supervisors shall, if they deem it advisable to further proceed in
3 said matter, cause notice to be given as hereinafter provided of their
4 intention to establish such highway drainage district and of the report
5 of the highway engineer thereon, and that they will at a specified time
6 and place, hold a hearing for the purpose of determining the amount
7 of damages which shall be allowed by reason of the construction of
8 such highway drainage improvement and the advisability of estab-
9 lishing such drainage district, and that all objections to the establish-
10 ment of such district and all claims for damages occasioned by the

11 construction of such improvements, must be filed with the county au-
 12 ditor not less than five days before said hearing or the same will be
 13 waived.

[S. S., '15, § 1989-b2.]

SEC. 2845. Notice—how given.

1 The notice herein provided for shall be given by publishing said
 2 notice once each week for two consecutive weeks in one or more of the
 3 papers of the county, the last of said publications to be not less than
 4 ten days prior to said hearing.

[S. S., '15, § 1989-b3; 37 G. A., ch. 161, § 1.]

SEC. 2846. Determinations by board—adjournment—establishing district.

1 Should the board on the date fixed for such hearing be unable
 2 for any reason to hold such hearing, they may adjourn the same to a
 3 specified later date and place, of which all parties shall take notice.
 4 On such hearing the board shall first determine whether the estab-
 5 lishment of such highway drainage district will be conducive to the
 6 public convenience and to the preservation and improvement of said
 7 highway, and if they so determine they shall make such determination
 8 of record and shall thereupon proceed to a determination of the
 9 amount of damages to be allowed by reason of the construction of
 10 such highway drainage improvement. If in the opinion of said board,
 11 the damages so allowed are not excessive, they may establish such
 12 district.

[S. S., '15, § 1989-b4.]

**SEC. 2847. Commission—apportionment of cost—county, town-
 ship and district to share costs—costs how paid.**

1 If such district is established, the board of supervisors shall
 2 appoint the highway engineer and two other resident freeholders of
 3 the county not residing within said drainage district as a commission
 4 to determine the proportion of the cost of such improvement to be
 5 paid on account of the public highway and to assess upon the lands
 6 within such district that portion of the cost of said improvement to
 7 be paid by special assessment. Said commission shall, within ten days
 8 after being appointed, begin the examination of the lands and public
 9 highways within said district, and as soon as possible shall make a
 10 report to the board of supervisors; first, as to the amount, if any,
 11 which should be paid by the county on account of the county road
 12 system; second, the amount, if any, which should be paid by the town-
 13 ship or townships on account of the township road system, and third,
 14 the amount, if any, which each forty-acre tract or less within said
 15 district shall pay. In making such apportionment the commissioners
 16 shall follow the method as nearly as possible now provided for by law
 17 in assessing benefits for the construction of levees, ditches, drains and
 18 watercourses under chapter two, title fifteen. The amount fixed by
 19 said commission to be paid upon the county road system shall be pay-
 20 able out of the county road funds and the amount fixed by said com-
 21 mission to be paid upon the township road system shall be payable out
 22 of the township drainage fund. All assessments made hereunder may
 23 be paid on the installment plan as provided by section forty-eight hun-
 24 dred seventy-four.

[S. S., '15, § 1989-b5.]

SEC. 2848. Report—hearing—levy—duty of auditor—collection.

1 When the report of said commission is filed, as provided, the board
 2 of supervisors shall proceed to fix a time for hearing thereon, and
 3 shall cause notice to be served upon each person whose name appears
 4 as owner and also upon the person or persons in actual occupancy of
 5 any such land, in the time and manner provided for the establishment
 6 of a highway drainage district. Such hearing may be adjourned
 7 from time to time, of which all parties should take notice. At such
 8 hearing the board shall have the power to confirm such assessments
 9 or to modify the same, as in their judgment may seem just and equi-
 10 table, and upon the final determination of the respective amounts shall
 11 levy and assess the amount to be paid on account of the county road
 12 system to the county; that part to be paid on account of the township
 13 road system to the township or townships and the remainder upon
 14 the lands within said districts, and the county auditor shall place said
 15 levy and assessment so made against the lands within said district
 16 upon the first succeeding tax books, and the same shall be collected
 17 at the same time and in the same manner as assessments are payable
 18 and collected under chapter two, title fifteen.

[S. S., '15, § 1989-b6.]

SEC. 2849. Bonds authorized.

1 Drainage bonds may be issued, as provided by section forty-eight
 2 hundred seventy-five, for account of drainage districts heretofore or
 3 hereafter organized under the provisions of sections twenty-eight hun-
 4 dred forty-two to twenty-eight hundred fifty-six, inclusive.

[38 G. A., ch. 135, § 1.]

SEC. 2850. Special assessments to be advanced.

1 The board of construction on such improvement, shall advance
 2 out of the county road fund that portion to be collected by special
 3 assessment, the amount so advanced to be replaced in said county
 4 funds as the special assessments are collected, or in lieu thereof they
 5 may issue warrants to be known as ditch warrants, said warrants to
 6 draw six per cent interest per annum, payable annually, from the
 7 date of issue and to be paid out of the special assessments levied there-
 8 for when the same are collected.

[S. S., '15, § 1989-b7; 38 G. A., ch. 30, § 1.]

SEC. 2851. Appeals — how taken — how tried — abandonment of plan.

1 Any person aggrieved by the decision of the board of supervisors
 2 in establishing said highway drainage district or in the fixing of
 3 amount of damages allowed to anyone by reason of the taking of land
 4 for the construction of said improvement, or in the amount assessed
 5 on said lands, shall have the right to appeal to the district court in
 6 the same manner in which appeals are now taken under chapter two,
 7 title fifteen. All appeals shall be tried at the first succeeding term
 8 of court in said county after the taking of said appeal, provided either
 9 party demands such trial, unless for sufficient cause the cause is con-
 10 tinued by the court. The appeal to the district court from the estab-
 11 lishment of said drainage district or from the order fixing the
 12 assessments, shall be tried in equity. An appeal from any award of
 13 damages shall be tried at law. Should the amount of damages for

14 the taking of land aforesaid as determined in the district court, be
 15 adjudged by the board of supervisors to be excessive, they shall pro-
 16 ceed no farther in carrying out said improvement.

[S. S., '15, § 1989-b8.]

SEC. 2852. Townships not within district may contribute.

1 The township trustees of any township, whether any portion of
 2 the lands of said township are within said drainage district or not,
 3 shall have the right to contribute to such improvement such sum out
 4 of the township road funds as may appear to them to be equitable.

[S. S., '15, § 1989-b9.]

SEC. 2853. Costs in case of abandonment.

1 After the coming in of said engineer's report, if said proceedings
 2 are dismissed or said improvement be abandoned, any costs of such
 3 proceeding up to the time of dismissal or abandonment, shall be paid
 4 out of the county fund.

[S. S., '15, § 1989-b10; 38 G. A., ch. 29, § 1.]

SEC. 2854. Engineering costs not included.

1 Improvements herein contemplated shall be constructed by the
 2 board of supervisors under the supervision and expert knowledge of
 3 the county engineer, and no charge for the services of the county engi-
 4 neer shall be included in the cost of such improvement.

[S. S., '15, § 1989-b11.]

SEC. 2855. Deficit—how paid.

1 Should the cost of constructing the improvement herein provided
 2 for be in excess of the total amount received from the board of super-
 3 visors and from the township trustees and the amount realized from
 4 special assessments, the board of supervisors shall make a new assess-
 5 ment to cover the unpaid balance of the said cost, using as a basis
 6 for such reassessment the same percentages as were used by the com-
 7 mission in making the first assessment and shall make an additional
 8 levy on the lands within said district in accordance with such reassess-
 9 ment, and the additional amount thus charged against the county road
 10 system or the township road system shall be paid out of the same
 11 funds as was the original assessment.

[S. S., '15, § 1989-b12.]

SEC. 2856. Maintenance.

1 The improvement, when completed, shall remain under the juris-
 2 diction of the board whose duty it shall be to keep the same in repair
 3 and for such purpose shall make additional appropriations from the
 4 county road funds and additional levies in the same proportion as
 5 originally determined.

[S. S., '15, § 1989-b13.]

**SEC. 2857. Drainage of highways — outlet through private prop-
 erty.**

1 Whenever the township trustees of any township or townships
 2 shall desire to drain any highway within or under the jurisdiction of
 3 such trustees, and it becomes necessary to cross the lands of a private

4 owner or owners to obtain a proper outlet and the trustees can not
 5 agree with the owner or owners of such land as to how, where and
 6 upon what terms such drain may be constructed, such trustees may
 7 file in the office of the county auditor a petition describing the highway
 8 to be drained and the lands necessary to be crossed to obtain a proper
 9 outlet, the starting point, route and terminus of the desired drain, as
 10 near as may be, and asking the establishment of such drain.

11 Upon the filing of such petition the county auditor shall appoint
 12 a commissioner, who shall be a competent engineer, and place a copy
 13 of the petition in his hands and he shall proceed to survey the pro-
 14 posed ditch or drain along the route described in the petition, or other
 15 route if found more practicable or feasible, and shall return a plat
 16 and profile thereof to the county auditor, and his return shall set forth
 17 a full and detailed description thereof, its size, dimensions, whether
 18 it will require a covered or open drain, its availability, necessity and
 19 probable cost, with a description of each tract of land or lot owned
 20 by different persons through which or abutting upon which the drain
 21 is proposed to be located and such other facts and recommendations
 22 as he may deem material; and he shall also apportion among the sev-
 23 eral townships, if more than one, the ratio of the cost of construction
 24 and expenses that shall be borne by each township.

25 After the filing of such report the further proceedings shall be
 26 the same as provided in chapter one hereof in relation to the estab-
 27 lishment of highways, except that the costs, expenses and damages
 28 shall be paid by the township trustees from the road fund of such
 29 township or townships, or from the county road fund, or partly from
 30 each of said funds, as the board of supervisors may determine.

31 If the board of supervisors shall establish such drain, the same
 32 shall be constructed by the board of supervisors in the same manner
 33 that other county work is done, and the cost thereof shall be paid from
 34 the road fund of such township or townships, or from the county road
 35 fund, or partly from each of said funds, as the board of supervisors
 36 may direct, or the township trustees having jurisdiction over said
 37 highway shall have the right, if they deem advisable, to petition for
 38 the establishment of a drainage district including therein said high-
 39 way, and said petition shall be considered and acted upon and pro-
 40 ceedings had thereunder in all respects the same as provided where
 41 petition is signed by one or more of the landowners whose lands would
 42 be affected by or assessed for the expenses of the proposed improve-
 43 ments.

[S., '13, § 1989-a43.]

CHAPTER 3.

STATE HIGHWAY COMMISSION.

SEC. 2858. ~~Members—term—removal—office—counsel.~~

1 The office of the state highway commission is hereby located at
 2 the state college of agriculture and mechanic arts. Said commission
 3 shall be composed of three members, one of which shall be the dean
 4 of engineering of said college, and the other two members of the com-
 5 mission shall be appointed by the governor, from different political
 6 parties for the period of two and four years, from July first, nineteen

7 hundred thirteen, and terms of office shall thereafter be four years.
 8 Each commissioner shall give bond in the penal sum of five thousand
 9 dollars for the faithful performance of his duties as hereinafter pro-
 10 vided, which bond shall be approved by the executive council and filed
 11 with the secretary of state. Each commissioner shall be subject to
 12 removal from office as provided by section six hundred forty-eight.
 13 If for any reason, a vacancy occurs in the membership appointed by
 14 the governor, he shall fill such vacancy for the remainder of the unex-
 15 pired term, from the same political party from which the vacancy
 16 occurred. The attorney general shall act as attorney for the com-
 17 mission, and shall advise them upon all legal questions arising with
 18 reference to the duties of said commission.

[S. S., '15, § 1527-s.]

SEC. 2859. Compensation.

1 Each of the commissioners appointed by the governor shall receive
 2 for his services the sum of ten dollars per day for each day actually
 3 employed in the work of the commission and each of the three com-
 4 missioners shall receive all necessary traveling and other expenses
 5 incurred while in the performance of his duties as such commissioner,
 6 but the commission shall not incur any expense to the state by sending
 7 out road lecturers. The total compensation to such commissioner
 8 shall not exceed twenty hundred dollars per annum.

[S. S., '15, § 1527-s1; 38 G. A., ch. 361, § 1.]

SEC. 2860. Duties.

1 The duties of said commission shall be:

- 2 1. To devise and adopt plans of highway construction and main-
 3 tenance suited to the needs of the different counties of the state, and
 4 furnish standard plans to the counties in accordance therewith.
- 5 2. To disseminate information and instruction to county super-
 6 visors and other highway officers, answer inquiries and advise such
 7 supervisors and officers on questions pertaining to highway improve-
 8 ments, construction and maintenance and of reasonable prices for ma-
 9 terials and construction.
- 10 3. To keep a record of all important operations of the highway
 11 commission, and to annually report the same to the governor by the
 12 first day of January, which report shall be printed as a public docu-
 13 ment; but the summary report of the county highway engineers shall
 14 be reported not later than February first.
- 15 4. To appoint such assistants as are necessary to carry on the
 16 work of the commission, define the duties and fix the compensation
 17 of each, and terminate at will the terms of employment of all em-
 18 ployees, provide for necessary bonds, and fix the amount of same.
- 19 5. To make investigation as to conditions in any county, and to
 20 report any violation of duty, either of commission or omission, to the
 21 attorney general, who shall take such steps as are deemed advisable
 22 by him to correct the same.
- 23 6. The state highway commission shall have general supervision
 24 of the various county and township officers named in this act [35 G.
 25 A., ch. 122] in the performance of the duties here enjoined, and shall
 26 have full power and authority to enforce the provisions of said act.
- 27 7. To make surveys, plans and estimates of cost for the elimina-
 28 tion of danger at railroad crossings on highways and streets, and to

29 confer with local officials, railroad officials and the Iowa railroad com-
 30 mission in the elimination of such dangers at railroad crossings.
 31 8. The state highway commission shall assist the county board
 32 of supervisors and the attorney general in the defense of patent suits
 33 relative to road or bridge construction, make surveys for the state
 34 board of control when so requested, and perform all other duties
 35 required by law.

[S. S., '15, § 1527-s2.]

CHAPTER 4.

STATE ROADS.

SECTION 2861. Roads adjoining state lands—how maintained.

1 All roads and highways within and adjacent to lands belonging
 2 to the state, including those under the supervision of the state board
 3 of education, shall constitute a separate road district under the con-
 4 trol and supervision of the supervisor appointed by the board of con-
 5 trol of state institutions with all the powers, duties and responsibilities
 6 imposed upon road superintendents who shall require all able-bodied
 7 males, other than inmates of state institutions, residing within such
 8 road district, to perform the labor required by the provisions of sec-
 9 tions twenty-nine hundred ninety-eight, twenty-nine hundred ninety-
 10 nine and thirty hundred, upon the roads of the district within the
 11 counties where such persons reside. The supervisor shall make a
 12 report to the board of control under the provisions of section twenty-
 13 nine hundred ninety-four, so far as applicable. If it appears from
 14 such report that any person has failed to perform the two days' labor
 15 required, or any part thereof, and that the supervisor has neglected
 16 to collect the amount of money required to be paid in case of such
 17 default, the board of control shall certify the name of such person
 18 and the amount due from such person to the county auditor of the
 19 county where such person resides, who shall enter the amount on the
 20 property tax list as against such person and the treasurer of the
 21 county shall collect the same and when collected shall pay the amount
 22 so collected to the board of control of state institutions, who shall
 23 expend same upon the roads of the state district in the county where
 24 such money was collected. All cost of maintaining, repairing, renew-
 25 ing and improving the roads within the road district containing state
 26 lands, except county bridges, after the expenditure of the road poll
 27 tax, either in money collected or in labor, shall be paid out of any
 28 general funds in the hands of the state treasurer not otherwise appro-
 29 priated, upon warrants drawn by the state auditor after certificate of
 30 amount due shall have been filed in his office by the board of control;
 31 provided, however, that the expenditure of state funds for paving
 32 shall be subject to the approval of the executive council.

[C., '97, § 1532; S., '13, § 1532; 37 G. A., ch. 421, § 1.]

SEC. 2862. Consent to street improvements.

1 Whenever in the improvements of the streets and alleys abutting
 2 property owned by the state of Iowa in cities of the first class, includ-
 3 ing cities acting under the commission plan of government and includ-
 4 ing cities acting under special charter, it requires the joint action of

5 the city and the state to make and complete such improvement, the
 6 executive council is empowered and authorized, when in its judgment
 7 it is advisable and proper and to the best interest of the state, to con-
 8 sent to the making of such improvements and to contract and pay
 9 for such portion thereof as in its judgment may be equitable and just.
 10 Such contracts shall be made and drawn as provided in chapter seven
 11 of title two of the supplement to the code, nineteen hundred seven,
 12 and warrants drawn for the payment of such improvements so author-
 13 ized by the council shall be paid out of any funds in the treasury, not
 14 otherwise appropriated.

[S., '13, § 170-k.]

Note.—Chapter 7, Title II, S. 1907, contains a large number of sections having no reference to contracts. It has been deemed advisable to leave the above reference without change.

SEC. 2863. Improving or paving roads adjoining state lands.

1 Whenever any city or county is improving, draining, oiling, pav-
 2 ing or otherwise hard surfacing any road which extends through any
 3 property owned by the state, and under control of the board of edu-
 4 cation or state board of control, the said property shall be and is
 5 hereby made subject to the cost thereof, except any other special
 6 assessments that may be assessed against property within the assess-
 7 ment district. Whenever abutting or adjacent property is owned by
 8 the state said property shall be subject to the cost of one-half of
 9 seventy-five per cent of the cost of said hard surfacing, grading or
 10 oiling together with its proportional share of the special assessment
 11 within the assessment district.

[38 G. A., ch. 400, § 1.]

SEC. 2864. Cost—appropriation.

1 There is hereby appropriated for the payment of said cost as
 2 stated in section twenty-eight hundred sixty-three, the funds neces-
 3 sary to pay for the same, to be paid out of any money in the state
 4 treasury not otherwise appropriated, when or as the improvement
 5 may be completed and accepted by the authorities duly authorized.

[38 G. A., ch. 400, § 2.]

CHAPTER 5.

COUNTY ROAD, BRIDGE AND CULVERT SYSTEM.

SECTION 2865. County road and drainage funds—how levied and paid out.

1 The board of supervisors of each county shall, at the time of
 2 levying taxes for other purposes, levy a tax of not more than one mill
 3 on the dollar of the assessed value of the taxable properties in its
 4 county, including all taxable property in municipalities, which shall
 5 be collected at the same time and in the same manner as other taxes
 6 and be known as the county road fund and be paid out only on the
 7 order of the board of supervisors for the purchase of road tools or
 8 machinery or for work done on the roads in the county in such places
 9 as it shall determine; provided that on written petition of a majority
 10 of the electors who are freeholders of any township in any county the

11 board of supervisors may levy an additional mill in said township to
 12 be expended by said board of supervisors on roads in the township
 13 where the same is levied; provided, further, that the board of super-
 14 visors of any county may levy an additional tax of not more than one
 15 mill on the dollar of the taxable property in the county, including all
 16 taxable property in cities and incorporated towns outside the limits
 17 of cities of the first class and cities acting under special charter, which
 18 tax shall be collected at the same time and in the same manner as other
 19 taxes and be known as the county drainage fund and be paid out only
 20 on the order of the board for drainage of highways and paying drain-
 21 age assessments heretofore levied for benefits to highways in the
 22 county or that may hereafter be levied for such purposes. One-half
 23 of the county road fund arising from the property within any munici-
 24 pality shall be paid over by the county treasurer to the treasurer of
 25 the municipality in the same manner as other municipal taxes and
 26 shall be expended on the roads or streets within such municipality by
 27 and under the direction of the council or commission. The county
 28 treasurer shall receive the same compensation for collecting this tax
 29 as he does for collecting corporation taxes, except as hereinafter pro-
 30 vided. Moneys so collected shall not be transferable to any other
 31 fund nor used for any other purpose. The board of supervisors shall
 32 levy such additional sum for the benefit of such township as shall
 33 have certified a desire for such additional levy as provided for in sec-
 34 tion twenty-nine hundred seventy.

[C., '97, § 1530; S., '13, § 1530.]

SEC. 2866. Portion due municipality—how expended.

1 The administrative bodies of such municipalities shall have au-
 2 thority to appropriate out of the fund arising from such tax, the
 3 whole or any part thereof, for the improvement of roads outside of
 4 the limits of their municipality where the board of supervisors are
 5 making improvements on such roads, in which case the amount of such
 6 appropriation shall be paid over to the treasurer of the county for
 7 such specific improvement and disbursed by the board of supervisors.
 8 If expended by the administrative body of the municipality it shall
 9 be expended upon that part of the roads within its limits which are
 10 reserved and used for traveling purposes and only upon such roads
 11 as are a continuation of country roads which are main arteries of
 12 travel, and one-half of the road fund collected within the municipality
 13 and retained for disbursement by the board of supervisors shall be
 14 by them used on such roads as are main arteries of travel immediately
 15 tributary to the municipality for which such tax has been collected.
 16 Nothing herein contained shall prevent the board of supervisors from
 17 paying over to the treasurer of the municipality the whole or any
 18 part of said tax raised within such municipality to be expended by
 19 such municipality as herein provided.

[S., '13, § 1530-a.]

SEC. 2867. No compensation to county treasurer.

1 In municipalities where taxes are collected independent of the
 2 county treasurer no compensation shall be paid to the county treas-
 3 urer for the collection of this tax.

[S., '13, § 1530-b.]

SEC. 2868. Municipality defined.

1 The term "municipality" as herein used is defined to include
 2 cities, towns, cities acting under special charter and those under the
 3 commission form of government.

[S., '13, § 1530-c.]

SEC. 2869. Expenditure.

1 It shall, at the regular meeting in April, determine from the au-
 2 ditor's and treasurer's books the amount of money collected and cred-
 3 ited to said road tax fund. It shall also determine the manner in
 4 which said tax shall be expended, whether by contract or otherwise.

[C., '97, § 1531.]

SEC. 2870. Levy—amount of.

1 The board of supervisors of each county shall, annually, at its
 2 September session, levy the following taxes upon the assessed value
 3 of the taxable property in the county:

4 1. For making and repairing bridges, not more than five mills
 5 on a dollar; but such tax shall not be levied upon any property assess-
 6 able within the limits of any city of the first class, and none of such
 7 bridge tax shall be used in the construction or repair of bridges within
 8 the limits of such city; provided that in counties having a bonded
 9 indebtedness of ten thousand dollars or over, the county board of
 10 supervisors may levy not to exceed seven mills.

11 2. For the grading and building of roads, not less than one, nor
 12 more than two mills on a dollar, to be known as the county road build-
 13 ing fund.

[C., '51, § 454; R., '60, § 710; C., '73, § 796; C., '97, § 1303;
 S. S., '15, § 1303; 37 G. A., ch. 6, § 1; 38 G. A., ch. 237,
 § 54; 38 G. A., ch. 355, § 1.]

SEC. 2871. Expenditure of bridge fund on highways.

1 Whenever any county in the state is free from debt, and has a
 2 surplus in its bridge fund, after providing for the necessary repairs
 3 of bridges in said county, the board of supervisors may, out of such
 4 surplus, make improvements upon the highways, upon the petition of
 5 one-third of the resident freeholders of any township in said county;
 6 but in no case shall they be authorized to run the county in debt for
 7 such improvement of the highways; and whenever they shall make
 8 such improvements, they shall let the work by contract to the lowest
 9 responsible bidder, after having advertised for proposals, in some
 10 newspaper printed in the county, for not less than fourteen days pre-
 11 vious to the letting of said contract.

[C., '97, § 429.]

SEC. 2872. Engineers — compensation — discharge — highway systems defined—corporate line highways—how improved—bridge and culvert system—scope—state line highways.

1 The board of supervisors of each county shall employ a competent
 2 engineer or engineers for such length of time, not exceeding one year,
 3 and at such compensation, to be paid out of the county funds, as may
 4 be fixed by the board of supervisors. Said engineer or engineers
 5 shall work under the direction and instructions of the board of super-
 6 visors in the performance of the duties hereinafter provided, and each

7 shall give bond for the faithful performance of his duties in a sum
8 not less than one thousand dollars, nor more than five thousand dol-
9 lars. The tenure of office of any engineer may be terminated by the
10 board of supervisors for cause or by the state highway commission
11 for incompetency. The highways now designated as county roads by
12 the plans and records now on file in the county auditor's office of each
13 county and all county highways from time to time added thereto,
14 shall be known as the county road system. All other highways in
15 the county shall be known as the township road system. The system
16 of road construction herein provided shall apply only to highways
17 outside of the limits of cities and towns; provided, however, that
18 whenever any public highway, located along the corporate line of any
19 city or town, is partly within said city or town and partly without the
20 same, the said highway or any part thereof, may be included in and
21 made a part of the county road system, and when so included it may
22 be improved by the board of supervisors as are other parts of the
23 county road system. The system of bridge and culvert work herein
24 provided for shall apply to all highways throughout the county out-
25 side of the limits of cities of the first class; provided, however, that
26 when any part of any public highway located along the corporate line
27 of a city of the first class is included in the county road system, as
28 herein provided, the board of supervisors and the city council shall
29 meet jointly and adopt plans and specifications with the approval of
30 the highway commission for the construction of bridges and culverts,
31 one-half of the cost of the same to be paid by the city and one-half
32 by the county, and in case the city council and the board of super-
33 visors are unable to agree upon any question or questions involved
34 in the construction of the same it shall be referred to the state high-
35 way commission, whose decision therein shall be final and binding
36 upon each party.

37 In matters involving highway improvements upon or across state
38 lines or in determining continuous routes for interstate roads, the state
39 highway commission shall be authorized to confer with authorities
40 of bordering states and to agree upon proper connections or plans and
41 the apportionment of cost of such improvements.

[S. S., '15, § 1527-s3.]

**SEC. 2873. Maps of county roads—petition for change—forward-
ing to commission.**

1 As soon as said county roads are so designated, the board of
2 supervisors shall cause said county roads to be plainly marked on a
3 map, to be furnished by the state highway commission. Said map,
4 after being so marked, shall be deposited with the county auditor, and
5 shall be open to public inspection. At once, upon filing said map, the
6 county auditor shall fix a date of hearing thereon, which shall not be
7 more than twenty days distant from the date of filing same; and ten
8 days' notice of the filing of said map with the county auditor and the
9 date of hearing fixed, shall be published in one issue of each of the
10 official county papers. At any time before said hearing is concluded,
11 any ten freeholders of the county may file a petition with the county
12 auditor, asking for any change in said designated roads which may
13 be deemed advisable, which petition shall set forth their reasons for
14 the proposed change, and shall be accompanied by a plat correctly
15 showing such proposed change. If no agreement is reached between
16 the county board and the petitioners at the hearing above provided

17 for, the county auditor shall forward said map, together with all peti-
 18 tions and plats, if any, showing the proposed changes, to the state
 19 highway commission. If no objections are filed and no hearing had,
 20 or if agreements have been reached, the map shall nevertheless be
 21 forwarded to the state highway commission.

[S., '13, § 1527-s4.]

SEC. 2874. Approval by commission—return to auditor.

1 The state highway commission shall, upon receipt of said maps,
 2 petitions and plats, proceed to examine the same, with a view of deter-
 3 mining the correct lines to be followed by the county highway, having
 4 regard for volume of traffic, continuity and cost of construction. Such
 5 portions of said map as meet with the approval of said commission
 6 may be approved and returned as a preliminary map for immediate
 7 use and the original map, when completed in accordance with the deci-
 8 sions of said commission (which decisions shall be final), shall be
 9 returned to the county auditor not later than March first, nineteen
 10 hundred fourteen, and a copy of same retained in the office of the
 11 highway commission. Provided that the board of supervisors of any
 12 county may at any time make application to the said commission for
 13 a change or modification of the established county road system when
 14 such change is proposed for the purpose of eliminating from such
 15 road dangerous crossings or curves, or when such change would mater-
 16 ially decrease the cost of improving or maintaining the road, and
 17 in such case the commission may reopen such matter and authorize
 18 such change as may seem advisable.

[S. S., '15, § 1527-s5.]

SEC. 2875. Failure to designate — commission shall act — cost charged to county.

1 Should any county fail to make the designation of county roads,
 2 as herein provided, and fail to forward the same to the state highway
 3 commission within the time herein provided, said commission shall
 4 have the power to make a proper designation of said county roads
 5 for said county, and the designation so made shall be final and of the
 6 same force and effect as if made by the board of supervisors, and
 7 when so made by the commission, said commission shall certify to
 8 the county auditor of said county the actual cost of making said desig-
 9 nation, and said county auditor shall thereupon issue warrant on the
 10 county road funds therefor.

[S., '13, § 1527-s6.]

SEC. 2876. Division of roads by engineer—survey and report—county road book—reports—witness corners.

1 As soon as any part of said approved map is returned to the
 2 county auditor, showing the final designation of county roads, the
 3 engineer shall, in writing, divide said roads into sections, designating
 4 each section by some appropriate number, name or letter and clearly
 5 designating the starting point and terminus of each such section, and
 6 such designation shall be recorded at length in a county road book,
 7 whereupon the engineer shall proceed to survey said roads and report
 8 to the board of supervisors the plan for the road, bridge, tile and cul-
 9 vert work thereon. Such survey and report shall be on the basis and
 10 with the object in view of the permanent improvement of said county

11 roads, both as to bridge, culvert, tile and road work. Said survey
 12 and report shall consist of an accurate plan and profile of said roads,
 13 showing cuts and fills and outline of grades, with careful attention
 14 to surface, and lateral drainage and subdrainage, and shall show the
 15 location of all lines of tile and size thereof and of all bridges and
 16 culverts, their length, height and width, and foundation soundings,
 17 and an estimate of the watershed relating to each bridge and culvert.
 18 Culverts constructed under the provisions of this act [35 G. A., ch.
 19 122] shall have a clear roadway of not less than twenty feet. Proper
 20 bench marks shall be established on each permanent bridge and cul-
 21 vert, which shall be duly recorded on both profile and plan of road,
 22 for future reference. The engineer shall clearly designate and credit
 23 on said plan and profile all existing permanent bridges, culverts and
 24 grades. The board may cause all sections to be fully surveyed and
 25 a report made thereon before proceeding with the improvement con-
 26 templated by this act [35 G. A., ch. 122], or, in order to enable the
 27 board to proceed with the most necessary and urgent work, said board
 28 may designate the order in which the different sections shall be sur-
 29 veyed and planned, and may order the engineer to survey and report
 30 on certain named sections before completing the survey and report on
 31 all sections. Whenever it may become necessary in grading the high-
 32 ways to make a cut which will disturb or destroy, or a fill which will
 33 cover up a government or other established corner, it shall be the
 34 duty of the engineer to establish permanent witness corners, and make
 35 a record of the same, which shall show the distance and direction the
 36 witness corner is from the corner disturbed or covered up. When said
 37 construction work is completed the engineer shall permanently reestab-
 38 lish said corner. A failure to perform these duties by the engineer,
 39 or the removal, destruction or covering up of any government or other
 40 established corner is hereby declared to be unlawful and shall subject
 41 the person responsible therefor to a fine of not less than ten dollars or
 42 more than fifty dollars, recoverable on the bond of such person if an
 43 officer. This section shall not be deemed to repeal section eighty-seven
 44 hundred twenty-nine.

[S., '13, § 1527-s7; 38 G. A., ch. 405, § 1.]

**SEC. 2877. Surveys and reports—submission to and approval by
 commission—supervisors to maintain bridges and culverts—
 trustees to grade and fill—road funds consolidated—township
 funds—how employed.**

1 The survey and report of each section, as soon as completed and
 2 approved by the board of supervisors, shall be submitted to the state
 3 highway commission, and the board of supervisors may designate to
 4 the said commission what sections, in their estimation, should be first
 5 passed upon by said state highway commission. The said commis-
 6 sion is hereby charged with the duty of passing upon such reports
 7 and plans, and in so doing, shall take into consideration the thorough-
 8 ness, feasibility and practicability of such plans, and may approve
 9 or modify the same. After such survey and plan for each section is
 10 passed upon by the state highway commission, they shall be returned
 11 to the county auditor with full and explicit directions as to modifica-
 12 tions, if there be any. The county auditor shall, upon receipt of the
 13 approved and modified survey and plans, record the same at length
 14 in a county road book, and the board of supervisors shall thereupon
 15 proceed to the construction of the road, bridge, tile and culvert work

16 in accordance therewith, and as herein provided. The duty to con-
 17 struct and maintain all bridges and permanent culverts throughout
 18 the county is imposed upon the board of supervisors. All culverts
 19 and bridges shall be paid for out of the county bridge fund. Where
 20 conditions are such as to warrant or necessitate the same, the board
 21 of supervisors shall furnish township trustees metal or other tem-
 22 porary culverts authorized by the state highway commission to be
 23 placed by them on their township road system. Said culverts to be
 24 purchased by the board of supervisors and paid for out of the county
 25 bridge fund and shall not exceed in size thirty-six inches in diameter,
 26 or its equivalent. The county, however, shall be at no expense for
 27 placing, filling or transportation of said temporary culverts other
 28 than their delivery at a railroad station to be designated by the board
 29 of supervisors. Immediately upon the completion by the board of
 30 supervisors of any bridge or culvert situated upon the township road
 31 system, or the installation of a temporary culvert furnished to the
 32 township by the board of supervisors, it shall be the duty of the town-
 33 ship trustees to properly fill over with dirt all such culverts and fill
 34 in and uniformly grade the approaches to all such bridges. Should
 35 the trustees fail for a period of two weeks after notification to make
 36 such fill, or fail to fill in and grade over such culvert, as herein pro-
 37 vided, the board of supervisors shall proceed to do so, and the engineer
 38 shall report the actual cost of so doing and such amount, not exceed-
 39 ing one hundred fifty dollars, for any such bridge or culvert, shall be
 40 certified by the board of supervisors to the county treasurer who shall
 41 transfer said amount to the county road cash fund from the first
 42 collection of road funds belonging to said township.

43 The county road fund, the county road building fund, the county
 44 drainage fund, and all other moneys received by the board of super-
 45 visors for road purposes, except as otherwise provided, shall be placed
 46 in the county road cash fund, and shall be paid out only on order of
 47 the said board of supervisors for the purchase of tools, machinery
 48 and equipment, or for tile and tiling, or for filling on culverts and
 49 bridge approaches as herein provided, or for work done on the county
 50 road system, or for the elimination of dangers at railroad crossings
 51 on both county and township roads, at the discretion of the board
 52 of supervisors on an adjustment of such dangerous conditions by nego-
 53 tiations between the railroad and the board of supervisors, or upon
 54 an order and finding of the railroad commission. All money received
 55 by the township trustees for road purposes shall be expended for and
 56 upon the township road system, or for the elimination of dangers at
 57 railroad crossings on the township roads, at the discretion of the
 58 township trustees, on an adjustment of such dangerous conditions by
 59 negotiations between the railroad company and the township trustees,
 60 or upon an order and finding of the railroad commission; provided,
 61 however, that whenever the township drag fund is exhausted, the
 62 board of township trustees may transfer to such drag fund, from the
 63 general township road fund, not otherwise appropriated, such an
 64 amount as in their judgment will best maintain the township road
 65 system.

[S. S., '15, § 1527-s8; 37 G. A., ch. 398, § 1.]

SEC. 2878. Township roads—addition to county system.

1 Whenever all the roads of the county road system have been im-
 2 proved according to the plans herein provided, the board of super-
 3 visors shall add such roads from the township road system as have

4 been improved by the township in accordance with the general plans
 5 and specifications furnished by the engineer and in accordance with
 6 the requirements of this act [35 G. A., ch. 122], and if the township
 7 roads so improved be not sufficient to use all county funds available
 8 for that purpose, the board of supervisors may select additional county
 9 roads, but no increase shall be made in the mileage of the county road
 10 system until that system is completed, except that the board of super-
 11 visors may at any time add such roads from the township road system
 12 as will materially shorten the direct lines of travel between mar-
 13 ket towns. In all cases of additions the same proceedings shall be
 14 followed in all regards as herein provided for the original selection
 15 and improvement of county roads.

[S. S., '15, § 1527-s9.]

SEC. 2879. Extension of roads to lakes.

1 The board of supervisors of any county in which there is a body
 2 of water which may be improved under the provisions of chapter
 3 seventeen, title five, is hereby authorized, at their discretion, to add
 4 to the county road system from the township roads, such roads as
 5 will make said body of water more accessible, or unite existing county
 6 roads to make a county road around a meandered lake.

[37 G. A., ch. 236, § 8.]

SEC. 2880. Other procedure excluded—designation final.

1 The procedure herein provided for the designation and selection
 2 of county roads by the board of supervisors and the approval or modifi-
 3 cation of such selection by the state highway commission, shall exclude
 4 all other procedure, and the decision of the board of supervisors and
 5 the state highway commission in the designation and selection of the
 6 county road system shall be final.

[S., '13, § 1527-s19.]

SEC. 2881. Cost—how paid—repair work—liability of auditor.

1 All bills for road work, tile and tiling, culvert and bridge con-
 2 struction or for repairs designated by the engineer, shall be filed in
 3 itemized form and certified to by the engineer before being allowed
 4 by the board and before warrants in payment therefor are drawn by
 5 the county auditor. Before any warrant shall be issued by the county
 6 auditor upon the funds of the county road system in payment for any
 7 work or construction of highways, except for dragging, maintenance
 8 or repairs not designated by the engineer, he must secure on this bill
 9 the certificate of the engineer employed by the board of supervisors,
 10 that such improvement has been made in accordance with the plans
 11 and specifications as herein provided, and when so indorsed, warrants
 12 may be drawn for the amount so certified by the county engineer;
 13 but if said engineer make said certificate when said work was not
 14 done in accordance with the plans and specifications, and same be not
 15 properly made good without additional cost, then the full cost of mak-
 16 ing same good may be recovered upon said engineer's bond, and his
 17 bond shall be liable therefor. Partial payments may be allowed by
 18 the board on contract work on the basis of the engineer's certified
 19 estimates and the percentages specified in the standard specifications
 20 of the state highway commission. Repair work shall be known as
 21 work not designated by the highway engineer, all road construction

22 work costing not in excess of sixty dollars per mile, work of a tem-
23 porary character or of immediate necessity, and work necessary to
24 maintain finished roads completed under this act [35 G. A., ch. 122].
25 A violation of this section shall render the county auditor liable on
26 his bond for the amount of said work.

[S. S., '15, § 1527-s10.]

**SEC. 2882. Standard specifications—bids—approval of commis-
sion—construction by day labor.**

1 Standard specifications for all bridges and culverts, railroad
2 overhead crossings or subways shall be furnished without cost to the
3 counties and railroad companies by the state highway commission,
4 and work shall be done in accordance therewith, and when said bridge
5 and culvert work is completed and approved a duplicate statement of
6 the cost thereof shall be filed at once with the state highway com-
7 mission by the county auditor. All culverts and bridge construction,
8 tile and tiling and repair work or materials therefor, of which the
9 engineer's estimated cost shall be one thousand dollars or less, may
10 be advertised and let at a public letting, or may be let privately at a
11 cost not to exceed the engineer's estimate, or may be built by day
12 labor. All culvert and bridge construction, grading, tile and tiling
13 and repair work, or materials therefor of which the engineer's esti-
14 mated cost shall exceed one thousand dollars shall be advertised and
15 let at a public letting, provided, that the board shall have the power
16 to reject all bids, in which event they may readvertise, or let privately
17 by submitting contract to the state highway commission for approval,
18 or build by day labor, at a cost not to exceed the lowest bid received.
19 All bids received shall be publicly opened, at the time and place speci-
20 fied in the advertisement, and shall be recorded in detail, in a book
21 kept for that purpose, by the county auditor; said book shall at all
22 times be open to the public for inspection. Any proposed contract
23 which shall exceed the sum of two thousand dollars for any one bridge
24 or culvert, or repairs thereon, shall be first approved by the state high-
25 way commission before the same shall be effective as a contract. Be-
26 fore beginning the construction of any permanent bridge or culvert
27 by day labor or by contract, the plans, specifications, estimate of
28 drainage area, estimates of cost and their specific location shall be
29 filed in the county auditor's office by the engineer. Bridges erected
30 over drainage ditches shall, where necessary, be so constructed to
31 allow the superstructure to be removed for cleaning said ditches with
32 as little damage to the removal and permanent parts of said bridge
33 as practicable. On completion, a detailed statement of cost, and of
34 any additions or alterations to the plans shall be added to the above
35 records by the engineer, all of which shall be retained in the county
36 auditor's office as permanent records, and when said work is com-
37 pleted and approved, a duplicate statement of the cost thereof shall
38 be filed at once with the state highway commission by the county au-
39 ditor. The board of supervisors may authorize the county auditor to
40 draw warrants for the amount of pay rolls for labor furnished under
41 the day labor system, when said pay rolls are certified to by the engi-
42 neer in charge of the work. Said bills shall be passed upon by the
43 board at the first meeting following said payment.

[S. S., '15, § 1527-s11.]

SEC. 2883. Plans—specifications—approval.

1 In all cases wherein plans, specifications and profiles are sub-
 2 mitted to the state highway commission, proposing and setting forth
 3 the plans and specifications for improving any portion of a road sys-
 4 tem, if, except as to cuts, fills, and decreases in inclines, such plans
 5 and specifications meet with the approval of the state highway com-
 6 mission, the said commission shall not refuse to approve such plans
 7 and specifications in full if the proposed cuts, fills, or decreases in
 8 inclines set forth in such plans propose to decrease the hills or inclines
 9 at least twenty per cent of the existing incline.

[S. S., '15, § 1527-s21a.]

SEC. 2884. Repair and dragging of county road system—interest in contracts prohibited.

1 The county board of supervisors and the engineer are charged
 2 with the duty of repairing and dragging the county road system as
 3 is required to keep same in proper condition, and shall adopt such
 4 methods as are necessary to maintain continuously, in the best con-
 5 dition practicable, the entire mileage of this system. No member of
 6 the highway commission, their deputies or assistants, or any other
 7 person in the employ of the commission, no county supervisor, town-
 8 ship trustee, county engineer, road superintendent or any person in
 9 their employ or one holding an appointment under them, shall be,
 10 either directly or indirectly, interested in any contract for the con-
 11 struction or building of any bridge or bridges, culvert or culverts
 12 or any improvement of any road or parts of road coming under the
 13 provisions of this act [35 G. A., ch. 122].

[S., '13, § 1527-s15.]

SEC. 2885. Contractors' bonds—limitation of action.

1 The board of supervisors shall require all contractors to give a
 2 bond for the faithful performance of the contract, in such sum as the
 3 board of supervisors may deem necessary. The surety on any bond
 4 given to guarantee the faithful performance and execution of any
 5 work shall be deemed and held, any contract to the contrary notwith-
 6 standing, to consent without notice:

7 1. To any extension of time to the contractor in which to perform
 8 the contract when each particular extension does not exceed sixty
 9 days.

10 2. To any change in the plans, specifications or contract when
 11 such change does not involve an increase of more than twenty per
 12 cent of the total contract price, and shall then be released only as to
 13 such excess increase.

14 No contract shall be valid which seeks to limit the time to less
 15 than five years in which an action may be brought upon the bond
 16 covering concrete work nor to less than one year upon the bond
 17 covering other work.

[S., '13, § 1527-s18.]

SEC. 2886. Engineers and assistants to file itemized account.

1 All county engineers, employed in drainage or road work for the
 2 county or any drainage district, and all their assistants engaged in
 3 such work, shall file an itemized and verified account, before the board
 4 of supervisors, stating the time actually employed each day, the place

5 where such work was done, the character of the work done, and also
6 file vouchers for any expense, with such account.

[S. S., '15, § 1527-s21b.]

SEC. 2887. Penalty for false oath.

1 Any false statement wilfully made in said account shall subject
2 the person filing the same to the pains and penalties of perjury.

[S. S., '15, § 1527-s21c.]

SEC. 2888. Gravel and material for road improvement—counties.

1 The board of supervisors of any county is hereby authorized and
2 empowered within the limits of such county and without the limits
3 of any city or town, to procure, purchase or condemn, enter upon and
4 take any lands, not to exceed five acres in any one place, for the pur-
5 pose of obtaining gravel or other suitable material with which to
6 improve the roads and highways of such county including a sufficient
7 roadway to such land by the most reasonable route, and to pay for
8 the same out of the county road funds, and it shall be the duty of
9 the board of supervisors of each county, where such material can be
10 found within the county as herein provided, to procure, purchase or
11 condemn such tracts so that no part of the county shall be more than
12 six miles distant from land where such material can be obtained for
13 highway purposes; provided, however, that the board of supervisors
14 shall not be required to purchase such land, but may procure the road
15 material at any place within or without the county when the com-
16 bined cost of obtaining and hauling the same is not greater than the
17 cost would be by condemnation proceedings under this section.

[S., '13, § 2024-i.]

SEC. 2889. Township trustees may use.

1 The township trustees of any township in such county shall have
2 the right to enter upon, take and use any such land, gravel or
3 other suitable material for the purpose of improving the highways
4 and roads within their respective townships.

[S., '13, § 2024-i1.]

SEC. 2890. Road improvement organizations—misuse—penalty.

1 Road improvement companies, corporations, voluntary associa-
2 tions, commercial clubs, road improvement districts, and individual
3 citizens shall have the right to enter upon said land and haul and use
4 said material for public road improvement. Any person, company,
5 corporation or club using said material for any other purpose than
6 public road improvement, shall be guilty of a misdemeanor, and upon
7 conviction, fined not less than one hundred dollars, nor more than five
8 hundred dollars, or imprisonment in the county jail not more than
9 thirty days, or both.

[S., '13, § 2024-i2.]

SEC. 2891. Nonfeasance—removal.

1 In case the board of supervisors of any county shall fail, neglect
2 or refuse to perform the duty imposed upon them by section twenty-
3 eight hundred eighty-eight, the members thereof shall be subject to

4 removal from office for failure to perform their duty as provided by
5 sections six hundred forty-nine to six hundred fifty-six, inclusive.

[S., '13, § 2024-i3.]

SEC. 2892. Apportionment of work by supervisors.

1 The boards of supervisors of the various counties of the state of
2 Iowa bordering upon the state line are hereby authorized to meet the
3 authorities in control and charge of the public highways in the
4 adjoining counties of other states and agree upon and assign the por-
5 tion or part of each public highway upon the state line between such
6 states to be kept in repair by the authorities in the state of Iowa and
7 such other states.

[S., '13, § 1570-a.]

SEC. 2893. Road, bridge and culvert construction—authorization.

1 In all matters involving road, bridge or culvert construction,
2 reconstruction or repair upon or across county lines, or in determining
3 continuous routes between, or along, the boundaries of counties, the
4 state highway commission is authorized and directed to confer with
5 and, if possible, to bring about an agreement between local authori-
6 ties or the counties involved as to the proper plans and specifications,
7 division of costs or connections.

8 In the event that an agreement can not be reached between
9 adjoining counties on the location, plans and specifications, or division
10 of costs for the construction, reconstruction or repair of such highway
11 improvements, any county interested may appeal in writing to the
12 state highway commission. The commission on receipt of such appeal
13 shall give notice in writing, directed to the auditor of counties inter-
14 ested, of the day and place of hearing thereon, to be held not less
15 than ten days from the date of such service. On said date and after
16 a full hearing of all the facts offered by the counties interested, the
17 state highway commission shall have full power to determine the
18 location, plans and specifications, or division costs for the construction,
19 reconstruction or repair of such highway improvements between the
20 counties directly benefited; and shall certify their decision to said
21 county auditors. Such counties shall forthwith jointly proceed with
22 the improvement under the provisions governing like improvements
23 wholly within the counties.

[38 G. A., ch. 320, § 1.]

SEC. 2894. Appropriations for county bridges—limitations.

1 The board of supervisors of any county having a population of
2 fifteen thousand or less may appropriate for the construction of any
3 one bridge within the limits of such county, a sum not to exceed
4 twenty-five thousand dollars, and may appropriate for the construc-
5 tion of any one bridge on the line between such county and another
6 county of this state or between such county and another state, a sum
7 not to exceed fifteen thousand dollars.

8 In any county having a population of fifteen thousand or more,
9 said board may appropriate as aforesaid, not to exceed thirty-five
10 thousand dollars for any one bridge within such county, and not to
11 exceed twenty thousand dollars for the construction of any one bridge

12 on the line between such county and another county within this state
 13 or on the line between such county and another state.

14 The term "bridge", as used in this section, shall be held to include
 15 substructure, superstructure and approaches.

[C., '73, § 303; C., '97, § 424; 38 G. A., ch. 336, § 1.]

SEC. 2895. Bridges—width.

1 Bridges erected or maintained by the public constitute parts of
 2 the road, and must not be less than sixteen feet in width.

[C., '51, § 517; R., '60, § 822; C., '73, § 1001; C., '97, § 1572.]

SEC. 2896. Bridges on county-line roads.

1 Whenever a county-line road intersects a stream of sufficient
 2 width to require a county bridge, and the point of intersection does
 3 not afford a suitable site for the construction thereof, and there is a
 4 good site for its erection wholly within one or the other of said
 5 counties, at a reasonable distance from the county line, the boards of
 6 supervisors of the respective counties to be benefited by said bridge
 7 may make the necessary appropriations for the construction and
 8 maintenance thereof, as they might do if said bridge was located on
 9 the county line.

[C., '97, § 426.]

SEC. 2897. Bridges across boundary streams—rights of county to construct.

1 Counties bordering upon streams of water which form the bound-
 2 ary lines of this state may construct and maintain foot and wagon
 3 bridges across any such stream the same as if such stream were
 4 wholly within the limits of the county constructing the same; any such
 5 county within which such bridge may be desired may unite in the con-
 6 struction and maintenance of such bridge with any adjoining state, or
 7 any county, city or other municipal subdivision within such state into
 8 which such bridge may extend; provided that in such construction
 9 and maintenance the rights of adjoining states shall in no wise be
 10 infringed.

[S., '13, § 424-a.]

SEC. 2898. Submission to electors on petition—notice—levy of tax—bonds.

1 Whenever ten per cent of the legal voters of any county named in
 2 the preceding section, as shown by the returns of the last general
 3 election, shall petition the board of supervisors of such county to sub-
 4 mit to the voters of the county at a general election the question
 5 whether such county shall be authorized to construct a bridge extend-
 6 ing from such county across the state boundary river into the adjoin-
 7 ing state, and shall also include the amount to be expended in the con-
 8 struction of such bridge, it shall be the duty of the board of super-
 9 visors to submit such question to the voters of such county at the
 10 first general election occurring not less than sixty days after the filing
 11 of such petition. Notice of the submission of such question shall be
 12 given by publishing the same for four consecutive weeks in at least
 13 three newspapers of general circulation published in such county, the
 14 last of which publications shall be at least three days and not more
 15 than ten days before the holding of such election. If a majority of

16 those voting upon the said proposition shall vote affirmatively upon
 17 the same, the board of supervisors may levy from year to year a tax,
 18 not to exceed one mill, upon all the taxable property in the county to
 19 erect said bridge; and it may also issue the bonds of the county in the
 20 manner provided by the provisions of chapter eleven, title twelve,
 21 except that said issue of bonds may be spread as to maturities over
 22 a period of twenty years; such issue shall not, however, exceed the
 23 amount authorized to be expended in the construction of such bridge.
 24 The provisions of section thirty-two hundred sixty-five shall apply to
 25 such issue of bonds and the levies for the payment of such bonds and
 26 interest shall be made under its provisions.

[S., '13, § 424-b.]

SEC. 2899. Agreement as to construction and cost—shall advertise for bids.

1 In the event that the construction of such bridge shall be author-
 2 ized as hereinbefore provided, the board of supervisors may unite with
 3 the adjoining state or any county, city, town or other municipal
 4 division thereof in an agreement for the construction of such bridge,
 5 and such agreement may fix the particular portion or part which each
 6 of the contracting parties shall erect or maintain; or it may provide
 7 the particular percentage of the construction or maintenance of such
 8 bridge which each shall pay. The contract for the construction of
 9 such bridge shall be let to the lowest responsible bidder after bids
 10 have been invited by publication for four consecutive weeks in two or
 11 more papers of general circulation, and the board of supervisors
 12 shall have the right to reject any or all bids and readvertise for bids.
 13 The county shall not, however, be liable in any event for any part of
 14 the cost of construction of such bridge, beyond the part or proportion
 15 that it has contracted with the adjoining state or municipality to bear
 16 in the construction of the same.

[S., '13, § 424-c.]

SEC. 2900. Liability for maintenance.

1 The county shall not be liable for negligence in the maintenance
 2 of such bridge, except for that part which it shall undertake to exclu-
 3 sively maintain and where there is a contract for joint maintenance
 4 of the entire structure, it shall only be liable for that part or portion
 5 which is within the boundary lines of the state of Iowa.

[S., '13, § 424-d.]

SEC. 2901. Leases for public utilities.

1 The board of supervisors may lease to any street railway the right
 2 to cross said bridge with its line of railway upon such terms and con-
 3 ditions as may be authorized by the board of supervisors and the
 4 governing body of the adjoining state or municipality interested in
 5 such bridge, but no discrimination shall be made as between street
 6 railways and all shall be permitted to use the tracks constructed upon
 7 such bridge, provided that any line desiring to use the tracks thereon
 8 shall bear its reasonable share of the cost of construction and main-
 9 tenance of such tracks. Like privileges may be leased to telegraph,
 10 telephone and electric power companies for the construction of their
 11 lines of wire across such bridges, except that a joint use of said wires
 12 shall not be exacted, and provided that any rights granted under the

13 provisions of this section to use this bridge shall not in any way impair
14 or abridge the use thereof by the public.

[S., '13, § 424-e.]

CHAPTER 6.

FEDERAL ROAD ACT.

SECTION 2902. Provisions of federal aid road act accepted.

1 The state of Iowa, through its legislature, hereby accepts the pro-
2 posal of the United States as set forth in the act of congress, approved
3 July eleventh, nineteen hundred sixteen, entitled "An act to provide
4 that the United States shall aid the states in the construction of rural
5 post roads, and for other purposes," thirty-ninth United States stat-
6 utes at large, page three hundred fifty-five, and assents to the provi-
7 sions of said act of congress. For the construction and maintenance of
8 rural post roads the good faith of the state is hereby pledged to cause
9 to be made available funds sufficient to equal the sum apportioned to
10 the state by or under the United States government during each of the
11 five years for which federal funds are appropriated by section three
12 of the said act and to maintain the roads constructed with the aid of
13 funds so appropriated, and to make adequate provisions for carrying
14 out such maintenance.

[37 G. A., ch. 249, § 1.]

SEC. 2903. State highway commission—duty to select roads.

1 The state highway commission is hereby authorized and directed,
2 as soon as may reasonably be done, to designate and select from the
3 roads which are now or hereafter may become rural post roads,
4 including a part of each of the ninety-nine counties of the state and
5 including not less than two thousand nor more than six thousand
6 miles, giving equitable consideration to the claims of each county, said
7 system to be so selected and designated as to at least meet the require-
8 ments of the federal act and a sufficient number of miles to at least
9 require the full appropriation provided for by the federal act during
10 the life of said statute. Before designating the roads of such system,
11 the state highway commission shall request the cooperation and assist-
12 ance of the boards of supervisors of the respective counties, and shall
13 give due consideration to the judgment of each of said boards in such
14 designations.

[37 G. A., ch. 249, § 2.]

SEC. 2904. Duty of highway commission.

1 The state highway commission is hereby authorized and directed
2 to enter into and complete negotiations with the secretary of agricul-
3 ture and to secure the full apportionment from the federal aid fund
4 for and on behalf of the state of Iowa and the several counties thereof,
5 and is further authorized to enter into all contracts and agreements
6 with the United States government relating to the survey, construc-
7 tion and maintenance of roads under the provisions of the said act of
8 congress, to submit such scheme or program of construction and main-
9 tenance as may be required by the secretary of agriculture, to super-

10 vise and direct the work of construction on behalf of the state of Iowa
11 and its counties, to supervise the expenditures of all funds paid out
12 on account of such work by the counties of the state, and do all other
13 things necessary fully to carry out the cooperation contemplated and
14 provided for by the said federal aid road act.

[37 G. A., ch. 249, § 3.]

SEC. 2905. Application by supervisors — project statement — plans.

1 The board of supervisors of each county of the state of Iowa is
2 hereby authorized to make application by resolution to the state high-
3 way commission for the apportionment to such county of its share of
4 the federal aid fund, indicating with particularity what portion of
5 the comprehensive system designated by the state highway commis-
6 sion in such county they desire to first improve and to clearly specify
7 the general character of the improvement which it is proposed to
8 make. The state highway commission shall act upon such application
9 promptly and, if approved, shall prepare a project statement and,
10 when funds for its construction are available, submit the same to the
11 secretary of agriculture for his approval and, if the same is approved
12 by him and conforms to the terms of the federal aid road act, then
13 the state highway commission shall prepare the plans and specifica-
14 tions for such improvement, or shall cause same to be prepared by the
15 county engineer under its supervision, which plans and specifications
16 shall thereupon, if satisfactory, be approved by the board of super-
17 visors and the state highway commission.

18 The board of supervisors of said county is hereby authorized and
19 directed to forthwith take the necessary legal action to execute and
20 enter into an agreement with the state highway commission, on forms
21 prepared by it; which agreement shall be a valid contract of the county
22 and obligate such county to cause the improvement to be made accord-
23 ing to said plans and specifications, and further bind the county to
24 maintain such improved highways in the manner required by the
25 federal aid road act and the rules made thereunder; provided, how-
26 ever, that such contract shall expressly provide that not to exceed an
27 amount equal to double the amount of the federal aid fund appor-
28 tioned to the county in which such project is located, shall be paid out
29 of the federal-county-cooperative road fund hereinafter created.

[37 G. A., ch. 249, § 4.]

SEC. 2906. Apportionment of funds—certificate as to amount.

1 The state highway commission is hereby directed to apportion
2 the federal aid provided for by the federal aid road act, among the
3 several counties of the state, in the same ratio that the area of each
4 county in the state bears to the area of the state, and shall notify the
5 auditor of each county in writing the amount allotted to his respective
6 county. The state highway commission is further directed not later
7 than the first of March of each year to certify in writing to the treas-
8 urer of state the amount of the federal aid apportioned to the state for
9 each year during the life of said act of congress; also the estimated
10 annual expense to the state highway commission for plans and speci-
11 fications prepared by it under the provisions of this chapter, which
12 certificate shall be kept in the office of the state treasurer.

[37 G. A., ch. 249, § 5.]

SEC. 2907. Fund to be kept—payment of claims.

1 The treasurer of state is hereby authorized and directed to
2 receive, from time to time, the federal funds apportioned to the state
3 of Iowa, as provided for by the said act of congress, and is hereby
4 directed to open an account to be known as the federal-county-coopera-
5 tive road fund; and to credit to such fund, from time to time, all
6 federal aid received from the United States government under the
7 provisions of said act of congress. The treasurer of state is further
8 authorized and directed before distributing the motor vehicle road
9 fund to the counties to transfer to such fund from any moneys paid
10 into the state treasury pursuant to the provisions of chapter seven-
11 teen of this title, an amount equal to the amount of federal aid
12 apportioned to the state of Iowa for that year under said act of con-
13 gress, one-half of which amount shall be transferred by said treasurer
14 of state on the first day of April and the other one-half of said
15 amount to be transferred on the first day of August of each year
16 during the life of the federal aid road act. The federal-county-
17 cooperative road fund shall be held in trust for the sole and exclusive
18 purpose of carrying out the provisions of the federal aid road act, and
19 shall be used for no other purpose.

20 The treasurer of state is also authorized and directed at the same
21 time and in the same manner to transfer from said motor vehicle road
22 fund, an amount equal to the estimated cost of plans and specifications
23 for the current year, as certified by the state highway commission,
24 which shall be known as the federal-aid-engineering fund. The bal-
25 ance of the money paid into the state treasury under the provisions of
26 chapter seventeen of this title shall be apportioned in the manner
27 provided by section thirty hundred seventy-eight. Whenever any im-
28 provement which is being constructed under and in accordance with
29 the provisions hereof has been completed or so far completed as to
30 call for partial payments on the contract price under the terms of the
31 contract, a voucher, upon forms prepared by the state highway com-
32 mission, for the amount then due the contractor shall be made out in
33 itemized form and verified by such contractor and presented to the
34 state highway commission and the board of supervisors; and if the
35 work thus far completed is satisfactory to such commission and the
36 board of supervisors and according to contract, the voucher shall be
37 approved by the state highway commission and the board of super-
38 visors, which approval shall be in writing upon the voucher. When
39 a voucher so prepared and so approved is presented to the auditor
40 of state, he is hereby authorized and directed to thereupon draw a
41 state warrant for the amount called for in such voucher upon the
42 federal-county-cooperative road fund, payable to the claimant; and
43 the treasurer of state is hereby authorized and directed to pay such
44 warrants out of said fund and out of no other.

45 The state highway commission is hereby authorized, on the first
46 of any calendar month, to prepare a voucher for all expenses previ-
47 ously incurred by said commission in the preparation of plans and
48 specifications under this chapter, and not heretofore reported, which
49 voucher shall be fully itemized, verified by the state engineer, and
50 approved by the state highway commission; and when such voucher
51 so prepared and approved is presented to the auditor of state, he is
52 hereby authorized and directed to thereupon draw a state warrant,
53 payable to said state highway commission, for the amount called for
54 in said voucher upon the federal-aid-engineering fund; and the treas-

55 urer of state is hereby authorized and directed when presented such
 56 warrant properly indorsed, to transfer to the maintenance fund for
 57 the state highway commission, the amount of such warrant out of
 58 said federal-aid-engineering fund, and out of no other.
 [37 G. A., ch. 249, § 6.]

SEC. 2908. Failure of county to apply for allotment.

1 In the event any county shall fail by July first, nineteen hun-
 2 dred twenty, to make application to the state highway commission
 3 for its allotment of federal aid funds and shall fail or neglect to enter
 4 into a contract for such improvement in the manner provided for in
 5 section twenty-nine hundred five, the said county shall be deemed to
 6 have waived its right to participate in such federal aid fund; and in
 7 such event, the state highway commission is hereby authorized and
 8 directed to use the allotment previously assigned to such county as
 9 hereinbefore provided, on any other portion of the comprehensive
 10 scheme of road improvement selected by them and in any county or
 11 counties which may be designated by the secretary of agriculture as
 12 best designed to aid in the completion of the post road system of the
 13 state of Iowa; provided, however, such county or counties to which
 14 such abandoned apportionment has been allotted shall provide out of
 15 any funds in their treasury and available for road purposes, an amount
 16 equal to the allotment so made to said county, which allotment and
 17 appropriation made by the county shall be expended in the manner
 18 hereinbefore provided and in accordance with the requirements of the
 19 federal aid act.

[37 G. A., ch. 249, § 7.]

CHAPTER 7.

PRIMARY AND SECONDARY ROAD SYSTEMS.

SECTION 2909. Intent of chapter.

1 It is the intent of this chapter to divide the highways of the state
 2 and of each county into a primary and secondary system, to provide
 3 for the substantial and durable improvement of such primary roads of
 4 each county, to pay for said improvements on such primary roads from
 5 federal aid funds, motor vehicle registration fees, and from the pro-
 6 ceeds of assessments on benefited real property, to permit each county
 7 to anticipate such funds if it chooses so to do, to divert other exist-
 8 ing highway funds to the construction, reconstruction, improvement
 9 and maintenance of the secondary system of roads, to secure the bene-
 10 fit of all present and future acts of the government of the United
 11 States which proffer financial aid to the state of Iowa in the construc-
 12 tion and maintenance of highways, and to coordinate the system herein
 13 created with the requirements of said federal government relative
 14 to such improvements. This chapter shall be construed as additional
 15 to and not in repeal of chapter six.

[38 G. A., ch. 237, § 1.]

SEC. 2910. Contracts authorized.

1 The state highway commission is empowered, on behalf of the
 2 state, to enter into any arrangement or contract with, and required by,

3 the duly constituted federal authorities, in order to secure the full
4 cooperation of the government of the United States, and the benefit
5 of all present and future federal allotments in aid of highway con-
6 struction, reconstruction, improvement or maintenance. The good
7 faith of the state is hereby pledged to cause to be made available
8 each year, sufficient funds to equal the total of any sums now or
9 hereafter apportioned to the state for road purposes by the United
10 States government for such year and to maintain the roads constructed
11 with said funds. The board of supervisors of each county is empow-
12 ered to enter into any arrangement or contract with, and required by,
13 the state highway commission, in order to fully carry into effect the
14 provisions of this chapter.

[38 G. A., ch. 237, § 2.]

SEC. 2911. Road systems defined.

1 The highways of the state are, for the purpose of this chapter,
2 divided into two systems, to wit: The primary road system and the
3 secondary road system.

4 The primary road system shall embrace those main market roads
5 (not including roads within cities), which connect all county seat
6 towns and cities and main market centers, and which have already
7 been designated under section twenty-nine hundred three, accepting
8 the provisions of the act of congress approved July eleventh, nineteen
9 hundred sixteen, known as the federal aid road act; provided that the
10 said designation of the roads shall, for more efficient service or more
11 economical construction of the system, and with the consent of the
12 federal authorities, be subject to revision by the state highway com-
13 mission. Any portion of said primary system so eliminated by any
14 change shall revert to and become a part of the system from which
15 originally taken. The state highway commission may, for the pur-
16 pose of affording access to state parks and recreation centers within
17 a county, add such road or roads to the primary system of said county
18 as the board of supervisors may specifically designate and request.

19 The secondary road system shall embrace all roads not embraced
20 in the primary system and not embraced within the limits of cities or
21 towns. Roads embraced in the secondary road system shall continue
22 to be classed as at present, as county roads or township roads as the
23 case may be.

[38 G. A., ch. 237, § 3.]

SEC. 2912. Primary road fund—apportionment.

1 There is hereby created a fund which shall be known as the pri-
2 mary road fund, which shall embrace the federal-county-cooperative
3 road fund as created by chapter six of this title, all additional and
4 future federal aid road funds, and all other funds derived from year
5 to year by the state under acts regulatory of motor vehicles, com-
6 mencing with and including all fees for the year nineteen hundred
7 twenty, except such portion of said motor vehicle fund as shall be
8 necessary to maintain the federal aid engineering fund, and as may,
9 by law, be retained in the state treasury as a maintenance fund for
10 the state highway commission, or as a fund to cover administration of
11 the motor vehicle department.

12 Said primary road fund shall be apportioned to the respective
13 counties in the ratio that the area of the county bears to the total

14 area of the state, and shall be employed as herein provided, solely in
 15 the drainage, grading, surfacing and maintenance of the roads of the
 16 primary road system, except as hereinafter provided.

17 The portion of said fund apportioned to each county as above
 18 provided, is hereby pledged to the completion of said primary system
 19 and is dedicated by the state to the county, to be used solely for the
 20 payment of the cost of such improvements or the maintenance thereof,
 21 and for the redemption of any bonds issued therefor as herein pro-
 22 vided. For the purposes of administration, the apportionment to any
 23 county may be made up partly from the federal aid road allotments.

[38 G. A., ch. 237, § 4.]

SEC. 2913. Accounts—primary road fund.

1 The state highway commission shall open an account with each
 2 county in the state in relation to the primary road fund, and shall first
 3 credit each county with any unused portion of the allotment of the
 4 federal-county-cooperative road fund, as shown by the official supple-
 5 mentary bulletin of the state highway commission of June, nineteen
 6 hundred seventeen, and designated as "volume five, number six", and
 7 shall each year credit each county with its allotted portion of the pri-
 8 mary road fund, and charge it with the amount of all duly and finally
 9 approved vouchers for claims properly chargeable to said county. Said
 10 account shall also show the amount of each separate authorization of
 11 bonds or road certificates hereunder, and the amount, number, date,
 12 maturity, and interest rate of each series of bonds or certificates
 13 actually issued by the county under this chapter. The said commis-
 14 sion shall, at all proper times, keep each county fully informed as to
 15 the state of its account.

[38 G. A., ch. 237, § 5.]

SEC. 2914. Options authorized—election in re hard surfacing.

1 Each county, acting through its board of supervisors, shall have
 2 three options in the expenditure of its allotments from the primary
 3 road fund:

4 First, it may elect to complete the grading and drainage of any
 5 part or all of the primary roads within the county before laying any
 6 hard surfacing; or

7 Second, it may hard surface in any one year, such portion of the
 8 roads in the primary system in its county as may be met by its allotted
 9 portion of the primary road fund for said year, plus any balance
 10 remaining to its credit from previous allotments, plus the special
 11 assessments on abutting and adjacent real estate as hereinafter pro-
 12 vided; or it may proceed in any one year with draining and grading
 13 on one or more divisions of the primary system and with hard sur-
 14 facing on other divisions of said system.

15 Third, it may proceed with said hard surfacing in a more rapid
 16 manner when authorized to do so by the voters of the county as here-
 17 inafter set forth, provided no hard surfacing shall be constructed on
 18 any division of the primary roads until the drainage and grading of
 19 said division shall have been fully completed.

20 It is hereby made the duty of the board of supervisors to pro-
 21 ceed in the improvement of primary roads under this chapter as fast
 22 as the primary road fund is available, until the improvement of the
 23 primary system is completed; provided, however, that any county,

24 after draining and grading its primary system, or any division thereof,
25 shall have the right to surface same with gravel or oil or both if by
26 resolution of the board of supervisors it elects so to do. Such gravel-
27 ing or oiling shall not be considered hard surfacing within the meaning
28 of this chapter. Said surfacing shall be done in accordance with the
29 plans and specifications of the highway commission applicable to such
30 improvement and the cost of such improvement when so done may be
31 paid from the primary road fund. Vouchers therefor must be ap-
32 proved by the board of supervisors and forwarded to the highway com-
33 mission for final audit, approval, and payment as provided in section
34 twenty-nine hundred twenty-one.

35 The board of supervisors shall not proceed with hard surfacing
36 of roads until such work shall be authorized by a majority vote of the
37 electors of such county at a general election, or a special election,
38 called for that purpose; and the board of supervisors of any county
39 may, on its own motion, and shall, if petitioned by the voters in any
40 county equal to ten per cent of the number voting at the last general
41 election, to be determined by the number of electors voting for gov-
42 ernor thereat, submit to said voters the question whether hard surfac-
43 ing shall be done on the primary road system, or any portion thereof,
44 in said county. Said petition shall be in writing, giving the name and
45 residence of each signer thereto, and each sheet thereof shall be veri-
46 fied by a resident of the county. The board of supervisors shall be
47 governed by the result of such election, and, if a majority of said
48 voters voting thereon shall vote therefor, the board shall proceed
49 forthwith with the work. Such election, however, shall not interfere
50 with or affect work under construction, or under contract, or federal
51 aid projects already approved at the time of the holding of said
52 election.

53 Notice of such election shall be given as provided in section
54 twenty-nine hundred thirty-three, and the notice shall give the time
55 said election shall be held and the form of the proposition submitted,
56 and such proposition shall be contained in the ballot. Special elections
57 shall be held in the same manner as general elections. The question
58 of hard surfacing shall not be submitted to a vote in any county
59 oftener than once in twenty-four months.

60 The question as to hard surfacing of roads and as to issue of
61 bonds under this chapter may be submitted at the same election. And
62 at the election as to the question of whether or not bonds may be
63 issued, there may be submitted at the same election and upon the
64 same ballot as a separate proposition the question of whether or not
65 hard surfacing may be done. If upon such submission the proposition
66 of hard surfacing is defeated, such vote shall thereby nullify the vote
67 as to the issuance of bonds.

[38 G. A., ch. 237, § 6.]

SEC. 2915. Division of primary roads.

1 For the purpose of creating a basis for a systematic program of
2 improvement, the board of supervisors of each county, in conjunction
3 with the county engineer, shall, as soon as may be reasonably possible
4 after the taking effect of this chapter, divide into divisions the roads
5 of the primary road system within their county, with a view to the
6 most advantageous program of improvement, having in view the devel-
7 opment of the primary roads in the county in such order as will best
8 and most fairly meet the convenience of the public, viewing the county

9 as a whole. Different portions of primary roads which diverge from
10 a common point may be so divided into divisions that the several divi-
11 sions immediately adjacent to the common point will constitute an
12 appropriate district. Said divisions shall be suitably designated on a
13 map filed with the state highway commission, and shall be recorded by
14 the county auditor in the proceedings of the board, and shall be
15 final, except that the board may, under changed or better understood
16 conditions, modify such record in order to attain more advantageous
17 results in cost. No division established by the board of supervisors
18 shall embrace roads or streets within a city.

[38 G. A., ch. 237, § 7.]

SEC. 2916. Improvement program—assessment districts.

1 When the board of supervisors of any county shall decide to begin
2 the improvement of any division of said primary road system, it shall,
3 on or before the first day of August of any year, by a resolution filed
4 with the state highway commission, specify the division or divisions
5 of the primary road system in said county which they desire to
6 improve hereunder. Said resolution shall indicate the program of
7 improvement for the ensuing year or years, and shall specify the
8 funds available or the method proposed to finance the cost of such
9 improvements. If the resolution filed with the state highway com-
10 mission embraces the hard surfacing of any division of primary roads,
11 the same shall be accompanied by a proposed assessment district for
12 each division in the form of an engineer's plat. Each district shall be
13 clearly designated by some appropriate and distinctive name and
14 number, such, for instance, as "Correctionville road, district number
15 one". Portions of primary roads which diverge from a common point
16 may be included within one district. No district established by the
17 board of supervisors shall embrace real estate within a city, but no
18 proceedings for an improvement which embraces a road or street of
19 a town shall be affected by the fact that subsequent to the estab-
20 lishment of the district, and before the completion of the improve-
21 ment, such town becomes a city by change in population.

22 All real estate lying upon and immediately adjacent to each side
23 of the highway, and constituting two continuous zones each three
24 hundred twenty rods in width, measured from the center of the
25 highway, shall be included within each district. The board of super-
26 visors may increase the width of either of said zones by extending
27 the outer boundary thereof for a distance of not to exceed one hun-
28 dred sixty rods. If either of the zones first mentioned be increased in
29 width, the outer boundary of such increase may follow governmental
30 or other well defined lines; and if any part of a governmental forty-
31 acre tract, or less, is within four hundred eighty rods of the center
32 of the road, then and in such case the entire forty acres or less may
33 be included within the district. Should the center of the highway be
34 less than four hundred eighty rods from an interstate boundary line,
35 or river which acts as such interstate boundary, then the zone adja-
36 cent to such line or river may extend to such line or river. Should
37 travel to or from such highway to real estate within either of said
38 zones be wholly barred by a natural or artificial barrier, the board of
39 supervisors may wholly exclude such real estate, or any portion
40 thereof, from such assessment district, or may otherwise meet the
41 difficulty by making a nominal assessment on said real estate.

[38 G. A., ch. 237, § 8.]

SEC. 2917. Approval of improvement project—record of lands.

1 The said commission shall examine said project, and before
2 approval shall have power to so modify the same as to comply with
3 this chapter. Upon the approval of said resolution by the state high-
4 way commission, the said district or districts, as proposed by the
5 board, shall be deemed finally established. Upon the final establish-
6 ment of said district or districts as above provided, the board of super-
7 visors shall cause to be entered and published in the minutes of its
8 proceedings, a description of all real estate embraced within each dist-
9 rict. Such description may be by any legal description, but the failure
10 to strictly comply with said direction as to such entry and publication
11 shall not affect the validity of the proceeding.

[38 G. A., ch. 237, § 9.]

SEC. 2918. Surveys, plans and approval thereof.

1 When the resolution has been finally approved, the commission
2 shall make, or cause to be made, proper surveys, and shall prepare the
3 plans, specifications and estimates for such improvement, or shall
4 cause the same to be prepared by the county engineer, under its
5 supervision, which plans, specifications and estimates shall be finally
6 approved by the board and the commission, and filed with the county
7 auditor, and the work shall be done in accordance therewith, except
8 in so far as the same may be modified by the commission to meet
9 unforeseen or better understood conditions, and no such modification
10 shall be deemed an invalidating matter. Such plans and specifications
11 may provide, as a part of said hard surfaced roadway (and to be com-
12 puted as a part of the cost thereof), for such shoulders of gravel or
13 other material as may be necessary to protect the roads thereof and to
14 facilitate travel thereover.

[38 G. A., ch. 237, § 10.]

SEC. 2919. Bids—contracts and limitations thereon—bonds.

1 As soon as the approved plans and specifications are received by
2 the board of supervisors, they shall proceed to advertise for bids
3 for the construction of said improvement.

4 Each bid shall be accompanied by a sworn statement by the
5 bidder, or by a partner or officer thereof, which shall show the name
6 and address of each director, officer or partner of such bidder. No
7 contract shall be let to any state or county official, elective or appoint-
8 ive, nor to any relative of such state official, nor to any partnership
9 or corporation in which such state official or relative thereof is finan-
10 cially interested.

11 No contract shall be let to any partnership or corporation in
12 which a county officer of the contracting county, or relative of such
13 county officer, is financially interested. The letting of a contract in
14 violation of the foregoing provisions shall not invalidate the con-
15 tract, nor any bonds issued thereunder, but upon discovering such
16 violation, the board of supervisors or the state highway commis-
17 sion may terminate the contract, and such violation in case of such
18 termination shall be a complete defense to any action by the con-
19 tractor to recover any consideration due or earned under the contract
20 at the time of such termination.

21 In the award of contracts, due consideration shall be given not
22 only to the prices bid, but to the mechanical and other equipment, and

23 financial responsibility of the bidder and his ability and experience in
 24 the performance of like or similar contracts. The board may reject
 25 any or all bids and may readvertise for bids, or, with the written con-
 26 sent of the state highway commission, may let by private contract, or
 27 with such consent may proceed to the construction (except in case
 28 of paving) by day labor at a cost not to exceed the lowest bid received.
 29 In any event, all contracts entered into under the provisions of this
 30 chapter shall be approved by the state highway commission before
 31 they shall become effective.

32 The form and conditions of all contracts, the form and conditions
 33 of all bonds taken or required for the full performance or maintenance
 34 of all work, shall be prescribed by the state highway commission. All
 35 contracts for performing paving work or furnishing material therefor
 36 shall be in writing and shall be secured by a bond for the faithful per-
 37 formance thereof, which bond shall be so drawn as to fully secure the
 38 proper county from defective workmanship or material for five years
 39 after the completion of contract.

[38 G. A., ch. 237, § 11.]

**SEC. 2920. Supervision of work—duty of highway commission—
 bonds.**

1 The state highway commission is expressly charged with the duty
 2 of controlling the supervision, inspection and direction of the work of
 3 construction on behalf of the state and its counties, and of supervising
 4 the expenditure of all funds paid on account of such work by the
 5 counties of the state, and it shall do and perform all other matters and
 6 things necessary to the faithful completion of the improvements herein
 7 authorized, and to fully carry out the cooperation contemplated and
 8 provided by the said federal aid road act.

9 All engineers or inspectors having responsible charge of any im-
 10 provement shall give bonds for the faithful performance of their
 11 duties and for like accounting of all property intrusted to their cus-
 12 tody. All bonds given by such engineers or inspectors in the employ
 13 of the state highway commission shall be deemed to embrace any and
 14 all improvements of which they may be in charge.

[38 G. A., ch. 237, § 12.]

SEC. 2921. Claims and form thereof—method of payment.

1 Claims for draining and grading, graveling or oiling, shall be paid
 2 wholly from the county's allotment of the primary road fund. Claims
 3 for hard surfacing, in case the county is proceeding without bond
 4 issue, shall be paid to the extent of seventy-five per cent of the total
 5 cost of such hard surfacing, from the county's said allotment, and the
 6 balance shall be paid with special assessment or road certificates, or
 7 with the proceeds thereof. Claims for hard surfacing, in case the
 8 county is improving with the proceeds of a bond issue, shall be paid,
 9 first, from the county's said allotment then available, or from any
 10 balance of said allotment remaining after the retirement of bonds and
 11 from the proceeds of special assessments, and second, out of such bond
 12 fund of the county.

13 All claims shall be itemized upon voucher forms prepared by the
 14 state highway commission, sworn to by the claimants, certified to by
 15 the engineers in charge, filed with and audited by the board of super-
 16 visors, and then forwarded to the state highway commission for final

17 audit and approval. Upon the final approval of vouchers which are
 18 payable from the county's allotment of the primary road fund, such
 19 vouchers shall be forwarded to the auditor of state, who shall draw
 20 warrant therefor, and said warrant shall be paid by the treasurer of
 21 state from the primary road fund.

22 Duly approved voucher claims, payable at the office of the county
 23 treasurer, shall be forwarded by the state highway commission to the
 24 county auditor, who shall issue warrant therefor, and the county
 25 treasurer shall pay the same with special assessment or road certifi-
 26 cates, or from the proceeds thereof, or from the bond fund, as the
 27 case may be. Partial payments may be made on work during the
 28 progress thereof, but no such partial payment shall be deemed final
 29 acceptance of the work nor a waiver of any defect therein.

[38 G. A., ch. 237, § 13.]

**SEC. 2922. Board of apportionment—report—notice and hear-
 ing—fees of appraisers.**

1 A board of apportionment of three resident freeholders of the
 2 county shall be appointed by the board of supervisors to apportion all
 3 special benefits to real estate within each district, but the same board
 4 of apportionment may act for more than one district. No person
 5 shall serve on such board if he lives or owns real estate within the
 6 district for which he is to act.

7 Whenever the total expense of such improvement within said dis-
 8 trict has been approximately determined, said board of apportionment
 9 shall, with all reasonable dispatch, personally inspect and classify in
 10 some uniform manner, and under some intelligent description, and in a
 11 graduated scale of benefits, all real estate within said districts. Said
 12 classification, when finally established, shall remain as a basis for all
 13 future assessments to cover deficiencies, if any, unless the board of
 14 supervisors, for good cause, shall authorize a revision thereof.

15 Said board of apportionment shall, among other relevant and
 16 material matters, if any, give due consideration to the fair market
 17 value per acre of each of the different tracts of real estate, to their
 18 relative location and productivity, and to their relative proximity and
 19 accessibility to the said improvement.

20 They shall, in writing, and to the different described tracts of
 21 real estate within said district, make an approximately equitable
 22 apportionment of twenty-five per cent of the total expense of said
 23 improvement.

24 In making said apportionment, real estate owned by the state or
 25 any county shall be treated as other real estate, but no other publicly
 26 owned real estate shall be included, and in apportioning benefits to real
 27 estate owned by the county or state no consideration shall be given to
 28 the buildings thereon.

29 Said apportionment report shall specify each tract of real estate
 30 by some intelligent description, the amount apportioned thereto, and
 31 the ownership thereof, as the same appears on the transfer books in
 32 the auditor's office, and shall be filed with the county auditor. Said
 33 apportionment shall carry the presumption, in the absence of a con-
 34 trary showing, that the same is fair, just, equitable, and in propor-
 35 tion to benefits and not in excess thereof.

36 Upon receipt of said apportionment, the county auditor shall fix
 37 a day for hearing before the board of supervisors, and cause notice to
 38 be served upon each person whose name appears in said apportion-

39 ment report, or in any recommendation accompanying the same, as
40 owner, and also upon the person or persons in actual occupancy of any
41 such real estate, which notice shall state the amount of special assess-
42 ments apportioned to each tract, the day set for hearing before the
43 board of supervisors, that at said hearing any apportionment may
44 be increased without further notice, that (if such be the case) the
45 board of apportionment has recommended that specified additional
46 tracts of real estate should be included within said district, and that
47 specified sums should be apportioned thereto to defray the cost of
48 said improvement, and that all objections to said report, or any part
49 thereof, by reason of any irregularity in prior proceedings, or by rea-
50 son of any irregularity, illegality, or inequality in making such appor-
51 tionment, must be specifically made in writing and filed with the
52 county auditor on or before noon of the day set for such hearing, and
53 that a failure to so make and file such objections will be deemed a con-
54 clusive waiver of all such objections.

55 The county auditor shall cause such notice to be published in at
56 least one of the official newspapers of the county once each week for
57 two consecutive weeks, the last of which publications shall be not less
58 than five days prior to the day set for said hearing. Proof of such
59 service shall be made by affidavit of the publisher and be filed with
60 the county auditor.

61 Omission to serve any party with notice herein provided, shall
62 work no loss of jurisdiction on the part of the board over such pro-
63 ceeding, and such omission shall only affect the persons upon whom
64 service has not been had, and if, before or after the board has entered
65 its final order in apportionment proceedings, it be discovered that
66 service of said notice has not been had on any necessary person as
67 herein provided, the board shall fix a time for hearing as to such
68 omitted parties and shall cause such service to be then made upon
69 them, either by publication as in this section provided or by per-
70 sonal service in the time and manner required for service of original
71 notices in the district court, and after such hearing shall proceed as to
72 such person as though such service had been originally complete.

73 The appearance of any interested party, either in writing or per-
74 sonally, or by authorized agent, either before the board of supervisors
75 or before the state highway commission at any stage of a pending pro-
76 ceeding for the hard surfacing of the highways of a district, shall be
77 deemed a full appearance. Only interested parties shall have the
78 right to appear before the board of supervisors in proceedings pro-
79 vided for in this chapter, and all persons so appearing shall be required
80 to state for whom they appear, and the clerk of the board shall make
81 definite entry accordingly, in the minutes of the board.

82 The state highway commission shall prescribe standard forms
83 for apportionment reports and notice of hearings thereon.

84 Each member of the board of apportionment shall be paid in full
85 for all services, at the rate of six dollars per day of actual service,
86 and ten cents per mile for each mile necessarily traveled in the per-
87 formance of his duties, and bills therefor, duly sworn to and item-
88 ized, shall be returned to the board of supervisors with the report of
89 the apportioners.

[38 G. A., ch. 237, § 14.]

SEC. 2923. Report in re omitted lands.

1 Should the board of apportionment be satisfied from its investi-
2 gation, that certain tracts of real estate have been omitted from said
3 district, and that such omitted tracts ought to bear an equitable por-
4 tion of the expense of such improvement, and are, as to any part
5 thereof, within four hundred eighty rods of said improvement, and
6 not embraced within any other primary road district, they shall pro-
7 ceed in the following manner, to wit:

8 First, they shall make and return their apportionment report
9 to the board of supervisors, on the presumption that no real estate will
10 be ultimately assessed, except the real estate which is embraced within
11 the district as then constituted and established.

12 Second, they shall accompany their apportionment report with a
13 definite list of the heretofore mentioned tracts of real estate, which
14 ought, in their judgment, to be within said district, but which have
15 been omitted therefrom, and shall definitely state the amount which,
16 in their judgment, each such omitted and described tract ought to
17 equitably bear toward the cost of the improvement. The board of
18 supervisors on the final hearing of said apportionment report, shall
19 pass on said recommendation, and may wholly reject or wholly
20 approve the same, or may reject in part and approve in part, or may
21 approve wholly or in part, with modification. If the recommendation
22 be approved and adopted in any part, the board shall enter an order
23 changing the boundaries of the district accordingly, and notify the
24 state highway commission of said change, and shall adjust the final
25 apportionment in accordance therewith.

[38 G. A., ch. 237, § 15.]

SEC. 2924. Hearing on report—levy of assessments—payment.

1 The final hearing on said apportionment report may be adjourned
2 from time to time without loss of jurisdiction on the part of the
3 board. On such final hearing the board shall hear and determine all
4 objections filed, and may increase, diminish, annul or affirm the ap-
5 portionment made in said report, or any part thereof, as may appear
6 to the board to be just and equitable.

7 On the final determination, the board shall levy such apportion-
8 ment and all installments thereof upon the real estate within said
9 district, as finally established, and said assessment and all install-
10 ments thereof shall be then due and payable, and bear interest at six
11 per cent per annum from said date; provided that if any owner, other
12 than the state or county, of any of said tracts of land shall, within
13 twenty days from the date of said assessment agree, in writing filed
14 in the office of the county auditor, that in consideration of his having
15 the right to pay his assessment in installments, he will not make any
16 objection of illegality or irregularity as to said assessment upon his
17 said real estate, and will pay the same with six per cent interest
18 thereon; then and in that case, said assessment shall be payable as
19 follows: In ten equal installments, the first of which, with interest
20 on the whole assessment from the date of levy, shall mature and be
21 payable on the date of such agreement, and the other installments,
22 with interest on the whole amount unpaid, annually thereafter, at the
23 same time and in the same manner as the March semiannual pay-
24 ment of ordinary taxes. Where no such agreement is executed, then
25 the whole of such special assessment so levied shall mature at one

26 time and be due and payable with interest from the date of levy, and
 27 shall be collected at the next succeeding March semiannual payment
 28 of ordinary taxes.

29 All such taxes shall become delinquent on the first day of March
 30 next after their maturity, shall bear the same interest, the same
 31 penalties and be attended with the same rights and remedies for col-
 32 lection, as ordinary taxes.

33 An owner of land who has availed himself of said ten-year option
 34 may at any time discharge his assessment by paying the balance then
 35 due on all unpaid installments, with interest on the entire amount for
 36 thirty days in advance.

37 Assessments against lands owned by the state or county shall be
 38 due and payable from the date of levy by the board of supervisors, or
 39 in the case of any appeal, from the date of final confirmation of the
 40 levy by the court.

41 In case of assessment on lands owned by the county, the same
 42 shall be paid from the county general fund. In case of assessments
 43 on lands owned by the state, the same shall be represented by a
 44 voucher, duly audited as heretofore provided, and the state auditor
 45 shall draw warrant therefor and make the same payable out of any
 46 funds in the state treasury not otherwise appropriated.

[38 G. A., ch. 237, § 16.]

SEC. 2925. Reassessments to meet deficit.

1 In case an assessment as originally made, should later be found
 2 to be insufficient to pay one-fourth of the total cost of the improve-
 3 ment, an additional assessment may be made in the same relative
 4 ratio as the original assessment, to meet the deficiency. In case an
 5 assessment appears to be invalid or, in the judgment of the board,
 6 seriously defective, the board of supervisors may proceed to the
 7 making of a new assessment as though no assessment had ever been
 8 made.

[38 G. A., ch. 237, § 17.]

SEC. 2926. Limitations on assessments—deficits.

1 Special benefit assessments shall be levied for an amount which,
 2 in the aggregate, shall equal twenty-five per cent of the total cost
 3 of hard surfacing, and sums expended for drainage, grading, bridging
 4 and culverting shall not be computed as part of said cost, except that
 5 the cost of such draining and grading as is purely incidental to the
 6 construction of said hard surfacing may be included in the cost
 7 thereof.

8 No real estate, under any circumstances, though embraced within
 9 more than one road assessment district, shall be specially assessed for
 10 the original cost of hard surfacing in an amount exceeding, in the
 11 aggregate, four per cent of the fair market value thereof. Any defi-
 12 ciency in the said twenty-five per cent of the total cost, occurring by
 13 reason of said four per cent limitation, shall be paid from the county's
 14 allotment of the primary road fund.

[38 G. A., ch. 237, § 18.]

SEC. 2927. Appeals—power of court—duty of clerk.

1 Any owner of land may appeal to the district court from the
 2 order of the board of supervisors in levying the assessment against

3 his real estate, by filing with the county auditor within fifteen days
 4 from the date of such levy, a bond conditioned to pay all costs in case
 5 the appeal is not sustained, and a written notice of appeal wherein he
 6 shall, with particularity, point out the specific objection which he
 7 desires to lodge against such levy. The appearance term shall be the
 8 trial term, and said appeal shall have precedence over all other busi-
 9 ness of the term except criminal matters. The appeal shall be heard
 10 as in equity, and the court may raise or lower the assessment in ques-
 11 tion and make an equitable assessment in the judgment of the court.
 12 The clerk of the district court shall, upon the entry of the final order
 13 of the court, certify such final order to the county auditor, and the
 14 board of supervisors shall at once so adjust the assessments as to
 15 comply with such final order.

[38 G. A., ch. 237, § 19.]

SEC. 2928. Appeal—procedure.

1 When an appeal is taken, the county auditor shall at once make a
 2 transcript of the notice of appeal and appeal bond, and transmit the
 3 same to the clerk of the district court. The appellant shall, on or
 4 before the first day of the first term of the court, after taking said
 5 appeal, docket said appeal and file a petition setting forth the order or
 6 decision of the board of supervisors appealed from and his specific
 7 objections thereto. A failure to comply with either of these require-
 8 ments shall be deemed a conclusive waiver of the appeal, and in such
 9 case, the court shall dismiss the same. Appellee need not file answer,
 10 but may do so.

[38 G. A., ch. 237, § 20.]

SEC. 2929. Certifying assessments and levy—lien.

1 When the board of supervisors has entered its final order as to
 2 the amounts of all special assessments on a given improvement, the
 3 county auditor shall at once certify a list of such assessments and a
 4 list of the real estate upon which each assessment has been levied,
 5 with the specific designation of the district embracing such real
 6 estate, to the county treasurer, who shall enter each assessment upon
 7 the tax books and continue such entry until such assessment is paid.

8 Each special assessment and all installments thereof shall be a
 9 lien upon the real estate upon which it is levied from the date of such
 10 certification by the county auditor, to the same extent and in the same
 11 manner as taxes levied for state and county purposes. Changes in the
 12 amount of any special assessment by reason of any ruling of the dis-
 13 trict court on appeals, shall be likewise certified and the county treas-
 14 urer shall make the proper corrections on his books.

[38 G. A., ch. 237, § 21.]

SEC. 2930. Account for each district.

1 Each assessment district shall be considered a unit and all funds
 2 received by the county treasurer for and on behalf of the hard surfac-
 3 ing of such unit shall be carried as a distinct and separate account
 4 and under the same specific name as that used by the board in estab-
 5 lishing such unit.

[38 G. A., ch. 237, § 22.]

SEC. 2931. Road certificates—requirements—payment—termination of interest.

1 In order to render immediately available that amount of the cost
 2 of an improvement which has been specially assessed, the board may
 3 issue road certificates in the name of the county in an aggregate
 4 amount not exceeding the then unpaid amount of the special assess-
 5 ment levied in said district. Each issue of certificates shall be under,
 6 and in accordance with, a duly adopted resolution of the board which
 7 shall be entered at large in the minutes of the proceedings of the
 8 board, and which shall recite: (1), the name or designation of the
 9 road district on account of which the certificates are issued; (2), that
 10 a stated amount (naming the amount) has been specially assessed
 11 against the lands within said district; (3), that a stated amount of said
 12 aggregate special assessment has not yet been paid (naming said
 13 unpaid amount); (4), that it is necessary to render said unpaid amount
 14 immediately available; (5), the number of road certificates authorized
 15 and the specific amount of each certificate; (6), the specific numbering
 16 or designation of each certificate; (7), the rate of interest which each
 17 certificate shall bear from date, to wit, not to exceed six per cent per
 18 annum; (8), the fact that said certificates are payable solely from
 19 the proceeds of the special assessments which have been levied on
 20 the lands within said district; (9), that each certificate shall be pay-
 21 able on or before the first day of January of the first year following
 22 the maturity of the last installment of said special assessments, and
 23 that interest thereon shall be paid annually; (10), the authorization
 24 to the chairman of the board, and to the county auditor respectively,
 25 to sign and countersign each of said certificates.

26 Upon the signing of each of said certificates by the chairman of
 27 the board, said certificates shall be delivered to the county auditor,
 28 who shall countersign the same, charge the county treasurer with the
 29 amount thereof, and deliver the same to such latter officer, who shall
 30 be responsible therefor on his bond. The treasurer may apply said
 31 certificates in payment of any warrants duly authorized and issued
 32 for hard surfacing the roads within said district, or he may sell the
 33 same for the best attainable price and for not less than par plus
 34 accrued interest and apply the proceeds in payment of such authorized
 35 warrants. Said certificates shall be retired in the order of the consecu-
 36 tive numbering thereof.

37 The county treasurer shall, on or in connection with the road
 38 account for said district, clearly enter the name and postoffice address
 39 of all persons to whom any of said certificates are issued, with a par-
 40 ticular designation of the certificates delivered to each person. Any
 41 subsequent holder may present his certificates to the county treasurer
 42 and cause his name and postoffice address to be entered in lieu of that
 43 of such former holder. Whenever the fund for such particular district
 44 has money sufficient to pay the first retirable certificate or certificates,
 45 the county treasurer shall, by mail, as shown by his records, promptly
 46 notify the holder of such certificate of such fact, and from and after
 47 the mailing of such letter all interest on such certificate shall cease.

[38 G. A., ch. 237, § 23.]

SEC. 2932. Anticipation of annual allotments—procedure.

1 The board of supervisors of any county which is proceeding with
 2 the drainage, grading and hard surfacing of its roads without the aid

3 of a bond issue, may, by the issuance of road certificates, anticipate the
4 annual allotment of the primary road fund for said county, for the
5 current and succeeding year.

6 Such certificates shall be authorized by a duly adopted resolution
7 which shall specify, (1) the allotment or allotments which are to be
8 anticipated, (2) the amount of certificates authorized, which amount
9 for any such anticipated year shall not exceed a sum equal to ninety
10 per cent of the county's allotment for the year preceding that in which
11 the authorization is made, (3) the denominations of each certificate,
12 (4) the rate of interest which each certificate shall bear, which shall
13 not exceed six per cent per annum, payable annually, and (5) the
14 authorization of the chairman of the board of supervisors and of the
15 county auditor, respectively, to sign and countersign such certificates.

16 Each certificate shall recite the allotment of which it is anticipa-
17 tory, and shall be payable on or before the last day of the year for
18 which such allotment has been anticipated, and shall recite that it is
19 payable solely from the future proceeds of the county's allotment of
20 the primary road fund.

21 The record of such certificate by the county auditor, the receipt,
22 record, handling and disbursement of the same by the county treas-
23 urer, and the latter's responsibility therefor, shall be the same as pro-
24 vided herein for road certificates issued for special assessments on
25 benefited property.

26 Such anticipated allotments shall stand pledged for the payment
27 of such certificates and shall be used for no other purpose. As soon
28 as said anticipated allotment is available to the county, the state high-
29 way commission shall notify the county treasurer of such fact, and the
30 county treasurer shall at once forward to the said commission the
31 canceled vouchers which were paid from the proceeds of the certifi-
32 cates issued in anticipation of such allotment, and thereupon the said
33 commission shall forward to the state auditor, in favor of the county
34 treasurer, a voucher for the amount of said canceled claims with
35 interest thereon sufficient to balance the interest on an equal amount
36 of certificates to the first day of the next succeeding month. The
37 auditor of state shall issue his warrant for said amount and the treas-
38 urer of state shall pay the same out of the primary road fund. The
39 county treasurer immediately upon receipt of said funds, shall notify
40 the holders of said certificates that said certificates will be met on
41 presentation, and from and after the mailing of said notice, interest
42 on said certificates shall cease. Said funds so received shall be used
43 solely for the purpose of retiring said certificates. If, for any reason,
44 the amount realized from an anticipated allotment be insufficient to
45 meet the legally issued certificates, the deficiency shall be met from
46 the county's first accruing allotment thereafter.

[38 G. A., ch. 237, § 24.]

**SEC. 2933. Election in re bonds—notice—form of proposition—
canvass—procedure to test legality.**

1 If any county desires to hasten the drainage and grading or the
2 hard surfacing of the primary roads of its county at a more rapid
3 rate than would be accomplished by merely employing each year its
4 allotted portion of the primary road fund for said year, it may pro-
5 ceed as follows: The board may submit or upon petition of a number
6 of the qualified voters of the county equal to twenty per cent of the
7 total vote cast in said county at the last preceding general election,

8 presented to the board in writing so to do, must submit to the voters
9 of the county at a general election, or at a special election called by
10 the board for such purpose, the question of issuing bonds for the pur-
11 pose of raising funds to meet the cost of such work, and to provide
12 for the retirement of such bonds and interest thereon.

13 Notice of such election shall be given by publication once each
14 week for two successive weeks in all the official newspapers of the
15 county, stating the time when such election will be held, and substan-
16 tially the proposition that will be submitted; the last publication to
17 be at least five days prior to the day such election is to be held.

18 Special elections shall be conducted in the same manner as gener-
19 al elections are conducted. Said question shall be set forth on the
20 ballots substantially as follows: "Shall the board of supervisors be
21 authorized to issue bonds from year to year, in the aggregate amount
22 not exceeding dollars, for the purpose of providing the
23 funds for hard surfacing the primary roads of the county, and to
24 levy a tax on all the property in the county from year to year not
25 exceeding mills in any one year, for the payment of the
26 principal and interest of said bonds, provided, however, that the annual
27 allotments to the county of the primary road fund shall be used to
28 retire said bonds as they mature, and only such portion of said tax
29 shall be levied from year to year as may be necessary (1) to pay the
30 interest annually, and (2) to meet any deficiency, if any, between the
31 amount of the principal of the bonds and the said allotments from the
32 primary road fund, together with assessments on benefited property
33 provided by law." Immediately to the right of said proposition shall
34 appear two squares of appropriate size, one above the other. Imme-
35 diately after the first square shall appear the word "yes". Imme-
36 diately after the other square shall appear the word "no". The voter
37 shall indicate his vote by a cross in the appropriate square.

38 The returns of said elections shall be canvassed by the board, and
39 its findings shall be entered at large in the minutes of its proceedings.
40 No proceedings to test or review the legality or correctness of said
41 election shall be maintainable unless instituted within thirty days
42 after the findings of the board have been entered upon the record.
43 The fact of each authorization of bonds by a county shall be at once
44 certified by the county auditor to the state highway commission, with
45 such data relative thereto as the commission may demand.

[38 G. A., ch. 237, § 25.]

SEC. 2934. Bonds—form—denomination—interest—payment.

1 If a majority of the votes be in favor of such issue of bonds and
2 tax levy, the board shall from time to time, as necessary to meet the
3 construction cost and expenses incidental thereto, not provided for by
4 funds immediately available from the primary road fund, or from pro-
5 ceeds of special benefit assessments heretofore provided for, issue
6 serial bonds in denominations of five hundred dollars or one thousand
7 dollars each, and at a rate of interest, payable annually, not exceeding
8 five per cent per annum. Bonds and annual interest thereon shall
9 mature on the first day of May. Each bond shall provide that the
10 same shall be payable at the option of the county, on any interest pay-
11 ment date on or after five years from the date of the bond. No bonds
12 shall be sold for less than par value plus accrued interest. No bonds
13 shall be issued with maturity date postponed more than fifteen years.

[38 G. A., ch. 237, § 26.]

SEC. 2935. Bond levy.

1 If a majority of the voters be in favor of such bond issue and tax
 2 levy, the board of supervisors shall, each year thereafter during the
 3 life of the bonds, levy on all the property of the county such part
 4 of such authorized tax as will clearly meet (1) the matured or matur-
 5 ing interest for the ensuing year on all such outstanding bonds, and
 6 (2) any amount of maturing principal of bonds, provided, however,
 7 that only so much of said tax shall be levied in any year for principal
 8 of said bonds, if any, as can not be met (a) by the county's allotment
 9 of the primary road fund available for such ensuing year, and (b) by
 10 the proceeds of special assessments on benefited property.

[38 G. A., ch. 237, § 27.]

SEC. 2936. Bonds—issuance—sale—retirement—terminating interest—exemption from taxation.

1 All bonds issued under the provisions of this chapter shall be
 2 issued in serial form. Each issue shall be authorized by a duly adopted
 3 resolution of the board, which resolution shall be entered at large in
 4 the minutes of the board. Such resolution shall clearly specify the
 5 number of bonds authorized, the amount of each bond, the number or
 6 designation of each bond, the rate of interest which each bond shall
 7 bear from date, which interest shall not exceed five per cent per
 8 annum, payable annually, the date of maturity of each bond, and the
 9 authorization to the chairman of the board to sign, and to the county
 10 auditor to countersign, the same. When signed and countersigned,
 11 the county auditor shall charge the county treasurer with the amount
 12 of same and deliver the same to the county treasurer, who shall be
 13 responsible therefor on his bond.

14 The county treasurer shall, when so directed by the board, apply
 15 any part or all of said bonds in payment of any warrants duly
 16 authorized and issued for the particular purpose for which such bonds
 17 are issued, provided the same are applied, for at least par of such
 18 bonds plus all accrued interest, or the county treasurer shall, when so
 19 directed by the board, advertise and sell any part or all of said bonds
 20 for the best attainable price, and for not less than par plus all accrued
 21 interest, and apply the proceeds wholly for a like purpose. Said adver-
 22 tisement shall be inserted once a week for at least two weeks in one
 23 official county paper in the county, and for a like period in at least one
 24 newspaper of general circulation throughout the state, and may
 25 include one or more periodicals devoted to the interest of investors.

26 Bonds of each series shall be retired in the order of the issuance
 27 of each series. The county treasurer shall, in disposing of said bonds,
 28 keep an accurate record of the name and postoffice address of all
 29 persons to whom any of said bonds are issued, with a particular
 30 designation and description of the bonds delivered to each person.
 31 Any subsequent holder of any of such bonds may present the same
 32 to the county treasurer and cause his name and postoffice address to
 33 be entered in lieu of such former holder. Whenever the fund from
 34 which such bonds are payable is sufficient to pay the legally retireable
 35 series of any issue of bonds, the county treasurer shall, by mail, as
 36 shown by his records, promptly notify the record holder thereof of
 37 such fact, and from and after the expiration of twenty days from the
 38 mailing of such notice, all interest on such bonds shall cease. If bonds
 39 are presented and paid prior to the expiration of such time, interest

40 shall be computed only to the time of such presentation and payment.
 41 Bonds, and road certificates (whether issued in anticipation of special
 42 assessments or in anticipation of annual allotments of the primary
 43 road fund), shall not be taxed.

[38 G. A., ch. 237, § 28.]

SEC. 2937. Auditor to certify authorization and issuance of bonds.

1 The county auditor shall certify to the state highway commission
 2 a correct copy of each resolution which authorizes the issuance of
 3 bonds or road certificates which are anticipatory either of special
 4 assessments or annual allotments, and from time to time a like certifi-
 5 cate as to the actual issuance of bonds or road certificates, under such
 6 resolution, together with such data relative thereto as the commis-
 7 sion may demand.

[38 G. A., ch. 237, § 29.]

SEC. 2938. Retirement of immature bonds.

1 Whenever available funds created under this chapter are not
 2 needed for pending or contemplated improvements, the board of super-
 3 visors may, with the consent of any holder of immaturred bonds, retire
 4 the same by purchase at a price not exceeding par and accrued interest.

[38 G. A., ch. 237, § 30.]

SEC. 2939. Validation of tentative contracts—election.

1 If any county desires to proceed with the hard surfacing of the
 2 primary roads of said county at a more rapid rate than would be
 3 accomplished by merely employing its allotted portion of the primary
 4 road fund as it becomes available from year to year, it may in lieu
 5 of the procedure provided in section twenty-nine hundred thirty-three
 6 proceed as follows: The board of supervisors may enter into one or
 7 more tentative contracts for the hard surfacing of any designated
 8 number of divisions of one or more of such roads of its county. Such
 9 tentative contract or contracts shall be entered into in the same man-
 10 ner and under the same formality and procedure heretofore prescribed
 11 for the execution of contracts. Such tentative contracts shall not be
 12 effective as contracts until validated by the voters of the county as
 13 herein provided, and shall so recite.

14 Upon the execution of such tentative contract or contracts, the
 15 board of supervisors may submit to the voters of the county, at a
 16 general election or at a special election called by the board for such
 17 purpose, the question of validating said contract or contracts and of
 18 issuing bonds and of levying a tax to meet the cost of such work.
 19 Special elections shall be conducted in the same manner as general
 20 elections are conducted.

21 Notice of such election shall be given by publication once each
 22 week for two successive weeks in all the official newspapers of the
 23 county, stating the time when such election will be held, and sub-
 24 stantially the proposition that will be submitted; the last publica-
 25 tion to be at least five days prior to the day such election is to be held.

26 If any such contract is to be submitted for validation, the said
 27 questions shall be set forth on the ballots substantially as follows:
 28 "Shall the following contract be validated, to wit: the contract entered
 29 into by the board of supervisors on the day of"

30 and approved by the state highway commission on the day
 31 of between county and
 32 (specifying the name of the contractor) for the hard surfacing of
 33 road with material, and shall the
 34 board of supervisors be authorized to issue bonds of this county in an
 35 amount not exceeding dollars for the purpose of
 36 providing the funds with which to pay for such hard surfacing, and
 37 shall the board of supervisors be authorized to levy a tax from year to
 38 year on all the property in the county in an amount not exceeding
 39 mills in any one year for the payment of the principal
 40 and interest of said bonds, provided, however, that the annual allot-
 41 ments to the county of the primary road fund shall be used to retire
 42 the bonds as they mature, and only such portion of said tax shall be
 43 levied, if any, as is necessary to pay the interest annually and to meet
 44 any deficiency between the maturing principal of such bonds and the
 45 allotments aforesaid?"

46 Immediately to the right of said proposition shall appear two
 47 squares, one above the other. Immediately after the first square shall
 48 appear the word "yes". Immediately after the other square shall
 49 appear the word "no". The voter shall indicate his vote by a cross
 50 in the appropriate square. If more than one contract is to be sub-
 51 mitted at said election, for validation and for authorization to issue
 52 bonds and to make tax levy, the proposition pertaining to each con-
 53 tract shall be separately stated on the same ballot and each proposi-
 54 tion shall be complete in itself, but the voting thereon shall be
 55 collectively and not separately.

[38 G. A., ch. 237, § 31.]

SEC. 2940. Result of election—procedure to test legality.

1 The returns of such election shall be canvassed by the board of
 2 supervisors, and its findings shall be entered at large in the minutes
 3 of the proceedings. If more than one contract has been submitted,
 4 and if a majority of the votes be against the validation of such tenta-
 5 tive contracts then all the said contracts submitted at said election
 6 shall be of no further force and effect. If the majority of the votes
 7 be in favor of such tentative contract or contracts, then the same shall
 8 be deemed a contract in fact. Actions to test the legality of such elec-
 9 tion or of any proceedings relating thereto, shall be instituted within
 10 thirty days after the findings of the board as to such election have
 11 been entered of record, and not afterwards.

[38 G. A., ch. 237, § 32.]

SEC. 2941. Bonds in re validated contracts.

1 If said contract or contracts be validated, the board of super-
 2 visors shall from time to time, and as necessary to meet the construc-
 3 tion cost and expense incidental thereto, issue serial bonds in such
 4 denominations and amounts as will, in its judgment, afford the most
 5 advantageous sale, and at a rate of interest, payable annually, not
 6 exceeding five per cent per annum, provided that said bonds shall only
 7 be issued for such part of such costs and expenses which can not be
 8 met by the funds immediately available from the primary road fund
 9 and from the proceeds of special assessments herein provided for. No
 10 bonds shall be sold for less than par value plus all accrued interest

11 thereon. No bonds shall be issued with maturity date postponed more
12 than fifteen years.

[38 G. A., ch. 237, § 33.]

SEC. 2942. Bond levy in re validated contracts.

1 If said contract or contracts be validated, the board of supervisors
2 shall each year thereafter, and during the life of the bonds, levy
3 such tax within the limits authorized at said election, on all the prop-
4 erty in the county as will fully meet, first, all matured or maturing
5 interest for the ensuing year on all outstanding bonds, and second, any
6 amount of matured or maturing principal of bonds for the ensuing
7 year, if any, which can not be paid from the county's estimated allot-
8 ment of the primary road fund for such year and from proceeds of
9 special assessments, and any balance remaining in said fund as pro-
10 ceeds of said levy when all bonds and interest thereon shall have been
11 paid, shall be transferred to the county road cash fund of such county.

[38 G. A., ch. 237, § 34.]

SEC. 2943. Improvements within cities and towns.

1 The board of supervisors shall not drain, grade or hard surface
2 any highway within the limits of cities. Draining and grading on the
3 primary system within towns shall be done by said town at its own
4 expense. The board of supervisors is hereby given plenary jurisdic-
5 tion to hard surface, within any town, any road or street which is a
6 continuation of the primary road system of the county, providing that
7 no hard surfacing constructed hereunder in any town shall exceed
8 eighteen feet in width. After the completion of such improvement
9 the same shall be maintained by the town and such town shall rest
10 under the same obligation of care as to such improvement as is now
11 provided by law for roads and streets generally. Any such town,
12 through its council, and each county of the state, through its board
13 of supervisors, are hereby authorized to enter into written agree-
14 ments, subject to the approval of the state highway commission, to
15 determine the location of such improvements within such towns. In
16 case of disagreement, the matter shall be referred to the state high-
17 way commission, whose decision shall be final.

[38 G. A., ch. 237, § 35.]

SEC. 2944. Improvements of county line road—procedure.

1 Boards of supervisors of adjoining counties may jointly agree
2 on a district for the hard surfacing of roads in the following cases:
3 1. When a primary road substantially parallels a county bound-
4 ary line and is not more than one mile from such boundary line, or
5 2. When a primary road approaches a county boundary line at
6 such an angle that the hard surfacing hereunder of such road will
7 reasonably necessitate a district with a substantial part thereof in
8 different counties, or
9 3. When a primary road constitutes a common boundary line
10 between different counties.
11 In case of common boundary line roads, said boards may also
12 jointly agree as to which county, through its board of supervisors,
13 shall construct said improvement. Such agreements shall be subject
14 to the approval of the state highway commission. If such agreements
15 are entered into and so approved, the county in which the paralleling

16 or angling road is situated shall construct the said improvement as
17 herein provided. If such agreements are entered into relative to a
18 common boundary line road, said improvement shall be constructed
19 by the county agreed on. Should said boards be unable to agree on
20 the district for the improvement of a paralleling or angling road, or
21 should the boards be unable to agree on the district for the improve-
22 ment of a common boundary line road and also as to which board
23 shall construct the improvement, either board may apply to the state
24 highway commission for a decision in the matter. The said commission
25 shall, by proper order, fix the limits of the district. It shall also de-
26 termine which county shall construct the hard surfacing on the com-
27 mon boundary line road. Said order shall be final. Such order shall
28 be certified to each board, and the board of the county to which con-
29 struction has been assigned shall enter such order at large in the min-
30 utes of its proceedings, and proceed with the construction of such
31 hard surfacing in the same manner as though the district and the real
32 estate therein were wholly within their county, except that the board
33 of apportionment shall file its report with the board of supervisors of
34 all counties in which any of such real estate is located.

35 The county auditor of the county constructing the hard surfacing
36 shall fix a time for a hearing on said report, and shall cause notice
37 thereof to be given as in cases where the district and the real estate
38 therein are wholly within one county, except that said notice shall
39 be published in one of the official newspapers of each of the counties
40 in which any of the real estate is situated.

41 All subsequent proceedings including objections, final confirma-
42 tion and appeals shall proceed in the same manner as though the real
43 estate therein were wholly within the constructing county, except that
44 the county auditor of the county constructing the improvement shall,
45 after the final apportionment has been determined and levied, certify
46 a list of the real estate lying in the nonconstructing county or coun-
47 ties and the amount levied thereon, to the county auditor and treasurer
48 of such nonconstructing county. Such assessment and levy, when so
49 certified, shall have the same force and effect as though the same had
50 been duly and legally made by the board of supervisors of such non-
51 constructing county, and the board of supervisors, auditor and treas-
52 urer of such nonconstructing county shall henceforth proceed with
53 the collection of said levy on such real estate in their county as though
54 such levy had arisen out of an improvement proceeding wholly within
55 their county, and when the amount of such levy has been collected,
56 either by cash payments by the property owner, or by the sale of cer-
57 tificates, said county treasurer shall hold the same as a reimbursement
58 to said county on its allotments from the primary road fund.

59 As soon as the final apportionment and levy have been made, the
60 board of supervisors of the constructing county shall, through its
61 county auditor, certify to the state highway commission the total
62 amount of the levies on the real estate in the nonconstructing coun-
63 ties, and the state highway commission shall credit the constructing
64 county and charge the nonconstructing county with the amount of
65 such certificate.

66 If the improvement is for hard surfacing a county boundary line
67 road, that portion of the total cost thereof not specially assessable, to
68 wit, seventy-five per cent, shall be taken equally from each county's
69 apportionment of the primary road fund. If the improvement is for
70 hard surfacing a paralleling or angling road, said seventy-five per

71 cent of the total cost shall be taken wholly from the apportionment of
 72 the county wherein the paralleling or angling road is located. Any
 73 differences, not herein specifically provided for, arising between dif-
 74 ferent counties, relative to the improvement of common boundary
 75 line roads, shall be referred to the state highway commission, and its
 76 decision shall be final.

[38 G. A., ch. 237, § 36.]

SEC. 2945. Improvements of city boundary line road—procedure.

1 Whenever any public highway that is a part of the primary road
 2 system is located along the corporate line of any city, it may be im-
 3 proved by hard surfacing by the board of supervisors as part of the
 4 primary system under this chapter. In such case, one-half the cost of
 5 such hard surfacing along said corporate line shall be paid by such
 6 city, and the board of supervisors of the county and the city council
 7 of such city are hereby authorized to agree in writing for the payment
 8 by the city of one-half the cost of such improvement, and in case they
 9 can not agree upon the amount to be paid by the city, and date when
 10 payment is to be made, the matter shall be referred to the state high-
 11 way commission, whose decision shall be final. Said city may pay
 12 said amount from its general fund, or it may proceed under sections
 13 thirty-nine hundred twelve to thirty-nine hundred twenty-two, in-
 14 clusive, for the assessment and collection of such cost, or it may pay
 15 in the first instance from such general fund and reimburse said
 16 fund thereafter from proceeds realized from such assessment pro-
 17 ceeding. The city in such case, for prompt realization of funds, shall
 18 have the right to issue road certificates in anticipation of taxes and
 19 assessments to be realized from such assessment proceeding under
 20 said sections.

[38 G. A., ch. 237, § 37.]

SEC. 2946. Maintenance of primary roads—procedure in case of default.

1 Primary roads outside of towns shall be maintained by the board
 2 of supervisors under the patrol system provided by chapter eight
 3 hereof, and when so maintained under the said patrol system to the
 4 satisfaction of the state highway commission, the county's allotment
 5 of the primary road fund may be drawn on for such maintenance.

6 Primary roads, after the hard surfacing of the same, shall be
 7 maintained under said patrol system wholly out of the county's allot-
 8 ment of the primary road fund. If any county fails to maintain any
 9 of its hard surfaced roads to the satisfaction of the state highway
 10 commission, said commission shall have power to assume charge of
 11 such maintenance and pay therefor out of said county's allotment of
 12 the primary road fund. The amount of maintenance vouchers, when
 13 the work has been done by the said commission, shall be charged to the
 14 county's allotment account, and warrants for the amount of such
 15 vouchers shall be issued by the auditor of state on presentation of
 16 such vouchers, and paid by the treasurer of state as in other cases.

17 In case any town fails to do the draining and grading required to
 18 be done in such town in primary roads about to be improved here-
 19 under or fails to maintain, to the satisfaction of the state highway
 20 commission, any hard surfacing constructed hereunder in said town,
 21 the said commission shall have power to assume charge of such grad-
 22 ing, draining, or maintenance and pay for the same from the primary

23 fund belonging to said county, and, in such case, the cost thereof shall
 24 be certified by said commission to the county treasurer, who shall re-
 25 imburse the primary fund of the county by deducting the amount from
 26 the next succeeding apportionment of tax funds belonging to the gen-
 27 eral fund of said town.

[38 G. A., ch. 237, § 38.]

SEC. 2947. Additions to primary road system.

1 After the primary road system, as now constituted, or as it may
 2 hereafter be constituted by authorized modifications, is fully improved
 3 by hard surfacing or graveling as by this chapter provided, the state
 4 highway commission shall add such lateral or other additional roads
 5 to said system in any county as the board of supervisors may recom-
 6 mend, and after such addition the board may proceed with the im-
 7 provement of such added roads with hard surfacing or graveling un-
 8 der the terms of this chapter.

9 In the resolution providing for the submission to the voters of the
 10 question of a bond issue for development of the primary system as
 11 provided in section twenty-nine hundred thirty-three, the board may
 12 also outline or indicate any lateral roads, part of the secondary sys-
 13 tem, which it ultimately contemplates improving after the primary
 14 system has been finished, but such action shall not be deemed a ma-
 15 terial matter in any way affecting the validity of such bond issue for
 16 such primary roads, nor shall such action interfere in any way with
 17 the earlier improvement of such lateral roads under statutes relating
 18 to the improvement of roads in the secondary system.

[38 G. A., ch. 237, § 39.]

**SEC. 2948. Machinery for counties and highway commission—
 donations of machinery by federal government.**

1 The state highway commission, with the consent of the board of
 2 supervisors of any county, is authorized to purchase for and on be-
 3 half of any such county, road material or road machinery, after re-
 4 ceiving competitive bids, and to pay for the same out of such county's
 5 allotment of the primary road fund, and is directed to purchase, rent
 6 or lease any machinery or other articles necessary for the use and
 7 most economical operation of field engineering work, the testing of
 8 materials, the preparation of plans, and for allied purposes, in order
 9 to enable the commission to carry out the provisions of this chapter,
 10 and to pay for the same out of the state highway commission main-
 11 tenance fund.

12 Should the government of the United States provide for free dis-
 13 tribution among the states, of machinery or other equipment suitable
 14 for use in road improvement, the state highway commission is em-
 15 powered to receive and receipt for such machinery and equipment,
 16 and to take such action as will secure to the state the benefit of any
 17 such tenders by the federal authorities. Said commission is further
 18 authorized, in the event of such distribution to the states by the federal
 19 authorities, to make such apportionment of said machinery or other
 20 equipment among the counties of the state as in its judgment will best
 21 facilitate work in progress or contemplated by any county or coun-
 22 ties, but the title and right of possession of such property so received
 23 from the federal government shall at all times rest in the state high-
 24 way commission for the use and benefit of the state. The executive
 25 council is hereby authorized to pay the expense, if any, attending the

26 transportation of such machinery or other equipment to the state of
 27 Iowa, out of any funds in the state treasury not otherwise appro-
 28 priated.

[38 G. A., ch. 237, § 40.]

SEC. 2949. Penalty for violations.

1 Any member of the board of supervisors, or other county officer,
 2 who authorizes or issues, or permits to be issued, any certificate or
 3 bond in violation of the requirements herein specified, or who diverts
 4 any authorized certificate or bond, or the proceeds derived therefrom,
 5 or any part thereof, to any other purpose than the purpose herein
 6 specified, shall be deemed guilty of embezzlement and punished ac-
 7 cordingly.

[38 G. A., ch. 237, § 41.]

SEC. 2950. Federal aid engineering fund.

1 The federal aid engineering fund, created by chapter six of this
 2 title shall be continued, and the treasurer of state is hereby directed
 3 annually to transfer to such fund from the funds derived from year
 4 to year under the act regulatory of motor vehicles, an amount equal
 5 to the estimated cost of plans and specifications for the current year,
 6 as certified by the state highway commission. Said fund shall be used
 7 for engineering work in connection with federal aid road projects and
 8 paid out only on properly itemized vouchers approved by the state
 9 highway commission and audited by the state board of audit.

[38 G. A., ch. 237, § 42.]

SEC. 2951. Limitation on indebtedness.

1 The amount of bonds issued under this chapter by any county
 2 shall not, when added to all other indebtedness of the county, exceed
 3 in the aggregate three per cent on the actual value of the taxable
 4 property within such county, any other statute to the contrary not-
 5 withstanding—to be ascertained by the last state and county tax list
 6 previous to the incurring of such indebtedness.

[38 G. A., ch. 237, § 43.]

SEC. 2952. Donations.

1 The board of supervisors is empowered to accept on behalf of the
 2 county donations of property in aid of highway construction, and from
 3 and after such acceptance the title to such property shall vest in the
 4 county for the sole purpose for which donated, and the obligation on
 5 the part of the officials charged with the possession and disbursement
 6 thereof to properly account therefor shall be the same as attends any
 7 other property of the county.

[38 G. A., ch. 237, § 44.]

SEC. 2953. State highway maintenance fund—audit of expenditures.

1 There is hereby created a fund for the maintenance of the state
 2 highway commission consisting of two and one-half per cent of all
 3 moneys paid into the state treasury under the act regulatory of licenses
 4 on motor vehicles. Said fund shall be used for no other purpose than
 5 as a maintenance fund for said state highway commission, and shall
 6 be drawn out only on warrants drawn by the auditor of state on item-

7 ized vouchers approved by the state highway commission. The ex-
 8 penditures of said commission shall be audited by the executive coun-
 9 cil, and a full and complete report of all said expenditures shall be
 10 published in the annual report under the act creating the state high-
 11 way commission. At the end of each biennial period, the unexpended
 12 funds remaining in the highway maintenance fund for said biennial
 13 period shall be placed to the credit of the primary road fund.

[38 G. A., ch. 237, § 45.]

SEC. 2954. Secondary road system defined.

1 The secondary road system shall embrace the following classes of
 2 roads: (1) County roads which now exist of record, or which may
 3 hereafter exist of record by additions from the township roads, ex-
 4 clusive of all roads of the primary road system, and (2) township
 5 roads, which shall embrace all other roads not included within cities
 6 and towns. The county road cash fund, under the jurisdiction of the
 7 board of supervisors, and the township road funds, under the juris-
 8 diction of the township trustees, are hereby wholly dedicated and
 9 pledged after July one, nineteen hundred twenty, to the county and
 10 township roads respectively as provided by law.

[38 G. A., ch. 237, § 46.]

**SEC. 2955. Assessment districts embracing secondary roads—
 survey and report—notice—hearing.**

1 In order to provide for the graveling, oiling, or other suitable
 2 surfacing of roads of the secondary system, the board of supervisors
 3 shall have power, on petition therefor, to establish road assessment
 4 districts, but such districts need not necessarily follow the zone limits
 5 provided herein for the improvements of primary roads. Said peti-
 6 tion shall intelligently describe the lands within said proposed dis-
 7 trict, and the road or roads therein which the petitioners desire im-
 8 proved, and the general nature of the improvement proposed on each
 9 of said roads. Improvements may be proposed in the alternative.
 10 Said petitions shall be signed by twenty per cent of the owners of the
 11 lands within the proposed district who are residents of the county.

12 Said petition shall be filed with the county auditor, whereupon
 13 the board of supervisors shall cause the county engineer to person-
 14 ally examine all the roads within such proposed district and to deter-
 15 mine the relation of such roads to the lands within such proposed
 16 district, and the relation of such roads to any of the roads of the pri-
 17 mary road system, and the necessity, if any, for further grading or
 18 draining of such roads.

19 The engineer shall embody his finding in a report to said board.
 20 He may recommend the establishment of the district as requested, or
 21 with such modifications as, in his judgment, are advisable, including
 22 a recommendation as to an increase or decrease of the size of the dis-
 23 trict as proposed by the petitioners. The engineer's report shall in-
 24 clude a plat showing, in accordance with his recommendations, the
 25 highways to be improved and benefited.

26 Upon the filing of said report by the engineer, the board of super-
 27 visors shall fix a time for hearing thereon, and shall cause the county
 28 auditor to serve notice by publication as hereinafter provided, of the
 29 pendency of said petition on all owners of said land lying within said
 30 proposed district, as recommended by the engineer.

31 Said notice shall contain the time and place of hearing on said
 32 petition, an intelligent description of all of the lands lying within said
 33 district, and the ownership thereof, as shown by the transfer books
 34 in the auditor's office, and shall be published for two consecutive
 35 weeks in some newspaper published in the English language within
 36 the proposed district, if there be such newspaper, and if there be no
 37 such newspaper within such district, then the said notice shall be so
 38 published in some such newspaper in the county as near as practicable
 39 to said district. Proof of such publication shall be made by the pub-
 40 lisher by affidavit duly filed with the county auditor.

41 Hearings on said petition may be adjourned from time to time
 42 without loss of jurisdiction on the part of the board. On the final
 43 hearing, the board shall proceed to a determination of said matter.
 44 It may reject the proposal or it may approve the same and establish
 45 the district as petitioned for. It may modify the petition either by
 46 excluding lands therefrom or by adding lands thereto, or otherwise
 47 modify the same, or the board may withhold final order in such mat-
 48 ter until such roads, or any designated part thereof, are drained or
 49 graded to their satisfaction. No lack of definiteness, either in the
 50 petition or in the engineer's report, shall be deemed a jurisdictional
 51 defect, and the final order of the board of supervisors establishing
 52 the district shall be final. In establishing a district, the board of
 53 supervisors shall determine and enter of record the general nature of
 54 the improvement to be constructed on the different roads within the
 55 district, or may determine such improvements in the alternative and
 56 may determine on one class of improvement for some roads and a
 57 different class for other roads.

[38 G. A., ch. 237, § 47.]

SEC. 2956. Highway commission furnished copy of plat.

1 Upon the establishment of a district on said secondary road sys-
 2 tem, the board of supervisors shall file with the state highway com-
 3 mission a copy of the order establishing the district and a copy of the
 4 engineer's plat.

[38 G. A., ch. 237, § 48.]

SEC. 2957. Plans for secondary improvements—bids.

1 Upon the establishment of a district in such secondary road sys-
 2 tem, the county engineer shall prepare the plans for the improve-
 3 ments contemplated by the order of the board establishing the dis-
 4 trict, which plans shall be accompanied by the standard specifications
 5 of the state highway commission for the class of improvements con-
 6 templated. Upon the filing of said plans and specifications, and upon
 7 receiving the agreement of the township or townships to pay their
 8 portion of the improvement of township roads, if any, the board shall,
 9 in accordance with their order relative to the class or classes of im-
 10 provements, proceed to advertise for bids, and shall proceed as pro-
 11 vided in section twenty-nine hundred nineteen, provided that con-
 12 tracts involving less than five thousand dollars need not be approved
 13 by the state highway commission.

[38 G. A., ch. 237, § 49.]

SEC. 2958. Inspection of work.

1 It shall be the specific duty of the board of supervisors to see that
 2 all contracts on said secondary roads are faithfully executed. The

3 county engineer shall maintain competent inspection of the work dur-
 4 ing the progress thereof, and in the certification of bills and the issu-
 5 ance of warrants the engineer and the county auditor shall rest under
 6 the same responsibility as now attends such acts relative to road work,
 7 and tile, tiling, culvert and bridge construction.

[38 G. A., ch. 237, § 50.]

SEC. 2959. Payment for secondary improvements—maintenance.

1 The total cost of improving a county road in said secondary sys-
 2 tem within said district, by oiling, graveling or other suitable surfac-
 3 ing, shall be apportioned and paid in the proportion of seventy-five
 4 per cent from the county road cash fund and twenty-five per cent from
 5 assessments on benefited lands. The total cost of so improving a
 6 township road within said district shall be apportioned and paid in
 7 the proportion of twenty-five per cent from the county road cash fund,
 8 fifty per cent from the township road funds of the township or town-
 9 ships embracing said township road (according to their relative mile-
 10 age) and twenty-five per cent from the special assessments on bene-
 11 fited lands.

12 A county road, after it is so improved, shall be maintained by
 13 the board of supervisors from the county road cash fund. A town-
 14 ship road, after it is so improved, shall be maintained by the town-
 15 ship trustees from township funds, unless the improvement is of so
 16 substantial and permanent a nature, as that the board of supervisors
 17 shall by resolution add such road to the county road system, to be
 18 maintained as such.

[38 G. A., ch. 237, § 51.]

SEC. 2960. Advancing costs and reimbursement of funds.

1 The total cost of such improvements on said secondary roads
 2 shall, in the first instance be paid from the county road cash fund, or
 3 jointly from such fund and from the proceeds of all special assess-
 4 ments and road certificates issued against special assessments on lands
 5 within the district, or by direct application of such certificates to such
 6 cost.

7 In case of the improvement of a county road, the said county road
 8 cash fund shall be reimbursed for amounts advanced in excess of its
 9 legal contribution, from the proceeds of all assessments on benefited
 10 property, and from the proceeds of all road certificates which repre-
 11 sent such special assessments.

12 In case of the improvement of a township road, said fund shall
 13 be reimbursed to the extent of twenty-five per cent of the total cost
 14 of the improvements from said special assessments and road certifi-
 15 cates, and fifty per cent from the township road fund, or the township
 16 drag fund, or from the township drainage fund or from any or all of
 17 said funds. The trustees are authorized to transfer to the county
 18 from any or all of such township funds the amount sufficient to effect
 19 such reimbursement.

20 Should the trustees neglect to make such transfers, the county
 21 treasurer, on order from the board, shall withhold from such town-
 22 ship sufficient of its tax funds as will effect such reimbursement, and
 23 transfer such amount to the county road cash fund, or the board of
 24 supervisors may levy such direct tax against the property within said
 25 delinquent township as will effect such reimbursement.

26 If the district as finally established, embraces and contemplates
 27 the improvement of a township road, the board of supervisors shall
 28 proceed no farther as to such township road until the township which
 29 embraces such road shall agree in writing, signed by a majority of
 30 its trustees, to pay its portion, as herein required, of the total cost of
 31 said improvement. Said written agreement shall be deemed the finan-
 32 cial obligation of the township and not of the trustees individually.
 33 If such township road is on a township line, such agreement shall be
 34 executed by both townships, and one-half of that portion of the cost
 35 payable from township funds shall be borne by such township.

[38 G. A., ch. 237, § 52.]

**SEC. 2961. Special assessments for secondary road improve-
 ments.**

1 Special assessments shall be levied upon the lands within dis-
 2 tricts embracing secondary roads, in the aggregate amounts herein-
 3 before provided, and such amount shall be apportioned and levied
 4 within said district in the manner heretofore provided in case of im-
 5 provements within primary road districts, it being the intent of this
 6 section that the appointment of apportioners, the apportioning of
 7 benefits, the notice thereof and hearing thereon, and all procedure in
 8 connection therewith which leads to and culminates in the final col-
 9 lection and payment of such benefits, including the issuance of road
 10 certificates, shall be governed by the provisions of this chapter ap-
 11 plicable thereto, except that no additional lands shall be included
 12 within the district after same is established by the board of super-
 13 visors.

[38 G. A., ch. 237, § 53.]

SEC. 2962. Additional township levy.

1 The township trustees are hereby empowered to levy an addi-
 2 tional tax on all the taxable values in the township not exceeding two
 3 mills for use on township roads, said levy to be additional to all exist-
 4 ing township levies.

[38 G. A., ch. 237, § 55.]

SEC. 2963. State treasurer to credit primary fund with interest.

1 The state treasurer shall, quarterly, credit to the primary road
 2 fund, all sums accruing after January one, nineteen hundred twenty,
 3 to the state as interest on deposits of funds derived by the state from
 4 acts regulatory of motor vehicles, except interest on such part, if any,
 5 of said fund as may be retained in the state treasury as a maintenance
 6 fund for the administration of the motor vehicle department.

[38 G. A., ch. 237, § 58.]

CHAPTER 8.

ROAD PATROL.

SECTION 2964. County road patrolmen.

1 Boards of supervisors shall cause all of the highways in their
 2 jurisdiction to be patrolled as hereinafter provided, and to carry out
 3 the provisions of this chapter they are hereby empowered and re-

4 quired to appoint patrolmen for the county road system and to fix
5 their compensation, who shall be known as county road patrolmen
6 and who shall hold their office during the pleasure of the board so
7 appointing them.

[37 G. A., ch. 316, § 1.]

SEC. 2965. Duty of patrolmen.

1 The road patrolmen shall give their entire time to road work,
2 from the beginning of the road working season in the spring until its
3 close in the fall of the year and such additional time as the board of
4 supervisors may direct.

[37 G. A., ch. 316, § 2.]

SEC. 2966. Supervisors to assign work—duty of patrolmen.

1 Boards of supervisors shall assign, allot or parcel out to the
2 county patrolmen such sections of road or roads as they can patrol
3 and properly care for, and it shall be the duty of the county patrolmen
4 to go over all the roads in their respective sections at least once each
5 week, and said patrolmen shall make extra visits to such roads or
6 bridges as may be reported in need of attention.

[37 G. A., ch. 316, § 3.]

SEC. 2967. Dragging of roads—further duties.

1 It shall be the duty of the patrolmen herein provided, to drag or
2 cause to be dragged, after each rain and at such other times as may be
3 necessary, all the county roads that lie within their respective sections,
4 and to remove all trash, debris or other impediments from the entrance
5 to sluices, culverts and bridges and keep the same and their outlets
6 open and free from obstructions. They shall keep the side ditches
7 along the grade open and provide said side ditches with ample outlets.
8 They shall remove loose stones and other impediments from the beaten
9 track of the highway, fill depressions and keep the roads free from
10 ruts, water pockets and mudholes, and shall repair approaches to
11 bridges and culverts and keep the said approaches smooth and free
12 from bumps, and shall perform such other duties and comply with
13 such rules and regulations as may be provided by the board of super-
14 visors.

[37 G. A., ch. 316, § 4.]

SEC. 2968. Tools—equipment—bonds.

1 Boards of supervisors shall provide patrolmen with such tools
2 and equipment as are necessary to carry out the provisions of this
3 chapter and said patrolmen shall receipt to the board of supervisors
4 therefor. Said patrolmen shall give bonds for the faithful perform-
5 ance of their duties and for the care of tools and equipment in such
6 sum as the board of supervisors may direct, which bond shall be ap-
7 proved by the board.

[37 G. A., ch. 316, § 5.]

CHAPTER 9.

TOWNSHIP ROAD SYSTEM.

SECTION 2969. Township districts consolidated.

1 On the first day of February, nineteen hundred fourteen, all
 2 road districts within each civil township shall become consolidated
 3 under one township road district, and all township road funds belong-
 4 ing to said districts of said township shall at once become a general
 5 township road fund.

[S., '13, § 1527-s20.]

SEC. 2970. Powers and duties of trustees.

1 At the February meeting, the township trustees shall select a
 2 superintendent of dragging and employ a road superintendent. At
 3 the April meeting said trustees shall determine:

4 1. The rate of property tax to be levied for the succeeding year
 5 for the repair of the roads, culverts and bridges and for guideboards,
 6 plows, scrapers, road drags, tools and machinery adapted to the re-
 7 pair of the roads, culverts and bridges and for the destruction of
 8 noxious weeds in public highways and other public places and for the
 9 payment of any indebtedness previously incurred for road purposes,
 10 and levy the same, which shall not be more than four mills on a dollar
 11 on the amount of the township assessment for that year, which when
 12 collected, shall be expended under the direction and order of the town-
 13 ship trustees; and they may determine and certify to the board of
 14 supervisors a tax on the assessed property in the township of not ex-
 15 ceeding five mills on a dollar of such assessment, which shall be ap-
 16 plied, or so much thereof as may be necessary, in paying drainage
 17 taxes heretofore levied and still unpaid or for the payment of any
 18 drainage assessments that may be hereafter levied against the town-
 19 ship on account of benefits to highways under the provisions of sec-
 20 tion forty-eight hundred fifty-nine, and the balance of such levy or
 21 the whole thereof in case there be no such drainage taxes due from
 22 the township, may be applied in paying the expense of draining high-
 23 ways of the township, or in cooperating with those owning land in
 24 the township in securing the drainage of such highways; but in the
 25 event that the amount to be expended in any one place exceeds the
 26 sum of fifty dollars, the township shall not pay more than its just
 27 proportion of the benefits to be ascertained by a competent civil en-
 28 gineer and duly set forth in his report approving of such drainage,
 29 which report shall be filed with the township clerk before any money
 30 is paid out for such drainage.

31 2. The amount that will be allowed for a day's labor done by
 32 a man, and by a man and team, on the road. To certify to the board
 33 of supervisors the desire for an additional road tax, not to exceed one
 34 mill to be levied in whole or in part by the board of supervisors, as
 35 hereinafter provided. At the November meeting they shall settle with
 36 the township clerk and with all parties with whom contracts have
 37 been made for work in repairing or dragging of the roads.

[C., '51, §§ 567-569; R., '60, §§ 880, 891, 895; C., '73,
 §§ 969, 971; C., '97, § 1528; S., '13, § 1528.]

SEC. 2971. Tax list.

1 The township clerk shall, within four weeks after the trustees
 2 have levied the property road tax for the succeeding year, certify said

3 levy to the county auditor, who shall enter it upon the tax books for
 4 collection by the county treasurer who shall collect in one installment
 5 and pay the same over to the clerk of the township entitled thereto.
 6 And he shall, not later than the fifteenth day of April, make out and
 7 deliver to the superintendent of roads a list of all persons required to
 8 pay road poll tax. To enable him to make out such list, the assessor
 9 shall furnish the clerk of said township, before the first day of April
 10 of each year, a complete copy of the assessment lists of said township
 11 for that year, which shall be the basis of such poll tax list.

[R., '60, § 892; C., '73, § 973; C., '97, § 1540; S., '13, § 1540-a.]

SEC. 2972. Taxes paid to clerk.

1 The county treasurer shall, on the last Monday in April and Oc-
 2 tober in each year, pay to the township clerk all the road taxes be-
 3 longing to his township which are at such time in his hands, taking
 4 the duplicate receipts of such clerk therefor, one of which shall be
 5 delivered by the treasurer to the trustees on or before the first Mon-
 6 day in May and November in each year.

[R., '60, § 910; C., '73, § 976; C., '97, § 1543.]

SEC. 2973. Duty of trustees—road superintendents.

1 The board of township trustees shall order and direct the ex-
 2 penditure of the road funds and labor belonging or owing to the town-
 3 ship; may let, by contract, to the lowest responsible, competent bidder,
 4 any part or all of the work on the roads for the current year, or may
 5 appoint not to exceed four superintendents of roads, to oversee, sub-
 6 ject to the direction of the board, all or any part of the work, but it
 7 shall not incur an indebtedness for such purposes unless the same has
 8 been or shall at the time be provided for by an authorized levy; and
 9 shall order the township road tax for the succeeding year paid in
 10 money and collected by the county treasurer. It shall cause both the
 11 property and poll road tax to be equitably and judiciously expended
 12 for road purposes in the entire road district; shall cause at least
 13 seventy-five per cent of the township road tax locally assessed to be
 14 thus expended by the fifteenth day of July in each year; shall cause
 15 the noxious weeds growing in the roads over which they have juris-
 16 diction, to be cut twice a year, when necessary, and at such times as
 17 to prevent their seeding, and it may allow any landowner a reason-
 18 able compensation for the destruction thereof, when growing in the
 19 roads abutting upon his land. If a superintendent, or superintend-
 20 ents of roads be employed, it shall fix the term of office, which shall
 21 not exceed one year, and compensation, which shall not exceed three
 22 dollars a day; and no contract shall be made without reserving the
 23 right of the board to dispense with his services at its pleasure.

[C., '97, § 1533; S., '13, § 1533; 38 G. A., ch. 194, § 1.]

SEC. 2974. Superintendent—qualification.

1 Each road superintendent or contractor shall give bond in such
 2 sum and with such security as the township clerk may require (but
 3 in no case shall a township trustee sign such bond as surety), condi-
 4 tioned that he will faithfully and impartially perform all the duties
 5 required of him, and devote all moneys that may come into his hands
 6 by virtue of his office, according to law.

[R., '60, §§ 881, 884; C., '73, §§ 977, 978; C., '97, § 1545; S.,
 '13, § 1545.]

SEC. 2975. Condition—guideboards.

1 The road superintendent shall keep the roads in as good condi-
 2 tion as the funds at his disposal will permit, and may place guide-
 3 boards at crossroads and at the forks of the roads in his district,
 4 which shall be made out of good timber, well painted and lettered,
 5 and placed upon good substantial hardwood posts, to be set four feet
 6 in, and at least eight feet above, ground.

[C., '51, § 577; R., '60, § 907; C., '73, § 994; C., '97, § 1561;
 S., '13, § 1561.]

SEC. 2976. Furnish plat.

1 The township clerk shall furnish each road superintendent a
 2 copy of so much of the map or plat furnished him by the auditor as
 3 relates to the roads in his district, and from time to time shall mark
 4 thereon the changes in or additions to such roads as the same are
 5 certified to him by the auditor, which map or plat shall be transferred
 6 to his successor in office.

[C., '51, §§ 573, 574; R., '60, § 890; C., '73, § 972; C., '97,
 § 1539.]

SEC. 2977. Neglect of duty—penalty.

1 A road superintendent failing to perform the duties required
 2 of him by this chapter shall forfeit and pay, for the use of the town-
 3 ship road fund, the sum of ten dollars, to be collected by an action by
 4 the township clerk in his name.

[R., '60, § 900; C., '73, § 998; C., '97, § 1568.]

SEC. 2978. Plans and specifications for township work.

1 Before beginning any work upon the township road system, other
 2 than described in section twenty-eight hundred eighty-one as repair
 3 work, the trustees shall make application to the board of supervisors,
 4 who shall furnish them with an engineer, to be paid out of the county
 5 fund, who shall survey and lay off such roads according to the plans
 6 and specifications as hereinbefore provided for the county road sys-
 7 tem, and the work shall be done in accordance therewith. Providing
 8 the trustees may contract with the board of supervisors for the con-
 9 struction of any work on the township road system, provided the
 10 county shall not make any charge for the use of the county's road
 11 equipment except the actual cost of operating the same.

[S. S., '15, § 1527-s14.]

SEC. 2979. Draggable roads—superintendent—bond.

1 At every February meeting, or as soon thereafter as possible,
 2 the township trustees of each township shall select from its township
 3 road system the roads to be dragged for the year, to be known as
 4 draggable roads, which shall include all roads in consolidated school
 5 districts and all mail routes, and shall employ a superintendent or
 6 superintendents, not exceeding four in number, for the township road
 7 system, who shall give bond for the faithful performance of their du-
 8 ties in such sum as the township trustees may direct.

9 Said superintendent or superintendents shall have general super-
 10 vision of all dragging and repair work on the township road system,
 11 including the placing of temporary culverts, and the term of office

12 and compensation of such superintendent or superintendents shall be
13 at the discretion of the township trustees.

14 The superintendent shall see that the approaches to all bridges
15 on the said roads are maintained in such manner as to present smooth
16 and uniform surfaces, and keep the openings to all culverts and ditches
17 free from weeds, brush and other material that will in any manner
18 prevent the free discharge of surface water. He shall have charge of
19 all draggable roads of the township road system and make contracts
20 for dragging, and shall see that all draggable roads of the township
21 road system are properly dragged at such times as are necessary to
22 maintain such roads in smooth condition, at such price as is reason-
23 able and necessary to secure such contracts, to be fixed by the town-
24 ship trustees. For this purpose there shall be expended, under the
25 direction of the township trustees, through the road superintendent,
26 upon the township road system, not less than the one mill drag tax
27 now authorized by law.

28 The township trustees shall not allow any bills for dragging,
29 maintenance, or repair work, nor shall warrants in payment therefor
30 be drawn by the township clerk upon funds of the township road sys-
31 tem until itemized bills therefor have been certified to by the town-
32 ship road superintendent. A violation of this section shall render the
33 township clerk liable on his bond for the amount of said warrant.

34 The compensation of such superintendent for all duties except
35 any dragging actually performed by him, and the cost of all equipment
36 for dragging, shall be paid for out of the township road funds. He
37 shall at least once a year, or on demand, furnish the township trustee
38 a report of all work done under and by him.

[S. S., '15, § 1527-s13.]

SEC. 2980. Drag fund—transfer.

1 If, at the February meeting, a balance remains in the drag fund
2 for the preceding year or years, the said balance may be transferred
3 to the general township road fund provided the draggable roads of
4 such township have been regularly dragged in compliance with the
5 law during the preceding year and said transfer approved by the
6 board of supervisors.

[S. S., '15, § 1527-s13a.]

SEC. 2981. Road dragging districts—how numbered.

1 It shall be the duty of the township trustees at their regular meet-
2 ing in April, nineteen hundred eleven, or at a special meeting called
3 for that purpose, to divide the public roads of the township into per-
4 manent road dragging districts. The districts shall be numbered and
5 designated as follows: Beginning at the northeast corner of section
6 one (1), the public roads running through the township east and west
7 shall be known as one-north (1-n), two-north (2-n), three-north (3-n),
8 four-north (4-n), five-north (5-n), sixth-north (6-n), seven-north
9 (7-n), eight-north (8-n), nine-north (9-n), ten-north (10-n), eleven-
10 north (11-n), twelve-north (12-n), thirteen-north (13-n), fourteen-
11 north (14-n), fifteen-north (15-n), sixteen-north (16-n), seventeen-
12 north (17-n), eighteen-north (18-n), nineteen-north (19-n), twenty-
13 north (20-n), twenty-one-north (21-n), twenty-two-north (22-n),
14 twenty-three-north (23-n), twenty-four-north (24-n), twenty-five-
15 north (25-n), twenty-six-north (26-n), twenty-seven-north (27-n),
16 twenty-eight-north (28-n), twenty-nine-north (29-n), thirty-north

17 (30-n), thirty-one-north (31-n), thirty-two-north (32-n), thirty-three-
 18 north (33-n), thirty-four-north (34-n), thirty-five-north (35-n),
 19 thirty-six-north (36-n); the public road running along the south side
 20 of the township shall be numbered and designated as district thirty-
 21 six-south (36-s), thirty-five-south (35-s), thirty-four-south (34-s),
 22 thirty-three-south (33-s), thirty-two-south (32-s), thirty-one-south
 23 (31-s); beginning at the northeast corner of section one (1), the pub-
 24 lic roads running north and south through the township shall be num-
 25 bered and designated as dragging districts one-east (1-e), twelve-east
 26 (12-e), thirteen-east (13-e), twenty-four-east (24-e), twenty-five-east
 27 (25-e), thirty-six-east (36-e), thirty-five-east (35-e), twenty-six-east
 28 (26-e), twenty-three-east (23-e), fourteen-east (14-e), eleven-east
 29 (11-e), two-east (2-e), three-east (3-e), ten-east (10-e), fifteen-east
 30 (15-e), twenty-two-east (22-e), twenty-seven-east (27-e), thirty-four-
 31 east (34-e), thirty-three-east (33-e), twenty-eight-east (28-e), twenty-
 32 one-east (21-e), sixteen-east (16-e), nine-east (9-e), four-east (4-e),
 33 five-east (5-e), eight-east (8-e), seventeen-east (17-e), twenty-east
 34 (20-e), twenty-nine-east (29-e), thirty-two-east (32-e), thirty-one-
 35 east (31-e), thirty-east (30-e), nineteen-east (19-e), eighteen-east
 36 (18-e), seven-east (7-e), six-east (6-e); the public road running along
 37 the west side of the township shall be numbered and designated as
 38 dragging districts six-west (6-w), seven-west (7-w), eighteen-west
 39 (18-w), nineteen-west (19-w), thirty-west (30-w), thirty-one-west
 40 (31-w); in townships having a meandered public highway or high-
 41 ways not laid out on section lines the district shall be numbered to
 42 correspond with the number of the government section through which
 43 they are laid out and such highway or highways shall constitute one
 44 district.

[S., '13, § 1570-b1.]

SEC. 2982. Duties of trustees—superintendent of dragging.

1 The township trustees shall from time to time designate what dis-
 2 tricts shall be dragged, which must include all mail routes and all the
 3 main traveled roads within the township; they shall at their regular
 4 meeting in April or at a special meeting called for that purpose, ap-
 5 point a superintendent of dragging, who shall be a resident of the
 6 township, or any city or town within said township, who shall serve
 7 for one year unless sooner removed by the board; they shall fix the
 8 amount of his compensation which shall not exceed two dollars and
 9 fifty cents per day and actual expenses for each day of eight hours
 10 while engaged in necessary work for the township, and for giving
 11 notice to contractors who shall be required to drag he shall receive
 12 such additional compensation as the board may direct; they shall fur-
 13 nish suitable road drags for the township and pay for same out of
 14 the township road fund; they shall adopt a suitable form of notice to
 15 be given by the superintendent of dragging when ordering the roads
 16 dragged, stipulating the manner of serving same, and shall furnish
 17 each person contracted with to drag roads return cards which shall be
 18 substantially in the following form:

19 To, superintendent of drags for
 20 township.

21 I received your notice to drag district No. on the
 22 day of, 19....., and did on the day of

23 _____, 19_____, comply with same and have charged
 24 said district _____ for said dragging.

25 If not dragged, why not? _____

26 Signed _____

27 They shall provide a suitable book, in which the superintendent
 28 of dragging shall record the names of all persons who are entitled to
 29 compensation for dragging roads, said book to be known as the drag-
 30 ging record of the township and shall be substantially in the follow-
 31 ing form:

County of _____, State of Iowa.
 Dragging District No. _____, Township of _____

Dragged by whom	Date	Date Notified	Date of Return Card	Am't Charged	Am't Allowed	Remarks

32 They shall allow all claims for dragging recorded therein, that
 33 are in accordance with the provisions of sections twenty-nine hundred
 34 eighty-one to twenty-nine hundred eighty-four, inclusive, and have the
 35 approval of the superintendent of dragging. The township trustees
 36 shall at their regular meetings in November and April of each year,
 37 settle with the superintendent of dragging and pay all claims for
 38 dragging in each district that have the approval of the superintendent
 39 of dragging, and that are not inconsistent with sections twenty-nine
 40 hundred eighty-one to twenty-nine hundred eighty-four inclusive, out
 41 of the dragging fund of the township, the amount to be paid for such
 42 dragging not to exceed the sum of fifty cents per mile for each mile
 43 traveled back and forth while dragging the roads; they shall not al-
 44 low any claim for dragging unless return card has been duly returned
 45 to the superintendent showing said work to have been done by his or-
 46 ders and within twenty-four hours after receipt of notice to perform
 47 such service. The township trustees at the time of making the annual
 48 levy of the township for road purposes, as provided in section twenty-
 49 nine hundred seventy, shall each year levy one mill, and may levy not
 50 to exceed two mills, on the dollar on the amount of the township as-
 51 sessment for that year, which shall be designated as the dragging
 52 fund and shall be expended only for the purpose of dragging the roads
 53 within the township.

54 If at the February meeting a balance remains in the drag fund
 55 for the preceding year or years, the said balance may be transferred
 56 to the general road fund.

[S., '13, § 1570-b2; 38 G. A., ch. 242, § 1.]

SEC. 2983. Dragging records—contracts.

1 It shall be the duty of the superintendent of dragging to keep
 2 the dragging records of the township, recording therein the names of
 3 all persons entitled to compensation for dragging, the date of such
 4 service, date of giving notice for such service, date of return card,
 5 the amount allowed for such service, but no person's name shall be
 6 recorded therein as being entitled to compensation for dragging un-

7 less his return card has been filed with the superintendent of drag-
 8 ging showing said service as having been performed by order of the
 9 superintendent of dragging, and within the time limit required for
 10 such service. It shall be the duty of the superintendent of dragging
 11 to cause all roads to be dragged that the township trustees may from
 12 time to time direct at such times as in his judgment is most beneficial.
 13 He shall cause the work to be done by giving the parties contracted
 14 with for the performance of such service such notice as the township
 15 trustees may deem sufficient; he shall on or before the fifteenth day
 16 of April in each year contract with as many suitable persons as he
 17 deems necessary to drag the roads in the township for that year, but
 18 shall not apportion the dragging of more than six miles of road to
 19 any one person. The superintendent may at any time cancel such
 20 contract or contracts for dragging the roads when the stipulations
 21 therein contained have not been properly complied with, or when the
 22 work is not done in a satisfactory manner.

[S., '13, § 1570-b3.]

SEC. 2984. Penalties.

1 Any violation of any of the provisions of sections twenty-nine
 2 hundred eighty-one to twenty-nine hundred eighty-three, inclusive, by
 3 the superintendent of dragging, or any person or persons who may be
 4 required under contract to drag district roads, or neglect on the part
 5 of any township clerk to set aside the funds required by sections
 6 twenty-nine hundred eighty-one to twenty-nine hundred eighty-three,
 7 inclusive, shall, on conviction thereof, be fined not less than ten dol-
 8 lars or more than twenty-five dollars for the first offense, and for each
 9 subsequent offense shall be fined not less than twenty-five dollars nor
 10 more than fifty dollars.

[S., '13, § 1570-b5.]

SEC. 2985. Streets in villages.

1 All public streets of villages are a part of the road; and all road
 2 superintendents having charge of the same, in the respective districts
 3 or villages, shall work the same as provided by law.

[C., '73, § 952; C., '97, § 1507.]

SEC. 2986. Day's work.

1 Eight hours' service for a man, or man and team, shall be required
 2 for a day's work; but except on extraordinary occasions no person
 3 shall be required to go more than three miles from his place of resi-
 4 dence to work, and, for the purposes of the one road district plan, the
 5 residence of a man with a family shall be construed to be where his
 6 family resides, and for a single man, it shall be at the place where he
 7 is at work.

[C., '51, § 593; R., '60, § 886; C., '73, § 984; C., '97, § 1535.]

SEC. 2987. Shade trees—timber—drainage.

1 The road superintendent shall not cut down or injure any tree
 2 growing by the wayside which does not obstruct the road, or which
 3 stands in front of any town lot, inclosure or cultivated field, or any
 4 ground reserved for any public use, and shall not enter upon any lands
 5 for the purpose of taking timber therefrom without first receiving
 6 permission from the owner or owners of said lands, nor destroy or

7 injure the ingress or egress to any property, or turn the natural drain-
 8 age of the surface water to the injury of adjoining owners; but it
 9 shall be the duty of the superintendent to use strict diligence in drain-
 10 ing the surface water from the public road in its natural channel, and
 11 to this end he may enter upon the adjoining lands for the purpose of
 12 removing obstructions from such natural channel that impede the
 13 flow of such water.

[C., '51, § 587; R., '60, § 901; C., '73, § 989; C., '97, § 1556.]

SEC. 2988. Liability for unsafe bridge or highway.

1 When notified in writing that any bridge or portion of the public
 2 road is unsafe, the road superintendent shall be liable for all damages
 3 resulting therefrom, after allowing a reasonable time for repairing
 4 the same. If there is in his district any bridge erected or maintained
 5 by the county, he shall, on receiving written notice of its unsafe condi-
 6 tion, obstruct the passage thereon, and notify at least one member of
 7 the board of supervisors, in writing, of its condition. If he fails to
 8 obstruct and notify, he shall be liable for all damages growing out of
 9 the unsafe condition thereof, occurring after the time he is so noti-
 10 fied and while he neglects to obstruct such passage. Any person who
 11 shall remove such obstruction shall be liable for all damages occurring
 12 to any person resulting therefrom, but nothing herein contained shall
 13 be construed to relieve the county from liability for the defects of
 14 said bridge.

[C., '51, § 582; R., '60, § 902; C., '73, § 990; C., '97, § 1557.]

SEC. 2989. Extraordinary repairs.

1 For making such repairs as are required in the preceding sec-
 2 tion, the road superintendent may call out any or all of the able-bodied
 3 men of the district in which they are to be made, but not more than
 4 two days at one time without their consent, and persons so called out
 5 shall be entitled to receive a certificate from him of the number of
 6 days' labor performed, which shall be received in payment for road
 7 tax for that or any succeeding year, at the rate per day established
 8 for that year.

[C., '51, §§ 583, 586; R., '60, § 903; C., '73, § 991; C., '97,
 § 1558.]

SEC. 2990. Penalty.

1 Any able-bodied man, duly summoned, who fails to appear and
 2 labor by himself or substitute, or send satisfactory excuse therefor,
 3 or pay the value thereof in money before an action is brought, shall
 4 forfeit and pay ten dollars, to be recovered in an action in the name
 5 of the road superintendent, and for the use of the road fund of the
 6 district.

[C., '51, § 585; R., '60, § 904; C., '73, § 992; C., '97, § 1559.]

SEC. 2991. Qualification of officers.

1 The trustees shall require the township clerk, contractor and su-
 2 perintendent each to qualify as other township officers, and to execute
 3 a bond with approved sureties for twice the amount of money likely
 4 to come into their hands, respectively.

[C., '97, § 1534.]

SEC. 2992. Clerk to give bond—custody of implements.

1 The trustees shall require the township clerk to give bond in
 2 such sum as they think proper, conditioned as the bonds of the county
 3 officers, which bond, and the sureties thereon, shall be approved by
 4 them. Said clerk shall have charge of and properly preserve and
 5 keep in repair such tools, implements and machinery as may be pur-
 6 chased, and may determine at what time the superintendent may have
 7 the use of the same or any part thereof, and he shall be responsible
 8 for the safe keeping of the same when not in the custody of the super-
 9 intendent, and shall receive such compensation as they shall provide,
 10 to be paid out of said road fund.

[C., '73, § 970; C., '97, § 1529.]

SEC. 2993. Compensation of trustees and treasurer.

1 The trustees shall receive the same compensation per day for
 2 time necessarily spent in looking after the roads as they do for other
 3 township business; the county treasurer shall receive the same per
 4 cent for collecting the road taxes here contemplated that he does for
 5 collecting corporation taxes.

[C., '97, § 1538; S., '13, § 1538.]

SEC. 2994. Report.

1 The superintendent of the township shall report to the township
 2 clerk on the first Monday of April and November of each year, which
 3 report shall embrace the following items:

4 1. The names of all persons in his district required to perform
 5 labor on the public road, and the amount of money paid or work per-
 6 formed by each.

7 2. The names of all persons against whom actions have been
 8 brought, and the amount collected of each.

9 3. The amount of all moneys coming into his hands by virtue of
 10 his office, and from what sources.

11 4. The manner in which moneys coming into his hands have been
 12 expended, and the amount, if any, in his possession.

13 5. The number of days he has been employed in the discharge of
 14 his duty.

15 6. The condition of the roads in his district, and such other items
 16 and suggestions as he may wish to make, which report shall be signed
 17 and sworn to by him, and filed by the township clerk in his office.

[C., '51, § 580; R., '60, § 897; C., '73, § 987; C., '97, § 1554;
 S., '13, § 1554; 37 G. A., ch. 335, § 4.]

SEC. 2995. Tax certified and collected.

1 If it appears from such report that any person has failed to pay
 2 the amount fixed or perform the two days' labor required, or any part
 3 thereof, and that the road superintendent has neglected to collect the
 4 amount in money required to be paid in case of such failure, the clerk
 5 shall add the amount required to be paid to such person's property
 6 tax, and certify the same to the auditor, who shall enter it on the
 7 proper tax list, and the treasurer shall collect the same.

[C., '73, § 988; C., '97, § 1555; 37 G. A., ch. 335, § 5.]

SEC. 2996. Report by township clerk—recommendation of trustees.

1 Not later than the first day of January, or at any time upon the
 2 demand of the township trustees, the township clerk shall report the
 3 work accomplished on the township road system in his township, in-
 4 cluding number of culverts installed, location thereof and the number
 5 and size of culverts on hand and not installed. Said township trust-
 6 tees shall, as nearly as practicable, recommend what is to be done
 7 upon the township road system for the succeeding year, and shall
 8 also prepare a list of the culverts and bridges which in their judg-
 9 ment should be constructed by the board of supervisors in their town-
 10 ship during the succeeding year, giving the proposed location of such
 11 culverts, the material of which such culverts should be constructed,
 12 and the approximate size of same, together with any and all recom-
 13 mendations concerning such culverts as the board of township trust-
 14 tees see fit to give, which list, report and recommendation shall be filed
 15 on or before the first day of January of each year, or oftener if the
 16 emergency requires, in the office of the county auditor, and a copy of
 17 the same shall be forthwith mailed by the township clerk to each
 18 member of the board of supervisors.

[S. S., '15, § 1527-s16.]

SEC. 2997. Itemized account—filed with county auditor.

1 The trustees of each township shall take and file with the board
 2 of supervisors on or before the first Monday in each year a full and
 3 itemized account verified by the township clerk showing each item
 4 of expenditures and receipt of all moneys received and disbursed dur-
 5 ing the preceding year for road purposes in said township, which
 6 report shall remain on file with the county auditor, and, omitting cer-
 7 tifications and verifications of township officers, a synopsis thereof
 8 showing the names of all persons to whom money has been paid and
 9 the amount paid to each shall be published in the published report of
 10 the proceedings of the January session of the board of supervisors.

[S., '13, § 1566-a.]

CHAPTER 10.**POLL ROAD TAX.****SECTION 2998. Who liable.**

1 The road superintendent shall require all able-bodied male resi-
 2 dents of the township, between the ages of twenty-one and forty-five,
 3 to perform two days' labor upon the roads, between the first days of
 4 April and October of each year, provided, however, that the township
 5 trustees of each township shall at their April meeting each year fix
 6 an amount which each person may, at his option, pay in money in
 7 lieu of two days' work, which money shall be expended upon the public
 8 roads.

[R., '60, § 885; C., '73, § 983; C., '97, § 1550; S., '13, § 1550;
 37 G. A., ch. 335, § 1.]

SEC. 2999. Notice—receipts.

1 The road superintendent shall give at least three days' notice of
 2 the day or days and place to work the roads to all persons subject to
 3 work thereon, and all persons so notified must meet him at such time
 4 and place, with such tools, implements and teams as he may direct,
 5 and labor diligently under his direction for eight hours each day, or
 6 on or before said day, pay the road supervisor the sum of money fixed
 7 by the trustees, which may be paid in lieu of said work, and for such
 8 two days' labor or money paid the supervisor shall give to him a cer-
 9 tificate, which shall be evidence that he has performed such labor on
 10 the public roads, and exempt him from performing labor in payment
 11 of road poll tax in that or any other road district for the same year.

[C., '51, § 588; R., '60, §§ 886, 896; C., '73, § 984; C., '97,
 § 1551; S., '13, § 1551; 37 G. A., ch. 335, § 2.]

SEC. 3000. Penalty for failure to attend or work.

1 Each person liable to perform labor on the roads as poll tax, who
 2 fails to attend, either in person or by satisfactory substitute, at the
 3 time and place directed, with the tools, implements or teams required,
 4 having had three days' notice thereof, or, appearing, shall spend his
 5 time in idleness, or disobey the road superintendent, or fail to furnish
 6 him, within five days thereafter, some satisfactory excuse for not at-
 7 tending, or shall fail to pay the amount fixed by the trustees in lieu
 8 of said work within ten days after receiving notice to work or pay,
 9 shall forfeit and pay him the sum of three dollars for each day's de-
 10 linquency; and in case of failure to pay such forfeit within ten days,
 11 he shall recover the same by action in his name as superintendent and
 12 no property or wages belonging to such person shall be exempt from
 13 execution therefor. Such action shall be before any justice of the
 14 peace in the proper township. The money, when collected, shall be
 15 expended on the public roads.

[R., '60, § 887; C., '73, § 985; C., '97, § 1552; 37 G. A., ch.
 335, § 3.]

CHAPTER 11.**WEEDS.****SECTION 3001. Weeds—destruction.**

1 It shall be the duty of each owner, occupant, person, company or
 2 corporation in control of any lands within the state of Iowa, whether
 3 the same shall consist of improved or unimproved lands, town or city
 4 lots, lands used for railway right of way or depot grounds, lands
 5 in which the public has an easement for road, street or other right of
 6 way, or lands used for any other purpose whatsoever, to cut, burn or
 7 otherwise entirely destroy all noxious weeds as defined in the follow-
 8 ing section at such times in each year and in such manner as shall
 9 prevent the said weeds from blooming or coming to maturity, and to
 10 keep the said lands free from such growths of other weeds as shall
 11 render the streets or highways adjoining the same unsafe for public
 12 travel or shall interfere in any manner with the proper construction
 13 or repair of the said streets or highways, and shall cause to be cut,

14 near the surface, all weeds on the streets or highways adjoining said
 15 lands between the first day of July and the first day of August of each
 16 year, except in the case of noxious weeds which reach maturity before
 17 July fifteenth, and the township trustees or city or town council may
 18 require cutting at an earlier date. But nothing herein shall prevent
 19 the landowner from harvesting the grass grown upon the roads along
 20 his land in proper season.

[S. S., '15, § 1565-a; 38 G. A., ch. 228, § 1.]

SEC. 3002. Noxious weeds designated.

1 The following weeds are hereby declared to be noxious weeds,
 2 namely: quack grass (*agropyron repens*), Canada thistle (*cirsium ar-*
 3 *vense*), cocklebur (*xanthium canadense*), wild mustard (*brassica ar-*
 4 *vensis*), sour or curled dock (*rumex crispus*), smooth dock (*rumex*
 5 *altissimus*), buckhorn or ribbed plantain (*plantago lanceolata*), wild
 6 parsnip (*pastinaca sativa*), horse nettle (*solanum carolinense*), vel-
 7 vetweed or buttonweed (*abutilon theophrasti*), burdock (*arctium*
 8 *lappa*), shoofly (*hibiscus trionum*), wild carrot (*daucus carota*) and
 9 Russian thistle (*Salsola Kali*, L. Var. *Tagrus*).

[S., '13, § 1565-b.]

SEC. 3003. Failure to destroy—notice—expense—tax.

1 If any such owner, occupant, person, company or corporation in
 2 control of any such land shall fail or neglect to do the things necessary
 3 to prevent the said noxious weeds on any such land from blooming or
 4 coming to maturity, or shall permit weeds thereon contrary to the pro-
 5 visions of section thirty hundred one, or if it shall appear that there is
 6 danger that any such noxious weeds on any such land may mature,
 7 then upon their own motion or upon complaint made to any member
 8 thereof, it shall be the duty of the board of trustees of the township
 9 in which such land lies or to which such land may be adjacent and
 10 within the same county, or of the town council or board of commis-
 11 sioners if within the limits of an incorporated town or city, to make
 12 investigation of such condition or complaint, and if it appears that
 13 there is danger that any such noxious weeds may mature or that weeds
 14 thereon render or are about to render the streets or highways ad-
 15 joining the land unsafe for public travel or interfere or are about to
 16 interfere in any manner with the proper construction or repair of
 17 the said streets or highways, the said board of trustees, town council
 18 or commissioners, as the case may be, shall make an order fixing the
 19 time within which the weeds shall be prevented from maturing seed
 20 or the said weeds shall be destroyed, prescribing the manner of their
 21 destruction, and shall forthwith give notice in writing of the said or-
 22 der personally to the owner of the land upon which the same exist if
 23 service of such notice can be made within the township in which such
 24 land is situated, and if it can not be so served, then by mailing said
 25 notice by registered mail to the owner at his last known address, and
 26 also by giving a copy of the notice to the person, company or corpora-
 27 tion in the apparent control or occupancy of the said land, whose duty
 28 it shall also be to mail said notice to the owner, and if the order so
 29 made is not substantially complied with by the time fixed in the order
 30 and after reasonable notice as herein provided, then it shall be the
 31 duty of the board of trustees, town council or commissioners, as the
 32 case may be, forthwith to cause said order to be fully performed, and
 33 the expense of the same, including the costs of serving said notice and

34 the special meetings of the board of trustees, town council or commis-
 35 sioners, if any were required, shall be advanced out of the township
 36 road fund, or town or city general fund, as the case may be; or if the
 37 said fund shall be insufficient therefor, the town council, commission-
 38 ers, or the board of trustees may borrow the money necessary to ad-
 39 vance the same by issuing warrants of a like amount upon the road
 40 fund, or upon the town or city general fund, and at any meeting of the
 41 board they shall assess all of the same against the said land and the
 42 owner thereof by a special tax which shall be certified and collected
 43 together with interest and penalty after due in the same manner as
 44 road taxes unpaid and shall be collected by the county treasurer and
 45 when collected shall be paid into the fund upon which said warrants
 46 were drawn.

47 Before making said assessment, ten days' notice shall be given
 48 such owner of the time and place of meeting of the trustees, council or
 49 commissioners, which notice shall also contain a statement of the work
 50 done and the expense thereof with costs, and shall be given in the same
 51 manner as originally given to owners as hereinbefore provided. At
 52 said time and place such owner may appear with the same rights given
 53 by law before boards of review upon increase in assessments.

[S., '13, § 1565-c.]

SEC. 3004. Authority of board of trustees and councils.

1 It shall be the duty of the board of trustees of each township
 2 to consider the conditions of all lands and highways within the town-
 3 ship and outside of incorporated towns and cities as to noxious weeds,
 4 and the town councils and commissions shall have the same duties
 5 with reference to lands within their respective towns or cities, and
 6 on complaint made to them or on their own motion, whenever it may
 7 appear that any of such lands within their jurisdiction are infested
 8 with noxious weeds or other weeds, whether about to bloom and ma-
 9 ture or not, they shall order their destruction before a date to be
 10 fixed in the said notice and prescribe the manner in which the de-
 11 struction shall be accomplished, notice of which order shall be given
 12 as provided in the preceding section, and if the said order shall not
 13 be complied with, the board may proceed to cause the said order to
 14 be performed and shall certify the expense thereof and it shall be
 15 paid and assessed to the lands upon which the same shall have been
 16 destroyed and to the owners or owner thereof and be collected in
 17 the same manner as is provided for the expense of proceedings under
 18 said section.

[S., '13, § 1565-d.]

SEC. 3005. Duty to make complaint.

1 It shall be the duty of all officers directly responsible for the
 2 care of public highways to make complaint to the proper township
 3 trustees or town councils or commissions, as the case may be, when-
 4 ever it shall appear that the provisions of section thirty hundred one
 5 may not be complied with in time to prevent the blooming and ma-
 6 turing of noxious weeds or the unlawful growth of weeds, whether
 7 in the streets or highways for which they are responsible or upon
 8 lands adjacent to the same.

[S., '13, § 1565-e.]

SEC. 3006. Applicable to cities and towns.

1 All of the provisions of this chapter relating to the duty of the
2 owner of the lands to prevent the blooming and maturing of noxious
3 weeds thereon and to destroy such growths of other weeds thereon
4 as may interfere with the use of highways shall apply also to cities
5 and towns and the proper officers there as to all streets, highways
6 and lands of any kind within their borders the fee of which shall
7 rest in the public.

[S., '13, § 1565-f.]

SEC. 3007. Report—to whom made.

1 It shall be the duty of the township clerk, between the fifteenth
2 and thirtieth days of October of each year, to make a report to the
3 board of supervisors of the county in which his township is situated
4 as to the presence and location of noxious weeds that have been
5 reported or found within the township and the steps taken to bring
6 about the destruction thereof, a copy of which report shall be for-
7 warded to the board of supervisors to be kept on file and a copy of
8 same to be forwarded by them to the secretary of the Iowa depart-
9 ment of agriculture not later than the first day of December fol-
10 lowing.

[S., '13, § 1565-h.]

SEC. 3008. Penalty.

1 Any township trustee or road officer or other officer who neglects
2 or fails to perform the duties incumbent upon him under the pro-
3 visions of this chapter shall be guilty of a misdemeanor and shall be
4 punished by a fine not exceeding one hundred dollars.

[S., '13, § 1565-i.]

SEC. 3009. Jurisdiction of supervisors.

1 The county board of supervisors shall have jurisdiction over the
2 cutting of weeds in the manner and at the time as provided in sec-
3 tion twenty-nine hundred seventy-three, upon the roads over which
4 they have jurisdiction.

[38 G. A., ch. 194, § 2.]

CHAPTER 12.**HEDGES ALONG HIGHWAYS.****SECTION 3010. Hedges and windbreaks—trimming.**

1 The owners of osage orange and hedges of shrubbery other than
2 trees along the public highway, shall keep the same trimmed by cut-
3 ting back within five feet of the ground at least once in every two
4 years, and burn or remove the trimmings from off the road. With
5 the exception of osage orange hedge fences, no trees or shrubbery,
6 except as hereinafter provided, shall be permitted on the line of the
7 highway along the public road, unless the same shall be used as a
8 windbreak for residences, orchards or feed lot, and no windbreak
9 shall exceed forty rods in length, such forty rods to be determined
10 by the owner within one day when requested by the board of super-

11 visors; and in case he neglect or refuse to designate the forty rods
 12 of windbreak he desires, the board of supervisors shall select such
 13 forty rods of hedge.

[C., '73, § 999; C., '97, § 1570; S., '13, § 1570; 37 G. A.,
 ch. 417, § 1.]

SEC. 3011. Destruction by supervisors—tax.

1 The board of supervisors shall have the authority to enforce the
 2 provisions of this chapter and destroy or cut back the hedges or
 3 trees, as specified above, upon the failure of any owner of the hedge
 4 or fence so to do. The board of supervisors shall cause notice in
 5 writing to be served upon any owner of any hedge or trees described
 6 above, to destroy or trim the same, and upon complaint of any resi-
 7 dent of the county the board of supervisors must serve such notice and
 8 destroy said trees or trim said hedge; and if the owner of the hedge
 9 or trees shall fail to destroy or cut back and trim them as herein
 10 required, within sixty days after receiving notice so to do, the board
 11 of supervisors shall cause the destruction or trimming of such hedge
 12 or trees to be done, as herein provided, and the cost thereof shall be
 13 certified by the said board to the county auditor and the same shall
 14 be assessed as taxes against the land upon which the said hedge or
 15 trees were destroyed or trimmed, which tax shall be collected by the
 16 county treasurer in the manner other taxes are collected.

[C., '73, § 999; C., '97, § 1570; S., '13, § 1570; 37 G. A., ch.
 417, § 2.]

SEC. 3012. Sale of wood—costs—balance.

1 In case the wood left from the cutting or trimming of said hedge
 2 or trees shall, in the judgment of the board of supervisors, more than
 3 pay for the cost of advertising and selling the same, the same shall
 4 be sold at public auction after giving ten days' notice thereof in the
 5 local newspaper nearest the hedge or trees destroyed, and the proceeds
 6 of the sale above the cost of trimming, cutting or destroying, selling
 7 and advertising for sale, shall be turned over to the owner of the hedge
 8 or trees.

[37 G. A., ch. 417, § 3.]

SEC. 3013. Exceptions.

1 This chapter shall not apply to evergreen trees, walnut trees, oak
 2 or maple trees, or other hardwood trees which in the judgment of
 3 the board of supervisors should be let stand, nor shall it apply to trees
 4 along the highway which are a part of a grove or forest that extends
 5 more than five rods from the road line; nor to any single tree or group
 6 of trees (not exceeding ten in number) which by reason of their age
 7 or beauty the board of supervisors in its judgment believes should
 8 not be cut down.

[37 G. A., ch. 417, § 4.]

CHAPTER 13.

OBSTRUCTIONS IN HIGHWAYS.

SECTION 3014. Obstructions removed.

1 The road superintendent shall remove all obstructions in the
 2 roads, but must not throw down or remove fences which do not directly
 3 obstruct travel, until notice in writing, not exceeding six months, has
 4 been given to the owner or agent of the land inclosed in part by
 5 such fence.

[C., '51, § 594; R., '60, § 905; C., '73, § 993; C., '97, § 1560;
 S., '13, § 1560.]

SEC. 3015. Obstructions—removal of—notice.

1 County and township boards, charged with the duty of improving
 2 public highways, shall have power to remove all obstructions in the
 3 highways under their jurisdiction, but fences and poles used for tele-
 4 phone, telegraph or other transmission purposes shall not be removed
 5 until notice, in writing, of not less than ten days, has been given to
 6 the owner, occupant, or agent of the land inclosed in part by such
 7 fence or to the owner or company operating such lines. The notice
 8 to any owner or operator of any such telephone, telegraph or trans-
 9 mission line may be served on any agent or officer of such line, and
 10 all such fences and poles shall, within the time designated, be removed
 11 to such line on the highway, and as designated by the engineer, and
 12 if not removed by the date fixed in such notice, same may be forth-
 13 with removed by the proper officials. Any new lines, or parts of lines
 14 hereinafter constructed, shall be located by the engineer, upon written
 15 application filed with the county auditor describing the highways upon
 16 which such lines, or parts of lines, are to be constructed and the appli-
 17 cant shall pay all of the expenses in locating said lines, and shall be
 18 removable according to the provisions of this section. The notice of
 19 removal may designate to which side of the highway the said poles
 20 shall be removed. Any removal made in compliance with this section
 21 shall be at the expense of the owners thereof, without liability on the
 22 part of any officer ordering or effecting the removal.

[S., '13, § 1527-s17; 37 G. A., ch. 410, § 1.]

SEC. 3016. Open ditches and water breaks—construction prohibited.

1 It shall be unlawful for any person, firm, corporation, road super-
 2 intendent, township trustee, or board of supervisors, to construct open
 3 ditches, water breaks, or other obstructions of like character, on the
 4 traveled portion of any public highways, and such obstruction is
 5 hereby declared a nuisance and removable as such.

[S., '13, § 1560-a.]

SEC. 3017. Removal—duty of officers.

1 It shall be the duty of the township trustees, board of supervisors
 2 or other officer responsible for the care of public highways in each
 3 township or county in this state to remove all open ditches, water
 4 breaks, and such like obstructions mentioned in the preceding section,
 5 from the traveled portion of public highways within their several

6 townships or counties, and to employ labor for this purpose in the
7 same manner as for the repair of highways.
[S., '13, § 1560-b.]

SEC. 3018. Failure to act—penalty.

1 Any person, firm, or corporation violating any of the provisions
2 of the two preceding sections, or any township trustee, road super-
3 intendent, inspector, member of the board of supervisors, or other
4 officer, who neglects or fails to perform the duties incumbent upon
5 him by said sections, or violates the provisions hereof, shall be guilty
6 of a misdemeanor and shall be punished by a fine not exceeding ten
7 dollars.

[S., '13, § 1560-c.]

SEC. 3019. Jurisdiction—justice of peace.

1 In case of prosecution for any violation of the provisions of the
2 three preceding sections, any justice of the peace within the county
3 in which the violation is alleged to have been committed shall have
4 authority to decide whether or not the obstructions, of which com-
5 plaint is made, are of a nature to unreasonably interfere with the pass-
6 ing of vehicles, or can be removed without too much expense, and with
7 a reasonable consideration of the topography of the locality.

[S., '13, § 1560-d.]

SEC. 3020. Not applicable to cities and towns.

1 The provisions of the four preceding sections shall not apply to
2 roads or streets in incorporated cities or towns.

[S., '13, § 1560-e.]

CHAPTER 14.

ROAD IMPROVEMENT ASSOCIATIONS.

SECTION 3021. Road associations authorized.

1 Any number of persons of any locality may associate themselves
2 together by signing a written subscription list joining a commercial
3 club, or organizing an agricultural society, or other association, for
4 the purpose of promoting graveling and improving the public high-
5 ways of any portion of any township or county in the state of Iowa.
6 All such associations are hereby authorized to enter into contracts and
7 to do all other things necessary in carrying out the work undertaken
8 by them.

[37 G. A., ch. 338, § 1.]

SEC. 3022. Township roads—improvement.

1 Whenever a petition signed by one or more persons residing in
2 any community and designating the particular road or portion of any
3 public highway to be improved in any township or county by volun-
4 tary donations and accompanied by a subscription list with satisfac-
5 tory bond for the faithful performance, whereby the necessary money,
6 material, or labor is donated to gravel or otherwise surface and
7 thereby improve one mile or more of any township road is presented

8 to the trustees of any township in any county of the state of Iowa,
 9 where such part of said public highway is located, the said township
 10 trustees shall within a reasonable time cause that portion of said town-
 11 ship road to be drained, graded, and surveyed at township expense
 12 and shall furnish to said person, association, or other organization
 13 the necessary grades, elevations, etc., required for the construction
 14 of the improvement not to exceed one hundred fifty dollars per mile.
 15 The work of graveling or otherwise surfacing the portion of the pub-
 16 lic highway designated in said petition shall be done under the super-
 17 vision of the county engineer. The said trustees shall employ the
 18 county highway engineer or any other competent engineer to make
 19 a plat of that part of the public highway improved and file one copy
 20 of said plat, petition, and subscription list, and report of all work
 21 done, with the township clerk, and another copy thereof with the
 22 county auditor in order that a permanent record may be preserved.
 23 It shall be the duty of said township clerk and of the county auditor
 24 to preserve a permanent record of all such proceedings.

[37 G. A., ch. 338, § 2.]

SEC. 3023. County roads—improvement.

1 Where the road to be improved is a county highway or part
 2 thereof, the said petition designating the particular portion of said
 3 county road to be graveled or otherwise improved by voluntary dona-
 4 tions, shall be filed with the county auditor and presented to the board
 5 of supervisors, who shall at once appoint an engineer to take charge
 6 of the work, furnish the necessary elevations, grades, etc., and make
 7 a plat of the proposed improvement and a copy of the petition and
 8 subscription list and file one copy of said plat, petition, and list with
 9 the county auditor of the county in which said portion of the road
 10 is located. When the work is completed, a report of the work actually
 11 done shall be prepared by the county engineer and filed with the county
 12 auditor. It shall thereupon become the duty of the county auditor to
 13 preserve a permanent record thereof. In case the portion of the road
 14 which said association proposes to improve is not already provided
 15 with permanent drainage, or the necessary grading, both such drain-
 16 age and grading shall be done within a reasonable time not to exceed
 17 one hundred fifty dollars per mile by said county at its expense.

[37 G. A., ch. 338, § 3.]

SEC. 3024. Donations not to work reduction in receipt of public funds.

1 Where any person or persons, society, commercial club, or other
 2 association in any locality within the state of Iowa, has donated labor,
 3 material, or money and thereby caused any portion of any public road
 4 to be graveled or otherwise improved, the improvement thus made by
 5 voluntary donations shall not be used as a reason or excuse to prevent
 6 any such portion of any township or county from receiving its propor-
 7 tionate share of both the township and the county funds raised by
 8 taxation for road purposes, but in all such instances, every such local-
 9 ity shall receive the benefit of its full share of said road tax and the
 10 township trustees, board of supervisors, or other authorities must
 11 use the same for repairing, improving, rebuilding, or maintaining the
 12 public road or highways, or portions thereof, theretofore improved by
 13 such donations.

[37 G. A., ch. 338, § 4.]

CHAPTER 15.

REGISTRATION OF HIGHWAY ROUTES.

SECTION 3025. Application for registration.

1 Any association organized to promote the improvement of any
 2 continuous highway not less than twenty-five miles in length may,
 3 by making application to the state highway commission, register in
 4 the office of said commission the name, detailed route, color combina-
 5 tion and design used in marking said route. The highway commis-
 6 sion shall have power to determine priority of right in the use of said
 7 name, color combination and designs.

[S., '13, § 1527-s22.]

SEC. 3026. Form—fee.

1 The application shall be in the form prescribed by the commis-
 2 sion upon blanks furnished by it, and shall be properly acknowledged
 3 by the president and secretary of the association before a notary.
 4 Said application shall be accompanied by a registration fee of five
 5 dollars, which fee shall be returned to the association if the applica-
 6 tion be not granted.

[S., '13, § 1527-s23.]

SEC. 3027. Certificate.

1 If the state highway commission shall, after investigation, ad-
 2 judge the application meritorious and the route to be worthy of the
 3 protection of this chapter, it shall issue to the association a certificate
 4 which shall designate in detail the name, the starting and the terminal
 5 points, the color combination and designs used in marking the route;
 6 all of which facts shall be recorded as a part of the permanent records
 7 of the commission in a book kept for that purpose.

[S., '13, § 1527-s24.]

SEC. 3028. Infringement prohibited.

1 It shall be unlawful for any person or association of persons to
 2 use for similar purposes the name, or any recorded color combination
 3 and designs herein referred to.

[S., '13, § 1527-s25.]

SEC. 3029. Injury or defacement of signs.

1 Any person who shall injure or deface any signboard, design or
 2 other markings designating routes, shall be subject to the provisions
 3 of section eighty-seven hundred twenty-nine.

[S., '13, § 1527-s26.]

SEC. 3030. Cancellation—reassignment.

1 When any such highway association ceases to exist or when the
 2 interest in the route, name and markings has ceased, the state high-
 3 way commission may, after proper investigation, cancel the records
 4 and registration herein referred to and reassign the name, color com-
 5 bination, designs or other markings to any association making appli-
 6 cation for their use.

[S., '13, § 1527-s27.]

SEC. 3031. Fees covered into state treasury.

1 All fees received by the state highway commission under this
2 chapter shall be turned into the state treasury.

[S., '13, § 1527-s28.]

SEC. 3032. Violation constitutes misdemeanor.

1 Any person or officer of any association violating any of the pro-
2 visions of this chapter shall be guilty of a misdemeanor.

[S., '13, § 1527-s29.]

CHAPTER 16.**USE OF HIGHWAYS.****SECTION 3033. Sidewalks on highways.**

1 Any owner of land adjoining a public road outside the limits of
2 a city or town may construct a sidewalk on and along said road, which
3 shall not exceed four feet in width, and be located along the side
4 thereof, of any material suitable for a footwalk, but it shall not be
5 so constructed as to interfere with the proper use and enjoyment of
6 any lands or premises along which it is laid. The person building
7 such walk shall keep the same in repair.

[C., '97, § 1522.]

SEC. 3034. Penalty for injury to.

1 Any person who shall destroy, injure, drive or ride upon a side-
2 walk so constructed, except at road crossings, shall be guilty of a
3 misdemeanor, and shall be fined not less than five dollars for each
4 offense, and shall be liable to the party who has built or maintained
5 said sidewalk for all damages caused thereby.

[C., '97, § 1523.]

SEC. 3035. Cattle ways across highways.

1 Upon application to the board of supervisors of any county by
2 any person for permission to construct a cattle way across, over or
3 under any public road, it may grant the same upon condition that
4 such way shall not interfere with the public travel; that the grade
5 of the road over the cattle way shall not exceed one foot in ten feet;
6 and that it shall not obstruct watering at any running stream. The
7 applicant shall construct the same at his own expense, and be respon-
8 sible for all damages that may arise from its construction, or from
9 the same not being kept in repair.

[C., '97, § 1524.]

SEC. 3036. Repairs.

1 If the person on whose land such cattle way is constructed fails
2 to keep the same in repair, it shall be the duty of the road superin-
3 tendent to make all necessary repairs, and charge the same to the
4 owner of the land upon which such way is constructed, and, upon his
5 refusal or failure to pay, the superintendent shall recover the same
6 in an action brought in his own name, which money, when collected,

7 shall be expended in improving or repairing the public roads in the
8 road district where such cattle way is constructed.

[C., '97, § 1525.]

SEC. 3037. Water mains—supervisors may grant use to municipalities and others for construction of—damages.

1 Upon application to the board of supervisors of any county by
2 any municipality, corporation, copartnership or individual desiring
3 to serve the public with water, or with ice manufactured therefrom
4 for permission to construct its water mains and lay its pipes in the
5 public highway from such municipality to any stream, spring, river,
6 lake or reservoir, the said board may grant the same upon condition
7 that it shall not in any manner interfere with the public travel. The
8 applicant shall be responsible for all damages that may arise from
9 such construction, or from the same not being kept in repair.

[S. S., '15, § 1527-b.]

SEC. 3038. Electric light and power transmission.

1 The board of supervisors of any county may, upon written appli-
2 cation designating the particular highways, the use of which is de-
3 sired, grant to any person or corporation engaged in the manufacture
4 or transmission of electric light and power the right to erect and
5 maintain poles and wires, for the purpose of conducting electricity
6 for lighting, heat and power purposes, in any public highway in their
7 county for a period not to exceed twenty years, subject to the follow-
8 ing conditions and such further reasonable regulations as the legis-
9 lature or the board of supervisors may hereafter prescribe: The
10 grantee shall in no case have the exclusive right to use such highway
11 for the conducting of the electricity. The poles and fixtures shall be
12 so constructed as to not incommode the public in the use of any road
13 or the navigation of any stream. When any road along which such
14 lines have been constructed shall be changed, the person or corpora-
15 tion shall, upon ninety days' notice in writing, remove said lines to
16 said road as established. The grantee shall use only strong and
17 proper wires, properly insulated, attached to strong and sufficient
18 supports and insulated at all points of attachment. They shall replace
19 all wires with new wires whenever by ordinary wear or other causes
20 they are no longer safe, and remove all wires, the use of which is
21 abandoned. They shall properly insulate every wire carrying electric
22 light, heat or power currents where it enters a building and within
23 such building so as to avoid danger from fires. Where such wires
24 are carried across or under wires used for other service, there shall
25 be suspended under or over said power, heat or light service lines,
26 properly constructed and insulated guard nets, or shall be protected
27 by such other equally efficient devices as will prevent contact with
28 such other service lines, in case of sagging or breaking of such wires.
29 No such grant shall be made until notice of the hearing of said appli-
30 cation shall be published once each week for two consecutive weeks
31 in a newspaper printed and published in the county seat, and of gen-
32 eral circulation in said county, stating the time when said application
33 will be acted upon and designating the particular highways named in
34 said application. The grantees shall be responsible for all damages
35 that may arise from such construction and operation under this grant
36 or from a failure to comply with said provisions.

[S., '13, § 1527-c; 38 G. A., ch. 267, § 1.]

SEC. 3039. Failure to comply with regulations—penalty.

1 Any person or corporation having received a grant as above stated
 2 who fails to comply with the preceding section and any person or cor-
 3 poration who constructs or attempts to construct any electric light or
 4 power transmission line without first securing the grant contemplated
 5 in the preceding section shall, upon conviction thereof, be punished
 6 by a fine of not less than one hundred dollars nor more than one thou-
 7 sand dollars. It shall be the duty of the county attorney and the
 8 board of supervisors to enforce the provisions of this section.

[S., '13, § 1527-d; 38 G. A., ch. 399, § 1.]

SEC. 3040. Use for gas mains and pipes.

1 Upon application to the board of supervisors of any county by
 2 any individual or corporation engaged, in any city or town, in the
 3 manufacture and distribution of gas for heating and illuminating pur-
 4 poses, asking permission to lay its mains and pipes in the public high-
 5 ways outside of such municipality for the purpose of supplying
 6 consumers beyond the territorial limits of the municipality in which
 7 the manufacturing plant of such individual or corporation is located,
 8 said board may grant the same upon such conditions as it may pre-
 9 scribe, but in all cases such mains and pipes shall be so laid as to not,
 10 in any manner, interfere with public travel or with the working of
 11 the public highway. The location of pipes and mains shall be changed
 12 upon reasonable notice whenever such change shall be made neces-
 13 sary by the working or improvement of the highway. The applicant
 14 shall be responsible for all damages that may arise from the construc-
 15 tion or maintenance of such mains and pipes, and for any damages
 16 that may arise from the same not being kept in a proper state of repair.

[S., '13, § 1527-e.]

SEC. 3041. Law of road.

1 Persons on horseback, or in vehicles, including motor vehicles,
 2 meeting each other on the public highway, shall give one-half of the
 3 beaten path thereof by turning to the right. Whenever a person in
 4 any vehicle shall approach from the rear upon the public highway and
 5 desire to pass, it shall be the duty of the driver or operator of such
 6 vehicle ahead to give one-half of the beaten path thereof, upon proper
 7 signal or request, by turning to the right. The vehicle approaching
 8 from the rear shall turn to the left and shall not return to such road
 9 or path within less than thirty feet of the team or vehicle which has
 10 been passed; provided, however, that such vehicle need not give such
 11 right of way when it would jeopardize the safety of the driver or
 12 operator to do so. Failure to comply with the above shall be deemed
 13 a misdemeanor and punishable as such.

[R., '60, § 908; C., '73, § 1000; C., '97, § 1569; S., '13, § 1569.]

SEC. 3042. Steam engines.

1 Whenever any traction engine is being propelled upon the public
 2 road, the whistle thereof shall not be blown, and the operator thereof
 3 shall exercise reasonable care and caution in the management of the
 4 same so as to avoid any accident that might occur from fright upon
 5 the part of any horse or other draft or domestic animal. Any person
 6 operating a traction engine upon the public highway shall, upon
 7 request, or signal by putting up the hand from the person riding or

8 driving a restive horse or other draft or domestic animal, bring such
 9 traction engine immediately to a stop, and if traveling in the opposite
 10 direction, remain stationary so long as may be reasonable to allow
 11 such horse or animal to pass, and if traveling in the same direction,
 12 use reasonable caution while such horse or animal is passing and the
 13 operator or any other person employed by the owner of said traction
 14 engine shall render necessary assistance to the party having in charge
 15 said horse or other draft or domestic animal in so passing.

[C., '97, § 1571; S., '13, § 1571.]

SEC. 3043. Mud lugs and ice spurs.

1 No traction engine having mud lugs or ice spurs attached to its
 2 wheels shall be moved over any bridge, culvert, or street crossing.

[S., '13, § 1571-1a.]

SEC. 3044. Penalty.

1 Any person violating any of the provisions of the two preceding
 2 sections shall be deemed guilty of a misdemeanor and upon conviction
 3 shall be fined not to exceed one hundred dollars or be imprisoned in
 4 the county jail not to exceed thirty days.

[S., '13, § 1571-2a.]

CHAPTER 17.

MOTOR VEHICLES.

SECTION 3045. Definitions.

1 In all laws of this state regulating motor vehicles, the term "motor
 2 vehicle", except where otherwise expressly provided, shall include all
 3 vehicles propelled by any power other than muscular power, except
 4 traction engines, road rollers, fire wagons and engines, police patrols,
 5 city or town ambulances, city and government vehicles clearly marked
 6 as such, and such vehicles as are run only upon tracks or rails.

7 The term "local authorities" shall include all officers of counties,
 8 cities or towns, as well as all boards, committees, or other public offi-
 9 cials of such counties, cities or towns.

10 "Motorcycle" shall include all motor vehicles designed to travel
 11 on not more than three wheels in contact with the ground, and of not
 12 exceeding ten horsepower, and of not exceeding the weight of five
 13 hundred pounds unladen.

14 A "trailer" shall be deemed to be any vehicle, which is at any
 15 time drawn upon the public highway by a motor vehicle excepting
 16 any implements of husbandry temporarily drawn, propelled or moved
 17 upon such highway.

18 "Highway" shall include any public highway, county road, state
 19 highway or state road, public street, avenue, alley, park, parkway,
 20 driveway, square or place, bridge, viaduct, trestle, or any other terri-
 21 tory or structure, whether public or private designed, intended or
 22 used by or for the general public for the passage of vehicles, in any
 23 county, or incorporated city or town within the state of Iowa.

24 "Local authorities" shall include all boards of supervisors, trus-
 25 tees or councils, commissions, committees, and other public officials
 26 of counties, incorporated cities or towns.

27 "Chauffeur" shall mean any person who operates an automobile
28 in the transportation of persons or freight and who receives any com-
29 pensation for such service in wages, commission or otherwise, paid
30 directly or indirectly, or who as owner or employee operates an auto-
31 mobile carrying passengers or freight for hire; provided, however,
32 that this definition shall not include manufacturers' agents, proprie-
33 tors of garages and dealers, salesmen, mechanics, or demonstrators
34 of automobiles in the ordinary course of their business.

35 The word or term "chauffeur" as defined by the laws of this state
36 shall not apply to employees engaged in operating motor trucks for
37 persons, firms or corporations engaged in mercantile and agricultural
38 enterprises.

39 "Nonresidents" shall mean residents of states other than the
40 state of Iowa and of countries other than the United States whose
41 sojourn in this state, or whose occupation or their regular place of
42 abode or business in this state, if any, covers a total period of less
43 than three months in the calendar year.

44 "Owner" shall include any person, firm, association, or corpora-
45 tion, having the lawful ownership, use or control, or the right to the
46 use or control, of a motor vehicle, under a lease or otherwise, for a
47 period of ten or more successive days.

48 The term "where a vehicle is kept" shall refer to the county of
49 residence of the owner or to the county where the vehicle is mainly
50 kept if it be different from that of the residence of the owner.

51 The words "license fee" shall have the same meaning as "regis-
52 tration fee" and when a motor vehicle is "licensed" it is also "regis-
53 tered" and vice versa.

54 A "dealer" shall include dealers and manufacturers.

55 "Manufacturer" or "dealer" shall signify a person, firm, associa-
56 tion, or corporation regularly in the business of having in his, its or
57 their possession motor vehicles for sale or trade and for use and oper-
58 ation pursuant thereto, and shall be considered owners of motor ve-
59 hicles manufactured or dealt in by them for the purposes of this
60 chapter, prior to sale and delivery thereof, and of all motor vehicles
61 in their possession and operated or driven by them or by their agents
62 or employees; provided, however, that anything to the contrary herein
63 notwithstanding, the determination of the department shall be final
64 and conclusive upon the question whether or not an applicant for
65 registration shall be a manufacturer or dealer within the meaning
66 and intent of this chapter.

67 "Garage" shall mean every place of business where motor ve-
68 hicles are received for housing, storage or repair, for compensation.

69 "Intersecting highway" shall mean any highway which joins
70 another at any angle, whether or not it crosses the other.

71 "Person" shall include any corporation, association, copartner-
72 ship, company, firm, or other aggregation of individuals and where
73 the term "person" is used in connection with the registration of a
74 motor vehicle, it shall include any corporation, association, copart-
75 nership, company, firm or other aggregation of individuals which
76 owns or controls such motor vehicle as actual owner, or for the pur-
77 pose of sale or for renting, whether as agent, salesman, or otherwise.

78 "Department" as used in this chapter shall mean the secretary
79 of state.

80 "Specially constructed" motor vehicle shall mean a motor vehicle
81 which shall not have been originally constructed under a distinctive
82 name, make, model or type of a generally recognized manufacturer of

83 motor vehicles; provided that in case of dispute the determination
84 of the department as to the character of construction of any such
85 motor vehicle shall be conclusive.

86 "Reconstructed motor vehicle" shall mean a motor vehicle which
87 shall have been assembled or constructed largely by means of essen-
88 tial parts, new or used, derived from other motor vehicles or makes
89 of motor vehicles of various names, models or type, or which, if orig-
90 inally otherwise, constructed, shall have been materially altered by
91 the removal of essential parts, or by addition or substitution of essen-
92 tial parts, new or used, derived from motor vehicles or makes of
93 motor vehicles; provided that for the purpose of this chapter the
94 term "essential parts" shall include, not only integral parts but also
95 body parts such as fenders, hood, cowl, and other parts, the removal,
96 alteration or substitution of which will tend to conceal the identity
97 or substantially alter the appearance of the motor vehicle; and pro-
98 vided, further, that in case of dispute the determination of the de-
99 partment as to the character of such assembly, reconstruction or
100 alteration shall be conclusive.

101 "Imported motor vehicle" shall mean any motor vehicle which
102 shall be brought into this state from another country or state other-
103 wise than in the ordinary course of business by or through a manu-
104 facturer or dealer and which has not been registered in this state.

[S., '13, § 1571-m1; 38 G. A., ch. 275, §§ 1, 2; 38 G. A., ch.
370, § 1.]

SEC. 3046. When license required.

1 Every motor vehicle kept in this state and whose owner is a resi-
2 dent of this state, and every motor vehicle kept in this state, except
3 temporarily by a nonresident owner and every motor vehicle kept
4 and used in this state a majority of the time, and every motor vehicle
5 used in this state and not properly licensed under the laws of another
6 state shall not be operated by its own power upon any public highway
7 without being licensed and without carrying license number plates
8 and proper license certificate and without having had its license fee
9 duly paid, all as required by law. Any such motor vehicle once
10 licensed in the state and by removal not longer subject to license in
11 this state, shall upon being returned to this state and subject to
12 license be again originally licensed. Every motor vehicle originally
13 licensed as provided by law shall, so long as it is subject to license,
14 within the state, pay an annual license fee in advance.

[38 G. A., ch. 275, § 3.]

SEC. 3047. Application for registration.

1 Every owner of motor vehicle which shall be operated or driven
2 upon the public highways shall, except as herein otherwise expressly
3 provided, have filed in the office of the county treasurer of the county
4 in which he resides, a verified application for registration or reregis-
5 tration on a blank to be furnished by the department for that purpose,
6 containing such information as the department may require for the
7 efficient administration of this chapter.

[S. S., '15, § 1571-n2; 38 G. A., ch. 275, §§ 1, 4.]

SEC. 3048. Registration by county treasurer—plates—trailers.

1 Upon receipt of the application and license fee for a motor
2 vehicle, as provided in this chapter, the county treasurer shall file

3 such application in his office and register such motor vehicle with
 4 the name, postoffice address and business address of the owner,
 5 together with the facts stated in such application, in a book or index
 6 to be kept for the purpose, under the distinctive number assigned to
 7 such motor vehicle by the county treasurer, which book or index shall
 8 be open to public inspection during reasonable business hours, and he
 9 shall give to the owner a receipt for the fee paid, and shall forthwith
 10 assign to such motor vehicle a distinctive number, and, without
 11 expense to the applicant, shall issue and deliver, or forward by mail
 12 or express to the owner, a certificate of registration and container for
 13 same in such form as the department may prescribe, and duplicate
 14 number plates bearing a number corresponding to the number assigned
 15 to such motor vehicle.

16 Upon receipt of the application and license fee for a trailer, as
 17 provided in this chapter, the county treasurer shall issue a receipt for
 18 the fee paid and shall at once forward the application to the depart-
 19 ment. The department shall register and assign to the trailer a dis-
 20 tinctive number and shall forward to the owner a certificate of
 21 registration and a single number plate bearing the number corre-
 22 sponding to the number assigned to the trailer. In the event of the
 23 loss, mutilation or destruction of any number plate, the owner of the
 24 registered motor vehicle, or manufacturer, or dealer, as the case may
 25 be, may obtain from the department a duplicate thereof upon filing
 26 in the office of the department an affidavit showing such facts and
 27 the payment of a fee of fifty cents for each plate. Duplicate certifi-
 28 cates of registration may be issued by the county treasurer in like
 29 cases, without the payment of any fee therefor.

[S. S., '15, § 1571-m5; 38 G. A., ch. 275, §§ 1, 5.]

SEC. 3049. Contracts for plates—manufacture by state.

1 The executive council shall purchase all number plates, contain-
 2 ers and other supplies required by this chapter after receiving com-
 3 petitive bids under open specifications. The bidders shall be required
 4 to furnish samples of such supplies and in awarding the contract the
 5 council may consider the quality and suitability of the samples sub-
 6 mitted as well as the price quoted. A record of all bids submitted
 7 shall be kept and the samples submitted shall be preserved until the
 8 next subsequent letting. The successful bidder shall be required to
 9 execute to the state a good and sufficient bond in such amount as the
 10 executive council shall require, conditioned upon the plates furnished
 11 being in accordance with the samples and specifications, and providing
 12 for liquidated damages for failure to deliver plates at the time speci-
 13 fied in the contract.

14 In lieu of purchasing under competitive bids the council shall
 15 have authority to arrange with the board of control to furnish such
 16 supplies as may be made at the state institutions.

[S. S., '15, § 1571-m5; 38 G. A., ch. 275, §§ 1, 6.]

SEC. 3050. Number plates—requirements.

1 On or before the first day of December of each year, the depart-
 2 ment shall deliver, or cause to be delivered to the county treasurer of
 3 each county, approximately as many duplicate number plates and cer-
 4 tificate containers as there are motor vehicles registered in such county
 5 during the preceding year. The plates so delivered to each county
 6 treasurer to be in numerical sequence. Thereafter, during the year,

7 the department, upon requisition of the county treasurer, shall deliver
8 additional number plates and certificate containers. The department
9 shall keep an accurate record of all number plates issued to each
10 county, and shall also keep a record showing the assignment thereof
11 by the county treasurer to motor vehicles.

12 Such number plates shall be of metal, at least six inches wide and
13 not less than fifteen inches in length, on which there shall be the ini-
14 tials "Ia" and numerals indicating the year for which it is issued;
15 and shall be of a distinctively different color each year, and there shall
16 be at all times a marked contrast between the colors of the number
17 plates and that of the numerals or letters thereon; said colors to be
18 designated by the department. The distinctive number assigned to
19 the vehicle shall be set forth in numerals four inches long, each stroke
20 of which shall be at least five-eighths of an inch in width. In the
21 case of a motor vehicle registered by a manufacturer or dealer, there
22 shall be on such plate, in addition to the foregoing, the letter "D"
23 each stroke of such letter to be at least four inches long and five-
24 eighths of an inch in width. The number plates for use on a motor
25 bicycle or a motorcycle shall be one-half the size above stated. All
26 number plates issued shall be and remain the property of the state
27 of Iowa.

[S., '13, §§ 1571-m12, 1571-m13; 38 G. A., ch. 275, §§ 1, 7.]

SEC. 3051. Renewals.

1 Registration shall be renewed annually as provided in section
2 thirty hundred fifty-three, to take effect on the first day of January
3 of each year; provided that the county treasurer shall withhold the
4 registration of any motor vehicle the owner of which shall have failed
5 to register the same under the provisions of this chapter, for any
6 previous period or periods for which it appears that registration
7 should have been made, until the fee for such previous period or
8 periods shall be paid. All certificates of registration issued under pro-
9 visions of this chapter shall expire on the last day of the calendar
10 year for which they were issued.

[S., '13, § 1571-m6; 38 G. A., ch. 275, §§ 1, 8.]

SEC. 3052. Surrender of plates.

1 When a motor vehicle is permanently dismantled or no longer
2 used on the public highway, the owner thereof shall detach the license
3 plates and surrender them to the county treasurer, who shall cancel
4 the registration of record and report such cancellation forthwith to
5 the department upon blanks provided for that purpose. Such license
6 plates shall be destroyed by the county treasurer who shall so advise
7 the department. A failure to comply with the provisions of this sec-
8 tion shall constitute a misdemeanor and upon conviction shall be pun-
9 ishable by a fine of not less than five dollars nor more than fifty dollars
10 or by imprisonment not exceeding ten days.

[38 G. A., ch. 275, § 9.]

SEC. 3053. Schedule of fees.

1 An annual license fee shall be paid for each motor vehicle oper-
2 ated upon the public highways of this state unless said vehicle is
3 specifically exempted under the provisions of this chapter. Said
4 license fee shall be paid to the county treasurer at the same time the
5 application is made for the registration or reregistration of said motor

6 vehicle and the county treasurer shall not issue a registration cer-
7 tificate for any motor vehicle until the proper license fee has been paid.

8 The amount of said license fee shall be and is fixed at the follow-
9 ing rates:

10 1. For all motor vehicles except motor trucks, motorcycles and
11 motor bicycles, a fee equal to one per cent of the value as fixed by the
12 executive council, plus forty cents for each one hundred pounds or
13 fraction thereof of weight of vehicle, as fixed by the executive council,
14 provided that no motor vehicle regardless of age shall be licensed for
15 less than ten dollars.

16 The executive council shall annually classify all such motor ve-
17 hicles by value and by weight. The value shall be fixed at the next
18 even one hundred dollars above the retail list price when new F. O. B.
19 the factory, and the weight shall be fixed at the next even one hundred
20 pounds above the manufacturers' shipping weight or the actual weight
21 of the vehicle fully equipped.

22 2. After said motor vehicle has been registered five times, that
23 part of the license fee which is based on the value of said vehicle shall
24 be one-half the rate as fixed when new, except as provided in para-
25 graph one above, and the sworn statement of the registrant as to the
26 number of times such motor vehicle has been registered shall be con-
27 clusive evidence of that fact.

28 3. For all motorcycles the annual license fee shall be five dollars.
29 When said motorcycle has been registered five times, the annual
30 license fee shall be one-half the rate when new.

31 4. For all motor trucks, the fee shall be fixed in accordance with
32 the following schedule:

33 a Motor trucks equipped with all pneumatic tires:

34	For 1 ton or less capacity	\$ 15.00 per annum
35	" 1½ tons capacity	22.50 " "
36	" 2 " "	30.00 " "
37	" 2½ " "	45.00 " "
38	" 3 " "	65.00 " "
39	" 3½ " "	90.00 " "
40	" 4 " "	105.00 " "
41	" 4½ " "	120.00 " "
42	" 5 " "	135.00 " "
43	" 6 " "	165.00 " "

44 b Motor trucks equipped with two or more solid rubber tires:

45	For 1 ton or less capacity	\$ 15.00 per annum
46	" 1½ tons capacity	22.50 " "
47	" 2 " "	30.00 " "
48	" 2½ " "	55.00 " "
49	" 3 " "	75.00 " "
50	" 3½ " "	100.00 " "
51	" 4 " "	115.00 " "
52	" 4½ " "	130.00 " "
53	" 5 " "	145.00 " "
54	" 6 " "	175.00 " "

55 Provided that for all trucks having a load capacity above two
56 tons and operated exclusively within the limits of cities and towns, the
57 annual license fee shall be two-thirds the rates fixed above.

58 The license fee for each ton of load capacity above six tons shall
59 be fifty dollars in addition to the six ton rate, provided that no license
60 shall be issued for any motor truck having a greater load capacity
61 than six tons without a specific permit from the municipal authorities

62 for operation entirely within the limits of municipalities and without
 63 a specific permit from the state highway department and board of
 64 supervisors for operation without the limits of municipalities. Said
 65 permit may define and limit the streets and highways over which
 66 said heavy trucks may be licensed to operate.

67 c Motor trucks equipped with iron, steel or hard tires:

68 1 ton or less capacity \$40.00
 69 1½ ton capacity 50.00

70 No license issued for heavier load capacities.

71 5. For all trailers, the license fee shall be fixed in accordance
 72 with the following schedule:

73 Trailers equipped with all pneumatic tires:

74 1 ton or less capacity \$10.00
 75 2 " " 15.00
 76 3 " " 25.00
 77 4 " " 40.00
 78 5 " " 50.00
 79 6 " " 60.00

80 Trailers equipped with two or more solid rubber tires:

81 1 ton or less capacity \$10.00
 82 2 " " 15.00
 83 3 " " 35.00
 84 4 " " 50.00
 85 5 " " 60.00
 86 6 " " 70.00

87 Trailers equipped with iron, steel or hard tires:

88 ½ ton capacity \$ 3.00
 89 1 " " 15.00
 90 2 " " 30.00

91 All motor trucks, trailers, and motor vehicles used for other than
 92 the conveyance of passengers shall have attached thereto a conspicu-
 93 ous metal plate giving the actual weight of the vehicle equipped and
 94 weight of loading capacity as specified by the manufacturer or maker
 95 and no license shall be issued until the vehicle is so equipped. Any
 96 person violating any of the provisions of this section shall be deemed
 97 guilty of a misdemeanor, and upon conviction, shall be subject to a
 98 fine of not less than five dollars nor more than fifty dollars for the
 99 first and second offenses. Upon a third conviction, the department
 100 shall have authority to cancel the certificate of registration and call
 101 in the number plates and a new license shall not be issued for any
 102 such motor vehicle for a period of one year.

[S. S., '15, § 1571-m7; 38 G. A., ch. 275, §§ 1, 10.]

SEC. 3054. Chauffeur's license — duty of holder — liability of parent—revocation of license.

1 It shall be unlawful for any person known as a chauffeur, and
 2 employed for hire therefor, to operate or drive a motor vehicle upon
 3 the public highways, or streets, of cities or towns of this state, unless
 4 licensed by the department as herein provided.

5 Any person desiring a chauffeur's license shall file with the de-
 6 partment an application under oath stating his name, residence, busi-
 7 ness address, if any, age, color, single or married, whether he has ever
 8 been convicted of a violation of the motor vehicle laws of this state or
 9 any other state, or has been convicted within one year of intoxication,
 10 and such other information as the department may require. Such

11 license shall not be issued until the department is satisfied that the
12 applicant is over eighteen years of age and is a fit and proper person
13 to receive such license. The fee for chauffeur's license shall be two
14 dollars payable annually and shall expire on the last day of the year
15 for which it is issued.

16 To each person shall be assigned a distinguishing number and the
17 department shall issue to the licensee a certificate containing the dis-
18 tinguishing number assigned to the licensee, his name, age, place of
19 residence, business address, if any, and a brief description of the
20 licensee for purpose of identification, and such other information as
21 the department shall deem necessary. Each person licensed as a
22 chauffeur, shall indorse his usual signature on the license certificate
23 and his license shall not be valid until the certificate is so indorsed.

24 The department shall also furnish, without extra charge therefor
25 to each chauffeur licensed a suitable metal badge with the number
26 assigned to him stamped thereon, such badge to have stamped thereon
27 the words "Registered Chauffeur No., Iowa," and year of issue.

28 This badge shall thereafter be worn by such chauffeur, affixed to
29 his clothing in a conspicuous place, at all times when he is operating
30 a motor vehicle upon the public highway and the license certificate
31 shall be carried at all times when he is operating a motor vehicle upon
32 the public highway and shall be produced for inspection upon request
33 by any peace officer. In case of the loss of such badge or certificate
34 a duplicate will be issued by the department on the filing of an affidavit
35 showing the fact of loss, and on payment of a fee of one dollar to the
36 department in the case of a badge, and fifty cents in case of a certifi-
37 cate. Applications for the annual renewal of license by chauffeurs
38 shall be accompanied by the fee required by this section.

39 No chauffeur's license or badge shall be issued to any applicant
40 under the age of eighteen years; provided that it shall be unlawful
41 for any person to cause or knowingly to permit his or her child, ward
42 or employee to operate a motor vehicle upon the public highway as a
43 chauffeur without first having obtained such license as hereinbefore
44 specified; and the application to the department of a minor to operate
45 a motor vehicle, as chauffeur, shall not be granted by the department
46 unless the parent or parents having custody of such applicant or the
47 guardian of such applicant shall have joined in said application by
48 signing the same; and provided further, that any negligence of a
49 minor, so licensed, in operating a motor vehicle upon the public high-
50 way, as chauffeur, shall be imputed to the person, persons or corpo-
51 ration, who shall employ said chauffeur; which person, persons or corpo-
52 ration shall be jointly and severally liable with such minor for any
53 damage caused by such negligence.

54 Upon the receipt of an application, the department shall register
55 the applicant in a book or on index cards which shall be kept in the
56 same manner as the books or index cards for the registration of motor
57 vehicles.

58 No person shall use a fictitious name in applying for such chauf-
59 feur's license, nor shall any chauffeur voluntarily permit any other
60 person to possess or use his license certificate or badge; nor shall any
61 person, while operating a motor vehicle, use or possess any license
62 certificate or badge belonging to another person.

63 No person shall display or cause or permit to be displayed, or
64 have in his possession, any canceled, revoked, altered or fictitious reg-
65 istration number plates, registration certificate, chauffeur's license

66 certificate or chauffeur's badge, as the same are respectively provided
67 for in this chapter.

68 The official head of the department may, after due hearing, upon
69 not less than five days' notice to be sent by registered letter to the
70 address given by the person seeking a chauffeur's license, which shall
71 constitute a sufficient service of notice, suspend or revoke the chauffeur's
72 license issued to any person under this chapter, for any cause
73 which he may deem sufficient, or he may, when a chauffeur has been
74 convicted a third time of a violation of any of the provisions of this
75 chapter, revoke or suspend the license of the chauffeur so convicted
76 and no new license shall be issued to such person for at least one year
77 after the date of revocation of such license nor thereafter except in
78 the discretion of the said officer. Any certificate or license issued to
79 any chauffeur to operate motor vehicles upon an application or state-
80 ment which is untrue as to any material fact, shall be void from the
81 date of issue.

82 Any chauffeur whose license shall be revoked by the department,
83 or shall be found to be void, shall forthwith return his license certifi-
84 cate and badge to the department. If any chauffeur or other person
85 shall without the consent of the owner take or cause to be taken any
86 automobile or motor vehicle and operate or drive or cause the same to
87 be operated or driven, he shall be imprisoned in the penitentiary not to
88 exceed one year or be imprisoned in the county jail not to exceed six
89 months, or be fined not to exceed five hundred dollars.

[38 G. A., ch. 275, § 11.]

SEC. 3055. Age limit of operator—liability for damage.

1 No person under fifteen years of age shall operate or drive a
2 motor vehicle by permission from the owner of the car unless such
3 person be accompanied by a person of mature years and in all cases
4 where damage is done by any car driven by any person under fifteen
5 years of age and in all cases where damage is done by the car, driven
6 by consent of the owner, by reason of negligence of the driver, the
7 owner of the car shall be liable for such damage.

[S., '13, §§ 1571-m3, 1571-m18; 38 G. A., ch. 275, §§ 1, 12.]

SEC. 3056. Manufacturer to file schedule of prices.

1 Every manufacturer of a motor vehicle sold or offered for sale
2 within this state, either by the manufacturer, distributor, dealer or
3 any other person, shall, on or before the first day of June, annually,
4 file in the office of the department a sworn statement showing the
5 various models manufactured by him, and the retail list price and
6 weight of each model as of June first of that year. No motor vehicle
7 shall be registered in this state unless the manufacturer thereof has
8 furnished to the department the sworn statement herein provided,
9 giving the list price and weight of the model of the motor vehicle that
10 is offered for registration, except that the county treasurer shall have
11 authority to fix the value and weight of any rebuilt or foreign car or
12 any car on which the list price and weight is not available, provided the
13 department shall have authority to review the action of the county
14 treasurer in such cases, establish the correct value and weight and
15 revoke the findings of the county treasurer, if found incorrect.

[38 G. A., ch. 275, § 13.]

SEC. 3057. Exemptions.

1 All motor vehicles owned and used in the transaction of official
2 business by the representatives of foreign powers or by officers, boards
3 or departments of the government of the United States, and by the
4 state of Iowa, counties, municipalities and other subdivisions of gov-
5 ernment, and such self-propelling vehicles as are used neither for the
6 conveyance of persons for hire, pleasure or business nor for the trans-
7 portation of freight, and small trailers, under one thousand pounds
8 capacity, equipped with rubber tires, used with pleasure motor vehi-
9 cles and used for carrying personal baggage or effects, are hereby
10 exempted from the payment of the fees in this chapter prescribed, but
11 shall not be exempt from the penalties herein provided. The depart-
12 ment shall furnish, on application, free of charge, distinguishing plates
13 for motor vehicles thus exempted and keep a separate record thereof.

[38 G. A., ch. 275, § 14.]

SEC. 3058. Executive council to fix values.

1 The department shall prepare, prior to the second day of July,
2 annually, a statement showing all the different makes and models of
3 motor vehicles previously registered in his department, and all the
4 different makes and models of motor vehicles, statements of which
5 have been filed in his office as provided in section thirty hundred fifty-
6 six, together with the retail list price and weight of the same, and the
7 executive council shall, on or before the fifteenth day of July of each
8 year, and at such other times as they may deem necessary, fix the
9 value and weight of each of the different makes and models of motor
10 vehicles so reported to them by the department, or which are sold or
11 offered for sale within the state.

12 The statement prepared by the department shall also include the
13 load capacities of the various makes and models of motor trucks and
14 trailers and the proper license fee to be paid for the registration
15 of each.

[38 G. A., ch. 275, § 15.]

SEC. 3059. Lien—penalties—procedure in re delinquents—remittance by treasurer.

1 All registration or other fees herein or heretofore provided for in
2 this chapter shall be and continue a lien against the motor vehicle for
3 which said fees are payable until such time as they are paid as pro-
4 vided by law, with any accrued penalties. The lien of the original
5 registration fee shall attach, at the time the same is first payable, as
6 provided by law, and the lien of all renewals of registration shall
7 attach on January first of each year thereafter. The collection of
8 same may be enforced against any motor vehicle or it may be col-
9 lected by suit against the owner who shall remain personally liable
10 therefor until such time as the transfer thereof shall be reported to
11 the county treasurer or until such time as said vehicle ceases to be in
12 use and all fees and penalties to such date shall be paid. On January
13 first of each year, a penalty of one dollar shall be added to all fees
14 not paid by that date, and one dollar shall be added to such fees on
15 the first of each month thereafter that the same remains unpaid,
16 until paid.

17 On April first of the year nineteen hundred twenty-one, and
18 annually thereafter, the department shall forward to the county treas-

19 urer of each county, a list of all motor vehicles in said county on
20 which the registration fee has not been paid, showing the amount of
21 the delinquent fee, registration number, make and factory number,
22 together with the name and address of the owner of each car as dis-
23 closed by the records. In the first week of May of each year the
24 county treasurer shall cause to be published in each of the official
25 newspapers in his county, a list of all motor vehicles owned within his
26 county upon which the license fee has not been paid for that year.
27 Such list shall show the factory number, make and model of the
28 vehicle together with the name and postoffice address of the owner
29 thereof as shown by the records of his office and the amount of the
30 license fee and penalty due upon the vehicle. Immediately after the
31 publication of the list as herein provided, it shall be the duty of the
32 county treasurer to collect the license and penalty.

33 The county treasurer shall collect from each delinquent, fifty
34 cents on each vehicle on which the fee is delinquent to cover cost of
35 publication. The cost of publication provided for in this section shall
36 be paid as other bills for the maintenance of the department, but shall
37 first be certified by the county treasurer of the county in which the
38 publication was made, and approved by the department. He shall in
39 all cases collect and remit to the department the correct license fee
40 on each motor vehicle registered by him and shall be responsible on
41 his bond for such amount.

42 All fees and penalties collected by the county treasurer shall be
43 remitted to the department on or before the fifteenth day of each
44 month following their collections in the same manner as provided by
45 section forty-seven hundred sixty-nine.

46 It shall be the duty of the county treasurer to deliver to the
47 sheriff of the county, fifteen days from the date of publication of the
48 delinquent motor list, a certified list of the motor vehicles on which
49 the fees are delinquent, as shown by the record of his office, which
50 list shall show name and address of owner, make of car, license num-
51 ber, factory and engine number, amount of fees and penalty due.

52 It shall be the duty of the sheriff of the county to forthwith pro-
53 ceed to the collection of the unpaid fees and penalties as certified to
54 him by county treasurer by taking possession of the motor vehicle
55 described in said certified list and proceed to advertise and sell same
56 upon ten days' notice for the purpose of collecting fees, penalties and
57 costs. Said certified list shall for all purposes be a sufficient war-
58 rant therefor. The procedure of the sale of the motor vehicle for the
59 collection of the license fees, penalties and costs shall be the same as
60 that provided for the collection of the taxes on personal property by
61 distress and sale as set forth in section forty-six hundred sixty-six.
62 Should a motor vehicle on which the fee is delinquent be removed from
63 the county in which it was originally registered, either by transfer
64 or removal by owner to another county, without having notified the
65 county treasurer or department of such removal and the sheriff know-
66 ing to which county same was removed, may forward the warrant
67 to the sheriff of the county where such motor vehicle is at that time,
68 when he shall proceed to collect the same as though the vehicle had
69 been originally registered in his county, and make return to the
70 county treasurer of the county from which he received the warrant.

71 The sheriff shall be entitled to receive as costs, the sum of two
72 dollars for serving the writ or warrant of seizure and ten cents for
73 each mile actually traveled by him in collecting the fee and penalties,

74 and one dollar per day for care of the motor vehicle while in his pos-
 75 session, which shall be collected from the owner of such delinquent
 76 motor vehicle, such costs and mileage, and costs of care while in his
 77 possession, shall be retained by him in full for his services.

78 When the fee and penalties have been collected the same shall
 79 forthwith be returned to the county treasurer, together with a report
 80 showing the name and address of the owner and description of car
 81 upon which such fee was collected. Thereupon the county treasurer
 82 shall issue to the owner number plates and a receipt showing pay-
 83 ment of fees and penalties.

[S., '13, §§ 1571-m15, 1571-m21; S. S., '15, § 1571-m7; 38
 G. A., ch. 275, §§ 1, 16.]

SEC. 3060. Books, forms, supplies, receipts—requirements.

1 It is hereby made the duty of the department to prepare and fur-
 2 nish the treasurer of each county all blank books, blank forms and all
 3 supplies required for the administration of this chapter, including
 4 applications for registration and transfer of vehicles, triplicate
 5 receipts, one of which shall be returned to the department on the day
 6 the license is issued, one delivered to the owner of the motor vehicle,
 7 and one retained by the treasurer of the county, and including dupli-
 8 cate remittance sheets to be used in remitting fees to the depart-
 9 ment, which shall contain the license number, name and address of
 10 owner, weight, price and load capacity of the vehicle, and the fee
 11 collected. All receipts for fees paid, certificates of registration, notices
 12 of transfer, and other blanks required for the administration of this
 13 chapter shall contain the license number, and manufacturer's num-
 14 ber, factory number, name of owner, and such other matters as the
 15 department may deem necessary for the efficient administration of
 16 this chapter.

17 It shall be the duty of the department to install and maintain a
 18 numerical and a county card index, both of which shall contain the
 19 following information; viz., name and address of owner, license num-
 20 ber, make, factory number, model, style, engine number, date of pur-
 21 chase, registration certificate number, number of cylinders, rated load
 22 carrying capacity, weight, list price or value of car fixed by the execu-
 23 tive council, fees paid and date of payment.

24 The certificate of registration provided for herein shall contain
 25 on its face the name of the owner of the motor vehicle, his postoffice
 26 address, date of issue, fee paid, license number, make of car, style of
 27 car, model, engine number, factory number, and signature of owner.
 28 The reverse side of the certificate of registration shall contain notice
 29 of sale and transfer of the motor vehicle by the owner to the purchaser
 30 with a description of the car as set out in the certificate of registra-
 31 tion which shall have blank spaces for the signature of both the
 32 owner and purchaser.

[S., '13, §§ 1571-m2, 1571-m4; 38 G. A., ch. 275, §§ 1, 17.]

SEC. 3061. Transfer of ownership—procedure.

1 Upon the transfer of ownership of any registered motor vehicle,
 2 the owner shall immediately give notice to the county treasurer, upon
 3 the form on the reverse side of the certificate of registration, stating
 4 the date of such transfer, the name and postoffice address, with street
 5 number if in a city, of the person to whom transferred, the license
 6 number, and such other information as the department may require.

7 The purchaser of the motor vehicle shall join in the notice of transfer
8 to the county treasurer and shall at the same time make application
9 for the transfer of the motor vehicle and for a new certificate of
10 registration.

11 Upon filing the application for transfer, the applicant shall pay a
12 fee of one dollar for the transfer, thereupon the county treasurer, if
13 satisfied of the genuineness and regularity of such transfer, shall
14 register said motor vehicle in the name of the transferee and issue a
15 new certificate of registration as provided in this chapter. Until said
16 transferee has received said certificate of registration and has written
17 his name upon the face thereof, delivery and title to said motor vehicle
18 shall be deemed not to have been made and passed. The county treas-
19 urer shall forthwith notify the department of such transfer and upon
20 receipt of such statement, the department shall file such statement in
21 his office and note upon the registration book or index, such change of
22 ownership.

23 The provisions provided for herein for the transfer of motor
24 vehicles shall apply to the sale and transfer of all motor vehicles to
25 manufacturers or dealers.

[S., '13, § 1571-m9; 38 G. A., ch. 275, §§ 1, 18.]

SEC. 3062. Fees in lieu of taxes.

1 The registration fees imposed by this chapter upon motor vehi-
2 cles, other than those of manufacturers and dealers, shall be in lieu of
3 all taxes, general or local, to which motor vehicles may be subject.

[S., '13, § 1571-m8; 38 G. A., ch. 275, §§ 1, 19.]

**SEC. 3063. Purchase of secondhand vehicles—conditions—de-
facement—penalties.**

1 It shall be unlawful for any person, firm, association, or cor-
2 poration to buy any secondhand or used automobile, or motor vehicle
3 without requiring and receiving from the vendor thereof, a certificate
4 of registration and transfer from the officer whose duty it is to reg-
5 ister or license motor vehicles in the state in which said motor vehicle
6 is registered or licensed, showing the factory number, license number,
7 description, and ownership of said motor vehicle or to sell or offer for
8 sale any secondhand or used motor vehicle without furnishing to the
9 vendee of said motor vehicle, a certificate of registration and transfer
10 from the officer whose duty it is to register or license motor vehicles
11 in the state in which said motor vehicle is registered or licensed,
12 showing the factory number, description, license number and owner-
13 ship of said motor vehicle.

14 It shall be unlawful for any person, firm, association or corpora-
15 tion to deface, or alter any serial number, engine number or assem-
16 bling number of a motor vehicle or registration number of a certificate
17 of registration or to have in his or its possession a motor vehicle, the
18 serial number or engine number of which is defaced, altered or
19 tampered with unless said person, firm, association or corporation
20 has in his or its possession a certificate of registration and transfer
21 from the officer whose duty it is to register or license motor vehicles
22 in the state in which said motor vehicle is registered, showing good
23 and sufficient reason why numbers are defaced, changed or tampered
24 with; and also showing the original serial or engine number, and
25 also showing the ownership of said motor vehicle.

26 Any person, firm, association or corporation found guilty, per-
27 sonally or by agent, of violating any of the provisions of this section
28 shall be imprisoned in the penitentiary not more than five years or be
29 fined not more than one thousand dollars or be imprisoned in the
30 county jail not more than one year.

[38 G. A., ch. 275, § 20.]

SEC. 3064. Operation without registration—nonresidents.

1 Upon the sale of a motor vehicle by a manufacturer or dealer,
2 the vendee shall at once make application by mail or otherwise, for
3 registration thereof, after which he may operate the same upon the
4 public highway without its individual number plate thereon for a
5 period of not more than fifteen days, provided that during such
6 period the motor vehicle shall have attached thereto, in accordance
7 with the provisions hereof, both on the front and rear of such vehicle,
8 pasteboard cards bearing the words, "license applied for", and the reg-
9 istration number of the dealer from whom the car was purchased
10 together with the date of purchase plainly stamped or stenciled
11 thereon. The letters and figures upon such cards shall not be less
12 than one inch in height except that the letters in the words "license
13 applied for", shall not be less than two inches in height, provided that
14 no manufacturer or dealer shall issue or permit the use of such card
15 until an application for a license has been made, as herein provided,
16 by the person to whom it is issued.

17 The department shall, upon the application of any manufacturer
18 or dealer, furnish such cards free of charge with the words "license
19 applied for" printed thereon, and sufficient blank space to permit the
20 printing, stamping or stenciling thereon of the dealers' number and
21 the date. Provided further, that a motor vehicle that is being brought
22 into this state from another state either for use or for sale herein,
23 may be driven upon the public highway for a period of not to exceed
24 ten days provided it shall carry, both on the front and rear a paste-
25 board card bearing the words, "car in transit", and the date of pur-
26 chase. The words, letters and figures upon said car shall be of the
27 same size and general character as those required in this section for
28 the cards showing that application has been made for a license. Noth-
29 ing in this section, however, shall be construed so as to interfere with
30 the use of motor vehicles upon the highways of this state that are
31 owned by persons living in another state, regulation of which is pro-
32 vided for elsewhere in this chapter.

[S., '13, § 1571-m10; 38 G. A., ch. 275, §§ 1, 21.]

SEC. 3065. Display of plates and certificates and wrongful use thereof.

1 Every motor vehicle required to be licensed shall have conspicu-
2 ously displayed the number plates furnished, one on the front end
3 and one on the rear end of such vehicle, each securely fastened, so as
4 to prevent the same from swinging and each so placed that the same
5 shall not become habitually obscured by dust and mud. The number
6 plates of a junked or dismembered vehicle shall not thereafter be used,
7 and no number plate shall be detached from the vehicle for which it is
8 issued and to which it belongs for the purpose of using the same upon
9 any other vehicle, and any such plates shall not be used upon any
10 vehicle, other than that for which it was issued. The certificate of

11 registration issued by the county treasurer shall also be displayed in
12 a proper holder that will protect the same, of a kind approved by the
13 executive council and placed in plain view in such place on or in the
14 vehicle where the same can be easily seen by any peace officer or other
15 person desiring to ascertain when the license fee was paid, and
16 whether the car bears the proper certificate of registration.

17 The department may prescribe the exact location of such certifi-
18 cate container. The executive council may at its discretion approve
19 devices for holding and displaying the certificate of registration, and
20 may require such devices to receive and hold such certificate so that
21 when the certificate is removed from the holder the certificate will be
22 destroyed or mutilated so it can not be used on other vehicles. It shall
23 be unlawful to change the license numbers assigned by the county
24 treasurer to any motor vehicle, unless for some cause a new number
25 may be assigned according to law or to change the colors or make any
26 counterfeit of certificate of registration, or to use or display on any
27 motor vehicle any other than the certificate of registration licensing
28 such vehicle or to intentionally use or display any such certificate on
29 which the names, numbers, or data stated are not true, or do not cor-
30 respond to the vehicle licensed, such certificate of registration shall be
31 of a distinctively different color each year and shall have data thereon
32 that shall identify only the car on which same is carried.

33 Any violation of this section shall constitute a misdemeanor, and
34 upon conviction shall be punishable by a fine of not less than ten dol-
35 lars nor more than one hundred dollars, or by imprisonment not
36 exceeding thirty days.

[S., '13, §§ 1571-m11, 1571-m21; S. S., '15, § 1571-m12a; 38
G. A., ch. 275, §§ 1, 22.]

SEC. 3066. General registration by dealer.

1 Every person, firm, association or corporation manufacturing or
2 dealing in motor vehicles, may instead of registering each motor
3 vehicle, make an application for a general distinctive number for all
4 the motor vehicles owned or controlled by such manufacturer or dealer.
5 On the payment of a registration fee of twenty-five dollars, such appli-
6 cation shall be registered in the office of the department. The depart-
7 ment shall thereupon assign and issue to such manufacturer or dealer
8 a general distinctive number, and without expense to the applicant,
9 issue and promptly deliver to such manufacturer or dealer, a certifi-
10 cate of registration and two number plates with a number correspond-
11 ing to the number of such certificate.

12 Such number plates shall be displayed by each motor vehicle of
13 such manufacturer or dealer when the same is operated or driven on
14 the public highways. Such manufacturer or dealer may obtain as
15 many duplicates of such number plates as may be desired upon the
16 payment to the department of fifteen dollars for each duplicate set,
17 provided that if a manufacturer or dealer has an established place of
18 business in more than one city or town, such manufacturer or dealer
19 shall secure a separate and distinct certificate of registration and num-
20 ber plates for each such place of business. Nothing in this section
21 shall be construed to apply to a motor vehicle operated by a manu-
22 facturer or dealer for private use or for hire, which said motor vehicle
23 shall be individually registered as provided in this chapter.

[S. S., '15, § 1571-m14; 38 G. A., ch. 275, §§ 1, 23.]

SEC. 3067. Nonresident owners of vehicles.

1 The provisions of the foregoing sections relative to registration
2 and display of registration numbers shall not apply to a motor vehicle
3 owned by a nonresident of this state, other than a foreign corporation,
4 manufacturer or dealer doing business in this state, provided that the
5 owner shall have complied with the provisions of the law of the foreign
6 country, state, territory or federal district of his residence relative to
7 registration of motor vehicles and the display of registration num-
8 bers thereon and shall conspicuously display his registration numbers
9 as required thereby. The provisions of this section shall be operative
10 as to a motor vehicle owned by a nonresident of this state to the
11 extent that under the laws of the foreign country, state, territory or
12 federal district of his residence like exemptions and privileges are
13 granted to motor vehicles duly registered under the laws, and owned
14 by the residents of this state.

[S., '13, § 1571-m16; 38 G. A., ch. 275, §§ 1, 24.]

SEC. 3068. Safety equipment—prohibited acts.

1 *a* Every motor vehicle, while in use on the public highways of
2 this state, shall be provided with adequate brakes.

3 *b* Every motor vehicle shall be equipped with a suitable bell,
4 horn, or other signalling device producing an abrupt sound sufficiently
5 loud to serve as an adequate warning of danger, but no persons operat-
6 ing any motor vehicle shall make or cause to be made any unneces-
7 sary noise with such bell, horn or signalling device, or use the same
8 except as a warning of danger. Loud signalling devices shall not be
9 used during the period of from one hour after sunset to one hour
10 before sunrise, unless absolutely necessary to avoid accidents.

11 An adequate signalling device shall in all cases be sounded on
12 approaching curves, tops of hills, and the intersecting highways in
13 the country where the operator's view is obscured.

14 *c* All motor vehicles in use on the public highways excepting
15 motorcycles, motor bicycles, and such motor vehicles as are properly
16 equipped with one light in the forward center of such motor vehicle,
17 shall, during the period of from one-half hour after sunset to one-half
18 hour before sunrise, display two or more white or tinted lights, other
19 than red, on the forward part of said vehicle, so placed as to be seen
20 from the front, and of sufficient illuminating power to be visible at a
21 distance of five hundred feet in the direction in which displayed, and
22 to reveal any persons, vehicle or substantial object seventy-five feet
23 ahead of the lamps. Such motor vehicle when in use shall also display
24 on the rear a lamp so constructed and placed as to show a red light
25 from the rear and throw a white light directed upon the rear registra-
26 tion marker and render the numerals thereon visible for at least fifty
27 feet in the direction from which the vehicle is proceeding.

28 Motorcycles, motor bicycles and motor vehicles equipped with one
29 light as herein provided, shall display on the forward part one white
30 or tinted light, as aforesaid, and a red light to the rear, so constructed
31 and placed as to throw a white light directly upon the registration
32 marker as prescribed in the case of any other motor vehicle, provided
33 that the operator of any motor vehicle may proceed in a cautious and
34 careful manner, in the event of a failure of one or more of his lights to
35 operate, toward his destination, but he shall take the first reasonable
36 opportunity to put his lights in order, otherwise to be deemed guilty

37 of violation of this provision. The provision as to the rear light shall
38 also apply to vehicles which are trailed or towed by motor vehicles.

39 It shall be unlawful to use on a vehicle of any kind operated on the
40 public highways of this state, including motorcycles, any lighting
41 device of over four candle power, equipped with a reflector, unless the
42 same shall be so designed, or arranged that the directly reflected and
43 undiffused beam of such light when measured seventy-five feet or
44 more ahead of the light shall not rise above forty-two inches from the
45 level surface on which the vehicle stands under all conditions of load.

46 If, in addition to headlights, any such vehicle is equipped with
47 any auxiliary light, projecting lights, or devices other than the
48 rear lamp, such auxiliary light or lights shall be subject to all the
49 restrictions of this section, regarding direction of the beam. If a
50 spotlight is used on a motor vehicle it shall be unlawful for any person
51 to direct its rays toward the eyes of the driver or occupants of an
52 approaching vehicle, or to the left of the center of the traveled way
53 when meeting another vehicle. No person shall operate a motor
54 vehicle on any highway of this state equipped with an electric bulb
55 or other lighting device of a greater capacity than thirty-two candle
56 power, no matter how the same may be shaded, covered or obscured.

57 Any person who shall turn all or any of his motor vehicle's lights
58 off for the purpose of avoiding arrest or identification, shall be deemed
59 guilty of a misdemeanor and, upon conviction, subject to a fine of
60 one hundred dollars or imprisonment for a period of not to exceed
61 thirty days, or both fine and imprisonment.

62 *d* It shall be unlawful for any operator of any motor car, taxicab,
63 automobile, motor truck or motorcycle, while on the public highway, to
64 use any cut-out fitting or other apparatus or device which will allow
65 the exhaust gases from the engine of the motor vehicle to escape into
66 the atmosphere without first passing through a silencer, expansion
67 chamber, or other contrivance suitable and sufficient for reducing as
68 far as may be reasonably practicable, the noise which would other-
69 wise be caused by the escape of the said gases, provided further, that
70 it shall be unlawful for any person to drive or to permit to be driven
71 on the streets of any city or town, any motor vehicle at any time with
72 the muffler cut out or not in operation. Any violation of this section
73 shall constitute a misdemeanor, and upon conviction, shall be pun-
74 ished by a fine of not less than five dollars nor more than twenty-five
75 dollars for the first and second offense, provided further that for
76 the third conviction the department shall revoke the license and cer-
77 tificate of registration of the person so convicted and no new license
78 or certificate shall be granted to the person for a period of one year.

79 It shall be the duty of the mayor of cities and towns, the police,
80 sheriff, and all peace officers to enforce provisions of this chapter.

[S., '13, §§ 1571-m17, 1571-m29; 37 G. A., ch. 148, § 1; 38
G. A., ch. 275, §§ 1, 25.]

SEC. 3069. Requirements in operation of vehicles.

1 Upon approaching any person walking in the traveled portion of
2 any public highway or a horse or any animal being led, ridden or
3 driven thereon, or a crossing or intersection of public highways, or a
4 bridge, or a sharp turn, or a curve, or a steep descent, and also in
5 passing such person or such horse or other animal, and in traversing a
6 such crossing, bridge, turn, curve or descent, the person operating a
7 motor vehicle or motorcycle shall have the same under control and
8 shall reduce the speed to a reasonable and proper rate.

9 Except where safety zones are provided, and the highway is of
10 sufficient width to admit of safe passage, the driver or operator of
11 every vehicle shall bring the same to a full stop not less than five feet
12 from the rear of any street car headed in the same direction which has
13 stopped for the purpose of taking on and discharging passengers, and
14 remain standing until such car has taken on or discharged its pas-
15 sengers. Any person violating any requirement of this section shall
16 be deemed guilty of a misdemeanor and subject upon conviction to a
17 fine of not less than five dollars nor more than one hundred dollars for
18 the first offense, and double said penalties for any subsequent offense.
19 The provisions of this section shall apply to the operator who causes
20 his motor vehicle to be operated in violation of this section.

21 1. The operator of a motor vehicle shall turn to the right when
22 meeting another vehicle, and in cities and towns shall at all times
23 travel on the right-hand side of the center of the street.

24 2. The operator of a motor vehicle, when overtaking and passing
25 another vehicle, shall pass to the left when the surface of the ground
26 will permit and shall not drive to the right until clear of such vehicle.

27 3. The operator of a motor vehicle shall, before stopping, turn-
28 ing or changing the course of such vehicle, first see that there is suf-
29 ficient space to make such movement in safety and shall give a visible
30 or audible signal to the crossing officer, if there be such, or to the
31 drivers of vehicles following of his intention to make such movement,
32 by raising and extending the hand and indicating with it the direction
33 in which he wishes to turn.

34 4. The operator of a motor vehicle, in turning to the right from
35 one street or highway into another, shall turn the corner as near the
36 right hand as practicable, and, in turning to the left from one street
37 or highway into another, shall pass to the right of and beyond the
38 center before turning.

39 5. The operator of a motor vehicle, in crossing from one side of
40 the street, or highway, to the other side thereof, shall turn to the
41 left, so as to head in the direction in which vehicles are moving.

42 6. In cities and towns it shall be unlawful to stop a motor vehicle
43 on the street unless the right side thereof is next to and parallel with
44 the curb and as near thereto as the condition of the street will permit;
45 provided, however, that cities and towns shall have the power to
46 designate by ordinance suitable areas within which automobiles may
47 be parked or left standing (without being parallel to the curb), and
48 to prescribe rules governing the use of such areas for such purpose;
49 provided that this rule shall not apply in cases of emergency, when
50 the stop is made to avoid accident or to allow pedestrians or vehicles
51 to cross in front of such motor vehicle, or when made in obedience to
52 the signal of a police officer.

53 7. In cities and towns it shall be unlawful for the operator of any
54 motor vehicle to overtake and pass another vehicle at street intersec-
55 tions in the business districts.

56 8. It shall be unlawful for the operator of a motor vehicle to per-
57 mit the motor of same to operate in such a manner as to visibly emit
58 an unduly great amount of steam, smoke or products of combustion
59 from exhaust pipes or openings.

60 9. Where two vehicles are approaching on any public street or
61 highway so that their paths will intersect and there is danger of col-

62 lision, the vehicle approaching the other from the right shall have the
63 right of way.

64 10. In cities and towns, it shall be unlawful for the operator of
65 any motor vehicle to leave any such vehicle standing upon any street
66 in the business district thereof within fifteen feet of the corner or
67 within fifteen feet of any hydrant.

68 11. In cities and towns no motor vehicle shall be left standing in
69 front of or within fifteen feet of either side of the entrance of any
70 theater, auditorium or other building where large assemblages of
71 people are being held, except in taking on or discharging passengers
72 or freight, and then only for such length of time as is necessary for
73 such purpose.

74 12. At theaters and public gatherings in cities or towns, or under
75 unusual circumstances, motor vehicles shall stand or move as directed
76 by the police.

77 13. It shall be unlawful for the operator of any motor vehicle or
78 person in charge thereof, to leave unattended upon any street or
79 highway a motor vehicle with the engine running.

80 14. The driver of any vehicle driven or propelled upon the public
81 highways shall, when overtaken by a faster moving vehicle proceeding
82 in the same direction, upon a signal, either by the sounding of a bell,
83 horn or other signalling device, given by the driver of the overtaking
84 vehicle, cause his vehicle to be driven to the right of the center of the
85 traveled way if he can do so with safety and remain to the right of
86 the center of such traveled way until the overtaking vehicle shall have
87 safely passed. Any driver of a vehicle that is overtaken by a faster
88 moving vehicle who fails to heed the signal of the overtaking vehicle
89 when it is given under such circumstances that he could, by the exer-
90 cise of ordinary care and observation and precaution, hear such signal
91 and who fails to yield that part of the traveled way as herein pro-
92 vided, shall be guilty of a misdemeanor and upon conviction shall be
93 punished by a fine of not to exceed twenty-five dollars or by imprison-
94 ment not exceeding ten days and if upon the trial of the case the
95 person charged with the violation of this provision shall claim that he
96 did not hear the signal of the overtaking vehicle, the burden of proof
97 shall rest upon him to show that he did not hear such signal provided
98 that it shall first be proven that the overtaking vehicle gave a signal
99 by the use of a bell, horn or other signalling device.

100 15. It shall be unlawful for the operator of any motor vehicle to
101 leave it standing, while showing a red light, parallel to, and within
102 twenty-five feet of the tracks of any railroad in cities and towns.

[S., '13, § 1571-m18; 38 G. A., ch. 275, §§ 1, 26.]

SEC. 3070. Maximum speed, load, and width of vehicle—mud lugs.

1 Every person operating a motor vehicle on the public highway of
2 this state shall drive the same in a careful and prudent manner, and
3 at a rate of speed that will not endanger the property of another, or
4 the life or limb of any person, and shall in no event drive the same
5 at a greater rate than as follows:

6 1. Thirty miles per hour if the weight of vehicle and load is less
7 than three tons and the vehicle is equipped with pneumatic tires, and
8 twenty-five miles per hour if such vehicle is equipped with solid rub-
9 ber tires.

10 2. Twenty-five miles per hour if the weight of the vehicle and
11 load is more than three tons and less than six tons and the vehicle is
12 equipped with pneumatic tires, and twenty miles per hour if such
13 vehicle is equipped with solid rubber tires.

14 3. Sixteen miles per hour if the weight of the vehicle and load
15 is more than six tons and the vehicle is equipped with pneumatic tires,
16 and twelve miles per hour if such vehicle is equipped with solid tires.

17 4. Ten miles per hour if the vehicle or any trailer is equipped with
18 two or more metal tires.

19 Provided that the local authorities of any city or town may estab-
20 lish a suburban district in which the maximum speed of any vehicle
21 shall not exceed twenty miles per hour, and a business district in
22 which the maximum speed of any vehicle shall not exceed fifteen miles
23 per hour, provided that such city or town shall have placed conspicu-
24 ously on every main highway where the rate of speed changes, signs of
25 sufficient size to be easily readable by a person using the highway,
26 bearing the words: "City of", "Town of".
27 "Slow down to miles" (the rate being inserted), and
28 also an arrow pointing in the direction where the speed is to be
29 reduced or changed, and also on further condition that such ordinance,
30 rule or regulation shall fix the punishment for violation thereof, not
31 to exceed twenty-five dollars, or five days in jail, which punishment
32 shall, during the existence of such ordinance, rule or regulation, super-
33 sede those otherwise specified in this chapter.

34 The total maximum load on any one wheel of any motor vehicle
35 including the weight of the vehicle and the load it carries, shall be
36 four tons, provided the total maximum weight of the vehicle and load
37 shall not in any event exceed fourteen tons. The total load on any
38 wheel of any vehicle shall be limited to eight hundred pounds per inch
39 width of tire in actual contact with the road surface, measured at the
40 narrowest point of the tire, on all highways improved with a rigid
41 surface such as concrete, brick or bituminous pavements on a concrete
42 base; and four hundred pounds per inch width of tire in actual con-
43 tact with the surface, measured at the narrowest point of the tire, on
44 all highways having earth, gravel or similar surfaces.

45 The maximum width of any motor vehicle and its load shall be
46 limited to eight feet, excepting loads of loose hay, straw and similar
47 farm products.

48 No motor vehicle shall operate over any highway, improved with
49 a gravel or paved surface, which has projections of metal or wood
50 beyond the tread of traffic surface of the tire excepting vehicle equipped
51 with caterpillar tread; provided that tractors, traction engines or
52 similar motor vehicles may be operated which have "V" shaped or
53 diagonal cleats arranged in such a manner that two or more cleats
54 are continuously in contact with the road surface and that the weight
55 per inch width of such cleats in continuous contact with the road sur-
56 face measured in the direction of the movement of the vehicle does
57 not exceed eight hundred pounds per inch width of tire.

[S., '13, §§ 1571-m19, 1571-m20, 1571-m22; 38 G. A., ch. 275,
§§ 1, 27.]

SEC. 3071. Power of local authorities.

1 Limitations as to the rate of speed herein fixed shall be exclusive
2 of all other limitations fixed by law of this state or any political sub-
3 division thereof. Local authorities shall have no power to enact,

4 enforce or maintain any ordinance, rule or regulation in any way in
 5 conflict with, contrary to or inconsistent with the provisions of this
 6 chapter, or of any section or other subdivision thereof, and no such
 7 ordinance, rule or regulation of said local authorities heretofore, or
 8 hereafter enacted shall have any force or effect, excepting however,
 9 that (1) such powers as are now or may hereafter be vested in local
 10 authorities to enact ordinances and regulations, applicable equally and
 11 generally to all vehicles and other users of the highways, and provid-
 12 ing for traffic or crossing officers or semaphores, to bring about the
 13 orderly passage of vehicles and other users of the public highways on
 14 certain portions thereof, where the traffic is heavy and continuous, as
 15 well as (2) the powers now or hereafter vested in local authorities to
 16 license and to regulate the operation of vehicles offered to the public
 17 for hire, and to regulate the use of the highways for processions or
 18 assemblages, shall remain in full force and effect, and all ordinances,
 19 rules and regulations which may have been or which may be here-
 20 after enacted in pursuance of such powers, shall remain in full force
 21 and effect; and provided further, that local authorities may by general
 22 rule, ordinance or regulation, exclude vehicles from any cemetery or
 23 ground used for the burial of the dead, or exclude vehicles used solely
 24 or principally for commercial purposes, from any park or part of a
 25 park system where such general rule, ordinance, or regulation is
 26 applicable equally and generally to all other vehicles used for the same
 27 purpose; provided that at the entrance, or at each entrance if there be
 28 more than one, to such cemetery or park from which vehicles are so
 29 excluded, there shall have been posted a sign plainly legible from the
 30 middle of the public highway on which such cemetery or park opens,
 31 plainly indicating such exclusion and prohibition; and provided
 32 further, that the local authorities of any city, town, or city and county
 33 may impose additional restrictions to those herein contained applicable
 34 to vehicles exclusively used in the carrying of merchandise or articles
 35 of freight and of a capacity in excess of one ton in weight and may
 36 designate certain streets whereon heavy laden vehicles may be
 37 excluded or declared to be "one way" streets, may further, restrict, or
 38 prohibit, the use of trailers. Provided further, that where local
 39 authorities of other states shall, by adoption of rules and regulations
 40 or otherwise, prohibit motor vehicles from operating upon highways
 41 in any subdivision of such other state which motor vehicles are duly
 42 licensed under the laws of this state, then in such cases the local
 43 authorities of this state may, by ordinance or otherwise, require the
 44 motor vehicles of the subdivisions of such other state while operating
 45 by their own power in this state to be licensed under the laws of
 46 this state.

[S., '13, § 1571-m20; 38 G. A., ch. 275, §§ 1, 28.]

SEC. 3072. Violations.

1 The violation of any of the provisions herein shall constitute a
 2 misdemeanor punishable by a fine of not to exceed one hundred
 3 dollars, except as otherwise provided in this chapter.

[S., '13, §§ 1571-m21, 1571-m22, 1571-m26, 1571-m27; 38 G.
 A., ch. 275, §§ 1, 29.]

SEC. 3073. Criminal acts—revocation of certificates.

1 Whoever operates a motor vehicle while in an intoxicated condi-
 2 tion shall be guilty of a misdemeanor, and shall be punished as pro-

3 vided by section eighty-five hundred thirty-eight. Any person op-
4 erating a motor vehicle, who, knowing that injury has been caused
5 to a person, due to the culpability of said operator, or to accident,
6 leaves the place of said injury or accident without stopping and giving
7 his name, postoffice address, including street number, and registration
8 number of said motor vehicle, to the injured party, and give such aid
9 to the injured person as the circumstances may require, shall be guilty
10 of a felony punishable by fine of not more than five hundred dollars or
11 by imprisonment for a term not exceeding two years, or by both such
12 fine and imprisonment; and if any person be convicted the second time
13 of either of the foregoing offenses, he shall be guilty of a felony pun-
14 ishable by imprisonment for a term of not less than one year and not
15 more than five years, or by a fine not exceeding one thousand dollars.

16 A conviction of a violation of this section shall be reported forth-
17 with by the trial court or the clerk thereof, to the department, who
18 shall, upon recommendation of the trial court, suspend the certificate
19 of registration of the motor vehicle operated by the person violating
20 this section, or if he be an owner, the certificate of registration of his
21 motor vehicle; and if no appeal therefrom is taken, or if an appeal duly
22 taken be dismissed or the judgment affirmed, and upon notice thereof
23 by said clerk, the department shall revoke the certificate of registra-
24 tion of said motor vehicle, and shall order the certificate of registration
25 delivered to the department, and shall not reissue said certificate of
26 registration or any other certificate of registration to such person
27 unless the department, in its discretion, after an investigation, or
28 upon rehearing, decides to reissue or issue a certificate.

[S., '13, § 1571-m23; 38 G. A., ch. 275, §§ 1, 30.]

SEC. 3074. Prohibited operation of vehicle.

1 Any person who operates any motor vehicle while a certificate of
2 registration of a motor vehicle issued to him is suspended or revoked,
3 shall be guilty of a misdemeanor.

[S., '13, § 1571-m24; 38 G. A., ch. 275, §§ 1, 31.]

SEC. 3075. False statements.

1 Any person making a false statement in the verified application
2 for registration shall be guilty of a misdemeanor.

[S., '13, § 1571-m26; 38 G. A., ch. 275, §§ 1, 32.]

SEC. 3076. Record of violators.

1 Upon conviction of any person for the violation of any of the
2 provisions of this chapter, the trial court or clerk thereof shall imme-
3 diately certify the facts of the case, including the name and address
4 of the offender, the judgment of the court and the sentence imposed,
5 to the department, who shall enter the same in a book or index kept
6 for that purpose, and in case of any other person in a book or index
7 of offenders, to be kept for such purpose. If any conviction shall be
8 reversed upon appeal therefrom, the person whose conviction has been
9 reversed may serve on the department, a certified copy of the order of
10 reversal, whereupon, the department shall enter the same in the
11 proper book or index in connection with the record of such conviction.

[S., '13, § 1571-m28; 38 G. A., ch. 275, §§ 1, 33.]

SEC. 3077. Convictions—effect.

1 A conviction of the violation of any of the provisions of this
2 chapter shall not be a bar to a prosecution for an assault or for a
3 homicide committed by any person in operating motor vehicles.

[S., '13, § 1571-m30; 38 G. A., ch. 275, §§ 1, 34.]

SEC. 3078. Disposition of funds.

1 Ninety-four per cent of all moneys paid into the state treasury
2 pursuant to the provisions of this chapter, except as otherwise pro-
3 vided by law and section thirty hundred eighty-one, shall be appor-
4 tioned among the several counties in the same ratio that the area
5 of each county bears to the total area of the state, said appor-
6 tionment to be made by the treasurer of state.

7 Two and one-half per cent of all moneys paid into the state treas-
8 ury on and after the taking effect of this chapter pursuant to its pro-
9 visions, shall be set aside and shall constitute a maintenance fund for
10 the state highway commission, and three and one-half per cent of all
11 of said money paid to the treasurer of state shall constitute a fund
12 for the payment of salaries as provided by law for the motor vehicle
13 department, the expenses for plates, certificate containers, blanks, etc.,
14 and maintenance of the automobile department.

15 The maintenance fund for said state highway commission, shall
16 be drawn out only on warrants drawn by the auditor of state on item-
17 ized vouchers approved by the state highway commission, the expendi-
18 tures of which commission shall be audited by the state board of audit,
19 and a full and complete report of all said expenditures shall be pub-
20 lished in the annual report under the chapter creating the highway
21 commission.

22 Biennially, at the close of the calendar year, any unexpended bal-
23 ances remaining in the funds provided for the maintenance of the
24 state highway department and the motor vehicle department which
25 have accrued from the motor license fees paid in for that period, shall
26 be apportioned among the several counties in the same manner as the
27 ninety-four per cent of said funds is apportioned.

[S. S., '15, § 1571-m32; 37 G. A., ch. 212, § 1; 38 G. A., ch.
275, §§ 1, 35.]

SEC. 3079. Duty of garage owners.

1 It is hereby made the duty of each and every person, firm, asso-
2 ciation, corporation, copartnership operating a public garage in this
3 state to keep for public inspection a record of the license number and
4 engine or factory serial number of all motor vehicles taken in or held
5 in charge by said garage for the purpose of selling, rental, livery,
6 storage or repair. Said record shall contain the name and address of
7 the owner of the motor vehicle, the name and address of the person
8 delivering or taking the motor vehicle to the garage, and the license
9 number and the engine number thereof. The alteration or obliteration
10 of said engine number shall be prima facie evidence of larceny of said
11 motor vehicle, and the proprietor, agents, servants or employees, imme-
12 diately upon the discovery of such obliteration or alteration, shall
13 notify the sheriff and police officers of the proper county, and shall
14 hold the said motor vehicle for a period of twenty-four hours or until
15 investigation shall have been made by the sheriff or police officers.
16 Provided, however, such record need not be made when a motor

17 vehicle is taken in or held in charge a second time, when the owner
18 or driver is personally known to the proprietor of such garage, his
19 agent or employee.

20 Any person, firm, association, corporation or copartnership found
21 guilty, personally or by agent, of violating any of the provisions of
22 this section shall be fined in a sum not to exceed one hundred dollars.

[37 G. A., ch. 423, § 1; 38 G. A., ch. 275, § 36.]

SEC. 3080. Publication of law—department rules—office assistants and clerks.

1 The department shall issue this chapter in pamphlet form,
2 together with such rules, instruction and explanatory matter as may
3 seem advisable. Copies of such pamphlet shall be given as wide dis-
4 tribution as the department shall determine and a supply shall be
5 furnished each county treasurer.

6 The department shall have full authority to make such rules and
7 issue such instructions as may be necessary to insure and obtain uni-
8 formity in the administration and full enforcement of the provisions
9 of this chapter. All local officials charged with the administration and
10 enforcement of this chapter shall act and be governed in their official
11 acts herein required by the rules promulgated by the department.

12 The department is authorized and directed to employ such assist-
13 ants and clerks as may be required by the department in the adminis-
14 tration of this chapter, provided the salaries and number of any such
15 assistants and clerks shall be authorized by the executive council.

[38 G. A., ch. 275, § 37.]

SEC. 3081. Additional maintenance fund.

1 The department may use in addition to the portion of the motor
2 vehicle fund set apart as a maintenance fund, such further part of
3 the motor vehicle fund as may be necessary to carry out the provisions
4 of this chapter.

[38 G. A., ch. 275, § 39.]

CHAPTER 18.

TOLL BRIDGES AND FERRIES.

SECTION 3082. Toll bridges—how established.

1 The board of supervisors may grant licenses for the erection of
2 toll bridges across any watercourses or other obstruction which justi-
3 fies the establishment thereof, and which will require an expense too
4 large for the county to bear. In granting such licenses, preference
5 shall be given to the owner of the land on which the bridge is pro-
6 posed to be located, if he applies for the privilege and is, in other
7 respects, a competent person to erect the same.

[C., '51, § 726; R., '60, § 1214; C., '73, § 1003; C., '97, § 1574.]

SEC. 3083. License—right of way.

1 When any corporation or individual shall obtain from the board
2 of supervisors license for the construction of a toll bridge across any
3 of the streams of this state, such corporation or individual may take

4 and appropriate so much private property as shall be necessary for a
5 right of way therefor and all approaches thereto, in such width as
6 such corporation or individual may desire, not exceeding sixty feet.

[R., '60, §§ 1247, 1248; C., '73, § 1004; C., '97, § 1575.]

SEC. 3084. Damages assessed.

1 If the owner of property over which such way extends shall refuse
2 to grant the same, and the damages therefor can not be settled by
3 agreement, all damages which the owner, or any person having an
4 interest in or improvement upon the property to be taken, will sustain
5 by reason of the appropriation thereof shall be assessed and the right
6 of way taken on the application of either party, under the provisions
7 of this code for taking private property for works of internal im-
8 provement.

[R., '60, §§ 1249-1251; C., '73, § 1005; C., '97, § 1576.]

SEC. 3085. Between different counties or states.

1 Where the extremities of the bridge lie in different counties, a
2 license must be procured from each, and if different rates of toll are
3 fixed by the different boards of supervisors, each has power to fix
4 the rates of travel which is going from its own county. A similar
5 principle shall be observed where only one of the extremities of the
6 bridge is within this state.

[C., '51, § 728; R., '60, § 1216; C., '73, § 1006; C., '97, § 1577.]

SEC. 3086. Limitation of license—tolls.

1 Such licenses may be granted to continue for any period, not
2 exceeding twenty-five years, and the rate of toll may be fixed in the
3 first instance in such a manner as to be inalterable within any stipu-
4 lated period, not exceeding ten years; after that time, it shall be
5 under the control of the board of supervisors.

[C., '51, § 729; R., '60, § 1217; C., '73, § 1007; C., '97, § 1578.]

SEC. 3087. Exclusive privilege.

1 The board of supervisors may stipulate in the license that no
2 other bridge or ferry shall be permitted across the same stream or
3 obstruction within any distance not exceeding two miles thereof, and
4 for a period not exceeding ten years. Any violation of the terms of
5 such stipulation is a nuisance, and the person causing it is guilty of a
6 misdemeanor.

[C., '51, § 730; R., '60, § 1218; C., '73, § 1008; C., '97, § 1579.]

SEC. 3088. Failure of duty.

1 When, upon ten days' notice to the person licensed, it is made to
2 appear to the board of supervisors that he fails in any material man-
3 ner to perform his duties according to law, it may revoke his license.

[C., '51, § 724; R., '60, § 1212; C., '73, § 1009; C., '97, § 1580.]

SEC. 3089. Day or night—rate of toll.

1 Toll bridges must be regulated so as to allow persons to pass at
2 all hours of the night or day, but the board of supervisors, in its dis-

3 cretion, in fixing the rates of toll, may permit a greater charge to be
4 made during certain hours of the night.

[C., '51, § 734; R., '60, § 1222; C., '73, § 1010; C., '97, § 1581.]

SEC. 3090. Railway bridges across boundary rivers.

1 Any railway or bridge company incorporated under the laws of
2 the state, or of Wisconsin, Illinois, Nebraska, Kansas or South Dakota,
3 may construct a railway bridge across the Mississippi, Missouri or Big
4 Sioux river, connecting with the eastern or western terminus, as the
5 case may be, of any railway terminating on the Iowa bank of either of
6 said rivers, at such place as shall be designated therefor by the board
7 of supervisors of the county wherein such terminus is made, and
8 extending toward a point on the opposite bank that may be selected by
9 such company.

[C., '73, § 1031; C., '97, § 1582.]

SEC. 3091. Plan to be approved.

1 No bridge shall be built under the provisions of the preceding
2 section, until the plan thereof has been submitted to and approved
3 by the board of supervisors of the county in which the bridge is to
4 be partly located.

[C., '73, § 1032; C., '97, § 1583.]

SEC. 3092. For teams and passengers—toll.

1 Any such company may, with the consent of the board of super-
2 visors, construct such bridge with suitable roadways and footways
3 for teams and foot passengers, and charge such rates of toll therefor
4 as may be approved by said board.

[C., '73, § 1033; C., '97, § 1584.]

SEC. 3093. Railway ferry.

1 Any such company may establish a ferry across any of said rivers
2 at or near the terminus of its road, for the sole purpose of crossing
3 the freight and passengers of such roads until the bridge is ready
4 for use.

[C., '73, § 1034; C., '97, § 1585.]

SEC. 3094. Obstruction of navigation.

1 No bridge erected under the provisions of this chapter shall be
2 so located or constructed as to unnecessarily impede, injure or ob-
3 struct the navigation of said rivers.

[C., '73, § 1035; C., '97, § 1586.]

SEC. 3095. Bonds and stock.

1 Any such company may issue its bonds or obligations for an
2 amount not exceeding the cost of such bridge, and of its roads in the
3 state, and may secure the payment thereof by a mortgage on the same,
4 and issue certificates of common and preferred stock; the preferred
5 stock to be only on condition that the holders of the common stock
6 give their written consent thereto.

[C., '73, § 1036; C., '97, § 1587.]

SEC. 3096. Resident director—process.

1 Any company acting under the provisions of this chapter shall
 2 elect at least one director who shall be a citizen of and reside in this
 3 state, and such company shall be liable to be sued in any court of
 4 competent jurisdiction, and service of original notice on said resident
 5 director shall be sufficient notice to the company of the pendency of
 6 the action.

[C., '73, § 1037; C., '97, § 1588.]

SEC. 3097. Ferries—license.

1 The board of supervisors may grant such ferry licenses as may
 2 be needed within its county, for a period not exceeding ten years, and
 3 prescribe the rates of ferriage, as well as the hours of the day or night
 4 during which the ferry must be attended, both of which may, from
 5 time to time, be changed at the discretion of the board.

[C., '51, §§ 712, 713; R., '60, §§ 1200, 1201; C., '73, §§ 1011,
 1012; C., '97, § 1589.]

SEC. 3098. Exclusive privilege.

1 In granting a ferry license, the board of supervisors may make
 2 the privilege granted exclusive for a distance not exceeding one mile
 3 in either direction from it. After twenty days' notice to the person
 4 who has obtained such privilege, if it is made to appear to the board
 5 that the public good requires other ferries, a new license may issue
 6 therefor. The notice required must be served personally upon the
 7 owner, or on the person in charge of the ferryboat.

[C., '51, § 714; R., '60, § 1202; C., '73, § 1013; C., '97, § 1590.]

SEC. 3099. Preference.

1 In granting a ferry license, preference must be given to the
 2 keeper of a previous ferry at the same point, and, if a new one, to the
 3 owner of the land; but if there is none such, or if, after giving the
 4 same notice as is required by the last section, he fails to make appli-
 5 cation therefor, or if, in the opinion of the board, he is an improper
 6 person to receive the same, it may be conferred on any other proper
 7 applicant.

[C., '51, § 715; R., '60, § 1203; C., '73, § 1014; C., '97, § 1591.]

SEC. 3100. Between different counties.

1 Where the opposite shores of a stream are in different counties,
 2 a license from either is sufficient, and the board of supervisors first
 3 exercising jurisdiction by granting a license will retain it during the
 4 term of such license.

[C., '51, § 716; R., '60, § 1204; C., '73, § 1015; C., '97, § 1592.]

SEC. 3101. Between different states.

1 Where but one shore of the river is within this state, the board
 2 of supervisors possesses the same power, so far as it is concerned, as
 3 though the river lay wholly within this state.

[C., '51, § 717; R., '60, § 1205; C., '73, § 1016; C., '97, § 1593.]

SEC. 3102. Bond.

1 The board of supervisors, upon being satisfied that the require-
 2 ments of this chapter have been complied with, and that a ferry is
 3 needed at such place, and that the applicant is a suitable person to
 4 keep it, must grant the license; which, however, shall not issue until
 5 the applicant files a bond, with sureties to be approved by the board
 6 or auditor, in a penalty not less than one hundred dollars, with the
 7 condition that he will keep the ferry in proper condition for use, and
 8 attend the same at all times fixed by the board for running it; that
 9 he will neither demand nor take any illegal tolls; and that he will
 10 perform all other duties which are or may be enjoined on him by law,
 11 which shall be filed in the county auditor's office.

[C., '51, § 719; R., '60, § 1207; C., '73, § 1017; C., '97, § 1594.]

SEC. 3103. Public business—mail.

1 Every ferryman must transport the public expresses of the
 2 United States and of this state, and the United States mail, at all hours.

[C., '51, § 721; R., '60, § 1209; C., '73, § 1018; C., '97, § 1595.]

SEC. 3104. License recorded.

1 All licenses for ferries and toll bridges must be entered upon the
 2 records of the board of supervisors, and shall contain the rates of
 3 toll allowed.

[C., '51, § 720; R., '60, § 1208; C., '73, § 1019; C., '97, § 1596.]

SEC. 3105. Posting rates.

1 The rates of toll must be conspicuously posted up at each extrem-
 2 ity of the bridge, or, if a ferry, on the boat, door of the ferry house,
 3 or some other conspicuous place near the ferry.

[C., '51, §§ 722, 732; R., '60, §§ 1210, 1220; C., '73, § 1020;
 C., '97, § 1597.]

SEC. 3106. Penalty.

1 The failure to have such list posted up as above provided will
 2 justify any person in refusing the payment of tolls, and where such
 3 failure is habitual, the proprietor of such bridge or ferry shall be
 4 liable to pay a penalty of twenty-five dollars, to be recovered in the
 5 name of the county against him, or against him and the sureties on his
 6 bond; which amount, when recovered, shall be paid into the county
 7 treasury and credited to the school fund.

[C., '51, §§ 723, 733; R., '60, §§ 1211, 1221; C., '73, § 1021;
 C., '97, § 1598.]

SEC. 3107. Notice of application.

1 Before a license can be granted for either a bridge or ferry, notice
 2 thereof must be posted up in at least three public places on each side
 3 of the river, if both are within the state, and in the township and
 4 neighborhood in which the proposed bridge or ferry is to be erected
 5 or kept, at least twenty days prior to the making of such application.

[C., '51, §§ 718, 731; R., '60, §§ 1206, 1219; C., '73, § 1022;
 C., '97, § 1599.]

SEC. 3108. Penalty for taking illegal toll.

1 The taking of illegal toll by any licensee shall subject the offender
 2 to a penalty of twenty-five dollars for every such offense, to be recov-
 3 ered by action on his bond, or against him individually, by the person
 4 who paid the illegal toll, for his own benefit; or he may bring an action
 5 in the name of the county, in which case the proceeds shall go to the
 6 county treasury.

[C., '51, § 748; R., '60, § 1236; C., '73, § 1023; C., '97, § 1600.]

SEC. 3109. Forfeiture.

1 A failure in other respects to substantially comply with the terms
 2 fixed by the board shall work a forfeiture of any of the licenses herein
 3 authorized, and shall subject the party guilty of such failure to dam-
 4 ages for all injury resulting therefrom, for which he shall be liable
 5 on his bond.

[C., '51, § 749; R., '60, § 1237; C., '73, § 1024; C., '97, § 1601.]

SEC. 3110. Refusal to pay tolls—penalty.

1 Any person who refuses to pay the regular tolls established and
 2 posted up in accordance with the provisions of this chapter, or who
 3 shall run through or pass around the toll gates with a view of avoiding
 4 their payment, shall forfeit the sum of five dollars for every offense,
 5 which, together with costs, may be recovered by the person entitled
 6 to such toll; but nothing herein contained shall prevent a person from
 7 fording a stream across which a toll bridge or ferry has been con-
 8 structed.

[C., '51, § 750; R., '60, § 1238; C., '73, § 1025; C., '97, § 1602.]

SEC. 3111. Rules established.

1 The proprietor of any bridge or ferry authorized by this chapter
 2 may establish reasonable rules for the regulation of passengers, trav-
 3 elers, teams and freight passing or traveling thereon.

[C., '51, §§ 733, 751; R., '60, §§ 1221, 1239; C., '73, § 1026;
 C., '97, § 1603.]

SEC. 3112. Franchise sold.

1 Any of the franchises contemplated in this chapter are subject
 2 to execution, and may be sold as personal property, and be subject to
 3 the same rights and consequences, except that the purchaser may take
 4 immediate possession of the property, and the sale thereof shall carry
 5 with it all the material, implements, rights of way and works of what-
 6 ever kind necessary for or ordinarily used in the exercise of such
 7 franchise.

[C., '51, §§ 752, 753; R., '60, §§ 1240, 1241; C., '73, §§ 1027,
 1028; C., '97, § 1604.]

SEC. 3113. Free ferry.

1 Nothing in this chapter contained shall be so construed as to pre-
 2 vent any company, person, city, town or village from establishing a
 3 free ferry at any point where a license to keep a ferry has been
 4 granted, but when such free ferry is established, such company, per-
 5 son, city, town or village shall pay a reasonable compensation to the
 6 persons owning the same for all boats, ropes and other material, if

7 the same be fit for use; and when a free ferry is established at a point
8 at or near where a license has been granted to an individual, such
9 individual shall be exonerated from any further obligation to main-
10 tain it. Bond and security shall be given in like manner by the per-
11 son or company establishing the free ferry as required in this chapter.
[C., '51, § 757; R., '60, § 1245; C., '73, § 1029; C., '97, § 1605.]

SEC. 3114. Mill owners.

1 Nothing in this chapter shall be so construed as to prevent owners
2 of mills from crossing themselves or customers free of charge.
[C., '51, § 758; R., '60, § 1246; C., '73, § 1030; C., '97, § 1606.]

TITLE XII.

COUNTY AND TOWNSHIP GOVERNMENT.

CHAPTER 1.

BOARD OF SUPERVISORS.

SECTION 3115. How constituted—number—how determined.

1 The board of supervisors in each county shall consist of three
 2 persons, except where the number may heretofore have been or here-
 3 after be increased in the manner provided by this chapter. They
 4 shall be qualified electors, and be elected by the qualified voters of
 5 their respective counties, and shall hold their office for three years.
 6 The board of supervisors of any county may, and, when petitioned
 7 to do so by one-fourth of the electors of said county, shall submit to
 8 the qualified voters of the county, at any regular election, one of the
 9 following propositions, as such board may elect in the absence of a
 10 petition, or as may be requested in said petition: "Shall the propo-
 11 sition to increase the number of supervisors to five be adopted?" or,
 12 "Shall the proposition to increase the number of supervisors to seven
 13 be adopted?" as the board shall elect in submitting the question. If
 14 the majority of the votes cast shall be for the proposition so sub-
 15 mitted, then at the next ensuing election for a supervisor, the requi-
 16 site additional supervisors shall be elected, whose terms of office shall
 17 be determined by lot, in such a manner that one-half of the additional
 18 members shall hold their office for three years, and one-half for two
 19 years. In any county where the number of supervisors has been
 20 increased to five or seven, the board of supervisors, on the petition of
 21 one-fourth of the legal voters of the county, shall submit to the quali-
 22 fied voters of the county, at any regular election, one of the following
 23 propositions, as the same may be requested in such petition: "Shall
 24 the proposition to reduce the number of supervisors to five be
 25 adopted?" or, "Shall the proposition to reduce the number of super-
 26 visors to three be adopted?" If a majority of the votes cast shall be
 27 for the decrease, then the board of supervisors shall be reduced to the
 28 number indicated by such vote, and thereafter there shall be biennially
 29 elected the number requisite to keep the board full.

30 In any county where at a general election hereafter held a propo-
 31 sition has been or is submitted to the voters of the county to reduce
 32 the number of members of the board of supervisors and such propo-
 33 sition carries, the board shall consist of the same number of members
 34 as at the time the proposition to reduce was submitted until the sec-
 35 ond secular day in January following the next general election, at
 36 which time the terms of all members of the board shall expire. At
 37 the next general election following the one at which the proposition
 38 to reduce the number of members of the board was carried there shall
 39 be elected the number of members required by such proposition, and
 40 where such proposition reduces the board to five members, two per-

41 sons shall be elected as members of the board for two years, and three
 42 persons shall be elected as members of the board for three years; and
 43 in counties where the proposition reduces the board to three members,
 44 one person shall be elected as member of the board for two years, and
 45 two persons shall be elected as members of the board for three years.

[R., '60, § 303; C., '73, §§ 294, 299; C., '97, § 410; S. S., '15,
 § 410.]

SEC. 3116. Supervisor districts.

1 The board of supervisors may, at its regular meeting in January
 2 in any even-numbered year, divide its county by townships into a num-
 3 ber of supervisor districts corresponding to the number of supervisors
 4 in such county; or, at such regular meeting, it may abolish such super-
 5 visor districts, and provide for electing supervisors for the county at
 6 large.

[C., '97, § 416; S., '13, § 416.]

SEC. 3117. How formed.

1 Such districts shall be as nearly equal in population as possible,
 2 and shall each embrace townships as nearly contiguous as practicable,
 3 each of which said districts shall be entitled to one member of such
 4 board, to be elected by the electors of said district.

[C., '97, § 417.]

SEC. 3118. One member for each district.

1 In case such division or any subsequent division shall be found
 2 to leave any district or districts without a member of such board of
 3 supervisors, then, at the next ensuing general election, a supervisor
 4 shall be elected by and from such district having no member of such
 5 board; and if there be two such districts or more, then the new mem-
 6 ber or members of said board shall be elected by and from the district
 7 or districts having the greater population according to the last state
 8 census, and so on, until each of said districts shall have one member
 9 of such board.

[C., '97, § 418.]

SEC. 3119. Redistricting—term of office not affected.

1 Any county may be redistricted, as provided by the three preced-
 2 ing sections, once in every two years, and not oftener, and nothing
 3 herein contained shall be so construed as to have the effect of length-
 4 ening or diminishing the term of office of any member of such board.

[C., '97, § 419.]

SEC. 3120. Absence from county—vacancy.

1 The absence of any supervisor from the county for six months in
 2 succession shall be treated as a resignation of his office, and the board
 3 shall, at its next meeting thereafter, by resolution regularly adopted
 4 and spread upon its records, declare his seat vacant.

[C., '73, § 298; C., '97, § 414.]

SEC. 3121. Organization.

1 The board of supervisors, at its first meeting in each year, shall
2 organize by choosing one of its members as chairman, who shall pre-
3 side at all of its meetings during the year.

[R., '60, § 308; C., '73, § 300; C., '97, § 415.]

SEC. 3122. Quorum.

1 A majority of the board of supervisors shall constitute a quorum
2 to transact business, but should a division take place on any question
3 when only two members of the board are in attendance, the question
4 shall be continued until there is a full board.

[R., '60, § 308; C., '73, § 297; C., '97, § 413.]

SEC. 3123. Meetings.

1 The members of the board of supervisors shall meet at the county
2 seat of their respective counties on the second secular day in January
3 and on the first Monday in April and June and the second Monday in
4 September and November in each year, and shall hold such special
5 meetings as are provided by law, but in the event a quorum of said
6 board fails to appear on a day set for a regular or an adjourned meet-
7 ing the auditor of said county shall adjourn said meeting from day
8 to day until a quorum is present.

[R., '60, § 307; C., '73, § 296; C., '97, § 412; S., '13, § 412;
38 G. A., ch. 26, § 1.]

SEC. 3124. Special meetings—how called—what business done.

1 Special meetings of the board of supervisors shall be held only
2 when requested by a majority of the board, which request shall be in
3 writing, addressed to the county auditor, and shall specify the object
4 for which such meeting is desired, which may include the doing of any
5 act not required by law to be done at a regular meeting. The auditor
6 shall thereupon fix a day for such meeting, not later than ten days
7 from the day of the filing of the petition with him, and shall immedi-
8 ately give notice in writing to each of the supervisors personally, or
9 by leaving a copy thereof at his residence, at least six days before the
10 day set for such meeting. The notice shall state the time and place
11 where the meeting will be held, and the object of it, as stated in the
12 petition; and at such special meeting no business other than that so
13 designated in the petition and notice shall be considered or transacted.
14 The auditor shall also give public notice of the meeting by publication
15 in not exceeding two newspapers published in the county, or, if there
16 be none, by causing notice of the same to be posted on the front door
17 of the courthouse of the county, and in two other public places therein,
18 one week before the time set therefor.

[R., '60, § 309; C., '73, § 301; C., '97, § 420.]

SEC. 3125. Acts requiring majority of whole board.

1 No tax shall be levied, no contract for the erection of any public
2 buildings entered into, no settlement with the county officers made,
3 no real estate purchased or sold, no new site designated for any county
4 buildings, no change made in the boundaries of townships, and no
5 money appropriated to aid in the construction of highways and

6 bridges, without a majority of the whole board of supervisors voting
7 therefor and consenting thereto.

[R., '60, § 313; C., '73, § 305; C., '97, § 440.]

SEC. 3126. Books to be kept by board.

1 The board is authorized and required to keep the following books:

2 1. A book to be known as the "minute book," in which shall be
3 recorded all orders and decisions made by it except those relating to
4 highways and drainage districts, and in which book, or in a separate
5 book kept for that purpose, there shall be an alphabetical index of
6 the proceedings of said board as shown by the minutes.

7 2. A book to be known as the "highway record," in which shall
8 be recorded all proceedings and adjudications relating to the estab-
9 lishment, change or discontinuance of highways.

10 3. A book to be known as the "bridge book," where a record of
11 bridges shall be kept in a numerical order in each congressional town-
12 ship, commencing in section one, and numbering each bridge; give
13 location in fractional parts of sections; name the kind of material used
14 for substructure and superstructure; give length and cost of bridge,
15 and, when repaired, to keep a record of repairs and charge it to the
16 bridge; and warrants drawn in payment for erection or repairs of
17 bridges shall indicate the number of the bridge for which it is issued
18 in payment.

19 4. A book to be known as the "warrant book," in which shall be
20 entered, in the order of its issuance, the number, date, amount, name
21 of drawee of each warrant drawn on the treasury, and the number of
22 warrants, as directed in relation to the minute book.

23 5. A book to be known as a "claim register," in which shall be
24 entered a minute of all claims filed for allowance of money from the
25 county treasury. Claims filed shall be numbered consecutively in the
26 order of filing, and shall be entered on the claim register alphabet-
27 ically, so as to show the date of filing, the number of the claim and its
28 general nature, the name of the claimant and the action of the board
29 thereon, stating, if allowed, the fund upon which allowance is made.
30 A record of the allowance of claims at each session of the board shall
31 be entered on the minute book by reference to the number of the claims
32 as entered on the claim register.

[R., '60, § 318; C., '73, § 308; C., '97, § 442; 38 G. A., ch. 317,
§§ 1, 2.]

SEC. 3127. Compensation of supervisors.

1 The members of the board of supervisors shall receive five dollars
2 per day each for each day actually in session, and five dollars per day
3 exclusive of mileage when not in session but employed on committee
4 service, and ten cents for every mile traveled in going to and from
5 the regular, special and adjourned sessions thereof and in going to
6 and from the place of performing committee service. But in counties
7 having a population of ten thousand or less they shall not receive
8 compensation for session service of more than thirty days in the
9 year; in counties having a population of more than ten and less than
10 twenty-three thousand, for not more than forty-five days of such
11 service in a year; in counties having a population of twenty-three and
12 not over forty thousand, for not over fifty-five days of such service
13 in a year; in counties having a population of forty and not over sixty
14 thousand, for not more than sixty-five days of such service in a year;
15 in counties having a population of sixty and not over eighty thousand,

16 for not more than seventy-five days of such service in a year; in coun-
 17 ties having a population of eighty and not over ninety thousand, for
 18 not more than ninety days of such service in a year; in counties having
 19 a population of over ninety thousand for not more than one hundred
 20 days of such service in a year. The time spent by the board of super-
 21 visors as a ditch or drainage board and in considering drainage mat-
 22 ters, whether as a single board or jointly with one or more other
 23 boards, shall not be counted in computing the number of days which
 24 any board has been in session, but the members of the board shall be
 25 entitled to compensation at the same rate for the time spent in ditch
 26 and drainage matters, in addition to the compensation allowed as here-
 27 inbefore set forth, but in no case shall said board be allowed more
 28 than fifty days' additional time in one year for time spent in drain-
 29 age matters. If on the same day the board acts both as a county board
 30 and also for the purpose of considering drainage matters, the board
 31 shall be paid for one day only, and from the general fund or drainage
 32 fund as the board may order.

[R., '60, § 317; C., '73, § 3791; C., '97, § 469; S., '13, § 469;
 38 G. A., ch. 104, § 1.]

CHAPTER 2.

POWERS AND DUTIES OF BOARD OF SUPERVISORS.

SECTION 3128. Body corporate.

1 Each county, as a body corporate for civil and political purposes,
 2 may sue and be sued, must have a seal, may acquire and hold property,
 3 make all contracts necessary for the control, management and im-
 4 provement or disposition thereof, and do such other acts and exercise
 5 such other powers as are authorized by law.

[C., '51, § 93; R., '60, § 221; C., '73, § 279; C., '97, § 394.]

SEC. 3129. Concurrent jurisdiction.

1 Counties bounded by a stream or other water have concurrent
 2 jurisdiction over the whole of the waters lying between them.

[C., '51, § 95; R., '60, § 223; C., '73, § 280; C., '97, § 395.]

SEC. 3130. Powers specified.

1 The board of supervisors at any regular meeting shall have the
 2 following powers, to wit:

- 3 1. To appoint one of its number chairman in the absence of the
 4 regular chairman, and a clerk, in the absence of the auditor or his
 5 deputy.
- 6 2. To adjourn from time to time, as occasion shall require.
- 7 3. To make such orders concerning the corporate property of
 8 the county as it may deem expedient.
- 9 4. To examine and settle all accounts of the receipts and expendi-
 10 tures of the county, and to examine, settle and allow all claims against
 11 the county, unless otherwise provided for by law.
- 12 5. To build and keep in repair the necessary buildings for the use
 13 of the county and of the courts; provided that no such building shall
 14 be erected or repaired when the probable cost thereof shall exceed two
 15 thousand dollars, except under an express written contract and upon
 16 proposals therefor, invited by advertisement for four weeks in all

17 the official papers of the county in which the work is to be done. The
18 contracts shall be let to the lowest responsible bidder at a time and
19 place which shall be distinctly stated in said advertisement. The
20 board may on the day fixed for letting said contract adjourn the hear-
21 ing to some later date and place, of which all parties shall take no-
22 tice. The board may reject any and all bids and advertise for new
23 ones. Bonds for the faithful performance of the contract shall be re-
24 quired, and every bond so given shall be construed as giving the county
25 the right to withhold any payment provided for in the contract until
26 all claims for which the county might be made liable under section
27 sixty-five hundred thirty-two are receipted for or released, whether
28 such right is inserted into the contract or not. The detailed plans and
29 specifications for the erection or repair of such building shall be on
30 file and open to public inspection in the office of the auditor of the
31 county in which the work is to be done before advertisement for bids.

32 6. To cause the county buildings to be insured in the name of the
33 county, or otherwise, for its benefit, and in case there are no county
34 buildings, to provide suitable rooms for county purposes.

35 7. To set off, organize and change the boundaries of townships
36 in the respective counties, designate and give names thereto, and de-
37 fine the place of holding the first election.

38 8. To grant licenses for keeping ferries in the respective counties,
39 as provided by law.

40 9. To purchase, for the use of the county, any real estate neces-
41 sary for the erection of buildings for county purposes; to remove the
42 site of, or designate a new site for, any county buildings required to
43 be at the county seat, when such site shall not be beyond the limits
44 of the town, village or city at which the county seat is, at the time of
45 such proposed change, located, and in case of such removal or change
46 of site for county building to sell any interest the county may have
47 in the real estate and the improvements thereon, which were thereto-
48 fore used and occupied for that purpose, and to permit any person,
49 persons, or corporation to use any portion of the lands owned by the
50 county for ornamental or art purposes, or for the erection of any
51 monument or fountain under such restrictions and regulations as the
52 board of supervisors may from time to time enact; provided that such
53 use does not interfere with the use for which such real estate was
54 originally acquired by the county.

55 10. To require any county officer to make a report, under oath,
56 to it on any subject connected with the duties of his office, and to re-
57 quire any such officer to give such bonds, or additional bonds, as shall
58 be reasonable or necessary for the faithful performance of his duty;
59 any such officer who shall neglect or refuse to make such report or
60 give such bonds within twenty days after being so required may be
61 removed from office by the board by a vote of a majority of the mem-
62 bers elected thereto.

63 11. To represent the respective counties, and to have the care and
64 management of the property and business thereof, in all cases where
65 no other provision shall be made.

66 12. To manage and control the school fund of the respective coun-
67 ties as shall be provided by law.

68 13. To appoint commissioners to act with similar commissioners
69 duly appointed in any other county or counties, and to authorize them
70 to lay out, alter or discontinue any highway extending through their
71 own and one or more other counties, subject to the ratification of the
72 board.

- 73 14. To fix the compensation of all services of county and town-
74 ship officers not otherwise provided for by law, and to provide for
75 the payment of the same.
- 76 15. To authorize the taking of a vote of the people for the re-
77 location of the county seat, as provided by law.
- 78 16. To alter, vacate or discontinue any state or territorial high-
79 way within their respective counties.
- 80 17. To lay out, establish, alter or discontinue any county high-
81 way heretofore laid out, or hereafter to be laid through or within the
82 county, as may be provided by law.
- 83 18. To provide for the erection of all bridges which may be nec-
84 essary, and which the public convenience may require, within their
85 respective counties, and to keep the same in repair, except as is other-
86 wise provided by law.
- 87 19. To determine what bounties, in addition to those already pro-
88 vided by law, if any, shall be offered and paid by the county on the
89 scalps of such wild animals taken and killed within the county as it
90 may deem it expedient to exterminate, but no such bounty shall ex-
91 ceed five dollars.
- 92 20. To purchase for the use of the county any real estate neces-
93 sary for the erection of buildings for the support of the poor of the
94 county, and for a farm to be used in connection therewith; to remove
95 the site of and designate a new site for the erection of any building
96 or buildings for the care and support of the poor, and in case of such
97 removal or change of site or purchase of real estate for buildings and
98 a place to be kept and used for the care and support of the poor, to
99 sell any interest that the county may have in the real estate and im-
100 provements thereon which were theretofore used and occupied for
101 that purpose, and make appropriations not exceeding three hundred
102 dollars in any one year for the growing of experimental crops thereon
103 under the direction of the board.
- 104 21. To have and exercise all the powers in relation to the poor
105 given by law to the county authorities.
- 106 22. To make such rules and regulations, not inconsistent with
107 law, as it may deem necessary for its own government, the transac-
108 tion of business, and the preservation of order.
- 109 23. To purchase real estate for county fairs, the title of such
110 real estate to be in the name of the county.
- 111 24. To employ a competent person who shall perform all of the
112 duties now belonging to the office of county surveyor, and who may
113 be employed by them for the purpose of making general specifica-
114 tions for the grading, repairing and building of roads, bridges and
115 culverts, and to perform such other duties as the board of super-
116 visors may determine.
- 117 25. To contract with any free public library in the county for
118 the free use of the books thereof by the residents of the county out-
119 side of the cities and towns therein, as provided in section thirty-
120 seven hundred fifty-two, which contract when made shall supersede
121 all contracts made by townships or school corporations, and to levy
122 annually on the taxable property of the county outside of cities and
123 towns a tax of not more than one mill on the dollar to be used ex-
124 clusively for that purpose.

[R., '60, § 312; C., '73, § 303; C., '97, § 422; S. S., '15, § 422;
37 G. A., ch. 33, § 1.]

SEC. 3131. Supplies for county officers.

1 The board of supervisors shall furnish the clerk of the district
2 court, sheriff, recorder, treasurer, auditor, county attorney and county
3 superintendent with offices at the county seat, together with fuel,
4 lights, blanks, books and stationery necessary and proper to enable
5 them to discharge the duties of their respective offices; but in no case
6 shall any of such officers, except the county attorney, be permitted to
7 occupy an office also occupied by a practicing attorney. Nothing herein
8 shall be construed to include the law books or library of the county
9 attorney.

[C., '73, § 3844; C., '97, § 468.]

SEC. 3132. Expenditure of insurance money.

1 In any county in this state where any of the public buildings
2 thereof have been or may hereafter be destroyed by fire, wind or
3 lightning, the board of supervisors of such county, for the purpose of
4 reconstructing the same, may appropriate and use, in addition to the
5 amount now authorized by law, the amount received by way of insur-
6 ance on such building or buildings so destroyed.

[C., '97, § 425.]

SEC. 3133. Compromise by county with sureties.

1 Where judgment has been or may hereafter be rendered against
2 any county treasurer or other county officer and the sureties on his
3 official bond, in favor of any county in this state, and remains unsat-
4 isfied, and the board of supervisors of such county are satisfied that
5 the full amount thereof can not be collected, such board of supervisors
6 shall have power to compromise the said judgment, and to enter full
7 satisfaction thereof under the terms of said compromise.

[C., '97, § 437.]

SEC. 3134. Conditions of compromise.

1 In all cases referred to in the preceding section, if the principal
2 debtor and each of the sureties on his official bond shall execute a
3 written consent to a compromise with any one or more of said sure-
4 ties, and to a release of said surety or sureties, and in such writing
5 shall agree that such compromise or release shall not release any of
6 the sureties who shall not compromise and be released from the pay-
7 ment of the unpaid judgment, then in that case, upon the filing of such
8 written consent with the auditor of such county, the board of super-
9 visors of such county shall have full power, and are hereby authorized,
10 to compromise with any one or more of such sureties, and to release
11 such surety or sureties upon the terms which may be agreed upon in
12 such compromise.

[C., '97, § 438.]

SEC. 3135. Disposition of funds therefrom.

1 In case of any compromise as provided in the two preceding sec-
2 tions being made, the money received by the county thereon shall be
3 paid to the various funds of the county, in proportion to the amount
4 that each fund is in default, as such default existed at the time the
5 judgment was rendered, as nearly as the same can be ascertained, so

6 that each fund shall receive its pro rata share, as the same shall be
7 determined by the board of supervisors.

[C., '97, § 439.]

SEC. 3136. Board of supervisors authorized to license—fee.

1 It shall be unlawful for any person or persons to keep or operate
2 for hire any pool, billiard tables or bowling alleys outside the limits
3 of cities and towns without procuring a license therefor from the
4 county auditor on resolution of the board of supervisors directing said
5 auditor so to do. Said auditor will exact a license fee from each ap-
6 plicant in a sum not exceeding five dollars per month for each pool,
7 billiard table or bowling alley, which may be fixed by resolution of
8 the board of supervisors.

[37 G. A., ch. 358, § 1.]

SEC. 3137. Penalty.

1 Any person or persons violating any of the provisions of the fore-
2 going section shall be fined in any sum not exceeding twenty-five dol-
3 lars and costs for each and every offense.

[37 G. A., ch. 358, § 2.]

SEC. 3138. Supervisors to tax dogs.

1 The board of supervisors of each county shall at its September
2 session each year, when levying other taxes, levy a tax of one dollar
3 on each male and spayed female and three dollars on each female dog
4 listed by the assessor, which shall constitute a special fund to be dis-
5 posed of as hereinafter provided.

[C., '97, § 458; S., '13, § 458.]

SEC. 3139. Dogs to be assessed.

1 It shall be the duty of every assessor of this state, at the time of
2 listing the property of his district, to list each dog over three months
3 of age in the name of the owner thereof, without affixing any value
4 thereto. Any person keeping or harboring a dog or dogs shall be
5 deemed the owner thereof within the meaning of this section.

[C., '97, § 457.]

SEC. 3140. County auditor to prepare assessor's book.

1 It shall be the duty of each county auditor to provide suitable
2 columns properly headed in the assessor's book to carry out the pro-
3 visions of sections thirty-one hundred thirty-eight, thirty-one hundred
4 forty, thirty-one hundred forty-one, thirty-one hundred forty-two and
5 thirty-one hundred forty-three.

[S., '13, § 458-a.]

SEC. 3141. Domestic animal fund.

1 The treasurer of each county on receiving the tax books for the
2 collection of other taxes, shall collect the tax provided for in section
3 thirty-one hundred thirty-eight as other taxes are collected and keep
4 the same as a separate fund to be known as the domestic animal fund.

[C., '97, § 459; S., '13, § 458-b.]

SEC. 3142. Injuries to domestic animals—claims for damages—how allowed and paid.

1 Any person damaged by the killing or injury of any domestic
2 animal or fowl by dog, dogs or wolves may present to the board of
3 supervisors of the county in which such killing or injury occurred, a
4 detailed statement and account of such killing or injury, stating the
5 amount of damage claimed therefor and verified by affidavits by two
6 or more disinterested persons not related to the claimant, such claim
7 to be filed with the county auditor not later than ten days from the
8 time such killing or injury occurred or was known to the owner or
9 his agent. Claims filed as herein provided shall be heard by the board
10 of supervisors at the first regular session after the filing thereof or
11 at such time as the board of supervisors may determine upon. No
12 claim shall be allowed where it is shown that the injury and damage
13 complained of was caused by a dog or dogs owned or controlled by
14 the claimant. The board shall hear and determine said claims as
15 soon as practicable after they are filed, and shall allow the same or
16 such portion thereof as they may deem just, and shall find and enter
17 of record the value of each animal killed or the amount of damage
18 done thereto, and shall authorize the auditor to issue warrants for the
19 amount of damages thus found, the same to be paid by the county
20 treasurer out of the domestic animal fund, and if disallowed they shall
21 so enter it upon their record.

[S., '13, § 458-c.]

SEC. 3143. Warrants—how drawn and paid—balance.

1 The county auditor shall, on the first day of January of each
2 year, furnish an itemized statement to the county treasurer of all
3 warrants that have been issued for the twelve months preceding such
4 date as provided herein, and the treasurer shall on or before the tenth
5 day of said month pay said warrants issued by the auditor, as afore-
6 said, out of the domestic animal fund; but if such fund is then insuffi-
7 cient to pay said warrants in full he shall pay on each pro rata. When
8 the balance in the domestic animal fund, after paying the warrants
9 issued thereon, as hereinbefore provided, exceeds the sum of five hun-
10 dred dollars the board of supervisors may transfer the excess to the
11 general county fund.

[S., '13, § 458-d; 38 G. A., ch. 15, § 1.]

SEC. 3144. Certain documents on file more than five years.

1 The board of supervisors is authorized to order the county audi-
2 tor to destroy all duplicate tax receipts, saloon consent petitions and
3 remonstrances, liquor requests, poll tax receipts and hunting license
4 applications which have been on file in the office of the county treas-
5 urer or auditor for more than five years.

[38 G. A., ch. 387, § 1.]

SEC. 3145. Neglect of duty—penalty.

1 If any supervisor shall neglect or refuse to perform any of the
2 duties which are or shall be required of him by law as a member of
3 the board of supervisors, without just cause therefor, he shall, for
4 each offense, forfeit one hundred dollars.

[R., '60, § 311; C., '73, § 302; C., '97, § 421.]

CHAPTER 3.

COUNTY AUDITOR.

SECTION 3146. Clerk or recorder may be auditor.

1 The clerk of the district court and county recorder shall each be
2 eligible to the office of county auditor, and may discharge the duties
3 of both offices.

[C., '73, § 325; C., '97, § 476.]

SEC. 3147. Treasurer may not be.

1 The offices of county auditor and county treasurer shall not be
2 united in the same person.

[C., '73, § 326; C., '97, § 477.]

SEC. 3148. Duties defined.

1 The county auditor shall:

- 2 1. Record all the proceedings of the board in proper books pro-
3 vided for that purpose.
- 4 2. Make full entries of all its resolutions and decisions on all
5 questions concerning the raising of money, and for the payment of
6 money from the county treasury.
- 7 3. Record the vote of each supervisor on any question submitted
8 to the board, if required by any member present.
- 9 4. Sign all orders issued by the board for the payment of money,
10 and record, in a book provided for the purpose, the reports of the
11 county treasurer of the receipts and disbursements of the county.
- 12 5. Preserve and file all accounts acted upon by the board, with
13 its action thereon, and perform such special duties as are or may be
14 required of him by law.
- 15 6. Designate upon every account, on which any sum shall be al-
16 lowed by the board, the amount so allowed, and the charges for which
17 the same was allowed.
- 18 7. Deliver to any person who may demand it a certified copy of
19 any record or account in his office, on payment of his legal fees
20 therefor.

[R., '60, §§ 319, 320; C., '73, § 320; C., '97, § 470.]

SEC. 3149. Issuance of warrants by county auditor.

1 Except as otherwise provided, the auditor shall not sign or issue
2 any county warrant, unless the board of supervisors by recorded vote
3 or resolution shall have authorized the same, and every such warrant
4 shall be numbered and the date, amount and the number of the same,
5 and the name of the person to whom issued, shall be entered in a book
6 to be kept in his office for that purpose.

[R., '60, § 321; C., '73, § 321; C., '97, § 471; 37 G. A., ch.
356, § 3.]

**SEC. 3150. Issuance of warrants prior to verification by super-
visors.**

1 The county auditor is hereby authorized to issue warrants as
2 follows before bills for same have been passed upon by the board of
3 supervisors:

- 4 1. For jury fees and mileage on certificate of the clerk of the
5 court upon which they were in attendance, which certificate shall be

6 issued when the juror entitled thereto shall have been discharged or
7 excused by the court.

8 2. For witness fees and mileage for attendance before the grand
9 jury upon certificate of the county attorney and foreman of such jury.

10 3. For witness fees before the district court of trial jury therein
11 in criminal cases, when such fees are payable by the county, upon
12 certificate of the clerk of the court upon which they were in at-
13 tendance.

14 4. The per diem of the shorthand reporter of the district court
15 upon certificate of the judge holding said court.

16 5. For expense of the grand jury upon order of the judge of the
17 district court.

[R., '60, § 321; C., '73, § 321; C., '97, § 471; 37 G. A., ch.
356, § 4.]

SEC. 3151. Issuance of warrants when board is not in session.

1 The board of supervisors may, by resolution, authorize the county
2 auditor to issue warrants when said board is not in session for the
3 following named purposes:

4 1. For such fixed charges as freight, express, postage, water,
5 light and telephone rents, upon filing duly verified bills for same with
6 the county auditor.

7 2. For salaries and pay rolls where such compensation shall have
8 been previously fixed by the board of supervisors, upon certificate of
9 the officer or foreman under whom such compensation shall have been
10 earned.

[37 G. A., ch. 356, § 5.]

SEC. 3152. Verification by board.

1 All bills paid under the provisions of the three preceding sections
2 shall be passed upon by the board of supervisors at the first meeting
3 following such payment and shall be entered on the minutes as other
4 claims allowed by the board.

[37 G. A., ch. 356, § 6.]

SEC. 3153. Form of warrants.

1 All warrants issued by the auditor shall be made payable to the
2 person performing the service or furnishing the supplies for which
3 said warrant makes payment, and shall state the purpose for which
4 said warrant was issued.

[37 G. A., ch. 356, § 7.]

SEC. 3154. Erroneous certificates.

1 Any officer making an erroneous certificate shall be liable on his
2 official bond for any loss to the county thereby.

[37 G. A., ch. 356, § 8.]

SEC. 3155. Duty as to school fund.

1 When the auditor of any county shall receive from the state audi-
2 tor notice of the apportionment of school moneys to be distributed in
3 the county, he shall file the same in his office, and transmit a certified
4 copy thereof to the county treasurer, and he shall also lay a certified
5 copy thereof before the board at its next regular meeting.

[R., '60, § 322; C., '73, § 322; C., '97, § 472.]

SEC. 3156. Custody of courthouse—collection of moneys.

1 The county auditor shall have the general custody and control of
2 the courthouse in each county, respectively, subject to the direction of
3 the board of supervisors. The county auditor is hereby authorized
4 to collect and receive all money due their respective counties, except
5 when otherwise provided by law, and shall be responsible for all public
6 funds received or collected by them.

[C., '73, § 323; C., '97, § 473.]

SEC. 3157. Report list of county officers.

1 The county auditor shall report to the secretary of state the name,
2 office and term of office of every county officer elected or appointed,
3 within ten days after their election and qualification, and the secretary
4 of state shall record the same in a book to be kept for that purpose
5 in his office.

[R., '60, §§ 291, 292; C., '73, § 324; C., '97, § 474.]

SEC. 3158. Financial report—what to contain.

1 The county auditor shall during the month of January of each
2 year, compile and prepare a financial report, which report shall contain
3 a schedule showing the amount of the various classes of warrants
4 drawn on the county fund, except for court expenses during the preceding
5 year, including therein, among other items, the total amount paid
6 each county officer, also their deputies and extra help, also other
7 employees of the county, and amounts paid for rent and various other
8 expenses, including printing and stationery, furniture and fixtures,
9 publishing proceedings of the board of supervisors, postage allowed
10 each county official, complete election expenses, including printing of
11 ballots, expenses of registration and items of like nature; a schedule
12 showing the amount of warrants drawn on the county fund for various
13 court expenses, which shall include among other items the salary
14 paid the county attorney and the amounts received by him as commission
15 on fines and from other sources, and the amount paid to assistant
16 counsel; also amount paid jurors in the district court, amount paid
17 witnesses in the district court, amount paid bailiffs in district
18 court, amount paid for shorthand reporting, amount paid for printing
19 and stationery, amount paid for attorney fees for defending criminals,
20 amount paid for meals for jurors and items of like nature; a
21 schedule showing the expenses of the grand jury, stating amounts paid
22 grand jurors, bailiffs, witnesses and items of like nature; a schedule
23 showing the expenses of the coroner's court, stating amount paid coroner,
24 coroner's clerk, constable fees, witness fees and items of like
25 nature; a schedule showing the expenses of justice courts, stating
26 amounts paid various justices, constables, total amount paid witnesses,
27 jurors, attorney fees, for printing and items of like nature; a schedule
28 showing the amount drawn by each member of the board of supervisors
29 from the several funds of the county for services during the
30 preceding year; a schedule, being a recapitulation of the total amount
31 of warrants drawn on the county fund with a comparison with the
32 amount of warrants drawn on the county fund each year for the last
33 five years; a schedule showing the various classes of warrants drawn
34 on the pauper fund for the preceding year, with a comparison with
35 the total amount of warrants drawn on the pauper fund each year
36 for the last five years; a schedule showing the amount of warrants

37 drawn on the insane fund for the preceding year, including the amount
 38 received by each commissioner as fees and expenses, fees of witnesses,
 39 sheriff's fees and expenses, the cost of transportation and items of like
 40 nature; also total cost of maintenance of insane at county asylum,
 41 with number confined therein, and total paid the various state hos-
 42 pitals for the insane, with the number of patients from the county
 43 confined in such hospitals; a schedule showing the amount paid the
 44 various state institutions during the preceding year; a schedule show-
 45 ing the amounts paid the sheriff for boarding prisoners during the
 46 preceding year, together with the amount paid the sheriff as jail ex-
 47 penses, with a comparison with the amounts paid for boarding pris-
 48 oners and for jail expenses each year during the last five years; a
 49 schedule showing the amounts paid for the condemning of intoxicat-
 50 ing liquors during the preceding year, also costs of convictions, both
 51 in justice courts and in the district court, for the violation of the laws
 52 relating to the sale of intoxicating liquors, together with the amount
 53 of fines collected for such violation and the amounts received as mulct
 54 tax, if any; a schedule showing the amount of warrants drawn on the
 55 county road fund and each of the various other funds of the county.
 56 Said financial report shall also contain the report of the county audi-
 57 tor as required by section twenty-two hundred seventy-five, also the
 58 various reports of magistrates and other officers as required by sec-
 59 tion eighty-three hundred thirty-five, also the various reports made
 60 during the preceding year, by the county treasurer, county auditor,
 61 county recorder, sheriff, clerk of the district court and the soldiers'
 62 relief commission, as required by law. It shall also contain the re-
 63 ports of the various committees that may be appointed by the board
 64 of supervisors to examine the affairs and accounts of the various
 65 county officials and employees. It shall also contain such other and
 66 further matters and information as the board of supervisors may di-
 67 rect or the county auditor may deem advisable. The comparison herein
 68 provided for shall not be required in the first report published; the
 69 second report need only contain a comparison with the preceding year,
 70 the third report with the last two years, the fourth report with the
 71 last three years and the fifth report with the last four years.

[S., '13, § 480-a.]

SEC. 3159. Printing and distribution—information to auditor of state.

1 Said financial report shall be ordered printed by the board of su-
 2 pervisors in pamphlet form in such numbers as the board may direct,
 3 for distribution among the taxpayers of the county. The county audi-
 4 tor of each county shall, on or before April first of each year, furnish
 5 to the auditor of state the information contained in such financial re-
 6 port and any other information relative to the financial affairs of the
 7 county which he may require, upon blank forms provided by the audi-
 8 tor of state for this purpose.

[S., '13, § 480-b.]

SEC. 3160. Fees to be collected.

1 The county auditor shall be entitled to charge and receive the fol-
 2 lowing fees:

3 1. For transfers made in the transfer books, for each deed, or
 4 transfer of title certified by clerks of district courts, twenty-five cents.

5 2. For issuing certificate of redemption of land sold for taxes,
6 twenty-five cents.

7 3. For each certificate issued by the treasurer for lands sold for
8 nonpayment of taxes, fifteen cents.

[C., '73, § 3797; C., '97, § 478; 37 G. A., ch. 215, § 1.]

SEC. 3161. Record and report of fees collected.

1 It is hereby made the duty of the county auditor, in each county
2 of the state, to keep a complete and accurate account of all the fees
3 charged and collected by him, as now provided by law; which account
4 shall be made and kept as a permanent record of the office, and he
5 shall make a report of such fees to the board of supervisors of his
6 county at each regular session thereof, verified by his oath or affirma-
7 tion, a summary of which report shall be spread upon the minutes of
8 said board and made a part of its record.

[C., '97, § 480.]

SEC. 3162. Compensation.

1 Each county auditor shall receive for his services the following
2 compensation: In counties having a population of less than ten thou-
3 sand, seventeen hundred dollars; in counties having a population of
4 ten thousand and less than fifteen thousand, eighteen hundred dollars;
5 in counties having a population of fifteen thousand and less than
6 twenty thousand, nineteen hundred dollars; in counties having a popu-
7 lation of twenty thousand and less than twenty-five thousand, two
8 thousand dollars; in counties having a population of twenty-five thou-
9 sand and less than thirty thousand, twenty-one hundred dollars; in
10 counties having a population of thirty thousand and less than thirty-
11 five thousand, twenty-two hundred dollars; in counties having a popu-
12 lation of thirty-five thousand and less than forty thousand, twenty-
13 four hundred dollars; in counties having a population of forty thou-
14 sand and less than fifty thousand, twenty-eight hundred dollars; in
15 counties having a population of fifty thousand and less than sixty
16 thousand, three thousand fifty dollars; in counties having a popula-
17 tion of sixty thousand and less than sixty-five thousand, thirty-three
18 hundred dollars; and in all counties having a population of sixty-five
19 thousand or over, thirty-four hundred dollars. In counties having a
20 population of over twenty-five thousand having a special charter city
21 where the county auditor prepares and makes up the city tax books
22 for such special charter city, the county auditor shall receive three
23 hundred dollars in addition to the compensation as fixed by the above
24 schedule in this section. And in counties having two places at which
25 the district court is held, he shall receive as additional compensation
26 the sum of five hundred dollars. Any increase in salaries provided
27 for in this act [38 G. A., ch. 293] shall not apply after June thirtieth,
28 nineteen hundred twenty-one.

[C., '73, § 3798; C., '97, § 479; S. S., '15, § 479; 38 G. A., ch.
293, §§ 1, 6.]

SEC. 3163. Salary in lieu of fees—fees to be reported.

1 The auditor shall accept the salary herein provided in full com-
2 pensation for all services performed by him under color of his office.
3 All fees of every kind and nature which he receives for services per-
4 formed in his official capacity or on matters pertaining to the records

5 in his office, shall belong to the county, and shall be paid into the
6 county treasury quarterly.

[S. S., '15, § 479-a.]

SEC. 3164. Deputy—qualifications—compensation—other assistants—salaries of—how determined.

1 Each county auditor may in writing, with the consent of the
2 board of supervisors; appoint one or more deputies not holding a
3 county office, for whose actions he shall be responsible and from whom
4 he shall require bond, which bond shall be approved by the officer who
5 has the approval of the principal's bond, and such appointment may
6 be revoked in writing; which appointment and revocation shall be
7 filed and kept in the auditor's office. The person thus appointed shall
8 qualify by taking the same oath as his principal, indorsed upon the
9 certificate of the appointment. The deputy, in the absence or dis-
10 ability of his principal, may perform all the duties of the principal
11 pertaining to his office. He shall receive a salary of not less than fifty
12 per cent of that of his principal, nor more than fifteen hundred dol-
13 lars per year, to be fixed by the board of supervisors. In case no
14 deputy shall be appointed, but on account of the pressure of business
15 in his office the auditor is compelled temporarily to employ an assist-
16 ant, he shall file the bill for such services with the board of super-
17 visors at their next regular meeting and the board of supervisors
18 shall make a reasonable allowance therefor. In counties having a
19 population of fifty thousand or over the salary of the first deputy
20 shall be not less than fifty per cent of that of his principal nor more
21 than seventeen hundred fifty dollars per year, to be fixed by the board
22 of supervisors, and the salary of the second deputy shall be not less
23 than fifty per cent of that of his principal nor more than fifteen hun-
24 dred dollars per year, and the salary of the third deputy shall be fifty
25 per cent of that of his principal. In counties having within their
26 limits a city of sixty thousand or over the salary of the first and sec-
27 ond deputies shall be sixty-five per cent of that of the principal and
28 the salary of the third and fourth deputies shall be fifty per cent of
29 that of the principal, and in case additional deputies or clerks are
30 needed the salary of such deputies or clerks shall be fixed by the board
31 of supervisors.

[R., '60, §§ 642-645, 647, 648; C., '73, §§ 766-768, 770, 771;
C., '97, § 481; S. S., '15, § 481; 37 G. A., ch. 77, § 2;
38 G. A., ch. 278, § 2.]

CHAPTER 4.

COUNTY TREASURER.

SECTION 3165. Duties in general.

1 The treasurer shall receive all money payable to the county, and
2 disburse the same on warrants drawn and signed by the county audi-
3 tor and sealed with the county seal, and not otherwise, and shall keep
4 a true account of all receipts and disbursements, and hold the same
5 at all times ready for the inspection of the board of supervisors.

[C., '51, § 152; R., '60, § 360; C., '73, § 327; C., '97, § 482.]

SEC. 3166. Treasurer to indorse warrants.

1 The treasurer of every county, when he shall receive any war-
 2 rant, scrip, or other evidence of its indebtedness, shall indorse thereon
 3 the date of its receipt, from whom received, and what amount he paid
 4 thereon.

[R., '60, § 2187; C., '73, § 557; C., '97, § 597.]

SEC. 3167. Breach of duty.

1 Any county treasurer of any county, or any deputy or employee
 2 of such officer, who violates any of the provisions of the preceding sec-
 3 tion, shall be guilty of a misdemeanor, and fined not less than one hun-
 4 dred dollars, nor more than five hundred dollars, for each offense.

[R., '60, § 2188; C., '73, § 558; C., '97, § 598.]

SEC. 3168. As to warrants presented but not paid.

1 When a warrant drawn by the auditor on the treasurer is pre-
 2 sented for payment, and not paid for want of money, the treasurer
 3 shall indorse thereon a note of that fact and the date of presentation,
 4 and sign it, and thenceforth it shall draw interest at the rate of five
 5 per cent. He shall keep a record of the number and amount of the
 6 warrants presented and indorsed for nonpayment, which shall be paid
 7 in the order of such presentation.

[C., '51, § 153; R., '60, § 361; C., '73, § 328; C., '97, § 483;
 S., '13, § 483.]

SEC. 3169. Calls for outstanding warrants—interest stopped.

1 He shall issue calls for outstanding warrants at any time he may
 2 have sufficient funds on hand for which such warrants were issued;
 3 shall give notice to what number of warrants the funds will extend,
 4 or the number which will be paid, by posting a written notice in the
 5 treasurer's office, and, at the expiration of thirty days from the date
 6 of such posting, interest on the warrants so named shall cease; and,
 7 when a warrant which draws interest is taken up, he shall indorse
 8 upon it the date and amount of interest allowed, and such warrant
 9 shall be canceled and not reissued.

[C., '51, § 153; R., '60, § 361; C., '73, § 328; C., '97, § 484.]

SEC. 3170. Warrants partially paid—certificate for balance.

1 When a person wishing to make a payment into the treasury
 2 presents a warrant of an amount greater than such payment, or pre-
 3 sents for payment a warrant in excess of the funds in the treasury,
 4 the treasurer shall cancel the same and give the holder a certificate
 5 of the overplus, upon the presentation of which to the county auditor
 6 he shall file it, and issue a new warrant of that amount, and charge
 7 the treasurer therewith; and such certificate is transferable by deliv-
 8 ery, and will entitle the holder to the new warrant, payable to his or-
 9 der, and containing reference to the original warrant.

[C., '51, §§ 154, 490; R., '60, §§ 362, 755; C., '73, § 329; C.,
 '97, § 485.]

SEC. 3171. Warrant book to be kept.

1 The treasurer shall keep a record of all warrants drawn on him
 2 by the auditor and presented, in a book so ruled as to show in separate

3 columns, as to each warrant, the number, date, principal, name of
4 drawee, when paid, to whom paid, and amount of interest paid.

[C., '51, § 155; R., '60, § 363; C., '73, § 330; C., '97, § 486.]

SEC. 3172. Duty upon canceling warrants.

1 The warrants returned by the treasurer shall be compared with
2 the warrant book, and the word "canceled" be written over the minute
3 of the proper numbers in the warrant book, and the original warrant
4 be preserved for at least two years, and he shall make weekly returns
5 to the auditor of the number, date, drawee's name, when paid, to
6 whom paid, original amount, and interest.

[C., '51, §§ 159, 160; R., '60, §§ 365, 366; C., '73, §§ 332, 333;
C., '97, § 488.]

SEC. 3173. Separate account of each fund.

1 The treasurer shall keep a separate account of the several taxes
2 for state, county, school, highway, and all other funds created by law,
3 opening an account between himself and each of those funds, charging
4 himself with the amount of the tax, and crediting himself with the
5 amounts paid on each, and with the amount of delinquent taxes, when
6 authorized so to do.

[C., '51, § 156; R., '60, § 364; C., '73, § 331; C., '97, § 487.]

SEC. 3174. Separate account for each official term.

1 A person reelected to, or holding over, the office of treasurer
2 shall keep separate accounts for each term of his office.

[C., '51, § 161; R., '60, § 367; C., '73, § 334; C., '97, § 489.]

SEC. 3175. Unclaimed money placed in county fund.

1 In any county of this state where any special levy has been made
2 to pay any claim, bond or other indebtedness, and the same shall have
3 remained in the treasury of the county, uncalled for, for a period of
4 three years, the board of supervisors of such county may authorize
5 such unclaimed fund to be transferred to the general county fund.

[C., '97, § 456.]

SEC. 3176. Compensation.

1 Each county treasurer shall receive for his services the following
2 compensation: In counties having a population of less than ten thou-
3 sand, seventeen hundred dollars; in counties having a population of
4 ten thousand and less than fifteen thousand, eighteen hundred dollars;
5 in counties having a population of fifteen thousand and less than
6 twenty thousand, nineteen hundred dollars; in counties having a popu-
7 lation of twenty thousand and less than twenty-five thousand, two
8 thousand dollars; in counties having a population of twenty-five thou-
9 sand and less than thirty thousand, twenty-one hundred dollars; in
10 counties having a population of thirty thousand and less than thirty-
11 five thousand, twenty-two hundred dollars; in counties having a
12 population of thirty-five thousand and less than forty thousand, twenty-
13 four hundred dollars; in counties having a population of forty thou-
14 sand and less than fifty thousand, twenty-eight hundred dollars; in
15 counties having a population of fifty thousand and less than sixty
16 thousand, three thousand fifty dollars; in counties having a popula-
17 tion of sixty thousand and less than sixty-five thousand, thirty-three

18 hundred dollars; and in all counties having a population of sixty-five
 19 thousand and over, thirty-four hundred dollars. In counties having a
 20 population of over twenty-five thousand, having a special charter city
 21 where the taxes are collected by the county treasurer, three hundred
 22 dollars in addition to the compensation as fixed by the above schedule
 23 in this section; and in counties where the district court is held at two
 24 different places the county treasurer shall receive five hundred dollars
 25 in addition to the compensation as fixed by the above schedule in this
 26 section. Any increase in salaries provided for in this act [38 G. A.,
 27 ch. 293] shall not apply after June thirtieth, nineteen hundred twenty-
 28 one.

[C., '51, § 211; R., '60, § 422; C., '73, § 3793; C., '97, § 490;
 S. S., '15, § 490; 38 G. A., ch. 293, §§ 2, 6.]

SEC. 3177. Compensation in full—fees accounted for—additional compensation.

1 The treasurer shall accept the salary herein provided in full com-
 2 pensation for all services performed under color of his office. All fees
 3 of every kind and nature which he receives for services performed in
 4 his official capacity, or on matters pertaining to the records in his
 5 office, shall belong to the county and shall be paid into the county
 6 treasury quarterly; provided that boards of supervisors in counties
 7 having a population of forty thousand or over, in which there are
 8 cities of the first class, including cities acting under special charter
 9 and commission form of government, may allow additional compensa-
 10 tion to county treasurers not to exceed fifty dollars per annum for
 11 each five thousand population of said cities.

[S. S., '15, § 490-a.]

SEC. 3178. Deputies—qualification—compensation—other assistants.

1 Each county treasurer may, in writing, with the consent of the
 2 board of supervisors, appoint one or more deputies, not holding a
 3 county office, for whose acts he shall be responsible, and from whom
 4 he shall require a bond, which bond shall be approved by the officer
 5 who has the approval of the principal's bond. Such appointment may
 6 be revoked in writing, which appointment and revocation shall be
 7 filed and kept in the auditor's office. The person or persons thus ap-
 8 pointed shall qualify by taking the same oath as his principal, indorsed
 9 upon the certificate of appointment. The deputy, in the absence or
 10 disability of his principal, may perform all the duties of the principal
 11 pertaining to his office. He shall receive a salary of not less than fifty
 12 per cent of that of his principal, nor more than fifteen hundred dol-
 13 lars per year, to be fixed by the board of supervisors, and in case addi-
 14 tional deputies and clerks are needed, the board of supervisors may
 15 make such allowance therefor as they deem reasonable. In counties
 16 having a population of fifty thousand or over the salary of the first
 17 deputy shall be not less than fifty per cent of that of his principal nor
 18 more than seventeen hundred fifty dollars per year, to be fixed by the
 19 board of supervisors, and the salary of the second deputy shall be not
 20 less than fifty per cent of that of his principal nor more than fifteen
 21 hundred dollars per year, and the salary of the third deputy shall be
 22 not more than fifty per cent of that of his principal, to be fixed by the
 23 board of supervisors. In counties having within their limits a city of
 24 sixty thousand or over the salary of the first and second deputy shall

25 be sixty-five per cent of that of the principal and the salary of the
 26 third and fourth deputy shall be fifty per cent of that of the principal,
 27 and in case additional deputies and clerks are needed the salary of
 28 such additional deputies and clerks shall be fixed by the board of su-
 29 pervisors.

[C., '51, §§ 411-414, 416, 417; R., '60, §§ 642-645, 647, 648;
 C., '73, §§ 766-768, 770, 771, 3793; C., '97, § 491; S. S.,
 '15, § 491; 37 G. A., ch. 77, § 3; 37 G. A., ch. 331, § 1;
 38 G. A., ch. 278, § 3.]

SEC. 3179. Fees to be reported and paid to county.

1 He shall enter in a book kept for that purpose, all moneys re-
 2 ceived by him for services rendered, designating for what service the
 3 same was received, and shall render an account, verified by affidavit,
 4 to the board of supervisors at each session thereof, stating fully all
 5 money so received and from what source; and any excess to which he
 6 would be entitled under section forty-six hundred forty-six, over and
 7 above the sum therein limited, shall be paid into the county treasury.

[C., '51, § 212; R., '60, § 423; C., '73, § 3796; C., '97, § 492.]

CHAPTER 5.

COUNTY RECORDER.

SECTION 3180. Who eligible.

1 In counties with a population of ten thousand or less, the same
 2 person may hold the office of county recorder and treasurer, and no
 3 person shall be disqualified on account of sex from holding the office
 4 of recorder.

[C., '73, § 336; C., '97, § 493.]

SEC. 3181. Vacancy—how filled.

1 In case of vacancy occurring in the office of recorder, by death or
 2 otherwise, the auditor shall discharge the duties pertaining to said
 3 office until such vacancy is filled by appointment by the board of su-
 4 pervisors.

[C., '97, § 497.]

SEC. 3182. Office—duties.

1 The recorder shall keep his office at the county seat, and shall re-
 2 cord at length, and as speedily as possible, all instruments in writing
 3 which may be delivered to him for record, in the manner directed by
 4 law. If, in the recording of any such instrument heretofore recorded
 5 or hereafter to be filed for record, the recording fee for which has
 6 once been paid, the recorder shall commit an error in making the
 7 record thereof, it shall be his duty to re-record such instrument upon
 8 the presentation of the original by the owner thereof, without further
 9 compensation; and he shall also enter upon the margin of the new
 10 record a reference to the original record, and upon the margin of the
 11 original record a reference to the new record, giving the book and
 12 page thereof. When an error has been made in indexing any instru-

13 ment, it shall be the duty of the recorder to reindex the same without
14 further compensation.

[C., '51, § 150; R., '60, § 358; C., '73, § 335; C., '97, § 494;
S., '13, § 494.]

SEC. 3183. Record of discharge of soldier, sailor or marine.

1 The county recorder of each county in this state shall maintain
2 in his office a special book in which he shall, upon request, record the
3 final discharge of any soldier, sailor, or marine of the United States.
4 No recording fee shall be collected when the soldier, sailor, or marine
5 requesting such record shall be an actual resident of said county or
6 shall have been such at the time of his entrance into the service of the
7 United States. In all other cases the legal fee shall be charged.

[38 G. A., ch. 62, § 1.]

SEC. 3184. Alphabetical index of record.

1 There shall be kept in connection with such record an alphabetical
2 index referring to the name of the soldier, sailor, or marine, whose
3 name appears in each discharge paper so recorded.

[38 G. A., ch. 62, § 2.]

SEC. 3185. Record—copy furnished free.

1 When a certified copy or copies of any public record in the state
2 of Iowa are required to perfect the claim of any soldier, sailor or ma-
3 rine, in service or honorably discharged, or any dependent of such
4 soldier, sailor or marine, for a United States pension, or other claim
5 upon the government of the United States, they shall, upon request,
6 be furnished by the custodian of such records, without requiring any
7 fee or compensation therefor.

[38 G. A., ch. 28, § 1.]

SEC. 3186. Fees to be collected—fee book.

1 The recorder shall be entitled to charge and receive the following
2 fees:

3 1. For recording each instrument containing four hundred words
4 or less, fifty cents.

5 2. For every additional hundred words or fraction thereof, ten
6 cents.

7 3. He shall keep a fee book which shall be ruled in appropriate
8 columns, in which he shall enter each and every instrument filed for
9 record; each instrument shall be numbered in numerals from one con-
10 secutively through the year, and shall commence with number "1" on
11 and immediately after the date of settlement with the board of super-
12 visors each year. He shall enter on said fee book from left to right
13 in appropriately ruled columns as follows: The number of the instru-
14 ment, grantor, grantee and character of instrument, carrying out in
15 separate columns the fee charged in dollars and cents in each case,
16 and said fee book shall be a part of the records of the office of the
17 county recorder and shall be kept and maintained therein as the other
18 books and records thereof. He shall also enter or cause to be entered
19 at the top of the page where the permanent record of the instrument
20 begins, these words "Recording fee" and place on

21 blank line the exact amount charged in dollars and cents for each in-
 22 strument recorded.

[C., '51, § 2534; R., '60, § 4143; C., '73, § 3792; C., '97, § 498;
 S., '13, § 498.]

SEC. 3187. Fees to be reported and paid to county—compensation.

1 The recorder shall report quarterly, under oath, to the board of
 2 supervisors, on blanks furnished by the auditor, all fees collected by
 3 him, and certify under oath that he has collected all fees for recording
 4 instruments provided by law; shall pay quarterly into the county
 5 treasury all fees received by him, and make annual settlement with
 6 the board of supervisors on the first Monday of January of each year.
 7 Each county recorder shall receive for his services the following com-
 8 pensation: In counties having a population of less than fifteen thou-
 9 sand, sixteen hundred dollars; in counties having a population of fifteen
 10 thousand and less than twenty thousand, seventeen hundred dol-
 11 lars; in counties having a population of twenty thousand and less
 12 than twenty-five thousand, eighteen hundred dollars; in counties hav-
 13 ing a population of twenty-five thousand and less than thirty thousand,
 14 nineteen hundred dollars; in counties having a population of thirty
 15 thousand and less than thirty-five thousand, two thousand dollars; in
 16 counties having a population of thirty-five thousand and less than forty
 17 thousand, twenty-one hundred dollars; in counties having a popula-
 18 tion of forty thousand and less than fifty thousand, twenty-two hun-
 19 dred dollars; in counties having a population of fifty thousand and
 20 less than sixty thousand, twenty-three hundred dollars; in counties
 21 having a population of sixty thousand and less than seventy thousand,
 22 twenty-four hundred dollars; in counties having a population of sev-
 23 enty thousand and less than ninety thousand, twenty-five hundred dol-
 24 lars; in counties having a population of ninety thousand and over,
 25 thirty-one hundred dollars. In counties where a recorder's office is
 26 kept in two different places the county recorder shall receive five hun-
 27 dred dollars in addition to the compensation as fixed by the above
 28 schedule in this section. Any increase in salaries provided for in
 29 this act [38 G. A., ch. 293] shall not apply after June thirtieth, nine-
 30 teen hundred twenty-one.

[C., '51, §§ 211-213; R., '60, §§ 422-424; C., '73, § 3792; C.,
 '97, § 495; S. S., '15, § 495; 38 G. A., ch. 23, § 1; 38 G.
 A., ch. 293, §§ 3, 6.]

SEC. 3188. Deputy recorders.

1 Each county recorder may, in writing, with the consent of the
 2 board of supervisors, appoint one or more deputies not holding a county
 3 office, for whose acts he shall be responsible and from whom he shall
 4 require a bond, which bond shall be approved by the officer who has
 5 the approval of the principal's bond. Such appointment may be re-
 6 voked in writing, such appointment and revocation shall be filed and
 7 kept in the auditor's office. The person or persons thus bonded shall
 8 qualify by taking the same oath as his principal, indorsed upon the
 9 certificate of appointment. The deputy, in the absence or disability
 10 of his principal, may perform all the duties of the principal pertaining
 11 to his office. He shall receive a salary of not less than fifty per cent
 12 of that of his principal, nor more than fifteen hundred dollars per
 13 year, to be fixed by the board of supervisors, and in case additional
 14 deputies and clerks are needed, the board of supervisors may make

15 such allowance therefor as they deem reasonable. In counties having
 16 a population of fifty thousand or over the salary of the first deputy
 17 shall be not less than fifty per cent of that of his principal nor more
 18 than seventeen hundred fifty dollars per year, to be fixed by the board
 19 of supervisors, and the salary of the second deputy shall be not less
 20 than fifty per cent of that of his principal nor more than fifteen hun-
 21 dred dollars per year, and the salary of the third deputy shall be not
 22 more than fifty per cent of that of his principal, to be fixed by the
 23 board of supervisors. In counties having within their limits a city
 24 of sixty thousand or over the salary of the first and second deputy
 25 shall be sixty-five per cent of that of the principal, and the salary of
 26 the third and fourth deputy shall be fifty per cent of that of the prin-
 27 cipal, and in case additional deputies and clerks are needed the salary
 28 of such additional deputies and clerks shall be fixed by the board of
 29 supervisors.

[C., '51, §§ 411-414, 416, 417; R., '60, §§ 642-644, 647, 648;
 C., '73, §§ 766-768, 770, 771; C., '97, § 496; S., '13,
 § 496; 37 G. A., ch. 77, § 4; 38 G. A., ch. 278, § 4.]

CHAPTER 6.

COUNTY ATTORNEY.

SECTION 3189. Qualifications of county attorney.

1 County attorneys shall be qualified electors of their respective
 2 counties, duly admitted to practice as attorneys and counselors in the
 3 courts of this state as provided by law. No person shall be qualified
 4 for such office whose license to practice has been revoked or suspended,
 5 while the same remains revoked or suspended.

[S., '13, § 308-b.]

SEC. 3190. Duties.

1 It shall be the duty of the county attorney:
 2 1. To diligently enforce, or cause to be enforced in his county,
 3 all of the laws of the state, actions for a violation of which may be
 4 commenced or prosecuted in the name of the state of Iowa, or by him
 5 as county attorney, except such laws, the enforcement of which is ex-
 6 clusively enjoined upon others by statute.
 7 2. To appear for the state and county in all cases and proceedings
 8 in the courts of his county to which the state or county is a party, ex-
 9 cept cases brought on change of venue from another county. He shall
 10 appear in the supreme court in all cases in which the county is a party,
 11 and also in all cases transferred on change of venue to another county,
 12 in which his county or the state is a party.
 13 3. To appear and prosecute all preliminary hearings before jus-
 14 tices of the peace upon charges triable upon indictment.
 15 4. To appear and prosecute misdemeanors before justices of the
 16 peace whenever he is not otherwise engaged in the performance of
 17 official duties.
 18 5. To enforce all forfeited bonds and recognizances, and to prose-
 19 cute all proceedings necessary for the recovery of debts, revenues,
 20 moneys, fines, penalties and forfeitures accruing to the state or his
 21 county, or to any school district or road district in his county; also

22 to prosecute all suits in his county against public service corporations
23 which are brought in the name of the state of Iowa.

24 6. To commence and prosecute all actions and proceedings brought
25 by any county officer in his official capacity.

26 7. To give advice or his opinion in writing, without compensa-
27 tion, to the board of supervisors and other county officers when re-
28 quested so to do by such board or officer, upon all matters in which
29 the state or county is interested, or relating to the duty of the board
30 or officer in which the state or county may have an interest; but he
31 shall not appear before the board of supervisors upon any hearing in
32 which the state or county is not interested.

33 8. To attend the grand jury whenever necessary for the purpose
34 of examining witnesses before it, or of giving it legal advice, or to
35 procure subpoenas or other process for witnesses, to prepare all bills
36 of indictment; but he must not be present when an indictment is con-
37 sidered or found.

38 9. To give a receipt to all persons from whom he shall receive
39 money in his official capacity, and file a duplicate thereof with the
40 county auditor.

41 10. To promptly notify the attorney general of every criminal
42 case appealed from his county to the supreme court, and when the
43 appeal is taken by the state, at least forty days prior to the term at
44 which the cause is to be heard, prepare and deliver to the attorney
45 general a typewritten manuscript of the abstract of the case; and when
46 the appeal is taken by the defendant, he shall prepare and deliver to
47 the attorney general when necessary a typewritten manuscript of the
48 amended abstract of the case in ample time to have the same printed
49 and filed within the time prescribed by the rules of the supreme court;
50 said manuscript of the abstract or amended abstract shall be in the
51 form and manner prescribed by law, and the rules of the supreme
52 court.

53 11. To make reports relating to the duties and the administra-
54 tion of his office to the governor or the attorney general whenever
55 called upon by the governor or the attorney general so to do.

56 12. To perform such other and further duties as are now or may
57 hereafter be enjoined upon him by law.

58 13. It shall be the duty of the county attorney to furnish free of
59 charge legal advice to all school boards and township officers.

[C., '97, § 301; S. S., '15, § 301; 37 G. A., ch. 58, § 1; 38 G.
A., ch. 232, § 2.]

SEC. 3191. Assistants—compensation.

1 The county attorney may in writing, with the consent of the
2 board of supervisors, appoint one or more practicing attorneys, who
3 are residents of his county, as his assistants. The compensation of
4 such assistants shall be fixed by the board of supervisors, and be paid
5 out of the county treasury, and shall not exceed the following amounts:
6 In counties having a population of thirty-six thousand and less than
7 forty-five thousand, one thousand dollars per annum; in counties
8 having a population of forty-five thousand and less than ninety-
9 five thousand, fifteen hundred dollars per annum; in counties having
10 a population of ninety-five thousand and over, two thousand dollars
11 per annum. In counties of less than thirty-six thousand, he may ap-
12 point assistants who shall act without any compensation from the
13 county, to assist him in the discharge of his duties. In any county,

14 with the approval of the judge of the district court, he may procure
 15 such assistants in the trial of a person charged with felony as he
 16 shall deem necessary and such assistants upon presenting to the board
 17 of supervisors a certificate of the district judge before whom said
 18 cause was tried, certifying to the services rendered, shall be allowed
 19 a reasonable compensation therefor, to be fixed by the board of su-
 20 pervisors, but nothing in this chapter shall prevent the board of super-
 21 visors from employing an attorney to assist the county attorney in
 22 any cause or proceeding in which the state or county is interested.

[C., '97, § 303; S., '13, § 303-a; 37 G. A., ch. 21, § 1.]

SEC. 3192. Substitute in case of disability—compensation.

1 In case of absence, sickness or disability of the county attorney
 2 and his deputies, the court before whom it is his duty to appear, and
 3 in which there may be business for him to attend to, may appoint an
 4 attorney to act as county attorney, by order to be entered upon the
 5 minutes of the court, and he shall receive out of the compensation
 6 allowed to the county attorney, when such appearance is before a jus-
 7 tice of the peace, such sum as the board of supervisors shall deter-
 8 mine to be reasonable for the services rendered, and, when it is be-
 9 fore a court of record, such sum as the judge shall determine to be a
 10 reasonable compensation, and while acting under said appointment,
 11 he shall have all the authority and be subject to all the responsibilities
 12 herein conferred upon county attorneys. But in criminal cases less
 13 than a felony, a justice of the peace or magistrate can not appoint an
 14 attorney at the expense of the county or county attorney; and no jus-
 15 tice of the peace shall appoint an attorney to act as county attorney
 16 in any case, unless reasonable notice in writing has been given the
 17 county attorney that his services will be required before such justice
 18 at a time therein named.

[C., '97, § 304.]

SEC. 3193. Prohibitions.

1 No county attorney shall accept any fee or reward from or on be-
 2 half of anyone for services rendered in any prosecution or the con-
 3 duct of any official business, nor shall he, or any member of a firm
 4 with which he may be connected, be directly or indirectly engaged as
 5 an attorney or otherwise for any party other than the state or county
 6 in any action or proceeding pending or arising in his county, based
 7 upon substantially the same facts upon which a prosecution or pro-
 8 ceeding has been commenced or prosecuted by him in the name of the
 9 county or state; nor shall any attorney be allowed to assist the county
 10 attorney in any criminal action, where such attorney is interested in
 11 any civil action brought or to be commenced, in which a recovery is
 12 or may be asked upon the matters and things involved in such crim-
 13 inal prosecution.

[C., '97, § 305.]

SEC. 3194. Compensation.

1 County attorneys shall be allowed an annual salary in counties
 2 having a population less than fifteen thousand, eleven hundred dol-
 3 lars; in counties of fifteen thousand and under twenty-five thousand,
 4 fourteen hundred dollars; in counties of twenty-five thousand and un-
 5 der thirty-five thousand, seventeen hundred dollars; in counties of

6 thirty-five thousand and under forty-five thousand, two thousand
 7 dollars; in counties of forty-five thousand and under fifty-five thou-
 8 sand, twenty-two hundred dollars; in counties of fifty-five thousand
 9 and under sixty-five thousand, twenty-five hundred dollars; in coun-
 10 ties of sixty-five thousand and over, three thousand dollars: said sal-
 11 ary to be paid in twelve equal installments on the first day of each
 12 calendar month of each year, out of the general fund of the county.
 13 In addition to the salary above provided, he shall receive the fees now
 14 allowed to attorneys for suits upon written instruments where judg-
 15 ment is obtained, for all fines collected where he appears for the state,
 16 but not otherwise, and school fund mortgages foreclosed, and his nec-
 17 essary and actual expenses incurred in attending upon his official du-
 18 ties at a place other than his residence and the county seat, which
 19 shall be audited and allowed by the board of supervisors of the county.
 20 In counties where the district court is held at two places in the county,
 21 the board of supervisors shall allow to the county attorney, in addi-
 22 tion to the salary above provided, the sum of five hundred dollars per
 23 annum.

[C., '97, § 308; S. S., '15, § 308; 38 G. A., ch. 232, § 1.]

CHAPTER 7.

SHERIFF.

SECTION 3195. Duties in general.

1 It shall be the duty of the sheriff, by himself or deputy, to pre-
 2 serve the peace in his county, to ferret out crime, to apprehend and
 3 arrest all criminals, and in so far as it is within his power, to secure
 4 evidence of all crimes committed in his county, and present the same
 5 to the county attorney and the grand jury; to file informations against
 6 all persons who he knows, or has reason to believe, have violated the
 7 laws of the state, and to perform all other duties pertaining to the
 8 office of sheriff, or enjoined upon him by law.

[C., '51, § 170; R., '60, § 383; C., '73, § 337; C., '97, § 499;
 S., '13, § 499.]

SEC. 3196. Authority to summon aid.

1 The sheriff, by himself or deputy, may call any person to his aid
 2 to keep the peace or prevent crime, or to arrest any person liable
 3 thereto, or to execute process of law; and when necessary, the sheriff
 4 may summon the power of the county.

[C., '51, § 173; R., '60, § 386; C., '73, § 340; C., '97, § 502;
 S., '13, § 499-a.]

SEC. 3197. Execution and return of writs.

1 The sheriff shall, by himself or deputy, execute and return all
 2 writs and other legal process issued by legal authority to him directed.

[S., '13, § 499-b.]

SEC. 3198. Investigation on order of county attorney.

1 The sheriff shall, whenever directed so to do in writing by the
 2 county attorney, make special investigation of any alleged infraction

3 of the law within his county, and report with reference thereto within
 4 a reasonable time to such county attorney. When such investigation
 5 is made the sheriff shall file with the county auditor a detailed, sworn
 6 statement of his expenses, accompanied by the written order of the
 7 county attorney, and the board shall audit and allow only so much
 8 thereof as it shall find reasonable and necessary.

[S., '13, § 499-c.]

SEC. 3199. Peace officers not relieved from duties.

1 Nothing in the four preceding sections shall be so construed as
 2 to relieve any peace officer from the full and faithful discharge of
 3 all the duties now or hereafter enjoined upon him by law.

[S., '13, § 499-d.]

SEC. 3200. Disobedience punished.

1 His disobedience of the command of any such process is a con-
 2 tempt of the court from which it issued, and may be punished by the
 3 same accordingly, and he is further liable to action by any person in-
 4 jured thereby.

[C., '51, § 171; R., '60, § 384; C., '73, § 338; C., '97, § 500.]

SEC. 3201. Bailiffs—appointment—duties.

1 The sheriff shall attend upon the district court of his county, and
 2 while it remains in session he shall be allowed the assistance of such
 3 number of bailiffs as the judge may direct. They shall be appointed
 4 by the sheriff and shall be regarded as deputy sheriffs, for whose acts
 5 the sheriff shall be responsible.

[C., '51, § 174; R., '60, § 387; C., '73, § 341; C., '97, § 503.]

SEC. 3202. Execution of process after expiration of term.

1 Sheriffs and their deputies may execute any process which may
 2 be in their hands at the expiration of their office, and, in case of a
 3 vacancy occurring in the office of sheriff from any cause, his deputies
 4 shall be under the same obligation to execute legal process then in his
 5 or their hands, and to return the same, as if the sheriff had continued
 6 in office, and he and they will remain liable therefor, under the pro-
 7 visions of law, as in other cases.

[C., '51, § 177; R., '60, § 390; C., '73, § 344; C., '97, § 504.]

SEC. 3203. Must deliver to successor.

1 When a sheriff goes out of office, he shall deliver to his successor
 2 all books and papers pertaining to the office, and property attached
 3 and levied upon, except as provided in the preceding section, and all
 4 prisoners in the jail, and take his receipts specifying the same, and
 5 such receipt shall be sufficient indemnity to the person taking it.

[C., '51, § 178; R., '60, § 391; C., '73, § 345; C., '97, § 505.]

SEC. 3204. Successor may complete execution of process.

1 If the sheriff die or go out of office before the return of any
 2 process then in his hands, his successor, or other officer authorized to
 3 discharge the duties of the office, may proceed to execute and return
 4 the same in the same manner as the outgoing sheriff should have done;
 5 but nothing in this section shall be construed to exempt the outgoing

6 sheriff and his deputies from the duty imposed on them to execute
7 and return all process in their hands at the time the vacancy in the
8 office of sheriff occurs.

[R., '60, § 3264; C., '73, § 346; C., '97, § 506.]

SEC. 3205. New process to new sheriff.

1 On the election or appointment of a new sheriff, all new process
2 shall be directed to him.

[C., '51, § 179; R., '60, § 392; C., '73, § 347; C., '97, § 507.]

SEC. 3206. Fees to be collected.

1 Each sheriff is entitled to charge and receive the following fees:

2 1. For serving a notice and making return thereof, for the first
3 person served, fifty cents, and each additional person, twenty-five
4 cents.

5 2. For each warrant served, two dollars, and the repayment of
6 necessary expenses incurred, in executing such warrant, as sworn to
7 by the sheriff, if service of the warrant can not be made, the repay-
8 ment of all necessary expenses actually incurred by the sheriff while
9 attempting in good faith to serve such warrant.

10 3. For serving and returning a subpoena, for each person served,
11 twenty cents, and the necessary expenses incurred while serving sub-
12 poenas in criminal cases or insane process.

13 4. For summoning a grand or trial jury, for each person served,
14 sixty cents, and the repayment of expenses actually incurred by him.

15 5. For summoning a jury to assess the damages to the owners of
16 lands taken for public improvements, and attending them, five dollars
17 per day, and necessary expenses incurred. This paragraph shall not
18 be so construed as to allow a sheriff to make separate charges for
19 different assessments, which can be made by the same jury and com-
20 pleted in one day of ten hours.

21 6. For serving an execution, attachment, or order for the delivery
22 of personal property, injunction, or any order of court, and making
23 return thereof, two dollars.

24 7. For collecting and paying over money, on the first five hundred
25 dollars or fraction thereof, two per cent; on all in excess of five hun-
26 dred dollars and under five thousand dollars, one per cent; on all over
27 five thousand dollars, one-half per cent.

28 8. For making and executing a certificate or deed for lands sold
29 on execution, or a bill of sale for personal property sold, one dollar.

30 9. For the time necessarily employed in making an inventory of
31 personal property attached or levied upon, fifty cents per hour.

32 10. For a copy of any paper required by law, made by him, for
33 each one hundred words or fraction thereof, ten cents.

34 11. Mileage in all cases required by law, going and returning, ten
35 cents per mile, provided that this paragraph shall not apply where
36 provision is made for expenses, and in no case shall the law be con-
37 strued to allow both mileage and expenses for the same services and
38 for the same trip.

39 12. He shall be paid for boarding a prisoner, a compensation of
40 twenty cents for each meal, and not to exceed three meals in twenty-
41 four consecutive hours; and fifteen cents for each night's lodging.

42 13. He shall be paid for waiting on and washing for prisoners,
43 the sum of five cents per prisoner per day.

44 14. For attending sale of property, for each day, one dollar.

45 15. For conveying one or more persons to any state, county or
 46 private institution by order of court, or commission, he shall be al-
 47 lowed his necessary expenses, for himself and such person or persons,
 48 and in addition thereto, forty cents per hour for the time necessarily
 49 employed in going to and from such institution, same to be charged
 50 and accounted for as fees. Should the sheriff need any assistance
 51 in taking any person to any such institution, the same shall be fur-
 52 nished at the expense of the county.

53 16. He shall be allowed for serving any warrant for the seizure
 54 of intoxicating liquors, one dollar; for the removal and custody of
 55 such liquor, actual and reasonable expenses; for the destruction of
 56 such liquor under the order of court, one dollar, and his actual and
 57 reasonable expenses; for posting and leaving notices in such cases,
 58 one dollar and his actual expenses.

59 17. When mileage or expenses of the sheriff are to be paid from
 60 the public treasury, he shall file an itemized claim for the same, veri-
 61 fied by affidavit and accompanied by proper vouchers, before the same
 62 can be allowed or paid.

63 18. The amounts allowed the sheriff by law for mileage and for
 64 necessary and actual expenses paid by him and for board of prisoners
 65 and for waiting on and washing for prisoners, as in this section pro-
 66 vided, may be retained by him in addition to his salary. But all other
 67 fees of every kind and nature which he receives for services performed
 68 in his official capacity, or by virtue of his office, shall belong to the
 69 county and be paid into the county treasury accordingly.

[C., '51, § 2536; R., '60, §§ 1570, 4145; C., '73, §§ 3788,
 3789, 3807; C., '97, § 511; S., '13, § 511; 37 G. A., ch.
 49, § 1; 38 G. A., ch. 256, § 1.]

SEC. 3207. Fees in criminal cases—when payable by county.

1 In all criminal cases where the prosecution fails, or where the
 2 money can not be made from the person liable to pay the same, the
 3 facts being certified by the clerk or justice as far as their knowledge
 4 extends, and verified by the affidavit of the sheriff, the fees allowed
 5 by law in such cases shall be audited by the county auditor and paid
 6 out of the county treasury; except all costs and fees incurred in any
 7 criminal case brought against an inmate of any state institution for
 8 a crime committed while confined in such institution shall be paid out
 9 of the state treasury from the general fund in case the prosecution
 10 fails, or where such costs and fees can not be made from the person
 11 liable to pay the same, the facts being certified by the clerk of the
 12 district court under his seal of office to the state auditor, including a
 13 statement of the amount of fees or costs incurred, such statement to
 14 be approved by the presiding judge in writing appended thereto or
 15 indorsed thereon.

[C., '51, § 2537; R., '60, § 4146; C., '73, § 3790; C., '97, § 512;
 37 G. A., ch. 311, § 1.]

SEC. 3208. Fees to be reported and paid to county.

1 Quarterly itemized reports under oath, upon blanks to be fur-
 2 nished by the county auditor, shall be made to the board of supervisors
 3 by the sheriff, of all fees and mileage charged or taxed, and all that
 4 are collected by him and his deputies, including all sums for which
 5 the county is liable, except for dieting and lodging prisoners; and at
 6 the time of making such quarterly reports he shall make full settle-

7 ment with said board, filing therewith the receipts of the county treas-
8 urer for all moneys paid over to him.

[C., '97, § 508; S., '13, § 508.]

SEC. 3209. Compensation.

1 Each county sheriff shall receive for his services the following
2 compensation: In counties having a population of less than fifteen
3 thousand, seventeen hundred dollars; in counties having a population
4 of fifteen thousand and less than twenty thousand, eighteen hundred
5 dollars; in counties having a population of twenty thousand and less
6 than twenty-five thousand, nineteen hundred dollars; in counties hav-
7 ing a population of twenty-five thousand and less than thirty-five
8 thousand, two thousand dollars; in counties having a population of
9 thirty-five thousand and less than forty thousand, twenty-one hun-
10 dred dollars; in counties having a population of forty thousand and
11 less than fifty thousand, twenty-two hundred dollars; in counties hav-
12 ing a population of fifty thousand and less than sixty thousand, twenty-
13 four hundred dollars; in counties having a population of sixty thou-
14 sand and less than sixty-five thousand, twenty-six hundred dollars;
15 in counties having a population of sixty-five thousand and over,
16 twenty-eight hundred dollars. All fees collected, except mileage, shall
17 be paid to the clerk of the district court for the use of the county and
18 all fees earned, except mileage, and uncollected at the end of each
19 year shall belong to the county and when paid shall be reported to the
20 board of supervisors by the clerk of the district court and paid into
21 the county treasurer. In counties where the sheriff is not furnished
22 a residence by the county an additional sum of three hundred dollars
23 per annum shall be allowed. Any increase in salaries provided for in
24 this act [38 G. A., ch. 293] shall not apply after June thirtieth, nine-
25 teen hundred twenty-one.

[C., '97, § 509; S. S., '15, § 510-a; 38 G. A., ch. 293, §§ 4, 6.]

SEC. 3210. Compensation in certain counties.

1 In counties in which district court is held in two places, in addi-
2 tion to the amount according to population, the sheriff shall receive
3 three hundred dollars per annum.

[S. S., '15, § 510-c.]

SEC. 3211. Deputies—qualification—compensation.

1 In all counties the sheriff shall in writing appoint one or more
2 persons, not holding a county office, as deputy or deputies, for whose
3 acts he shall be responsible and from whom he shall require a bond,
4 which appointment and bond shall be approved by the officer having
5 the approval of the principal's bond; and such appointment may be
6 revoked in writing, which appointment and revocation shall be filed
7 in the auditor's office. In all cases the board of supervisors shall fix
8 the number of deputies. The salary of the chief deputy shall be
9 sixty-five per cent of that of his principal, but not to exceed eighteen
10 hundred dollars, the compensation of other deputies to be fixed by the
11 board of supervisors. In counties in which district court is held in
12 two places the first deputy shall receive sixty-five per cent of the sal-
13 ary received by the sheriff, but the deputy in charge of the office other
14 than at the county seat shall receive the same salary as that received

15 by the first deputy at the county seat. All deputies shall be paid by
16 the county.

[C., '51, §§ 411-413, 415-417; R., '60, §§ 642-644, 646-648;
C., '73, §§ 766-771; C., '97, § 510; S. S., '15, § 510-b;
38 G. A., ch. 278, § 5.]

CHAPTER 8.

CORONER.

SECTION 3212. When to perform duties of sheriff.

1 The coroner shall perform all the duties of sheriff, when that
2 office is vacant; where it appears from the papers that the sheriff is
3 a party to an action or proceeding in a court of record; where, in any
4 action commenced or about to be commenced, an affidavit is filed with
5 the clerk of the court, showing the absence of the sheriff and his deputy
6 from the county, and that they are not expected to return in time to
7 perform the service needed, or showing partiality, prejudice, consan-
8 guinity, or interest upon his part, in which case the clerk shall direct
9 process to the coroner, indorsing thereon the reason therefor, which
10 he shall execute in the same manner as if he were sheriff.

[C., '51, §§ 183, 184; R., '60, §§ 393, 394; C., '73, §§ 349, 350;
C., '97, § 513.]

SEC. 3213. When no qualified sheriff or coroner—clerk appoints.

1 When there is no sheriff, deputy sheriff or coroner qualified to
2 serve legal process, the court, or, if not in session, the clerk, may, by
3 writing, under his hand and the seal of the court, certifying the above
4 fact, appoint any suitable person specially in each case to execute such
5 process, who shall be sworn, but need not give bond, and his return
6 shall be entitled to the same credit as the sheriff's, when the appoint-
7 ment is attached thereto.

[C., '51, § 185; R., '60, § 395; C., '73, § 351; C., '97, § 514.]

SEC. 3214. Inquest—when held—warrant to jurors.

1 The coroner shall hold an inquest upon the dead bodies of such
2 persons only as are supposed to have died by unlawful means, and in
3 such other cases as are required by law. When he has notice of the
4 dead body of a person, supposed to have died by unlawful means found
5 or being in his county, he is required to issue his warrant to a con-
6 stable of his county, requiring him to summon forthwith three electors
7 of the county to appear before him at the time and place named in the
8 warrant.

[C., '51, § 186; R., '60, § 396; C., '73, § 352; C., '97, § 515.]

SEC. 3215. Inquest on person killed in mine.

1 When a person shall come to his death by accident or otherwise,
2 in any manner connected with the working of, or in, any mine, or by
3 any explosion therein, an inquest shall be held, and the coroner shall
4 make careful inquiry into the cause thereof, and return a copy of the
5 verdict in said proceeding, with the minutes of all testimony taken
6 thereat, to the state inspector of mines; and no person shall be quali-

7 fied to serve as a juror at said inquest who has a personal interest in,
 8 or is employed in or about, the mine in which or at which the deceased
 9 came to his death, or by any of its proprietors.

[C., '97, § 516.]

SEC. 3216. Form of warrant.

1 The warrant may be, in substance, as follows:

2 State of Iowa, }
 3County. }

4 To any peace officer of said county:—In the name of the state of
 5 Iowa, you are hereby required to summon forthwith three electors of
 6 your county to appear before me at (name the place), at (name the
 7 day and hour, or say forthwith), then and there to hold an inquest
 8 upon the dead body of....., there lying, and find
 9 by what means he died. Witness my hand this.....day of

10 A. D.....

11 A..... B.....

12 Coroner of.....County.

[C., '51, § 187; R., '60, § 397; C., '73, § 353; C., '97, § 517.]

SEC. 3217. Service and return.

1 The officer to whom it is delivered shall execute the warrant, and
 2 make return thereof at the time and place named.

[C., '51, § 188; R., '60, § 398; C., '73, § 354; C., '97, § 518.]

SEC. 3218. Filling vacancies—oath.

1 If any juror fails to appear, the coroner shall cause the proper
 2 number to be summoned or returned from the bystanders immedi-
 3 ately, and proceed to impanel them, and administer the following oath,
 4 in substance: “You do solemnly swear (or affirm) that you will
 5 diligently inquire, and true presentment make, when, how, and by
 6 what means the person whose body lies here dead came to his death,
 7 according to your knowledge and the evidence given you.”

[C., '51, § 189; R., '60, § 399; C., '73, § 355; C., '97, § 519.]

SEC. 3219. Witnesses—shorthand reporter—compensation.

1 The coroner shall issue subpoenas for such witnesses as have
 2 knowledge touching the manner of the death of the person whose
 3 inquest is being held, returnable at such time and place as he may
 4 direct. They shall be sworn as in other cases, and their evidence
 5 reduced to writing under the direction of the coroner, subscribed by
 6 them, and returned to the district court, with the verdict and all other
 7 papers in the case. For the purpose of preserving the testimony of
 8 such witnesses, and all the acts and doings of the coroner and jury,
 9 the coroner may appoint a shorthand reporter at a compensation of
 10 not to exceed fifty cents per hour for time actually employed in any
 11 inquest or investigation, and for extending the notes, and when such
 12 reports are extended into longhand by the said shorthand reporter and
 13 certified to by the coroner and said reporter to the effect that they
 14 contain a full, true and complete report of all proceedings, they shall
 15 be the official record of the said inquest or investigation. The said
 16 shorthand reporter shall, before entering upon his duties as such
 17 reporter, take an oath to be administered by the coroner, that he will
 18 faithfully take down in shorthand the evidence as it is given by the

19 witnesses at such inquest or investigation, and that he will correctly
 20 extend the same into longhand. The coroner may enforce the attend-
 21 ance of witnesses and jurors, and punish them for contempt in dis-
 22 obeying his process, in like manner as a justice of the peace may do
 23 in a criminal proceeding before him. In the absence of any officer
 24 authorized to serve subpoenas or other process, the coroner may depu-
 25 tize some suitable person to serve the same or may himself perform
 26 such duties.

[C., '51, §§ 190-192, 199; R., '60, §§ 400-402, 409; C., '73,
 §§ 356-358, 365; C., '97, § 520; S., '13, § 520; 38 G. A.,
 ch. 122, § 4.]

SEC. 3220. Finding of jurors—form.

1 The jurors, having inspected the body, heard the testimony and
 2 made all needful inquiries shall return to the coroner their inquisition
 3 in writing, under their hands, in substance as follows, stating the mat-
 4 ters in the following form suggested, as far as found:

5 State of Iowa, }
 6County. }
 7 An inquisition holden at....., in.....county, on the
 8day of....., A. D....., before....., coroner
 9 of the said county, upon the body of..... (or person
 10 unknown), there lying dead, by the jurors whose names are hereto
 11 subscribed:

12 The said jurors upon their oaths do say (here state when, how,
 13 by what person, means, weapon, or accident he came to his death, and
 14 whether feloniously).

15 In testimony whereof, the said jurors have hereunto set their
 16 hands, the day and year aforesaid (which shall be attested by the
 17 coroner).

[C., '51, § 193; R., '60, § 403; C., '73, § 359; C., '97, § 521.]

SEC. 3221. Finding kept secret.

1 If the inquisition find that a crime has been committed on the
 2 deceased, and name the person who the jury believe has committed
 3 it, the inquest shall not be made public until after the arrest of the
 4 person.

[C., '51, § 194; R., '60, § 404; C., '73, § 360; C., '97, § 522.]

SEC. 3222. Arrest of suspected person.

1 If the person charged be present, the coroner may order his
 2 arrest by an officer or any other person present, and shall then make
 3 a warrant requiring the officer or other person to take him before a
 4 justice of the peace.

[C., '51, § 195; R., '60, § 405; C., '73, § 361; C., '97, § 523.]

SEC. 3223. Warrant for.

1 If the person charged be not present, and the coroner believes he
 2 can be taken, he may issue a warrant to the sheriff and constables of
 3 the county, requiring them to arrest the person and take him before
 4 a justice of the peace.

[C., '51, § 196; R., '60, § 406; C., '73, § 362; C., '97, § 524.]

SEC. 3224. Proceedings against.

1 The warrant of the coroner in the above case shall be of equal
 2 authority with that of a justice of the peace, and when the person
 3 charged is brought before the justice, such justice shall cause an
 4 information to be filed against him, and the same proceedings shall be
 5 had as in other cases under information, and he shall be dealt with as
 6 a person held under an information in the usual form.

[C., '51, § 197; R., '60, § 407, C., '73, § 363; C., '97, § 525.]

SEC. 3225. Contents and effect of warrant—report of coroner.

1 The warrant of the coroner shall recite substantially the transac-
 2 tions before him, and the verdict of the jury of inquest leading to the
 3 arrest, and such warrant shall be a sufficient foundation for the pro-
 4 ceeding of the justice instead of an information. The coroner shall
 5 report to the clerk of the district court all cases of death which may
 6 come under his supervision, with the cause or mode of death, in
 7 accordance with forms furnished by the state board of health.

[C., '51, § 198; R., '60, § 408; C., '73, § 364; C., '97, § 526.]

SEC. 3226. Disposition of body—expenses.

1 The coroner, except as otherwise provided by law, shall cause the
 2 body of the deceased person which he is called to view to be delivered
 3 to his friends, if any there be, but if not, he shall cause him to be
 4 decently buried, and the expense to be paid from any property found
 5 with the body, or, if there be none, from the county treasury, by cer-
 6 tifying an account of the expenses; which, being presented to the
 7 board of supervisors, shall be allowed by them, if deemed reasonable,
 8 and paid as other claims on the county.

[C., '51, § 200; R., '60, § 410; C., '73, § 366; C., '97, § 527.]

SEC. 3227. Disposition of property of deceased.

1 Any property or money found with or upon the person of de-
 2 ceased, if there be no person authorized to receive the same, shall
 3 forthwith be turned over by the coroner to the clerk of the district
 4 court, to be held until disposed of according to law. A failure to com-
 5 ply with this section shall be a misdemeanor.

[C., '97, §§ 532, 533.]

SEC. 3228. Justice may act as coroner.

1 When there is no coroner, or in case of his absence or inability to
 2 act, any justice of the peace of the same county is authorized to per-
 3 form the duties of coroner in relation to dead bodies, and in such
 4 cases he may cause the person charged to be brought before himself
 5 by his warrant, and may proceed with him as a justice of the peace.

[C., '51, § 201; R., '60, § 411; C., '73, § 367; C., '97, § 528.]

SEC. 3229. Physician employed—fees.

1 In the inquisition by a coroner or justice of the peace, as the case
 2 may be, when he or the jury deem it requisite, he may summon one or
 3 more physicians or surgeons to make a scientific examination, who,
 4 instead of witness fees, shall receive a reasonable compensation, to be

5 allowed by the board of supervisors. If the coroner is also a physician
6 he may make such scientific examination.

[C., '51, § 202; R., '60, § 412; C., '73, § 368; C., '97, § 529;
38 G. A., ch. 122, § 1.]

SEC. 3230. Fees of witnesses and jurors.

1 Witnesses shall receive the same fee as witnesses are paid in
2 actions before justices of the peace. Jurors shall receive for each
3 day's service or attendance two dollars; and for each mile traveled
4 from his residence to the place of holding the inquest the sum of
5 ten cents.

[C., '51, § 190; R., '60, § 400; C., '73, § 356; C., '97, § 530;
38 G. A., ch. 122, § 2.]

SEC. 3231. Compensation of coroner.

1 The coroner is entitled to charge and receive the following fees:
2 1. For a view of each body upon which an inquest is held, ten
3 dollars.

4 2. For a view of each body upon which no inquest is held, five
5 dollars.

6 3. For issuing each subpoena, warrant, or order for a jury,
7 twenty-five cents.

8 4. For docketing each case, one dollar.

9 5. For each mile traveled to and returning from an examination
10 or inquest, ten cents.

11 6. For taking down in writing the evidence of witnesses, when no
12 stenographer is employed as hereinbefore provided, ten cents per hun-
13 dred words.

14 7. For returning a copy of the verdict with minutes of the testi-
15 mony to the state inspector of mines, as provided by section thirty-
16 two hundred fifteen, three dollars.

17 8. Which fees shall be paid out of the county treasury when they
18 can not be obtained from the estate of the deceased.

19 9. For all other services, the same fees as are allowed sheriffs
20 in similar cases, to be paid in like manner.

[C., '51, § 2539; R., '60, § 4148; C., '73, § 3799; C., '97, § 531;
38 G. A., ch. 122, § 3.]

CHAPTER 9.

GENERAL DUTIES OF COUNTY OFFICERS.

SECTION 3232. County officers to furnish information.

1 It is the duty of each county officer, whenever called upon by the
2 governor or either house of the general assembly, to communicate to
3 the governor or such house any information that may be in his pos-
4 session as such officer, and to furnish any statistics at his command,
5 when thus called upon.

[C., '97, § 544.]

SEC. 3233. Not to act as agent or attorney.

- 1 No county officer shall appear as agent, attorney or solicitor for
 - 2 another, in any matter pending before the board of supervisors.
- [C., '73, § 326; C., '97, § 545.]

SEC. 3234. Not to act as counsel.

- 1 No sheriff, deputy sheriff, coroner or constable shall appear in
 - 2 any court as attorney or counsel for any party, nor make any writing
 - 3 or process to commence any action or proceeding, or to be in any man-
 - 4 ner used in the same; and such writing or process made by any of
 - 5 them shall be rejected.
- [C., '51, § 175; R., '60, § 388; C., '73, § 342; C., '97, § 546.]

SEC. 3235. Not to purchase property.

- 1 No sheriff, deputy sheriff, coroner or constable shall become the
 - 2 purchaser, either directly or indirectly, of any property by him
 - 3 exposed to sale under any process of law; and every such purchase
 - 4 shall be void.
- [C., '51, § 176; R., '60, § 389; C., '73, § 343; C., '97, § 547.]

SEC. 3236. Accounts may be examined.

- 1 If any officer required by law to report the fees collected by him
 - 2 to the board of supervisors shall neglect or refuse to make such report,
 - 3 it shall be the duty of the board to employ an expert accountant to
 - 4 examine the books, papers and accounts of such officer, and to make
 - 5 said report, the expense of which shall be charged to such delinquent
 - 6 officer, and shall be collectible upon his official bond.
- [C., '97, § 548.]

SEC. 3237. Misdemeanor.

- 1 Failure on the part of any officer to perform any duty required of
 - 2 him by the preceding sections of this chapter shall render him liable
 - 3 to prosecution and punishment for a misdemeanor.
- [C., '97, § 550.]

SEC. 3238. Officers not to purchase warrants.

- 1 No officer of any county, nor any deputy or employee of such
 - 2 officer, shall, directly or indirectly, be permitted to take, purchase, or
 - 3 receive in payment, exchange, or in any way whatever, any warrant,
 - 4 scrip, or other evidence of its indebtedness or any demand against
 - 5 it, for a less amount than that expressed on the face of the warrant,
 - 6 scrip, or other evidence of indebtedness or demand, with accrued inter-
 - 7 est thereon.
- [R., '60, § 2186; C., '73, § 556; C., '97, § 596.]

SEC. 3239. No money for sectarian purposes.

- 1 Public money shall not be appropriated, given or loaned by the
 - 2 corporate authorities of any county or township, to or in favor of any
 - 3 institution, school, association or object which is under ecclesiastical
 - 4 or sectarian management or control.
- [C., '73, § 552; C., '97, § 593.]

SEC. 3240. Breach of duty—misdemeanor.

1 Any officer of any county, or any deputy or employee of such
 2 officer, who violates any of the provisions of the two preceding sec-
 3 tions, shall be guilty of a misdemeanor, and fined not less than one
 4 hundred dollars, nor more than five hundred dollars, for each offense.

[R., '60, § 2188; C., '73, § 558; C., '97, § 598.]

SEC. 3241. Fees to be paid quarterly.

1 The clerk of the district court, county auditor and county recorder
 2 shall pay all fees collected by them and belonging to the county, into
 3 the county treasury quarterly.

[S., '13, § 550-c.]

CHAPTER 10.
SUBMISSION OF QUESTIONS TO VOTERS.**SECTION 3242. Expenditures for improvements—when vote necessary.**

1 The board of supervisors shall not order the erection of a court-
 2 house, jail or county home when the probable cost will exceed ten
 3 thousand dollars or any other building, or bridge, except as otherwise
 4 provided, when the probable cost will exceed five thousand dollars,
 5 nor the purchase of real estate for county purposes exceeding ten
 6 thousand dollars in value, until a proposition therefor shall have been
 7 first submitted to the legal voters of the county, and voted for by a
 8 majority of all persons voting for and against such proposition at a
 9 general or special election, notice of the same being given for thirty
 10 days previously, in a newspaper, if one be published in the county,
 11 and, if none be published therein, then by written notice posted in a
 12 public place in each township in the county.

[R., '60, § 312; C., '73, § 303; C., '97, § 423; S. S., '15, § 423;
 37 G. A., ch. 332, § 1; 38 G. A., ch. 71, § 1; 38 G. A.,
 ch. 73, § 1.]

SEC. 3243. Questions to be submitted to voters—tax payable in money only.

1 The board of supervisors may submit to the people of the county
 2 at any regular election, or at any special one called for that purpose,
 3 the question whether money may be borrowed to aid in the erection
 4 of any public buildings, or the procuring of a site or grounds for such
 5 public buildings, or for both the procuring of a site or grounds, and
 6 the erection of public buildings, and both or either of said propositions
 7 may be submitted at the same general or special election, and the
 8 question of any other local or police regulation not inconsistent with
 9 the laws of the state. And, when the warrants of a county are at a
 10 depreciated value, it may, in like manner, submit the question whether
 11 a tax of a higher rate than that provided by law shall be levied; and
 12 in all cases when an additional tax is levied in pursuance of a vote of
 13 the people of any county for the special purpose of repaying bor-

14 rowed money, or constructing or aiding to construct any highway or
15 bridge, such special tax shall be paid in money.

[C., '51, § 114; R., '60, § 250; C., '73, § 309; C., '97, § 443; 37
G. A., ch. 304, § 1.]

SEC. 3244. Restraining live stock—submission to voters.

1 The board of supervisors may submit to the people of the county
2 at any regular election, or at a special one called for that purpose, and
3 on the petition of one-fourth of the legal voters must submit, one of
4 the following questions of police regulation:

5 1. Shall stock be restrained from running at large?

6 2. Shall stock be restrained from running at large between sunset
7 and sunrise?

8 3. Shall stock be restrained from running at large from the first
9 day of (naming the month) in each year, until the first day of (naming
10 the month) following?

11 4. Shall stock be restrained from running at large between sunset
12 and sunrise from the first day of (naming the month) in each year,
13 until the first day of (naming the month) following?

14 The word "stock" as used in this section shall have the same
15 meaning as in the chapter of this code relating to domestic animals.

[C., '51, § 114; R., '60, § 250; C., '73, §§ 309, 1457, 1461-1463;
C., '97, § 444.]

SEC. 3245. When vote takes effect—former like vote.

1 If at such election the majority of the electors voting thereon
2 shall vote in favor of either of such regulations, then the same shall
3 take effect and be in force at the end of thirty days after said election,
4 and shall continue in force until the end of ninety days after an elec-
5 tion at which, on a resubmission of the same question, a majority of
6 the electors of the county voting thereon shall vote against the same.
7 Where in any county the question for restraining stock from running
8 at large, or for restraining stock from running at large between the
9 hours of sunset and sunrise, has been submitted and adopted, in
10 accordance with any law heretofore in force, such vote shall be con-
11 strued and held to be an adoption by the county of the police regula-
12 tion so voted upon, as fully and effectually as if the same had been
13 done under the provisions of this chapter.

[C., '73, § 1457; C., '97, § 445.]

SEC. 3246. Manner of submitting questions to vote.

1 The mode of submitting such questions to the people shall be the
2 following: The whole question, including the sum desired to be raised,
3 or the amount of tax desired to be levied, or the rate per annum, and
4 the whole regulation, including the time of its taking effect or having
5 operation, if it be of a nature to be set forth, and the penalty for its
6 violation if there be one, shall be published once each week for at least
7 four weeks in some newspaper printed in the county. If there be no
8 such newspaper, the publication shall be by being posted up in at least
9 one of the most public places in each township in the county, and, in
10 addition, in at least five among the most public places in the county,
11 one of them being at the door of the courthouse, for at least thirty
12 days prior to the time of taking the vote. All such notices shall name
13 the time when such question will be voted upon, and the form in which

14 the question shall be taken, and a copy of the question submitted shall
15 be posted up at each place of voting during the day of election.

[C., '51, § 115; R., '60, § 251; C., '73, § 310; C., '97, § 446;
S., '13, § 446.]

SEC. 3247. When tax must be voted also.

1 When any question submitted involves the borrowing or the
2 expenditure of money, the proposition of the question must be accom-
3 panied by a provision to lay a tax for the payment thereof, in addition
4 to the usual taxes, as directed in the following section, and no vote
5 adopting the question proposed will be of effect unless it adopt the
6 tax also.

[C., '51, § 116; R., '60, § 252; C., '73, § 311; C., '97, § 447.]

SEC. 3248. Rate of such tax.

1 The rate of tax shall in no case be more than one per cent on
2 the county valuation in one year. When the object is to borrow
3 money for the erection of public buildings, or for the procuring of
4 sites or grounds therefor, or for both the procuring of said sites or
5 grounds, and the erection of such public buildings, as above provided,
6 the rate shall be such as to pay the debt in a period not exceeding ten
7 years; but in counties having a population of twenty-five thousand or
8 over, or in any county where one hundred thousand dollars or more,
9 has been, or is proposed to be expended, the rate of levy shall be
10 such as to pay the debt in not exceeding twenty-five years. In issuing
11 bonds for such indebtedness, when voted, the board of supervisors may
12 cause portions of said bonds to become due at different definite periods.
13 But none of such bonds so issued shall be due and payable in less than
14 five or more than twenty-five years from date. When the object is to
15 construct, or to aid in constructing, any highway or bridge, the annual
16 rate shall not be less than one mill on the dollar of the assessed valua-
17 tion; and any of the above taxes becoming delinquent shall draw the
18 same interest as the ordinary taxes.

[C., '51, § 117; R., '60, § 253; C., '73, § 312; C., '97, § 448;
S. S., '15, § 448; 37 G. A., ch. 304, § 2.]

SEC. 3249. Tax for successive years.

1 When it is supposed that the levy of one year will not pay the
2 entire amount, the proposition and the vote must be to continue the
3 proposed rate from year to year until the amount is paid.

[C., '51, § 118; R., '60, § 254; C., '73, § 313; C., '97, § 449.]

SEC. 3250. Result of vote to be published.

1 The board of supervisors, on being satisfied that the above
2 requirements have been complied with, and that a majority of the
3 votes were cast in favor of the proposition, shall cause the same and
4 the result of the vote to be entered at large in the minute book, and
5 the proposition shall take effect and be in force thereafter. Notice of
6 such adoption shall be published for the same time and in the same
7 manner as above provided for publishing the preliminary notice. This
8 section shall not apply to police regulations in so far as is otherwise
9 provided with respect thereto.

[C., '51, § 119; R., '60, § 255; C., '73, § 314; C., '97, § 450.]

SEC. 3251. Rescission by subsequent vote.

1 Propositions thus adopted, and local regulations thus established,
 2 may be rescinded in like manner and upon like notice, by a subsequent
 3 vote taken thereon, but neither contracts made under them, nor the
 4 taxes appointed for carrying them into effect, can be rescinded.

[C., '51, § 120; R., '60, § 256; C., '73, § 315; C., '97, § 451.]

SEC. 3252. Board must submit questions on petition.

1 The board shall submit the question of the adoption or rescission
 2 of such a measure, when petitioned therefor by one-fourth of the
 3 voters of the county, unless a different number be prescribed by law
 4 in any special case.

[C., '51, § 121; R., '60, § 257; C., '73, § 316; C., '97, § 452.]

SEC. 3253. Regularity presumed.

1 The record of the adoption or rescission of any such measure
 2 shall be presumptive evidence that all the proceedings necessary to
 3 give the vote validity have been regularly conducted.

[C., '51, § 122; R., '60, § 258; C., '73, § 317; C., '97, § 453.]

SEC. 3254. Surplus of tax—disposition of.

1 In case the amount produced by the rate of tax proposed and
 2 levied exceeds the amount sought for the specific object, it shall not
 3 therefore be held invalid, but the excess shall go into the ordinary
 4 county funds.

[C., '51, § 123; R., '60, § 259; C., '73, § 318; C., '97, § 454.]

SEC. 3255. Money specially appropriated.

1 Money so raised for such purposes is specially appropriated, and
 2 constitutes a fund distinct from all others in the hands of the treas-
 3 urer, until the obligation assumed is discharged.

[C., '51, § 124; R., '60, § 260; C., '73, § 319; C., '97, § 455.]

SEC. 3256. Prospecting for coal—tax levy.

1 The board of supervisors of any county is hereby authorized to
 2 levy a tax, not to exceed one mill upon the dollar, on all taxable prop-
 3 erty within the county, to be collected at the same time and in the
 4 same manner as other taxes and to be used in payment of expense
 5 incurred in prospecting for coal as provided in this chapter.

[S., '13, § 469-a.]

SEC. 3257. Question submitted—form of ballot.

1 There shall be submitted to the voters of said county at any
 2 general election, to be determined by the board of supervisors, the
 3 question whether or not the levy provided for in the preceding section
 4 shall be made, and such question shall be submitted to the voters upon
 5 a printed ballot in the following form:

6 "Shall the board of supervisors be authorized and directed to
 7 levy a tax of one mill upon the dollar for the purpose of prospecting
 8 for coal?"

9 Those in favor will mark in the square, "yes" and those opposed
 10 to said tax will mark "no" in such square.

[S., '13, § 469-b.]

SEC. 3258. Vote canvassed—result certified.

1 Said vote shall be canvassed by the judges of election and the
 2 results certified to the board of supervisors, who shall canvass the
 3 vote at the same time and in the same manner as is required in other
 4 special propositions submitted to the voters.

[S., '13, § 469-c.]

SEC. 3259. Coal fund tax to be kept separate.

1 Said tax shall be paid into the county treasury at the same time
 2 and in the same manner as other taxes and shall be known upon the
 3 books of the treasurer as a coal fund tax and shall be kept separately
 4 and distinctly from the other funds, and be paid out upon the warrants
 5 duly issued by the county auditor when the same has been allowed and
 6 ordered paid by the board of supervisors.

[S., '13, § 469-d.]

SEC. 3260. Bids for prospecting—location of shaft.

1 The board of supervisors shall have the power to receive bids for
 2 ascertaining whether or not coal may exist in the county and shall
 3 award said bid to the lowest responsible bidder. The said board shall
 4 have the right to pass upon the location where said shaft is to be
 5 sunk, and ascertain whether or not said location is the most feasible
 6 point to prospect in said county.

[S., '13, § 469-e.]

CHAPTER 11.
COUNTY BONDS.**SECTION 3261. County bonds—form of.**

1 When the outstanding indebtedness of any county on the first
 2 day of January, April, June or September in any year exceeds the
 3 sum of five thousand dollars, the board of supervisors, by a two-thirds
 4 vote of all its members, may fund or refund the same, and issue the
 5 bonds of the county therefor in sums not less than one hundred dollars
 6 nor more than one thousand dollars each, payable at a time stated, not
 7 more than twenty years from their date. In counties containing a city
 8 or cities of the first class, the indebtedness incurred in the making and
 9 repairing of the bridges may be refunded whenever such outstanding
 10 indebtedness equals or exceeds the sum of five thousand dollars, the
 11 tax to pay such bonds and interest to be levied as hereinafter provided,
 12 but only on the assessable property in the county outside of the limits
 13 of said city or cities of the first class. Said bonds shall bear interest
 14 not exceeding six per cent per annum, payable semiannually, and be
 15 substantially in the following form, but subject to changes that will
 16 conform them to the resolution of the said board, to wit:

17 No....., Iowa,

18 The county of....., in the state of Iowa, for value
 19 received, promises to pay to bearer.....dollars, lawful
 20 money of the United States of America, on....., with interest
 21 on said sum from the date hereof until paid at the rate of.....per

22 cent per annum, payable.....annually on the first days of.....
 23 and.....in each year, on presentation and surrender of the
 24 interest coupons hereto attached. Both principal and interest payable
 25 at.....

26 This bond is issued by the board of supervisors of said county
 27 pursuant to the provisions of section thirty-two hundred sixty-one,
 28 chapter eleven, title twelve of the code of Iowa, and in conformity to
 29 a resolution of said board duly passed.

30 And it is hereby certified and recited that all acts, conditions and
 31 things required by the laws and constitution of the state of Iowa to be
 32 done precedent to and in the issue of this bond have been properly
 33 done, happened and been performed in regular and due form, as
 34 required by law, and that the total indebtedness of said county, includ-
 35 ing this bond, does not exceed the constitutional or statutory limita-
 36 tions.

37 In testimony whereof, said county, by its board of supervisors,
 38 has caused this bond to be signed by the chairman of the board and
 39 attested by the auditor, with the county seal attached, this.....
 40 day of.....

.....
 Chairman Board of Supervisors.

43 Attest:

44
 45 County Auditor, County, Iowa.

(Form of Coupon.)

47 The treasurer of.....county, Iowa, will pay to bearer
 48dollars, on....., at....., for
 49annual interest on its.....bond, dated
 50

51 No.....
 52 County Auditor.

[C., '73, § 289; C., '97, § 403; S., '13, § 403.]

SEC. 3262. Negotiation of—duties of treasurer.

1 When bonds issued under this chapter shall be executed, num-
 2 bered consecutively, and sealed, they shall be delivered to the county
 3 treasurer and his receipt taken therefor, and he shall stand charged
 4 on his official bond with all bonds delivered to him and the proceeds
 5 thereof, and he shall sell the same, or exchange them, on the best
 6 available terms, for any legal indebtedness of the county outstanding
 7 on the first day of January, April, June or September next preceding
 8 the resolution of the board authorizing their issue, but in neither case
 9 for a less sum than the face value of the bonds and all interest
 10 accrued on them at the date of such sale or exchange. And if any
 11 portion of said bonds are sold for money, the proceeds thereof shall be
 12 applied exclusively for the payment of liabilities existing against the
 13 county at and before the date above named. When they are exchanged
 14 for warrants and other legal evidences of county indebtedness, the
 15 treasurer shall at once proceed to cancel such evidences of indebted-
 16 ness by indorsing on the face thereof the amount for which they were
 17 received, the word "canceled" and the date of cancellation. He shall
 18 also keep a record of bonds sold or exchanged by him by number, date
 19 of sale, amount, date of maturity, and the name and postoffice address
 20 of purchasers, and, if exchanged, what evidences of indebtedness were
 21 received therefor, which record shall be open at all times for inspec-

22 tion by the public. Whenever the holder of any bond shall sell or
 23 transfer it, the purchaser shall notify the treasurer of such purchase,
 24 giving at the same time the number of the bond transferred and his
 25 postoffice address, and every such transfer shall be noted on the
 26 records. The treasurer shall also report under oath to the board, at
 27 each regular session, a statement of all bonds sold or exchanged by him
 28 since the preceding report, and the date of such sale or exchange; and,
 29 when exchanged, a list or description of the county indebtedness
 30 exchanged therefor, and the amount of accrued interest received by
 31 him on such sale or exchange, which latter sum shall be charged to
 32 him as money received on bond fund, and so entered by him on his
 33 books; but such bonds shall not be exchanged for any indebtedness of
 34 the county except by the approval of the board of supervisors of said
 35 county.

[C., '73, § 290; C., '97, § 404; S., '13, § 404.]

SEC. 3263. Unconstitutional issue forbidden.

1 Any member of a board of supervisors in any county, who shall
 2 vote to order an issue of bonds under the provisions of this chapter in
 3 excess of the constitutional limit, shall be held personally liable for the
 4 excess of such issue.

[C., '97, § 405.]

SEC. 3264. Tax for bonded indebtedness.

1 The board of supervisors shall not in any one year levy a tax of
 2 more than three mills on the dollar for the payment of any bonded
 3 indebtedness or judgments rendered therefor, except as provided in
 4 this chapter, unless the vote authorizing the issuance of the bonds
 5 fixes a higher rate.

[C., '73, § 840; C., '97, § 1384.]

SEC. 3265. Levy to pay interest and principal.

1 The board of supervisors shall cause to be assessed and levied
 2 each year upon the taxable property in the county, in addition to the
 3 levy authorized for other purposes, a sufficient sum to pay the interest
 4 on outstanding bonds issued in conformity with the provisions of this
 5 chapter, accruing before the next annual levy, and such proportion of
 6 the principal that, at the end of eight years, the sum raised from such
 7 levies shall at least equal fifteen per cent of the amount of bonds
 8 issued; at the end of ten years, at least thirty per cent of the amount;
 9 and at or before the date of maturity of the bonds shall be equal to
 10 the whole amount of the principal and interest; the money arising
 11 from such levies shall be known as the bond fund, and shall be used
 12 for the payment of bonds and interest coupons, and for no other
 13 purpose whatever; and the treasurer shall open and keep in his books
 14 a separate account thereof, which shall at all times show the exact
 15 condition of said bond fund.

[C., '73, § 291; C., '97, § 406.]

SEC. 3266. Redemption — notice — interest stopped—transfer of funds.

1 When the amount in the hands of the treasurer belonging to the
 2 bond fund, after setting aside the sum required to pay interest matur-
 3 ing before the next levy, is sufficient to redeem one or more bonds,
 4 which by their terms are subject to redemption, he shall notify the

5 owner of such bond or bonds, in the manner hereinbefore prescribed,
6 that he is prepared to pay the same, with all the interest accrued
7 thereon. If not presented for payment or redemption within thirty
8 days after the date of such notice, the interest on such bond shall
9 cease, and the amount due thereon shall be set aside for its payment
10 whenever presented. All redemptions shall be made in the order of
11 their numbers. If after the payment of all bonds and interest as
12 hereinbefore provided for, there remains any money in said bond
13 fund, the board of supervisors may by resolution transfer said funds
14 to the particular fund or funds on account of which the indebtedness
15 arose for which said bonds were issued.

[C., '73, § 292; C., '97, § 407; S., '13, § 407.]

SEC. 3267. Failure to levy tax—remedy.

1 If the board of supervisors of any county which has issued bonds
2 under the provisions of this chapter shall fail to make the levy neces-
3 sary to pay such bonds or interest coupons at maturity, and the same
4 shall have been presented to the county treasurer and the payment
5 thereof refused, the owner may file the bond, together with all unpaid
6 coupons, with the auditor of state, taking his receipt therefor, and
7 the same shall be registered in the auditor's office, and the executive
8 council shall, at its next session as a board of equalization, and at each
9 annual equalization thereafter, add to the state tax to be levied in said
10 county a sufficient rate to realize the amount of principal or interest
11 past due and to become due prior to the next levy, and the same shall
12 be levied and collected as a part of the state tax, and paid into the state
13 treasury, and passed to the credit of such county as bond tax, and
14 shall be paid by warrant, as the payments mature, to the holder of
15 such registered obligations, as shown by the register in the office of
16 the state auditor, until the same shall be fully satisfied and dis-
17 charged; any balance then remaining being passed to the general
18 account and credit of said county; but nothing in this chapter shall be
19 construed to limit or postpone the right of any holder of any such
20 bonds to resort to any other remedy which such holder might other-
21 wise have.

[C., '73, § 293; C., '97, § 408.]

SEC. 3268. Additional tax to pay interest.

1 In all counties wherein county bonds are issued in pursuance of a
2 vote of the people to obtain money for the erection of any public build-
3 ing, and wherein the annual tax named in the proposition so submitted
4 to the people for the purpose of paying the annual interest accruing
5 upon such bonds is insufficient to pay the same as it matures, the
6 boards of supervisors are authorized to levy for said purpose, and no
7 other, a tax, not exceeding one mill on the dollar, until said bonds
8 are paid; but this provision shall not prevent the levy of a greater
9 tax than above mentioned, if any such proposition authorized such
10 higher levy.

[C., '97, § 409.]

SEC. 3269. County not to become stockholder.

1 No county shall, in its corporate capacity, or by its supervisors
2 or officers, directly or indirectly, subscribe for stock, or become inter-
3 ested as a partner, shareholder or otherwise, in any banking institu-

4 tion, plank road, turnpike, railway, or work of internal improvement;
 5 nor shall it issue any bonds, bills of credit, scrip, or other evidence of
 6 indebtedness, for any such purposes; and all such evidence of indebt-
 7 edness for said purposes are hereby declared void, and no assignment
 8 of the same shall give them validity; but this section shall not be so
 9 construed as to prevent counties from lawfully erecting their necessary
 10 public buildings and bridges, laying off highways, streets, alleys and
 11 public grounds, or other local works in which such counties may be
 12 interested.

[R., '60, §§ 1345, 1346; C., '73, §§ 553, 554; C., '97, § 594.]

SEC. 3270. Actions on bonds—county not estopped.

1 In all actions now pending, or hereafter brought, in any court in
 2 this state, on any bond or coupon issued, or purporting to be issued, by
 3 any county for the purposes prohibited in this chapter, a former recov-
 4 ery against such corporation on any one or more or any part of such
 5 bonds or coupons shall not bar or estop such corporation from setting
 6 up any defense it has made, or could have made, to such bonds or
 7 coupons in the action in which such former recovery was had, but the
 8 county may allege and prove any matter of defense in such action to
 9 the same extent, and with the same effect, as though no former action
 10 had been brought, or former recovery had.

[C., '73, § 555; C., '97, § 595.]

SEC. 3271. Breach of duty—misdemeanor.

1 Any officer of any county, or any deputy or employee of such
 2 officer, who violates any of the provisions of the two preceding sec-
 3 tions, shall be guilty of a misdemeanor, and fined not less than one
 4 hundred dollars, nor more than five hundred dollars, for each offense.

[R., '60, § 2188; C., '73, § 558; C., '97, § 598.]

CHAPTER 12.

SUPPORT OF THE POOR.

SECTION 3272. "Poor person" defined.

1 The word "poor" and "poor person" as used in this chapter shall
 2 be construed to mean those who have no property, exempt or other-
 3 wise, and are unable, because of physical or mental disabilities, to earn
 4 a living by labor; but this section shall not be construed to forbid aid
 5 to needy persons who have some means, when the board shall be of
 6 opinion that the same will be conducive to their welfare and the best
 7 interests of the public.

[C., '97, § 2252.]

SEC. 3273. Who liable to maintain.

1 The father, mother and children of any poor person, who is un-
 2 able to maintain himself or herself by labor, shall jointly or severally
 3 relieve or maintain such person in such manner as, upon application
 4 to the township trustees of the township where such person has a
 5 residence or may be, they may direct.

[C., '51, § 787; R., '60, § 1355; C., '73, § 1330; C., '97, § 2216.]

✓ **SEC. 3274. Illegitimates.**

1 The word "father" in this chapter includes the putative father
2 of an illegitimate child, and the question of parentage may be tried
3 in any proceeding to recover for or compel the support of such a child,
4 and like proceedings may be prosecuted against the mother independ-
5 ently of or jointly with the alleged father.

[C., '51, § 788; R., '60, § 1356; C., '73, § 1332; C., '97, § 2250.]

SEC. 3275. Who deemed trustee.

1 The word "trustees" in this chapter shall be construed to include
2 and mean any person or officer of any county or city charged with
3 the oversight of the poor.

[C., '51, § 789; R., '60, § 1357; C., '73, § 1333; C., '97, § 2251.]

✓ **SEC. 3276. Liability of remote relatives.**

1 In the absence or inability of nearer relatives, the same liability
2 shall extend to grandparents, if of ability without personal labor, and
3 to the male grandchildren who are of ability by personal labor or
4 otherwise.

[C., '51, § 787; R., '60, § 1355; C., '73, § 1331; C., '97, § 2217.]

✓ **SEC. 3277. Proceeding to compel.**

1 Upon the failure of such relatives so to relieve or maintain a poor
2 person who has made application for relief, the township trustees may
3 apply to the district court of the county where such poor person resides
4 or may be, for an order to compel the same.

[C., '51, § 789; R., '60, § 1357; C., '73, § 1323; C., '97, § 2218.]

SEC. 3278. Notice—hearing—order—appeal.

1 At least ten days' notice in writing of the application shall be
2 given to the parties sought to be charged, service thereof to be made
3 as of an original notice, in which proceedings the county shall be
4 plaintiff and the parties served defendants. No order shall be made
5 affecting a person not served, but, as to such, notice may be given at
6 any stage of the proceedings. The court may proceed in a summary
7 manner to hear all the allegations and proofs of the parties, and order
8 any one or more of the relatives who shall be able, to relieve or main-
9 tain him or her, charging them as far as practicable in the order
10 above named, and for that purpose may bring in new parties when
11 necessary. The order may be for the entire or partial support of the
12 applicant, may be for the payment of money or the taking of the appli-
13 cant to a relative's house, or may assign him or her for a certain time
14 to one and for another period to another, as may be just and right,
15 taking into view the means of the several relatives liable, but no such
16 assignment shall be made to one who is willing to pay the amount
17 necessary for support. If the order be for relief in any other form
18 than money, it shall state the extent and value thereof per week, and
19 the time such relief shall continue; or the order may make the time
20 of continuance indefinite, and it may be varied from time to time by
21 a new order, as circumstances may require, upon application to the
22 court by the trustees, the poor person, or the relative affected, ten
23 days' notice thereof being given to the party or parties concerned.
24 When money is ordered to be paid, it shall be paid to such person as

25 the court may direct. If support be not rendered as ordered, the
 26 court, upon such fact being shown by the affidavit of one or more of
 27 the proper trustees, may render judgment and order execution for the
 28 amount due, rating any support ordered in kind at the valuation rendered
 29 previously made. An appeal may be taken from the judgment rendered
 30 to the supreme court. Support for later periods under the same order
 31 may be, as it becomes due, applied for and obtained in the same
 32 manner.

[C., '51, §§ 790-798; R., '60, §§ 1358-1366; C., '73, §§ 1334-1342; C., '97, § 2219.]

SEC. 3279. Abandonment—order as to property.

1 When a father or mother abandons children, husband his wife, or
 2 wife her husband, leaving them a public charge or likely to become
 3 such, the trustees of the township, upon application to them, may make
 4 complaint to the clerk of the district court or judge thereof in the
 5 county in which such abandoned person resides, or in which any prop-
 6 erty of such father, mother, husband or wife is situated, for an order
 7 to seize such property, and, upon proof of the facts alleged, the clerk
 8 or judge shall issue an order, directed to the sheriff of the county, to
 9 take and hold possession of said property, subject to the further orders
 10 of the court, which order shall be executed by taking possession of
 11 chattel property wherever found, and shall entitle the officer serving
 12 the same to collect and hold the rents accruing upon real property.
 13 Statement of the issuance of the order, and a description of any real
 14 estate sought to be affected thereby, shall be entered in the incum-
 15 brance book, and from the date thereof shall be superior in right to
 16 any conveyance or lien created by the owner thereafter, and return
 17 shall be made of said order to the proper court, where the order of
 18 seizure, upon investigation, may be discharged or continued; if con-
 19 tinued, the entire matter shall be subject to the control of the court,
 20 and it shall from time to time make such orders as to the disposition
 21 of the personal property seized, and the application of it or the pro-
 22 ceeds thereof, as it may seem proper, and of the disposition of the
 23 rents and profits of the real estate. Should the party against whom
 24 the order issued thereafter resume his or her support of the person
 25 abandoned, or give bond with sureties, to be by the clerk approved,
 26 conditioned that such person shall not become chargeable to the
 27 county, the order shall be by the clerk discharged and the property
 28 remaining restored.

[C., '51, §§ 799-804; R., '60, §§ 1367-1372; C., '73, §§ 1343-1348; C., '97, § 2220.]

SEC. 3280. Trial by jury.

1 In all cases the party sought to be charged with the support of
 2 another may demand a jury trial upon the question of his obligation
 3 and ability to render such support, the alleged abandonment, and the
 4 liability of the person abandoned to become a public charge; such trial
 5 to be had upon demand, which may be made at the time of the hearing
 6 of the application for the order, or at such other time as may be
 7 directed by the court, upon notice to the defendant.

[C., '51, § 805; R., '60, § 1373; C., '73, § 1349; C., '97, § 2221.]

SEC. 3281. Recovery by county.

1 Any county having expended any money for the relief or sup-
 2 port of a poor person, under the provisions of this chapter, may
 3 recover the same from any of his kindred mentioned herein, from
 4 such poor person should he become able, or from his estate; from
 5 relatives by action brought within two years from the payment of
 6 such expenses, from such poor person by action brought within two
 7 years after becoming able, and from such person's estate by filing the
 8 claim as provided by law.

[C., '51, § 806; R., '60, § 1374; C., '73, § 1350; C., '97, § 2222.]

SEC. 3282. By relative.

1 A more distant relation, who may have been compelled to aid a
 2 poor person, may recover from any one or more of the nearer rela-
 3 tives, and one so compelled to aid may recover contribution from oth-
 4 ers in the same degree, and a recovery may be had against the poor
 5 person or his estate, if, after such aid or support has been given, the
 6 person aided or supported becomes able to repay the same; but pro-
 7 ceedings to recover therefor must be brought within two years from
 8 the time a cause of action accrues.

[C., '51, § 807; R., '60, § 1375; C., '73, § 1351; C., '97, § 2223.]

SEC. 3283. Settlement—how acquired.

1 A legal settlement once acquired continues until lost by acquiring
 2 a new one, and may be acquired as follows:

3 1. Any person having attained majority, and residing in this
 4 state one year without being warned as hereinafter provided, gains
 5 a settlement in the county of his residence.

6 2. A married woman follows and has the settlement of her hus-
 7 band, if he have any within the state, and if she had a settlement at
 8 the time of the marriage it is not lost by the marriage.

9 3. A married woman abandoned by her husband may acquire a
 10 settlement as if she were unmarried.

11 4. Legitimate minor children follow and have the settlement of
 12 their father, if he has one, but if he has none, then that of the mother.

13 5. Illegitimate minor children follow and have the settlement of
 14 their mother, or, if she has none, then that of their putative father.

15 6. A minor whose parent has no settlement in this state, and a
 16 married woman living apart from her husband and having no settle-
 17 ment, and whose husband has no settlement in this state, residing one
 18 year in any county, gains a settlement in such county.

19 7. A minor bound as an apprentice, immediately upon such bind-
 20 ing, gains a settlement where his master has one.

[C., '51, §§ 808, 809; R., '60, §§ 1376, 1377; C., '73, §§ 1352,
 1353; C., '97, § 2224.]

SEC. 3284. Foreign paupers.

1 A person coming from another state, and not having become a
 2 citizen of nor having a settlement in the state, applying for relief,
 3 may be sent to the state whence he came, at the expense of the county,
 4 under an order of the district court or judge; otherwise he is to be
 5 temporarily relieved in the county where he applies.

6 If any person knowingly bring within this state any pauper or
 7 poor person, with the intent of making him a charge on any of the

8 townships or counties therein, he shall be fined not exceeding five hun-
9 dred dollars, and be charged with his support.

[C., '51, §§ 811, 2736; R., '60, §§ 1379, 4379; C., '73, §§ 1354, 4045; C., '97, §§ 2225, 5009.]

SEC. 3285. Warning to depart.

1 Persons coming into the state, or going from one county to an-
2 other, who are county charges or are likely to become such, may be
3 prevented from acquiring a settlement by the authorities of the
4 county, township or city in which such persons are found warning
5 them to depart therefrom. After such warning, such persons can not
6 acquire a settlement except by the requisite residence of one year
7 without further warning.

[C., '51, § 812; R., '60, § 1380; C., '73, § 1355; C., '97, § 2226.]

SEC. 3286. How served.

1 Such warning shall be in writing, and may be served upon the
2 order of the trustees of the township, or of the board of supervisors,
3 by any person; and such person shall make a return of his doings
4 thereon to the board of supervisors, which, if not made by a sworn
5 officer, must be verified by affidavit.

[C., '51, § 813; R., '60, § 1381; C., '73, § 1356; C., '97, § 2227.]

SEC. 3287. Contest as to settlement.

1 When relief is granted by a county to a poor person having a
2 settlement in another county, the auditor shall at once by mail notify
3 the auditor of the county of his settlement of such fact, and, within
4 fifteen days after receipt of such notice, such auditor shall inform the
5 auditor of the county granting relief if the claim of settlement is dis-
6 puted. If it is not, the poor person, if able, may be removed to the
7 county of his settlement, or, at the request of the auditor or board
8 of supervisors of the county of his settlement, he may be maintained
9 where he then is at the expense of such county, and without affecting
10 his legal settlement. If the alleged settlement is disputed, then, within
11 thirty days after notice thereof as above provided, a copy of the notices
12 sent and received shall be filed in the office of the clerk of the district
13 court of the county against which claim is made, and a cause docketed
14 without other pleadings, and tried as an ordinary action, in which
15 the county affording the relief shall be plaintiff, and the other defend-
16 ant, and the burden of proof shall be upon the county granting the
17 relief or making the removal.

[C., '51, §§ 814, 816, 817; R., '60, §§ 1382, 1384, 1385; C., '73, §§ 1357, 1359, 1360; C., '97, § 2228.]

SEC. 3288. County of settlement liable.

1 The county where the settlement is shall be liable to the county
2 rendering relief for all reasonable charges and expenses incurred in
3 the relief and care of a poor person, and for the charges of removal
4 and expenses of support incurred after notice is given.

[C., '51, § 815; R., '60, § 1383; C., '73, § 1358; C., '97, § 2229.]

SEC. 3289. Relief by trustees—overseer of the poor.

1 The township trustees of each township, subject to general rules
2 that may be adopted by the board of supervisors, shall provide for

3 the relief of such poor persons in their respective townships as should
 4 not, in their judgment, be sent to the county home. But where a city
 5 is embraced, in whole or in part, within the limits of any township,
 6 the board of supervisors may appoint an overseer of the poor, who
 7 shall have within said city, or part thereof, all the powers and duties
 8 conferred by this chapter on the township trustees. The relief may
 9 be either in the form of food, rent or clothing, fuel and lights, med-
 10 ical attendance, or in money, and shall not exceed two dollars per
 11 week for each person for whom relief is thus furnished, exclusive of
 12 medical attendance. They may require any able-bodied person to
 13 labor faithfully on the streets or highways at the prevailing local rate
 14 per hour in payment for and as a condition of granting relief; said
 15 labor shall be performed under the direction of the officers having
 16 charge of working streets and highways. When medical services are
 17 rendered by order of the trustees or overseers of the poor, no more
 18 shall be charged or paid therefor than is usually charged for like
 19 services in the neighborhood where such services are rendered. No
 20 supervisor, trustee or overseer shall be directly or indirectly inter-
 21 ested in any supplies furnished the poor.

[C., '73, § 1361; C., '97, § 2230; S., '13, § 2230; 37 G. A., ch.
 253, § 1.]

SEC. 3290. Soldiers or families.

1 No person who has served in the army or navy of the United
 2 States, or their widows or families, requiring public relief shall be
 3 sent to the county home when they can and prefer to be relieved to
 4 the extent above provided, and other persons and families may, at
 5 the discretion of the board, also be so relieved.

[C., '73, § 1362; C., '97, § 2231; S., '13, § 2231.]

SEC. 3291. County expense.

1 All moneys expended as contemplated in the two preceding sec-
 2 tions shall be paid out of the county treasury, after the proper ac-
 3 count rendered thereof shall have been approved by the boards of the
 4 respective counties, and in all cases the necessary appropriations there-
 5 for shall be made by the respective counties. But the board may limit
 6 the amount thus to be furnished.

[C., '73, § 1363; C., '97, § 2232.]

SEC. 3292. Township trustees—duty.

1 The trustees in each township, in counties where there is no
 2 county home, have the oversight and care of all poor persons in their
 3 township, and shall see that they receive proper care until provided
 4 for by the board of supervisors.

[C., '51, § 819; R., '60, § 1387; C., '73, § 1364; C., '97, § 2233;
 S., '13, § 2233.]

SEC. 3293. Application for relief—action of supervisors.

1 The poor must make application for relief to the trustees of the
 2 township where they may be, and, if the trustees are satisfied that
 3 the applicant is in such a state of want as requires relief at the public
 4 expense, they may afford such relief, subject to the approval of the
 5 board of supervisors, as the necessities of the person require, and shall
 6 report the case forthwith to the board of supervisors, who may con-
 7 tinue or deny relief, as they find cause. The board of supervisors
 8 may examine into all claims, including claims for medical attendance,

9 allowed by the township trustees for the support of the poor, and, if
 10 they find the amount allowed by said trustees to be unreasonable,
 11 exorbitant or for any goods or services other than for the necessities
 12 of life, they may reject or diminish the claim as in their judgment
 13 would be right and just, and this section shall apply to all counties
 14 in the state, whether there are county homes established in the same
 15 or not. This section shall apply to acts of overseers of poor in cities
 16 as well as to township trustees.

[C., '51, § 820; R., '60, § 1388; C., '73, § 1365; C., '97, § 2234;
 S., '13, § 2234.]

SEC. 3294. Payment of claims.

1 All claims and bills for the care and support of the poor shall be
 2 certified to be correct by the proper trustees and presented to the
 3 board of supervisors, and, if they are satisfied that they are reason-
 4 able and proper, they shall be paid out of the county treasury. In no
 5 case shall a trustee, or either of the trustees, nor overseer of the poor,
 6 draw an order upon himself, or upon either of the board, for supplies
 7 for the poor, except such trustees or overseer has a contract to furnish
 8 such supplies.

[C., '51, § 821; R., '60, § 1389; C., '73, § 1366; C., '97, § 2235.]

SEC. 3295. Allowance.

1 If a poor person of mature years and sound mind is likely to be-
 2 come a charge, the board may pay him such an annual allowance as
 3 will not exceed the cost of maintenance in the ordinary way.

[C., '51, § 822; R., '60, § 1390; C., '73, § 1367; C., '97, § 2236.]

SEC. 3296. Appeal to supervisors.

1 If any poor person, on application to the trustees, is refused the
 2 required relief, he may apply to the board of supervisors, who, upon
 3 examination into the matter, may direct the trustees to afford relief,
 4 or it may direct specific relief.

[C., '51, § 823; R., '60, § 1391; C., '73, § 1368; C., '97, § 2237.]

SEC. 3297. Contracts for support.

1 The board of supervisors may make contracts with the lowest
 2 responsible bidder for furnishing any or all supplies, medical or dental
 3 attendance or services required for the poor, for a term not exceeding
 4 one year, or it may enter into a contract with the lowest responsible
 5 bidder, through proposals opened and examined at a regular session
 6 of the board, for the support of any or all the poor of the county for
 7 one year at a time, and may make all requisite orders to that effect,
 8 and shall require all such contractors to give bonds in such sum as it
 9 believes sufficient to secure the faithful performance of the same.

[C., '51, § 825; R., '60, § 1393; C., '73, § 1369; C., '97, § 2238;
 38 G. A., ch. 225, § 1.]

SEC. 3298. Supervision.

1 When a contract is made for the support of any or all the poor,
 2 the board shall, from time to time, appoint some person to examine
 3 and report upon the manner the poor are kept and treated, which shall
 4 be done without notice to the person contracting for their support, and

5 if upon due notice and inquiry the board find that the poor are not
6 reasonably and properly supported and cared for, it may, at a regular
7 or special session, set aside the contract, making proper allowances
8 for the time it has been in force.

[C., '51, § 826; R., '60, § 1394; C., '73, § 1370; C., '97, § 2239.]

SEC. 3299. Employment.

1 Any such contractor may employ a poor person in any work for
2 which he is physically able, subject to the control of the board of super-
3 visors, who may place said contractor under the supervision of the
4 township trustees.

[C., '51, § 827; R., '60, § 1395; C., '73, § 1371; C., '97, § 2240.]

SEC. 3300. Expenses—tax.

1 The expense of supporting the poor shall be paid out of the county
2 treasury in the same manner as other disbursements for county pur-
3 poses; and in case the ordinary revenue of the county proves insuffi-
4 cient for the support of the poor, the board may levy a poor tax, not
5 exceeding two mills on the dollar, to be entered on the tax list and
6 collected as the ordinary county tax.

[C., '51, § 844; R., '60, § 1412; C., '73, § 1381; C., '97, § 2247;
S., '13, § 2247.]

CHAPTER 13.

COUNTY HOMES.

SECTION 3301. County home established.

1 The board of supervisors of each county may order the establish-
2 ment of a county home in such county whenever it is deemed advis-
3 able, and also the purchase of such land as may be deemed necessary
4 for the use of the same, and may make the requisite contracts and
5 carry such order into effect, provided the cost of said county home and
6 land, if in excess of ten thousand dollars, shall be first estimated by
7 said board and approved by a vote of the people.

[C., '51, § 828; R., '60, § 1396; C., '73, § 1372; C., '97, § 2241;
S. S., '15, § 2241.]

SEC. 3302. Contracts—government.

1 The board of supervisors, or any committee appointed by it for
2 that purpose, may make all contracts and purchases requisite for the
3 county home and may prescribe rules or regulations for the manage-
4 ment and government of the same, and for the sobriety, morality and
5 industry of its occupants. The board of supervisors shall, during
6 the month of January of each year, publish in the official papers of
7 the county as part of the proceedings of said board a financial state-
8 ment of the receipts of the county home, or county farm, itemizing
9 the same and stating the source thereof, which report shall also set
10 forth the total, not itemized, of the expenditures of such county farm
11 or home; said report shall also show by inventory the amount of prop-
12 erty on hand, at the county farm or home January first of the year
13 in which the report is made and a comparison with the inventory of

14 the county farm or home of the year preceding as provided for in the
15 provisions of this chapter.

[C., '51, § 833; R., '60, § 1401; C., '73, § 1373; C., '97, § 2242;
S., '13, § 2242; 38 G. A., ch. 260, § 1.]

SEC. 3303. Steward appointed.

1 The board may appoint a steward of the county home, who shall
2 be governed in all respects by the rules and regulations of the board
3 and its committees, and may be removed by the board at pleasure, and
4 who shall receive such compensation, perform such duties, and give
5 such security for his faithful performance as the board may direct.

[C., '51, § 834; R., '60, § 1402; C., '73, § 1374; C., '97, § 2243;
S., '13, § 2243.]

SEC. 3304. Admission to county home—labor.

1 The steward shall receive into the county home any person pro-
2 ducing an order as hereafter provided, and enter in a book to be kept
3 for that purpose the name and age, and the date of the reception of
4 such person; he may require of persons so admitted such reasonable
5 and moderate labor as may be suited to their ages and bodily strength,
6 the proceeds of which, together with the receipts of the poor farm,
7 shall be appropriated to the use of the county home in such manner
8 as the board may determine. No person shall be admitted to the
9 county home except upon the written order of a township trustee or
10 member of the board of supervisors, and relief is to be furnished in
11 the county home only, when the person is able to be taken there, un-
12 less in the cases hereinbefore otherwise provided.

[C., '51, §§ 835-837; R., '60, §§ 1403-1405; C., '73, §§ 1375-
1377; C., '97, § 2244; S., '13, § 2244.]

SEC. 3305. Discharge.

1 When any inmate of the county home becomes able to support
2 himself, the board must order his discharge.

[C., '51, § 840; R., '60, § 1408; C., '73, § 1379; C., '97, § 2245;
S., '13, § 2245.]

SEC. 3306. Visitation of county home.

1 The board shall cause the county home to be visited at least once
2 a month by one of its body, who shall carefully examine the condition
3 of the inmates and the manner in which they are fed and clothed and
4 otherwise provided for and treated, ascertain what labor they are re-
5 quired to perform, inspect the books and accounts of the steward, and
6 look into all matters pertaining to the county home and its inmates,
7 and report to the board.

[C., '51, § 842; R., '60, § 1410; C., '73, § 1380; C., '97, § 2246;
S., '13, § 2246.]

SEC. 3307. Education of children.

1 Poor children, when cared for at the county home, shall attend
2 the district school for the district in which such home is situated, and
3 a ratable proportion of the cost of the school, based upon the attend-
4 ance of such poor children to the total number of days' attendance
5 thereat, shall be paid by the county into the treasury of such school

6 district, and charged as part of the expense of supporting the county
7 home.

[C., '51, § 844; R., '60, § 1412; C., '73, § 1381; C., '97, § 2249;
S., '13, § 2249.]

SEC. 3308. Letting out.

1 The board is invested with authority to let out the support of the
2 poor, with the use and occupancy of the county home and farm, for a
3 period not exceeding three years.

[C., '51, § 847; R., '60, § 1415; C., '73, § 1382; C., '97, § 2248;
S., '13, § 2248.]

CHAPTER 14.

COUNTY PUBLIC HOSPITALS.

SECTION 3309. Public hospital—proceedings for establishment of.

1 Any county may establish a public hospital in the following man-
2 ner: When the board of supervisors of any county shall be presented
3 with a petition signed by two hundred resident freeholders of such
4 county, one hundred fifty of whom shall not be residents of the city,
5 town, or village where it is proposed to locate such public hospital,
6 asking that an annual tax may be levied for the establishment and
7 maintenance of a public hospital at a place in the county named
8 therein, and shall specify in their petition the maximum amount of
9 money proposed to be expended in purchasing or building said hos-
10 pital, such board of supervisors shall submit the question to the quali-
11 fied electors of the county at the next general election to be held in
12 the county, or at a special election called for that purpose, first giving
13 ninety days' notice thereof in one or more newspapers published in
14 the county, if any be published therein, and by posting such notice,
15 written or printed, in each township of the county, which notice shall
16 include the text of the petition and state the amount of tax to be levied
17 upon the assessed property of the said county, which tax shall not
18 exceed two mills on the dollar, for a period of time not exceeding
19 twenty years and be for the issue of county bonds to provide funds
20 for the purchase of a site or sites and the erection thereon of a public
21 hospital, and hospital buildings, and for the support of same; which
22 said election shall be held at the usual places in such county for elect-
23 ing county officers, the vote to be canvassed in the same manner as that
24 for county officers. When the board of supervisors in counties, hav-
25 ing a population of not less than fifty-five thousand or more than
26 sixty-five thousand, shall be presented with a petition signed by three
27 hundred freeholders of said county of whom two hundred shall be
28 residents of the city, town, or village where it is proposed to establish
29 said hospital, which petition asks for the erection of a detention or
30 contagious disease hospital at a cost not to exceed forty thousand dol-
31 lars, the board of supervisors of said county may order the erection
32 of said detention or contagious disease hospital at a cost not to exceed
33 forty thousand dollars, and may issue bonds of the county in addition
34 to all other outstanding indebtedness, covering the cost of the erection
35 of said detention or contagious disease hospital, said bonds shall be
36 payable at the pleasure of the county, at any time within fifteen years

37 and shall draw interest at not more than six per cent and the board
 38 of supervisors shall make a levy sufficient to pay the interest and
 39 principal on said bonds when due, and said tax shall be paid to the
 40 county treasurer of said county and kept in a separate fund which
 41 shall be known as the detention or contagious disease hospital fund,
 42 which fund shall be used to pay off the principal and interest on said
 43 bonds.

[S., '13, § 409-a; 38 G. A., ch. 239, § 1.]

SEC. 3310. Question submitted—hospital fund.

1 The board of supervisors of such county shall submit to the quali-
 2 fied electors thereof, at a regular or special election, the question
 3 whether there shall be levied upon the assessed property of such county
 4 a tax of — mills on the dollar for the purchase of real estate for
 5 hospital purposes, for the construction of hospital buildings, and for
 6 maintaining same, or for either or all of such purposes. The ballots
 7 to be used at any election at which the hospital question is submitted,
 8 shall be printed with a statement substantially as follows:

- 9 Yes For a — mill tax for a bond issue for a public
 10 No hospital and for maintenance of same.

11 If a majority of the votes cast at such election on the proposition
 12 so submitted shall be in favor of a — mill tax for a bond issue for
 13 a public hospital and for maintenance of same, the board of super-
 14 visors shall levy the tax so authorized, which shall be collected in the
 15 same manner as other taxes are collected and credited to the "hos-
 16 pital fund," and shall be paid out on the order of the hospital trustees
 17 for the purposes authorized by this chapter and for no other purposes
 18 whatever.

[S., '13, § 409-b.]

SEC. 3311. Board of hospital trustees—term.

1 Should a majority of all the votes cast upon the question be in
 2 favor of establishing such county public hospital, it is made manda-
 3 tory that the board of supervisors shall proceed at once to appoint
 4 seven trustees chosen from the citizens at large with reference to their
 5 fitness for such office, three of whom may be women, all residents of
 6 the county, not more than four of said trustees to be residents of the
 7 city, town, or village in which said hospital is to be located, who shall
 8 constitute a board of trustees for said public hospital. The said trust-
 9 ees shall hold their offices until the next following general election,
 10 when seven hospital trustees shall be elected and hold their offices, two
 11 for two years, two for four years, three for six years, and who shall
 12 by lot determine their respective terms. At each subsequent general
 13 election the offices of the trustees whose terms of office are about to
 14 expire shall be filled by the nomination and election of hospital trustees
 15 in the same manner as other officers are elected, none of whom shall
 16 be practicing physicians.

[S., '13, § 409-c; 38 G. A., ch. 398, § 1.]

**SEC. 3312. Organization of board—treasurer—expenses of trust-
 tees—powers and duties.**

1 The said trustees shall within ten days after their appointment
 2 or election qualify by taking the oath of civil officers and organize as
 3 a board of hospital trustees by the election of one of their number as
 4 chairman, one as secretary, and by the election of such other officers

5 as they may deem necessary, but no bond shall be required of them.
 6 The county treasurer of the county in which such hospital is located
 7 shall be treasurer of the board of trustees. The treasurer shall re-
 8 ceive and pay out all the moneys under the control of the said board,
 9 as ordered by it, but shall receive no compensation from such board.
 10 No trustee shall receive any compensation for his services performed,
 11 but he may receive reimbursement for any cash expenditures actually
 12 made for personal expenses incurred as such trustee, and an itemized
 13 statement of all such expenses and money paid out shall be made under
 14 oath by each of such trustees and filed with the secretary and allowed
 15 only by the affirmative vote of all the trustees present at a meeting
 16 of the board. The board of hospital trustees shall make and adopt
 17 such by-laws, rules and regulations for their own guidance and for
 18 the government of the hospital as may be deemed expedient for the
 19 economic and equitable conduct thereof, not inconsistent with this
 20 chapter and the ordinances of the city or town wherein such public
 21 hospital is located. They shall have the exclusive control of the ex-
 22 penditure of all moneys collected to the credit of the hospital fund,
 23 and of the purchase of site or sites, the purchase or construction of
 24 any hospital building or buildings, and of the supervision, care and
 25 custody of the grounds, rooms or buildings purchased, constructed,
 26 leased or set apart for that purpose; provided that all moneys received
 27 for such hospital shall be deposited in the treasury of the county to
 28 the credit of the hospital fund, and paid out only upon warrants drawn
 29 by the auditor of said county upon the properly authenticated vouchers
 30 of the hospital board. Said board of hospital trustees shall have
 31 power to appoint a suitable superintendent or matron, or both, and
 32 necessary assistants and fix their compensation, and shall also have
 33 power to remove such appointees; and shall in general carry out the
 34 spirit and intent of this chapter in establishing and maintaining a
 35 county public hospital with equal rights to all and special privileges
 36 to none. Such board of hospital trustees shall hold meetings at least
 37 once each month, shall keep a complete record of all its proceedings;
 38 and four members of said board shall constitute a quorum for the
 39 transaction of business. One of said trustees shall visit and examine
 40 said hospital at least twice each month and the board shall during
 41 the first week in January of each year file with the board of super-
 42 visors of said county a report of their proceedings with reference to
 43 such hospital and a statement of all receipts and expenditures during
 44 the year. No trustee shall have a personal pecuniary interest, either
 45 directly or indirectly, in the purchase of any supplies for said hospital,
 46 unless the same are purchased by competitive bidding.

[S., '13, § 409-d; 38 G. A., ch. 398, § 2.]

SEC. 3313. Vacancies—how filled.

1 Vacancies in the board of trustees occasioned by removals, resig-
 2 nations or otherwise shall be reported to the board of supervisors and
 3 be filled in like manner as original appointments, appointees to hold
 4 office until the next following general election, when such vacancy
 5 shall be filled by election in the usual manner.

[S., '13, § 409-e.]

SEC. 3314. Hospital bonds.

1 Whenever any county in this state shall have provided for the
 2 appointment and election of hospital trustees and has voted a tax for

3 a term not exceeding twenty years for hospital purposes, as author-
 4 ized by law, the said county may issue bonds in anticipation of the
 5 collection of such tax in such sums and amounts as the board of hos-
 6 pital trustees shall certify to the board of supervisors of said county
 7 to be necessary for the purposes contemplated by such tax, but such
 8 bonds in the aggregate shall not exceed the amount which might be
 9 realized by said tax based on the amount which may be yielded on
 10 the property valuation of the year in which the tax is voted, and such
 11 bonds shall mature in twenty years from date and shall be in sums
 12 of not less than one hundred dollars nor more than one thousand
 13 dollars, drawing interest at a rate not exceeding five per cent per
 14 annum, payable annually or semiannually; said bonds shall be payable
 15 at pleasure of county after five years, and each of said bonds shall
 16 provide that it is subject to this condition and shall not be sold for
 17 less than par, and shall be substantially in the form provided for
 18 county bonds, but subject to changes that will conform them to the
 19 provisions of this chapter and be numbered consecutively and redeem-
 20 able in the order of their issuance. For the negotiation of said bonds,
 21 their constitutionality, levy to pay interest and principal, and redemp-
 22 tion, sections thirty-two hundred sixty-one to thirty-two hundred
 23 sixty-three, inclusive, and thirty-two hundred sixty-five to thirty-two
 24 hundred sixty-eight, inclusive, shall apply; but the total amount of
 25 bonds to be issued shall not exceed one hundred thousand dollars.

[S., '13, § 409-f.]

SEC. 3315. Condemnation proceedings for hospital sites.

1 If the board of hospital trustees and the owners of any property
 2 desired by them for hospital purposes can not agree as to the price
 3 to be paid therefor, they shall report the facts to the board of super-
 4 visors and condemnation proceedings shall be instituted by the board
 5 of supervisors and prosecuted in the name of the county wherein such
 6 public hospital is to be located, by the county attorney for such county,
 7 under the provisions relating to eminent domain.

[S., '13, § 409-g.]

SEC. 3316. Plans and specifications—bids advertised for.

1 No hospital buildings shall be erected or constructed until the
 2 plans and specifications have been made therefor and adopted by the
 3 board of hospital trustees, and bids advertised for according to law
 4 for other county public buildings.

[S., '13, § 409-h.]

SEC. 3317. Municipal jurisdiction.

1 The jurisdiction of the city, town, or village in or near which
 2 such public hospital is located shall extend over all lands used for hos-
 3 pital purposes outside the corporate limits if so located, and all ordi-
 4 nances of such cities and towns shall be in full force and effect in
 5 and over the territory occupied by such public hospital.

[S., '13, § 409-i.]

SEC. 3318. Annual levy for improvement and maintenance.

1 In counties exercising the rights conferred by this chapter, the
 2 board of trustees of said hospital shall, at its regular August meeting
 3 each year, determine and fix the amount necessary for the improve-

4 ment and maintenance of any such public hospital so established, dur-
 5 ing the ensuing year, in addition to the tax for the hospital fund here-
 6 inbefore provided for, and the president and secretary of the board
 7 shall certify the same to the auditor of such county before September
 8 first of each year; and the board of supervisors of said county shall,
 9 at its September session following, levy a sufficient tax upon the as-
 10 sessed value of the taxable property in the county as will produce said
 11 sum for the ensuing year, but said levy shall not exceed one mill on
 12 such assessed valuation.

[S., '13, § 409-j.]

SEC. 3319. Who entitled to hospital benefits—compensation—nonresidents.

1 Every hospital established under this chapter shall be for the
 2 benefit of the inhabitants of such county and of any person falling
 3 sick or being injured or maimed within its limits; but every such
 4 inhabitant or person who is not a pauper shall pay to such board of
 5 hospital trustees or such officer as it shall designate for such county
 6 public hospital, a reasonable compensation for occupancy, nursing,
 7 care, medicine, or attendance, according to the rules and regulations
 8 prescribed by said board, such hospital always being subject to such
 9 reasonable rules and regulations as said board may adopt in order to
 10 render the use of said hospital of the greatest benefit to the greatest
 11 number; and said board may exclude from the use of such hospital
 12 any and all inhabitants and persons who shall wilfully violate such
 13 rules and regulations. And said board may extend the privileges and
 14 use of such hospital to persons residing outside of such county, upon
 15 such terms and conditions as said board may from time to time by
 16 its rules and regulations prescribe.

[S., '13, § 409-k.]

SEC. 3320. Exclusive control by trustees.

1 When such hospital is established the physicians, nurses, attend-
 2 ants, the persons sick therein and all persons approaching or coming
 3 within the limits of same, and all furniture and other articles used
 4 or brought there shall be subject to such rules and regulations as said
 5 board may prescribe.

[S., '13, § 409-l.]

SEC. 3321. Donations to hospital—title vested in county.

1 Any person or persons, firm, organization, corporation or society
 2 desiring to make donations of money, personal property or real estate
 3 for the benefit of such hospital, shall have the right to vest title of
 4 the money or real estate so donated in said county, to be controlled,
 5 when accepted, by the board of hospital trustees according to the terms
 6 of the deed, gift, devise, or bequest, of such property.

[S., '13, § 409-m.]

SEC. 3322. Medical practitioners—no discriminations—right of patient to employ.

1 In the management of such public hospital no discrimination shall
 2 be made against practitioners of any school of medicine recognized
 3 by the laws of Iowa, and all such legal practitioners shall have equal
 4 privileges in treating patients in said hospital. The patient shall have

5 the absolute right to employ at his or her own expense his or her own
6 physician and when acting for any patient in such hospital the phy-
7 sician employed by such patient shall have exclusive charge of the
8 care and treatment of such patient, and nurses therein shall as to
9 such patient be subject to the directions of such physician; subject
10 always to such general rules and regulations as shall be established
11 by the board of trustees under the provisions of this chapter.

[S., '13, § 409-n.]

SEC. 3323. Training school for nurses.

1 The board of trustees of such county public hospital may estab-
2 lish and maintain in connection therewith and as a part of said public
3 hospital a training school for nurses.

[S., '13, § 409-o.]

SEC. 3324. Detention and examination of insane.

1 The said board of trustees shall at all times provide a suitable
2 room for the detention and examination of all persons who are brought
3 before the commissioners of insanity for such county, provided that
4 such public hospital is located at the county seat.

[S., '13, § 409-p.]

SEC. 3325. Department for tuberculous persons—head nurse.

1 The board of trustees of any hospital, either operating now or
2 in process of construction, or to be established in the future under
3 this chapter, is hereby authorized to operate said hospital as a tuber-
4 culosis sanatorium, if deemed advisable, or to provide as a depart-
5 ment of said public hospital suitable accommodations and means for
6 the care of persons afflicted from tuberculosis. The board of trustees
7 may also establish as a department of said county hospital a suitable
8 building or buildings for the isolation or detention of persons afflicted
9 with contagious diseases, and who are subject to the quarantine regu-
10 lations of the law of the state of Iowa and the rules and regulations
11 of the state board of health. The board of trustees may formulate
12 such rules and regulations for the government of such persons and
13 the protection from infection of other patients, and nurses, and attend-
14 ants in such public hospital as they may deem necessary and it shall
15 be the duty of all persons in charge of or employed in such hospitals
16 or residents thereof to faithfully obey and comply with any or all of
17 such rules and regulations.

[S., '13, § 409-q; 38 G. A., ch. 398, § 3.]

SEC. 3326. Compensation for treatment—subjects for charity.

1 The board of hospital trustees shall have power to determine
2 whether or not patients presented at said public hospital for treatment
3 are subjects for charity and shall fix such price for compensation for
4 patients, other than those unable to assist themselves, as the said
5 board deems proper, the receipts therefor to be paid to the treasurer
6 of said county and credited by him to the hospital fund.

[S., '13, § 409-r.]

SEC. 3327. Hospitals may adopt appropriate name.

1 Hospitals either operating now or in process of construction or
2 to be established hereafter under this chapter, instead of being called

3 the county public hospital, may be named by the use of some appro-
4 priate title or appellation.

[38 G. A., ch. 398, § 5.]

SEC. 3328. Board of supervisors to provide care for indigent tubercular persons.

1 The board of supervisors of each county in this state shall pro-
2 vide for suitable care and treatment of persons suffering from tuber-
3 culosis and who are financially unable to provide for themselves and
4 who have no relatives liable for their support.

[S. S., '15, § 409-t2.]

SEC. 3329. Indigent tuberculous patients—contracts with other hospitals.

1 The board of supervisors of any county, where no suitable pro-
2 vision has been made for the care of its tuberculous residents, who
3 are financially unable to care for themselves, may contract with the
4 board of hospital trustees of any public hospital for the care of such
5 persons in the sanatorium of said hospital, upon such reasonable terms
6 as may be agreed upon.

[S., '13, § 409-s; 38 G. A., ch. 398, § 4.]

SEC. 3330. Board of supervisors to provide care for indigent tubercular persons.

1 In compliance with the provisions of section thirty-three hundred
2 twenty-eight, the board of supervisors may arrange in said county,
3 or elsewhere in the state, with any institution maintained for the
4 treatment of tuberculosis, or with a county public hospital, or any
5 other hospital not maintained for pecuniary profit, where suitable
6 treatment may be provided; and said board of supervisors is author-
7 ized to construct or otherwise provide and equip suitable buildings
8 in connection with such institution, or hospital, if in the county, for
9 the proper segregation and maintenance of such designated persons;
10 but no institution, or hospital, or building for the care and treatment
11 of persons afflicted with tuberculosis, shall be established at any county
12 home in this state. And it is further provided that any institution,
13 hospital or place for the treatment of persons afflicted with tubercu-
14 losis now established, or which may be established in the future, shall
15 be approved by the board of control and inspected by said board. And
16 said board shall have the power to require any alterations in building
17 or equipment or changes in treatment as may be necessary to make
18 such institution conform to the modern and accepted methods for the
19 treatment of tuberculosis.

[S. S., '15, § 409-t3; 38 G. A., ch. 341, § 1.]

SEC. 3331. Allowance for support—appropriation for buildings—election authorizing greater expenditure.

1 The board of supervisors shall allow for the care and support of
2 each patient when in such designated institution a sum not exceeding
3 fifteen dollars per week from the poor fund, provided that in counties
4 of sixty-seven thousand or over, population, a sum not to exceed fif-
5 teen thousand dollars; in counties of fifteen thousand or over popu-
6 lation, and less than sixty-seven thousand, a sum not to exceed five
7 thousand dollars, and in counties of less than fifteen thousand popu-

8 lation, a sum not to exceed two thousand dollars may be appropriated
 9 out of county funds for constructing, acquiring and equipping build-
 10 ings without submitting the same to a vote of the qualified electors.
 11 The board of supervisors may submit the question of expending a
 12 greater amount than above specified by a vote of the qualified electors
 13 of the county at any general election and may for such purposes ex-
 14 pend the amount authorized by said vote.

[S. S., '15, § 409-t4.]

**SEC. 3332. Tubercular patients refusing to guard against infec-
 tion of others.**

1 Any person suffering with tuberculosis who shall persistently, or
 2 carelessly or maliciously expectorate the matter coughed up from his
 3 lungs, and who refuses to properly protect the public, or persons with
 4 whom he may be associated, against the dangers of infection, then
 5 such person may be tried as provided in the statutes governing the
 6 examination and commitment of incorrigibles to the state industrial
 7 school, and upon conviction may, by the district court, be committed
 8 to the state sanatorium, subject to the laws of admission at said insti-
 9 tution, or any county sanatorium or other institution where tubercu-
 10 losis is cared for; but such careless consumptive shall in no case be
 11 sent to any such institution until the committing officer shall first have
 12 made inquiry and ascertained that the institution to which said care-
 13 less consumptive is to be sent has proper quarters, and is properly
 14 prepared and ready to take care of such case, and only after the legal
 15 application blanks and proceedings are properly completed and car-
 16 ried out.

[S., '13, § 409-s; 38 G. A., ch. 398, § 4.]

SEC. 3333. Tubercular patients violating laws and regulations.

1 If any patient being treated for tuberculosis at the state sana-
 2 torium, or any county sanatorium or other institution where tubercu-
 3 losis is cared for, shall refuse to comply with the laws of the state
 4 and rules and regulations for the government of the institutions named
 5 herein, and shall persistently, or carelessly or maliciously violate such
 6 laws, rules and regulations, so as to menace the welfare of said insti-
 7 tution or to interfere with the administration, order or peace of said
 8 institution, then upon complaint of the superintendent of any institu-
 9 tion herein designated, such person may, by order of the district
 10 court, be segregated and forcibly detained in a ward or room, for
 11 such purpose, and for such period of time as may be deemed advisable
 12 by the court, to the end that such person may be properly treated,
 13 that the population of such institution may be protected and the dec-
 14 orum maintained.

[S., '13, § 409-s; 38 G. A., ch. 398, § 4.]

CHAPTER 15.

COUNTY AID FOR THE BLIND.

SECTION 3334. Board of supervisors to aid the blind.

1 It shall be lawful for any county to contribute such sum or sums
2 of money from the poor fund toward the support of any blind person
3 who may come under the provisions of this chapter.

[S. S., '15, § 2722-i.]

SEC. 3335. Financial aid from the county.

1 All male citizens over the age of twenty-one years, and all female
2 citizens over the age of eighteen years, who are declared to be blind
3 in the manner hereinafter set forth, and who come within the pro-
4 visions of this chapter shall receive as a benefit a sum not less than
5 one hundred fifty dollars nor more than three hundred dollars per
6 annum, payable quarterly, upon warrants properly drawn upon the
7 treasurer of the county of which such citizen or citizens are residents.
8 The board of supervisors of the county shall at their discretion deter-
9 mine what sum between one hundred fifty dollars and three hundred
10 shall go to such citizen or citizens.

[S. S., '15, § 2722-j; 38 G. A., ch. 200, § 1.]

SEC. 3336. Who not entitled to relief.

1 No person or persons who are charges of any charitable institu-
2 tion in this state, or persons having an income of more than three
3 hundred dollars per annum, or persons who have not resided within
4 the state of Iowa continuously for five consecutive years and in their
5 respective counties one year, immediately before applying for said
6 benefit, shall be entitled to the provisions of this chapter.

[S. S., '15, § 2722-k; 38 G. A., ch. 200, § 2.]

SEC. 3337. Examiner of the blind—appointment.

1 It is hereby made the duty of the county board of supervisors in
2 each county in this state to appoint a regular practicing physician,
3 whose official title shall be "examiner of the blind," who shall keep
4 an office open in some convenient place during the first week of each
5 year for the examining of applicants for said benefit.

[S. S., '15, § 2722-l.]

SEC. 3338. Duties of examiner—fee.

1 It is hereby made the duty of the examiner of the blind to exam-
2 ine all applicants for benefit, referred to him by the county board of
3 supervisors, and to indorse on the application a certificate to each
4 applicant, showing whether he or she is blind or not. Said examiner
5 shall keep a register in which he shall enter the facts contained in each
6 certificate. He shall be paid from the county treasury for his serv-
7 ices the sum of two dollars for each applicant so examined.

[S. S., '15, § 2722-m.]

SEC. 3339. Application for relief—how made.

1 All persons claiming the benefit provided herein may go before
2 the clerk of their respective counties, and make affidavit to the facts
3 which bring him or her within the provisions of this chapter, which

4 shall be deemed an application for said benefit; two citizens, residents
 5 of the county, shall be required to make affidavits to the fact that they
 6 have known said applicant to be a resident of the state for five years
 7 and the county for the one year immediately preceding the filing of
 8 said application; the county clerk shall bring the same to the atten-
 9 tion of the board of supervisors, who shall refer the application to the
 10 examiner of the blind for said county.

[S. S., '15, § 2722-n.]

SEC. 3340. Duty of clerk.

1 The county clerk shall register the name, address and number of
 2 applicant, and date of the examination of each of the applicants who
 3 has been so determined to be entitled to said benefit, and each year,
 4 on or before the fifteenth day of January, he shall certify to the board
 5 of supervisors the names and residences of each applicant.

[S. S., '15, § 2722-o.]

SEC. 3341. Duty of board of supervisors.

1 It is hereby made the duty of the board of supervisors of each
 2 county in this state to cause warrants on the county treasurer to be
 3 drawn, properly indorsed, payable to each of said persons in said
 4 county each quarter in each year thereafter, during the life of said
 5 persons, while they are residents of said county or until said disability
 6 is removed.

[S. S., '15, § 2722-p.]

CHAPTER 16.

SOLDIERS' RELIEF, MEMORIAL HALLS AND MONUMENTS.

SECTION 3342. Dependent soldiers' and sailors' tax—erection of monuments.

1 A tax not exceeding one mill upon the dollar may be levied by
 2 the board of supervisors upon all taxable property within the county,
 3 to be collected at the same time and in the same manner as other
 4 taxes, to create a fund for the relief of, and to pay the funeral ex-
 5 penses of honorably discharged, indigent United States soldiers, sail-
 6 ors and marines, and their indigent wives, widows and minor children,
 7 not over fourteen years of age if boys, nor over sixteen if girls, having
 8 a legal residence in the county, or for the erection or maintenance of
 9 monuments or memorial halls in any cemetery or public place in the
 10 county, or across the line in an adjoining county where such cemetery
 11 is used chiefly by the inhabitants of the county voting the tax, except
 12 that where it is contemplated to erect any such monument or memorial
 13 hall within the corporate limits of any city or town, public park or
 14 public square, the consent of the city or town council, or park com-
 15 missioners, as the case may be, having jurisdiction thereof, shall first
 16 be obtained; said fund to be expended for the purposes aforesaid by
 17 the joint action and control of the board of supervisors and the relief
 18 commission as hereinafter provided.

[C., '97, § 430; S. S., '15, § 430.]

SEC. 3343. Commission to disburse—duties.

1 Said fund shall be disbursed by the soldiers' relief commission,
2 which shall consist of three persons, two of whom shall be honorably
3 discharged Union soldiers, sailors or marines, to be appointed by said
4 board, subject to removal at any time by said board for neglect of
5 duty or maladministration, at the regular meeting in September, and
6 who shall hold their office for three years, and until their successors
7 shall be appointed and qualified; all vacancies to be filled by appoint-
8 ment by the board, one to be appointed each year. They shall qualify
9 by taking the usual oath of office, and give bond in the sum of five
10 hundred dollars each, conditioned for the faithful discharge of their
11 duties, with sureties to be approved by the county auditor, and, when
12 approved, shall be filed and recorded by him as other official bonds.
13 The commission shall organize by the selection of one of their number
14 as chairman, and one as secretary.

[C., '97, § 431.]

SEC. 3344. Meetings—report to supervisors—disbursements.

1 The commission shall meet annually at the county auditor's office,
2 on the second Monday in September, and at such other times as may
3 be necessary, at which annual meeting it shall determine who are
4 entitled to relief, and the probable amount required to be expended
5 therefor, which sum it shall certify to said board, together with a list
6 of those found to be entitled to relief, and the sum to be paid in each
7 case, the aggregate not to exceed the amount to be raised by the tax
8 levy authorized; and it, at its regular September meeting, shall levy
9 a sufficient tax to raise this amount. Upon the filing of the list with
10 the board of supervisors, the county auditor shall, within twenty days
11 thereafter, transmit to the township clerks in the county the names
12 of those, if any, to whom relief has been awarded, and the amount.
13 On the first Monday of each month after the fund is ready for distri-
14 bution, the auditor shall issue his warrant upon the county treasurer
15 to the commission for the sums thus awarded, and it shall proceed to
16 disburse the same to the parties named in the list, taking receipts
17 therefor, or distribution may be made in any other manner the com-
18 mission may direct. Should it appear to the commission that any
19 person entitled to assistance will not properly expend the same, then
20 the payment may be made to some suitable person, who shall, as di-
21 rected by it, make the disbursements thereof, for the use and benefit
22 of such person. The amount awarded to any party may be increased,
23 decreased or discontinued by the commission at any regular meeting.
24 New names may be added and certified thereat, and it shall, at the
25 close of the year, make annual detailed reports of its work, which
26 shall be accompanied with the proper vouchers for all moneys re-
27 ceived by it.

[C., '97, § 432; S., '13, § 432.]

SEC. 3345. Burial of indigent soldiers and sailors—wives and widows of same.

1 The board of supervisors shall designate some suitable person in
2 each township to cause to be decently interred the body of any honor-
3 ably discharged soldier, sailor or marine who served in the army or
4 navy of the United States during any war, who may hereafter die
5 without leaving sufficient means to defray the expenses of his funeral.

6 Such burial shall not be made in any cemetery or burying ground or
 7 part thereof used exclusively for the burial of the pauper dead. The
 8 expenses of such burial shall in no case exceed the sum of fifty dollars,
 9 and in case surviving relatives of the deceased shall desire to conduct
 10 the funeral, and are unable or unwilling to pay the charges therefor,
 11 they shall be permitted to do so and the expenses shall be paid as
 12 herein provided. The provisions herein contained shall also apply to
 13 the deceased wife or widow of such indigent soldier, sailor or marine
 14 who may hereafter die without leaving sufficient means to defray the
 15 expenses of her funeral.

[C., '97, § 433; S., '13, § 433.]

SEC. 3346. Graves to be marked.

1 The grave of any deceased soldier, sailor or marine shall be
 2 marked by a headstone, showing his name and the organization to
 3 which he belonged or in which he served; and such headstone shall
 4 not cost more than the sum of fifteen dollars, and shall be of such
 5 design and material as may be approved by the board of supervisors.
 6 The expenses of such burial and headstone shall be paid by the county
 7 in which such person died. The board of supervisors of such county
 8 shall audit the account and pay the same in such manner as other
 9 claims are audited and paid.

[C., '97, § 434.]

SEC. 3347. Markers for graves—how paid for.

1 The soldiers' relief commission in any county shall, upon the peti-
 2 tion of any five reputable freeholders of any township or municipality
 3 in their county, procure for and furnish to said petitioners some suit-
 4 able and appropriate metal marker, at a cost not exceeding one dollar
 5 each, for the grave of each soldier, sailor or marine who served with
 6 honor in the forces of the United States, and is buried within the
 7 limits of said township or municipality, to be placed on the grave of
 8 such soldier for the purpose of permanently marking and designating
 9 said grave for memorial purposes; and the expenses thereof shall be
 10 paid out of any funds raised by taxes levied as hereinbefore provided.

[S. S., '15, § 434-a.]

**SEC. 3348. Soldiers' monuments and memorial halls—tax for—
 inscriptions.**

1 When a petition shall be presented to the board of supervisors of
 2 any county, signed by a majority of the members of the grand army
 3 posts therein, asking it to submit to the voters of such county, at the
 4 next general election thereafter, the question of aiding in the erec-
 5 tion of a soldiers' and sailors' monument or memorial hall, the same
 6 shall be ordered by such board. The board shall cause the proposition
 7 to be printed and placed upon the ballots, and the election shall be
 8 conducted in the manner provided in case of similar or like proposi-
 9 tions in the title on elections. If a majority of the votes polled is in
 10 favor of the adoption of the proposition, then such board, at the time
 11 of levying the ordinary taxes following the election, shall levy the
 12 same, which levy shall be placed upon the tax list and collected as
 13 other taxes. The tax thus voted shall not exceed one mill on the dollar
 14 upon the assessed valuation of the taxable property within the county.
 15 If a monument shall be erected, then there shall be inscribed thereon,

16 or, if a hall be erected, recorded therein, the names of all deceased sol-
 17 diers and sailors who have died or may hereafter die, and who enlisted
 18 or entered the service from the county, and such other names of soldiers
 19 and sailors as may be directed by the grand army posts of the county.
 [C., '97, § 435.]

SEC. 3349. How tax expended.

1 Such taxes, when collected by the county treasurer, shall be drawn
 2 and expended for the erection of such soldiers' and sailors' monuments
 3 or memorial halls, under the direction of a committee of three, to be
 4 selected by a majority of all the members of the grand army posts in
 5 the county where such tax is voted, who shall each give bonds in such
 6 amount as shall be fixed by the board, and the county auditor shall
 7 draw his warrants upon the treasurer for said money, at the times and
 8 in such amounts as may be directed by said committee, and shall charge
 9 it with the same, and such committee shall settle and account to the
 10 board of supervisors for all money so drawn, in the same manner as is
 11 now or may hereafter be provided by law for the settlement of the
 12 accounts of township clerks; but no such tax shall be voted in any
 13 county which has before made an appropriation for said purposes, or
 14 either of them, by virtue of any law heretofore in force.

[C., '97, § 436.]

SEC. 3350. Custody.

1 All memorial halls erected under the provisions of the two preced-
 2 ing sections shall be in the custody and control of the committee for
 3 which provision is made in the preceding section.

[37 G. A., ch. 114, § 1.]

SEC. 3351. Vacancy in committee—how filled.

1 In the event of the death of any member of such committee, or of
 2 his inability to act, or of his resignation, or refusal to act, such death,
 3 inability, refusal or resignation shall create a vacancy in such commit-
 4 tee, which shall be filled by the selection of another member, by the
 5 members of the grand army posts in the county, and the person or
 6 persons so selected shall give bond, as hereinbefore provided.

[37 G. A., ch. 114, § 2.]

SEC. 3352. Vacancies—failure of grand army posts to fill—effect.

1 If, for any reason, the grand army posts of the county fail to select
 2 a member of such committee to fill any vacancy occurring therein,
 3 within one year after such vacancy occurs, then the clerk of the dis-
 4 trict court of such county shall, ex officio, become a member of such
 5 committee. If a second vacancy shall occur, and shall not be filled by
 6 the grand army posts of the county, within one year after such va-
 7 cancy occurs, then the sheriff of the county shall, ex officio, become a
 8 member of such committee; and if a third vacancy shall occur, and
 9 shall not be filled by the grand army posts of the county, within one
 10 year after such vacancy occurs, then the county auditor shall, ex
 11 officio, become a member of such committee. After the county officers
 12 herein named shall have become members of such committee as herein
 13 provided, they, and their successors in office, shall continue to be mem-
 14 bers of, or shall constitute such committee, as the case may be.

[37 G. A., ch. 114, § 3.]

SEC. 3353. Power and duty of committee.

1 The committee, having charge of such memorial hall shall permit
 2 the use thereof, free of charge, by the known and recognized patri-
 3 otic societies of the county, and by such societies only, and shall de-
 4 termine what societies are known and recognized as patriotic societies.
 [37 G. A., ch. 114, § 4.]

CHAPTER 17.**OFFICIAL NEWSPAPERS.****SECTION 3354. Official newspapers — how selected — what published in — printed in foreign languages — compensation — fraudulent lists.**

1 The board of supervisors of each county shall, at its January
 2 session in each year, select two newspapers published within the
 3 county, or one, if there be but one published therein, having the
 4 largest number of bona fide yearly subscribers within the county,
 5 which circulation shall be determined as follows: In case of contest,
 6 the applicants shall each deposit with the county auditor, on or before
 7 a day named by the board of supervisors, a certified statement, sub-
 8 scribed and sworn to before some competent officer, giving the names
 9 of the several cities, towns and postoffices, and the number and the
 10 names of the bona fide yearly subscribers receiving their papers in
 11 each of said cities and towns through each of said offices, living within
 12 the county; such statements to be in sealed envelopes, and opened by
 13 the county auditor upon direction of the board of supervisors; and the
 14 two applicants thus showing the greatest number of bona fide yearly
 15 subscribers living within the county shall be the county official papers,
 16 in which all the proceedings of the board of supervisors, the schedule
 17 of bills allowed, and the reports of the county treasurer, including a
 18 schedule of the receipts and expenditures, shall be published at the
 19 expense of the county during the ensuing year, and the costs of such
 20 publication shall be thirty-three and one-third cents for each ten lines
 21 of brevier type, or its equivalent; but in counties having a population
 22 of fifteen thousand or more, three papers, not more than two of which
 23 shall be published in the same town, shall be selected, in which such
 24 proceedings shall be published, with the same limitation as to com-
 25 pensation; and in counties where the district court is held in two places
 26 each district shall be regarded as a county for the purposes of such
 27 publication. The county auditor shall furnish all such papers selected
 28 a copy of such proceedings for that purpose. In case a contest is
 29 made by a publisher, the board shall receive other evidence of circu-
 30 lation, and if it appears that any certified statement filed is fraudu-
 31 lent, or contains the name of any person who is not a bona fide yearly
 32 subscriber residing within the county, which was knowingly and wil-
 33 fully placed therein to make it appear to contain the names of a greater
 34 number of such subscribers than it in fact contains, the same shall
 35 not be considered, and any applicant or paper so filing such fraudulent
 36 or untrue statement shall not be made a county official paper. Should
 37 all certified statements be rejected under the provisions of this section
 38 the board shall fix a new date for the selection of official papers and

39 nothing herein shall be construed to prevent the persons or papers
 40 rejected under the provisions of this section from filing new certified
 41 statements and he shall have the right of appeal to the district court,
 42 to be taken as in ordinary actions. (Neither publisher to the contest
 43 shall receive pay for publishing such proceedings until the case is
 44 finally disposed of. If in any county the publishers of two or more
 45 newspapers, at least one of which by reason of its location and circu-
 46 lation is entitled to be selected as a county official newspaper, have
 47 entered into an agreement to publish the official proceedings or have
 48 united in a request to have their publications selected for such pur-
 49 poses, and such agreement or request has been filed with the board of
 50 supervisors prior to the naming of the official newspaper, the board
 51 of supervisors shall designate each of them a county official paper for
 52 the publication of the proceedings of the board, but the combined
 53 compensation of the papers so requesting or agreeing, added to that
 54 of the other official paper or papers, if any, shall not exceed the com-
 55 bined compensation allowed by law to two official papers in counties
 56 having a population below fifteen thousand, or to three official papers
 57 in counties having a population of fifteen thousand or more.

[R., '60, § 314; C., '73, § 307; C., '97, § 441; S. S., '15, § 441;
 37 G. A., ch. 408, § 1; 38 G. A., ch. 82, § 1.]

SEC. 3355. Designation of newspapers—in English language.

1 The clerk of the district court, sheriff, auditor, treasurer and
 2 recorder shall each designate the newspapers in which the notices per-
 3 taining to his office shall be published and the board of supervisors
 4 shall designate the papers in which all other county notices shall be
 5 published.

6 All notices above designated, all legal notices and notices required
 7 by law or by ordinance of any city or town or special charter city, and
 8 cities operating under commission plan and all proceedings of the
 9 board of supervisors or of any city or town council or special charter
 10 city, and all other proceedings required by law to be published, shall
 11 be published only in the English language, and in newspapers pub-
 12 lished wholly in the English language.

[R., '60, § 314; C., '73, § 306; C., '97, § 549; S., '13, § 549; 38
 G. A., ch. 82, § 2.]

SEC. 3356. Misdemeanor.

1 Failure on the part of any officer to perform any duty required
 2 of him by the preceding section shall render him liable to prosecution
 3 and punishment for a misdemeanor.

[C., '97, § 550.]

CHAPTER 18.

BOUNTIES ON WILD ANIMALS.

SECTION 3357. Bounties—evidence.

1 A bounty of ten dollars shall be allowed on the skin of an adult
 2 wolf, four dollars on that of a cub wolf, and one dollar on that of a
 3 lynx or wild cat, to be paid out of the treasury of the county in which

4 the animal was taken, upon the certified statement of the facts,
 5 together with such other evidence as the board of supervisors may
 6 demand showing the claimant to be entitled thereto. The person
 7 claiming the bounty shall produce such statement, together with the
 8 whole skin of the animal, to the auditor of the county wherein such
 9 wolf, lynx or wild cat was taken and killed, and he shall destroy or
 10 deface the same so as to prevent their use to obtain for the second
 11 time the bounty herein provided. Any person who shall demand a
 12 bounty on any of the above mentioned animals killed or taken in
 13 another state or county, or on a domesticated animal, shall be fined
 14 not more than one hundred nor less than fifty dollars.

[R., '60, §§ 2193-2195; C., '73, §§ 1487, 1488; C., '97, § 2348;
 S., '13, § 2348; 38 G. A., ch. 249, § 1.]

SEC. 3358. Pocket gophers—bounty.

1 There shall be paid from the general fund of the county a bounty
 2 of ten cents for each pocket gopher caught and killed within the
 3 county, provided that the person entitled to such bounty shall make,
 4 as hereinafter provided, proof of destruction of such animal within
 5 thirty days after the same was destroyed.

[S., '13, § 2348-a.]

SEC. 3359. Proof required.

1 The person catching and killing any such animal shall remove and
 2 present to the officers before whom he makes his proof, both front
 3 feet and claws of each animal for which he claims the bounty, and the
 4 person claiming the bounty shall furnish written proof, under oath,
 5 that each animal for which he claims the bounty was caught and killed
 6 within the county against which he presents the claim for bounty;
 7 and the board of supervisors may require in addition to the above any
 8 other and further proof which it deems necessary and reasonable to
 9 show that each animal for which the bounty is claimed was caught and
 10 killed within the county against which the claim is presented.

[S., '13, § 2348-b.]

SEC. 3360. To whom presented.

1 The claws and other proofs required may be presented to the
 2 county auditor; and the board of supervisors of each county may
 3 appoint registrars or other officers in other parts of the county to
 4 whom claws of the animal caught and other proofs of the killing may
 5 be presented.

[S., '13, § 2348-c.]

SEC. 3361. Rattlesnakes.

1 Whenever in the judgment of the board of supervisors of any
 2 county in this state, the public health and welfare of the citizens of
 3 its county demands, there shall be paid from the general fund of the
 4 county a bounty of fifty cents for each rattlesnake caught and killed
 5 within the county; provided that the person entitled to such bounty
 6 shall make, as hereinafter provided, proof of the capture and killing
 7 of said snake within thirty days after the same was killed.

[S., '13, § 2348-d.]

SEC. 3362. Proof required.

1 The person catching and killing any rattlesnake shall cut off and
2 present to the county auditor or other officer before whom he makes
3 proof, at least two inches of the tail of the rattlesnake with the
4 rattles still attached thereto, and shall make written affidavit that
5 each and every rattlesnake for which he claims bounty was caught and
6 killed within the county where he is claiming bounty.

[S., '13, § 2348-e.]

SEC. 3363. To whom presented.

1 The tail with rattles attached, described in the preceding section,
2 with the proofs required, may be presented to the county auditor or
3 to other officers in the county designated by the board of supervisors,
4 who shall see that the rattles are detached and the piece of tail de-
5 stroyed. The rattles may be returned to the claimant.

[S., '13, § 2348-f.]

SEC. 3364. Ground hogs.

1 The board of supervisors of any county may allow a bounty of
2 twenty-five cents for each ground hog killed within the county to be
3 paid out of the general county fund to the person killing the same, on
4 the terms and conditions hereinafter provided.

[S., '13, § 2348-g.]

SEC. 3365. Proof required.

1 The person catching and killing any such animal shall remove and
2 present to the officers, before whom he makes his proof, the head or
3 scalp of each animal for which he claims the bounty, and the person
4 claiming the bounty shall furnish written proof, under oath, that
5 each animal for which he claims the bounty was caught and killed
6 within the county against which he presents the claim for bounty, and
7 the board of supervisors may require in addition to the above any
8 other and further proof which it deems necessary and reasonable to
9 show that each animal for which the bounty is claimed was caught
10 and killed within the county against which the claim is presented.

[S., '13, § 2348-h.]

SEC. 3366. To whom presented.

1 The scalp and other proofs required may be presented to the
2 county auditor; and the board of supervisors of each county may
3 appoint registrars or other officers in other parts of the county to
4 whom scalps of the animal caught and other proofs of the killing may
5 be presented.

[S., '13, § 2348-i.]

SEC. 3367. Crows.

1 The board of supervisors of any county may allow a bounty not
2 to exceed ten cents for each crow killed within the county, to be paid
3 out of the general county fund, to the person killing the same, on the
4 terms and conditions hereinafter provided.

[S., '13, § 2348-j.]

SEC. 3368. Proof required.

1 The person killing any such crow within the county shall remove
 2 and present to the county auditor the head and feet of each crow for
 3 which he claims the bounty and shall also furnish written proof, under
 4 oath, that each crow for which he claims the bounty was caught and
 5 killed within the county, and not more than thirty days previous to
 6 the time when such proof of claim is filed.

[S., '13, § 2348-k.]

SEC. 3369. Destroyed by auditor.

1 The head and feet of each crow upon which said bounty shall have
 2 been paid shall be destroyed by the auditor of the county wherein
 3 such crow was taken and killed as soon as proof has been accepted
 4 by him.

[S., '13, § 2348-l.]

CHAPTER 19.
RELOCATION OF COUNTY SEATS.**SECTION 3370. Relocation of county seat.**

1 When citizens of any county desire a relocation of their county
 2 seat, they may petition the board of supervisors respecting the same
 3 at the regular June session, but not oftener than once in five years.

[R., '60, § 231; C., '73, §§ 281, 288; C., '97, § 396.]

SEC. 3371. Petition for—contents.

1 Such petition shall designate the place at which the petitioners
 2 desire to have the county seat relocated, and shall be signed by none
 3 but legal voters of said county. It shall contain, in addition to the
 4 names of the petitioners, the section, township and range on which,
 5 or town or ward, if in a city, in which the petitioners reside, their
 6 ages and time of residence in the county. It shall be accompanied by
 7 affidavits of one or more residents of the county, stating that the
 8 signers thereof were, at the time of signing, legal voters of said
 9 county, and the number of signers to the petition at the time of mak-
 10 ing the affidavit, and shall be filed with the auditor at least sixty days
 11 before the June session of the board.

[R., '60, §§ 232, 233; C., '73, § 282; C., '97, § 397.]

SEC. 3372. Remonstrance.

1 Remonstrances signed by voters with like qualifications and in all
 2 respects as required of petitioners, and verified in the same manner,
 3 may be filed with the auditor ten days prior to the date fixed by the
 4 notice hereinafter provided for. If the same persons petition and
 5 remonstrate, they shall be counted only on the remonstrance, and if
 6 a greater number of legal voters remonstrate against the relocation
 7 than petition for it, no election shall be ordered.

[R., '60, § 239; C., '73, § 283; C., '97, § 398.]

SEC. 3373. Notice of hearing.

1 Upon the filing of such petition, sixty days' notice thereof and of
2 the date of hearing shall be given by the auditor by publishing, once
3 each week, for three consecutive weeks in a newspaper, if there be one
4 printed in the county; if not, then by posting the same in every town-
5 ship in the county, and on the door of the courthouse therein.

[C., '51, § 235; C., '73, § 284; C., '97, § 399; S., '13, § 399.]

SEC. 3374. Hearing—notice of election—when established forty years.

1 Upon the hearing of such petition and remonstrance, if no objec-
2 tions are filed to either, the board shall proceed to determine whether
3 the petition has been signed by one-half of all the legal voters in the
4 county as shown by the last census, either state or federal, after
5 deducting therefrom all names appearing on the remonstrance which
6 also appear on the petition, and also to determine whether more legal
7 voters have signed the petition than have signed the remonstrance.
8 If the requisite notice has been given, and the board shall find that
9 one-half of all the legal voters, after making said deduction, have
10 signed said petition, and that said one-half exceeds the number that
11 have signed the remonstrance, the board shall order that, at the next
12 general election, or a special election which may be called for that pur-
13 pose in any year when no general election is held, a vote shall be taken
14 between said place and the existing county seat, and shall require a
15 constable of each township in the county to post notices of such order
16 in three public places in such township, at least fifty days before said
17 election, and shall also publish a notice of such election in some news-
18 paper, if there be one published in the county, once each week, for
19 four consecutive weeks, the last publication to be at least twenty days
20 before said election; but if objections are made, either as to petition
21 or remonstrance, the board shall inquire into and hear additional evi-
22 dence with reference to the fact as to whether the names appearing on
23 either petition or remonstrance were the names of legal voters at the
24 time they were placed on the petition or remonstrance, and whether
25 the signatures are genuine; but where a county seat has been located
26 continuously in one place for forty years or more, no order shall be
27 made by the board that a vote shall be taken on the removal of such
28 county seat unless one-half of all legal voters of said county, accord-
29 ing to the last state or federal census, have signed the petition, after
30 deducting therefrom all the names that appear on both the petition
31 and the remonstrance, and all other names not properly on the petition,
32 and all names on said petition not placed thereon within sixty days
33 next preceding the filing of the same shall be stricken therefrom; and
34 provided further that the provisions hereof shall not be held to apply
35 where the proposition is to relocate a county seat within the corporate
36 limits of a city or town, where one is already located; and provided
37 further, that the provisions hereof relating to the removal of county
38 seats located in one place for forty years or more, shall not apply
39 when the distance between the limits of the town, village or city of the
40 proposed county seat and the limits of the town, village or city of the
41 then existing county seat as said town, village or city limits now
42 exist, does not exceed one mile.

[R., '60, § 234; C., '73, § 285; C., '97, § 400; S., '13, § 400; 37
G. A., ch. 34, § 1; 37 G. A., ch. 62, § 1.]

SEC. 3375. Mode of voting.

1 Such election shall be conducted as elections for county officers.
 2 The proposition to be submitted shall be, "Shall the proposition to
 3 change the county seat to (naming the town to which the change is
 4 proposed) be adopted?"

[R., '60, §§ 236, 237; C., '73, § 286; C., '97, § 401.]

SEC. 3376. Removal of records—requisite vote.

1 If a majority of all the votes cast be in favor of the proposition,
 2 the board of supervisors shall make a record thereof, and declare the
 3 town named therein to be the county seat of said county, and shall
 4 remove the records and documents thereto as early as practicable
 5 thereafter; but where a county seat has been located continuously in
 6 one place for forty years or more two-thirds of all the votes cast must
 7 be in favor of the proposition to remove said county seat before the
 8 board shall make a record thereof and declare the county seat
 9 removed; and in the absence of said two-thirds vote in favor of such
 10 proposition there shall be no removal; and provided further, that the
 11 provisions hereof shall not be held to apply where the proposition is
 12 to relocate a county seat within the corporate limits of a city or town,
 13 where one is already located; and provided further, that the provisions
 14 hereof relating to the removal of county seats located in one place for
 15 forty years or more, shall not apply when the distance between the
 16 limits of the town, village or city of the proposed county seat and the
 17 limits of the town, village or city of the then existing county seat as
 18 said town, village or city limits now exist, does not exceed one mile.

[R., '60, § 238; C., '73, § 287; C., '97, § 402; S., '13, § 402; 37
 G. A., ch. 34, § 2.]

CHAPTER 20.**CHANGING NAMES OF VILLAGES.****SECTION 3377. Changing names of villages.**

1 The boards of supervisors may change the names of villages
 2 within their respective counties in the manner herein prescribed.

[C., '97, § 460.]

SEC. 3378. Petition for.

1 When any number of the inhabitants of any such village shall
 2 desire to change the name thereof, there shall be filed in the office of
 3 the auditor of the proper county, at least ten days before the regular
 4 meeting of the board of supervisors, a petition for that purpose, which
 5 must be signed by at least two-thirds of the qualified electors of said
 6 village, setting forth the name by which the same is known, its loca-
 7 tion as near as practicable, and giving the name by which they desire
 8 it shall thereafter be known.

[C., '97, § 461.]

SEC. 3379. Notice.

1 Notice of the filing of said petition, and the time and place when
 2 the same shall be heard, and the objects and purposes thereof, shall

3 be given at least four weeks before the regular meeting of the board
4 of supervisors, in like manner as the publication of original notices in
5 civil actions where the defendant can not be personally served within
6 the state; or by posting up a notice of said petition in three public
7 places in the village the name of which is sought to be changed, at
8 least four weeks before the meeting of said board, and also one copy of
9 said notice for the same length of time on the front door of the court-
10 house of the proper county, wherein the last term of the district
11 court was held.

[C., '97, § 462.]

SEC. 3380. Hearing.

1 At the first regular meeting of said board after publication of
2 notice is completed, the board of supervisors shall proceed to hear and
3 determine said petition, unless said hearing is for good cause continued
4 until the next meeting; and said board, on the hearing of said petition,
5 shall hear any remonstrances against the proposed change, and in all
6 its proceedings in relation to the hearing of said petition and remon-
7 strances to the same the said board shall be governed by the law regu-
8 lating the hearing of petitions for the establishment of highways, so
9 far as applicable and not inconsistent herewith.

[C., '97, § 463.]

SEC. 3381. Order of board.

1 If on the hearing it shall appear to the said board that two-thirds
2 of the qualified electors of said village in good faith signed said peti-
3 tion for change of name, and desired the same, then the said board
4 shall order said name to be changed as prayed for.

[C., '97, § 464.]

SEC. 3382. When order takes effect—publication.

1 Said order of the board shall thereupon be entered of record,
2 giving the name of said village as set forth in said petition, the new
3 name given, the time when the change shall take effect, which shall
4 not be less than thirty days thereafter, and directing that notice of
5 said change shall be published in at least one newspaper published in
6 said county, if any; and if there is no newspaper published therein,
7 then said notice shall be published by posting the same for four weeks
8 on the front door of the courthouse where the last term of the district
9 court of said county was held.

[C., '97, § 465.]

SEC. 3383. Proof preserved.

1 The ordinary proof of such publication shall be filed in the office
2 of the county auditor, shall be by him filed for preservation, and, on
3 the day fixed by the board as aforesaid, the change shall be complete.

[C., '97, § 466.]

SEC. 3384. Costs.

1 In all cases arising under the provisions of this chapter, where
2 there is no remonstrance or opposition to said petition, the petitioners
3 shall pay all costs; but in all other cases costs shall abide the result

4 of the proceeding, and be taxed to either party, in the discretion of
5 the board, or divided equitably between the parties.

[C., '97, § 467.]

CHAPTER 21.

LAND SURVEYS.

SECTION 3385. Duties—record to be kept.

1 The county surveyor shall make all surveys of land within his
2 county which he may be called upon to make, and the field notes and
3 plats made by him shall be transcribed into a well bound book, under
4 his supervision, at the expense of the person requesting the survey,
5 which book shall be kept in the county auditor's office, and his surveys
6 shall be held as presumptively correct.

[C., '51, §§ 203, 204; R., '60, §§ 413, 414; C., '73, §§ 369, 370;
C., '97, § 534.]

SEC. 3386. Former field notes to be used.

1 Previous to making any survey, he shall procure a copy of the
2 field notes of the original survey of the same land, if there be any in
3 his office or that of the auditor, and his survey shall be made in
4 accordance therewith.

[C., '51, § 205; R., '60, § 415; C., '73, § 371; C., '97, § 535.]

SEC. 3387. Corners—how marked.

1 He is required to establish the corners by taking bearing trees,
2 and noting particularly their course and distance, but if there be no
3 trees within reasonable distance, the corners are to be marked by
4 stones or other permanent monuments placed firmly in the earth.

[C., '51, § 206; R., '60, § 416; C., '73, § 372; C., '97, § 536.]

SEC. 3388. Rules to be followed.

1 In the resurvey and subdivision of land by county surveyors, their
2 deputies or other persons, the rules prescribed by the acts of con-
3 gress, and the instructions of the secretary of the interior, copies of
4 which shall be furnished him by the county, shall be in all respects
5 followed.

[C., '73, § 373; C., '97, § 537.]

SEC. 3389. Record to be furnished—presumptive evidence.

1 The county surveyor shall, when requested, furnish the person
2 for whom the survey is made with a copy of the field notes and plat
3 of the survey, and such copy, certified by him, and also a copy from
4 the record, certified by the county auditor with the seal, shall be pre-
5 sumptive evidence of the survey, and of the facts herein required to
6 be set forth, and which are stated accordingly, between those persons
7 who join in requesting it and any other person then concerned, who
8 has reasonable notice that such a survey is to be made, and the time
9 thereof.

[C., '51, § 207; R., '60, § 417; C., '73, § 374; C., '97, § 538.]

SEC. 3390. Supervisors to furnish record book.

1 The board of supervisors is required to furnish a substantial, well
2 bound book, in which the field notes and plats made by the county sur-
3 veyor shall be recorded.

[C., '51, § 208; R., '60, § 418; C., '73, § 375; C., '97, § 539.]

SEC. 3391. Record to show what.

1 The plat and record shall show distinctly of what piece of land it
2 is a survey, at whose personal request it was made, the names of the
3 chainmen, and that they were approved and sworn by the surveyor,
4 and the date of the survey; and the courses shall be taken according to
5 the true meridian, and the variation of the magnetic from the true
6 meridian stated. And the surveyor shall determine the correct varia-
7 tion by an observation on the polestar, or some other approved
8 method, at least once each year, and enter the same, with the date,
9 and description of the method used, in his record.

[C., '51, § 209; R., '60, § 419; C., '73, § 376; C., '97, § 540.]

SEC. 3392. Chainmen—qualifications.

1 The necessary chainmen and other persons must be employed by
2 the person requiring the survey done, unless otherwise agreed; but the
3 chainmen must be disinterested persons, and approved by the surveyor,
4 and sworn by him to measure justly and impartially, to the best of
5 their knowledge and ability.

[C., '51, § 210; R., '60, § 420; C., '73, § 377; C., '97, § 541.]

SEC. 3393. Witnesses subpoenaed—fees.

1 County surveyors, when engaged in the performance of official
2 duties, may issue subpoenas for witnesses and administer oaths to
3 them, and all fees for services of officers and attendance of witnesses
4 shall be the same as in proceedings before justices of the peace.

[C., '73, § 378; C., '97, § 542.]

SEC. 3394. For certain surveys may enter upon land.

1 Any person employed in the execution of any survey authorized
2 by the congress of the United States may enter upon lands within
3 this state for the purpose of exploring, triangulating, leveling, survey-
4 ing, and of doing any work which may be necessary to carry out the
5 objects of then existing laws relative to surveys, and may establish
6 permanent station marks, and erect the necessary signals and tem-
7 porary observatories, doing no unnecessary injury thereby.

[38 G. A., ch. 410, § 1.]

SEC. 3395. Disagreement as to damages—procedure.

1 If the parties interested can not agree upon the amount to be paid
2 for damages caused thereby, either of them may petition the district
3 court in the county in which the land is situated, which court shall
4 appoint a time for a hearing as soon as may be, and order at least
5 twenty days' notice to be given to all parties interested, and, with or
6 without a view of the premises, as the court may determine, hear the
7 parties and their witnesses and assess damages.

[38 G. A., ch. 410, § 2.]

SEC. 3396. Tender of damages.

1 The person so entering upon land may tender to the injured party
 2 damages therefor, and if, in case of petition or complaint to the court,
 3 the damages finally assessed do not exceed the amount tendered, the
 4 person entering shall recover costs; otherwise, the prevailing party
 5 shall recover costs.

[38 G. A., ch. 410, § 3.]

SEC. 3397. Costs—taxed.

1 The costs to be allowed in all such cases shall be the same as
 2 allowed according to the rules of the court and provisions of law relat-
 3 ing thereto.

[38 G. A., ch. 410, § 4.]

SEC. 3398. Defacing signal monument or building—penalty.

1 If any person shall wilfully deface, injure or remove any signal,
 2 monument, building or other property of the United States coast and
 3 geodetic survey or the United States geological survey, constructed or
 4 used under or by virtue of the act of congress aforesaid, he shall for-
 5 feit a sum not exceeding fifty dollars for each offense, and shall be
 6 liable for damages sustained by the United States in consequence of
 7 such defacing, injury or removal, to be recovered in a civil action in
 8 any court of competent jurisdiction.

[38 G. A., ch. 410, § 5.]

SEC. 3399. Surveyor's fees.

1 The county surveyor is entitled to charge and receive the follow-
 2 ing fees:

3 1. For each day's service actually performed in traveling to and
 4 from the place where any survey is to be made, and for making the
 5 same, and return thereof, four dollars.

6 2. For making up the record of any survey, and the plat and field
 7 notes thereof, one dollar per page.

8 3. For certified copy of the plat or field notes, fifty cents.

[C., '51, § 2546; R., '60, § 4155; C., '73, § 3800; C., '97, § 543.]

CHAPTER 22.
JAILS.**SECTION 3400. How used.**

1 The jails in the several counties in the state shall be in charge of
 2 the respective sheriffs and used as prisons:

3 1. For the detention of persons charged with an offense and com-
 4 mitted for trial or examination.

5 2. For the detention of persons who may be committed to secure
 6 their attendance as witnesses on the trial of a criminal cause.

7 3. For the confinement of persons under sentence, upon convic-
 8 tion for any offense, and of all other persons committed for any cause
 9 authorized by law.

10 The provisions of this section extend to persons detained or com-
 11 mitted by authority of the courts of the United States as well as of
 12 this state.

[C., '51, § 3103; R., '60, § 5122; C., '73, § 4723; C., '97,
 § 5637.]

SEC. 3401. Duty as to jail and prisoners.

1 The sheriff has charge and custody of the jail or other prison
 2 of his county, and of the prisoners in the same, and shall receive those
 3 lawfully committed, and keep them himself, or by his deputy or jailer,
 4 until discharged by law.

[C., '51, § 172; R., '60, § 385; C., '73, § 339; C., '97, § 501.]

SEC. 3402. Minors separately confined.

1 Any sheriff, city marshal or chief of police, having in his care or
 2 custody any prisoner under the age of eighteen years, shall keep such
 3 prisoner separate and apart, and prevent communication by such pris-
 4 oner with prisoners above that age, while such prisoners are not under
 5 the personal supervision of such officer; provided suitable buildings or
 6 jails are now or hereafter may be provided for that purpose. But the
 7 foregoing provisions may, at the discretion of such officer, be sus-
 8 pended as to any such prisoner who, in his judgment, is likely to or
 9 does exercise an immoral influence over those with whom he is asso-
 10 ciated. Any officer having charge of prisoners who without just cause
 11 or excuse neglects or refuses to perform the duties imposed on him
 12 by this section may be suspended and removed from office therefor.

[C., '97, § 5638.]

SEC. 3403. Females.

1 All jails shall be provided with a separate apartment for females,
 2 and they shall be detained only in such apartment, nor shall males and
 3 females be at the same time allowed in the same apartment.

[C., '97, § 5639.]

SEC. 3404. Keeper's duty.

1 The keeper of the jail shall see that it is kept in a cleanly and
 2 healthy condition, and pay strict attention to the personal cleanliness
 3 of all the prisoners in his custody, as far as may be. Each prisoner
 4 must be furnished daily with sufficient clean water for drink and per-
 5 sonal use, with a clean towel and shirt once a week, and served three
 6 times each day with wholesome food, well cooked, and in ample
 7 quantity.

[C., '51, § 3104; R., '60, § 5123; C., '73, § 4724; C., '97,
 § 5640.]

SEC. 3405. Sheriff's duty.

1 The sheriff must keep a true and exact calendar of all prisoners
 2 committed under his care, which shall contain the names of all per-
 3 sons, their place of abode, the time of their commitment and dis-
 4 charge, the cause and term of commitment, the authority that com-
 5 mitted them, and a description of their person, occupation, education
 6 and general habits. When any prisoner is discharged, such calendar
 7 must show the time when and the authority by which it took place,

8 and if a person escapes, it must state particularly the time and manner
9 thereof.

[C., '51, § 3105; R., '60, § 5124; C., '73, § 4725; C., '97,
§ 5641.]

SEC. 3406. Calendar returned.

1 At the opening of each term of the district court within its county,
2 the sheriff must return a copy of such calendar to the judge thereof.
3 If a sheriff neglects or refuses so to do, he shall be punished by fine not
4 exceeding one hundred dollars.

[C., '51, § 3106; R., '60, § 5125; C., '73, § 4726; C., '97,
§ 5642.]

SEC. 3407. What furnished prisoners.

1 The keeper of each jail must furnish necessary bedding, clothing,
2 fuel and medical aid for all prisoners under his charge and keep an
3 accurate account of the same.

[C., '51, § 3108; R., '60, § 5127; C., '73, § 4727; C., '97,
§ 5643.]

SEC. 3408. Removal in case of fire.

1 When a jail is on fire, or any building contiguous or near thereto,
2 and there is reason to apprehend the prisoners therein may be injured
3 thereby, the sheriff or keeper must remove such prisoners to some safe
4 and convenient place, and there confine them so long as it may be
5 necessary to avoid such danger.

[C., '51, § 3109; R., '60, § 5128; C., '73, § 4728; C., '97,
§ 5644.]

SEC. 3409. Inspectors of jails.

1 The clerk of the district court and county attorney are inspectors
2 of the jails, and have power from time to time to visit and inspect the
3 same and inquire into all matters connected with the government, dis-
4 cipline and police thereof.

[C., '51, § 3110; R., '60, § 5129; C., '73, § 4729; C., '97,
§ 5645.]

SEC. 3410. Visitation.

1 Such inspectors shall visit and examine such prisons twice each
2 year, and at the next term of the district court held in their county
3 present to such court, on the first day of its sitting, a detailed report
4 of the condition of such prisons at the time of such inspection.

[C., '51, § 3111; R., '60, § 5130; C., '73, § 4730; C., '97,
§ 5646.]

SEC. 3411. Report.

1 Such report must state the number of persons confined, for what
2 cause, the number of persons usually confined in one room, the dis-
3 tinction, if any, observed in the treatment of prisoners, the evils found
4 to exist in such prisons, and particularly whether any provision of this
5 chapter has been violated or neglected, and the cause thereof.

[C., '51, § 3112; R., '60, § 5131; C., '73, § 4731; C., '97,
§ 5647.]

SEC. 3412. Right to inspect.

1 The keepers of prisons shall admit the inspectors or either of
2 them into any part thereof, exhibit to them, upon demand, all the
3 books, papers, documents and accounts pertaining thereto, or to the
4 prisoners confined therein, and render them every facility in their
5 power to enable them to discharge their duties.

[C., '51, § 3113; R., '60, § 5132; C., '73, § 4732; C., '97,
§ 5648.]

SEC. 3413. Officers examined.

1 For the purpose of obtaining the necessary information to make
2 the reports above required, the inspectors have power to examine, upon
3 oath to be administered by either of them, any of the officers of the
4 prison, or prisoners therein.

[C., '51, § 3114; R., '60, § 5133; C., '73, § 4733; C., '97,
§ 5649.]

SEC. 3414. Refractory prisoners.

1 If any person confined in a jail upon a conviction or charge of an
2 offense is refractory or disorderly, or if he wilfully destroys or injures
3 any article of bedding or furniture, door, window or any other part of
4 the prison, the sheriff may chain or secure such person, or cause him
5 to be kept in solitary confinement, not more than ten days for any one
6 offense, during which time he may be fed with bread and water only,
7 unless other food is necessary for the preservation of his health.

[C., '51, § 3115; R., '60, § 5134; C., '73, § 4734; C., '97,
§ 5650.]

SEC. 3415. Expenses of jail.

1 All charges and expenses for the safe keeping and maintaining of
2 convicts and persons charged with public offenses, and committed to
3 the jail for examination or trial, shall be allowed by the board of
4 supervisors, except prisoners committed or detained by the authority
5 of the courts of the United States, in which cases the United States
6 must pay such expenses to the county.

[C., '51, § 3116; R., '60, § 5135; C., '73, § 4735; C., '97,
§ 5651.]

SEC. 3416. Hard labor may be required.

1 Able-bodied male persons over the age of sixteen, confined in any
2 jail under the judgment of any tribunal authorized to imprison for
3 the violation of any law, ordinance, by-law or police regulation, may be
4 required to labor during the whole or part of the time of his sentence,
5 as hereinafter provided, and such tribunal, when passing final judg-
6 ment of imprisonment, whether for nonpayment of fine or otherwise,
7 shall have the power to and shall determine whether such imprison-
8 ment shall be at hard labor or not.

[C., '51, § 3107; R., '60, § 5126; C., '73, § 4736; C., '97, § 5652;
S., '13, § 5652.]

SEC. 3417. On highways, public grounds and buildings.

1 Such labor may be on the streets or public roads, on or about pub-
2 lic buildings or grounds, or at such other places in the county where

3 confined, and during such reasonable time of the day, as the person
4 having charge of the prisoners may direct, not exceeding eight hours
5 each day.

[C., '73, § 4737; C., '97, § 5653.]

SEC. 3418. Under whose direction.

1 If the sentence is for the violation of any of the statutes of the
2 state, the sheriff of the county where the imprisonment is shall super-
3 intend the performance of the labor, and furnish the tools and ma-
4 terials, if necessary, to work with, at the expense of the county in
5 which the convict is confined, and such county shall be entitled to his
6 earnings. Such labor shall be performed in accordance with such
7 rules and regulations as may be made by resolution of the board of
8 supervisors, not inconsistent with the provisions of this chapter, and
9 such labor shall not be leased.

[C., '51, § 3107; R., '60, § 5126; C., '73, § 4738; C., '97,
§ 5654.]

SEC. 3419. For violation of city ordinance.

1 When the imprisonment is under the judgment of any court, po-
2 lice court, police magistrate, mayor or other tribunal of a city or town,
3 for the violation of any ordinance, by-law or other regulation thereof,
4 the marshal shall superintend the labor, and furnish the tools and
5 materials, if necessary, at the expense of the city or town requiring
6 the labor, and such city or town shall be entitled to the earnings of its
7 convicts.

[C., '73, § 4739; C., '97, § 5655.]

SEC. 3420. Attempt to escape.

1 The officer having charge of any convicts for the purpose specified
2 in this chapter may use such means as are necessary to prevent es-
3 cape; and if a convict attempts to escape while going from or return-
4 ing to the jail, or while at labor, or at any time, or if he refuses to
5 labor, the officer having him in charge may, to secure such person, or
6 cause him to labor, use the means allowed in case of a disorderly or
7 refractory person confined upon conviction or charged with the com-
8 mission of an offense, such punishment to be inflicted within the jail
9 or jail inclosure, and shall not be considered as any part of the time
10 for which the prisoner is sentenced.

[C., '73, § 4740; C., '97, § 5656.]

SEC. 3421. Credit for labor.

1 For every day's labor performed by any convict under the pro-
2 visions hereof, there shall be credited on any judgment for fine and
3 costs against him the sum of one dollar and fifty cents, and no person
4 shall be entitled to the benefits of the law providing for the liberation
5 of poor convicts if, in the opinion of the sheriff, the judgment may be
6 satisfied by the labor of the person as herein authorized.

[C., '73, § 4741; C., '97, § 5657.]

SEC. 3422. Cruel treatment.

1 If any officer or other person treat any prisoner in a cruel or in-
2 human manner, he shall be punished by fine not exceeding one thou-

3 sand dollars, or by imprisonment in the county jail not exceeding
4 twelve months, or by both such fine and imprisonment.

[C., '73, § 4742; C., '97, § 5658.]

SEC. 3423. Protecting prisoners.

1 The officer having a prisoner in charge shall protect him from
2 insult and annoyance and communication with others while at labor,
3 and going to and returning from the same, and may use such means
4 as are necessary and proper therefor. Any person persisting in in-
5 sulting and annoying or communicating with any prisoner, after be-
6 ing commanded by such officer to desist, shall be punished by a fine not
7 exceeding ten dollars, or by imprisonment not exceeding three days.

[C., '73, § 4743; C., '97, § 5659.]

CHAPTER 23.

TOWNSHIPS AND TOWNSHIP OFFICERS.

SECTION 3424. Supervisors divide county into townships.

1 The board of supervisors of each county shall divide the same
2 into townships, as convenience may require, defining the boundaries
3 thereof, and may from time to time make such alterations in the num-
4 ber and boundaries of the townships as it may deem proper; but if
5 the congressional township lines are not adopted and followed, the
6 board shall not change the lines of any civil township so as to divide
7 any school township or district, unless a majority of the voters of said
8 school township or district shall petition therefor.

[C., '51, § 219; R., '60, § 441; C., '73, §§ 379, 1799; C., '97,
§ 551.]

SEC. 3425. Changing township name—petition—notice.

1 Any township desirous of changing its name may petition the
2 board of supervisors of the county in which such township is situ-
3 ated, and, if it shall appear to said board that a majority of the actual
4 resident voters of such township are in favor of such change, such
5 board shall cause three notices to be posted up in three of the most
6 public places of such township, for at least thirty days previous to the
7 next session of said board, which notice shall state the fact that a
8 petition has been presented to said board by the citizens of said town-
9 ship, praying for a change of the name of the same, and the name
10 prayed for in said petition, and that, unless those interested in the
11 change of such name shall appear at the next regular session of said
12 board and show cause why said name shall not be changed, there will
13 be an order made granting such change; which notice shall be attested
14 by the auditor.

[C., '73, § 412; C., '97, § 580.]

SEC. 3426. Hearing—order.

1 If, at the time fixed for the hearing of said petition, the board is
2 satisfied that there is a majority in favor of such change of name, it
3 shall make an order granting the same, which shall be attested by

4 the auditor, and recorded in the office of the recorder of the county
5 where such township is situated.

[C., '73, § 413; C., '97, § 581.]

SEC. 3427. Petition dismissed—when.

1 If it appears to said board that a majority of the citizens of such
2 township are opposed to such change, such petition shall be dismissed,
3 and the cost of the proceeding in all cases shall be taxed against the
4 petitioners.

[C., '73, § 414; C., '97, § 582.]

SEC. 3428. Boundaries conformed to city boundaries.

1 Where the boundaries of any city have been changed, the board
2 of supervisors of the county in which the same is situated shall have
3 power to change the boundary lines of townships so as to make them
4 conform to the boundaries of the city, and to make such other changes
5 in township lines, and the number of townships, as it may deem nec-
6 essary; but no action shall be taken affecting the boundaries or exist-
7 ing conditions of school districts.

[C., '97, § 552.]

SEC. 3429. Boundaries to be recorded.

1 The description of the boundaries of each township, and of all
2 alterations in them, and of all new townships, shall be recorded in
3 full in the records of the board of supervisors, and of the township.

[C., '51, § 220; R., '60, § 442; C., '73, § 381; C., '97, § 553.]

SEC. 3430. Division where city included—petition—remonstrance.

1 When any township has within its limits a city or town with a
2 population exceeding fifteen hundred inhabitants, the electors of such
3 township residing without the limits of such city or town may, at the
4 January, April, or June session of the board of supervisors of the
5 county, petition to have such township divided into two townships;
6 the one to embrace the territory without, and the other the territory
7 within, such corporate limits; which petition shall be accompanied by
8 the affidavit of three individuals, to the effect that all the signatures
9 to such petition are genuine, and that the signers thereof are all legal
10 voters of said township, residing outside said corporate limits. Re-
11 monstrances signed by such legal voters may also be presented at the
12 hearing before the board of supervisors hereinafter provided for, and
13 if the same persons petition and remonstrate, they shall be counted on
14 the remonstrance only.

[C., '73, § 382; C., '97, § 554.]

SEC. 3431. Notice.

1 Notice of the time when such petition shall be presented shall be
2 given by publication, once each week, for two consecutive weeks in a
3 newspaper published in the township, the last of which publications
4 shall be at least ten days prior to the time fixed for the presentation
5 of such petition; or if no paper is printed in such township, or the
6 papers therein printed refuse to make such publication, the notice
7 herein contemplated shall be given by posting in five public places in

8 the township, two of which shall be without, and three within, such
9 corporate limits.

[C., '73, § 383; C., '97, § 555; S., '13, § 555.]

SEC. 3432. Division—effect.

1 If such petition is signed by a majority of the electors of such
2 township residing without the corporate limits of such city or town,
3 the board of supervisors shall divide such township into two town-
4 ships, as prayed; but, except for election purposes, including the ap-
5 pointment of all judges and clerks of election rendered necessary by
6 the change, such division shall not take effect until the first Monday
7 of January next ensuing. But when the citizens of any township so
8 set off desire to dissolve their township organization and return again
9 to the township from which they were taken, they may do so by the
10 same proceedings as provided for the division thereof, except that
11 said petition shall be signed by a majority of the electors of both
12 townships.

[C., '73, § 384; C., '97, § 556.]

SEC. 3433. New township—first election.

1 When a new township is formed, the board of supervisors shall
2 call the first township election, to be held at such place as it may des-
3 ignate, on the day of the next general election.

[C., '51, § 231; R., '60, § 453; C., '73, § 385; C., '97, § 557.]

SEC. 3434. Auditor to issue warrant for.

1 The auditor shall issue a warrant for such first election, stating
2 the time and place of the same, the officers to be elected, and any other
3 business which is to be attended to; and no other business shall be
4 done than such as is so named.

[C., '51, § 232; R., '60, § 454; C., '73, § 386; C., '97, § 558.]

SEC. 3435. Service and return.

1 Such warrant may be directed to any constable of the county, or
2 to any citizen of the same township, by name, and shall be served by
3 posting up copies thereof, in three of the most public places in the
4 township, fifteen days before the day of the election; the original war-
5 rant shall be returned to the presiding officer of the election, to be
6 returned to the clerk when elected, with a return thereon of the man-
7 ner of service, verified by oath, if served by any other than an officer.

[C., '51, § 233; R., '60, § 455; C., '73, § 387; C., '97, § 559.]

SEC. 3436. Township and city coterminous—clerk and trustees abolished.

1 Where a town or a city, not acting under a special charter, con-
2 stitutes one or more civil townships the boundary lines of which coin-
3 cide throughout with the boundary lines of the town or city, the offices
4 of township clerk and trustee are abolished.

[C., '97, § 560; S., '13, § 560.]

SEC. 3437. Clerk and council to act.

1 The duties required by law of the township clerk in such cities
 2 shall be performed by the city clerk, and those required of the board
 3 of trustees shall be performed by the city council.

[C., '97, § 561.]

SEC. 3438. Township funds go to city.

1 The moneys and assets belonging to such civil township shall be-
 2 come the moneys and assets of the city or town in which said civil
 3 township is situated; and the township clerks shall turn such moneys
 4 and assets over to the city or town treasurer, to be disbursed by such
 5 city or town in the same manner and for the same purposes as re-
 6 quired by law for the disposition of township funds, and such cities
 7 or towns shall assume all liabilities of a civil township to which the
 8 provisions of this section shall apply.

[C., '97, § 562.]

SEC. 3439. County treasurers to pay.

1 County treasurers are hereby authorized to pay over to the city
 2 or town treasurers which come under the provisions of the three pre-
 3 ceding sections all moneys collected for the road fund, or other funds
 4 which would otherwise be paid over to the township clerks of such
 5 townships.

[C., '97, § 563.]

SEC. 3440. Trustees—duties.

1 The township trustees are the overseers of the poor, fence view-
 2 ers, and the township board of equalization, and board of health, and
 3 shall have charge of all cemeteries within the limit of their townships
 4 dedicated to public use, when the same are not controlled by other
 5 trustees or incorporated bodies. The township trustees of each town-
 6 ship shall meet on the first Monday in February and on the first Mon-
 7 day in April, or as soon thereafter as the assessment book is received
 8 by the township clerk and on the first Monday in November in each
 9 year.

[C., '51, § 224; R., '60, §§ 446, 880; C., '73, §§ 393, 969; C.,
 '97, §§ 574, 1528; S., '13, § 1528.]

SEC. 3441. Trustees may employ counsel—county attorney may act when interests are not adverse.

1 When litigation shall arise, involving the right or duty of town-
 2 ship trustees to certify or levy taxes which have been authorized upon
 3 expressed conditions, then in such cases, if the trustees are made parties
 4 to said litigation, they shall have authority to employ attorneys in
 5 behalf of said township, and are further authorized to levy the neces-
 6 sary tax to pay for said legal services, and to defray the unavoidable
 7 expenses of said litigation; in counties having a population of less
 8 than twenty-five thousand, where the trustees are made parties to
 9 litigation arising by reason of the performance of their duties, as pro-
 10 vided in this chapter, the county attorney, as a part of his official du-
 11 ties, shall appear in behalf of the township trustees. But if the in-
 12 terests of the county and the trustees are adverse, then in such event,
 13 the county attorney shall not appear for said trustees, but they may

14 employ other counsel and pay the expense thereof out of the fund cre-
15 ated by this chapter.

[C., '97, § 564; S., '13, § 564.]

SEC. 3442. Places for holding elections.

1 The trustees shall designate the place where elections will be
2 held, and the board of supervisors shall allow a reasonable compensa-
3 tion for the use thereof. When a change is made from the usual place
4 of holding elections in the township, notice of such change shall be
5 given by posting up notices in three public places in the township,
6 ten days prior to the day on which the election is to be held.

[C., '51, § 222; R., '60, § 444; C., '73, § 391; C., '97, § 566.]

SEC. 3443. Township trustees—power to contract for use of public libraries—tax—annual levy.

1 The township trustees of any civil township shall have power to
2 contract with any free public library for the free use of such library
3 by the residents of said township, as provided in this section and to
4 pay such library the amount agreed therefor, and to levy annually, at
5 the April meeting, a tax not exceeding one mill on the dollar on the
6 taxable property of the township, the fund derived from which shall
7 constitute a special fund to be known as the library fund, and shall
8 be used exclusively for the purposes contemplated in this section.
9 When a majority of the resident taxpayers, as shown by the last pre-
10 ceding assessment list of such civil township, petition the trustees
11 thereof in writing to enter into such contract, and such library gives
12 its written consent thereto, it shall be the duty of such trustees to
13 execute such contract. When any such contract is made, whether on
14 petition of the resident taxpayers or without such petition, a tax in
15 an amount sufficient to pay such library the consideration agreed upon,
16 not exceeding one mill on the dollar, shall be annually levied by such
17 trustees and their successors, until such contract is terminated by its
18 own provisions or by a majority vote of the electors of such township.

[S., '13, § 592-a.]

SEC. 3444. Trustees condemn lands—receive gifts.

1 The township trustees are hereby empowered to condemn, or
2 purchase and pay for out of the general fund, and enter upon and
3 take, any lands within the territorial limits of such township for the
4 use of cemeteries, in the same manner as is now provided for cities
5 and towns. Civil townships are hereby authorized and empowered to
6 receive by gift, devise, or bequest, money or property for the purpose
7 of establishing and maintaining libraries, township halls, cemeteries,
8 or for any other public purpose. All such gifts, devises, or bequests
9 shall be effectual only when accepted by resolution of the board of
10 trustees of such township.

[C., '97, § 585; S., '13, § 585.]

SEC. 3445. Tax to pay for—adjoining townships.

1 They shall, at the regular meeting in April, levy a tax sufficient
2 to pay for any such lands so condemned or purchased, or for the nec-
3 essary improvement and maintenance of cemeteries thus established,
4 and for the necessary improvement and maintenance of public parks
5 acquired by gift, devise or bequest under the preceding section, or

6 for the maintenance and improvement of cemeteries so established in
 7 adjoining townships in case they deem such action advisable. They
 8 shall have power and it shall be their duty to control any such ceme-
 9 teries, or appoint trustees for the same, or sell them to any private
 10 corporation for cemetery purposes. They shall also have power, and
 11 it shall be their duty, to levy a tax not to exceed one mill to improve
 12 and maintain any cemetery not owned by the township, provided the
 13 same is devoted to general public use. The levy herein authorized
 14 may be extended to property within the limits of any city or town so
 15 far as same is situated within the township, unless such city or town
 16 is already maintaining a cemetery, or has levied a tax in support
 17 thereof. And the said tax may be so expended for the support and
 18 maintenance of any such cemetery after the same has been abandoned
 19 and is no longer used for the purpose of interring the dead.

[C., '97, § 586; S. S., '15, § 586; 38 G. A., ch. 218, § 1.]

SEC. 3446. Regulations for cemeteries—record.

1 The trustees, board of directors, or other officers having the
 2 custody and control of any cemetery in this state, shall have power,
 3 subject to the by-laws and regulations of said cemetery, to inclose,
 4 improve and adorn the grounds of such cemetery; to construct ave-
 5 nues in the same; to erect proper buildings for the use of said ceme-
 6 tery; to prescribe rules for the improving or adorning the lots therein,
 7 or for the erection of monuments or other memorials of the dead upon
 8 such lots; and to prohibit any use, division, improvement or adorn-
 9 ment of a lot which they may deem improper. It shall be the duty of
 10 the record keeping officer of each cemetery to make and keep a per-
 11 manent record of all interments made in such cemetery, which record
 12 shall at all times be open to public inspection.

[C., '97, § 587; S. S., '15, § 587.]

SEC. 3447. Record—of what it shall consist.

1 This record shall consist of a copy of the certificate of death as
 2 provided by the state board of health, and a record of the exact loca-
 3 tion of grave on cemetery lot.

[S. S., '15, § 587-a.]

SEC. 3448. Duty of physician and undertaker.

1 It shall be the duty of the attendant physician to furnish, and of
 2 the undertaker to procure from him, a certificate of death before pro-
 3 ceeding with the burial; and it shall be the duty of the undertaker to
 4 present to the sexton or other person in charge of the cemetery, at or
 5 before the time of interment, a copy of such death certificate.

[S. S., '15, § 587-b.]

SEC. 3449. Watchmen—police powers.

1 It shall be lawful for the trustees, directors or other officers hav-
 2 ing the custody and control of any cemetery in this state to appoint
 3 as many day and night watchmen of their grounds as they may think
 4 expedient, and such watchmen, and also all their sextons, superin-
 5 tendents, gardeners and agents, stationed upon or near said grounds,
 6 are hereby authorized to take and subscribe, before any mayor of a
 7 city or justice of the peace of the township where such cemetery is
 8 situated, an oath of office, similar to that required by law of con-

9 stables, and, upon the taking of such oath, such watchmen, sextons,
 10 superintendents, gardeners and agents shall have, exercise and pos-
 11 sess all the powers of police officers within and adjacent to the ceme-
 12 tery grounds, and they and each of them shall have power to arrest
 13 any and all persons engaged in violating the laws of this state in ref-
 14 erence to the protection, care and preservation of cemeteries, and of
 15 the trees, shrubbery, plants, structures, grass and adornments therein,
 16 and to bring such person so offending before any justice of the peace
 17 within such township, to be dealt with according to law.

[C., '97, § 589.]

SEC. 3450. Clerk to keep record—to handle funds.

1 The township clerk shall keep a record of all the proceedings and
 2 orders of the trustees, and of all acts done by him, including the filing
 3 of certificates of official oaths having been taken before other officers,
 4 and perform such other acts as may be required of him by law. It
 5 shall be the duty of each township clerk to receive, collect, preserve,
 6 and disburse, under the orders of the township trustees, all funds
 7 belonging to his township, including the cemetery fund, and those
 8 which are now or may hereafter be by law created or authorized. He
 9 shall deposit in the name of and to the credit of the township of which
 10 he is clerk at interest all funds coming into his hands by virtue of his
 11 office, in a bank conveniently located; the rate of interest to be at
 12 least two per cent per annum on ninety per cent of the daily balances,
 13 payable at the end of each month, all of which interest shall accrue
 14 to the benefit of the road fund of the township. No check shall be
 15 drawn upon said township bank account by the township clerk, except
 16 it be in payment of bills which have come before and have been properly
 17 audited or authorized by the township board of trustees.

[C., '51, §§ 223, 226, 227; R., '60, §§ 445, 448, 449; C., '73,
 §§ 392, 395, 396; C., '97, § 576; S., '13, § 576; 38 G. A.,
 ch. 261, § 1.]

SEC. 3451. Notify auditor of elections.

1 The clerk, immediately after the election of officers in his town-
 2 ship, shall send a written notice thereof to the county auditor, stating
 3 the names of the persons elected, and to what offices, and the time of
 4 the election, and shall enter the time of the election of each officer in
 5 the township record.

[C., '51, § 228; R., '60, § 450; C., '73, § 397; C., '97, § 577.]

SEC. 3452. Post notice of receipts and expenditures.

1 Each township clerk, on the morning of the day of the general
 2 election and before the hour for opening the polls, shall post up, at
 3 the place where such election is to be held in his township, a statement
 4 in writing, showing all receipts of money and disbursements in his
 5 office for the preceding two years, which shall be certified as correct
 6 by the trustees of the township.

[C., '97, § 578; S. S., '15, § 578.]

SEC. 3453. Cemeteries—plat—record.

1 Where there is located in any township one or more cemeteries,
 2 the owner or owners of the same, or any party or parties owning an
 3 interest therein, may cause the same to be surveyed, platted, and laid

4 out into subdivisions and lots, numbering the same by progressive
 5 numbers, giving the dimensions, length and breadth thereof, with ref-
 6 erence to known or permanent monuments to be made; and which plat
 7 shall accurately describe all the subdivisions of the tract of land used
 8 or designed to be used as a cemetery. Said plat shall be recorded in
 9 the office of the county recorder, and filed with and recorded by the
 10 township clerk, and preserved by him among the records of his office.
 [C., '97, § 583.]

SEC. 3454. Conveyance of lots—record of.

1 All conveyances of subdivisions or lots of a cemetery thus platted
 2 shall be by deed from the proper owner, which deed shall be recorded
 3 with the township clerk in a book kept by him for that purpose, for
 4 the recording of which the said clerk shall be entitled to a fee of fifty
 5 cents for each instrument recorded, to be paid by the party desiring
 6 the record made.

[C., '97, § 584.]

SEC. 3455. Constables—duties.

1 Constables are ministerial officers of justices of the peace, and
 2 shall serve all warrants, notices or other process directed to them by
 3 and from any lawful authority, and perform all other duties now or
 4 hereafter required of them by law.

[C., '51, §§ 229, 230; R., '60, §§ 451, 452; C., '73, §§ 398, 399;
 C., '97, § 579.]

SEC. 3456. Refusing to serve—penalty.

1 Any person elected to a township office, and refusing to qualify
 2 and serve, shall forfeit the sum of five dollars, which may be recov-
 3 ered by action in the name of the county for the use of the school fund
 4 in the county, but no person shall be compelled to serve as a township
 5 officer two terms in succession.

[C., '51, § 225; R., '60, § 447; C., '73, § 394; C., '97, § 575.]

SEC. 3457. Compensation of trustees.

1 Township trustees shall receive:
 2 1. For each day's service of eight hours necessarily engaged in
 3 official business, to be paid out of the county treasury, three dollars
 4 each; provided, however, that in townships embraced entirely within
 5 the limits of special charter cities, the compensation of township trust-
 6 ees shall be four dollars per day.
 7 2. For each day engaged in assessing damages done by trespass-
 8 ing animals, one dollar each, to be paid as other costs are in such cases.
 9 3. When acting as fence viewers, or viewing or locating any ditch
 10 or drain, or in any other case where provision is made for their pay-
 11 ment otherwise, they shall not be paid out of such treasury, but in
 12 all such cases their fees shall be paid in the first instance by the party
 13 requiring their services, and they shall append to the report of their
 14 proceedings a statement thereof, and therein shall direct who shall
 15 pay said fees, and in what sums respectively; and the party having
 16 so advanced any such fees may have his action therefor against the

17 party so directed to pay the same, unless, within ten days after de-
 18 mand by the party entitled thereto, he shall be reimbursed therefor.
 [C., '51, § 2548; R., '60, § 4156; C., '73, § 3808; C., '97, § 590;
 S., '13, § 590; 37 G. A., ch. 76, § 1.]

SEC. 3458. Compensation of clerk.

1 The township clerk shall receive:
 2 1. For each day of eight hours necessarily engaged in official
 3 business, where no other compensation or mode of payment is pro-
 4 vided, to be paid from the county treasury, three dollars; provided,
 5 however, that in townships embraced entirely within the limits of
 6 special charter cities, the compensation of township clerks shall be
 7 four dollars per day.
 8 2. For all money coming into his hands by virtue of his office,
 9 except money received from his predecessor in office, unless otherwise
 10 provided by law, two per cent.
 11 3. For filing each application for a drain or ditch, fifty cents.
 12 4. For making out and certifying the papers in any appeal taken
 13 from an assessment by the trustees of damages done by trespassing
 14 animals, such additional compensation as the board of supervisors
 15 may allow.
 [C., '51, § 2548; R., '60, §§ 909, 911; C., '73, § 3809; C., '97,
 § 591; S., '13, § 591; 37 G. A., ch. 76, § 2.]

SEC. 3459. Compensation of assessor.

1 Each township assessor shall receive in full for all services re-
 2 quired of him by law, a sum to be paid out of the county treasury,
 3 and fixed annually by the board of supervisors at their January ses-
 4 sion; said compensation shall be for the succeeding year, and shall
 5 not exceed the sum of three and one-half dollars for each day of eight
 6 hours which said board determines may necessarily be required in the
 7 discharge of all official duties of such assessors, except in townships
 8 having a population of thirty thousand or over, and situated entirely
 9 within the limits of a city acting under special charter, such compen-
 10 sation shall be four dollars per day.
 [R., '60, § 730; C., '73, § 3810; C., '97, § 592; S., '13, § 592;
 37 G. A., ch. 76, § 3.]

CHAPTER 24.

TOWNSHIP HALLS.

SECTION 3460. Township hall—submission to vote.

1 The trustees, on a petition of a majority of the resident freehold-
 2 ers of any civil township, shall submit the question of building a public
 3 hall to the electors thereof, by posting notices of such election in four
 4 conspicuous places in the township, thirty days before election, and
 5 the form of the proposition shall be: "Shall the proposition to levy
 6 a tax for the erection of a public hall be adopted?"
 [C., '97, § 567.]

SEC. 3461. Tax to build.

1 If a majority of the votes cast are in favor of the tax, the trustees
2 shall certify such fact to the board of supervisors, and they shall there-
3 upon levy not to exceed three mills on the dollar on the taxable prop-
4 erty of the township; and when such tax is collected by the treasurer,
5 it shall be paid to the township clerk; but said clerk shall not receive
6 to exceed one per cent for handling said money.

[C., '97, § 568.]

SEC. 3462. Township hall funds — transfer authorized — how made.

1 When there are funds in the hands of any township clerk, raised
2 under the provisions of this chapter relating to building public town-
3 ship halls, when same is not desired for the purposes set forth, then
4 said fund may be transferred to the road fund of any township wherein
5 same was raised, when a petition is presented to the trustees, signed
6 by a majority of the electors of said township that voted at the last
7 regular election prior to the signing of said petition, as shown by the
8 poll books of said township, said transfer of funds to be made by the
9 township clerk, upon the filing of said petition with said clerk, upon
10 order of the trustees.

[S., '13, § 592-b.]

SEC. 3463. Location.

1 Any public hall built under the provisions of this chapter shall
2 be located by the township trustees so as to accommodate the greatest
3 number of the resident taxpayers, and for such purpose the trustees
4 may purchase land not to exceed in value one hundred dollars.

[C., '97, § 569.]

SEC. 3464. Trustees to build.

1 The township trustees shall have charge of the building of such
2 hall, shall receive bids, and shall let the building of the same to the
3 lowest responsible bidder, and the township clerk shall pay out of the
4 funds collected, only on the order of the trustees of said township.

[C., '97, § 570.]

SEC. 3465. Clerk to be custodian.

1 The township clerk, under the direction of the trustees, shall be
2 the custodian of the building, and the use thereof may be permitted
3 by the township trustees to all the citizens of the township for all law-
4 ful purposes; and, for the purposes of this chapter, the township
5 clerk is hereby clothed with all the power and duties of a constable of
6 the township, to maintain order within and about the premises, pro-
7 tect the property, and enforce orders of the township trustees with
8 respect thereto. A copy of this section shall be at all times kept
9 posted in a conspicuous place in said hall.

[C., '97, § 571.]

SEC. 3466. Clerk to give bond.

1 When a tax is voted as provided in this chapter, the township
2 clerk shall, before drawing any of said tax from the treasury of the

3 county, execute a bond, with penalty double the amount of said tax,
4 which bond shall be approved by the board of supervisors.

[C., '97, § 572.]

SEC. 3467. Tax for repairs.

1 The trustees of any township where such building has been
2 erected are hereby authorized and empowered to certify to the board
3 of supervisors that a tax of not exceeding one-half mill on the dollar
4 in any one year, of the taxable property of the township, should be
5 levied, to be used in keeping such building in repair, to furnish same
6 with necessary furniture and provide for the taking care thereof.
7 When such certificate is filed in the auditor's office, the board of super-
8 visors shall levy such tax.

[C., '97, § 573.]

TITLE XIII.

CITY AND TOWN GOVERNMENT.

CHAPTER 1.

INCORPORATION.

SECTION 3468. How effected.

1 When the inhabitants of part of any county, or of two or more
2 counties lying contiguous to each other, not embraced within the
3 limits of any city or town, desire to become incorporated as a town,
4 they may apply to the district court of the proper county, by a petition
5 in writing signed by not less than twenty-five of the qualified electors
6 of the territory proposed to be embraced in such town, which petition
7 shall describe said territory, and contain or have annexed thereto an
8 accurate plat thereof, and shall state the name proposed for such
9 town. Proof of the residence and qualification of the petitioners as
10 electors shall be made by affidavit or otherwise, as directed by the
11 court. If the territory embraced within the limits of said proposed
12 town lies in more than one county, the district court of either of said
13 counties shall have jurisdiction of such proceedings, but that in which
14 the petition for incorporation is first filed shall have exclusive jurisdic-
15 tion thereafter.

[R., '60, § 1031; C., '73, § 421; C., '97, § 599.]

SEC. 3469. Commissioners—notice.

1 Upon compliance with the provisions of the preceding section, the
2 court shall at once appoint five commissioners, who shall at once give
3 notice of an election for incorporation, for not less than three suc-
4 cessive weeks preceding the same, by posting notices in three public
5 places within the limits of the proposed town, and by publication, once
6 each week, for three consecutive weeks in one or more newspapers pub-
7 lished in the county where the court is held; which notice shall state
8 the time and place of holding the election, and a description of the
9 limits of the proposed town, and that a plat and description thereof is
10 on file in the office of the clerk of the district court. The court is
11 vested with power to change or limit the territory proposed to be
12 incorporated, before appointing the commissioners as herein provided.

[R., '60, § 1032; C., '73, § 422; C., '97, § 600; S., '13, § 600.]

SEC. 3470. Election.

1 The commissioners shall act as judges and clerks of the election,
2 and shall qualify as required by law, and the proposition to be sub-
3 mitted thereat shall be: "Shall the proposition for incorporation be
4 adopted?" and the commissioners shall have charge of the printing of
5 the ballots, and shall cause the proposition to be placed upon them,
6 and the elector shall designate his vote in the same manner provided

7 with respect to like or similar propositions in the title on elections.
 8 The commissioners shall promptly report the result of the election to
 9 the court, or judge thereof, which may be confirmed and approved, or
 10 set aside, by said court, or judge in vacation. If it is set aside, the
 11 court or judge thereof may order a new election with the same or other
 12 commissioners.

[R., '60, § 1032; C., '73, § 422; C., '97, § 601.]

SEC. 3471. Notice of election of officers—council to elect assessors.

1 If a majority of the ballots cast at such election be in favor of
 2 the incorporation, and the same has been confirmed and approved as
 3 above provided, the court, or a judge thereof in vacation, shall order
 4 the election of a council, mayor, clerk and treasurer. The commis-
 5 sioners shall give notice for two consecutive weeks of the time and
 6 place of holding the election of councilmen and the aforesaid officers,
 7 by publication, once each week, in a newspaper published in the county
 8 where the court is held, and by posting the same in five public places
 9 within the limits of such town, at which the qualified electors residing
 10 within such limits shall elect such councilmen and officers, who shall
 11 hold their offices until the first regular election thereafter. Said com-
 12 missioners shall act as judges and clerks of the election, and shall have
 13 the same power and discharge the same duties as clerks in city or town
 14 elections, and such election shall be conducted, as far as practicable,
 15 in the manner prescribed by law for the election of town councilmen
 16 and officers. When the election of town officers as provided by this
 17 section shall be held on, or after the date of the annual election for
 18 towns and prior to January first, following, the council of said town so
 19 elected and confirmed by the court shall, at a regular meeting held
 20 prior to the first day of November following their election, elect an
 21 assessor for said town, who shall hold office for one year commencing
 22 on the first day of January next after his said election. The council
 23 shall elect the said assessor in the manner provided by subdivision
 24 nine of section thirty-five hundred forty-one.

[R., '60, §§ 1033, 1034, 1037; C., '73, §§ 423, 425; C., '97,
 § 602; S., '13, § 602.]

SEC. 3472. Incorporation complete.

1 Said commissioners shall promptly report the result of the elec-
 2 tion to the court, and it, or a judge thereof in vacation, may confirm
 3 and approve such election and report, or set the same aside and order
 4 a new election, with the same or other commissioners. Upon the con-
 5 firmation of such election and report, a judgment shall be entered of
 6 record declaring the town duly incorporated, and confirming and
 7 approving the first election of officers; who, after having qualified as
 8 provided for city officers, shall hold until the next annual election of
 9 officers. The court or judge shall declare the office of any person
 10 elected, and who fails to qualify as such as aforesaid, vacant, and
 11 shall at once proceed to appoint some other person to fill such vacancy.
 12 The clerk shall enter all the proceedings in the court in the matter
 13 of such incorporation and election of officers in the complete record
 14 book and file a certified copy of such entry in the office of the recorder
 15 of said county, who shall record the same, and in the office of the
 16 secretary of state. The costs of all the aforesaid proceedings shall be
 17 paid by the town; but if no judgment is entered establishing the

18 town, they shall be paid by the petitioners, and judgment entered
19 accordingly.

[R., '60, § 1035; C., '73, § 424; C., '97, § 603.]

SEC. 3473. Discontinuance—how effected.

1 Upon a petition of voters equaling twenty-five per cent of the
2 number voting at the last preceding municipal election, petitioning
3 the district court of the county wherein such corporation is situated
4 for the discontinuance of the same, the court shall, thirty days next
5 prior to the next annual corporation election, cause notice to be given
6 that the question of discontinuing such corporation will be submitted
7 to the legal voters of the same at the next annual corporation election,
8 by publication at least once a week in a newspaper, if any, published
9 within the limits of such city or town, and by posting the same in five
10 public places within such limits. The proposition to be submitted shall
11 be: "Shall the proposition to discontinue the incorporation be
12 adopted?" and the clerk of the city or town shall cause the ballots to
13 be printed and the proposition to be placed thereon, and the elector
14 shall designate his vote and the election shall be conducted in the
15 same manner provided with respect to like or similar propositions in
16 the title on elections.

[C., '73, §§ 447, 448; C., '97, § 604.]

SEC. 3474. Canvass of vote—indebtedness.

1 The vote shall be taken and canvassed in the same manner as
2 other municipal elections, and returns thereof made to the district
3 court. If it finds that a majority of the legal votes cast were for the
4 discontinuance of the incorporation, then a judgment shall be entered
5 discontinuing the same, and, upon the entry of said judgment, its
6 corporate powers shall cease, and the court shall cause notice to be
7 given, in a manner to be prescribed by it, requiring all claims against
8 the corporation to be filed in said court within a time fixed in the
9 notice, not exceeding six months, and all claims not so filed shall be
10 forever barred. At the expiration of the time so fixed, the court shall
11 adjudicate said claims, which shall be treated as denied. Any citizen
12 of such town or city at the time the vote was taken may appear and
13 defend against any claim so filed, or the court may, in its discretion,
14 appoint some person for this purpose, in which event the proceedings
15 shall conform as near as may be, to those prescribed for the prosecu-
16 tion of actions by ordinary proceedings.

[C., '73, §§ 449, 450; C., '97, § 605.]

SEC. 3475. Payment of debts—surplus.

1 The court shall have full power to wind up the affairs of the cor-
2 poration, to dispose of its property, and to make provision for the pay-
3 ment of all indebtedness thereof, and for the performance of its con-
4 tracts and obligations, and shall order such taxes levied from time to
5 time as may be requisite therefor, which the board of supervisors shall
6 levy against the property within the corporation. Said taxes shall be
7 collected by the county treasurer like other taxes, and paid out under
8 the orders of the court, and any surplus shall be paid into the tempo-
9 rary school fund of the district or districts where the same is levied.

[C., '73, §§ 449, 453; C., '97, § 606.]

SEC. 3476. Records deposited.

1 The books, documents, records, papers and corporate seal of any
 2 city or town so discontinued shall be deposited with the county auditor
 3 of the county in which the council last held its sessions, for safe keep-
 4 ing and reference in future. All court records of any mayor or other
 5 officer shall be deposited with the nearest justice in the township in
 6 the county where the office of mayor or other officer is situated, who
 7 shall have authority to execute and complete all unfinished business
 8 standing on the same.

[C., '73, § 451; C., '97, § 607.]

SEC. 3477. Publication.

1 When the incorporation of any city or town shall have been dis-
 2 continued, the clerk of the court shall cause a notice thereof to be
 3 published, once each week, for four consecutive weeks in a news-
 4 paper published in the county where the court is held, and shall also
 5 certify the fact to the secretary of state and to the recorder of the
 6 county.

[C., '73, § 452; C., '97, § 608; S., '13, § 608.]

SEC. 3478. Expenses.

1 All expenses of the election and of winding up the affairs of the
 2 corporation shall be paid by it.

[C., '73, § 450; C., '97, § 609.]

SEC. 3479. Annexation—submission of question.

1 When any city or town shall desire to annex any unplatted con-
 2 tiguous territory, the council may, by an ordinance describing by metes
 3 and bounds the territory proposed to be annexed, passed at least one
 4 month before the annual election, submit thereat the question of
 5 annexation to the qualified electors of such corporation. The proposi-
 6 tion to be submitted shall be: "Shall the proposition to annex the ter-
 7 ritory described in the ordinance of (giving the date of its passage) be
 8 adopted?" The ballots shall be printed and the proposition submitted
 9 in the manner provided for in section thirty-four hundred seventy-
 10 three. If a majority of those voting shall favor it, the council shall
 11 present to the district court a petition praying for such annexation,
 12 which shall describe the territory proposed to be annexed, and have
 13 attached thereto a plat thereof; and like proceedings shall be had
 14 upon said petition as are provided for the incorporation of towns, so
 15 far as may be applicable; and if the result of the election be favorable
 16 to annexation, the same record and certified copies thereof shall be
 17 made and filed as provided in case of incorporation. Should the
 18 annexed territory, or any part thereof, be in a different county from
 19 that where the court is held, such certified copy shall be filed and
 20 recorded in the office of the recorder of such county. Thereupon the
 21 territory proposed to be annexed shall be included in said corporation.

[R., '60, § 1043; C., '73, § 430; C., '97, § 610.]

SEC. 3480. By proceedings in court.

1 When any city or town shall desire to annex abutting and con-
 2 tiguous territory which has been laid out in lots or parcels, not within
 3 the limits of a city or town, the council thereof may present to the
 4 district court of the county in which the city or town is situated a

5 petition, describing the territory to be annexed, and stating that the
6 same had been laid out as above mentioned, the facts constituting the
7 desirability of annexation, the name of each owner of any portion
8 thereof, if there is more than one such owner, and the particular por-
9 tion of such territory owned by each, which petition shall have
10 attached thereto a plat thereof. Notice of the filing of such petition
11 shall be served, by publication in one newspaper published in the city
12 or town, once each week, for four consecutive weeks, and by posting
13 in five public places in the territory desired to be annexed for the same
14 period; the corporation shall be plaintiff, the owners defendants, and
15 issues joined and the case tried as an ordinary action, as far as appli-
16 cable, except that no judgment for costs shall be rendered against any
17 defendant who does not make defense. If the court finds the allega-
18 tions of the petition true, and that justice requires the annexation of
19 said territory or any part thereof, a decree shall be entered accord-
20 ingly, and from that time the territory therein described shall be
21 included in such corporation. The same record and certified copies
22 shall be made and filed as provided in the preceding section.

[C., '73, § 431; C., '97, § 611.]

SEC. 3481. Corporations unite.

1 When any city or town desires to be annexed to another and con-
2 tiguous city or town, the council of each shall appoint three commis-
3 sioners to arrange and report to the respective councils the terms and
4 conditions on which the proposed annexation can be made; and if the
5 council of each approve of the terms and conditions proposed, they
6 shall by proper ordinance so declare. Thereupon the council of each
7 of such cities or towns, by one publication of each of said ordinances
8 in a newspaper, if any, published in each of such cities or towns, and
9 by posting the same in five public places in each of such cities or
10 towns, at least ten days prior to the general annual election, or at a
11 special election therein, may submit the question of annexation, upon
12 the terms and conditions proposed, to the electors of their respective
13 cities or towns. The proposition to be submitted at such election shall
14 be: "Shall the proposition for the annexation of (naming the city or
15 town) to (naming the city or town) be adopted?" The clerk of each
16 city or town shall cause the ballots to be printed and the proposition
17 to be placed on the same, and the elector shall designate his vote and
18 the election shall be conducted in the manner provided in like or similar
19 cases in the title on elections. If a majority of the votes cast in each
20 city or town is in favor of annexation, the council of each shall by
21 ordinance so declare; and a certified copy of the whole proceedings
22 for annexation of the city or town to be annexed being filed with the
23 clerk of the city or town to which the annexation is made, the latter
24 shall file with the secretary of state, and in the recorder's office of the
25 county, a certified copy of all proceedings had by both of such cities
26 or towns in relation thereto, and which shall be recorded in the
27 recorder's office.

[R., '60, § 1044; C., '73, § 432; C., '97, § 612.]

SEC. 3482. Annexation complete.

1 When certified copies of the proceedings are so filed, the annexa-
2 tion shall be complete, and the city or town to which the annexation
3 is made shall have the power, and it shall be its duty, to pass such

4 ordinance as will carry into effect such annexation, and thereafter the
 5 city or town annexed shall be a part of the city or town to which the
 6 annexation is made. Any citizen of the annexed town or city may
 7 maintain legal proceedings to compel the city or town, and the council
 8 thereof, to which annexation is made, to execute such terms and condi-
 9 tions, but such annexation shall not affect or impair any rights or
 10 liabilities then existing for or against either of such cities or towns,
 11 and they may be enforced as hereinafter provided.

[R., '60, § 1045; C., '73, § 433; C., '97, § 613.]

SEC. 3483. Indebtedness—how paid.

1 All present indebtedness of the city to which annexation is
 2 made shall be paid by such city by a tax to be levied exclusively upon
 3 the property subject to taxation within the limits of the same as it
 4 existed prior to such annexation, and none of the real estate or prop-
 5 erty embraced within the limits of the annexed city or town shall ever
 6 be subjected, in any way, to the payment of any part of said indebt-
 7 edness. The indebtedness of the city or town annexed shall be paid
 8 by such city or town, and the council of the city as it exists after
 9 annexation is authorized, and it is made its duty, to provide for the
 10 payment of such indebtedness by the levy of taxes upon the property
 11 subject to taxation within the limits of such city or town so annexed,
 12 and to continue such tax from year to year so long as the same shall
 13 be necessary; but if such city or town owns any real estate, the fair
 14 market value thereof at the time of its annexation shall be credited
 15 upon its said indebtedness, and the amount of such credit shall be
 16 assumed and paid by such city as it exists after annexation, and such
 17 property shall become the property of such city as enlarged. Suits to
 18 enforce claims or demands existing at the time of annexation against
 19 the city or town annexed may be prosecuted or brought against the
 20 city or town to which annexation is made, and judgments obtained
 21 shall be paid as hereinbefore provided for the payment of the indebt-
 22 edness of such annexed city or town.

[C., '97, § 614.]

SEC. 3484. Extension—how effected.

1 Any city or town may have its limits enlarged by resolution of the
 2 council, fixing the boundaries of the city or town, to the proposed
 3 extent, which shall, as far as practicable, be terminated by straight
 4 lines drawn parallel, respectively, to the corresponding lines of the
 5 government survey, and the question must then be submitted to the
 6 vote of the electors of the city or town as thus proposed to be
 7 enlarged, on a day fixed by resolution of the council, and notice thereof
 8 given by proclamation of the mayor of the time and place of holding
 9 the same, setting forth the exact question to be presented to the
 10 electors for determination, which shall be published in some newspaper
 11 published in said city or town, once each week, for four weeks, consecu-
 12 tively; provided, however, that where no newspaper is published in
 13 such city or town, such proclamation shall be posted for an equal
 14 length of time in five public places within the corporate limits of said
 15 city or town, one of which shall be on the door of the mayor's office.
 16 The council shall select three judges and two clerks for said election,
 17 whose duties shall be the same as prescribed by law for judges and
 18 clerks of election. If at such election a majority of the votes cast

19 are for such extension, the mayor shall issue a proclamation announc-
20 ing that fact, and from thenceforth the limits of said city or town shall
21 be enlarged as proposed.

[C., '97, § 615; S., '13, § 615.]

SEC. 3485. Taxation of lands.

1 No lands included within said extended limits which shall not
2 have been laid off into lots of ten acres or less, or which shall not sub-
3 sequently be divided into parcels of ten acres or less by the extension
4 of streets and alleys, and which shall also in good faith be occupied
5 and used for agricultural or horticultural purposes, shall be taxable for
6 any city or town purpose, except that they may be subjected to a
7 road tax to the same extent as though they were outside of the city or
8 town limits, which tax shall be paid into the city or town treasury.
9 Said lands shall not be exempt from taxation for library purposes as
10 provided by section thirty-seven hundred fifty-eight.

[C., '97, § 616; S., '13, § 616.]

SEC. 3486. Annexation—petition.

1 When the inhabitants of a part of any county adjoining any city
2 or town shall desire to be annexed thereto, they may apply to the dis-
3 trict court of the county in which the land lies, by petition in writing,
4 signed by not less than a majority of the electors residing within the
5 territory proposed to be annexed, which shall state at whose instance
6 it is presented, and shall be accompanied by a plat of such territory.

[R., '60, § 1038; C., '73, § 426; C., '97, § 617.]

SEC. 3487. Procedure.

1 The proceedings shall be the same as in the incorporation of
2 towns, as nearly as applicable, and such election shall be held in the
3 territory proposed to be annexed, not less than three weeks' notice of
4 which shall be served on the mayor or other presiding officer of the
5 town or city to which the annexation is proposed.

[R., '60, § 1039; C., '73, § 427; C., '97, § 618.]

SEC. 3488. Proposition submitted.

1 The council of said city or town may give consent to such
2 annexation, or may, in its discretion, provide by ordinance or resolu-
3 tion for submitting to the electors at the next annual election, the
4 question whether such annexation shall be made; and if such consent
5 be given, or if a majority of the electors at such election shall vote in
6 favor thereof, then, on the return of such vote to the proper authority
7 of such city or town, a resolution or ordinance shall be adopted declar-
8 ing that the territory described in the petition has been annexed, a
9 copy of which consent or resolution or ordinance, duly certified by the
10 clerk of said city or town, and attested by the corporate seal, shall be
11 by him filed in the proceedings in the district court in which the matter
12 of annexation is pending. If the court, or the judge thereof in vaca-
13 tion, approves and confirms said election and consent of such city or
14 town, in case such consent be given, said court or judge shall there-
15 upon enter of record its judgment declaring the territory described in
16 the petition is annexed to such city or town, and upon the entering
17 of such judgment the clerk of said court shall make a complete record

18 of such proceedings, including the consent of such city or town, or
 19 the resolution or ordinance declaring the annexation, as the case may
 20 be, certified copies of which record shall be filed and recorded as pro-
 21 vided in the case of the incorporation of towns; whereupon the terri-
 22 tory proposed to be annexed shall be a part of such city or town.

[R., '60, § 1041; C., '73, § 428; C., '97, § 619.]

SEC. 3489. When complete.

1 When a resolution or ordinance declaring such annexation has
 2 been adopted, and the copies recorded, the territory shall be a part of
 3 the city or town.

[R., '60, § 1042; C., '73, § 429; C., '97, § 620.]

SEC. 3490. Extension by application to council.

1 When the owner or owners of lands adjoining any city or town
 2 shall desire to have such lands brought within the same, they may
 3 apply to the council to have the limits thereof extended so as to in-
 4 clude such lands, and attach to the application a plat of such lands,
 5 showing their situation with respect to the existing limits of the city
 6 or town. If the council assent to the extension of the limits applied
 7 for, a minute thereof shall be indorsed by the clerk upon the plat, and
 8 the same shall then be acknowledged by the owner, and recorded in
 9 the office of the recorder of deeds of the proper county, and thereafter
 10 the limits of the city shall be extended so as to conform to the line
 11 proposed and assented to by the council.

[C., '97, § 621.]

SEC. 3491. Severance—application.

1 When the inhabitants of a part of any town or city, whether the
 2 same is, or is not laid out in lots and blocks, desire to have the part
 3 thereof in which they reside severed therefrom, they may apply by
 4 petition in writing, signed by a majority of the resident property hold-
 5 ers of that part of the territory of such city or town, to the district
 6 court of the county, which petition shall describe the territory pro-
 7 posed to be severed, and have attached thereto a plat thereof, and
 8 shall name the person or persons authorized to act in behalf of the
 9 petitioners in the prosecution of said petition. Where the property
 10 sought to be severed has not been subdivided into lots or blocks and
 11 there are no owners residing upon any portion of the same, the peti-
 12 tion may be signed and the proceedings maintained in like manner by
 13 a majority of the owners of the property sought to be severed.

[R., '60, § 1048; C., '73, § 440; C., '97, § 622; S., '13, § 622.]

SEC. 3492. Notice.

1 Notice of the filing of the same shall be given by publication
 2 in a newspaper published in said city or town, or by posting a notice
 3 of the same in five public places therein, four weeks previous to the
 4 succeeding term of court, which notice shall contain the substance of
 5 said petition, and state the term of court at which the hearing thereof
 6 will be had.

[R., '60, § 1049; C., '73, § 441; C., '97, § 623.]

SEC. 3493. Hearing—affidavits.

1 The hearing of said petition may be had by the court, or either
2 party may demand a jury, and the proper authorities of such city or
3 town, or any person interested in the subject matter of said petition,
4 may appear and contest the granting of the same. Affidavits in sup-
5 port of or against said petition may be submitted and examined by the
6 court or jury, and the court may, in its discretion, permit the agent
7 or agents named in the petition to amend or change the same, except
8 that no amendments shall be permitted whereby the territory em-
9 braced in said petition shall be increased or diminished, without con-
10 tinuing the case to the next term, and requiring new notice to be
11 given as above provided.

[R., '60, § 1050; C., '73, § 442; C., '97, § 624.]

SEC. 3494. Trial—commissioners appointed.

1 If the court or jury, after hearing the petition and evidence, shall
2 be satisfied that the petition has been signed by a majority of the
3 property holders residing within the limits of the part of the city
4 described in the petition and plat, and that the limits have been
5 accurately described and a correct plat thereof filed, and that the
6 prayer of the petitioners should be granted, the court shall appoint
7 three disinterested persons commissioners to adjust the terms upon
8 which such part shall be so severed, as to any liabilities of such city
9 or town that have accrued during the connection of such part with
10 such corporation. The commissioners shall take and subscribe an
11 oath that they will impartially perform their duties, and the same
12 shall be filed with the proceedings in such case.

[R., '60, § 1051; C., '73, § 443; C., '97, § 625.]

SEC. 3495. Hearing and report.

1 The commissioners shall, at a time by them fixed, hear the agent
2 named in the petition, and also the proper authorities of the city or
3 town, in regard to the subject matter to them submitted, and report
4 to the next term of said court their findings in the premises; upon the
5 filing of which report the court shall decree in accordance therewith,
6 and with the prayer of the petition, unless for good cause, and upon
7 a proper showing, the court shall reject or set aside said report, and
8 appoint new commissioners, and continue the cause for further action
9 to be had thereon.

[R., '60, § 1052; C., '73, § 444; C., '97, § 626.]

SEC. 3496. Transcript—costs.

1 The clerk shall forthwith make a complete record of all such pro-
2 ceedings, except the affidavits in support of or against such petition
3 and the cross-examination of the affiants, and file for record a certified
4 transcript thereof in the office of the recorder of the county where the
5 court is held, and of the county where the severed territory or any part
6 thereof lies, if in a different county, and shall also file such transcript
7 in the office of the secretary of state, and, when so filed, the severance
8 shall be complete. The costs, except witness fees, shall be paid by the
9 petitioners, but each party shall pay its own witnesses.

[R., '60, §§ 1053, 1054; C., '73, §§ 445, 446; C., '97, § 627.]

SEC. 3497. Changing name—question submitted.

1 The corporate name of any city or town may be changed as fol-
2 lows: The council may, by resolution, propose such change of name,
3 setting forth therein the proposed new name, which shall not be the
4 same as that of any city, town or postoffice existing in the state at
5 the time of the passage of such resolution. The question shall then be
6 submitted to a vote of the qualified electors at the next annual elec-
7 tion, or at a special election, as the council may provide. Notice that
8 a change of name is to be voted on at any election shall be published in
9 a newspaper published in said city or town, or, if there be none, then
10 by posting in five public places, at least ten days before the election.

[C., '97, § 628.]

SEC. 3498. Manner of voting—result.

1 The proposition to be submitted at such election shall be: "Shall
2 the proposition to change the name of (here insert the name of the
3 city or town) to (here insert the proposed name) be adopted?" and
4 the proposition shall be printed and placed upon the ballots, and the
5 election shall be conducted in the same manner, as provided with
6 respect to like or similar propositions in the title on elections. If a
7 majority of the votes cast is in favor of the proposed change, the
8 clerk of the city or town shall enter upon the records thereof the result
9 of such election, and set forth in such record the new name adopted,
10 as well as the original name thereof, and shall cause to be filed for
11 record a certified copy of the entry so made in the office of the recorder
12 of the county or counties in which such city or town is situated, and
13 in the office of the secretary of state.

[C., '97, § 629.]

SEC. 3499. Change complete.

1 When certified copies are made and filed as required by the pre-
2 ceding section, the change of name shall be complete, and the new
3 name adopted shall be judicially recognized in all subsequent proceed-
4 ings wherein said city or town may be interested.

[C., '97, § 630.]

SEC. 3500. Abandoning special charter.

1 Any city or town incorporated by special charter, may abandon
2 its charter and organize under the provisions of the general law, with
3 the same territorial limits, by pursuing the course hereinafter pre-
4 scribed.

[C., '73, § 434; C., '97, § 631.]

SEC. 3501. Petition—election ordered.

1 Upon a petition of legal voters, equaling ten per cent of the num-
2 ber voting at the last preceding municipal election in any such city or
3 town, to the council, praying that the question of abandoning its
4 charter be submitted to the legal voters, the council shall imme-
5 diately direct a special election to be held at which such question shall
6 be decided, specifying at the same time the time and place of holding
7 the same, and appointing the judges and clerks of the election.

[C., '73, § 435; C., '97, § 632.]

SEC. 3502. Proclamation—notice.

1 The mayor, or, in case there is no mayor, the president of the
 2 council, shall at once issue a proclamation giving notice of such elec-
 3 tion, of the question submitted to the electors, and of the time and
 4 place of holding the election, which proclamation shall be published,
 5 once each week, for four consecutive weeks in some newspaper pub-
 6 lished in such city or town, and, if there is none published therein, then
 7 such proclamation shall be published by posting a copy thereof in five
 8 public places within the corporate limits of such city or town, one of
 9 which shall be on the door of the mayor's office.

[C., '73, § 436; C., '97, § 633; S., '13, § 633.]

SEC. 3503. Manner of voting—result.

1 At such election the proposition to be submitted shall be: "Shall
 2 the proposition to abandon the special charter of (naming the city or
 3 town) be adopted?" and the proposition shall be printed and placed
 4 upon the ballots, and the election shall be conducted in the same man-
 5 ner, as provided with respect to like or similar propositions in the title
 6 on elections. The abstract of votes shall be returned by the council
 7 or board of trustees, who shall canvass the same and declare the
 8 result, which shall be entered on the journal.

[C., '73, § 437; C., '97, § 634.]

SEC. 3504. Officers elected—ordinances—resubmission.

1 If a majority of the votes cast be in favor of the adoption of the
 2 proposition, the charter shall be abandoned as herein provided. At the
 3 proper time, prior to holding the next succeeding municipal election, as
 4 provided in the title on elections for cities and towns organized under
 5 this title, the mayor shall issue his proclamation, and an election shall
 6 be held and officers chosen in such city or town under the provisions
 7 of the chapter relating to elections for cities and towns of the class to
 8 which such corporation shall belong when the charter shall be aban-
 9 doned. On and after the election and qualification of such officers, the
 10 charter of such city or town shall be deemed abandoned, and such city
 11 or town shall be considered organized under this title. All ordi-
 12 nances of such city or town in force at the time of the abandonment of
 13 such charter, not inconsistent or in conflict with the laws of the state,
 14 shall remain in force until amended or repealed by the council. If a
 15 majority of the votes be against the proposition for abandonment of
 16 the charter, the question can not be again submitted until after the
 17 expiration of one year from the time of such election.

[C., '73, § 438; C., '97, § 635.]

SEC. 3505. Delinquent taxes.

1 In special charter cities or towns accepting the provisions of the
 2 general incorporation laws, all delinquent taxes remaining unpaid upon
 3 the tax books thereof, except such as were levied to pay indebtedness
 4 created to take stock or aid in the building of railways, shall be certi-
 5 fied at the time, collected and paid over as provided in the title relating
 6 to taxation.

[C., '73, § 495; C., '97, § 636.]

SEC. 3506. Vested rights.

1 All rights and property of every description which were vested in
 2 any such city or town under its former organization, shall vest in the
 3 same under the organization herein contemplated, and no right or
 4 liability, either in favor of or against it, existing at the time, and no
 5 suit or prosecution of any kind, shall be affected by such change; but
 6 when a different remedy is given by this title, which can be made
 7 properly applicable to any right existing at the time such change
 8 is made, the same shall be cumulative to the remedies before pro-
 9 vided, and may be used accordingly.

[C., '73, § 439; C., '97, § 637.]

CHAPTER 2.**ORGANIZATION AND OFFICERS.****SECTION 3507. Classes of cities—towns.**

1 The municipal corporations referred to in this title shall be divided
 2 into cities of the first and cities of the second class and towns. Town
 3 sites platted and unincorporated shall be known as villages. Every
 4 municipal corporation now organized as a city of the first class, or
 5 having a population of fifteen thousand or over, shall be a city of the
 6 first class; every municipal corporation now organized as a city of the
 7 second class, or having a population of two thousand, but not exceed-
 8 ing fifteen thousand, shall be a city of the second class, and every
 9 municipal corporation having a population of less than two thousand
 10 shall be deemed a town.

[R., '60, §§ 1077, 1078; C., '73, §§ 507, 508; C., '97, § 638.]

SEC. 3508. Change of class—loss of population.

1 Within six months after the publication of any state or federal
 2 census, the executive council shall cause a statement and list of each
 3 city or town affected thereby, in its class as a municipal corporation,
 4 to be published in some newspaper at the seat of government, and in
 5 each city or town the class of which is changed by an increase of
 6 population; provided, however, that any city at the time of taking
 7 effect of the code of 1897 having a population sufficient to be classed
 8 either as a city of the first or second class shall remain in such class,
 9 and shall not be affected in its classification by a subsequent loss of
 10 population unless in cities of the second class, as shown by the last
 11 state or federal census, the population shall have dropped below fif-
 12 teen hundred and in cities of the first class, below ten thousand.

[R., '60, § 1079; C., '73, § 509; C., '97, § 639; S., '13, § 639.]

SEC. 3509. Necessary ordinances to be passed.

1 At the next regular annual or biennial period for the election of
 2 officers after such statement is published, showing a change of class
 3 of a city or town, the council shall make and publish such ordinances,
 4 not inconsistent with law, as may be necessary to perfect such organi-
 5 zation in respect to the election, duties and compensation of officers.
 6 All the assets and property of the corporation shall be held and admin-

7 istered as provided for its new class as a corporation. Upon the
8 change of a town to a city, for the purpose of holding the first elec-
9 tion, the council shall divide the same into wards as provided by law.
[R., '60, §§ 1079, 1080; C., '73, §§ 509, 510; C., '97, § 640.]

SEC. 3510. Wards.

1 Cities may be, by the council thereof, divided into wards, new
2 ones created, or the boundaries changed, but in all cases, whether it
3 be the creation of wards or the changing of the boundaries thereof, the
4 same shall be laid off, as nearly as may be, in a rectangular form, con-
5 forming the lines to the center of the streets or alleys, and giving to
6 each ward, as far as practicable, an equal population; but in cities of
7 the second class the number shall not be increased beyond five nor de-
8 creased to less than two.

[R., '60, § 1092; C., '73, § 520; C., '97, § 641; S., '13, § 641.]

SEC. 3511. Regular elections.

1 The regular municipal elections in cities and towns shall be held
2 annually or biennially, as hereafter provided, on the last Monday in
3 March. The voting places shall be fixed by the council, one polling
4 place for each precinct, and the election shall be conducted in the man-
5 ner provided by law for general elections. Each qualified elector may
6 vote thereat who is a resident of the city or town, and, at the time, has
7 been ten days a resident of the precinct in which he offers to vote.

[R., '60, § 1130; C., '73, § 501; C., '97, § 642.]

SEC. 3512. Officers to be residents.

1 Every mayor, councilman at large, town councilman and officer
2 elected by the whole electorate of the city or town, or by its council,
3 or appointed by the council, mayor or other officer of any city or town,
4 shall be a resident and qualified elector of the city in which he shall be
5 elected, and shall reside within the limits of said city during his term
6 of office.

[R., '60, §§ 1091, 1093; C., '73, §§ 511, 518, 521; C., '97, § 643.]

SEC. 3513. Qualifications of officers.

1 Every councilman and other officer elected by any ward or district
2 of any city or town shall be a qualified elector of said city or town,
3 residing within the limits of the ward or district in which he shall be
4 elected, and shall reside within the limits of said ward or district dur-
5 ing the term of his office.

[R., '60, § 1093; C., '73, § 521; C., '97, § 644.]

SEC. 3514. Council—how composed.

1 City and town councils shall be composed as follows: In cities,
2 two councilmen at large and one councilman from each ward; in towns,
3 five councilmen at large.

[R., '60, §§ 1081, 1093; C., '73, §§ 511, 521, 531; C., '97, § 645;
S., '13, § 645.]

SEC. 3515. Election of councilmen—terms of office.

1 On the organization of a city or town, or on its reorganization
2 after the change of its class, or at the first regular municipal election

3 hereafter, a council shall be elected as follows, except that in those
 4 cities of the second class that elect a mayor in odd-numbered years, the
 5 term of those councilmen and officers expiring in nineteen hundred
 6 eight is extended one year; in those cities of the second class that elect
 7 a mayor in even-numbered years, the term of those councilmen and offi-
 8 cers expiring in nineteen hundred nine is extended one year; and at the
 9 municipal election at which a mayor is elected in nineteen hundred
 10 nine or nineteen hundred ten, as the case may be, the council shall be
 11 elected in accordance with the provisions of this section: By the
 12 election of two councilmen at large, but if any city embraces within
 13 its limits the whole or part of two or more townships, two of which
 14 contain one thousand or more electors, only one of the councilmen at
 15 large shall be chosen from any one township. There shall also be
 16 elected at the same time one councilman from each ward, who shall be
 17 chosen by the electors residing within the limits thereof. Thereafter,
 18 the successors of such councilmen at large and ward councilmen and
 19 officers shall be chosen at the regular biennial elections and shall hold
 20 office for two years. In towns in which a mayor is elected in the even-
 21 numbered years the officers and councilmen shall be elected under the
 22 provisions of this chapter in the year nineteen hundred ten, and the
 23 councilmen and officers to be elected in nineteen hundred eight shall
 24 be elected for a term of two years, and the term of councilmen and
 25 officers whose terms expire in nineteen hundred nine shall be extended
 26 one year. In towns in which a mayor is elected in odd-numbered years
 27 the officers and councilmen shall be elected under the provisions of this
 28 chapter in nineteen hundred eleven, and the councilmen and officers
 29 to be elected in nineteen hundred eight shall be elected for a term of
 30 three years. The councilmen and officers to be elected in nineteen hun-
 31 dred nine shall be elected for two years, and the term of councilmen
 32 and officers whose term expires in nineteen hundred ten shall be
 33 extended one year. All town officers elected in nineteen hundred ten
 34 or nineteen hundred eleven, as the case may be, and thereafter under
 35 the provisions of this section, shall be elected for the term of two
 36 years.

[R., '60, § 1093; C., '73, §§ 511, 521; C., '97, § 646; S., '13,
 § 646.]

SEC. 3516. Elective officers in cities of first class.

1 In all cities of the first class there shall be elected biennially a
 2 mayor, solicitor, treasurer, auditor, city engineer, assessor, and in
 3 cities where there is no superior court, a police judge.

[R., '60, § 1106; C., '73, §§ 390, 535; C., '97, § 647; S., '13,
 § 647.]

SEC. 3517. Elective officers in cities of second class.

1 In cities of the second class there shall be elected biennially a
 2 mayor, treasurer and assessor.

[R., '60, §§ 1090, 1103; C., '73, §§ 390, 517, 532; C., '97, § 648;
 S., '13, § 648.]

SEC. 3518. Elective officers in towns.

1 In towns there shall be elected, biennially, a mayor, treasurer and
 2 assessor.

[R., '60, §§ 1081, 1084; C., '73, §§ 390, 511, 514; C., '97, § 649;
 S., '13, § 649.]

SEC. 3519. Terms of office—assessor.

1 Each officer named in this chapter shall hold his office until his
 2 successor is elected and qualified; but the term of office of the assessor
 3 shall commence on the first day of January, next ensuing his election.
 [C., '73, § 390; C., '97, § 650.]

SEC. 3520. Officers appointed by council.

1 In all cities and towns the council, at its first meeting after the
 2 biennial election, shall appoint a clerk, and in cities of the second class
 3 shall appoint a city solicitor, and may appoint a city engineer.
 [R., '60, §§ 1086, 1093, 1103, 1105; C., '73, §§ 515, 522, 532,
 534; C., '97, § 651; S., '13, § 651; 38 G. A., ch. 147, § 1.]

SEC. 3521. Officers appointed by the mayor.

1 The officers to be appointed by the mayor shall be as follows:
 2 1. The mayor of each city or town shall appoint a health physi-
 3 cian, street commissioner and a marshal who shall be, ex officio, chief
 4 of police, and may also appoint one or more deputy marshals. In cities
 5 and towns he shall appoint as many policemen as the council, by gen-
 6 eral ordinance, shall direct, and such officers shall hold their positions
 7 during the pleasure of the mayor. He shall also appoint such officers
 8 as shall be provided by ordinance. He may also, in cases of emergency,
 9 appoint such number of special policemen as he may think proper,
 10 reporting such special appointment to the council at its next regular
 11 meeting; all such special appointments to continue in force until such
 12 meetings, unless sooner terminated by the mayor. In cities having a
 13 board of police and fire commission, policemen shall be appointed as
 14 provided in the law creating such board.
 15 2. In cities of the first class, he shall appoint, when deemed neces-
 16 sary, a wharfmaster. If there is a board of public works, such board
 17 shall appoint the street commissioner.
 [R., '60, §§ 1086, 1103, 1105, 1106; C., '73, §§ 515, 532, 534,
 535; C., '97, § 652; S., '13, § 652.]

SEC. 3522. Deputy marshal—appointment.

1 The marshal, in cities of the first class, may designate one or more
 2 members of the police force to act as deputies.
 [C., '97, § 653.]

SEC. 3523. Police matrons—appointment—number.

1 In cities having a population of twenty-five thousand or more,
 2 for each station house provided therein for the detention or impris-
 3 onment of women or children under arrest, the mayor may, and in
 4 cities having a population of thirty-five thousand or over shall appoint
 5 one or more women, residents of the city, as police matrons, who shall
 6 be over thirty years of age. The appointees shall be, so far as appli-
 7 cable, subject to the same regulations and restrictions as policemen,
 8 and hold their positions during good behavior, unless by reason of age
 9 or infirmity they become incapacitated to perform the duties of the
 10 position.
 [C., '97, § 654; S., '13, § 654.]

SEC. 3524. Other officers—appointed by mayor.

1 Cities and towns may, by general ordinance, provide for the
 2 appointment, by the mayor, of such additional officers, including super-
 3 intendent of markets, harbor masters and port wardens, usual and
 4 proper for the regulation and control of navigation, trade or com-
 5 merce, or needful and proper for the good government of the city or
 6 town, or the due exercise of its corporate powers, and fix their term
 7 of office, as they may deem necessary.

[R., '60, §§ 1095, 1098; C., '73, §§ 524, 528; C., '97, § 655;
 S., '13, § 655.]

SEC. 3525. Clerk of police court.

1 The council may provide by ordinance, for the appointment of a
 2 clerk of the police court by the judge thereof, who shall hold his office
 3 subject to removal; the appointment or removal, when made, to be
 4 entered in the records of the court.

[R., '60, § 1116; C., '73, § 542; C., '97, § 656.]

SEC. 3526. Removal of appointive officers.

1 All persons appointed to office in any city or town may be removed
 2 by the officer or body making the appointment, but every such removal
 3 shall be by written order, which shall give the reasons therefor and
 4 be filed with the city clerk.

[C., '97, § 657; S., '13, § 657.]

SEC. 3527. Mayor—powers and duties.

1 In cities and towns, the mayor shall have powers and perform
 2 duties as follows:

3 1. *Executive officer—magistrate.* He shall be a conservator of
 4 the peace, and, within the limits of the same, shall have all the powers
 5 conferred upon sheriffs to suppress disorders. He shall be the chief
 6 executive officer thereof, and it shall be his duty to enforce all regu-
 7 lations and ordinances; he may, upon view, arrest anyone guilty of
 8 a violation thereof, or of any crime under the laws of the state, and
 9 shall, upon information supported by affidavit, issue process for the
 10 arrest of any person charged with violating any ordinance of the city;
 11 shall supervise the conduct of all corporate officers, examine into the
 12 grounds of complaint made against them, and cause all neglect or
 13 violation of duty to be corrected, or report the same to the proper
 14 tribunal, that they may be dealt with as provided by law.

15 2. *Office.* He shall keep an office at some convenient place in the
 16 city or town, to be provided by the council, and keep the corporate
 17 seal thereof in his charge.

18 3. *Signature.* He shall sign all commissions, licenses and per-
 19 mits granted by the authority of the council, and do such other acts
 20 as by law or ordinance may require his signature or certificate.

21 4. *Other duties.* He shall also perform such other duties com-
 22 patible with the nature of his office as the council may from time to
 23 time require.

24 5. *Presiding officer—vote.* He shall be the presiding officer of
 25 the council with the right to vote only in case of a tie.

26 6. *Report.* He shall, at the first regular meeting of the newly
 27 elected council in April, and at such other times as he may deem ex-

28 pedient, report to it concerning the municipal affairs of the city or
29 town, and recommend such measures as to him may seem advisable.

30 7. *Hold police court.* Until a police judge or judge of superior
31 court shall be elected and qualified in cities entitled to elect such offi-
32 cer, he shall have all the powers and jurisdiction and shall hold the
33 police court in such manner as is required of such judge.

34 8. *Station houses for women.* In all cities containing a popula-
35 tion of twenty-five thousand or more, he shall designate one or more
36 station houses within such city for the detention or imprisonment of
37 all women and children under arrest in said city, and see that pro-
38 visions are made by which the rooms or cells set apart for them shall
39 be separate from and out of sight of the rooms or cells in which male
40 prisoners are imprisoned.

[R., '60, §§ 1082, 1085, 1091, 1102, 1105, 1121; C., '73, §§ 506,
512, 518, 519, 531, 534, 537, 547; C., '97, § 658; S., '13,
§ 658.]

SEC. 3528. Clerk—duties.

1 The clerk in all cities and towns shall perform the following
2 duties: He shall attend all meetings of the council, but in no event
3 have the right to vote on any question before it; make an accurate
4 record of all proceedings had, rules and ordinances adopted by the
5 council, and the same shall at all times be open to the public; he shall
6 supply the treasurer with a statement of all warrants issued after
7 each meeting, giving the number and amounts of each, and shall have
8 the custody of all by-laws and ordinances of the city or town, and per-
9 form such duties as may be required by ordinance.

[R., '60, §§ 1082, 1093; C., '73, §§ 512, 522; C., '97, § 659.]

SEC. 3529. Treasurer—duties.

1 The treasurer of cities and towns shall receive all money payable
2 to the city or town, and disburse the same only on warrants drawn
3 and signed by the proper officer, sealed with the city seal, and perform
4 such other duties as may be prescribed by law or ordinance. He shall
5 keep in a book provided by the town a register and description of all
6 warrants reported to him by the clerk. When a warrant drawn on the
7 treasury is presented for payment, and not paid for want of money, he
8 shall indorse the fact thereon, with the date of presentation, and sign
9 it, and thereafter it shall draw interest at six per cent per annum,
10 unless issued under a resolution or contract providing that it shall not
11 draw interest, or shall draw interest at a lower rate. He shall keep
12 a record of all warrants drawn upon the treasury and presented, in a
13 book so ruled as to show in separate columns, as to each warrant, the
14 number, date, principal, name of drawee, when paid, to whom paid, and
15 the amount of interest paid, and all such warrants shall be paid in the
16 order of their presentation. He shall issue calls for outstanding war-
17 rants at any time he may have funds on hand for the payment thereof;
18 shall give notice of the number of the warrants which will be paid, by
19 posting a written notice thereof in the mayor's office, and in the treas-
20 urer's office when there is one, and, at the expiration of ten days from
21 the date of the posting, interest on the warrants so named shall cease.
22 When a warrant which draws interest is taken up, he shall also indorse
23 upon it the date and amount of interest allowed, and such warrants
24 shall be canceled and not reissued. He shall make returns monthly, or

25 oftener if required by the council, to the officer drawing such war-
 26 rants, showing the warrants paid and the amount of principal and
 27 interest paid. He shall make a written report under oath to the
 28 council at its first regular meeting in each month, showing the finan-
 29 cial condition of the city.

[R., '60, §§ 1103, 1106; C., '73, §§ 532, 535; C., '97, § 660.]

SEC. 3530. Depositary—daily balances—interest—bond by bank.

1 Treasurers of cities of the first and second class, and cities under
 2 the commission form of government shall, with the approval of the
 3 city council as to place and amount of deposit, by resolution entered of
 4 record, deposit all city funds in any bank or banks in the city to which
 5 the said funds belong, at interest at the rate of not less than two per
 6 cent per annum on ninety per cent of the daily balances payable at
 7 the end of each month, all of which interest shall accrue to the benefit
 8 of the general city fund; but before such deposit is made in any bank
 9 it shall file a bond for double the amount deposited with sureties to
 10 be approved by the treasurer and the city council and conditioned to
 11 hold the treasurer harmless from all loss by reason of such deposit or
 12 deposits; provided that in cases where an approved surety company's
 13 bond is furnished said bond may be accepted in an amount of ten per
 14 cent more than the amount deposited. Said bonds shall be filed with
 15 the city clerk and action shall be brought thereon by the treasurer or
 16 the city as the council may elect.

[S., '13, § 660-a.]

SEC. 3531. Failure of local bank to accept funds.

1 If no bank or banks in the city will accept said deposits under
 2 the terms and conditions of the preceding section then the said funds
 3 shall be deposited in any bank or banks in the state which will accept
 4 said funds under the terms and conditions of said section.

[S., '13, § 660-b.]

SEC. 3532. Private use of funds prohibited.

1 No treasurer shall loan or in any manner use for private purposes
 2 any funds coming into his hands as such treasurer.

[S., '13, § 660-c.]

SEC. 3533. Expense of bond.

1 If the city treasurer shall request it the city shall pay the reason-
 2 able expense of procuring the bond for the city treasurer not exceeding
 3 one-half of one per cent per annum upon the amount thereof.

[S., '13, § 660-d.]

SEC. 3534. Assessor—duties—deputies—officer—supplies.

1 All assessors elected by cities and towns shall perform the same
 2 duties as township assessors. They may appoint such number of depu-
 3 ties as the council shall authorize. Except that in cities of the first
 4 class having a population of sixty thousand or over the board of super-
 5 visors of the county shall furnish the assessor with supplies and an
 6 office. And said assessor shall appoint such number of deputies as
 7 the board of supervisors may authorize, such appointments to be
 8 approved by the said board. If any city or town is situated in two or

9 more counties, the assessor shall make returns of the assessment to
10 the proper county.

[C., '73, § 390; C., '97, § 661; S., '13, § 661.]

SEC. 3535. Marshal—duties.

1 The marshal shall have the supervision and general direction of
2 the police force; shall be the ministerial officer of the corporation,
3 attend upon the sittings of the mayor's and police courts, execute
4 within his county and return all writs and other process directed to
5 him from the mayor or police court, suppress all riots, disturbances
6 and breaches of the peace, arrest all disorderly persons in the city or
7 town, and all persons committing any offense against the ordinances
8 thereof, and forthwith bring such persons before the mayor, police
9 court, or other competent authority, for examination or trial; shall
10 diligently enforce all laws, ordinances and regulations for the preserva-
11 tion of the public welfare and good order, and have the same powers
12 and be subject to the same responsibilities as constables in similar
13 cases. He shall pursue and arrest any person fleeing from justice in
14 any part of the state.

[R., '60, §§ 1086, 1104, 1107, 1108; C., '73, §§ 515, 533, 536,
537; C., '97, § 662.]

SEC. 3536. Deputy marshals—duties.

1 Deputy marshals may perform the duties of the marshal.

[C., '97, § 663.]

SEC. 3537. Policemen—powers and duties.

1 The officers and members of the police force shall have such
2 powers and perform such duties as may be provided by law or ordi-
3 nance, and shall have the same powers to make arrests and suppress
4 riots, disturbances and breaches of the peace as marshals.

[R., '60, §§ 1096, 1108; C., '73, §§ 525, 537; C., '97, § 664.]

SEC. 3538. Police matrons—duties.

1 Police matrons shall have charge of all the women and children
2 under arrest, accompanying such as may require such aid, to court.
3 They shall be subject to the authority of the marshal and the rules and
4 regulations prescribed by his authority, and in stations, when on duty,
5 shall be subject to the authority of the officers in command. In cities
6 where workhouses are established for the detention of women, or
7 where there are houses of detention, they shall have at all times the
8 right of entering such establishments, and shall visit them whenever
9 in their judgment such visits may be necessary. A suitable place shall
10 be provided for the police matrons, when not on duty, for rest and
11 refreshment.

[C., '97, § 665.]

SEC. 3539. Other officers—powers and duties.

1 The solicitor, engineer, auditor, physician, superintendent of mar-
2 kets, street commissioner, wharfmaster, harbor master, port warden,
3 and such additional officers as may be provided for, shall have such
4 powers and perform such duties as are prescribed by law or ordinance.

[R., '60, §§ 1103, 1106; C., '73, §§ 532, 535; C., '97, § 666.]

SEC. 3540. Statement of supplies.

1 In all cities, each officer or board in charge of any department
 2 shall furnish and file in the city clerk's office, thirty days before the
 3 beginning of each fiscal year, which shall be the first day of April of
 4 each year, a sworn detailed statement of the supplies necessary for his
 5 or their department during the next fiscal year.

[C., '97, § 667.]

SEC. 3541. City and town councils—powers and duties.

1 All legislative and other powers granted to cities and towns shall
 2 be exercised by the councils, except those conferred upon some officer
 3 by law or ordinance. They shall perform the duties required in this
 4 code including the following:

5 1. *Organization.* The members of such council shall, on the first
 6 Monday after their election, assemble and organize the council.

7 2. *Quorum.* In all cities or towns, a majority of the whole num-
 8 ber of members to which such corporation is entitled, including the
 9 mayor, shall be necessary to constitute a quorum.

10 3. *Meetings.* They shall determine the time and place of holding
 11 their meetings, which shall at all times be open to the public, and, in
 12 the absence of the mayor or clerk, shall appoint a temporary chair-
 13 man or clerk from their own number, which appointment shall be
 14 entered of record.

15 4. *Special meetings.* The mayor or any three members of the
 16 council shall call special meetings by notice to each of the members,
 17 personally served, or left at his usual place of residence, of which
 18 service a record shall be made by the clerk.

19 5. *Rules—journal.* They shall determine the rules of their own
 20 proceedings, and keep a journal thereof, which shall be open to the
 21 inspection and examination of any citizen.

22 6. *Attendance of members.* They may compel the attendance of
 23 absent members in such manner and under such penalties as they may
 24 prescribe.

25 7. *Seal.* Each council shall cause to be provided a seal, in the
 26 center of which shall be the name of the city or town, and around the
 27 margin the words, "city seal" or "town seal," as the case may be,
 28 which shall be affixed to all transcripts, orders or certificates which it
 29 may be necessary or proper to authenticate.

30 8. *Election of officers.* All appointments or elections of officers,
 31 except for the purpose of filling vacancies, in offices not filled by elec-
 32 tion by the council, shall be made viva voce, and the concurrence of
 33 a majority of the whole number of members of the council shall be
 34 required. On the vote resulting in an election or appointment, the
 35 name of each member and for whom he voted shall be recorded.

36 9. *Filling vacancies.* In selecting persons to fill vacancies in
 37 offices not filled by election by the council, it shall vote by ballot, and
 38 the person receiving a majority of the votes of the whole number of
 39 members shall be declared elected to fill such vacancy.

40 10. *Terms of officers.* They shall fix by ordinance the terms of
 41 service, not exceeding one year, except in cities holding biennial elec-
 42 tions, where such term shall not exceed two years, of all officers ap-
 43 pointed or elected, whose terms are not prescribed by law.

44 11. *Powers of officers.* They shall prescribe by ordinance the
 45 powers to be exercised and duties to be performed by the officers ap-

46 pointed or elected, so far as such powers and duties are not defined
47 by law.

48 12. *Police force.* They shall have power to establish a police
49 force, and to organize the same under the general supervision of the
50 marshal, and to provide one or more station houses.

51 13. *Control of finances.* They shall have the management and
52 control of the finances and all the property, real and personal, belong-
53 ing to the city or town.

54 14. *Members not interested.* No member of any council shall,
55 during the time for which he has been elected, be appointed to any
56 municipal office which shall be created, or the emoluments of which
57 shall be increased, during the term for which he shall have been
58 elected; nor shall he be interested, directly or indirectly, in any con-
59 tract or job for work, or the profits thereof, or services to be per-
60 formed for the corporation.

61 15. *Provide for custody of women and children.* In cities having
62 a population of twenty-five thousand inhabitants or more, the council
63 shall appropriate annually such sums as may be necessary for the
64 arrangements needed to secure separate care and confinement in the
65 station houses of all women and children under arrest, and for the
66 appointment, salary and maintenance of police matrons.

67 16. *Appropriations.* In cities of the first and second class, the
68 council shall make the appropriation for all the different expenditures
69 of the city government for each fiscal year at or before the beginning
70 thereof, and it shall be unlawful for it or any officer, agent or employee
71 of the city to issue any warrant, enter into any contract, or appro-
72 priate any money, in excess of the amount thus appropriated, for the
73 different expenses of the city, during the year for which said appro-
74 priation shall be made. Any such city shall not appropriate, in the
75 aggregate, an amount in excess of its annual legally authorized reve-
76 nue; but nothing herein shall prevent such cities from anticipating
77 their revenues for the year for which such appropriation is made, or
78 from bonding or refunding their outstanding indebtedness. The coun-
79 cil of such cities shall advertise in at least two newspapers published
80 in said cities for three weeks, two insertions for each week, for bids
81 for furnishing all supplies of every kind for the several departments
82 of the city, not required to be advertised for by the board of public
83 works; said advertisements to be published two weeks before the be-
84 ginning of each fiscal year.

[R., '60, §§ 1047, 1081, 1084, 1093-1096, 1098, 1116, 1122,
1134; C., '73, §§ 454, 490, 493, 511, 514, 522-525, 528,
542; C., '97, § 668; S., '13, § 668.]

**SEC. 3542. Compensation of councilmen—how paid—when acting
as board of review.**

1 Councilmen in cities of the first class shall be paid an amount
2 prescribed by ordinance, not in excess of two hundred fifty dollars
3 per annum, which shall be in full compensation of all services of such
4 councilmen of every character connected with their official duties,
5 except when acting as members of the board of review, for which
6 service they shall receive not more than two dollars a day for each
7 day when acting as a board of review, to be paid out of the county
8 treasury; and in all other cities and towns they shall receive not to
9 exceed one dollar each for every regular or special meeting, and in the
10 aggregate not exceeding fifty dollars in any one year; but in such

11 cities and towns the members shall be paid in addition to the fore-
 12 going, for services as members of the board of review, an amount not
 13 exceeding one dollar for each session of not less than three hours, and
 14 the compensation for services as members of the board of review shall
 15 be paid out of the county treasury.

[R., '60, § 1095; C., '73, § 505; C., '97, § 669; S., '13, § 669.]

SEC. 3543. Fees of mayor.

1 Mayors of cities and towns, where no salary is provided by ordi-
 2 nance in lieu of fees, shall receive, for holding a mayor's or police court,
 3 or discharging the duties of a justice of the peace, the compensation
 4 allowed by law for similar services for such officers, to be paid in the
 5 same manner.

[R., '60, §§ 1091, 1121; C., '73, §§ 519, 547; C., '97, § 670.]

SEC. 3544. Fees of police judge.

1 The police judge shall be entitled, in all criminal cases prosecuted
 2 before him in behalf of the state, to the same fees, to be collected in
 3 the same manner, as a justice of the peace in like cases; in prosecu-
 4 tions before him in behalf of the city, to such fees, not exceeding those
 5 for services of like nature in state prosecutions, as the council may by
 6 ordinance prescribe.

[R., '60, § 1118; C., '73, § 544; C., '97, § 671.]

SEC. 3545. Compensation of police matrons.

1 Police matrons shall receive not less in any case than the mini-
 2 mum salary paid to policemen in the city in which they are appointed.

[C., '97, § 672.]

SEC. 3546. Fees of marshal and deputy.

1 The marshal shall receive, in criminal cases arising under ordi-
 2 nances, the same fees as constables receive for similar services, pay-
 3 able from the treasury of the city or town; and in criminal cases aris-
 4 ing under the state law, the same fees as constables receive for similar
 5 services, payable from the county treasury. In civil proceedings he
 6 shall receive the same fees as constables receive for similar services,
 7 payable in the same way. The deputy marshal shall receive the same
 8 fees for services performed as the marshal.

[R., '60, §§ 1086, 1104, 1107; C., '73, §§ 515, 533, 536; C., '97, § 673.]

SEC. 3547. Compensation of assessors and deputies — special services.

1 Town assessors and assessors in cities of the second class, and
 2 their deputies shall receive the same compensation as township assess-
 3 ors, which shall be determined in the same manner and payable from
 4 the county treasury. In cities of the first class, including those under
 5 the commission form of government, the compensation of the assessor
 6 shall be not more than eighteen hundred dollars per annum, or not
 7 less than five dollars per day for the time actually employed, to be
 8 fixed by the board of supervisors; and that of the deputies not more
 9 than five dollars or less than three dollars and fifty cents per calendar
 10 day, Sunday excepted, for the time actually employed, to be fixed by

11 the board of supervisors; provided that in cities under the commission
 12 form of government having a population of more than one hundred
 13 thousand, the board of supervisors shall fix the compensation of the
 14 assessor not exceeding twenty-five hundred dollars per annum and
 15 the compensation of not more than two head deputy assessors at not
 16 exceeding fifteen hundred dollars per annum; provided, however, that
 17 in cities where extra or special services are to be performed by the
 18 assessor the board of supervisors may by special contract with the
 19 assessor determine the compensation to be paid.

[C., '97, § 674; S., '13, § 674; 38 G. A., ch. 103, § 1.]

SEC. 3548. Salaries in lieu of fees.

1 It may be provided by ordinance that any city or town officer
 2 elected or appointed, shall receive a salary in lieu of all other compen-
 3 sation; and in such case such officer shall not receive for his own
 4 use any fees or other compensation for his services as such officer,
 5 but shall collect the fees authorized by law or ordinance, and pay
 6 the same as collected, or as prescribed by ordinance, into the city or
 7 county treasury, as the case may be.

[C., '97, § 675.]

SEC. 3549. Compensation of other officers.

1 All officers elected or appointed in any city or town, whose com-
 2 pensation is not fixed by law, shall receive such salary, compensation
 3 or fees for their services as the council may by ordinance from time
 4 to time prescribe. For all attested certificates and transcripts, other
 5 than those ordered by the council, the clerk shall be paid the same
 6 fees as are allowed to county officers for like services.

[R., '60, §§ 1094, 1095, 1098; C., '73, §§ 523, 524, 528; C.,
 '97, § 676.]

SEC. 3550. Compensation not changed.

1 The fees, salary, compensation or emoluments of any officer
 2 whose election or appointment is required or authorized by this chap-
 3 ter, shall not be increased or diminished during the term for which he
 4 shall have been elected or appointed; nor shall any change of com-
 5 pensation affect any officer whose office shall be created under the
 6 authority of this chapter during his existing term, unless the office be
 7 abolished. No person who shall have resigned or vacated any office
 8 shall be eligible to the same during the time for which he was elected
 9 or appointed when, during the same time, the emoluments have been
 10 increased.

[R., '60, §§ 1091, 1122; C., '73, §§ 491, 519; C., '97, § 677.]

SEC. 3551. Executive powers and duties.

1 All executive functions, powers and duties in cities and towns
 2 shall be exercised and performed by the mayor and other elective and
 3 appointive officers and boards as provided by law, and neither the
 4 council nor the members thereof shall exercise any executive function
 5 unless expressly conferred by law.

[S., '13, § 879-p.]

SEC. 3552. Officers not to be interested in contracts—free passes or franks.

1 No officer, including members of the city council, shall be inter-
 2 ested, directly or indirectly in any contract or job of work or material
 3 or the profits thereof or services to be furnished or performed for the
 4 city or town. No such officer shall accept or receive, directly or indi-
 5 rectly, from any person, firm or corporation operating within the said
 6 city or town, any railway, interurban railway, street railway, gas-
 7 works, waterworks, electric light or power plants, telegraph line or
 8 telephone exchange or other business using a public franchise, any
 9 frank, free pass or ticket or other service upon terms more favorable
 10 than is granted to the public generally, except where, by franchise
 11 granted by the municipality to any such person or corporation, any
 12 officers of said municipality are granted such privileges as part of such
 13 franchise, and except that members of the police and fire departments
 14 of any city or town shall be carried without charge. Any violation of
 15 the provisions of this section shall be a misdemeanor.

[S., '13, § 879-q.]

SEC. 3553. Contesting elections.

1 The election of any person to a city or town office may be con-
 2 tested upon the same grounds and in the manner provided for con-
 3 testing elections to county offices, so far as applicable. The mayor
 4 shall be one of the court and the presiding officer thereof, and, if his
 5 election is contested, the council shall select one of its members to act
 6 in his place.

[C., '97, § 678.]

SEC. 3554. Tie vote.

1 In the event of a tie vote for any city or town office, the election
 2 shall be determined as provided in the title on elections.

[C., '97, § 679.]

CHAPTER 3.

MUNICIPAL MANAGERS.

SECTION 3555. City manager—duties and compensation.

1 All cities and towns, except cities under the commission form of
 2 government and cities having a population of more than twenty-five
 3 thousand as shown by the last preceding census, are hereby authorized
 4 to provide by ordinance for the creation of the office of city manager
 5 and to fix likewise the duties and powers and compensation of such
 6 officer.

[S. S., '15, § 679-1a.]

SEC. 3556. Appointment by council—tenure of office.

1 The city manager shall be appointed by a majority vote of the
 2 city or town council at a regular meeting of such body, and such mana-
 3 ger shall hold office during the pleasure of the said body, and shall be
 4 subject to removal by a majority vote thereof.

[S. S., '15, § 679-2a.]

SEC. 3557. Duties which may be imposed.

1 Said city and town after having selected or appointed such city
 2 manager may by ordinance provide that the city manager shall per-
 3 form any or all of the duties incumbent upon the street commissioner,
 4 or manager of public utilities, cemetery sexton, city clerk and super-
 5 intendent of markets, and that he shall superintend and inspect all
 6 improvements and work upon the streets, alleys, sewers, and public
 7 grounds of the city or town, and to perform such other and further
 8 duties as may be imposed upon him, and to possess such other and
 9 further power as may, from time to time, be by ordinance conferred
 10 upon him.

[S. S., '15, § 679-3a.]

SEC. 3558. Manager's duties to supersede duty of appointive officers.

1 Whenever by ordinance or resolution of the council the powers and
 2 duties heretofore vested in any other appointive municipal officer are
 3 to be wholly performed by the said city manager, then no appointment
 4 of such said appointive officer shall be made, and any appointment of
 5 such officer, made prior to the adoption of such ordinance or resolution
 6 shall be hereby canceled.

[S. S., '15, § 679-4a.]

CHAPTER 4.
DEPARTMENT OF PUBLICITY, DEVELOPMENT AND GENERAL WELFARE.**SECTION 3559. Department authorized—superintendent—assistants—compensation.**

1 Any city in this state shall have power to establish by ordinance,
 2 upon the terms and conditions hereinafter prescribed, a department
 3 under control of the city council, said department to be known as the
 4 department of publicity, development and general welfare, and the
 5 mayor, with the approval of the council, shall have power to appoint a
 6 superintendent of such department, and may employ such assistants
 7 as may be necessary to perform the work of said department, upon
 8 such compensation as may be fixed by resolution of such city council.

[S., '13, § 679-m.]

SEC. 3560. Purposes—supervision of mayor—no investment in private enterprises.

1 Said department shall be for the purpose of collecting and dis-
 2 tributing, by correspondence, advertising and other means, informa-
 3 tion relating to the industrial, commercial, manufacturing, residential,
 4 educational and other advantages and resources of such city; and for
 5 the purpose of encouraging and promoting the establishment and
 6 development of industries and manufacturing, commercial and other
 7 interests in such cities and the increase of population thereof; and for
 8 the purpose of investigating, promoting and doing such things as may
 9 be for the general welfare of such city and the inhabitants thereof;
 10 provided, however, nothing in this chapter shall be construed as
 11 authorizing cities to invest any funds raised by taxation in private

12 enterprises or to pay from such funds any bonuses for same. The
 13 duties of the superintendent and other employees of said department
 14 shall be such as may be prescribed from time to time by the city coun-
 15 cil, and they shall be at all times under the supervision and control of
 16 the mayor in performing said duties.

[S., '13, § 679-n.]

SEC. 3561. Conditions of establishment—question submitted.

1 The said department can only be established upon the approval of
 2 sixty per cent of the legal voters of said city who shall vote on said
 3 question, and which question may be submitted by the council of such
 4 city at any general, city or special election for such purpose, at which
 5 election the question submitted shall be: "Shall the city of (naming
 6 it) establish a department of publicity, development and general wel-
 7 fare?" If said question shall be answered in the affirmative by not
 8 less than sixty per cent of the voters voting thereon, the said depart-
 9 ment may be established for a period of not to exceed five years from
 10 the date of such election. Within one year of the end of such period
 11 or at any time thereafter the question may be resubmitted and said
 12 department reestablished for a like period, provided that not less than
 13 sixty per cent of the voters thereon vote in favor thereof.

[S., '13, § 679-o.]

SEC. 3562. Expenses—what funds available.

1 The expenses of said department may be defrayed out of any
 2 and all funds received by such city from fines and penalties and out
 3 of any funds that may be in the treasury of said city, not derived from
 4 general taxation nor from special taxes levied for other purposes.

[S., '13, § 679-p.]

CHAPTER 5.

BOARD OF POLICE AND FIRE COMMISSIONERS IN CERTAIN CITIES.

SECTION 3563. Board created.

1 There is hereby created and established a board of police and fire
 2 commissioners in cities with a population of eight thousand or more
 3 in cities having a paid fire department, which, according to any state
 4 or national census heretofore or hereafter taken, are shown to have a
 5 population of more than twenty thousand.

[S., '13, § 679-a; 37 G. A., ch. 195, § 1.]

SEC. 3564. Commissioners—term—vacancies.

1 Said board of police and fire commissioners shall consist of three
 2 members, who shall be citizens of the state of Iowa and who shall
 3 have been residents of the city in which they are appointed for more
 4 than five years next preceding their appointment; they shall, except
 5 as hereinafter specified, hold their office for six years and until their
 6 respective successors have been appointed and qualified. All vacancies
 7 in such board by death, resignation, removal, or for any other cause,
 8 shall be filled as soon as practicable in the same manner as provided

9 for appointment. Said commissioners shall receive no compensation
10 for their services.

[S., '13, § 679-b.]

SEC. 3565. Commissioners must qualify.

1 Before entering upon the duties of their office each of said
2 commissioners shall take and subscribe an oath, which shall be filed
3 and kept in the office of the city clerk, to support the constitution of
4 the United States and of the state of Iowa, to obey the laws, and in
5 all of his official acts and judgments to aim only to secure and main-
6 tain an honest and efficient police and fire force, free from partisan
7 distinction or control, and to perform the duties of his office to the
8 best of his ability, and shall execute a bond payable to the city in
9 which he is appointed, in the penal sum of five thousand dollars, with
10 sureties to be approved by the city council of said city. The expense
11 for said bond shall be paid by said city.

[S., '13, § 679-c.]

**SEC. 3566. Mayor to appoint—terms—how selected—chairman—
quorum—removal.**

1 Immediately upon the taking effect of this act [July 4, 1902] the
2 mayor of such city shall appoint said board of police and fire commis-
3 sioners, who shall be confirmed by the city council, and the said com-
4 missioners so appointed shall hold their office, one of them until the
5 first Monday in April, nineteen hundred four, one of them until the
6 first Monday in April, nineteen hundred six, and one of them until
7 the first Monday in April, nineteen hundred eight; and on the last
8 Monday in March, nineteen hundred four, and on the same day in each
9 even-numbered year, thereafter, the mayor shall appoint one commis-
10 sioner in such city to take the place of the commissioner whose term
11 of office expires the first Monday in April following such appoint-
12 ment, and the members so appointed shall serve for the term of six
13 years following the said first Monday in April. The chairman of the
14 board for each biennial period shall be the member whose term first
15 expires. The said commissioners shall be selected from the two lead-
16 ing political parties, so that, as far as practicable, two members of
17 the board shall be members of the dominant political party and one
18 member of the board shall be a member of the political party next in
19 numerical strength, as shown by the votes cast at the last state or
20 national election. And any commissioner who during his term of
21 office becomes a candidate for or accepts any other place of public
22 trust or emolument, or who during the same period knowingly con-
23 sents to his nomination for any office elective by the people, or fails
24 to publicly decline the same within twenty days succeeding such nom-
25 ination, shall be deemed to have thereby vacated his office, and a suc-
26 cessor shall be appointed as provided in this chapter. The majority of
27 said board shall constitute a quorum for the transaction of business.
28 Any of said commissioners may be removed for misconduct or mal-
29 feasance in office, by the mayor of said city, with the consent and
30 approval of a majority of the city council.

[S., '13, § 679-d.]

**SEC. 3567. Board to conduct examinations—results certified—
preference given.**

1 Said board shall, on the first Monday of April and October of each
2 year, or oftener if they shall deem it necessary, under such rules and

3 regulations as it may prescribe, hold examinations for the purpose of
 4 determining the qualifications of applicants for positions on the police
 5 and fire force of said city, which examinations shall be practical in
 6 their character and shall relate to those matters which will fairly test
 7 the fitness of the persons examined to discharge the duties of the posi-
 8 tion to which they seek to be appointed; such examination shall cover
 9 the physical, as well as other qualifications of the applicants. Said
 10 board shall, as soon as possible after such examinations, certify to the
 11 chief of police and the chief of the fire department the names of the
 12 ten persons who, according to its records, have the highest standing
 13 as a result of said examination, and all vacancies which occur in the
 14 police and fire force prior to the date of the next regular examination
 15 shall be filled from said list so certified; provided, however, that should
 16 said list for any cause become reduced to less than three, then the
 17 chief of police or the chief of the fire department, as the case may be,
 18 may temporarily fill a vacancy until the next examination of the board.
 19 In all examinations and appointments under the provisions of this
 20 chapter honorably discharged soldiers, sailors or marines of the regu-
 21 lar or volunteer army or navy of the United States shall be given a
 22 preference, if otherwise qualified.

[S., '13, § 679-e.]

SEC. 3568. Police and fire departments—officers—salaries—clerk of board—record.

1 The officers of the police force in said city shall be a marshal
 2 who shall be, ex officio, chief of police, and shall be appointed by the
 3 mayor of said city, and such other officers as the city council may
 4 designate; and the officers of the fire department shall be chief of the
 5 fire department, who shall be appointed by the board of police and
 6 fire commissioners, and such other officers as the city council may
 7 designate. The city council of said city shall fix the salary of the
 8 marshal and of the chief of the fire department, and shall fix the num-
 9 ber of policemen and firemen for the police and fire force, and shall
 10 fix the salaries to be paid to each. The city council shall also provide
 11 a suitable room in which the said board of police and fire commis-
 12 sioners may hold its meetings, and the board may appoint a clerk, whose
 13 salary shall be fixed by the city council. Said board shall keep a rec-
 14 ord of all its meetings and proceedings.

[S., '13, § 679-f.]

SEC. 3569. Appointments—how and by whom made.

1 The chief of police shall appoint the police force for said city and
 2 the chief of the fire department shall appoint the fire force for said city.

[S., '13, § 679-g.]

SEC. 3570. Removal—suspension—hearing—reduction of force.

1 All police officers and policemen, and all firemen, including the
 2 chief of the fire department, and all employees in the civil list covered
 3 by this chapter, shall be subject to removal by the board of police and
 4 fire commissioners for misconduct or failure to perform their duty
 5 under such rules and regulations as may be adopted by the said board,
 6 whenever said board shall consider or declare such removal necessary
 7 for the proper management and discipline of said department; but
 8 the chief of police or the chief of the fire department may temporarily

9 suspend or discharge any member of his force for misconduct, or
 10 neglect of duty, or disobedience of orders; provided that any person
 11 so suspended or discharged within five days thereafter may appear
 12 before said board, and said board shall investigate the cause of said
 13 removal or discharge, and if the same is found insufficient he shall
 14 be reinstated. The board shall fix the date for the trial of such dis-
 15 charged or suspended officer or man of either the police or fire depart-
 16 ment within fifteen days after demand for a hearing by the accused
 17 and shall give ten days' written notice to the accused of the date set
 18 for trial, specifying the charges upon which the accused is to be tried
 19 and the name of the person making the charges. The meetings and
 20 procedure of the board when trying such cases shall be open to the
 21 public, and said accused shall have the right of counsel, and the exam-
 22 ination of witnesses for and against the accused shall be in the pres-
 23 ence of the accused, and he, or his counsel, shall have the right to
 24 cross-examine any witness testifying against him. The accused shall
 25 have the right to produce witnesses in his defense, and the board shall
 26 cause the witnesses of the accused to be properly subpoenaed. Meet-
 27 ings shall be called by the chairman upon the application of two mem-
 28 bers of the board, and written notices must be sent to all members
 29 of the board, stating the time and the place and the purpose for call-
 30 ing a meeting. The board shall have the power to enforce the attend-
 31 ance of witnesses, and the production of books and papers, and to
 32 administer oaths in the same manner, and with like effect and under
 33 the same penalties as in the case of magistrates, exercising civil or
 34 criminal jurisdiction under the statutes of Iowa.

35 Whenever the revenue of any city available for the use of paying
 36 the salaries of the police officers, policemen and firemen is insufficient
 37 to pay the current salaries to the number of policemen then engaged
 38 on the police force and the firemen, the city council of any city which
 39 has a board of police and fire commissioners, as provided in this chap-
 40 ter, may provide by general ordinance for a reduction in the number
 41 of its firemen, and its police officers and policemen, except the chief
 42 of the fire department and the chief of police, in which event, the
 43 necessary number to make such reduction shall be honorably dis-
 44 charged from the said police force or the fire department. The per-
 45 sons discharged shall be designated in writing by the mayor; provided,
 46 however, that in making such discharge, the mayor shall take into
 47 consideration the length of service, competency and efficiency of the
 48 members of the police force and the members of the fire department.
 49 It shall be the duty of the mayor to designate for discharge the police-
 50 men and firemen whose length of service is of the shortest duration
 51 and who have shown the least efficiency and competency.

[S., '13, § 679-h.]

SEC. 3571. Present officers continued in office.

1 The present chief of the fire department and the members of the
 2 police and fire department of each of the cities affected by this chap-
 3 ter, other than the chief of police, shall be continued in their present
 4 positions without further appointment or examination, subject, how-
 5 ever, to all rules and regulations adopted for the government of said
 6 departments under this chapter.

[S., '13, § 679-i.]

SEC. 3572. Qualifications of appointees—political contributions.

1 No person shall be appointed or employed on the police or fire
 2 force of said city who is not a citizen of the United States and who
 3 has not been a resident of said city for more than one year next pre-
 4 ceding said appointment, and who is not able to read and write the
 5 English language, and who is not of good moral character, or who is
 6 addicted to the use of intoxicating liquor as a beverage. No member
 7 of said police or fire force shall directly or indirectly contribute any
 8 money to any person for nomination or election purposes, and no per-
 9 son shall be appointed to or removed from said police or fire forces
 10 on account of his political beliefs.

[S., '13, § 679-j.]

SEC. 3573. Penalty.

1 Any person violating the provisions of this chapter shall be guilty
 2 of a misdemeanor, and upon conviction shall pay a fine not to exceed
 3 one hundred dollars, or be imprisoned in the county jail not to exceed
 4 thirty days.

[S., '13, § 679-k.]

CHAPTER 6.
ORDINANCES.**SECTION 3574. Power to pass ordinances—penalties.**

1 Municipal corporations shall have power to make and publish,
 2 from time to time, ordinances, not inconsistent with the laws of the
 3 state, for carrying into effect or discharging the powers and duties
 4 conferred by this title, and such as shall seem necessary and proper
 5 to provide for the safety, preserve the health, promote the prosperity,
 6 improve the morals, order, comfort and convenience of such corpora-
 7 tions and the inhabitants thereof, and to enforce obedience to such
 8 ordinances by fine not exceeding one hundred dollars, or by imprison-
 9 ment not exceeding thirty days.

[R., '60, §§ 1071-1073; C., '73, § 482; C., '97, § 680.]

SEC. 3575. Adoption of ordinances.

1 No ordinance shall contain more than one subject, which shall
 2 be clearly expressed in its title; and no ordinance or section thereof
 3 shall be revised or amended unless the new ordinance contain the
 4 entire ordinance or section revised or amended, and the former ordi-
 5 nance or section shall be repealed. When a city or town shall make
 6 a complete revision of the ordinances of said city or town by re-
 7 arrangement and grouping of the same under appropriate titles, parts,
 8 chapters and sections, the enactment of said revision of ordinances
 9 as so rearranged and grouped shall be considered a sufficient com-
 10 pliance with the provisions of this section.

[R., '60, § 1122; C., '73, § 489; C., '97, § 681; 38 G. A., ch.
 21, § 1.]

SEC. 3576. Reading.

1 Ordinances of a general or permanent nature, and those for the
 2 appropriation of money, shall be fully and distinctly read on three
 3 different days, unless three-fourths of the council shall dispense with
 4 the rule.

[R., '60, § 1122; C., '73, § 489; C., '97, § 682.]

SEC. 3577. Adoption—majority vote.

1 No resolution or ordinance for any of the purposes hereinafter
 2 set forth shall be adopted without the concurrence of a majority of
 3 the whole number of members elected to the council, to wit:
 4 1. To pass or adopt any by-law or ordinance.
 5 2. To pass or adopt any resolution or order to enter into a con-
 6 tract.
 7 3. To pass or adopt any ordinance for the appropriation or pay-
 8 ment of money; but in towns, by-laws, ordinances, and the resolutions
 9 and orders set forth in this section shall require for their passage or
 10 adoption a majority vote of the town council. On the passage or
 11 adoption of every by-law, ordinance, and every such resolution or
 12 order, the yeas and nays shall be called and recorded. No money
 13 shall be appropriated except by ordinance. In towns money may be
 14 appropriated by resolution.

[R., '60, §§ 1122, 1134; C., '73, §§ 489, 493; C., '97, § 683;
 S., '13, § 683; 38 G. A., ch. 255, § 1.]

SEC. 3578. Adoption—majority vote.

1 No resolution or ordinance for any of the purposes hereinafter
 2 set forth, except as otherwise provided by law, shall be adopted with-
 3 out a majority vote of the members elected to the council, to wit:
 4 1. Directing the opening, straightening or widening of any street,
 5 avenue, highway or alley.
 6 2. Directing the making of any improvement which will require
 7 proceedings to condemn private property.
 8 3. Directing any improvement or repair of a street, avenue, high-
 9 way or alley, the cost of which is to be assessed upon the property,
 10 or against the owners thereof, unless two-thirds of the owners to be
 11 charged therefor shall petition in writing for the same.
 12 On the passage of every such ordinance or resolution, the yeas
 13 and nays shall be called and recorded.

[R., '60, § 1135; C., '73, § 494; C., '97, § 684; 38 G. A., ch.
 255, § 2.]

SEC. 3579. Signing by mayor—veto—passing over veto.

1 The mayor shall sign every ordinance or resolution passed by the
 2 council before the same shall be in force, and, if he refuses to sign
 3 any such ordinance or resolution, he shall call a meeting of the council
 4 within fourteen days thereafter, and return the same, with his reasons
 5 therefor. If he fails to call the meeting within the time fixed above,
 6 or fails to return the ordinance or resolution, with his reasons, as
 7 herein required, such ordinance or resolution shall become operative
 8 without such signature, and the clerk shall record it in the ordinance
 9 book, with a minute of the facts making it operative. Upon the return
 10 of any such ordinance or resolution by the mayor to the council, it
 11 may pass the same over his objections, upon a call of the yeas and

12 nays, by not less than a two-thirds vote of the council, and the clerk
 13 shall certify on said ordinance or resolution that the same was passed
 14 by a two-thirds vote of the council, and sign it officially as clerk.

[C., '97, § 685.]

SEC. 3580. Recording—publishing.

1 All ordinances shall, as soon as may be after their passage, be
 2 recorded in a book kept for that purpose, and be authenticated by the
 3 signature of the presiding officer of the council and the clerk; and
 4 all ordinances of a general or permanent nature, and those imposing
 5 any fine, penalty or forfeiture, shall be published in some newspaper
 6 of general circulation in the city or town; and it shall be sufficient
 7 defense to any suit or prosecution for such fine, penalty or forfeiture
 8 to show that no such publication was made; but if no such newspaper
 9 is published within the limits of the corporation, then such ordinances
 10 may be published by posting up copies thereof in three public places
 11 within the limits thereof, two of which places shall be the postoffice
 12 and the mayor's office of such city or town. When the ordinance is
 13 published in a newspaper, it shall take effect from and after its pub-
 14 lication; when published by posting, it shall take effect five days there-
 15 after. Immediately following the record of every ordinance, the clerk
 16 shall append a certificate, stating therein the time and manner of
 17 publication thereof, which certificate shall be presumptive evidence of
 18 the facts therein stated.

[R., '60, § 1133; C., '73, § 492; C., '97, § 686.]

SEC. 3581. Published ordinances.

1 When any city or town shall cause or has heretofore caused its
 2 ordinances to be published in book or pamphlet form, such book or
 3 pamphlet shall be received as evidence of the passage and legal pub-
 4 lication of such ordinances, as of the dates mentioned or provided for
 5 therein, in all courts and places, without further proof. When the
 6 ordinances are so published, it shall not be necessary to publish them
 7 in the manner provided for in the preceding section.

[C., '97, § 687.]

SEC. 3582. Proceedings published or posted.

1 Immediately following a regular or special meeting of the city
 2 or town council, the clerk shall prepare a condensed statement of the
 3 proceedings of said council, including the list of claims allowed, and
 4 from what funds appropriated and cause the same to be published in
 5 one or more newspapers of general circulation, published in said city
 6 or town; provided, however, that in cities and towns in which no
 7 newspaper is published, such statement and list of claims shall be
 8 posted in at least three public places on the business streets of said
 9 city or town.

[S. S., '15, § 687-a; 37 G. A., ch. 157, § 1.]

SEC. 3583. Cost of publishing.

1 The compensation allowed each newspaper for such publication
 2 shall not exceed one-third of the legal fee provided by statute for the
 3 publication of legal notices.

[S., '13, § 687-b.]

CHAPTER 7.

MAYORS' AND POLICE COURTS.

SECTION 3584. Police court—jurisdiction.

1 The police court shall be a court of record, and have a seal to be
2 provided by the council, with the name of the state in the center, and
3 style of the court around the margin. It shall be held in suitable
4 rooms to be provided by the council, and shall always be open for the
5 dispatch of business. It shall have, in all criminal cases, the powers
6 and jurisdiction of justices of the peace, and the jurisdiction of a
7 mayor's court in the case of violation of the city ordinances.

[R., '60, §§ 1116, 1117, 1119; C., '73, §§ 542, 543, 545;
C., '97, § 688.]

SEC. 3585. Clerk.

1 The clerk of the police court shall not be in any way concerned
2 as counsel or agent in the prosecution or defense of any person before
3 such court.

[R., '60, § 1116; C., '73, § 542; C., '97, § 689.]

SEC. 3586. Jurors.

1 Provisions shall be made by ordinance for selecting, summoning
2 and impaneling jurors in the police court, who shall have the qualifi-
3 cations of jurors as provided by law, and for all other matters touch-
4 ing said court that may tend to make it efficient.

[R., '60, §§ 1116, 1119; C., '73, §§ 542, 545; C., '97, § 690.]

SEC. 3587. Jurisdiction of mayor—may transfer case on own motion—fees.

1 The mayor shall have exclusive jurisdiction of all actions or
2 prosecutions for violations of the city or town ordinances. He shall
3 also have, in criminal matters, the jurisdiction of a justice of the
4 peace, coextensive with the county, and, in civil cases, the same juris-
5 diction within the city or town as a justice of the peace has within the
6 township. None of the jurisdiction referred to in this section shall
7 be exercised by the mayors in cities having a superior or police court.
8 If the mayor or judge of the superior or police court is absent or un-
9 able to act, the nearest justice of the peace shall have jurisdiction
10 and hold his court in criminal proceedings, and receive the statutory
11 fees, to be paid by the city or county, as the case may be. When an
12 information is filed before a mayor of any city or town for the viola-
13 tion of an ordinance of such city or town, the mayor having juris-
14 diction as provided in this section may, upon his own motion only, at
15 any time after the information is filed and before the trial, transfer
16 the case for further proceedings to any justice of the peace court
17 within such city or town, and the justice of the peace, for the further
18 proceedings in the case, to whom the case is transferred, shall have
19 jurisdiction thereof to the same extent and with the same power and
20 like limitations as the mayor of such city or town. The fees taxable
21 after the transfer of the case fixed by ordinance shall be paid by the
22 city or town as the case may be to the justice before whom the case
23 is tried.

[R., '60, §§ 1085, 1102, 1105; C., '73, § 506; C., '97, § 691;
S., '13, § 691.]

SEC. 3588. Procedure—appeal—judicial notice of ordinances.

1 The proceedings before a mayor or a police court shall be, as far
 2 as applicable, in accordance with the law regulating similar proceed-
 3 ings before a justice of the peace, unless otherwise provided; but there
 4 shall be no change of venue in actions or prosecutions under ordi-
 5 nances, and the trial shall be by the court without a jury, except on
 6 appeal; appeals and writs of error shall be taken from the mayor or
 7 the police court in the same time and manner, and subject to the same
 8 restrictions. If a city or town is situated in two or more counties,
 9 the appeal or writ of error shall be taken to or in the district court
 10 of the county in which the mayor's court or police court is held. On
 11 the hearing of such appeal, or writ of error, the court shall take judi-
 12 cial notice of the ordinances of the city or town.

[R., '60, §§ 1085, 1102, 1105, 1120, 5105; C., '73, §§ 506, 546,
 4707; C., '97, § 692.]

SEC. 3589. Fines recovered.

1 Fines and penalties may in all cases, and in addition to any other
 2 mode provided, be recovered by action before a justice of the peace
 3 or other court of competent jurisdiction, in the name of the proper
 4 municipal corporation, for its use. In any such action, where plead-
 5 ing is necessary, it shall be sufficient to declare generally for the
 6 amount claimed to be due in respect to the violation of the ordinance,
 7 referring to its title and the date of its adoption or passage, and show-
 8 ing, as near as may be, the facts of the alleged violation.

[R., '60, § 1074; C., '73, § 483; C., '97, § 693.]

SEC. 3590. Commitment.

1 Whenever a fine and costs imposed for the violation of any ordi-
 2 nance are not paid, the person convicted may, by the court having
 3 jurisdiction of the case, be committed to jail until the fine and costs
 4 are paid, not to exceed thirty days.

[R., '60, § 1100; C., '73, § 484; C., '97, § 694.]

CHAPTER 8.**GENERAL POWERS.****SECTION 3591. Bodies corporate—name—authority.**

1 Cities and towns are bodies politic and corporate, under such
 2 name and style as may be selected at the time of their organization,
 3 with the authority vested in the mayor and a common council,
 4 together with such officers as are in this title mentioned or may be
 5 created under its authority, and shall have the general powers and
 6 privileges granted, and such others as are incident to municipal cor-
 7 porations of like character, not inconsistent with the statutes of the
 8 state, for the protection of their property and inhabitants, and the
 9 preservation of peace and good order therein, and they may sue and
 10 be sued, contract and be contracted with, acquire and hold real and
 11 personal property, and have a common seal.

[C., '51, § 664; R., '60, §§ 1047, 1056, 1057, 1090, 1094, 1095;
 C., '73, §§ 454-456, 517, 523, 524; C., '97, § 695.]

SEC. 3592. Prevention of nuisances—prohibition by ordinance—regulation of slaughterhouses.

1 They shall have power to prevent injury or annoyance from any-
 2 thing dangerous, offensive or unhealthy, to cause any nuisance to be
 3 abated, to provide for the destruction of weeds and other noxious
 4 growths upon any of the lots and parkings therein, and to provide
 5 for the assessment of the cost thereof to the property; to provide for
 6 the immediate seizure and destruction of tainted or unsound meat or
 7 other provisions; to establish all needful regulations as to the man-
 8 agement of packing and slaughterhouses, renderies, tallow chandleries
 9 and soap factories, bone factories, tanneries, and manufactories of
 10 fertilizers and chemicals, within the limits of such cities or towns;
 11 to regulate and restrain the deposit and removal of all offensive ma-
 12 terial and substances, and the engendering of offensive odors and
 13 sights therefrom, so as to protect the public against the same; to
 14 establish and regulate slaughterhouses; and, in cities having five
 15 thousand or more inhabitants, to build and control the same. In addi-
 16 tion to any right of abatement of any public or private nuisance, they
 17 shall have the right to prohibit the same by ordinance and to punish
 18 by fine or imprisonment for the violation thereof.

[R., '60, §§ 1057, 1096; C., '73, §§ 456, 526; C., '97, § 696;
 S., '13, § 696.]

SEC. 3593. Sanitary districts—cleaning streets—tax—bonds—limit of indebtedness.

1 The council of any incorporated city or town, including those
 2 organized under the commission form of government, may, by ordi-
 3 nance, provide for the establishment of sanitary districts for the col-
 4 lection and disposal of garbage and other such waste material as may
 5 become dangerous to the public health or detrimental to the best inter-
 6 ests of the community, and for the oiling and sprinkling, flushing
 7 and cleaning of streets, and may adopt such rules and regulations as
 8 are necessary for the proper administration of the provisions of this
 9 section. It shall have authority to levy an annual tax within each
 10 district not exceeding two mills on the dollar of the taxable property
 11 in said district for a fund for the purpose of paying the cost and ex-
 12 pense of such collection and disposal of garbage and such other waste
 13 material as may become dangerous to the public health, and for the
 14 oiling and sprinkling, flushing and cleaning of streets therein. It
 15 may, by vote of a majority of the voters of the cities and towns
 16 included within the provisions of this section, issue bonds for the
 17 purchase or erection of disposal plants. Such bonds shall be payable
 18 in not exceeding twenty annual installments and bear interest at not
 19 exceeding six per centum per annum, and shall be made payable at
 20 such place and be of such form as the city council shall by ordinance,
 21 designate. Such cities and towns may for such purpose incur an
 22 indebtedness not exceeding in the aggregate, added to all other indebt-
 23 edness, five per centum of the actual value of the taxable property of
 24 such city or town as shown by the last preceding assessment roll.

[S. S., '15, § 696-b; 37 G. A., ch. 367, § 1.]

SEC. 3594. Storing inflammable junk.

1 The depositing or storing of inflammable junk, such as old rags,
 2 rope, cordage, rubber, bones and paper, by dealers in such articles

3 within the fire limits of any city, unless it be in a building of fireproof
4 construction, is a public nuisance and may be abated and punished
5 as such.

[37 G. A., ch. 184, § 1.]

SEC. 3595. Testing milk cows for tuberculosis—power of cities.

1 There is hereby granted to towns, cities, or cities under commis-
2 sion form of government, full authority to adopt ordinances, with
3 penalty for violation thereof, prohibiting the sale to inhabitants of
4 such town or city of milk or cream from cows which have not been
5 tested for tuberculosis by some competent veterinarian as prescribed
6 in such ordinance.

[37 G. A., ch. 342, § 1.]

SEC. 3596. Burial of the dead—cemeteries.

1 They shall have power to regulate the burial of the dead; to pro-
2 vide, without the limits of the corporation, places for the interment
3 of the dead; to cause any body interred contrary to such regulations
4 to be taken up and buried in accordance therewith; to exercise over
5 all cemeteries within their limits, and those without their limits estab-
6 lished by their authority, the powers conferred upon township trust-
7 ees with reference to cemeteries; and to authorize the establishment
8 of crematories for the cremation of the dead, within or without the
9 limits of such corporation, and to regulate the same.

[R., '60, § 1060; C., '73, § 458; C., '97, § 697.]

SEC. 3597. Filling or draining lots.

1 They shall have power to cause any lot of land within their limits,
2 on which water at any time becomes stagnant, to be filled up or drained
3 in such manner and within such time as may be directed by resolution
4 of the council. Service of a copy of said resolution shall be made
5 upon the owner of such lot, if residing in the county where the same
6 is situated; otherwise publication of such notice shall be made once
7 each week for two consecutive weeks in a daily or weekly newspaper
8 published within such city or town, or, if there be no such newspaper,
9 then by publication of the same in a newspaper published in said
10 county. On the failure of such owner to comply with such directions
11 within the time fixed, it may be done by said city or town, and the
12 costs and expenses thereof assessed against said lot, which shall be a
13 debt due to said corporation from the owner of said lot, and shall,
14 moreover, from the time of the adoption of such resolution, be a lien
15 thereon as provided in case of special assessments.

[R., '60, § 1070; C., '73, § 480; C., '97, § 698.]

SEC. 3598. Drainage preserved.

1 They shall have power to require the owner or lessee of any lot
2 or tract of ground within their limits, extending into, across or border-
3 ing upon any hollow or ravine which constitutes a drain for surface
4 water, or a watercourse of any kind, who shall, by grading or filling
5 such lot or tract of ground, obstruct the flow of water through such
6 watercourse, to construct through such lot or land a sufficient drain
7 or passageway for water, within such time as the council may desig-
8 nate, notice of which action shall be given as in the preceding section.
9 Upon the failure of such owner or lessee to construct such drain or

10 passageway within the time so fixed, the city or town may construct
 11 the same, and assess the costs and expenses thereof on such lot or tract
 12 of ground, and the same shall be a lien thereon as provided in case of
 13 special assessments.

[C., '97, § 699.]

SEC. 3599. Regulations—licenses—engineers—examinations.

1 They shall have power to regulate, license and tax hotels, res-
 2 taurants and eating houses; to define by ordinance who shall be con-
 3 sidered transient merchants; to regulate, license and tax their sales
 4 and those of auctioneers, bankrupt and dollar stores, and the like, but
 5 the exercise of such power shall not interfere with sales made by
 6 sheriffs, constables, coroners, marshals, executors, guardians, as-
 7 signees of insolvent debtors or bankrupts, or any other person required
 8 by law to sell real or personal property; to regulate, license and tax
 9 peddlers, house movers, billposters, itinerant doctors, itinerant phy-
 10 sicians and surgeons, junk dealers, scavengers, pawnbrokers, and per-
 11 sons receiving actual possession of personal property as security for
 12 loans, with or without a mortgage or bill of sale thereon, and to pro-
 13 vide for the examination and licensing engineers of stationary en-
 14 gines; to license and regulate all keepers of intelligence or employment
 15 offices, bureaus and agencies, as well as all persons doing the business
 16 of seeking employment for others, or procuring or furnishing em-
 17 ployers for others, or giving information whereby employees or em-
 18 ployers may be obtained.

[R., '60, § 1063; C., '73, §§ 462, 463; C., '97, § 700; S., '13,
 § 700.]

SEC. 3600. Public dance halls—regulation—license.

1 Cities and towns shall have power to regulate, tax, license
 2 or prohibit public dance halls, skating rinks, fortune tellers, palmists,
 3 and clairvoyants.

[S., '13, § 700-a.]

SEC. 3601. Billboards—regulation—license.

1 Cities and towns shall have the power to regulate the construction
 2 and location of billboards and the power to license and tax the owners
 3 thereof or persons maintaining the same.

[S., '13, § 700-b.]

SEC. 3602. Pawnbrokers—secondhand dealers.

1 They shall have power to prohibit pawnbrokers and junk or
 2 secondhand dealers purchasing or receiving from minors any prop-
 3 erty, without the written consent of their parents or guardians, and
 4 provide for the examination of the premises of such persons for the
 5 purpose of discovering stolen property.

[C., '97, § 701.]

SEC. 3603. Pawnbrokers and junk dealers to report receipt of tools—restriction on sale.

1 Every pawnbroker, junk dealer or dealer in secondhand goods
 2 conducting business in any city of ten thousand or more population,
 3 who shall purchase or receive from any person any tool or implement

4 such as is commonly used by carpenters, bricklayers, plasterers, plumb-
 5 ers or other mechanics in the construction or erection of buildings,
 6 shall, within twenty-four hours after the purchase or receipt of such
 7 tool or implement give notice to the chief of police, captain of police,
 8 or police sergeant at a police station in the city where said tool or
 9 implement was purchased or received, stating the date on which said
 10 tool or implement was purchased or received, and the name of the
 11 person from whom same was purchased or received; and the pawn-
 12 broker, junk dealer or dealer in secondhand goods so purchasing or
 13 receiving such tool or implement shall not sell or dispose of same for
 14 a period of forty-eight hours after the notice is given as above speci-
 15 fied, and until the expiration of such time shall keep said tool or im-
 16 plement in his store, shop or place of business in such place that same
 17 can be readily seen and examined.

[S. S., '15, § 701-a.]

SEC. 3604. Penalty—personal liability.

1 Any person violating the provisions of the preceding section shall
 2 be deemed guilty of a misdemeanor, and shall be punished by impris-
 3 onment of not more than thirty days or a fine of not to exceed one
 4 hundred dollars and in addition thereto, if it should be proven that
 5 such tool or implement was stolen before the sale or delivery to said
 6 pawnbroker, junk dealer or dealer in secondhand goods and the pro-
 7 visions of said section have not been complied with by the person
 8 purchasing or receiving same, then said pawnbroker, junk dealer or
 9 dealer in secondhand goods shall be liable to the owner of said tool
 10 or implement for its full value, same to be recovered in a suit at law.

[S. S., '15, § 701-b.]

SEC. 3605. Billiard saloons—gaming.

1 They shall have power to regulate, license, tax or prohibit billiard
 2 saloons, billiard tables, pool tables, and all other tables kept for hire;
 3 bowling alleys and shooting galleries or places; to suppress, restrain
 4 or prohibit all gambling games or devices; to authorize the destruc-
 5 tion of all instruments or devices used for the purpose of gaming or
 6 gambling, and to punish gambling.

[R., '60, §§ 1057, 1063; C., '73, §§ 456, 463; C., '97, § 702.]

SEC. 3606. Circuses—theaters—shows.

1 They shall have power to regulate, license or prohibit circuses,
 2 menageries, theaters, theatrical exhibitions, shows and exhibitions of
 3 all kinds; but lectures on scientific, historical or literary subjects shall
 4 not come within the provisions of this section.

[R., '60, §§ 1062, 1063; C., '73, §§ 460, 463; C., '97, § 703.]

SEC. 3607. Gambling houses—disorderly houses.

1 They shall have power to suppress, restrain and prohibit gam-
 2 bling houses, bawdyhouses, disorderly houses, houses of ill fame, road
 3 houses where lewdness is carried on, opium or hop joints or places
 4 resorted to for the use of opium or hasheesh, or places where intoxi-
 5 cating liquor is illegally kept, sold or given away, and to punish the
 6 keepers and inmates thereof, or persons resorting thereto, or persons

7 who, knowing the character or reputation of such places, transport
8 others to or from any of the above described places.

[R., '60, § 1057; C., '73, § 456; C., '97, § 704; S., '13, § 704;
37 G. A., ch. 393, § 1.]

SEC. 3608. Begging—regulation by cities and towns.

1 Cities and towns including cities organized under the commission
2 form of government, shall have power by ordinance to suppress, re-
3 strain and prohibit begging in and on the streets and other public
4 places and provide punishment for the violation of such ordinance.

[37 G. A., ch. 425, § 1.]

SEC. 3609. Disturbances—parades.

1 They shall have power to prevent and suppress any riots, noise,
2 disturbance or disorderly assemblies, and to provide that, before any
3 association, company, society, order, exhibition or aggregation of per-
4 sons shall parade or march upon the streets of any city, they shall
5 first obtain from the mayor of such city a permit, when issued to be
6 without charge, and the same shall state the time, manner and condi-
7 tion of such parade or march; and to punish any person engaged in
8 riotous, noisy or disorderly conduct.

[R., '60, § 1057; C., '73, § 456; C., '97, § 705.]

SEC. 3610. Animals running at large.

1 They shall have power to restrain and regulate the running at
2 large of cattle, horses, swine, sheep and other animals or fowl, within
3 the limits of the corporation, and to authorize the distraining, im-
4 pounding and sale of the same for the penalty incurred and the costs
5 of the proceeding.

[R., '60, § 1061; C., '73, § 459; C., '97, § 706.]

SEC. 3611. Dogs.

1 They shall have power to regulate, restrain, license or prohibit
2 the running at large of dogs within their limits, and to require them
3 to be kept upon the premises of the owners thereof, unless licensed
4 to run at large, and to provide for the destruction thereof when found
5 at large contrary to and in violation of the provisions of any ordinance
6 or by-law passed pursuant to the power herein granted.

[R., '60, § 1061; C., '73, § 459; C., '97, § 707.]

SEC. 3612. Auction sales of animals.

1 They shall have power to regulate, license or prohibit the sale of
2 horses or other domestic animals at auction in the streets, avenues,
3 highways, alleys or public places thereof.

[R., '60, § 1063; C., '73, § 463; C., '97, § 708.]

SEC. 3613. Numbering of buildings.

1 They shall have power to require all buildings to be numbered by
2 the owners or lessees thereof, and, in case of failure to comply with
3 such requirement, to cause the same to be done, and to assess the cost
4 thereof against the property or premises numbered.

[C., '97, § 709.]

SEC. 3614. Building code—penalties.

1 Cities and towns, including cities under the commission form of
 2 government, shall have the power to adopt by ordinance a building
 3 code, providing for the districting of such cities into one or more
 4 districts, establishing reasonable rules and regulations for the erec-
 5 tion, reconstruction and inspection of buildings of all kinds within
 6 their limits and for a fee for such inspection and providing penalties
 7 for violation thereof.

[S., '13, § 709-a.]

SEC. 3615. Establishment of building lines.

1 All cities of the first and second class, including cities under com-
 2 mission form of government, may establish, by ordinance, building
 3 lines on private or public property at such distance back from the
 4 street or highway line as may be determined necessary or proper by
 5 the city council to promote the public health, safety, order and general
 6 welfare. After the establishment of any such building line, no build-
 7 ing, other structure or addition thereto shall be erected between said
 8 line and the street or highway line.

[38 G. A., ch. 145, § 1.]

SEC. 3616. Resolution of necessity.

1 Whenever the council of any such city shall deem it advisable or
 2 necessary for the benefit to the city as a whole to establish a building
 3 line as authorized in the preceding section, it shall, in a proposed reso-
 4 lution, which shall be published for two consecutive days in some
 5 newspaper of general circulation in the city, the last publication to
 6 be not less than five days before the time set for the hearing, declare
 7 such advisability or necessity, stating the street or highway adjacent
 8 to which the line is to be established, location thereof and the time
 9 when and the place where all objections to the establishment of the
 10 same will be heard. At which hearing the ordinance may be amended
 11 but it shall not be adopted until next regular council meeting.

[38 G. A., ch. 145, § 2.]

SEC. 3617. Restricted residence districts—petition.

1 Cities of the first class, including cities under commission form
 2 of government, may, and upon petition of sixty per cent of the owners
 3 of the real estate in the district sought to be affected residing in such
 4 city shall designate and establish, by appropriate proceedings, re-
 5 stricted residence districts within its limits.

[37 G. A., ch. 138, § 1.]

SEC. 3618. Ordinance, scope of.

1 In the ordinance designating and establishing such restricted resi-
 2 dence district, every such city is hereby empowered to provide and
 3 establish reasonable rules and regulations for the erection, reconstruc-
 4 tion, altering and repairing of buildings of all kinds, within said dis-
 5 trict, as well as the use and occupancy of such buildings; and to
 6 provide that no building or other structure, except residences, school-
 7 houses, churches, and other similar structures shall thereafter be
 8 erected, altered or repaired, or occupied without first securing from
 9 the city council of such city a permit therefor, such permit to be issued

10 under such reasonable rules and regulations as may in said ordinance
11 be provided.

[37 G. A., ch. 138, § 2.]

SEC. 3619. Ordinance—violations.

1 Any building or structure erected, altered, repaired or used in
2 violation of any ordinance passed under the authority of the two pre-
3 ceding sections, shall be deemed a nuisance, and every such city is
4 hereby empowered to provide by ordinance for the abatement of such
5 nuisance, either by fine or imprisonment, or by action in the district
6 or municipal court of the county in which such city is located, or by
7 both; such action to be prosecuted in the name of the city.

[37 G. A., ch. 138, § 3.]

SEC. 3620. Dangerous buildings.

1 Cities and towns shall have power to provide by ordinance for the
2 repair, removal or destruction of any building which is dangerous, or
3 which may be liable to fall, and to levy and collect a special tax against
4 the property and owner thereof for the expense thereof, as other spe-
5 cial taxes are levied and collected.

[C., '97, § 710.]

SEC. 3621. Fires—electric apparatus—regulations—fire limits.

1 Cities, including cities acting under commission form of govern-
2 ment, and towns shall have power to make regulations for protection
3 against fire and electrical apparatus, to establish fire limits, to pro-
4 hibit within such limits the erection of all buildings and structures of
5 every kind, additions thereto, substantial alterations thereof involving
6 partial rebuilding, not constructed of fireproof materials, in whole or
7 in part, as prescribed by ordinance, and to remove or take down any
8 building or structure or part thereof erected contrary to such ordi-
9 nances and to collect the cost thereof from the owner.

[R., '60, § 1058; C., '73, § 457; C., '97, § 711; S., '13, § 711.]

SEC. 3622. Regulation of electric installation.

1 Cities and towns, including cities acting under commission form
2 of government, shall have power to prescribe rules and regulations
3 for the installation of electric light and power wiring, electrical fix-
4 tures and appliances, and electrical work and materials; to provide
5 for the inspection of such work, materials, and the manner of installa-
6 tion; to compel the removal of dangerous electric light and power
7 wiring, electrical fixtures and appliances and electrical work hereafter
8 installed in violation of the manner prescribed, and to impose penal-
9 ties within the limits of section thirty-five hundred seventy-four for
10 a violation of the ordinances enacted hereunder; provided that the
11 provisions of this section shall not apply to substations, central power
12 stations and power houses, and the installations in such substations,
13 central power stations, and power houses belonging to and operated
14 by public utility companies operating under state charters and fran-
15 chises.

[S. S., '15, § 711-a.]

SEC. 3623. Chimneys—manufactories—fireworks—fire escapes.

1 They shall have power to regulate and control the building, con-
2 struction or erection of chimneys, stacks, flues, fireplaces, hearths,
3 stovepipes, ovens, boilers, and all apparatus used for heating purposes,
4 and the use of lights in stables, shops and other places; to regulate
5 manufactories by providing against danger from fire; to regulate or
6 prohibit bonfires, and the use of fireworks, firecrackers, torpedoes,
7 roman candles, skyrockets, and other pyrotechnic displays; to pre-
8 vent the deposit of ashes and combustible matter in unsafe places; to
9 require the construction of fire escapes to buildings, and regulate and
10 control the same; to cause all buildings, structures and inclosures that
11 may be in such condition as to cause danger from falling to be fixed,
12 or from fire to be immediately made safe or removed, and to provide
13 for the collection of the costs and expenses incurred in any of the
14 matters provided for in this or the second preceding section, in the
15 manner authorized for the collection of special assessments.

[C., '97, § 712.]

SEC. 3624. Inspection of steam boilers and magazines.

1 They shall have power to provide for the inspection of steam
2 boilers, and all places used for the storage of explosives or inflammable
3 substances or materials, and to prescribe the necessary means and
4 regulations to secure the public against accidents and injuries there-
5 from, to provide for the collection of fees for such inspection and
6 penalties therefor, and to assess the costs and expenses of such pro-
7 ceedings against the property and owners thereof in the manner pro-
8 vided for special assessments.

[C., '97, § 713; 37 G. A., ch. 394, § 1.]

SEC. 3625. Smoke nuisance in certain cities.

1 The emission of dense smoke within the corporate limits of the
2 cities of the state, including cities acting under commission form of
3 government, now or hereafter having a population of thirty thousand
4 or over, is hereby declared a nuisance.

[S., '13, § 713-a.]

SEC. 3626. Abatement—inspection.

1 Every such city is hereby empowered to provide by ordinance
2 for the abatement of such nuisance either by fine or imprisonment or
3 by action in the district court of the county in which such city is
4 located, or by both, such action to be prosecuted in the name of the
5 city. They may also by ordinance provide all necessary rules and
6 regulations for smoke inspection and the abatement and prevention of
7 the smoke nuisance.

[S., '13, § 713-b.]

SEC. 3627. Keeping gunpowder—combustibles.

1 They shall have power to regulate the transportation and keeping
2 of gunpowder, inflammable oils or other combustibles, and to provide
3 or license magazines for storing the same, and prohibit their location
4 or maintenance within a given distance of the corporate limits of such
5 cities or towns.

[R., '60, § 1057; C., '73, § 456; C., '97, § 714.]

SEC. 3628. Wood or lumber yards.

1 They shall have power to prohibit or regulate the piling or depos-
 2 iting of any kind of wood, lumber or timber upon any lot or property
 3 within the city limits within a distance of one hundred yards of any
 4 dwelling house.

[C., '97, § 715.]

SEC. 3629. Fire department.

1 They shall have power to organize, keep and maintain a fire de-
 2 partment and fire companies; to purchase or lease necessary ground
 3 and construct or lease buildings therefor; provide engines, apparatus,
 4 and such other instruments as may be necessary; pay for services
 5 rendered by members of the fire department at any fire; and cities
 6 having a population of five thousand or more may maintain a paid
 7 fire department.

[R., '60, § 1096; C., '73, § 525; C., '97, § 716.]

SEC. 3630. Levy for fire fund.

1 The council of any city, including cities under a commission plan
 2 of government, with a population in excess of nine thousand shall
 3 have the power to levy a special tax not exceeding seven mills on the
 4 dollar each year, and the city council of any city with a population
 5 of nine thousand or less shall have the power to levy a special tax
 6 not exceeding three mills on the dollar each year; and the town coun-
 7 cil of any incorporated town shall have the power to levy a special
 8 tax not exceeding two mills on the dollar each year, upon all taxable
 9 property in said city or town, for the purpose of maintaining a fire
 10 department; and the money so raised shall constitute a fire fund and
 11 shall be used for no other purpose, except that incorporated towns
 12 and cities with a population not in excess of three thousand may use
 13 such fund to purchase fire equipment; provided, however, that in any
 14 cities under the commission plan of government having a population
 15 of ninety thousand or over, said levy shall not exceed three mills.

[S., '13, § 716-a; 37 G. A., ch. 131, § 1; 38 G. A., ch. 148, § 1;
 38 G. A., ch. 159, § 1.]

SEC. 3631. Maintenance of fire departments—special tax for.

1 Cities, including cities acting under commission form of govern-
 2 ment, and towns, shall have power to levy a special tax of not to exceed
 3 one and one-half mills each year, upon all taxable property in said
 4 city, for the purpose of acquiring property for the use of the fire de-
 5 partment and equipping the same. No part of the general fund shall
 6 be used for equipping said fire department. Nothing in this section
 7 shall be held to extend the power of such cities to make annual levies
 8 for general and special taxes in excess of forty-eight mills.

[S., '13, § 716-b; 37 G. A., ch. 151, § 1; 38 G. A., ch. 259, § 1.]

SEC. 3632. Levy—percentage—maturity.

1 Such cities shall have the power after the purchase of the prop-
 2 erty and equipment, by ordinance or resolution, to levy at any one
 3 time the whole or any part of the cost of such property and equipment
 4 upon such taxable property and determine the percentage of tax, not
 5 exceeding one and one-half mills, to be paid each year, and the number

6 of years not exceeding ten, given for the maturity of each installment
 7 thereof. Certificates of such levy shall be filed with the county au-
 8 ditor in which said city is located, setting forth the amount of per-
 9 centage and maturity of said tax, or each installment thereof, certified
 10 as correct by the city clerk or auditor, and thereupon said tax shall
 11 be placed upon the tax lists of the proper county or counties, and
 12 collected as other taxes.

[S., '13, § 716-c.]

SEC. 3633. May anticipate collection—fire fund bonds.

1 Any such city may anticipate the collection of taxes authorized
 2 to be levied for a fire fund for the equipment or purchase of property
 3 for the fire department, and for that purpose may issue fire fund cer-
 4 tificates or bonds with interest coupons, and the provisions of chapter
 5 thirty-four, title thirteen, shall be operative as to such certificates,
 6 bonds and coupons, in so far as they may be applicable.

[S., '13, § 716-d.]

SEC. 3634. Bonds secured by assessments.

1 Said certificates, bonds and interest thereon shall be secured by
 2 said assessments and levies and shall be payable only out of the funds
 3 derived from such levies and pledged to the payment of the same, and
 4 no certificate or bonds shall be issued in excess of taxes authorized
 5 and levied to secure the payment of the same. It shall be the duty
 6 of such city on receipt of such funds, to hold the same separate and
 7 apart in trust for the payment of said certificates, bonds and interest
 8 and to apply the proceeds of such funds to the payments of said cer-
 9 tificates, bonds and interest.

[S., '13, § 716-e.]

SEC. 3635. Markets.

1 They shall have power to establish and regulate markets and
 2 scales, to build market houses and establish and regulate the same;
 3 to provide for the measuring or weighing of merchandise offered for
 4 sale, to prevent forestalling, and regulate or prohibit huckstering in
 5 the markets; to prescribe the kind and description of articles which
 6 may be sold in the markets, and the stands or places to be occupied
 7 by the vendors; to authorize the immediate arrest of any person vio-
 8 lating its regulations, and the seizure and removal from the market
 9 of any article of produce in his possession. But no charge or assess-
 10 ment of any kind shall be made or levied on any wagon or other ve-
 11 hicle, or the horses attached thereto, or the owner thereof, bringing
 12 produce or provisions to any of the markets in the city, or through
 13 the streets contiguous thereto, for standing in or occupying a place
 14 in any of the market spaces, or in the streets contiguous thereto, on
 15 market days and evenings previous thereto.

[R., '60, §§ 1057, 1096; C., '73, §§ 456, 526; C., '97, § 717.]

SEC. 3636. Wharves, docks and piers.

1 They shall have power to establish, construct and regulate land-
 2 ing places, wharves, docks, piers and basins; to use for such purposes
 3 any public building or any property belonging to or under the control
 4 of the city, and the shore or bank of any lake or river not the property
 5 of individuals, to the extent and in any manner that the state can

6 grant such use or control, and fix the rates for landing, wharfage and
7 dockage.

[R., '60, § 1098; C., '73, § 528; C., '97, § 718.]

SEC. 3637. Ferries.

1 They shall have the exclusive power to establish, regulate and
2 license ferries from any landing place in such city; to impose reason-
3 able terms and restrictions in relation to the keeping thereof, the time,
4 manner and rates of the carriage and transportation of persons and
5 property thereon; to provide for the revocation of any license, and
6 for the punishment by fines and penalties of the violation of any ordi-
7 nance prohibiting unlicensed ferries, or regulating those established
8 and licensed.

[R., '60, § 1099; C., '73, § 529; C., '97, § 719.]

SEC. 3638. Bonds.

1 Bonds issued under the provisions of this chapter shall mature
2 in not more than twenty years, be in sums of not less than twenty
3 nor more than one thousand dollars each, and bear interest at a rate
4 not exceeding six per cent per annum, payable annually or semi-
5 annually.

[C., '97, § 726; S. S., '15, § 726.]

SEC. 3639. Maturity of municipal bonds.

1 Cities of the first class including cities under commission form
2 of government when issuing bonds for the purchase of real estate for
3 park and other municipal purposes, are hereby authorized to cause
4 portions of said bonds to become due at different definite periods, but
5 none of such bonds, so issued, shall be due and payable in more than
6 fifty years from date.

[37 G. A., ch. 7, § 1.]

SEC. 3640. Community civic congress.

1 The city council may appoint three persons, residents of said
2 town, especially fitted for, and interested in community work, who
3 shall be known as the community civic congress, who may cooperate
4 with the city council in all matters pertaining to community improve-
5 ments, child welfare, and social and recreational activities, as con-
6 templated in this section, and who shall serve without compensation.

[37 G. A., ch. 182, § 4.]

SEC. 3641. Infirmary—outdoor relief.

1 Cities of the first class shall have the power to establish and main-
2 tain, either within or without the limits of the city, an infirmary for
3 the accommodation of the poor of the city, and to provide for the dis-
4 tribution of outdoor relief.

[R., '60, § 1111; C., '73, § 538; C., '97, § 733.]

SEC. 3642. House of refuge—workhouse.

1 Cities shall have power to establish and maintain, either within
2 their limits or within the county in which they are situated, a house
3 of refuge, or a house of correction and a workhouse, or either of them,
4 and place the same under the management and control of such doctors,

5 superintendents and other officers as the council may by ordinance
6 provide. Persons sentenced for violation of any ordinance, if chil-
7 dren under sixteen years of age, may be committed to the city house
8 of refuge, if there be one; if over sixteen years of age, to the house
9 of correction and workhouse.

[R., '60, § 1112; C., '73, § 539; C., '97, § 734.]

SEC. 3643. Jail—station house.

1 Cities and towns shall have power to erect, establish and main-
2 tain a city jail, which shall be in the keeping of the marshal, under
3 such rules and regulations as the council shall provide. Any city or
4 town shall have the right to use the jail of the county for the confine-
5 ment of such persons as may be liable to imprisonment under the
6 ordinances of such city or town, but it shall be liable to the county
7 for the cost of keeping such prisoners. Cities of the first class shall
8 have power to erect, lease, establish and maintain station houses for
9 the detention of persons arrested, which shall be under the control of
10 the marshal.

[R., '60, § 1116; C., '73, §§ 485, 542; C., '97, § 735.]

SEC. 3644. City jails.

1 The provisions of the chapter on county jails shall apply, as far
2 as may be, to city jails and the persons in charge thereof.

[C., '97, § 5660.]

**SEC. 3645. Contracts for public works—protection of subcon-
tractors.**

1 Cities and towns shall have power to provide by ordinance, or
2 by provisions in contracts for any work of public improvement, that
3 the contractor shall, before receiving certificates or payment therefor,
4 furnish the council, or board of public works, as the case may be,
5 vouchers showing that all subcontractors and workmen who have fur-
6 nished materials for or performed labor upon such improvement have
7 been fully paid for such materials or labor.

[C., '97, § 736.]

SEC. 3646. Plumbing—regulations—inspector.

1 They shall have power by ordinance to prescribe rules and regu-
2 lations for all plumbing connecting any building with sewers, cess-
3 pools, vaults, water mains and gas pipes; and may prescribe the kind
4 and size of materials to be used in such plumbing, and the manner in
5 which the same shall be done; and to appoint an inspector thereof,
6 and define his duties and powers; and to provide for the assessment
7 of the cost of such inspection and replacing of the pavement to the
8 property; and to prescribe penalties for the violation of such ordi-
9 nance. Nothing herein shall be construed as authorizing the annul-
10 ment of any rules or regulations relating to such plumbing made by
11 the local or state board of health, but such ordinance shall conform to
12 and enforce the same.

[C., '97, § 737; S., '13, § 737; 37 G. A., ch. 392, § 1.]

SEC. 3647. Plumbers' license—board of examiners—inspection—penalties.

1 Cities and towns, having a population of less than six thousand,
2 including cities acting under commission form of government, shall
3 have power to regulate and license plumbers; to create a board of
4 examiners to determine the qualifications thereof; to prescribe rules
5 and regulations for the installation of plumbing work and materials;
6 to provide for the inspection of such work, materials and manner
7 of installation; to compel the removal of plumbing installed in viola-
8 tion of the manner prescribed and to impose penalties within the limits
9 of section thirty-five hundred seventy-four for a violation of the ordi-
10 nances enacted hereunder.

[S., '13, § 737-a; 38 G. A., ch. 378, § 1.]

SEC. 3648. Plumbing regulations—state board of health to enact.

1 All cities having a population of six thousand or more, including
2 cities acting under the commission form of government, shall, within
3 ninety days after the taking effect of this act [July 4, 1919], adopt and
4 enforce ordinances regulating the business of plumbing and prescrib-
5 ing rules and regulations not inconsistent with the provisions of this
6 section and the four following sections for the installation and inspec-
7 tion of plumbing and prescribing the grade of material to be used;
8 also compelling the removal of plumbing hereafter installed in viola-
9 tion of such rules and manner prescribed; and to impose penalties
10 within the limits of section thirty-five hundred seventy-four for viola-
11 tions of such ordinances.

12 The state board of health is hereby empowered to make such
13 provisions as may be necessary to establish a code of rules governing
14 the installation of plumbing in the state of Iowa. The governor of
15 Iowa shall, within sixty days after the passage of this act [April
16 25, 1919], appoint a committee of three, two of whom shall have
17 had at least five years' experience in the business of plumbing, to
18 meet with and assist the state board of health in drafting a state
19 code for plumbing, specifying the grade of materials to be used,
20 and regulating the installation of same. Said committee shall serve
21 without compensation but shall be paid necessary traveling and hotel
22 expenses. All necessary and incidental expenses in carrying
23 out the provisions of said sections shall be paid by the state treas-
24 urer from the plumbing inspection fund hereinafter provided, in
25 the manner provided in section two hundred seventy-seven; pro-
26 vided, however, that said committee shall receive no compensation
27 except from such funds as may accrue under the three following sec-
28 tions.

29 The state board of health shall provide and issue to the cities and
30 towns herein specified the necessary blank certificates, or license
31 blanks, on application. All cities and towns herein referred to shall
32 have power to adopt and enforce additional rules governing plumbing,
33 not inconsistent with the state code herein provided for.

[38 G. A., ch. 378, § 2.]

SEC. 3649. Examiners—compensation—license—fee.

1 In all cities which have a population of more than six thousand,
2 having sanitary sewer system, or such other methods of sewerage dis-
3 posal as are enumerated in sections thirty-six hundred forty-eight to

4 thirty-six hundred fifty-two, inclusive, the council shall by ordinance
5 appoint a board of examiners, consisting of three members, one of
6 whom shall be a practical journeyman plumber, one a member of the
7 local board of health, and one a practical master plumber, two of whom
8 shall constitute a quorum for the transaction of business; provided,
9 however, that if there is no resident practical journeyman plumber
10 or practical master plumber in such city, the city council shall not be
11 required to appoint a board of examiners, and every such city not
12 having such a board of examiners shall require each person engaged as
13 a master plumber or employing plumber or journeyman plumber in
14 such city, to have a license or certificate from some examining board
15 within the state, either as a master plumber, journeyman plumber or
16 employing plumber.

17 The council shall provide suitable rooms in which said board of
18 examiners may hold its meetings, and shall provide for the necessary
19 incidental expenses incurred by said board and may also provide a
20 per diem compensation for the members of said board of examiners
21 not exceeding ten dollars per day for the time actually spent in per-
22 forming the duties imposed upon said board.

23 Said board shall, when so directed by the council, and under such
24 rules and regulations as the council shall prescribe, hold examinations
25 of applicants for a certificate, or license, to work, either as a master
26 plumber, journeyman plumber or employing plumber, and if satisfied
27 as to the competency of the applicant, a certificate, or license, shall be
28 issued to such master plumber, journeyman plumber or employing
29 plumber, and the amount of the fee for such examination shall not
30 exceed ten dollars for a master plumber or employing plumber, and
31 shall not exceed five dollars for a journeyman plumber. Fees for
32 renewal for a master plumber or employing plumber's license shall not
33 be more than two dollars, and for a journeyman plumber's license shall
34 not be more than one dollar. Fees for such examination shall be
35 divided as follows: One dollar of the examination fee to be returned
36 to the secretary of the state board of health and by him paid to the
37 state treasurer and kept by the treasurer as a separate fund to be
38 known as the plumbing inspection fund, from which the expense
39 incurred by the state board of health and the committee appointed by
40 the governor as provided in the preceding section, shall be paid, and
41 the balance of examination fees to be paid monthly into the city
42 treasury along with renewal fees.

[38 G. A., ch. 378, § 3.]

SEC. 3650. When certificate valid—may be revoked.

1 Such certificate, or license, shall be valid and recognized through-
2 out the state for a period of one year and may be renewed from year
3 to year upon the payment of the renewal fee. Such license shall not be
4 transferable and shall expire on the thirty-first day of December of
5 each year.

6 Any such certificate, or license, issued by any such authorized
7 board, may be revoked by said board for repeated violation of ordi-
8 nances enacted under the provisions of sections thirty-six hundred
9 forty-eight to thirty-six hundred fifty-one, inclusive.

[38 G. A., ch. 378, § 4.]

SEC. 3651. Certificate issued without examination—to whom—when.

1 Such examining board shall issue a certificate, or license, upon
2 the payment of the regular fee, without examination, to all master
3 plumbers actually engaged in the business of plumbing at the time of
4 the passage of this act [April 25, 1919], provided application for such
5 license be made within ninety days after taking effect of this act [July
6 4, 1919].

[38 G. A., ch. 378, § 5.]

SEC. 3652. Definition of terms.

1 The term "journeyman plumber" as used in the four preceding
2 sections, shall mean a person who does any plumbing work which is
3 by law, ordinance, rule or regulation, subject to official inspection.
4 The term "master plumber" as used in said sections, shall include any
5 person, firm or corporation, other than master plumber, engaged in
6 the business of installing plumbing. The term "plumbing" as used
7 in said sections shall mean the installing of any receptacle used to
8 receive waste water, house soil, slops or sewage.

[38 G. A., ch. 378, § 6.]

SEC. 3653. Compelling installation sanitary toilets.

1 Cities and towns, including cities under the commission plan shall
2 have the power to compel the removal, abandonment and disuse of all
3 outside water-closets, privies and privy vaults where there is a sani-
4 tary sewer in the street or where a sanitary sewer may hereafter be
5 placed in a street abutting upon property that has an outside water-
6 closet, privy or privy vault and shall have the power to compel and
7 cause to be installed sanitary toilet and toilet facilities to be con-
8 nected with the sanitary sewer.

[38 G. A., ch. 316, § 1.]

SEC. 3654. Order by local board of health.

1 The board of health of any city or town, whenever they deem it
2 necessary that any outside water-closet, privy or privy vault be aban-
3 doned and removed where there is a sanitary sewer in the street or a
4 sanitary sewer may hereafter be placed in a street abutting upon prop-
5 erty upon which an outside water-closet, privy or privy vault is located,
6 may order that said outside water-closet, privy or privy vault be
7 abandoned and removed and that a sanitary toilet and toilet facilities
8 be installed and connected with the sanitary sewer.

[38 G. A., ch. 316, § 2.]

SEC. 3655. Special assessment to pay cost—when.

1 In any case, where the board of health of any city or town shall
2 order the removal and disuse of any outside water-closet, privy or
3 privy vault and shall order that a sanitary toilet and toilet facilities be
4 installed and connected with the sanitary sewer and the city council
5 or board of commissioners shall determine that any property owner
6 or owners are unable to pay for the installing of the sanitary toilet and
7 toilet facilities and for connecting them to the sanitary sewer, then
8 the city council or board of commissioners may have the necessary
9 toilet installed and assess the cost against the property and the cost

10 shall be a special assessment against the property. The assessment
 11 and collection of this cost shall be made according to the provisions in
 12 chapter twenty-three of this title.

[38 G. A., ch. 316, § 3.]

SEC. 3656. Use of barbed wire.

1 Cities and towns may, by ordinance, prohibit the use of barbed
 2 wire to inclose in whole or in part any lot or lots within the incor-
 3 porate limits thereof, and to provide for the removal of such wire.

[C., '97, § 741.]

SEC. 3657. Accounts—how kept—receipts and vouchers.

1 All cities and towns shall establish and keep their accounts so
 2 the same shall exhibit a true and detailed statement of all public
 3 funds collected, received and expended on account of such municipality
 4 for any purpose whatever, by any and all public officers, employees or
 5 other persons. Such accounts shall show the receipt, use and disposi-
 6 tion of all public property, and the income, if any, derived therefrom,
 7 and of all sources of public income and the amount due and received
 8 from each source. All receipts, vouchers and other documents kept, or
 9 that may be required to be kept, necessary to prove the validity of
 10 every transaction and the identity of every person having any bene-
 11 ficial relation thereto, shall be filed and preserved in the office of the
 12 clerk or recorder as the case may be.

[S., '13, § 741-a.]

SEC. 3658. Separate accounts.

1 Separate accounts shall be kept for every appropriation, showing
 2 date and manner of each payment made out of the funds provided by
 3 such appropriation, the name and address of each person or corpora-
 4 tion to whom paid, and for what purpose paid. Separate accounts
 5 shall be kept for each department, public improvement, or under-
 6 taking and for each public utility owned or operated by the said munic-
 7 ipality. Said separate accounts for each public utility shall show the
 8 true and entire cost of the said utility and operation thereof, the
 9 amount collected annually by general or special taxation for the serv-
 10 ices rendered to the public, and the amount and character of the service
 11 rendered therefor, and the amount collected annually from private
 12 users, if any, for the services rendered to them, and the amount and
 13 character of the services rendered therefor.

[S., '13, § 741-b.]

SEC. 3659. Annual report—publication.

1 Each municipality shall make an annual public report, which shall
 2 contain an accurate statement, in summarized form, of all collections
 3 made or receipts of such municipality from all sources, all accounts due
 4 the public, but not collected, and all expenditures for every purpose; and
 5 a statement in detail of the cost and operation and all income of each
 6 public utility operated or owned by the municipality. Said report shall
 7 further show in detail the entire public debt of such municipality, and
 8 the amount of debt which the municipality may under the law contract
 9 for the year for which the report is made. Said report shall be
 10 published annually at the close of the fiscal year in at least two news-
 11 papers of general circulation in said city or town as the case may be,

12 but if only one paper is so published, then in one, and if none be
 13 published, then by posting a copy in three public places in said city
 14 or town.

[S., '13, § 741-c.]

SEC. 3660. Annual financial report.

1 It shall be the duty of the chief accounting and warrant issuing
 2 officer of each city and town, namely auditor or clerk as the case may
 3 be, to prepare and to publish the annual report of the financial condi-
 4 tion and transactions of the city or town now or hereafter required by
 5 law, and all accounting officers of all boards or commission depart-
 6 ments and offices whatsoever within the corporate area receiving or
 7 disbursing public funds shall file with the auditor or clerk, within
 8 thirty days from the expiration of their fiscal year, a report in writing
 9 of official transactions in the form and manner required by law. In
 10 case of refusal or gross neglect to comply with the law governing the
 11 method of accounting for and reporting municipal transactions herein
 12 referred to, the official so delinquent shall be deemed guilty of a mis-
 13 demeanor. The auditor or clerk aforesaid is hereby authorized to
 14 institute legal proceedings to enforce the provisions herein requiring
 15 report to him.

[S., '13, § 1056-a7.]

SEC. 3661. How published.

1 In cities having a population of five thousand or over, the annual
 2 report aforesaid shall be printed in pamphlet form. At least five hun-
 3 dred copies of said report shall be printed and the expense thereof
 4 shall be provided for annually by the city council. In cities and towns
 5 having less than five thousand population, the annual report may be
 6 published in pamphlet form if authorized by the city council.

[S., '13, § 1056-a8.]

**SEC. 3662. Certified to auditor of state—auditor to publish re-
 turns—may send examiner in case of delinquency.**

1 On or before the first day of May of each year the auditor or
 2 clerk of each city or town shall forward to the auditor of state a cer-
 3 tified copy of the annual report in a form prescribed as provided in
 4 section one hundred twenty-seven, and said auditor of state shall pub-
 5 lish in a separate volume such returns, showing under appropriate
 6 schedules the total receipts and expenditures, assets and indebtedness
 7 and related data of all cities and towns in the state together with his
 8 comment and recommendations respecting desirable changes in the
 9 laws governing financial administration in municipalities. If the audi-
 10 tor or clerk of any city or town shall fail to file his report with the
 11 auditor of state within the time hereby prescribed the auditor shall
 12 have authority to send an examiner or examiners to said city or town
 13 to make the report, and the expense of said examiner or examiners,
 14 including per diem for the time so employed, shall be charged against
 15 such delinquent city or town. It shall be the duty of the auditor or
 16 clerk who served in such capacity during the time covered by the
 17 report, to prepare and file the same, and if the said auditor or clerk
 18 has retired from the office the city or town council shall allow him
 19 such compensation for preparing the report as its members may deem
 20 proper, the same not to exceed five dollars per day for the time

21 actually employed in such service. Thirty-five hundred copies of said
 22 report by the auditor of state shall be annually printed on or before
 23 December first for general distribution in accordance with law.

[S., '13, § 1056-a9.]

SEC. 3663. Membership in Iowa league of municipalities—appropriation authorized.

1 Cities and towns, including cities under the commission plan of
 2 government, may by resolution appropriate money out of the general
 3 fund and pay dues in the league of Iowa municipalities not to exceed
 4 annually the following amounts: Municipalities less than two thou-
 5 sand, ten dollars; from two thousand to five thousand, twenty dollars;
 6 from five thousand to ten thousand, thirty dollars; from ten thousand
 7 to thirty thousand, forty dollars; from thirty thousand to fifty thou-
 8 sand, fifty dollars; all over fifty thousand, sixty dollars; and in addi-
 9 tion may pay the actual expenses of not more than two delegates to
 10 the meetings of such league.

[S., '13, § 694-b.]

SEC. 3664. System of accounting—reports.

1 The league shall keep and make such accounts and reports as
 2 shall be required by the state municipal accounting department, and
 3 the same shall be annually checked by said department and published
 4 in the volume of municipal accounts.

[S., '13, § 694-c.]

CHAPTER 9.

PARK COMMISSIONERS.

SECTION 3665. Park commissioners—election—appointment.

1 There shall be elected at the regular municipal election in each
 2 city containing a population of forty thousand or over, and all other
 3 cities and towns may, by ordinance, provide for the election of three
 4 park commissioners whose terms of office shall be six years, one to be
 5 elected at each regular municipal election, but at the first election three
 6 shall be elected and hold their offices respectively for two, four and
 7 six years, their respective terms to be decided by lot and their suc-
 8 cessors shall be elected for the full term of six years; provided, how-
 9 ever, that in all cities and towns not now having park commissioners
 10 the ordinance establishing such park commissioners shall not be in
 11 force until it has been submitted to the voters at a special or regular
 12 municipal election and approved by a majority of the votes cast at
 13 such election. In the event that such ordinance is approved by a
 14 majority of the votes cast at such election, the city council shall
 15 have the power to appoint three park commissioners to hold such
 16 office until the next regular city election.

[C., '97, § 850; S., '13, § 850-a.]

SEC. 3666. Qualification — organization — treasurer — compensation.

1 The commissioners shall, within ten days after their election,
 2 qualify by taking the oath of office and organize as a board by the
 3 election of one of their number as chairman and one as secretary, but
 4 each commissioner, before he enters upon the duties of his office, shall
 5 give a bond with sureties to be approved by the council, in the penal
 6 sum of one thousand dollars, conditioned for the faithful discharge of
 7 his office. The city treasurer shall be the treasurer of said board
 8 and pay out all moneys under the control of the board as ordered on
 9 orders signed by the chairman and secretary, but shall receive no com-
 10 pensation for his services as such treasurer. Each of the commis-
 11 sioners shall receive such salary as shall be fixed by the city council,
 12 not to exceed in the aggregate annually ten dollars for each thousand
 13 population or fraction thereof according to the last state or federal
 14 census, said compensation to be paid out of the park fund.

[C., '97, §§ 851, 861; S., '13, § 850-b.]

SEC. 3667. Tax levy.

1 The board shall, on or before the first day of each year, determine
 2 and fix the amount or rate not exceeding two and one-half mills on the
 3 dollar in all cities and towns including cities under commission form
 4 of government on the taxable valuation of such city or town to be
 5 levied, collected and appropriated for the ensuing year, for general
 6 park purposes, and shall cause the same to be certified to the city
 7 council, which shall levy such tax or so much thereof as it may deem
 8 necessary to promote park interests, and certify the per cent thereof
 9 to the county auditor, with the other taxes for said year.

[C., '97, §§ 852, 860; S., '13, § 850-c; 38 G. A., ch. 312, § 1.]

SEC. 3668. Additional tax levy.

1 In all cities where said board shall have, prior to January first,
 2 nineteen hundred nineteen, acquired property for park purposes, the
 3 said board is further authorized to certify to the county auditor in all
 4 succeeding years and cause to be collected an additional tax of one
 5 mill each year up to and including nineteen hundred forty-nine, to be
 6 used for the sole and only purpose of grading, road building, building
 7 retaining walls, or riprap along watercourses and otherwise perma-
 8 nently improving any and all lands theretofore acquired for park pur-
 9 poses or improving any driveway or boulevard connecting one park
 10 with another.

[S., '13, § 850-c; 37 G. A., ch. 384, § 1; 38 G. A., ch. 46, § 1;
 38 G. A., ch. 312, § 1.]

**SEC. 3669. Additional tax levy in certain cities—election re-
 quired.**

1 In cities having a population of over twenty-five thousand, said
 2 board is further authorized to submit to the electors of any such city,
 3 voting at a city or special election, called for that purpose, the ques-
 4 tion of the levy of a further additional tax for park purposes, not to
 5 exceed five mills on the dollar on all taxable property of the city over
 6 any term of years not exceeding thirty, to be used for the sole and

7 only purpose of purchasing and paying for real estate and permanently
8 improving the same for park purposes.

[C., '97, § 852; S., '13, § 850-c; 38 G. A., ch. 312, § 1.]

SEC. 3670. Certification and collection of additional tax levy.

1 When a majority of the electors of said city at any such election
2 shall have declared in favor thereof, said board shall certify to the
3 county auditor in each year and cause to be collected such additional
4 tax during all of the years in which the same has been approved and
5 ordered by the voters.

[C., '97, § 852; S., '13, § 850-c; 38 G. A., ch. 312, § 1.]

SEC. 3671. Anticipation of taxes.

1 The board may anticipate the collection of said additional tax
2 authorized to be levied for the purchase of real estate for park pur-
3 poses and permanently improving the same and for that purpose may
4 issue park certificates or bonds with interest coupons and the pro-
5 visions of chapter thirty-four, title thirteen, shall be operative as to
6 such certificates, bonds and coupons, in so far as they may be applica-
7 ble. The proceeds of such tax shall be kept as a separate fund and
8 shall be used for the purpose of such acquisition of real estate and
9 permanent improvement thereof and for no other purpose whatsoever.

[C., '97, § 852; S., '13, § 850-c; 38 G. A., ch. 312, § 1.]

SEC. 3672. Park fund—how expended.

1 No money of this fund shall be appropriated or expended for any
2 purpose except as provided in this chapter. Such fund may be used in
3 purchasing or acquiring real estate for park purposes including streets
4 or highways to connect one park with another or to connect a park
5 with streets or highways or for other purposes necessary and incident
6 to the establishment and maintenance of parks and paving streets
7 adjacent thereto and for the purpose of improving and maintaining
8 the same and defraying the necessary expenses connected therewith,
9 including the compensation of the board, its officers and employees,
10 and when any annual tax or part thereof has been pledged for the
11 payment of any bonds or the interest thereon, such tax or part thereof
12 shall be devoted to no other purpose. For the payment of one or more
13 park policemen to be recommended by the board and appointed by the
14 mayor. For the purpose of paying for the necessary lights as fixed by
15 the park board and paying for such water supply as may be necessary
16 in such parks.

[C., '97, § 852; S., '13, § 850-d.]

SEC. 3673. Acquisition of real estate—powers of board.

1 Said park board may acquire real estate within or without the
2 city for park purposes, by donation, purchase or condemnation and
3 take the title to the same in the name of the board in trust for the
4 public and hold the same exempt from taxation. It may sell, subject
5 to the approval of the city council, exchange or lease any real estate
6 acquired by it which shall be found unfit or not desirable for park
7 purposes; shall keep a report of all transactions; shall have exclusive
8 control of all parks and pleasure grounds acquired by it or of any
9 other ground owned by the city and set apart for like purposes, and
10 may make contracts, sue and be sued, but shall incur no indebtedness

11 in excess of the amount of taxes already levied and available for the
 12 payment thereof except bonds hereby authorized. It shall make an
 13 annual detailed report of the amounts of money expended and the
 14 purposes for which used, to the council at the regular April meeting,
 15 and such annual statement shall be published as part of the annual
 16 municipal report.

17 For the purpose of paying for real estate it may issue bonds in
 18 amounts needed, notwithstanding the limitation of section forty hun-
 19 dred fifty-four; provided, however, that the annual interest on the
 20 aggregate of such bonds outstanding shall not be in excess of sums as
 21 follows:

22 1. For towns and cities of less than twenty-five thousand popu-
 23 lation a sum equal to the proceeds of a tax of one and one-quarter
 24 mills on the dollar of the aggregate taxable value of property therein
 25 subject to taxation.

26 2. For cities of twenty-five thousand population or more a sum
 27 equal to the proceeds of a tax of one and three-quarters mills on the
 28 dollar of the aggregate taxable value of property therein subject to
 29 taxation.

[C., '97, § 853; S., '13, § 850-e; 37 G. A., ch. 84, § 1.]

SEC. 3674. Bonds a lien on real estate.

1 Bonds issued under the provisions of sections thirty-six hundred
 2 sixty-seven to thirty-six hundred seventy-one, inclusive, shall be a
 3 lien upon all of the real estate acquired by the commissioners there-
 4 with or with the proceeds thereof and such bonds or proceeds shall
 5 be used for the purchase of real estate or the permanent better-
 6 ment and improvement thereof. The board shall have the power to
 7 mortgage any real estate purchased or controlled by it for park pur-
 8 poses to a trustee, for the purpose of securing the payment of said
 9 bonds and after the issuance, there shall be pledged for the payment
 10 of the interest thereon such amount of the annual tax levied by virtue
 11 of said sections as shall be necessary to make such payment, and the
 12 residue of said tax may be used by the board for the payment of such
 13 bonds, for the purchase of real estate or the permanent improvement
 14 of the park and pleasure grounds of the city.

[C., '97, § 855; S., '13, § 850-f; 38 G. A., ch. 312, § 2.]

SEC. 3675. Bonds mature—when—payment.

1 Such bonds to be issued by the board shall mature in not less
 2 than fifteen nor more than thirty years from date and may be made
 3 payable in annual series; shall be in sums of not less than one hundred
 4 dollars nor more than one thousand dollars, bearing interest at a rate
 5 not exceeding six per cent per annum, payable annually or semi-
 6 annually; said board, after the issuance of any such bonds, shall annu-
 7 ally, in the year of the serial maturity of each thereof, set aside a suf-
 8 ficient sum to pay such annual serial maturity out of the tax levied by
 9 it under the provisions of sections thirty-six hundred sixty-seven to
 10 thirty-six hundred seventy-one, inclusive, which sum shall be applied
 11 in payment of the principal of said serially maturing bonds respec-
 12 tively and not otherwise.

[C., '97, § 854; S., '13, § 850-f; 38 G. A., ch. 312, § 2.]

SEC. 3676. Jurisdiction—defacement of trees—penalty.

1 The jurisdiction of such board shall extend over all lands used
 2 for parks within or without the corporate limits and all ordinances
 3 of such cities and towns shall be in full force and effect in and over
 4 the territory occupied by such parks. Any person who shall, except
 5 by the authority of such commissioners, cut, break or deface any tree
 6 or shrub growing in such park or parks, or any avenue thereto, shall
 7 be deemed guilty of a misdemeanor and upon conviction thereof shall
 8 be punished by a fine not exceeding one hundred dollars or imprison-
 9 ment in the county jail not exceeding thirty days.

[C., '97, § 862; S., '13, § 850-g.]

SEC. 3677. Rules and regulations.

1 The board may in writing prescribe rules and regulations for the
 2 government of the parks or public grounds under their control and
 3 persons resorting thereto, which rules and regulations shall be in force
 4 when entered in the record of the proceedings of the board, and a copy
 5 thereof signed by the commissioners has been posted at each gate or
 6 principal entrance to any such park or public grounds, and a wilful
 7 violation thereof shall be a misdemeanor, punishable by a fine not ex-
 8 ceeding one hundred dollars or imprisonment in the county jail not
 9 exceeding thirty days.

[C., '97, § 856; S., '13, § 850-h.]

SEC. 3678. City engineer—poles and wires on park grounds.

1 The board shall be entitled to the services of the city engineer,
 2 when requested, without expense to it. It shall have the power to
 3 regulate or forbid the erection of poles or the stretching of wire for
 4 electric light, street railway, or other corporations or persons in such
 5 parks or in or along streets, highways or over public places laid out
 6 or controlled by it.

[C., '97, § 857; S., '13, § 850-i.]

SEC. 3679. Park districts—condemnation of property.

1 Where any such city shall contain more than one organized
 2 township, at least one commissioner shall be a resident of each of said
 3 townships. If said board and the owners of any property desired by
 4 it for park purposes can not agree as to the price to be paid therefor,
 5 it may cause the same to be condemned in the manner provided for
 6 taking land for municipal purposes.

[C., '97, § 858; S., '13, § 850-j.]

SEC. 3680. Appropriation for park purposes.

1 In cities and towns not having a park board the council may ap-
 2 propriate each year not exceeding five per cent of the general fund
 3 for the improvement and maintenance of public parks.

[S., '13, § 850-k.]

SEC. 3681. How expended.

1 Said fund so appropriated shall be expended under the direction
 2 of a committee of three persons, consisting of the mayor, one member
 3 of the council appointed by the council, and one resident property

4 owner of such city or town appointed by the council, which committee
5 shall receive no compensation for their services.

[S., '13, § 850-l.]

SEC. 3682. Existing contracts and bonds.

1 Nothing in this chapter shall be construed to affect any contracts
2 heretofore entered into by any park board or any bonds issued by
3 such boards but all such contracts shall be carried out and all such
4 bonds shall be paid under the terms thereof.

[S., '13, § 850-m.]

SEC. 3683. Soldiers' monuments in public parks.

1 Cities and towns, including cities under the commission form of
2 government, may by ordinance permit soldiers' monuments or me-
3 morial halls, which may be erected under the provisions of section
4 thirty-three hundred forty-two, or under the provisions of section
5 thirty-three hundred forty-eight, to be located and erected in any pub-
6 lic park or public grounds of the city or town.

[S. S., '15, § 850-o.]

SEC. 3684. Meandered lake—tax to improve.

1 Where any city has, prior to July first, eighteen hundred eighty,
2 received a grant of the title from the United States to a meandered
3 lake within its corporate limits, to be held and used for public uses,
4 recreation and park purposes, and where such city has for more than
5 twenty years devoted the same to the public use, recreation and park
6 purposes, its board of park commissioners is authorized in the discre-
7 tion of said board to certify to the county auditor and cause to be col-
8 lected an additional tax of not exceeding one-half mill each year for
9 the years nineteen hundred sixteen, nineteen hundred seventeen, nine-
10 teen hundred eighteen, nineteen hundred nineteen, nineteen hun-
11 dred twenty, nineteen hundred twenty-one, nineteen hundred twenty-
12 two, nineteen hundred twenty-three, nineteen hundred twenty-four
13 and nineteen hundred twenty-five, to be used for the sole and only
14 purpose of improving such lake by dredging or otherwise deepening
15 the same, constructing dikes and levees for the protection of the same
16 and for changing the form and size thereof and for the regulation,
17 control and improvement of the water supply and for the improve-
18 ment and beautifying of such lake, the park land surrounding the
19 same and for the furnishing of suitable equipment thereof for public
20 use and pleasure.

[S. S., '15, § 850-p; 38 G. A., ch. 58, § 1.]

SEC. 3685. City council may appropriate—in certain towns and cities.

1 In towns and cities of five thousand population or less, the coun-
2 cil may appropriate each year not exceeding five per cent of the gen-
3 eral fund for the improvement and maintenance of public parks.

[S., '13, § 862-a.]

SEC. 3686. How expended.

1 Said fund so appropriated shall be expended under the direction
2 of a committee of three persons, consisting of the mayor, one member

3 of the council appointed by the council, and one resident property
4 owner of such city or town appointed by the council, which committee
5 shall receive no compensation for their services.

[S., '13, § 862-b.]

CHAPTER 10.

BOARD OF PUBLIC WORKS.

SECTION 3687. Board of public works—vacancies—removals— who eligible.

1 In any city having a population of thirty thousand or more the
2 council may by ordinance establish a board of public works and in
3 cities having a population of fifty thousand or more, there is hereby
4 created a board of public works. Such board of public works shall
5 consist of two members residents of the city, to be appointed by the
6 mayor, and upon the establishment of said board one member shall be
7 appointed for two years, and one for three years, and their successors
8 shall be appointed for three years. The members shall hold office
9 until their successors are appointed and qualified. The mayor shall
10 have the power to remove any member of the board of public works
11 for cause at any time. Vacancies shall be filled by the mayor. No
12 member of the council or city official shall be a member of such board.

[C., '97, § 863; S., '13, § 679-1.]

SEC. 3688. Salary.

1 Each member of such board shall receive a salary of not less than
2 fifteen hundred nor more than twenty-five hundred dollars, to be fixed
3 by the council, and not to be reduced during his term of office. He
4 shall, also, before entering upon the discharge of his duties, take an
5 oath and give a bond to faithfully perform the duties of his office,
6 which bond shall be in the sum of not less than twenty thousand dol-
7 lars, with two or more sufficient sureties approved by the council. No
8 such member shall be directly or indirectly interested in any contract
9 entered into by the board on behalf of such city, nor in the purchase
10 or sale of any material from or to the city, in connection with any-
11 thing over which the board has any supervision or control.

[C., '97, § 864.]

SEC. 3689. Consultation with city engineer.

1 The board shall consult the city engineer regarding the plans and
2 specifications and the advisability of doing or making contemplated
3 improvements or work, and he shall from time to time furnish it with
4 estimates of the cost of material and plans and specifications for any
5 work to be ordered or advertised to be done, and report to the board
6 whether such improvement or work is made and completed according
7 to contract. Whenever the members of the board of public works are
8 unable to agree upon any matter which is before it for decision, includ-
9 ing the appointing of agents and employees, the city engineer shall
10 decide such matter or appointment, and his decision shall be the deci-
11 sion of the board of public works. Such decision shall be rendered
12 in writing and shall be filed in the office of the board of public works

13 and when so filed shall have the force and effect of a finding or de-
14 termination by the board of public works.

[C., '97, § 865; S., '13, § 865.]

SEC. 3690. Contracts.

1 Contracts for all public works and improvements made by the
2 board shall be drawn by the city solicitor, who shall charge not less
3 than three nor more than ten dollars for each contract, including a
4 copy thereof and specifications for the use of the contractor, to be
5 collected by him from the contractor, and paid monthly to the city
6 treasurer.

[C., '97, § 866.]

SEC. 3691. Bids.

1 It shall advertise for bids and make all contracts on behalf of the
2 city for all work, and for material and work for public improvements
3 in excess of two hundred dollars, whenever the same shall be ordered
4 by the council or voted for at any election. Proposals for bids shall
5 be published once each week for two weeks in two of the daily news-
6 papers therein, which shall be completed at least two weeks before
7 the making of any contract, which proposals shall state the amount
8 and kinds of material to be furnished, the kind of improvement, and
9 the time and conditions upon which bids will be received, all of which
10 may be rejected. All contracts shall be made with the lowest re-
11 sponsible bidder, but it shall not be necessary before proposals are
12 published or bids received to determine specifically the kind of ma-
13 terial to be used.

[C., '97, § 867; S., '13, § 867.]

SEC. 3692. Disapproval of plans.

1 Whenever it shall disapprove of the plans, specifications or esti-
2 mates furnished by the city engineer, it shall at once report the same
3 in writing to the council, stating its reasons for such disapproval.

[C., '97, § 868.]

SEC. 3693. Superintend lighting.

1 It shall advertise for bids and make contracts for the lighting of
2 the streets, alleys, public grounds and buildings and shall have entire
3 control, management and direction of the lamps, lights, lighting ma-
4 terial and persons charged with the care thereof.

[C., '97, § 869.]

SEC. 3694. Public works.

1 It shall superintend and take charge of all public work, the
2 cleaning of streets and public places and the removal of garbage, all
3 street improvements, sewers and other improvements, bridges, via-
4 ducts, and public buildings, and the entire erection, making, recon-
5 struction and repair thereof, approve the estimates of the city engi-
6 neer which may be made from time to time of the cost of such work as
7 the same progresses, accept any building erected, work done or im-
8 provement made, when completed according to contract, and perform
9 such other duties as may be required of it by ordinance or resolution.
10 But where a preliminary notice is required, all proceedings prior to
11 and including the passage of the resolution or ordinance shall be taken

12 by the council, and the certificates of the city engineer that work has
 13 been done or material furnished shall be made to said board, and or-
 14 ders for the payment therefor shall be drawn and signed by it and
 15 approved as provided in the next section.

[C., '97, § 870.]

SEC. 3695. Expenditures.

1 It shall control and direct all expenditures to be made by its de-
 2 partment, and sign and draw orders for the same, and all orders given
 3 and bills and accounts created by it shall first be indorsed by each of
 4 the members thereof, or their reasons stated in writing for not doing
 5 so, and approved by the council, before the same shall be ordered
 6 paid. No claim for any work done or material furnished in the con-
 7 struction of any public improvement shall be allowed by the council
 8 unless the same has first been approved by the board of public works.

[C., '97, § 871; S., '13, § 871.]

SEC. 3696. Extra work.

1 It shall not order any extra work in excess of that contained in
 2 any contract, or pay out any money for extras, without submitting
 3 and recommending the same to the council and receiving its authority
 4 therefor.

[C., '97, § 872.]

SEC. 3697. Appointive powers.

1 It shall have power to appoint agents and employees necessary
 2 for the doing of its work.

[C., '97, § 873; S., '13, § 873.]

SEC. 3698. Plans for improvements.

1 It shall require plans and specifications for all buildings costing
 2 over five thousand dollars to be submitted for its approval, with the
 3 advice of the city engineer, and no such building shall be erected until
 4 the above requirements have been complied with. It shall require any
 5 person, before erecting any building or improvement within the city,
 6 to obtain a permit from it, and shall charge not more than one mill
 7 on the dollar of the cost of the construction thereof, based on the
 8 architect's or builder's estimate, and the money derived therefrom
 9 shall be paid monthly to the city treasurer.

[C., '97, § 874.]

SEC. 3699. Mains—connections—wires.

1 It shall, with the advice of the city engineer, superintend the lay-
 2 ing of all water, gas and steam heating mains and all connections
 3 therefor, and stretching or laying of telephone, telegraph, district tele-
 4 graph and electric wires, in the manner provided by the ordinances
 5 of such city.

[C., '97, § 875.]

SEC. 3700. Fire escapes.

1 It shall regulate the size, number and manner of construction of
 2 fire escapes, doors and stairways of theaters, tenement houses, audi-
 3 ence rooms, and all public buildings, whether now or hereafter built,

4 used for the gathering of a large number of people, so that there may
5 be convenient, safe and speedy exit in case of fire.

[C., '97, § 876.]

SEC. 3701. Semiannual report.

1 It shall on the first days of April and December, and at the expira-
2 tion of the term of office of any member, submit a full, complete and
3 detailed statement to the council of all work done by it, giving the
4 amount of expenditures, the names of the persons who have received
5 pay, the amount of such pay, for what the same was paid, the number
6 of permits issued and the amounts received therefor. The report
7 shall also state that since the last report no member of said board has
8 been directly or indirectly interested in any contract let by or work
9 ordered or superintended by it, or in the sale or purchase of any ma-
10 terial used in the erection, making, reconstruction or repair of said
11 work or improvements, and that neither of them has received or ex-
12 pects to receive any presents or compensation from any contractor or
13 other person interested in said work or improvement, and said report
14 shall be sworn to by each member of said board.

[C., '97, § 877.]

SEC. 3702. Records—office.

1 It shall keep copies of all contracts, plans, maps, specifications,
2 plats and records of every kind whatsoever growing out of any work
3 or improvement made or superintended by it, the number of all build-
4 ing permits issued, and the location and cost of such buildings and
5 improvements. All purchases of materials shall be made by written
6 orders, signed by at least one member of the board. The board shall
7 keep an office furnished with fuel, lights, stationery, apparatus, and
8 all other needful utensils for the work, to be provided at the expense
9 of the city.

[C., '97, § 878.]

SEC. 3703. Removal of members.

1 Any member of such board may at any time be removed from
2 office by a vote of two-thirds of the council for sufficient cause, and the
3 proceedings in that behalf shall be entered in the records of the coun-
4 cil, but the council shall previously cause a copy of the charges against
5 such member or members sought to be removed to be served upon
6 him or them, together with a notice of the time and place of hearing
7 the same, at least ten days previous to the time assigned, and give
8 him or them an opportunity to make defense thereto.

[C., '97, § 879.]

CHAPTER 11.

RIVER FRONT COMMISSION—DUTIES AND POWERS.

SECTION 3704. Petition—river front improvement commission.

1 Whenever five hundred electors of any city whose corporate lim-
2 its are divided by a meandered stream shall, in writing, petition the
3 governor of this state for the appointment of a commission, as pro-

4 vided for by this chapter, he shall, within one month thereafter, ap-
 5 point three electors, residents of the city of the said electors so peti-
 6 tioning, who shall constitute a body corporate, to be known as the
 7 river front improvement commission of.....,
 8 inserting in said blank the name of the city of the said electors so
 9 applying.

[S., '13, § 879-a.]

SEC. 3705. Election.

1 One commissioner shall be elected at each biennial city election to
 2 succeed one of the commissioners so appointed, whose term shall ex-
 3 pire when his successor is elected and qualified.

[S., '13, § 879-b.]

SEC. 3706. Organization—secretary—treasurer—bond.

1 The commissioners shall, within ten days after their appoint-
 2 ment, qualify by taking the oath of office, determine, by lot, the order
 3 of the expiration of their terms, and organize by the election of one of
 4 their number as chairman; they shall also elect a secretary, not one
 5 of their number; and shall also elect a treasurer, not one of their num-
 6 ber, who shall give bonds in the sum of twenty-five thousand dollars,
 7 the penalty of which may be increased by the commission. The treas-
 8 urer shall receive and pay out all moneys under the control of said
 9 commission as ordered by it, but shall receive no compensation for his
 10 services. Each of the commissioners shall be reimbursed for the
 11 actual expenses incurred or money paid out by him in connection with
 12 the discharge of his official duties, but shall receive no compensation
 13 for his services. An itemized statement of all expenses and moneys
 14 received and paid out shall be made under oath and filed with the sec-
 15 retary and allowed by the commission.

[S., '13, § 879-c.]

SEC. 3707. Title to river bed—lost boundary lines.

1 When said commissioners have been so appointed and qualified,
 2 the fee simple title to the bed of the meandered stream, separating the
 3 corporate limits of the city, for which they are appointed, shall im-
 4 mediately vest in the commission in trust for the public and the same
 5 while held by the commission shall be exempt from taxation; pro-
 6 vided that the fee title to the channel or bed of the stream to be lo-
 7 cated and preserved as hereinafter provided shall remain in the state;
 8 and provided also, that the vested rights of riparian owners and
 9 owners of water powers, shall not be injuriously affected by this chap-
 10 ter. Where the original boundary lines separating the land under the
 11 control of said commission from the land of the state or of any adjoining
 12 landowner, or the monuments marking the same are now or shall
 13 hereafter become lost, destroyed or in dispute, said commissioners may
 14 proceed to have said boundary lines established in the manner pro-
 15 vided in sections eighty-one hundred nine to eighty-one hundred
 16 twenty, inclusive, and any proceeding heretofore instituted or action
 17 heretofore brought as provided in sections eighty-one hundred nine
 18 to eighty-one hundred twenty, inclusive, is hereby legalized and vali-
 19 dated as to the form of procedure used therein.

[S., '13, § 879-d.]

SEC. 3708. Powers.

1 Said commission may redeem lands between the meandered lines
 2 of such stream, construct, regulate and maintain dams across such
 3 streams, provide for and protect, by secure walls or banks, a channel
 4 adequate to carry flood waters of a volume equal to all reasonable ex-
 5 pectations, based on past experience, and the area drained by such
 6 stream, according to expert authority; beautify such walls or banks;
 7 and park so much thereof as public interest may require; and where
 8 circumstances permit, make any part of the area redeemed and ac-
 9 quired suitable for sites for public buildings; provided that the acts
 10 of said commission, so far as same may affect city parks, heretofore
 11 under the jurisdiction of the park commissioners or additions ac-
 12 quired thereto, shall be subject to the approval of the board of park
 13 commissioners.

[S., '13, § 879-e; 38 G. A., ch. 97, § 1.]

SEC. 3709. Profiles and specifications—approval.

1 Said commission may adopt plans, profiles and specifications for
 2 the improvement of the said river channel and banks, and the reclaim-
 3 ing of lands between the meandered lines of said stream within such
 4 city, and the construction of dams; but before the beginning of the
 5 execution of the same, such plans, profiles and specifications shall be
 6 approved by the executive council of Iowa.

[S., '13, § 879-f.]

SEC. 3710. Additional powers—annual report—tax—river front improvement fund.

1 Said commission may acquire real estate and riparian and other
 2 rights within such city in the vicinity of such stream by donation, or
 3 purchase, or by condemnation for the public uses herein authorized in
 4 the manner provided by law for the taking of private property for
 5 public use, and shall take the title to property in the name of the
 6 commission and its successors, in trust for the public, and hold the
 7 same exempt from taxation. It may sell and convey or lease, or ex-
 8 change any property acquired by it, by virtue of this chapter and
 9 otherwise. It shall have exclusive control of all the lands acquired
 10 by it, and of the banks and waters of such stream for carrying out
 11 the purposes of this chapter, may make contracts and sue and be sued.
 12 It shall keep a record of all its transactions, which shall during or-
 13 dinary business hours be open to inspection by the public, and shall
 14 make an annual report of all moneys received and expended by it and
 15 for what general purposes, and of all moneys owing to it and by it and
 16 for what general purposes, to the city council at the regular Novem-
 17 ber meeting, and publish such report in some newspaper in the city.
 18 The commission shall, subject to the approval of the city council, in
 19 each year determine and fix the amount or rate, not exceeding two
 20 mills on the dollar, on the taxable value of the taxable property of
 21 such city, to be levied, collected and appropriated for the ensuing
 22 year for the purpose of paying for real estate, riparian and other
 23 rights, for improvements, and for accomplishing the purposes of the
 24 creation of said commission and to provide for the payment of in-
 25 terest upon bonds and to retire such bonds, if any, and to meet the
 26 necessary expenses incident to the business of said commission. Said
 27 commission shall, on or before the first Monday in September of each

28 year, certify to the county auditor the amount or rate of taxes so
29 fixed, to be known as river front improvement fund, and when col-
30 lected, the same is to be paid over to the treasurer of the commis-
31 sion, and by him paid out on its orders, and the board of supervisors
32 of the county in which said city is situated shall levy said tax as fixed
33 by said commission.

[S., '13, § 879-g.]

SEC. 3711. Bonds—mortgages.

1 For the purpose of paying for real estate and improvements and
2 accomplishing the purposes of its creation, said commission may issue
3 bonds in such amounts as it may deem necessary, and may execute
4 trust deeds or mortgages upon its property acquired by virtue of this
5 chapter and otherwise or any part thereof to secure the payment of
6 said bonds and interest thereon.

[S., '13, § 879-h.]

SEC. 3712. Cities may aid in making improvements—indebtedness.

1 Such city shall not be liable for any indebtedness incurred by
2 said commission or for any bond issued by said commission. Such
3 cities are hereby authorized to aid in making the improvements speci-
4 fied in this chapter by appropriating money from its general fund
5 or from the surplus remaining at the end of the fiscal year in any
6 special fund, except in cases where such diversion of moneys is espe-
7 cially prohibited by statute, and may appropriate in aid of the im-
8 provements herein provided for, the reasonable saving effected in the
9 building of bridges and otherwise by reason of said improvements.

[S., '13, § 879-i.]

SEC. 3713. Rules and regulations—penalty.

1 Said commission may, in writing, prescribe rules and regulations
2 for the government of the public grounds under their control and
3 persons resorting thereto, which rules and regulations shall be en-
4 forced when entered in the record of the proceeding of the commission,
5 and a copy thereof signed by the commissioners has been posted at
6 each gate or principal entrance to any such public grounds, and a wil-
7 ful violation thereof shall be a misdemeanor, punishable by fine not
8 exceeding twenty-five dollars. Anyone who shall cut, break or deface
9 any tree or shrub growing in such public grounds, without authority,
10 shall be guilty of a misdemeanor and be punished by fine not exceed-
11 ing one hundred dollars or by imprisonment not exceeding thirty days
12 in jail. Any magistrate in the city shall have jurisdiction to try such
13 offenses.

[S., '13, § 879-j.]

SEC. 3714. Police protection—water supply—poles and wires.

1 The mayor, on written request of the commission, shall furnish
2 adequate police protection for such public grounds and the city shall
3 furnish such water supply as may be necessary therefor, and properly
4 light the same at its expense. The commission shall be entitled to
5 the services of the city engineer, when requested, without expense to
6 it. It shall have the power to permit or forbid the erection of poles
7 or the stretching of wires for electric light, street railway or other pur-

8 poses by persons or corporations, in such public grounds or in or along
9 streets, highways or over public places laid out or controlled by it.
[S., '13, § 879-k.]

SEC. 3715. Wharves—landing places—bath and boat houses.

1 Said commission shall have power, in and over the bed and banks
2 of such river as specified, to construct and regulate the use of wharves,
3 landing places, bathhouses, boat houses and other suitable structures
4 and shall have exclusive jurisdiction over the water of such stream,
5 within the corporate limits of such city and may maintain said stream
6 in a suitable condition for boating, skating and other public amuse-
7 ments and purposes.

[S., '13, § 879-l.]

SEC. 3716. What prohibited.

1 No member of the commission shall, during the time for which
2 he has been appointed or elected, or for one year thereafter, be ap-
3 pointed to any office in the gift of the commission which shall be cre-
4 ated, or the emolument of which shall be increased, during the term
5 for which he was elected, nor shall he be interested directly or indi-
6 rectly in any contract for work or service to be performed for the com-
7 mission or in the purchase or sale of any property sold to or by the
8 commission.

[S., '13, § 879-m.]

SEC. 3717. Vacancies.

1 In case vacancy arises in the commission, the governor of the
2 state shall fill such vacancy by appointment for the unexpired portion
3 of the term, or until the next election, as the case may be.

[S., '13, § 879-n.]

SEC. 3718. Cities affected.

1 The provisions of this chapter shall apply only to cities of the
2 first class acting under the general incorporation laws and cities act-
3 ing under the commission form of government having a population
4 of less than twenty-five thousand; provided, however, that the in-
5 crease in population of any city subsequent to the establishment or
6 appointment of a river front improvement commission therein shall
7 in no manner invalidate or affect the title, standing or authority of
8 such commission.

[S., '13, § 879-o.]

SEC. 3719. Soldiers' monuments on river fronts.

1 Any river front improvement commission elected under the pro-
2 visions of this chapter, may, by contract or by resolution duly entered
3 of record, authorize and permit the location and erection of any sol-
4 diers' monument or memorial hall which may be erected under the
5 provisions of sections thirty-three hundred forty-two and thirty-three
6 hundred forty-eight, to be located and erected upon grounds held in
7 trust by such commission.

[S. S., '15, § 879-o1.]

CHAPTER 12.

COMMUNITY CENTER HOUSES AND RECREATION GROUNDS.

SECTION 3720. Community center houses authorized.

1 All cities having a population of fifty thousand or over shall have
 2 power to provide for the several districts in said city, or for any one
 3 of such districts, as hereinafter defined, a community center house
 4 with recreation grounds adjacent for the use, recreation and instruc-
 5 tion of the residents of said district, and to submit to the electors of
 6 any such district at a regular city election, or special election called
 7 for that purpose, the question of the establishment of such improve-
 8 ment and of the issuance of district bonds to provide the same. And
 9 in cities where buildings and grounds suitable for community center
 10 activities are owned and maintained by the city, the city council may,
 11 by resolution, establish such buildings or grounds as community cen-
 12 ters without submitting the question of the establishment thereof to
 13 the electors.

[37 G. A., ch. 51, § 1; 38 G. A., ch. 184, § 1.]

SEC. 3721. Community center districts.

1 The city council shall, for the purpose herein contemplated, have
 2 power to divide the city into community center districts and to de-
 3 termine the area to be benefited and define the boundary of such dis-
 4 tricts, having regard to existing natural community centers and the
 5 probable development thereof in the future growth of the city, the
 6 intention being to provide for such outlying districts within the city
 7 as by reason of distance, means of communication, or other causes,
 8 have or are likely to develop a distinct community life, a community
 9 center house and grounds for recreation, community meetings, in-
 10 struction and entertainment, and for the general betterment and de-
 11 velopment of the life of the district affected.

[37 G. A., ch. 51, § 2.]

SEC. 3722. Petition—power of council.

1 Fifteen per cent of the resident freeholders of any section of any
 2 such city may petition the city council in writing at any time for the
 3 formation of a community center district therein and for the submis-
 4 sion to the electors of said district the question of the voting of bonds
 5 for such improvement, as hereinafter provided. In case of such peti-
 6 tion, the city council shall have the power to grant or deny said peti-
 7 tion, and may change the area of any district petitioned for as it may
 8 deem best, to effect the general purposes of this chapter.

[37 G. A., ch. 51, § 3.]

SEC. 3723. Election—form of proposition.

1 In case of the establishment of said district pursuant to the two
 2 preceding sections, the council shall submit to the voters of said
 3 district the following proposition, to wit: "Shall the proposition to es-
 4 tablish a community center improvement in the following district (de-
 5 fining its boundaries) in the city of, and to
 6 provide the necessary grounds, building, and equipment therefor, and
 7 to authorize a district bond issue of \$..... (stating the amount
 8 to be issued), as provided for in chapter twelve, title thirteen of the

9 code, be adopted?" Said election shall be conducted, the vote can-
 10 vassed, and the results declared, in the same manner as by law pro-
 11 vided for the holding of other municipal elections; provided, however,
 12 that in voting in such proposition the council may provide for the
 13 use of voting machines or not as it may deem best. If a majority of
 14 the votes cast on said proposition be in favor of the establishment of
 15 such community center improvement, then the city council shall there-
 16 upon establish the same as hereinafter provided; if a majority of the
 17 votes cast are opposed to such proposition, said question shall not
 18 again be submitted to the voters of said district within two years
 19 thereafter, but may then be again submitted as above provided.

[37 G. A., ch. 51, § 4.]

SEC. 3724. Bonds—redemption.

1 For the purpose of providing funds for the purchase of real estate
 2 to be used as such community center, and for the purpose of construct-
 3 ing buildings thereon with the equipment therefor, the city council
 4 shall provide for an issue of bonds to be known as "community center
 5 improvement bonds," and shall take the preliminary steps to make all
 6 necessary arrangements for the preparation, issue, sale, payment and
 7 redemption of such bonds, which provision shall provide that such
 8 bonds shall carry a rate of interest not exceeding five per cent, and
 9 shall be issued serially and redeemed within not less than ten nor
 10 more than forty years after their issue; and the city council shall also
 11 provide for a special millage tax upon the taxable property within
 12 said district not exceeding in any one year three mills upon the dollar
 13 and for a period not exceeding forty years, sufficient to liquidate such
 14 bonds, together with the interest thereon, at their maturity. All pro-
 15 ceeds received from the sale of such bonds shall be deposited in the
 16 treasury of said city to the credit of the "community center bond fund"
 17 (naming the district), and shall be kept by the treasurer as a sep-
 18 arate trust fund, applicable to said improvement only, and used solely
 19 and exclusively for the purchase of real estate for community center
 20 purposes within the said district for the construction of buildings
 21 thereon and to pay for the equipment therefor, and no bonds shall be
 22 issued in excess of taxes authorized to be levied to secure the payment
 23 of the same.

[37 G. A., ch. 51, § 5.]

SEC. 3725. Purchase or condemnation of real estate—improvements.

1 Whenever the establishment of such a community center improve-
 2 ment is authorized by a majority vote of the electors within said
 3 district, and as provided above, the city council shall secure the neces-
 4 sary real estate therefor, suitably located for such purposes, which
 5 land may be secured by purchase or otherwise. The title to such real
 6 estate shall be taken in the name of the city. If said city council and
 7 the owners of any property desired by it for such purposes can not
 8 agree as to the price to be paid therefor, it may cause the same to be
 9 condemned in the manner provided for taking lands for municipal
 10 purposes. The city council shall immediately thereafter improve such
 11 real estate by the construction of the necessary buildings thereon, by
 12 the planting of trees and shrubbery thereon, and by the doing of such
 13 other things as in their judgment are necessary to make the said

14 community center house and grounds attractive, suitable and satis-
15 factory for the purposes herein contemplated.

[37 G. A., ch. 51, § 6.]

SEC. 3726. Improvements and maintenance.

1 Following the establishment of such community center improve-
2 ment, the city council shall provide a levy of not more than five mills
3 on all of the taxable property within said community center district,
4 and all moneys received from said taxation, and all gifts or bequests
5 made to the city in the interest and for the benefit of said community
6 center district (which are hereby authorized), shall be deposited in
7 the treasury of such city to the credit of the community center fund,
8 and shall be kept by the treasurer in a separate fund to be used solely
9 and exclusively for the development of said improvement, the expense
10 of which is not otherwise provided for, and for the maintenance and
11 operation thereof. Orders upon such funds shall be paid out only on
12 the order of the city council.

[37 G. A., ch. 51, § 7.]

SEC. 3727. Managing board—superintendent—salaries.

1 For each community center district the city council shall appoint
2 from the residents of said district three persons especially fitted for
3 and interested in such work, who shall be known as the "community
4 center board," and the said board shall be placed in charge of such
5 community center improvement, subject to such direction, rules and
6 regulations as the city council may deem necessary; and said board
7 shall make a report in writing to the city council on or before the fif-
8 teenth day of January of each year as to the operation of said com-
9 munity center, including the expense thereof, for the preceding year.

10 Subject to the approval of the city council, the said community
11 center board shall have authority to determine the character of the
12 activities of said community center, and said board or a majority
13 thereof shall, promptly on their appointment, recommend to the city
14 council the name of some person peculiarly fitted for such work, who
15 shall be known as the community center superintendent, who shall be
16 placed in charge of such community center and shall have such pow-
17 ers and perform such duties in that connection as may be directed by
18 the board, acting under the city council. The members of said com-
19 munity center board shall serve without compensation, and the super-
20 intendent shall be elected for such term and upon such salary as may
21 be fixed by the city council. The said community center board may
22 (but only with the consent of the city council) employ such additional
23 help as may prove necessary. All salaries shall be paid monthly.
24 Such salaries and all other expenses incurred in the maintenance of
25 such community center shall be paid out of the community center fund
26 for said district, but only after being allowed and ordered paid by
27 the city council.

[37 G. A., ch. 51, § 8.]

SEC. 3728. Rules and regulations.

1 The city council shall request suggestions for rules and regula-
2 tions to be adopted for the government and operation of such com-
3 munity center improvement from the community center board and su-
4 perintendent, and from such public-spirited citizens as are interested

5 in such development, and particularly in the child welfare of such
 6 city, and shall carefully consider all such suggestions, and shall there-
 7 after determine and promulgate the rules and regulations which shall
 8 govern in the operation and management of such community center.
 9 Such rules and regulations may thereafter be modified and changed
 10 from time to time by the city council.

[37 G. A., ch. 51, § 9.]

SEC. 3729. Maintenance in connection with school premises.

1 The name that may be adopted for said community center dis-
 2 trict, and the location of the improvements, shall be determined by the
 3 city council; and in this connection said city council is authorized, if
 4 it shall deem it advisable, and with the consent of the school board, to
 5 locate such community center improvement in connection with, adja-
 6 cent to or as a part of public school buildings and grounds erected or
 7 to be erected and maintained within said community center district,
 8 and to cooperate with the boards having the custody and management
 9 of public school buildings or grounds within said district, and, by
 10 making arrangements satisfactory to such boards, to provide for the
 11 supervision, instruction and oversight necessary to carry on public
 12 educational and recreational activities, and for a division between the
 13 school board and the community center district of the cost of build-
 14 ings, recreation grounds and equipment to be used in connection with
 15 such school as a community center, and of the expense of operation
 16 thereof; provided further that in case such community center shall be
 17 established or maintained in connection with a public school operated
 18 within said community center district, the city council shall have au-
 19 thority to arrange as it may deem best with the school board for the
 20 necessary personal supervision of such community center, other than
 21 that contemplated herein where such center is operated independently.

[37 G. A., ch. 51, § 10.]

CHAPTER 13.

COMFORT STATIONS.

SECTION 3730. Public comfort stations.

1 Each city of the state of one thousand inhabitants and less than
 2 twenty-five thousand inhabitants, shall have power to establish and
 3 maintain one public comfort station; cities having more than twenty-
 4 five thousand inhabitants and less than fifty thousand inhabitants
 5 shall have power to establish and maintain two public comfort sta-
 6 tions and cities of over fifty thousand inhabitants shall have power to
 7 establish and maintain three public comfort stations.

[37 G. A., ch. 232, § 1.]

SEC. 3731. Requirements.

1 All public comfort stations shall have one room for men and one
 2 room for women. Such stations shall be so located within the princi-
 3 pal business parts of the city as will best accommodate the public, and
 4 shall be of sufficient size to accommodate the patrons of such stations.

5 They shall be furnished with suitable, adequate and sanitary toilets
6 and lavatories, and shall be at all times kept clean, sanitary and prop-
7 erly heated during cold weather.

[37 G. A., ch. 232, § 2.]

SEC. 3732. Management.

1 Each city maintaining public comfort stations shall establish and
2 maintain a commission consisting of three persons, at least one of
3 whom shall be a woman, appointed by the mayor, which commission
4 shall have complete supervision over all comfort stations in that city.
5 The members of the commission shall serve without compensation.
6 This commission shall have power to handle all funds and employ
7 such help as may be necessary to properly conduct such stations.

[37 G. A., ch. 232, § 3.]

SEC. 3733. Tax levy.

1 Such cities shall have power to levy a tax not exceeding one-half
2 mill on the dollar upon taxable property in such cities for the pur-
3 pose of defraying the expense of establishing and maintaining such
4 stations or the same may be paid from the general fund of the city in
5 the same manner as other expense.

[37 G. A., ch. 232, § 4.]

CHAPTER 14.

JUVENILE PLAYGROUNDS.

SECTION 3734. Juvenile playgrounds—election.

1 All cities shall have the power to provide one or more play-
2 grounds, as hereinafter provided, the number and location thereof to
3 be determined by the city council; provided, however, the electors of
4 such city, at a general or special election called for that purpose, shall
5 first vote in favor of the establishment of such playgrounds and the
6 issuing of city bonds for the providing thereof.

7 The city council may, on its own motion, order the question of
8 providing such playgrounds submitted to a vote of the electors of
9 such city at a regular election or at a special election called for that
10 purpose; or the mayor shall submit such question to such vote on a
11 petition of fifteen per cent of the qualified electors of such city as
12 shown by the poll books of the last municipal election. The proposi-
13 tion to be submitted shall be "Shall the proposition to establish juvenile
14 playgrounds (or playground, if only one) for children of the city of
15 (name of city) and to authorize a city bond issue of \$.....
16 (state the amount to be issued) as provided for in chapter fourteen
17 of title thirteen of the code be adopted?" Said election shall be con-
18 ducted, the vote canvassed and the result declared in the same man-
19 ner as is by law provided for the holding of other municipal elec-
20 tions. If a majority of the votes cast on said proposition be in favor
21 of the establishment of such playgrounds then the city council shall
22 thereupon establish the same, as hereinafter provided; if a majority
23 of the votes cast are opposed to such proposition said question shall

24 not be again submitted to the voters of said city within two years
25 thereafter but may then be again submitted as above provided.

[S. S., '15, § 879-r; 37 G. A., ch. 181, § 1.]

SEC. 3735. Playground bonds.

1 For the purpose of providing funds for the purchase of real es-
2 tate to be used as such playgrounds, and for the purpose of construct-
3 ing buildings thereon, the city council shall provide for an issue of
4 city bonds, to be known as "playground bonds" and shall take all pre-
5 liminary steps and make all necessary arrangements for the prepara-
6 tion, issue, sale, payment and redemption of such bonds, which
7 provision shall provide that such bonds shall be issued serially and re-
8 deemed within fifteen years after their issue; and the city council shall
9 also provide for a millage tax upon the taxable property of the city,
10 sufficient to liquidate such bonds, together with the interest thereon,
11 at their maturity. All proceeds received from the sale of such bonds
12 shall be deposited in the treasury of such city to the credit of the
13 "playground bond fund" and shall be kept by the treasurer as a sep-
14 arate fund and used solely and exclusively for the purchase of real
15 estate for playground purposes and for the construction of buildings
16 thereon.

[S. S., '15, § 879-s.]

SEC. 3736. Purchase or condemnation of land—improvements.

1 Whenever the establishment of such a playground is authorized
2 by a majority vote of the electors, and as provided above, the city
3 council shall secure the necessary real estate therefor, suitably lo-
4 cated for such purposes, which land may be secured by purchase or
5 otherwise. Title to such real estate shall be taken in the name of the
6 city. If said city council and the owners of any property desired by
7 it for playground purposes can not agree as to the price to be paid
8 therefor, it may cause the same to be condemned in the manner pro-
9 vided for taking lands for municipal purposes. The city council shall
10 immediately thereafter improve such real estate by the construction
11 of the necessary buildings thereon and by the planting of trees and
12 shrubbery thereon and by the doing of such other things as in their
13 judgment is necessary to make the playgrounds attractive, suitable
14 and satisfactory for playground purposes.

[S. S., '15, § 879-t.]

SEC. 3737. Playground maintenance fund.

1 Following the establishment of such playgrounds, the city coun-
2 cil shall provide a levy of not more than two mills on all of the taxable
3 property of such city, and all moneys received from such taxation
4 and all gifts or bequests made to the city in the interest and for the
5 benefit of such playgrounds shall be deposited in the treasury of such
6 city to the credit of the "playground maintenance fund" and shall be
7 kept by the treasurer in a separate fund to be used solely and ex-
8 clusively for the improvement of such playgrounds, the expense of
9 which is not otherwise provided for, and for the maintenance and op-
10 eration thereof. Orders upon such funds shall be paid out only on the
11 order of the city council.

[S. S., '15, § 879-u.]

SEC. 3738. Playground superintendent—assistance—salaries.

1 For each playground the city council shall appoint a suitable
 2 person, peculiarly fitted for such work, who shall be known as “play-
 3 ground superintendent”, and such superintendent shall be placed in
 4 charge of such playground and shall have control over the children
 5 playing thereon and shall have such other powers and perform such
 6 other duties as shall be fixed from time to time by the city council.
 7 The term of appointment and the salary shall be fixed by the city
 8 council. The city council may also employ such additional help as may
 9 prove necessary. All salaries shall be paid monthly. Such salaries
 10 and all other expenses incurred in the maintenance of such play-
 11 grounds shall be paid out of the “playground maintenance fund”, but
 12 only after being allowed and ordered paid by the city council.

[S. S., '15, § 879-v; 37 G. A., ch. 181, § 2.]

SEC. 3739. Rules and regulations.

1 The city council shall request suggestions for rules and regula-
 2 tions to be adopted for the government and operation of such play-
 3 grounds from the playground superintendent and the superintendent
 4 of schools of such city and from such public-spirited citizens as are
 5 interested in the child welfare of such city, and shall carefully consider
 6 all such suggestions and shall thereafter determine and promulgate
 7 the rules and regulations which shall govern in the operation and
 8 management of such playgrounds. Such rules and regulations may
 9 thereafter be modified and changed, from time to time, by the city
 10 council.

[S. S., '15, § 879-w.]

CHAPTER 15.**CITY HALLS.****SECTION 3740. City hall.**

1 Cities and towns, including cities under commission plan, shall
 2 have power to erect a city or town hall and to purchase the ground
 3 therefor. Such building may be erected and used for general com-
 4 munity purposes, including assembly hall, auditorium, public hall,
 5 armory, council chamber and offices, fire and police station, or for any
 6 one or more of such purposes, and when erected shall be under such
 7 regulations as to use and compensation for such use when used for
 8 other than municipal purposes as the council may from time to time
 9 direct.

[S. S., '15, § 741-d; 37 G. A., ch. 182, § 1.]

SEC. 3741. Special tax.

1 For the purpose of paying for the construction of such building
 2 and the purchase price of such ground, such cities and towns shall
 3 have the power to levy upon all the property within the corporate lim-
 4 its of such cities and towns subject to taxation for said purposes in
 5 addition to all other taxes now provided by law, a special tax not ex-
 6 ceeding in any one year two mills on the dollar for a period of years
 7 not exceeding twenty. Provided that in cities and towns having a

8 population of four thousand or less, a special tax of not exceeding
 9 five mills may be levied for the purpose and in the manner provided
 10 in this section.

[S. S., '15, § 741-e; 37 G. A., ch. 182, § 2.]

SEC. 3742. Bonds—limit of indebtedness.

1 Any city or town desiring to construct such a building or to pur-
 2 chase ground therefor may issue bonds in anticipation of the special
 3 tax authorized in the preceding section. Such bonds shall be known
 4 as city or town hall bonds, and shall be issued and sold in accordance
 5 with the provisions of chapter thirty-four, title thirteen. In issuing
 6 such bonds the city or town council may cause portions of said bonds
 7 to become due at different, definite periods, but none of such bonds so
 8 issued shall be due and payable in less than five or more than twenty
 9 years from date. Cities and towns, including cities under commission
 10 plan, may issue such bonds in anticipation of said special tax in an
 11 amount which, added to all other indebtedness, shall not exceed five
 12 per centum of the actual value of the taxable property in such city or
 13 town as determined by the last state and county tax list, anything in
 14 section forty hundred fifty-four to the contrary notwithstanding, and
 15 such bonds may be issued to the extent aforesaid for the purpose of
 16 paying for the construction of such building and the purchase-price of
 17 ground therefor where an election shall have been heretofore held
 18 authorizing the erection of such city or town hall.

[S. S., '15, § 741-f; 37 G. A., ch. 182, § 3; 37 G. A., ch. 220,
 § 1; 38 G. A., ch. 247, § 1.]

SEC. 3743. Question submitted.

1 No building shall be erected under the provisions of this chapter
 2 unless a majority of the legal voters voting thereon vote in favor of
 3 the same at a city or town election or at a special election.

[S. S., '15, § 741-g.]

SEC. 3744. Notice—form.

1 The question provided in the preceding section to be submitted
 2 may be ordered by the city or town council submitted to a vote at a
 3 general city election or at one specially called for that purpose. In
 4 cities having a population of five thousand or over notice of such elec-
 5 tion shall be published in two newspapers published in said city once
 6 each week for not less than four consecutive weeks. In all other
 7 cities and towns notice of such election shall be given by publication
 8 in one newspaper published in said city or town once each week for
 9 not less than two consecutive weeks. The election shall be held not
 10 less than five nor more than twenty days after the last publication of
 11 such notice. The question to be submitted shall be in the following
 12 form:

13 "Shall the city (or town) of erect a
 14 city (or town) hall at a cost not exceeding \$.....?"

[S. S., '15, § 741-h.]

SEC. 3745. Tax for buildings and grounds in cities of the second class and towns.

1 Cities of the second class and towns shall have the power to levy
 2 a tax not exceeding three mills on the dollar upon all the property

3 within the corporate limits of said cities and towns, excepting lots
4 greater than ten acres in area used for agricultural and horticultural
5 purposes, for the purpose of creating a sinking fund to be used as
6 provided in this chapter for the purchase or erection of a city build-
7 ing or fire station, or both, and necessary ground therefor.

[S., '13, § 741-j.]

SEC. 3746. Subsequent levies.

1 Cities of the second class and towns are hereby authorized to
2 purchase buildings and grounds or to erect buildings specified in the
3 preceding section and are authorized to continue the levying of the
4 three mill tax therein provided for until the purchase price, principal
5 and interest or the cost incurred in the erection of said buildings is
6 fully paid and discharged.

[S., '13, § 741-k.]

SEC. 3747. Contracts—bonds or warrants.

1 Cities of the second class and towns levying such sinking fund
2 tax are hereby authorized to let a contract or contracts for the pur-
3 chase or erection of said buildings and purchase of grounds and upon
4 the approval and adoption of said contract or contracts as hereinafter
5 provided to apply such sinking fund on the cost thereof, and cities and
6 towns so purchasing or constructing such buildings or grounds are
7 authorized to pledge the proceeds of the continuing three mill levy
8 provided for in this chapter and shall have the right to issue bonds or
9 warrants to secure the payment of the purchase price of said buildings
10 or grounds or the cost of constructing said buildings, provided that
11 said bonds or warrants shall bear not more than five per cent interest
12 per annum, but no part of the general fund of such city or town shall
13 be applied on such bonds or warrants or upon the purchase price of
14 buildings or grounds or cost of erection of said buildings. In the pay-
15 ment thereof the city or town and holders of said contracts, bonds
16 or warrants shall be restricted to the proceeds of said taxes.

[S., '13, § 741-l.]

SEC. 3748. Question submitted.

1 Said contract or contracts shall not be binding on said city or
2 town until the same shall have been approved by the city or town
3 council at a regular meeting or a special meeting called for such pur-
4 pose and shall have been adopted by a majority of the electors of said
5 city or town voting at a city or special election which shall have been
6 duly called after thirty days' notice by said city or town. Proposition
7 to be submitted at said election and the form of ballot shall be: "Shall
8 the contract or contracts approved by the city or town council in re-
9 lation to the purchase of buildings or grounds or erection of buildings
10 be adopted?" The proposition shall be printed and placed on the
11 ballots and the voter shall designate his choice and the election shall
12 be conducted in the manner provided in the title on elections.

[S., '13, § 741-m.]

CHAPTER 16.

PUBLIC LIBRARIES.

SECTION 3749. Public library—bequests—conditions of—how enforced.

1 Cities and towns shall have power to provide for the formation
 2 and maintenance of a free public library, open to the use of all the
 3 inhabitants, under proper regulations, and may purchase land and
 4 erect buildings, or hire buildings or rooms, suitable for that purpose,
 5 and provide for the compensation of the necessary employees; may
 6 receive, hold or dispose of any and all gifts, donations, devises and
 7 bequests that may be made to them for the purpose of establishing,
 8 increasing or improving any such library; and when the conditions
 9 of such gifts, donations, devises and bequests have once been ac-
 10 cepted by the council, the performance of such conditions may be
 11 enforced at the instance of the library board by mandamus and by
 12 other due process of law; and the council may apply the profits, pro-
 13 ceeds, interest and rents accruing therefrom in such manner as will
 14 best promote the prosperity and utility of such library; but no money
 15 can be appropriated for such purpose until the electors of such city
 16 or town shall, at a general or special election, have voted for the
 17 establishment of such library.

[C., '73, § 461; C., '97, § 727; S., '13, § 727.]

SEC. 3750. Library trustees.

1 In any city or town in which a free library has been established,
 2 there shall be a board of library trustees, consisting of five, seven
 3 or nine members, to be appointed by the mayor by and with the ap-
 4 proval of the city council which shall also establish by ordinance the
 5 number to be appointed. Of said trustees so appointed on boards
 6 to consist of nine members, three shall hold office for two years, three
 7 for four years, and three for six years; on boards to consist of seven
 8 members, two shall hold office for two years, two for four years and
 9 three for six years each; and on boards to consist of five members,
 10 one shall hold office for two years, two for four years and two for
 11 six years each, from the first day of July following their appoint-
 12 ment in each case, and at their first meeting they shall cast lots for
 13 their respective terms, reporting the result of such lot to the council.
 14 All subsequent appointments, whatever the size of the board, shall
 15 be for terms of six years each, except to fill vacancies. Such vacan-
 16 cies in the board shall be filled by appointment by the mayor, such
 17 appointees to fill out the unexpired term for which the appointment
 18 is made. Bona fide citizens and residents of the city or town, male
 19 or female, over the age of twenty-one years, are alone eligible to
 20 membership. The removal of any trustee permanently from the city,
 21 or his absence from six consecutive regular meetings of the board,
 22 except in case of sickness or temporary absence from the city, without
 23 due explanation of his absence shall render his office as trustee vacant.
 24 Members of said board shall receive no compensation for their serv-
 25 ices; provided that in cities and incorporated towns where a college
 26 or university is located, it shall be lawful for the city or town and
 27 such institution of learning to jointly establish and maintain a public
 28 library for their mutual benefit, upon such terms and conditions as
 29 regards maintenance, control, appointment of library trustees and

30 other incidents of joint control as may in any lawful manner be mu-
31 tually agreed upon between them; but no city or town may undertake
32 to contribute toward the maintenance more than the amount produced
33 by a rate of taxation therefor allowed by law, and no persons shall
34 be appointed or confirmed as library trustees other than such having
35 the qualifications required by law.

[C., '97, § 728; S. S., '15, § 728.]

SEC. 3751. Powers.

1 Said board of library trustees shall have and exercise the follow-
2 ing powers: To meet and organize by the election of one of their
3 number as president of the board, and by the election of a secretary
4 and such other officers as the board may deem necessary; to have
5 charge, control and supervision of the public library, its appurtenances
6 and fixtures, and rooms containing the same, directing and controlling
7 all the affairs of such library; to employ a librarian, such assistants
8 and employees as may be necessary for the proper management of
9 said library, and fix their compensation; but, prior to such employ-
10 ment, the compensation of such librarian, assistants and employees
11 shall be fixed for the term of employment by a majority of the mem-
12 bers of said board voting in favor thereof; to remove such librarian,
13 assistants or employees by a vote of two-thirds of such board for
14 misdemeanor, incompetency or inattention to the duties of such employ-
15 ment; to select and make purchases of books, pamphlets, magazines,
16 periodicals, papers, maps, journals, furniture, fixtures, stationery and
17 supplies for such library; to authorize the use of such libraries by
18 nonresidents of such cities and towns and to fix charges therefor; to
19 make and adopt, amend, modify or repeal by-laws, rules and regula-
20 tions, not inconsistent with law, for the care, use, government and
21 management of such library and the business of said board, fixing
22 and enforcing penalties for the violation thereof; and to have exclu-
23 sive control of the expenditures of all taxes levied for library purposes
24 as provided by law, and of the expenditure of all moneys available
25 by gift or otherwise, for the erection of library buildings and of all
26 other moneys belonging to the library fund. Said board shall keep
27 a record of its proceedings.

[C., '97, § 729; S., '13, § 729.]

SEC. 3752. Power to contract for use of books.

1 The board of library trustees of any free public library shall have
2 power to contract with any school corporation, the township trustees
3 of any civil township, the board of supervisors of the county in which
4 said library is situated, and the council of any city or town, whether
5 such school corporation, civil township, or city or town be in the same
6 county in which such library is situated or in an adjoining county,
7 for the free use of said library by the residents of such school cor-
8 poration, civil township, county, city or town, by one or more of the
9 following methods in whole or in part:

10 1. By lending the books of such library to such residents on the
11 same terms and conditions as to residents of the city or town in which
12 said library is situated.

13 2. By the establishment of depositaries of books of such library
14 to be loaned to such residents at stated times and places.

15 3. By the transportation of books of such library by wagon or
16 other conveyance for lending the same to such residents at stated
17 times and places.

18 4. By the establishment of branch libraries for lending books to
19 such residents.

20 Such contracts, unless otherwise provided therein, shall remain
21 in force for five years, unless sooner terminated by a majority vote
22 of the electors of such school corporation, civil township, county, city
23 or town.

[S., '13, § 729-a.]

SEC. 3753. Library buildings—condemnation of ground for location of.

1 In any city or town in which a free library has been or may here-
2 after be established, the board of library trustees shall have the power
3 to condemn real estate in the name of the city or town for the location
4 and construction of library buildings and for branch libraries, and
5 for the purpose of enlarging the grounds for such library buildings
6 and branch libraries.

[S., '13, § 729-b.]

SEC. 3754. Condemnation proceedings.

1 Proceedings for condemnation of land as contemplated in the pre-
2 ceding section, shall be in accordance with the provisions of the code
3 relating to taking private property for works of internal improve-
4 ment, except that no attorney's fee shall be taxed or allowed for the
5 owner of the real estate.

[S., '13, § 729-c.]

SEC. 3755. Power to unite with historical associations.

1 Whenever a local county historical association shall be formed in
2 any county having a free public library, the trustees of such library
3 are hereby authorized to unite with such historical association and
4 to set apart the necessary room and to care for such articles as may
5 come into the possession of said association; said trustees are also
6 authorized to purchase necessary receptacles and materials for the
7 preservation and protection of such articles as are in their judgment
8 of a historical and educational nature and pay for the same out of the
9 library fund.

[S., '13, § 729-e.]

SEC. 3756. Library fund—treasurer.

1 All moneys received and set apart for the maintenance of such
2 library shall be deposited in the treasury of such city or town to the
3 credit of the library fund, and shall be kept by the treasurer separate
4 and apart from all other moneys, and paid out upon the orders of the
5 board of trustees, signed by its president and secretary. Provided
6 that in any city or incorporated town where is maintained jointly by
7 the city or town and an institution of learning a free public library,
8 for the support and maintenance of which both the city and the insti-
9 tution of learning contribute, the library trustees may elect a library
10 treasurer therefor, and it shall be the duty of the city treasurer to

11 pay over to said library treasurer any and all library taxes that may
12 be collected by him monthly.

[C., '97, § 730; S., '13, § 730.]

SEC. 3757. Report.

1 The board of trustees shall each year make to the council a report
2 for the year ending December thirty-first, a statement of the condi-
3 tion of the library, the number of books added thereto, the number
4 circulated, the number not returned or lost, the amount of fines col-
5 lected, and the amount of money expended in the maintenance thereof
6 during such year, together with such further information as it may
7 deem important.

[C., '97, § 731.]

SEC. 3758. Library tax — additional support — transfer from building to maintenance fund.

1 The board of trustees shall, before the first day of August in each
2 year, determine and fix the amount or rate, not exceeding five mills
3 on the dollar in all cities and incorporated towns, of the taxable valua-
4 tion of such city or town, to be levied, collected and appropriated for
5 the ensuing year for the maintenance of such library; and in cities
6 and towns also the amount or rate, not exceeding three mills on the
7 dollar of the taxable valuation of such city, to be levied, collected and
8 appropriated for the purchase of real estate and the erection of a
9 building or buildings thereon for a public library, or for the payment
10 of interest on any indebtedness incurred for that purpose, and for
11 the creation of a sinking fund for the extinguishment of such indebt-
12 edness; and shall cause the same to be certified to the city council,
13 which shall levy such tax for each of said purposes so determined and
14 fixed, and certify the per centum thereof to the county auditor, with
15 the other taxes for said year.

16 In any city or town under special charter where the mulct law
17 is in force, the city or town council may, in addition to the tax herein-
18 before provided for, appropriate not to exceed twenty per cent of the
19 total amount of the mulct tax received by said municipality, for the
20 support and maintenance of its free public library including the pur-
21 chase of books and furniture.

22 When any public library building shall be fully completed and
23 paid for and a balance remains in the library building fund, the library
24 trustees are authorized to transfer such excess to the maintenance
25 fund; provided that this shall not be construed to authorize a levy of
26 tax for building purposes after the library has been erected with intent
27 to take advantage of sections thirty-seven hundred fifty, thirty-seven
28 hundred fifty-one, thirty-seven hundred fifty-six, thirty-seven hundred
29 fifty-seven and thirty-seven hundred fifty-eight to increase the library
30 income for maintenance purposes.

[C., '97, § 732; S., '13, § 732.]

SEC. 3759. City or town councils—power to contract for use of public libraries—petition—tax levy.

1 The council of any city or town in which there is no free public
2 library shall have power to contract with any free public library for
3 the free use thereof by the residents of such city or town, as provided
4 in section thirty-seven hundred fifty-two, and to pay such library

5 such an amount as may be agreed upon therefor, and to levy annually
 6 on the taxable property of such city or town a tax not exceeding one
 7 mill on the dollar to be used exclusively for such purpose. When a
 8 majority of the resident taxpayers, as shown by the last preceding
 9 assessment list of such city or town, petition the council thereof in
 10 writing to enter into such contract, and such library gives its written
 11 consent thereto, it shall be the duty of such council to execute such
 12 contract, and when any such contract is made, whether on petition
 13 of the resident taxpayers or without such petition, a tax in amount
 14 sufficient to pay such library the consideration agreed upon, not ex-
 15 ceeding one mill on the dollar, shall be annually levied by such council
 16 until such contract is terminated.

[S., '13, § 741-n.]

SEC. 3760. Erection and maintenance of memorial libraries—tax.

1 Whenever any city or town has provided for the establishment
 2 of a free public library, the board of supervisors of the county in
 3 which such city or town is located may agree with the council of such
 4 city or town that such library shall be a "soldiers', sailors' and marines'
 5 memorial and public library" and the board of supervisors, for the
 6 erection and maintenance of such memorial and public library shall,
 7 annually, after entering into the agreement with the city or town
 8 council hereinbefore provided for, levy the tax authorized in section
 9 thirty-one hundred thirty-four, which tax shall be used in the erection
 10 and maintenance of a soldiers' memorial and public library as here-
 11 inafter provided.

[38 G. A., ch. 252, § 1.]

SEC. 3761. Board of trustees—term—vacancy.

1 The board of supervisors, and the mayor of such city or town,
 2 with the approval of the council, shall, as soon as the agreement pro-
 3 vided for in the preceding section is entered into, appoint a board of
 4 trustees of twelve members, six of whom shall be appointed by the
 5 board of supervisors and six by the mayor, and of the trustees ap-
 6 pointed by the mayor, and of those appointed by the board, two shall
 7 hold office for two years, two for four years and two for six years
 8 from the first day of July following their appointment, and biennially
 9 thereafter, before the first day of July, the board of supervisors and
 10 the mayor, with the approval of the council, shall each appoint two
 11 trustees to succeed the trustees retiring on the following first of July,
 12 each of whom shall hold office for six years from such first of July
 13 following, and until his successor is appointed and qualified. Vacan-
 14 cies occurring in the board of trustees shall be filled by appointment
 15 by the authority making the appointment of trustee to be succeeded,
 16 such appointee to fill out the unexpired term for which the appoint-
 17 ment is made. Trustees appointed by the mayor shall be residents
 18 of the city or town and trustees appointed by the board of supervisors
 19 shall be residents of the county outside of such city or town and in
 20 all other respects shall have the qualifications prescribed by law for
 21 library trustees.

[38 G. A., ch. 252, § 2.]

SEC. 3762. Powers of board.

1 Said trustees shall have all the powers conferred by law upon
 2 library trustees and in addition thereto, shall have the exclusive ex-

3 penditure of the tax levied as provided in the second preceding section
 4 and as otherwise provided by law for library trustees and on or before
 5 the first day of August of each year shall certify to the board of super-
 6 visors the proportion of such one mill tax considered necessary for
 7 the use of said trustees and the board of supervisors shall levy such
 8 tax as provided in said section.

[38 G. A., ch. 252, § 3.]

SEC. 3763. Rooms for patriotic organizations.

1 Said trustees shall also have authority to provide in any soldiers'
 2 memorial and public library established under the three preceding
 3 sections at the time of the erection of such building or by addition
 4 thereto, a room for the use of any soldiers' or sailors' society, or other
 5 patriotic organization, in which to hold meetings and to provide for
 6 the care and exhibition of articles of historic interest, and shall also
 7 have authority to collect and compile a record of the patriotic activi-
 8 ties of the inhabitants of the county during any war in which the
 9 United States was engaged and preserve the same, and to compile and
 10 preserve a roster of the military record of the inhabitants of said
 11 county who have served in any branch of the army or navy of the
 12 United States, and in general to preserve, as a memorial, the record
 13 of the patriotic activities of the inhabitants of said county, and es-
 14 pecially to preserve such records as to the world war.

[38 G. A., ch. 252, § 3.]

SEC. 3764. Additional powers.

1 The provisions of the four preceding sections shall be construed
 2 as an addition to, rather than the repeal of any existing statutes relat-
 3 ing to the same or similar subjects.

[38 G. A., ch. 252, § 3.]

CHAPTER 17.

SOLDIERS', SAILORS', AND MARINES' MEMORIAL BUILDINGS.

SECTION 3765. Memorial building—what may be included.

1 Counties, cities and towns, including cities under commission
 2 plan, shall have power to purchase or condemn ground for, erect and
 3 equip, or purchase and equip, a building as a soldiers', sailors' and
 4 marines' memorial, commemorative of their military and naval serv-
 5 ice, and which shall be given an appropriate name, and shall have
 6 special accommodations or provisions for soldiers, sailors, nurses, and
 7 other persons who are or have been in the military or naval service
 8 of the United States. Such building may be or include military head-
 9 quarters, memorial rooms, library, assembly hall, gymnasium, nata-
 10 torium, club rooms and rest rooms; it may include city hall and offices
 11 for any county or municipal purpose, or community house, or recrea-
 12 tion center; or it may be a memorial hospital, or it may be for any
 13 one or more of such purposes; and for similar or appropriate purposes
 14 may be extended to general community and neighborhood uses; all
 15 under the control and regulation as to charges and otherwise, of the
 16 city or town council, with the advice and cooperation of the commu-

17 nity civic congress. Such building may be erected as an appropriate
 18 annex to any other city or public building, or by reconstructing the
 19 same.

[38 G. A., ch. 170, § 1.]

SEC. 3766. Community civic congress to cooperate with council.

1 In the case of municipalities the city or town council shall appoint
 2 a community civic congress as provided by law, being three persons,
 3 residents of said city or town, especially fitted for and interested in
 4 community work, who may cooperate with the council in all matters
 5 pertaining to community improvements, not only as heretofore pro-
 6 vided by law, but also with reference to improvements contemplated
 7 by this chapter; they shall serve without compensation.

[38 G. A., ch. 170, § 2.]

SEC. 3767. May issue bonds—limitation.

1 For the purpose of providing funds for the acquisition of neces-
 2 sary ground therefor, and purchasing, erecting, constructing or recon-
 3 structing such building, and for the necessary equipment therefor,
 4 the county, city or town may issue bonds to be known as liberty me-
 5 morial bonds, to be issued and sold as provided by law; they shall
 6 provide for portions of such bonds to become due at different, definite
 7 periods, but none in less than five nor more than fifty years from date.
 8 In issuing such bonds, such county, city or town may become indebted
 9 in an amount which, added to all other indebtedness, shall not exceed
 10 five per centum of the actual value of the taxable property in such
 11 county, city or town as determined by the last state and county tax
 12 lists, anything in section forty hundred fifty-four to the contrary not-
 13 withstanding. For the purpose of liquidating such bonds, together
 14 with the interest thereon, such county, cities and towns shall levy upon
 15 all the property within the limits thereof, subject to taxation for such
 16 purpose, in addition to all other taxes provided by law, a special tax
 17 not exceeding in any one year five mills on the dollar for a period of
 18 not exceeding fifty years.

[38 G. A., ch. 170, § 3.]

SEC. 3768. Election.

1 Upon petition of fifteen per cent of the legal voters of any county,
 2 city or town, the question as herein provided shall be submitted to
 3 the voters of said county, city or town. Such petition shall ask that
 4 an election be called, shall refer to this chapter, shall suggest gener-
 5 ally the nature and uses of the proposed liberty memorial building.
 6 No such building shall be erected and equipped, or purchased and
 7 equipped, under the provisions of this chapter, unless a majority of
 8 the legal voters voting thereon vote in favor of the same at a general,
 9 municipal or special election called for that purpose. Notice of such
 10 election shall be given in two newspapers published in said county,
 11 city or town, if there are two, but if not, then in one, once each week
 12 for at least four consecutive weeks. But if no newspaper is pub-
 13 lished within the limits of the corporation, then such notice may be
 14 given by posting in three public places within the limits of said cor-
 15 poration, two of which places shall be the postoffice and the mayor's
 16 office of such city or town, and by publication for four consecutive
 17 weeks in a newspaper of general circulation in the county. The elec-
 18 tion shall be held not less than five nor more than twenty days after

19 the last publication of such notice. The questions to be submitted
 20 shall be in the following form: "Shall the county, city (or town)
 21 of.....erect and equip (or purchase and equip) a
 22 liberty memorial building, as provided in chapter seventeen, of title
 23 thirteen, of the code, and issue bonds therefor in the amount of.....
 24dollars?"

[38 G. A., ch. 170, § 4.]

SEC. 3769. Tax levy.

1 In case a building be constructed or purchased under this chapter,
 2 the county, city or town shall thereafter provide annually a levy of
 3 not more than three mills on all the taxable property within said
 4 county, city or town, for the development, operation and maintenance
 5 of such building, in care of a city or town, and it shall seek advice
 6 and suggestions of the community civic congress.

[38 G. A., ch. 170, § 5.]

SEC. 3770. Gifts and bequests.

1 Gifts and bequests to the county, city or town, for any of the pur-
 2 poses provided in this chapter, are hereby authorized; the same shall
 3 be used and applied as provided in this chapter, and as especially
 4 stipulated by the donor.

[38 G. A., ch. 170, § 6.]

CHAPTER 18.

MUNICIPAL HOSPITALS.

SECTION 3771. Hospital trustees.

1 Cities having a population of over five thousand may by ordinance
 2 provide for the election at a general, city or special election of three
 3 hospital trustees, whose terms of office shall be six years, one to be
 4 elected each even-numbered year, but at the first election three shall
 5 be elected and hold their office, respectively, for two, four and six
 6 years, and who shall by lot determine their respective terms.

[S., '13, § 741-o.]

SEC. 3772. Hospital board—organization—officers—duties.

1 The said trustees shall within ten days after their election, qualify
 2 by taking the oath of office and organize as a hospital board, by the
 3 election of one of their number as chairman and one as secretary,
 4 but no bond shall be required of them. They shall also elect a treas-
 5 urer not one of their number, who shall give bonds in the sum of
 6 twenty-five thousand dollars, the penalty of which may be increased
 7 by the board. The treasurer shall receive and pay out all the moneys
 8 under the control of the said board as ordered by it, but shall receive
 9 no compensation for his services. No commissioner shall receive any
 10 compensation for his services performed, but he may receive reim-
 11 bursement for any cash expenses actually made for personal expenses
 12 incurred as such trustee, but an itemized statement of all such ex-
 13 penses and moneys paid out shall be made under oath by each of such
 14 trustees and filed with the secretary and allowed only by the affirm-

15 ative vote of the full board. Said board of trustees shall be vested
 16 with authority to provide for the management, control and government
 17 of such city hospital and shall provide all needed rules and regula-
 18 tions for the economic conduct thereof. In the management of said
 19 hospital no discrimination shall be made against practitioners of any
 20 school of medicine recognized by the laws of the state of Iowa.

[S., '13, § 741-p.]

**SEC. 3773. Question submitted—tax—how levied and collected—
 hospital fund.**

1 The council of such city may by resolution submit to the qualified
 2 electors of the same at a city or special election, the question whether
 3 there shall be levied upon the assessed property thereof a tax not
 4 exceeding three mills on the dollar in cities having a population of
 5 over twenty-two thousand, not exceeding five mills on the dollar in
 6 cities having a population of over five thousand and less than twenty-
 7 two thousand, for the purchasing of real estate for hospital purposes,
 8 and for the construction of such hospital and for maintaining the same,
 9 or for either or all of such purposes. The said proposition shall be
 10 submitted in the manner provided for similar propositions in the title
 11 on elections. The council shall in the resolution ordering such elec-
 12 tion, specify the rate of taxation proposed and the number of years
 13 the same shall be levied not exceeding fifteen years. If a majority of
 14 the votes cast at such election on the proposition so submitted shall
 15 be in favor of the proposition for taxation the council shall levy the
 16 tax so authorized which shall be collected and paid over to the treas-
 17 urer of such hospital board in the same manner as other taxes are
 18 collected. Such taxes shall be known as a hospital fund and shall be
 19 paid out on the order of the trustees for the purposes authorized by
 20 this chapter and for no other purpose whatever.

[S., '13, § 741-q; 37 G. A., ch. 48, § 1.]

SEC. 3774. Bonds.

1 Whenever any city having a population of over five thousand shall
 2 by ordinance provide for the election of hospital trustees, and has
 3 voted a tax for a term of years not exceeding fifteen years, for hos-
 4 pital purposes as authorized by law, the said city may issue bonds in
 5 the name of such city in anticipation of the collection of such tax in
 6 such sums and amounts as the city council thereof may deem neces-
 7 sary for the purposes contemplated by such tax, but such bonds in
 8 the aggregate shall not exceed the amount which might be realized
 9 by said tax based on the amount which may be yielded on the property
 10 valuation in the year in which the tax is voted, and such bonds shall
 11 mature in fifteen years from date, and shall be in sums of not less
 12 than one hundred, nor more than one thousand dollars, bearing inter-
 13 est at a rate not exceeding five per cent per annum, payable annually
 14 or semiannually; said bonds may be payable at pleasure of city after
 15 five years and shall not be sold for less than par. Said city, after
 16 the issuance of any such bonds, shall each year for ten years before
 17 the maturity thereof, set aside out of the tax levied by it a sum equal
 18 to one-tenth of the principal thereof, which sum shall be applied after
 19 five years from date of issue in payment of the principal whenever
 20 the amount on hand shall be sufficient to pay one or more of said bonds
 21 and each of said bonds shall provide that it is subject to this condition.

[S., '13, § 741-r; 37 G. A., ch. 48, § 2.]

SEC. 3775. Condemnation proceedings.

1 If the board of hospital trustees and the owners of any property
 2 desired by them for hospital purposes can not agree as to the price to
 3 be paid therefor, the city council of said city shall cause the same to
 4 be condemned in the manner provided for taking land for public pur-
 5 poses by cities.

[S., '13, § 741-s.]

SEC. 3776. Jurisdiction over hospital lands.

1 The jurisdiction of such cities and towns shall extend over all
 2 lands used for hospital purposes without the corporate limits if so
 3 located, and all ordinances of such cities and towns shall be in full
 4 force and effect in and over the territory occupied by such hospitals.

[S., '13, § 741-t.]

SEC. 3777. Appropriation for improvements and maintenance.

1 In cities exercising the rights by this chapter, the council may
 2 appropriate each year not exceeding five per cent of its general fund
 3 for the improvement and maintenance of any hospital so established;
 4 and in addition to such appropriation, may annually levy a special
 5 tax of not to exceed five mills on the dollar of the taxable value of
 6 property within the city, as an additional fund for the improvement,
 7 support, operation and maintenance of such hospital.

[S., '13, § 741-u; 37 G. A., ch. 48, § 3.]

SEC. 3778. Indebtedness.

1 Cities of the second class shall be allowed to become indebted for
 2 the purposes provided in this chapter to an amount aggregating with
 3 all other indebtedness of the said city, a sum not exceeding five per
 4 centum of the actual value of the property within said city, to be ascer-
 5 tained by the last state and county tax list previous to the incurring
 6 of such indebtedness, provided that before an indebtedness shall be
 7 contracted in excess of one and one-fourth per centum of the actual
 8 value of the taxable property ascertained as provided in section forty
 9 hundred fifty-four, a petition signed by a majority of the qualified
 10 electors of such city shall be filed with the council of such city, asking
 11 that an election shall be called, stating the purposes for which the
 12 money is to be used and that the said hospital can not be purchased,
 13 built or maintained within the limit of one and one-fourth per centum
 14 of valuation of the taxable property of such city. If two-thirds of all
 15 the electors voting at such election vote in favor of such indebtedness
 16 at such election, the council of such city shall issue the bonds as pro-
 17 vided in this chapter to the limit as herein provided.

[S., '13, § 741-v; 37 G. A., ch. 48, § 4.]

CHAPTER 19.**BRIDGES.****SECTION 3779. Care, construction and repair of bridges.**

1 Cities shall have the care, supervision and control of all public
 2 bridges and culverts within the corporate limits thereof; shall cause

3 the same to be kept open and free from nuisances; and shall construct
 4 and keep in repair all public culverts within the limits of said cor-
 5 porations. They may aid in the construction of any county bridges
 6 within the limits of said city, or in the construction of any bridge con-
 7 tiguous to said city, on a highway leading to the same, or in the con-
 8 struction of any bridge across any unnavigable river which divides
 9 the county in which said city is located from another state, by appro-
 10 priating a sum not exceeding ten dollars per linear foot therefor.

[R., '60, § 1097; C., '73, § 527; C., '97, § 757.]

SEC. 3780. Bridge fund.

1 Cities of the first class and also cities of the second class having
 2 a population of five thousand or over, and which are traversed by a
 3 stream two hundred feet or more in width from shoreline to shoreline
 4 shall have full control of the bridge fund levied and collected as pro-
 5 vided by law, and shall have the right to use the same for the con-
 6 struction of bridges, culverts, and approaches thereto, repairing the
 7 same, and paying bridge bonds and interest thereon issued by such
 8 city, and shall be liable for defective construction thereof, and failure
 9 to maintain the same in safe condition as counties now are with refer-
 10 ence to county bridges; and no county shall be liable for any such
 11 bridge or injuries caused thereby.

[C., '97, § 758; S. S., '15, § 758.]

SEC. 3781. Bridge tax—levy authorized.

1 When the whole or any part of the cost of building or reconstruc-
 2 tion of any bridge by a city of the first class or any city of the second
 3 class having a population of five thousand or over, and which is tra-
 4 versed by a stream two hundred feet or more in width from shoreline
 5 to shoreline shall be ordered paid from the city bridge fund, to be
 6 levied upon all the property within any such city, it shall have the
 7 power, after the completion of the work, by ordinance or resolution,
 8 to levy at any one time the whole or any part of the cost of such im-
 9 provement upon all of the taxable property within such city and
 10 determine the whole percentage of tax necessary to pay the same, and
 11 the percentage to be paid each year, not exceeding two-thirds of the
 12 maximum annual limit of the tax such city may levy for a bridge
 13 fund, and the number of years, not exceeding twenty-five, given for
 14 the maturity of each installment thereof, but no part of such costs
 15 shall be levied against property owned by the city, county, state or
 16 the United States. Certificates of such levy shall be filed with the
 17 auditor of the county or counties in which said city is located, setting
 18 forth the amount or percentage and maturity of said tax, or each
 19 installment thereof, upon the assessed valuation of all the property
 20 in said city, certified as correct by the city clerk or auditor, and there-
 21 upon said tax shall be placed upon the tax lists of the proper county
 22 or counties.

[S. S., '15, § 758-a.]

SEC. 3782. Bridge certificates or bonds.

1 Any such city may anticipate the collection of taxes authorized
 2 to be levied for a city bridge fund and for that purpose may issue
 3 bridge certificates or bonds with interest coupons, and the provisions

4 of chapter thirty-four, title thirteen, shall be operative as to such
5 certificates, bonds and coupons in so far as they may be applicable.

[S., '13, § 758-b.]

SEC. 3783. How paid.

1 Said certificates, bonds and interest thereon shall be secured by
2 said assessments and levies and shall be payable only out of the funds
3 derived from such levies and pledged to the payment of the same, and
4 no certificates or bonds shall be issued in excess of taxes authorized
5 and levied to secure the payment of the same. It shall be the duty
6 of such city to collect such funds, with interest thereon, and to hold
7 the same separate and apart in trust for the payment of said certifi-
8 cates, bonds and interest and to apply the proceeds of said funds
9 pledged for that purpose to the payment of said certificates, bonds
10 and interest.

[S., '13, § 758-c.]

SEC. 3784. Bonds for construction of bridges.

1 Cities of the first class and also cities of the second class having
2 a population of five thousand or over, and which are traversed by a
3 stream two hundred feet or more in width from shoreline to shoreline
4 are hereby authorized to contract indebtedness and to issue bonds for
5 the purpose of constructing bridges. Such bonds shall be payable in
6 not exceeding twenty annual installments and bear interest at not
7 exceeding five per centum per annum, and shall be made payable at
8 such place and be of such form as the city council shall by ordinance
9 designate. But no city shall become indebted in excess of five per
10 centum of the actual value of the taxable property of said city as
11 shown by the last preceding assessment roll.

[S. S., '15, § 758-d.]

SEC. 3785. Additional to other powers.

1 The preceding section shall be construed as granting additional
2 power without limiting the power already existing in cities of the first
3 class and also cities of the second class having a population of five
4 thousand or over, and which are traversed by a stream two hundred
5 feet or more in width from shoreline to shoreline.

[S. S., '15, § 758-e.]

SEC. 3786. Aiding county bridge.

1 Cities and towns may vote to aid in the construction of any county
2 bridge, when the estimated cost of the same is not less than ten thou-
3 sand dollars, to the extent of one-half the estimated cost thereof, as
4 fixed by the board of supervisors; and a city having a population of
5 five thousand or more may vote a tax, not to exceed two per centum
6 of the assessed value of the taxable property in such city, to construct,
7 or aid any company which is or may be incorporated under the laws
8 of this state in the construction of a highway or combination bridge
9 across any navigable boundary river of this state, commencing or
10 terminating in such city, suitable for use as highway, or for both
11 highway and railway and street railway purposes.

[C., '97, § 759.]

SEC. 3787. Question submitted.

1 Whenever a petition shall be presented to the council, signed by
2 a majority of the resident freehold taxpayers thereof, asking that the
3 question of constructing or aiding in the construction of a bridge, as
4 provided in the preceding section, be submitted to the qualified elect-
5 ors, it shall be its duty to immediately give notice of a special election,
6 by publication in some newspaper published therein, and also by post-
7 ing copies of such notice in five public places therein, at least ten days
8 before such election.

[C., '97, § 760.]

SEC. 3788. Notice—conditions.

1 Such notice shall specify the time and place of holding the elec-
2 tion, the proposed location of the bridge to be aided, the rate per cent
3 of tax to be levied, the amount which the board of supervisors is
4 authorized to cause to be collected each year, and all the conditions in
5 the petition. In case of proposed aid to a private corporation, the
6 notice shall also state its name, the amount of work required to be
7 done on such bridge, and any other conditions which are to be
8 performed before said tax or any part thereof shall become due and
9 payable. Such notice may also contain terms and conditions to be per-
10 formed by said corporation receiving such aid after the completion of
11 such bridge, which terms and conditions shall be obligatory and bind-
12 ing upon it, its successors and assigns.

[C., '97, § 761.]

SEC. 3789. Certificate.

1 At such election the question of taxation shall be submitted to
2 the electors thereof. If a majority of the votes be for taxation, the
3 clerk of such city or town shall forthwith certify to the county auditor
4 of the proper county the result, the rate per cent of the tax voted, the
5 year or years during which the same is to be collected, the amount to
6 be collected each year, the terms and conditions upon which the same
7 when collected is to be paid, and, if aid is voted to a private corpora-
8 tion, its name, together with a copy of the notice under which the
9 election was held. The certificate shall be filed with the county au-
10 ditor, who shall cause the same to be recorded in the office of the re-
11 corder of deeds. The expenses of the giving of the notice and holding
12 the election shall be audited and paid out of the county treasury as
13 other claims against the county.

[C., '97, § 762.]

SEC. 3790. Tax levied.

1 After such certificate shall have been filed and recorded, the board
2 of supervisors shall, at the time of levying the ordinary taxes, levy
3 each year, on the taxable property of such city or town, the taxes
4 voted as shown by said certificate.

[C., '97, § 763.]

SEC. 3791. Collection—payment.

1 Said taxes shall be collected in the same manner, subject to the
2 same penalties for nonpayment after delinquent, and to the same laws
3 after they are collected or collectible, as other taxes, in conformity

4 with the terms and conditions of the notice of election; when collected
5 they shall be paid by the county treasurer, on the order of the board
6 of supervisors, specifying the special bridge fund from which each
7 order is payable; but in no case shall said board make such order
8 until the conditions specified in the petition and notice have been com-
9 plied with. Such taxes, when payable to the city or town, shall be
10 paid over as other city or town taxes. When payable to a private
11 corporation, they shall be paid over by the county treasurer to such
12 corporation, upon the order of the president or a majority of the direc-
13 tors thereof, after said council shall have certified to the county treas-
14 urer that the conditions required, as set forth in the notice for the
15 special election at which the tax was voted, have been complied with,
16 and the council, or a majority of its members, shall make such cer-
17 tificate whenever such conditions shall have been so performed.

[C., '97, § 764.]

SEC. 3792. Forfeiture.

1 Should any taxes levied under the provisions of the foregoing
2 sections remain in the county treasury more than one year after the
3 same shall have been collected, the right to them shall be forfeited,
4 and they shall be refunded to the taxpayers, and the board of super-
5 visors shall cause any remaining levy to be canceled and stricken
6 from the tax books, which cancellation shall remove all liens created
7 thereby, and it shall make no further levies under said certificate.

[C., '97, § 765.]

SEC. 3793. Contract for use of bridge.

1 Cities situated on a river wholly in the state, or one forming its
2 boundary line, and from which to the opposite shore a bridge has
3 been or may be constructed by any railroad company, corporation or
4 person, shall have power to contract with the railroad company, cor-
5 poration or person owning such bridge for the use of the same as a
6 public highway; which contract may be for the joint use of such
7 bridge, or for the sole use of such portion thereof as may be devoted
8 or adapted to highway travel; and may assume the sole liability, or
9 any portion thereof, for damages to persons or property by reason
10 of their being on any portion of said bridge or approach to either end
11 thereof, caused by the running of cars or locomotives thereon by any
12 corporation, company or person entitled to its use, whether the dam-
13 age results from the negligence of the person engaged in running said
14 cars or locomotives or otherwise, and to indemnify the owners of said
15 bridge, and all others entitled to use the same, from liability or dam-
16 age so caused, to the extent or proportion thereof assumed in the
17 said contract; and the city may thereafter, and during the continu-
18 ance of said contract, manage and control said bridge so far as neces-
19 sary to regulate the highway travel thereon, and may regulate the
20 same as a free or toll bridge, and prescribe such rates of toll as to it
21 from time to time shall seem proper, and make all necessary police
22 regulations for the government of the highway travel thereon, and
23 levy the necessary tax, not exceeding in any one year ten mills on the
24 dollar, for the purpose of carrying out the terms of such contract.

[C., '97, § 766.]

SEC. 3794. Additional tax.

1 Any city in this state which has voted aid to any company for
2 the construction of a highway or combination bridge across any navi-
3 gable boundary river of this state, a condition of which vote, or the
4 granting or acceptance of such aid, was that the city should have the
5 right to purchase such bridge from the company so aided, its suc-
6 cessors or assigns, may, at any time after such taxes voted in aid are
7 collected, vote an additional tax of not exceeding five per centum of
8 the assessed value of the taxable property of such city for the purpose
9 of securing the funds necessary to enable it to make such purchase.
10 Such taxes shall be payable in such annual installments not less than
11 ten as the electors may determine.

[S., '13, § 766-a.]

SEC. 3795. Question submitted.

1 The question of whether or not such additional taxes shall be
2 voted shall be submitted to the electors of such city before the city
3 elects to make such purchase and the submission thereof shall be gov-
4 erned in all respects by sections thirty-seven hundred eighty-seven to
5 thirty-seven hundred ninety-one, inclusive, so far as the same are
6 applicable.

[S., '13, § 766-b.]

SEC. 3796. Bonds or warrants—tolls.

1 After such taxes are voted the city may issue its bonds, warrants
2 or other certificates drawing such interest not exceeding six per cent
3 per annum as the city council may determine, payable from such taxes
4 as they are collected, and from no other source, and pledging them
5 for their payment. Such taxes shall be used for no other purpose
6 and such bonds, warrants or certificates shall not be sold for less than
7 their par or face value with accrued interest. The city council shall
8 fix the rate of tolls or charges for passing over the bridge, and such
9 tolls shall be large enough to pay the interest upon the bonds, war-
10 rants or certificates issued for its purchase together with the expense
11 of maintaining and operating it.

[S., '13, § 766-c.]

SEC. 3797. Vote of tax in cities after annexation.

1 In any case where aid has been extended and bridges erected in
2 two separate cities, and subsequent thereto, one of such cities has
3 been annexed to the other, the electors residing in the territory which
4 comprises either of the separate cities before annexation, may vote
5 taxes upon the property in such territory for the purchase of such
6 bridge, and the proceedings in such case shall be the same as provided
7 in the three preceding sections, except that the petition to the city
8 council shall be signed by a majority of the resident freehold tax-
9 payers of the territory in which the vote is to be had, and the taxes,
10 when voted and properly certified, shall be levied only upon the prop-
11 erty in such territory.

[S., '13, § 766-d.]

CHAPTER 20.

INTERSTATE BRIDGES.

SECTION 3798. Purchase of bridges over navigable streams—election—levy.

1 Any city in this state, including cities under the commission plan,
 2 where a tax upon the property of said city has been voted and paid
 3 to aid any company in the construction of a highway or combination
 4 bridge across any navigable river, forming part of the boundary of
 5 this state, whether it was a condition of the vote or acceptance of such
 6 tax that said city had a right to buy said bridge from the company
 7 so aided, its successors or assigns or not, or whether the time within
 8 which by the terms of the vote by which such option to purchase was
 9 granted to said city has expired or not, at any time after the taxes
 10 so voted in aid of such construction of such bridge have been paid
 11 over to said company, may vote an additional tax not exceeding five
 12 per cent upon the taxable property of said city for the purpose of
 13 procuring funds with which to enable such city to purchase said
 14 bridge, such taxes to be payable in such annual installments as the
 15 electors of said city may determine, such determination by the elect-
 16 ors to be at an election called for that purpose, and the notice sub-
 17 mitting such question shall state the price to be paid for such bridge,
 18 including its approaches.

[37 G. A., ch. 140, § 1.]

SEC. 3799. Proceedings attending purchase.

1 The mayor and city council of such city shall have power to enter
 2 into a contract with the corporation or company owning such bridge,
 3 for the purchase thereof, together with its franchises at a price to
 4 be agreed upon, which price shall not be greater than the value of
 5 such bridge or the cost thereof, with the taxes so voted and paid over
 6 by the authorities of said city deducted therefrom.

7 Unless there is an appraisalment as hereinafter provided the orig-
 8 inal cost of construction shall be considered the value thereof.

9 No such contract shall become binding upon said city until the
 10 same has been submitted to the electors of said city and approved by
 11 them by the affirmative vote of a majority of the electors voting for
 12 or against the same, the question of the levy of such tax shall be sub-
 13 mitted to such electors at the same election, the affirmative vote of a
 14 majority of all electors voting for or against the same being necessary
 15 to make the contract binding on said city.

16 If at such election the proposition to make such purchase upon
 17 the terms and at the price named in the question submitted, and the
 18 proposition to vote such tax shall either of them be defeated, by not
 19 receiving the affirmative vote of a majority of all electors voting for
 20 or against the same, such contract shall be considered at an end and
 21 said tax defeated.

[37 G. A., ch. 140, § 2.]

SEC. 3800. Election—form of submission.

1 The questions as to whether the said contracts shall become bind-
 2 ing upon the said city, and the taxes levied or bonds issued by the city
 3 authorities, shall, when submitted to the electors of said city, be sub-
 4 mitted in the form and manner provided by sections thirty-seven hun-

5 dred eighty-seven to thirty-seven hundred ninety-one, inclusive, so
6 far as the same are applicable thereto.

[37 G. A., ch. 140, § 3.]

SEC. 3801. Appraisers, fees.

1 In case a majority of the members of the city council of such city
2 shall by resolution declare their wish to have the said city purchase
3 said bridge, its approaches and franchises, and be unable to agree
4 with the owner of such bridge upon the value thereof, such value shall
5 be ascertained by three appraisers named by the governor of Iowa,
6 no one of whom shall be an officer, employee, or stockholder or such
7 owner of said bridge, or a taxpayer or voter in the city proposing to
8 make such purchase, or in the county of the state opposite and adjoining
9 said bridge. Such appraisers shall be paid fifteen dollars per
10 day for the time necessarily and actually employed in making such
11 appraisalment, together with their actual and necessary traveling ex-
12 penses, the same to be paid by the city.

[37 G. A., ch. 140, § 4.]

SEC. 3802. Regulation of tolls.

1 If any such city shall thus become the owner of any such bridge,
2 the city council shall have power from time to time to fix the rates
3 of toll or charges for passing over the bridge, which tolls shall be
4 large enough to pay for the maintenance and operating expenses,
5 interest upon any bonds issued for its purchase, and sufficient after
6 five years to provide a sinking fund of at least five per cent of such
7 outstanding bonds, and for their payment at maturity.

[37 G. A., ch. 140, § 5.]

SEC. 3803. Management and maintenance.

1 If any such city shall thus become the owner of any such bridge
2 it shall operate the same by officers or employees selected by the mayor
3 and approved by the city council of said city, who shall have police
4 powers and shall maintain order upon said bridge. One of such offi-
5 cers shall be superintendent and authorized to make proper inspection
6 of the structure, see that the same is at all times kept in repair and
7 safe for the traveling public, and that the navigation laws and regu-
8 lations of the United States are observed.

9 The said city shall have power to prescribe and enforce proper
10 regulations respecting the passing of stock in droves, and persons and
11 vehicles over said bridge.

12 Such bridge shall be kept open for travel at all hours of the day
13 or night unless some unavoidable accident shall make such travel for
14 the time unsafe.

15 The rates of toll and copies of such regulation shall be kept posted
16 at each end of such bridge.

[37 G. A., ch. 140, § 6.]

CHAPTER 21.

DOCKS.

SECTION 3804. Department of public docks—question submitted.

1 The city council or board of commissioners in any incorporated
2 town or city, including cities under commission plan situated on any
3 natural or artificial navigable waterway within or bordering upon the
4 state of Iowa, may, when in their judgment deemed expedient, create
5 a department known as the department of public docks, providing
6 that before said commission may go into operation, the question shall
7 be submitted to the qualified electors of said city or town at a regular
8 or special election called for that purpose; and provided further, that
9 a majority of those voting at said election shall vote in favor of the
10 creation of such department of public docks.

[S., '13, § 741-w.]

SEC. 3805. Commissioners — appointment of — qualifications — terms—organization—removal—vacancies.

1 The department of public docks shall be administered by a dock
2 board consisting of three members to be known as commissioners of
3 public docks. Within three months, or as soon as possible after the
4 time when this chapter shall go into effect, the mayor of the municipal-
5 ity shall appoint, with the approval of the municipal council, as mem-
6 bers of the dock board, three commissioners of public docks, who have
7 been residents of the municipality in which they are appointed for a
8 period of not less than five years, and who shall not at the time of
9 their appointment or during their term of office be interested in or
10 be employed by any common carrier, and said board shall act without
11 compensation. Said commissioners when first appointed shall hold
12 office for a term of one, two and three years respectively, and shall
13 determine by lot among themselves which commissioners shall hold
14 the said respective terms. Thereafter, one commissioner with the
15 said qualifications shall be appointed annually by the mayor and the
16 term of office of such commissioner shall be three years. The mem-
17 bers of the board shall qualify by taking oath for the faithful per-
18 formance of their duties. Within ten days after their appointment
19 the commissioners shall meet and organize the dock board by the elec-
20 tion from among their number of a president and a secretary of said
21 board, and shall from time to time adopt rules and regulations for
22 the government of their department and to govern their proceedings,
23 which shall be adopted by resolution recorded in a book kept by the
24 board and known as book of rules and regulations, and said rules and
25 regulations shall be in force after publication in some newspaper pub-
26 lished and circulated in the municipality. The dock board shall main-
27 tain an office and keep a record of all of its proceedings and acts, and
28 books of account showing all of its financial transactions, which rec-
29 ords and books of accounts shall at all times be open to public inspec-
30 tion. If any commissioner shall at any time during his said incum-
31 bency cease to have the qualifications required by this section for his
32 appointment, or shall wilfully violate any of his duties under the law,
33 such commissioner shall be removed by the mayor after written
34 charges have been preferred against him and a due hearing of such
35 charges has been had by the mayor upon reasonable notice to such

36 commissioner. Vacancies occurring in the board through resigna-
37 tion, or otherwise, shall be filled by the mayor, for the unexpired term.
[S., '13, § 741-w1.]

SEC. 3806. Powers and duties.

1 The board shall have power and it shall be its duty for and in
2 behalf of the city or town hereinafter called the municipality, for
3 which it is organized:

4 *a General plan.* To prepare or cause to be prepared a compre-
5 hensive general plan for the improvement of its harbor and water
6 front, making provision for the needs of commerce and shipping, and
7 providing for the construction of such docks, basins, piers, quay walls,
8 wharves, warehouses, tunnels, belt railway connecting with all rail-
9 way lines within the municipality, and such cranes, dock apparatus
10 and machinery equipment as it may deem necessary for the convenient
11 and economical accommodation and handling of water craft of all
12 kinds and of freight and passengers, and the free interchange of
13 traffic between the waterway and the railways and the railways and
14 the waterway; which plan shall be filed in the office of the board and
15 be open to public inspection, and which may from time to time be
16 changed, altered or amended by the board, as the requirements of
17 shipping and commerce and the advance of knowledge and informa-
18 tion on the subject may suggest.

19 *b Purchase and condemnation of property.* To purchase or ac-
20 quire by condemnation or other lawful means, such personal property,
21 lands or rights or interests therein, including easements, as may be
22 necessary for use in the provision and in the construction of any pub-
23 lic owned harbor, dock, basin, pier, slip, quay wall, wharf, warehouse,
24 or other structures, and in the construction of a belt railway and
25 railway switches, and appurtenances as provided for in such plan as
26 may be adopted by the board. If the board shall deem it proper and
27 expedient that the municipality shall acquire possession of such wharf
28 property, lands or rights or interests therein, including easements,
29 and no price can be agreed upon between the board and the owner or
30 owners thereof, the board may direct the municipal corporation attor-
31 ney to take legal proceedings to acquire same for the municipality in
32 manner as is or may be provided by the general laws of the state of
33 Iowa in the case of corporations having the right of eminent domain.
34 The title of all lands, property and rights acquired by the board shall
35 be taken in the name of the municipality it represents.

36 *c Control of property.* The board shall have exclusive charge
37 and control of the wharf property belonging to the municipality
38 including belt railway located in whole or in part thereof, all the
39 wharves, piers, quay walls, bulkheads, and structures thereon and
40 waters adjacent thereto, and all the slips, basins, docks, water fronts,
41 the structures thereon and the appurtenances, easements, uses, rever-
42 sions and rights belonging thereto, which are now owned or possessed
43 by the municipality, or to which the municipality is or may become
44 entitled, or which the municipality may acquire under the provision
45 hereof or otherwise. The board shall have the exclusive charge and
46 control of the building, rebuilding, alteration, repairing, operation and
47 leasing of said property and every part thereof, and of the cleaning,
48 grading, paving, sewerage, dredging and deepening necessary in and
49 about the same.

50 *d Abutting property—jurisdiction and improvement.* The board
51 is hereby vested with jurisdiction and authority over that part of the
52 streets and alleys and public grounds of the municipality which abut
53 upon or intersect its navigable waters, lying between the harbor line
54 and the first intersecting street measuring backward from high-water
55 mark, to the extent only that may be necessary or requisite in carry-
56 ing out the powers vested in it by this chapter; and it is hereby de-
57 clared that such jurisdiction and authority shall include the right to
58 build retaining or quay walls, docks, levees, wharves, piers, ware-
59 houses, or other constructions, including belt railway and railway
60 switches, across and upon such streets and alleys and public grounds,
61 and to grade, fill and pave the same to conform to the general level
62 of the wharf, or for suitable approaches thereto; provided that such
63 improvements shall be paid for out of funds in the hands of the board
64 and not by assessments against abutting property.

65 *e Control consistent with navigation laws—collect tolls.* The
66 board is also vested with exclusive government and control of the
67 harbor and water front consistent with the laws of the United States
68 governing navigation, and of all wharf property, belt railway,
69 wharves, piers, quay walls, bulkheads, docks, structures and equip-
70 ment thereon, and all the slips, basins, waters adjacent thereto and
71 submerged lands and appurtenances belonging to the municipality,
72 and may make reasonable rules and regulations governing the traffic
73 thereon and the use thereof, with the right to collect reasonable dock-
74 age, wharfage, sheddage, storage, crantage fees, and tolls thereon, as
75 hereinafter provided.

76 *f Rules and regulations—specifications—ordinances—publica-*
77 *tion.* The board shall have power to make general rules and regula-
78 tions for the carrying out of the plans prepared and adopted by it
79 for the building, rebuilding, repairing, alteration, maintenance and
80 operation of all structures, erections, or artificial constructions upon
81 or adjacent to the water front of the municipality, whether the same
82 shall be done by the board or by others; and except as provided by the
83 general rules of the board, no new structures, or repairs upon or along
84 said water front shall be undertaken, except upon application to the
85 board and under permit by it and in accordance with the general
86 plans of the board and in pursuance of specifications submitted to the
87 board and approved by it upon such application. The general rules
88 and regulations of the board, whenever adopted by it, shall be em-
89 bodied in the form of ordinances and certified copies thereof shall,
90 forthwith upon their passage, be transmitted to the clerk of the mu-
91 nicipality who shall cause the same to be transcribed at length in a
92 book kept for that purpose and the same shall be included in any com-
93 pilation or publication of the ordinances of the municipality. Upon
94 filing any such certified copy of any such ordinances, the said clerk
95 shall forthwith cause the same to be published once in some newspaper
96 of general circulation published in the municipality, or if none is
97 there published, then in the next nearest newspaper published in this
98 state, and the said ordinance shall be in force and effect from and
99 after the date of said publication. Provided, however, that if the said
100 ordinances are included in any book or pamphlet of ordinances pub-
101 lished by said municipality, no other publication shall be required,
102 and they shall be in force and effect from the date said book or
103 pamphlet is published. The said ordinances of the board shall not
104 be considered or construed as ordinances of said municipality, except
105 as they may be adopted as ordinances of said municipality, and the

106 provisions of the code and statutes of the state now or hereafter
107 enacted relative to ordinances of cities and towns shall not apply
108 to ordinances passed by said board unless express reference be made
109 thereto in said statutes.

110 *g Tolls and charges—regulations.* The board shall have the
111 power to fix and regulate and from time to time to alter the tolls,
112 fees, dockage, wharfage, crannage, sheddage, storage and other
113 charges for all public-owned docks, levees, belt railway, piers, quay
114 walls, slips, basins, wharves and their equipment, or the use of any
115 portion of the water front of the municipality, which charges and
116 rates shall be collectible by the board and shall be reasonable with a
117 view only of defraying the necessary annual expenses of the board
118 in constructing and operating the improvements and works herein
119 authorized; a schedule of such charges and regulations shall be en-
120 acted by the board in the form of ordinances and a certified copy
121 thereof shall be transmitted to the clerk of the municipality in like
122 manner as other ordinances of the board before the same shall go
123 into or be in effect, and a copy of same shall be kept posted in a con-
124 spicuous place in the office of the board.

125 *h Assistants—officers—ordinances.* The board shall have power
126 to employ such assistants, employees, clerks, workmen and laborers
127 as may be necessary in the efficient and economical performance of
128 the work authorized by this chapter. All officers, places and employ-
129 ments in the permanent service of the board shall be provided for
130 by ordinance duly passed by the board and the same shall be trans-
131 mitted to the clerk of the municipality as provided for other ordi-
132 nances of the board.

133 *i Construction work plans—approval—public inspection—bids—*
134 *exceptions—emergencies.* In the construction of docks, levees,
135 wharves and their appurtenances, or in contracting for the construc-
136 tion of any work or structures authorized by this chapter, the board
137 shall proceed only after full and complete plans (approved by the
138 board) and specifications for said work have been prepared and sub-
139 mitted and filed with the board by its engineer for public inspection,
140 and after public notice asking for bids for the construction of such
141 work, based upon such plans and specifications, has been published
142 in some newspaper of general circulation published within the mun-
143 icipality, or if none so published, then in the nearest newspaper
144 published in this state, which publication shall be made at least thirty
145 days before the time fixed for the opening of said bids and contract-
146 ing for such work, and such contract may then be made with the
147 lowest responsible bidder therefor; unless the board deems the bids
148 excessive or unsuitable, in which event it may proceed to readvertise
149 for bids, or the board may do the work directly, purchasing such
150 materials and contracting for such labor as may be necessary without
151 further notice or proposals for bids; except that it shall make no
152 purchase of materials in amounts exceeding five hundred dollars
153 except by public letting upon ten days' notice, published as afore-
154 said, specifying the materials proposed to be purchased; provided,
155 however, that said public letting shall not be required in case no
156 satisfactory bids are received, or in case of an emergency where the
157 delay of advertising and public letting might cause serious loss or
158 injury to the work. The board shall, in all cases, have the right to
159 reject any and all bids, and may either readvertise therefor, contract
160 with others at a figure not exceeding the lowest bidder without fur-
161 ther advertising, or do the work directly as hereinbefore provided.

162 *j Tax levy—dock fund.* To defray the expense of exercising
163 the powers conferred by this chapter, or any portion of such expense
164 in excess of the income from the aforesaid rates and charges to be
165 collected by the board, the council of the municipality shall levy a
166 special tax upon the taxable property of the municipality, not exceed-
167 ing two mills on the dollar, and which, if there is a bond issue as
168 herein provided, may be levied and made payable for a period not
169 exceeding ten years or the term for which the bonds may be issued,
170 and any portion of which may be pledged to the payment of such
171 bonds and which portion shall be set apart as a sinking fund for the
172 payment thereof, and which bonds may be by said municipality made
173 payable out of said funds only, or may be made payable as general
174 indebtedness of said municipality. The provisions of section forty
175 hundred fifty-four shall not apply to said indebtedness evidenced by
176 such bonds. The board shall annually make to the council a report
177 of the receipts and disbursements made by or on account of said
178 board, and shall file with the council an estimate of the amounts
179 necessary to be raised by taxation to defray the expenses of the
180 board. The council shall at the time of levying annual taxes levy a
181 sufficient tax not exceeding said two mills to meet the said estimate
182 and which shall be collected as other taxes and paid over to the treas-
183 urer of the municipality and by him credited to the fund to be known
184 as the dock fund.

185 *k Bonds—limitation.* Whenever said dock board shall deem it
186 necessary or advisable to issue bonds for the purpose of construct-
187 ing any of the works or improvements herein authorized or purchas-
188 ing property for said purpose, the said board shall petition the council
189 of the municipality to issue such bonds stating the purpose for which
190 said bonds are requested and thereupon the council shall issue the
191 said bonds if the municipality is not thereby indebted in excess of
192 the limit imposed by section three of article two of the constitution
193 of the state of Iowa; or if the council does not deem it advisable to
194 issue said bonds, if the same would not be in excess of said limitation,
195 the council shall submit the question of issuing said bonds to the
196 voters of said municipality, and if a majority of said voters voting
197 at a special election or general election vote in favor thereof, said
198 bonds shall be issued. The proceeds of said bonds when issued shall
199 be paid to the municipal treasurer and credited to the dock fund.
200 If the municipality is already indebted beyond the said limitation
201 the council may, if it deem it advisable, levy a special tax not exceed-
202 ing two mills on the dollar per annum for the purpose of paying
203 bonds and which may be levied for a period not exceeding ten years
204 or the term of the bonds and in anticipation of the collection of the
205 said tax, bonds may be issued for the said purpose designated in said
206 petition, and which bonds shall be payable only out of the proceeds
207 of said special tax already levied at the time of their issuance, and
208 the municipality shall not be indebted on said bonds or any further
209 obligated than to collect and apply the proceeds of said tax to the
210 liquidation of said bonds.

211 *l Funds, how disbursed—books audited.* All funds collected by
212 the dock board, or by the municipality for dock purposes from the
213 proceeds of taxes, bonds or otherwise, shall be deposited with the
214 treasurer of the municipality and disbursed by him only upon war-
215 rants or orders duly signed by the president and countersigned by
216 the secretary of the dock board and which shall state distinctly the
217 consideration for which same are drawn, and a permanent record

218 shall be kept by the board of all warrants or orders so drawn show-
 219 ing the date, amount, consideration and to whom payable. When
 220 paid the same shall be canceled and kept on file by the treasurer of
 221 the municipality. The books of the board shall from time to time
 222 be audited by the municipal auditor under the direction of the mayor,
 223 in such manner and at such times as he may direct or prescribe, and
 224 all of said books and records of the board shall at all times be open
 225 to public inspection.

[S., '13, § 741-w2.]

SEC. 3807. Regulations applicable—control by state officers.

1 All state regulations for the control and operation of railroads,
 2 common carriers and public utilities shall apply to and have full force
 3 and effect in regard to all powers, duties and actions of the depart-
 4 ment of public docks and the same shall be subject to and under the
 5 control of the state board of railroad commissioners or the public
 6 utility commission now or hereafter established by law.

[S., '13, § 741-w4.]

CHAPTER 22.

STREETS AND PUBLIC GROUNDS.

SECTION 3808. Establishment — improvement — assessments on abutting property.

1 Cities and towns shall have power to establish, lay off, open,
 2 widen, straighten, narrow, vacate, extend, improve and repair streets,
 3 highways, avenues, alleys, public grounds, wharves, landings and
 4 market places within their limits; but no street, avenue, highway, or
 5 alley which shall hereafter be dedicated to public use by the proprietor
 6 of the ground in any municipal corporation shall be deemed a public
 7 street, avenue, highway, or alley, or be under the use or control of
 8 such municipality, unless the dedication shall be accepted and con-
 9 firmed by an ordinance or resolution specially passed for such pur-
 10 pose. The expenses of such extension, repairs and improvements may
 11 be paid from the general fund, or from the highway or poll taxes of
 12 such cities or towns, or partly from each of such funds, or by assess-
 13 ing all or any portion of the cost thereof on abutting and adjacent
 14 property according to the benefits derived from such extension, re-
 15 pairs and improvements as provided in chapter twenty-three, title
 16 thirteen. The district benefited and in which adjacent property is to
 17 be assessed shall be designated and determined by the council in the
 18 ordinance or resolution ordering such extension, repairs and improve-
 19 ments, provided that nothing in this section shall be construed as
 20 changing the manner of assessing abutting and adjacent property
 21 for the cost of paving, guttering, curbing or macadamizing streets
 22 and alleys.

[R., '60, §§ 1064, 1097; C., '73, §§ 464, 465, 527; C., '97,
 § 751; S. S., '15, § 751.]

SEC. 3809. Width of street.

1 They shall have power to provide that the width of all streets,
 2 highways, avenues and alleys of all additions to any city or town shall

3 conform to the width of the existing streets, highways, avenues and
4 alleys of such cities and towns.

[C., '97, § 752.]

SEC. 3810. Supervision—repair.

1 They shall have the care, supervision and control of all public
2 highways, streets, avenues, alleys, public squares and commons within
3 the city, and shall cause the same to be kept open and in repair and
4 free from nuisances.

[R., '60, § 1097; C., '73, § 527; C., '97, § 753.]

SEC. 3811. Roads within corporation limits.

1 It shall be the duty of the city or town council of cities and towns
2 to cause the main traveled roads within the corporation limits leading
3 into the city or town to be dragged, and so far as practicable and
4 possible the provisions of sections twenty-nine hundred eighty-two to
5 twenty-nine hundred eighty-four, inclusive, and section twenty-nine
6 hundred eighty-nine shall apply.

[S., '13, § 1570-b4.]

SEC. 3812. In cities or towns.

1 Such portions of all roads as lie within the limits of any city or
2 town shall conform to the direction and grade and be subject to all
3 regulations of other streets in such town or city.

[R., '60, § 916; C., '73, § 953; C., '97, § 1508.]

SEC. 3813. Regulation of conveyances and transportation.

1 They shall have power to regulate, license and tax all carts,
2 wagons, street sprinklers, drays, coaches, hacks, omnibuses, and every
3 description of conveyance kept for hire; fix the rate and prices for
4 the transportation of persons and property from one part of the city
5 to another in the vehicles above named, and to require such persons
6 to keep exposed to view, in or upon such vehicle, a printed table of
7 the rates and prices so fixed; to establish stands for hackney coaches,
8 cabs, omnibuses, drays and express wagons, and to enforce the ob-
9 servance and use thereof; to prescribe the width of the tires of all
10 vehicles habitually used in the transportation of persons or articles
11 from one part of the city to another, and require vehicles and bicycles
12 to carry lamps giving sufficient light.

[R., '60, § 1063; C., '73, §§ 463, 537; C., '97, § 754.]

SEC. 3814. Regulation of "jitney" busses.

1 Cities and towns including cities acting under the commission
2 form of government, shall have power to regulate and license so called
3 "jitney" busses, and all motor vehicles operating upon the streets and
4 avenues of such cities and towns and engaged in carrying passengers
5 for hire, on a plan similar to that followed by street railway com-
6 panies; to fix and determine the streets and avenues upon which they
7 shall be permitted to operate; to require such vehicles to be operated
8 over reasonable routes, and upon reasonable schedules; to require the
9 owners or operators thereof to file with such city or town, a proper
10 indemnity bond for the protection of the city or public against dam-
11 ages resulting from negligence in the operation of such vehicles; and

12 to impose penalties within the limits of section thirty-five hundred
 13 seventy-four for the violation of any ordinance enacted hereunder;
 14 provided that "jitney" busses shall not be excluded from streets on
 15 which street cars are allowed to operate.

[S. S., '15, § 754-a.]

SEC. 3815. Regulation of driving or riding.

1 Cities and towns shall have power to restrain and regulate the
 2 riding and driving of horses, live stock, vehicles and bicycles within
 3 the limits of the corporation, and prevent and punish fast or immod-
 4 erate riding or driving within such limits.

[R., '60, § 1057; C., '73, § 456; C., '97, § 755.]

SEC. 3816. Lighting.

1 They shall have power to light streets, avenues, alleys, highways,
 2 public places, grounds, buildings, landings, market places and wharves.

[R., '60, § 1064; C., '73, § 464; C., '97, § 756.]

SEC. 3817. Railway crossings—speed of trains.

1 Cities having a population of five thousand or more shall have
 2 power to compel railroad companies to erect, construct, maintain and
 3 operate, under such regulations as may from time to time be provided
 4 by the council, suitable gates upon public streets at railroad crossings;
 5 and cities and towns shall have power to regulate the speed of trains
 6 and locomotives on railways running over the streets or through the
 7 limits of the city or town.

[R., '60, § 1057; C., '73, § 456; C., '97, § 769.]

SEC. 3818. Viaducts—when required.

1 Cities having a population of five thousand or over shall have
 2 power to require any railroad company, owning or operating any rail-
 3 road tracks upon or across any public streets of such city, to erect,
 4 construct, reconstruct, complete, and maintain, to the extent herein-
 5 after provided, any viaduct upon or along such streets, and over or
 6 under such tracks, including the approaches thereto, as may be
 7 declared by ordinances of such city necessary for the safety and protec-
 8 tion of the public. The approaches to any such viaduct shall not
 9 exceed a total distance of eight hundred feet, but no such viaduct shall
 10 be required on more than every fourth street running in the same
 11 direction, and no railroad company shall be required to build or con-
 12 tribute to the building of more than one such viaduct, with its
 13 approaches, in any one year; nor shall any viaduct be required until
 14 the board of railroad commissioners shall, after examination, deter-
 15 mine the same to be necessary for the public safety and convenience,
 16 and the plans of said viaduct, prepared as hereinafter provided, shall
 17 have been approved by said board.

[C., '97, § 770; 38 G. A., ch. 106, § 1.]

SEC. 3819. Assessment of damages.

1 When a viaduct shall be by ordinance declared necessary for the
 2 safety and protection of the public, the council shall provide for ap-
 3 praising, assessing and determining the damages which may be caused
 4 to any property by reason of the construction of the same and its

5 approaches. The proceedings for such purpose shall be the same as
6 are provided in case of taking private property for works of internal
7 improvement, and the damages assessed shall be paid by the city out
8 of the general bridge fund, or in cities having a population of twelve
9 thousand or over from any other fund or funds legally available
10 therefor.

[C., '97, § 771; S., '13, § 771.]

SEC. 3820. Viaduct fund.

1 In cities having a population of twelve thousand or over, where
2 a viaduct is required to be constructed, and the plans therefor have
3 been approved, and there are no available funds in the general bridge
4 fund, or any fund or funds of said city which may be legally used for
5 the payment of such damages, such city may levy an annual tax not
6 exceeding two mills on the dollar for the purpose of creating a fund
7 to be known as a viaduct fund, for the payment of damages caused to
8 property by reason of the construction of such viaduct and approaches
9 thereto.

[S., '13, § 771-a.]

SEC. 3821. Specifications.

1 The width, height and strength of any viaduct and the approaches
2 thereto, and the material and manner of construction thereof, shall
3 be such as may be required by the board of public works and approved
4 by the mayor and council, but if there is no board of public works,
5 then such as may be required by the council.

[C., '97, § 772.]

SEC. 3822. Apportionment of cost—use of—compensation for— repairs.

1 When two or more railroad companies own or operate separate
2 lines of track to be crossed by a viaduct, the proportion thereof, and
3 the approaches thereto to be constructed by each, or the cost to be
4 borne by each, shall be determined by the council. The council shall
5 fix a time and place where it will consider such matters and any objec-
6 tions that may be made to the construction of such viaduct and the
7 approaches thereto. Not less than twenty days' written notice of
8 such hearing shall be given to the company or companies owning or
9 operating the track or tracks over or under which it is proposed to
10 construct such viaduct. Said notice may be served in the same man-
11 ner and upon the same persons or officers as in the case of an original
12 notice. Such cities shall have power to regulate the use of such via-
13 ducts and to authorize or forbid the use thereof by street railway
14 companies and to require the payment of compensation for such use.
15 After the completion thereof, any revenue derived therefrom by the
16 crossing thereon of street railway lines shall constitute a special fund,
17 and shall be applied in making repairs to such viaduct. One-half of
18 all ordinary repairs to such viaduct or its approaches shall be paid
19 out of such fund, or be borne by the city, and the remaining half by
20 the railroad company; and if the track of more than one company is
21 crossed, the costs of such repairs shall be borne by such companies in
22 the same proportion as was the original cost of construction.

[C., '97, § 773; S., '13, § 773.]

SEC. 3823. Refusal to comply.

1 If any railroad company neglects or refuses, for more than thirty
2 days after such notice as may be prescribed by ordinance, to comply
3 with the requirements of any ordinance passed under the provisions
4 of the five preceding sections, the city may enforce the construction,
5 maintenance or repair of such viaduct and approaches by proceedings
6 in mandamus and the court shall require the issues to be made up at
7 the first term to which such action is brought and shall give the same
8 precedence over other civil business. Refusals to comply with, or vio-
9 lations of, the orders of the court in such proceedings may be punished
10 as contempts, by fine and imprisonment as provided in section fifty
11 hundred twenty-two; or the city may construct or repair the viaduct
12 or approaches, or any portion thereof, which such railroad company
13 was required to construct or maintain, and recover the cost thereof
14 from such company.

[C., '97, § 774; S., '13, § 774.]

SEC. 3824. Regulations as to electric wires.

1 Cities and towns shall have the power to authorize and regulate
2 telegraph, district telegraph, telephone, street railway and other elec-
3 tric wires, and the poles and other supports thereof, by general and
4 uniform regulation, and to provide the manner in which, and places
5 where, the same shall be placed upon, along or under the streets,
6 roads, avenues, alleys and public places of such city or town, and may
7 divide the city into districts for that purpose.

[C., '97, § 775.]

SEC. 3825. Granting franchise—question submitted.

1 No franchise shall be granted, renewed or extended by any city
2 or town for the use of its streets, highways, avenues, alleys or public
3 places, for any of the purposes named in the preceding section, unless
4 a majority of the legal electors voting thereon vote in favor of the
5 same at a general, city or special election. The council may order the
6 question of granting, renewal or extension of any such franchise sub-
7 mitted to a vote at a general or city election, or at one specially called
8 for that purpose; or the mayor shall submit said question to such vote
9 upon the petition of twenty-five property owners of each ward in a
10 city, or fifty property owners in any incorporated town. Notice of
11 such election shall be given in two newspapers published in said city
12 or town, if there are two, if not, then in one, once each week for at
13 least four consecutive weeks. But if no such newspaper is published
14 within the limits of the corporation, then such notice may be given
15 by posting thereof in three public places within the limits of said cor-
16 poration, two of which places shall be the postoffice and the mayor's
17 office of such city or town, and by publication for four consecutive
18 weeks in a newspaper of general circulation in the county. The clerk
19 shall prepare the ballots, and the proposition shall be submitted as
20 provided for in the title on elections. The party applying for the
21 franchise, or for a renewal or extension thereof, shall pay all expenses
22 incurred in holding the election.

[C., '97, § 776; S., '13, § 776.]

SEC. 3826. Grades and grading.

1 They shall have power to establish grades and provide for the
 2 grading of any street, highway, avenue, alley, public ground, wharf,
 3 landing or market place, the expense thereof to be paid from the gen-
 4 eral or grading fund, or from the highway or poll taxes of such city
 5 or town, or partly from each such funds.

[C., '73, § 465; C., '97, § 782.]

SEC. 3827. Uniformity of grade.

1 They shall have power to provide that the grading of all streets,
 2 highways, avenues, alleys, public grounds, wharves, landings or market
 3 places of all additions to any city or town, shall be done in the same
 4 manner, and conform to existing streets, avenues, highways and alleys
 5 thereof.

[C., '97, § 783.]

SEC. 3828. Embankments and fills.

1 Cities of the first class shall have power to construct embank-
 2 ments where streets cross ravines, or where it is necessary that fills
 3 should be made for the purpose of retaining the street at grade to
 4 the full width of the remaining portions thereof. Such cities may
 5 purchase or condemn lands suitable for such purposes in the manner
 6 provided for condemning land by cities; but when the abutting prop-
 7 erty shall be brought to grade, such city shall reconvey the land so
 8 taken to the owner from whom the same was taken, or his grantees,
 9 upon the payment by him or them of the price originally paid by said
 10 city at the time said property was purchased or condemned.

[C., '97, § 784.]

SEC. 3829. Change of grade—damages.

1 When any city or town shall have established the grade of any
 2 street or alley, and any person shall have made improvements on the
 3 same, or lots abutting thereon, according to the established grade
 4 thereof, and such grade shall thereafter be altered in such a manner
 5 as to damage, injure or diminish the value of such property so im-
 6 proved, said city or town shall pay to the owner of such property the
 7 amount of such damage or injury.

[C., '73, § 469; C., '97, § 785.]

SEC. 3830. Appraisers.

1 The amount of such damage or injury shall be determined and
 2 assessed by three disinterested freeholders, one of whom shall be
 3 selected by the mayor, one by the owner of the property, and one by
 4 the two so appointed; or, in case of their disagreement, by the council.
 5 If the owner fails to select an appraiser within ten days from the
 6 time of receiving notice to select same, then the council shall select all
 7 such appraisers.

[C., '73, § 469; C., '97, § 786.]

SEC. 3831. Notice.

1 The appraisers shall take an oath to faithfully and impartially
 2 discharge their duties. They shall give ten days' notice in writing
 3 to the owner of the property affected of the time and place of their

4 meeting to view the premises and make their assessment, if such owner
5 resides in the county; which notice shall be served in the same man-
6 ner as original notices in the district court. If the owner resides out-
7 side of the county, or his residence is unknown, notice shall be given
8 by publication once a week for three weeks in some newspaper pub-
9 lished in the city or town where the property is located.

[C., '73, § 469; C., '97, § 787.]

SEC. 3832. Assessment.

1 The appraisers shall view the premises, and, in their discretion,
2 receive evidence, and may adjourn from day to day. When the ap-
3 praisement is completed, the appraisers shall sign and return the
4 same to the council, which shall be done within thirty days from the
5 date of their selection.

[C., '73, § 469; C., '97, § 788.]

SEC. 3833. Confirmation—payment.

1 The council may, in its discretion, confirm or annul the appraise-
2 ment, and, if annulled, all proceedings shall be void and of no effect;
3 but, if confirmed, an order of confirmation shall be entered by the clerk
4 in the record of the proceedings of the council. No alteration of grade
5 shall be made until the damages assessed shall have been paid or
6 tendered to the owner of the property so injured or damaged.

[C., '73, § 469; C., '97, § 789.]

SEC. 3834. Appeal—costs.

1 Any person interested may appeal from the order of confirmation
2 to the district court of the county in which such property is located,
3 by giving written notice thereof to the mayor, within twenty days
4 after the order of confirmation is entered. On the trial of the appeal,
5 all questions involved in the proceedings, including the amount of
6 damages, shall be open to investigation, and the burden of proof shall,
7 in all cases, be upon the city or town to show that the proceedings are
8 in accord with the provisions of this chapter. The cost of such pro-
9 ceedings, incurred prior to the order of confirmation or annulment
10 of the appraisalment, shall in all cases be paid by the city or town.
11 If the person appealing recovers more damages than were awarded
12 by the appraisers, he shall recover the costs of the appeal; if he re-
13 covers the same or less than the award, the costs of the appeal shall
14 be taxed to him.

[C., '73, § 469; C., '97, § 790.]

SEC. 3835. Sewers.

1 They may provide for or authorize the construction, reconstruc-
2 tion and repair of sewers, and regulate their use, and pay therefor
3 out of the general or sewer fund.

[C., '73, § 465; C., '97, § 791.]

**SEC. 3836. Permanent sidewalks—city clerk to certify assess-
ment—special tax.**

1 They shall have power to provide for the construction, recon-
2 struction and repair of permanent sidewalks upon any street, high-
3 way, avenue, public ground, wharf, landing or market place within

4 the limits of such city or town; but the construction of permanent
5 sidewalks shall not be made until the bed of the same shall have been
6 graded so that, when completed, such sidewalks will be at the estab-
7 lished grade; and to assess the cost thereof on the lots or parcels of
8 land in front of which the same shall be constructed; and the city
9 clerk shall certify the amount of such assessment to the county audi-
10 tor, and it shall be collected the same as other taxes. But, in cities
11 having a city collector or treasurer who collects city taxes, the city
12 clerk shall certify the amount of such assessment to such collector or
13 treasurer, and the same shall be collected as other city taxes. Towns
14 shall have the power to make the street improvements provided for
15 in chapter twenty-three, title thirteen, and pay for the same, or
16 any part thereof, out of the general fund, or to assess, levy and collect
17 special taxes for the cost, or any part thereof, against the abutting
18 property, in the manner provided in the said chapter. But unless the
19 owners of a majority of the linear feet of the property fronting on
20 the improvements referred to in this section petition the council there-
21 for, the same shall not be made unless three-fourths of all the members
22 of the council shall by vote order the making thereof.

[C., '73, § 466; C., '97, § 779; S., '13, § 779.]

SEC. 3837. Permanent sidewalks—objections.

1 All objections to the cost of construction of permanent sidewalks,
2 as provided by the code, against the lots or parcels of land in front
3 of which the same are constructed, and all objections to the prior pro-
4 ceedings, on account of errors, irregularities or inequalities, must be
5 made in writing and filed with the city clerk prior to the date fixed
6 for said assessment; and all objections not so made shall be deemed
7 waived, except where fraud is shown.

[S., '13, § 791-a.]

SEC. 3838. Tax—how paid.

1 If the owner of any lot or parcel of land against which an assess-
2 ment for permanent sidewalks is made shall, at the time of making
3 said special assessment, promise and agree in writing, indorsed on a
4 certificate, or in a separate agreement, that in consideration of having
5 the right to pay his assessment in installments, he will not make any
6 objection of illegality or irregularity as to the assessment or levy of
7 such tax upon and against his property, and will pay said assessment,
8 with interest thereon at such rate, not exceeding six per cent per
9 annum, as shall by ordinance or resolution of the council be prescribed;
10 such tax, so levied against the lot or parcel of land of such owner,
11 shall be payable in seven equal installments, the first of which shall
12 mature and be payable on the date of said assessment and the others,
13 with interest on the whole amount unpaid, annually thereafter, at the
14 same time and in the same manner as the March semiannual payment
15 of ordinary taxes; but where no such promise and agreement in writ-
16 ing shall be made by the owner of any lot or parcel of land, then the
17 whole of said assessment so levied upon and against the property of
18 such owner, shall be assessed and collected as provided for in section
19 thirty-eight hundred thirty-six. All such taxes, with interest, shall
20 become delinquent on the first day of March next after their maturity
21 and shall bear same rate of interest, with same penalties as ordi-
22 nary taxes.

[S., '13, § 791-b.]

SEC. 3839. Certificates of levy—lien upon property.

1 A certificate of levy of such special assessment, fixing the num-
 2 ber of installments and the time when payable, certified as correct
 3 by the city clerk, shall be filed with the auditor of the county, or each
 4 of the counties in which the city is situated and thereupon said special
 5 assessment, as shown therein, shall be placed on the tax list of the
 6 proper county and said taxes and special assessment, with all interest
 7 and penalties thereon, shall become and remain a lien upon such lot
 8 or parcel of land until the same is paid; and said lien shall have prece-
 9 dence over all other liens, except ordinary taxes.

[S., '13, § 791-c.]

SEC. 3840. Interest—rate.

1 Each installment of any such special assessment shall bear inter-
 2 est from the date of the assessment, not to exceed six per cent per
 3 annum, which shall become due and payable at the March semiannual
 4 payment of ordinary taxes. Upon the payment of any installment
 5 there shall be computed and collected the installment and interest on
 6 the whole assessment remaining unpaid up to the first day of April
 7 following.

[S., '13, § 791-d.]

SEC. 3841. Payment of assessment, interest, costs and penalties.

1 The owner of any property against which said special assessment
 2 is made and levied shall have the right to pay the same, or the unpaid
 3 installments thereof, with all interest up to the time of said payment,
 4 with any penalties, and the cost of any proceedings for the sale of the
 5 property for such special assessments or installments.

[S., '13, § 791-e.]

SEC. 3842. Tax sale.

1 Property against which a special assessment has been levied for
 2 permanent sidewalks may be sold for any sum of principal or interest
 3 due and delinquent at any regular or adjourned tax sale, in the same
 4 manner, with the same forfeitures, penalties and rights of redemption,
 5 and certificates and deeds on such sales shall be made in the same
 6 manner and with like effect, as in case of sales for the nonpayment
 7 of ordinary taxes.

[S., '13, § 791-f.]

SEC. 3843. Sidewalk certificates.

1 The council may provide, by ordinance or resolution, for the issu-
 2 ance of permanent sidewalk certificates in the same manner and to
 3 the same effect as street improvement and sewer certificates provided
 4 for in chapter twenty-six, title thirteen.

[S., '13, § 791-g.]

SEC. 3844. Railroad right of way subject to special assessments.

1 The right of way of any railroad company fronting or abutting
 2 upon a street, highway, avenue, alley, public ground, wharf, landing or
 3 market place within the limits of any city or town shall be subject to
 4 special assessments for sidewalks and street improvements authorized
 5 to be made under the provisions of chapters twenty-two and twenty-

6 three, title thirteen, the same as any land or lot therein, and any
7 special assessment made against any railroad right of way under any
8 of the provisions of said chapters twenty-two and twenty-three,
9 title thirteen, shall be a debt due personally from the railroad company
10 owning or leasing such right of way, and unless the same is paid by
11 such railroad company as a special assessment it may be collected in
12 the name of the city or town levying such assessment in any court
13 having jurisdiction.

[S., '13, § 791-i.]

SEC. 3845. Temporary sidewalks.

1 They shall have power to provide for the laying, relaying and re-
2 pairing of temporary sidewalks upon any street, avenue, public
3 ground, wharf, landing or market place within the limits of such city
4 or town, at a cost not exceeding sixty cents a linear foot, to prescribe
5 a uniform width thereof, and to regulate the grade of the same, and
6 to provide for the assessment of the cost thereof on the property in
7 front of which the same shall be laid, in proportion to the special
8 benefits conferred upon the property thereby and not in excess thereof,
9 and the city or town clerk shall certify the amount of such assessment
10 to the county auditor, and it shall be collected the same as other taxes.

[C., '73, § 468; C., '97, § 777; S., '13, § 777; 38 G. A.,
ch. 150, § 1.]

SEC. 3846. In front of agricultural property.

1 Cities of the first class shall have power to provide by ordinance
2 for the laying of temporary sidewalks on public streets and highways,
3 in front of property abutting thereon and used for purposes of agri-
4 culture or horticulture, and not divided into lots, and to assess a spe-
5 cial tax, not to exceed forty cents per linear foot, upon said property
6 to pay for same. Such assessment and improvement shall not be made
7 or ordered to be made until three-fourths of the members of the coun-
8 cil shall by vote assent to the making thereof.

[C., '97, § 778.]

SEC. 3847. Repair of sidewalks.

1 Cities and towns shall have power to repair sidewalks without
2 notice to the property owner, and assess the expense thereof on the
3 property in front of which such repairs are made, and the same shall
4 be certified and collected as other taxes.

[C., '73, § 467; C., '97, § 780.]

SEC. 3848. Removal of snow and ice.

1 They shall have power to remove snow, ice or accumulations from
2 abutting property from the sidewalk, without notice to the property
3 owner, if the same has remained upon the walk for the period of ten
4 hours, and assess the expenses thereof on the property from the front
5 of which such snow, ice or accumulations shall be removed; but the
6 expense shall not exceed one and one-half cents per front foot of any
7 lot, and the same shall be certified and collected as other special taxes.

[C., '97, § 781.]

CHAPTER 23.

STREET IMPROVEMENTS, SEWERS AND SPECIAL ASSESSMENTS THEREFOR.

SECTION 3849. Assessing cost of improvements—repavement—disposal of waste material.

1 Cities shall have power to improve any street, highway, avenue
 2 or alley by grading, parking, curbing, paving, graveling, macadamizing
 3 and guttering the same or any part thereof, and to provide for the
 4 making and reconstruction of such street improvements, and to assess
 5 the costs on abutting property as provided in this chapter; but the
 6 construction of permanent parking, curbing, paving, graveling, macad-
 7 amizing or guttering shall not be done until after the bed therefor
 8 shall have been graded, so that such improvement, when fully com-
 9 pleted, will bring the street, highway, avenue or alley up to the estab-
 10 lished grade; provided that only so much of the cost of the removal
 11 of the earth and other material as lies between the subgrade and the
 12 established grade shall be assessed to abutting property. And upon
 13 the repaving of streets, avenues or alleys they shall have power to use
 14 the old material in whole or in part for such reconstruction and dis-
 15 pose of the waste material and salvage from the old pavement under
 16 such rules and regulations as the council by resolution may direct, the
 17 salvage so used in reconstruction or the proceeds derived from the sale
 18 of such waste material and salvage to be equitably applied upon the
 19 cost of the new improvement; provided, however, no salvage may be
 20 sold hereunder until the owner, or his agent, of abutting property
 21 shall have been given ten days' notice in writing requiring him to
 22 elect whether he himself desires such salvage, which notice shall be
 23 personally served on the owner or his agent, or, if neither be found,
 24 by posting in a conspicuous place on the abutting property. The elec-
 25 tion, if made, shall be in writing and filed with the city clerk. Any
 26 owner electing to take his salvage shall not be entitled to a pro rata dis-
 27 tribution derived from the proceeds of sale of any salvage hereunder.

[R., '60, § 1097; C., '73, §§ 466, 527; C., '97, § 792; S., '13,
 § 792; 38 G. A., ch. 25, § 1.]

SEC. 3850. Special assessment—rate.

1 When any city or town council or board of public works levies
 2 any special assessment for any public improvement against any lot
 3 or tract of land, such special assessment shall be in proportion to the
 4 special benefits conferred upon the property thereby and not in excess
 5 of such benefits. Such assessment shall not exceed twenty-five per
 6 centum of the actual value of the lot or tract at the time of levy, and
 7 the last preceding assessment roll shall be taken as prima facie evi-
 8 dence of such value.

[S., '13, § 792-a.]

SEC. 3851. Deficiencies—how paid.

1 If the special assessment which may be levied against any lot or
 2 tract of land shall be insufficient to pay the cost of the improvement,
 3 the deficiency shall be paid out of the general fund, or for sewers out
 4 of the sewer fund provided for in section thirty-eight hundred ninety-
 5 five, or subdivision three of section forty hundred thirty-eight, or
 6 section forty-three hundred ninety-three, or subdivision three of sec-
 7 tion forty-four hundred twenty-three, or for other improvements out

8 of the improvement fund provided for in section thirty-eight hundred
 9 ninety-four, or subdivision two of section forty hundred thirty-eight,
 10 or section forty-three hundred ninety-two, or subdivision two of sec-
 11 tion forty-four hundred twenty-three, as the case may be. If there be
 12 property against which no special assessment can be levied the propor-
 13 tion of the cost of the improvement which might otherwise be assessed
 14 against such property shall be paid in like manner.

[S., '13, § 792-b.]

SEC. 3852. What statutes govern.

1 So far as applicable, sections thirty-eight hundred eighty-five to
 2 thirty-eight hundred eighty-eight inclusive, thirty-eight hundred
 3 ninety-three and thirty-nine hundred three shall govern all special
 4 assessments made in cities and towns unless otherwise specially pro-
 5 vided. Upon appeal the court shall determine all questions, including
 6 that of benefits to the property assessed.

[S., '13, § 792-c.]

SEC. 3853. Enforcement of certain statutes not affected.

1 Nothing in the three preceding sections shall be construed to
 2 interfere with the enforcement of the provisions of sections thirty-
 3 eight hundred ninety-eight and thirty-eight hundred ninety-nine.

[S., '13, § 792-d.]

SEC. 3854. This chapter and power to levy tax for improvement fund applicable to incorporated towns.

1 Incorporated towns shall have and exercise the powers conferred
 2 by chapter twenty-three, title thirteen, for the construction of
 3 street improvements authorized in section thirty-eight hundred forty-
 4 nine, whenever four-fifths of all of the members of the council by vote
 5 assent thereto, or when the same be petitioned for by the owners of
 6 the majority of the linear front feet of the property abutting thereon.
 7 All of the provisions of subdivision two of section forty hundred
 8 thirty-eight shall be applicable and apply to incorporated towns.

[S., '13, § 792-f.]

SEC. 3855. Assessment against property not abutting—limitations.

1 Whenever any city or town council levies any special assessment
 2 for street improvement as provided by section thirty-eight hundred
 3 forty-nine, the same shall be made in accordance with the provisions
 4 of section thirty-eight hundred fifty, and shall be limited to the amount
 5 to be assessed against private property, against all lots and parcels
 6 of land according to area so as to include one-half of the privately
 7 owned property between the street improved and the next street
 8 whether such privately owned property abut upon said street or not
 9 but in no case shall privately owned property situated more than three
 10 hundred feet from the street so improved be so assessed. In case of
 11 improvement upon an alley, such assessment shall be confined accord-
 12 ing to area to privately owned property within the block or blocks
 13 improved and if not platted into blocks for not more than one hun-
 14 dred fifty feet from such improved alley. All property except streets,
 15 alleys, public highways, public driveways and property owned by the
 16 United States government shall be deemed privately owned property

17 within the meaning of this section. The city or town council, includ-
 18 ing cities acting under commission plan of government, may exempt
 19 the homestead of any honorably discharged soldier or sailor of the
 20 Mexican war or of the war of the rebellion, or of the widow remaining
 21 unmarried of any such soldier or sailor, of any charge or claim on
 22 account of such special assessment, where said soldier, sailor, widow
 23 or spouse of such soldier or sailor is not the owner of sufficient other
 24 nonexempt property or means to pay such special assessment, and
 25 in case of any such exemption said special assessment shall be paid
 26 from the general fund of the city or town making the street improve-
 27 ment.

[S. S., '15, § 792-g; 37 G. A., ch. 94, § 1.]

SEC. 3856. How ordered.

1 The construction or reconstruction of such improvement shall not
 2 be ordered made until three-fourths of all the members of the council
 3 shall by vote assent thereto, provided that in cities under the commis-
 4 sion plan of government with but three members in the council, a two-
 5 thirds vote shall be sufficient, unless the same be petitioned for by the
 6 owners of the majority of the linear front feet of the property abut-
 7 ting thereon; but a majority of the council may provide for repairing
 8 said improvements.

[R., '60, § 1135; C., '73, §§ 466, 494; C., '97, § 793; S., '13,
 § 793.]

SEC. 3857. Sewers.

1 Cities shall have power to provide for the making, reconstruction
 2 and repair of sewers and catch basins in any street, highway, avenue,
 3 alley, public ground or market place within the limits of said city,
 4 and may by ordinance divide such city into such sewer districts as the
 5 council may determine, numbering them consecutively, or the entire
 6 city may be included in one district; but such construction or recon-
 7 struction shall not be ordered made until three-fourths of all the
 8 members of the council shall by vote assent thereto, unless the same
 9 shall be petitioned for by the owners of a majority of the linear front
 10 feet of the property abutting on such sewer, and a majority of the
 11 owners of adjacent property benefited thereby and liable to assess-
 12 ment therefor; but a majority of the council may provide for their
 13 repair. Any city in which any state building may be situated shall
 14 permit the officers in charge thereof, or of their construction, to con-
 15 struct sewers therefor through or under any of the streets, high-
 16 ways, avenues, alleys or public places of said city, or to connect the
 17 same with the city sewer system, under the same regulations that
 18 are provided for private property owners.

[C., '73, § 465; C., '97, § 794.]

SEC. 3858. Sewers—certain statutes applicable to towns.

1 All of the provisions of sections thirty-eight hundred forty-nine,
 2 thirty-eight hundred fifty-six, thirty-eight hundred fifty-seven, thirty-
 3 eight hundred fifty-nine to thirty-nine hundred four, inclusive, thirty-
 4 nine hundred fifty-five to thirty-nine hundred sixty-one, inclusive,
 5 thirty-nine hundred sixty-four and thirty-nine hundred sixty-five, and
 6 that subdivision three of section forty hundred thirty-eight granting
 7 to cities of the first and second classes the power to construct sewers

8 and assess the cost of the same to the real property abutting on, ad-
 9 jacent to or benefited by such sewers, and providing for a tax on the
 10 assessed valuation of all property therein when the entire city com-
 11 prises one sewer district, shall be applicable and apply to incorporated
 12 towns.

[S., '13, § 840-a; 38 G. A., ch. 59, § 1.]

SEC. 3859. Condemning land for.

1 Cities shall have power, in order to carry off flowing water, or for
 2 other reasons, to follow ravines, and lay a main or lateral sewer to
 3 pass through private property, and condemn the same for the location
 4 thereof, in the manner provided for the condemnation of land for
 5 city purposes, the costs of which shall constitute a part of the expenses
 6 of the sewer, and be assessed accordingly.

[C., '97, § 795.]

SEC. 3860. Cross sewers.

1 Cities shall have power to provide, by ordinance or resolution,
 2 terms and conditions on which cross sewers may be attached to or
 3 connected with main sewers; and, in cases where sewers have been
 4 constructed in whole or in part by special assessment, may pay to the
 5 parties who have been so assessed the money, or a part thereof,
 6 charged and collected for the privilege of attaching such cross sewers.

[C., '97, § 796.]

SEC. 3861. Changing watercourses.

1 Cities shall have power to deepen, widen, straighten, wall, fill,
 2 cover, alter or change the channel of any watercourse or part thereof,
 3 flowing through the limits of such city; to construct artificial channels,
 4 or covered drains, sufficient to carry the water theretofore flowing in
 5 such watercourse, and divert it from the natural channel, and con-
 6 duct the same through such artificial channel or covered drain, and
 7 fill the old channel.

[C., '97, § 797.]

SEC. 3862. Plans.

1 When the council determines, by resolution or otherwise, to exer-
 2 cise the powers named in the preceding section, it shall direct the city
 3 engineer, if there is one, and if not one employed by it, to make the
 4 proper plans and specifications for doing the work, and prepare an
 5 estimate of the cost thereof.

[C., '97, § 798.]

SEC. 3863. Question submitted—special election.

1 If the council on receiving the plans, specifications, and estimate
 2 of the expenses to be incurred, referred to in the last preceding sec-
 3 tion, shall still be of the opinion that the work should be done as
 4 proposed, it shall call a special election of the entire city or of any
 5 sewer district thereof in which the proposed work is to be done to
 6 finally determine the same question, and also the question of levying
 7 a special tax upon the property of the city or such sewer district, in
 8 addition to all other taxes now provided for by law, for that purpose.
 9 If the council shall determine that the estimated cost is greater than

10 should be levied and collected in a single year, it may fix the yearly
11 proportion, and determine in what years the same shall be levied and
12 collected, and provide by ordinance or resolution the time of sub-
13 mitting the question to a vote.

[C., '97, § 799; S., '13, § 799.]

SEC. 3864. Plat.

1 If a majority of the votes cast shall be in favor of the proposition,
2 the council shall order the engineer to make a survey and plat of the
3 stream or portion thereof proposed to be widened, deepened, straight-
4 ened, walled, filled, altered, changed or diverted. The plat shall show
5 its condition, position, location, boundaries and course at the time of
6 the platting of the town site, as nearly as possible; its present condi-
7 tion, location and course; any changes that have occurred in its
8 natural course since the platting of the town site; all the lots or tracts
9 of land, by their description, abutting on said original or present
10 channels, and the names of all the owners thereof; which plat and
11 notes of the survey the engineer shall file in the office of the clerk,
12 retaining a duplicate in his office.

[C., '97, § 800.]

SEC. 3865. Damages assessed.

1 After the plat and notes of the survey are made and filed, the
2 council shall appoint five commissioners, resident freeholders of the
3 city, not interested in any property abutting on said stream, who shall
4 be sworn faithfully and impartially to perform the duties that may be
5 required of them, either by this chapter or any ordinance passed in
6 pursuance hereof, who shall determine what lot, lots or lands abutting
7 on said stream will be benefited or damaged by doing the work, the
8 amount of benefit or damages which will accrue to or be sustained by
9 each and every lot, lots or lands, and the owners thereof, and make
10 report in writing of their findings. In determining any question as to
11 whether benefits accrue to or damages are sustained by such lot, lots
12 or lands, or the owners thereof, the said commissioners shall consider
13 the amount of land reclaimed or lost, the expense that will be incurred
14 by the owners thereof in doing said work, and the advantages accru-
15 ing from the removal of the easement of said watercourse, and any
16 other matter that they may think proper to be considered for such
17 purpose, but no damages shall be awarded for the cost of filling said
18 channel. The commissioners shall give notice of the time and place
19 of their meetings to determine what lot, lots and lands are benefited
20 or damaged, by publication thereof at least five days successively prior
21 thereto, in some newspaper of general circulation in said city; and, for
22 the purpose of enabling them to determine the fact of benefit or dam-
23 age, may take any competent evidence which the owner of any prop-
24 erty affected may see fit to offer. The findings of the commissioners
25 shall be returned to the council, and it may approve, reject or modify
26 the same. Notice of the hearing before the council, upon the report
27 so made, shall be given by publication in a newspaper of general circ-
28 ulation in the city for two different days, which last publication shall be
29 ten days before such hearing, and if, after this hearing, it shall con-
30 clude to reject the report, it shall resubmit the matter to other com-
31 missioners, who shall proceed as in the first instance. If the council
32 shall approve or modify this second finding, it shall proceed to assess

33 the amount of benefits so found against said abutting lot, lots or lands,
 34 and the channel to be filled or reclaimed. Any person aggrieved by
 35 the action of the council in making said assessment may appeal there-
 36 from to the district court of the county in which it is made, within
 37 twenty days from the date of the assessment, and also have the right
 38 to review the action of the council in said court in the manner now
 39 provided by law. In the event that there is no daily newspaper pub-
 40 lished in the city or town then the notices provided for by this section
 41 may be given by one publication thereof in a weekly newspaper of
 42 general circulation published in such city or town, such publication
 43 to be made at least five, and not exceeding ten, days prior to the hear-
 44 ing or meeting referred to in said section.

[C., '97, § 801; S., '13, § 801; 37 G. A., ch. 221, § 1.]

SEC. 3866. Filling channel—assessment of cost.

1 If it is proposed to divert a stream or part thereof from its course
 2 and conduct it through a new channel, or through a covered drain, the
 3 council shall have power to order the old channel filled up, and if any
 4 part is not so filled by the owner or owners within such time as may
 5 be prescribed by ordinance or resolution, the council may contract for
 6 filling the same or any part thereof, and shall have power to assess
 7 the cost thereof against the property abutting thereon, including that
 8 reclaimed therefrom, in proportion to the number of cubic yards of fill
 9 required and made upon, against and in front of each of said lots or
 10 tracts, and shall provide, by ordinance or resolution, the manner of
 11 ascertainment of said cost, and of adopting and making said assess-
 12 ments; notice to be given to said owners of the time and place of mak-
 13 ing the same; and it may also provide by ordinance or resolution when
 14 said special assessments for benefits and for the expense of filling the
 15 old channel shall become due and payable, whether in one payment or
 16 in installments, the number of installments, the rate of interest, not
 17 exceeding six per cent per annum, the deferred payments shall draw,
 18 and the time when said special installments shall mature. Such assess-
 19 ments shall become a lien and be collected as in case of special assess-
 20 ments for sewers.

[C., '97, § 802.]

SEC. 3867. Continuing streets.

1 Streets and alleys intersecting the stream or old channel shall be
 2 projected across it so as to make a continuous street or alley, and if
 3 such street or alley is shown upon the recorded plat as terminating on
 4 one side of such stream or old channel, the plat shall be corrected so
 5 as to show a continuous street or alley, and the expenses of filling all
 6 such streets and alleys shall be paid by the city.

[C., '97, § 803.]

SEC. 3868. Condemning land for.

1 Said cities may also condemn and appropriate so much private
 2 property as shall be necessary to carry into effect the provisions of
 3 this chapter relating to change of watercourses, in the manner pro-
 4 vided for condemning land for city purposes.

[C., '97, § 804.]

SEC. 3869. Construction.

1 After the report of the commissioners to the council and final
2 action thereon by it, the council shall have authority to order the
3 work of constructing a new channel or covered way or part thereof, as
4 hereinbefore provided, and may authorize different portions of said
5 work to be done in different years successively.

[C., '97, § 805.]

SEC. 3870. Special tax.

1 The cost of doing any work authorized, or any part thereof, except
2 so much of the cost of filling an old channel as is to be assessed against
3 abutting property, the compensation for private property condemned
4 and appropriated for such uses, and the damages sustained on account
5 of such change in the channel of a stream, shall be paid by a special
6 tax, by the collection of special assessments for benefits to lots and
7 lands abutting upon the old watercourse, by other special assessments,
8 if any, which may be made against the property adjacent to the streets
9 and alleys on which the new channel or covered way is located and
10 benefited thereby, and by appropriations from the general funds of
11 the city available for that purpose; which special tax herein authorized
12 the council shall have power to levy, payable yearly and in proportion
13 as the proposed work is done.

[C., '97, § 806.]

SEC. 3871. Assessment to abutting property.

1 If a covered drain or new channel shall be constructed along any
2 street or alley, and used by the city as a sanitary or storm waterway,
3 the council shall have power to assess upon the lots or lands adjacent
4 to the line of such covered drain or new channel, and benefited thereby,
5 a portion of the cost thereof, not exceeding the sum of two dollars
6 per linear foot of such drain or channel; which assessment shall be
7 made and levied in the manner provided by law relating to the cost
8 of sewers.

[C., '97, § 807.]

SEC. 3872. Bonds.

1 They may issue bonds in anticipation of such special tax, in the
2 manner authorized with reference to sewer and city improvement
3 funds, not in excess, however, of the tax which shall have been levied.

[C., '97, § 808.]

SEC. 3873. Gas and water connections.

1 They shall have power to require the connections from gas, water
2 and steam heating pipes, sewer and underground electric connections,
3 to the curb line of adjacent property, to be made before the perma-
4 nent improvement of the street, highway, avenue, alley, public ground
5 or place whereon they are located; and, where such improvements
6 have already been made, to regulate the making of such connections,
7 and fix the charges therefor, and make all needful rules and regula-
8 tions in relation to such connections and the use thereof. In case the
9 owners of property on such streets shall fail to make such connections
10 in the manner and within the time fixed by the council, it may cause
11 the same to be made, and assess against the property in front of

12 which they are made the cost and expense thereof. In addition to the
 13 above powers, any city which has a board of waterworks trustees
 14 which has ordered any street, highway, avenue, alley or public place
 15 permanently improved by paving, graveling or macadamizing the city
 16 council shall notify the board of waterworks trustees of such contem-
 17 plated improvement at the time of the passage of the proposed resolu-
 18 tion of necessity, and thereupon the board of waterworks trustees
 19 shall report to the city council the lots and names of the owners and
 20 the requirements in respect to connections from any water mains or
 21 pipes to the curb line of the abutting and adjacent property and there-
 22 upon the city council shall pass a resolution requiring the respective
 23 owner of the said abutting or adjacent property to make said connec-
 24 tions in the manner required by the rules of the board of waterworks
 25 trustees and a notice shall be given by two publications in some news-
 26 paper of general circulation in said city, the first of which shall be at
 27 least twenty days prior to the time fixed in said notice at which the
 28 said putting in of said connections must be completed.

29 If the owner of the property fail to put in the said water connec-
 30 tions before the time stated in said notice or within such additional
 31 time as may be granted by the city council, not exceeding thirty days,
 32 the board of waterworks trustees shall have the power to put in the
 33 said connections and certify the actual cost thereof to the city council
 34 and the city council shall assess the same to the respective lots and
 35 tracts of land in the same manner in which other special assessments
 36 are made as provided by law.

[C., '97, § 809; 38 G. A., ch. 92, § 1.]

SEC. 3874. Street improvements and sewers—preliminary notice.

1 When the council of any such city shall deem it advisable or neces-
 2 sary to make or reconstruct any street improvement or sewer author-
 3 ized in this chapter, it shall, in a proposed resolution, declare such
 4 necessity or advisability, stating the one or more kinds of material
 5 proposed to be used and method of construction, whether abutting
 6 property will be assessed, and, in case of sewers, the one or more kinds
 7 and size, and what adjacent property is proposed to be assessed there-
 8 for, and in both cases designate the location and terminal points
 9 thereof, and cause fourteen days' notice of the time when said resolu-
 10 tion will be considered by it for passage to be given by two publica-
 11 tions in some newspaper of general circulation published in the city,
 12 the last of which shall be not less than two nor more than four weeks
 13 prior to the time fixed for its consideration, at which time the owners
 14 of the property subject to assessment for the same may appear and
 15 make objection to the contemplated improvement or sewer and the
 16 passage of said proposed resolution, at which hearing the same may
 17 be amended and passed, or passed as proposed. But if no such news-
 18 paper is published within the limits of the corporation, then such
 19 notice may be given by posting copies thereof in three public places
 20 within the limits of the corporation, two of which places shall be the
 21 postoffice, in case there be no postoffice, then in such place as the coun-
 22 cil may designate, and the mayor's office of such city or town.

[C., '97, § 810; S. S., '15, § 810; 38 G. A., ch. 384, § 1.]

SEC. 3875. Resolution.

1 Upon compliance with the preceding section, the council may, by
 2 ordinance or resolution, order the making or reconstruction of such

3 street improvement or sewer, but the vote shall be by yeas and nays,
4 and entered of record, and the record shall show whether the improve-
5 ment was petitioned for or made on the motion of the council.

[C., '97, § 811.]

SEC. 3876. Contract.

1 When the making or reconstruction of any such street improve-
2 ment or sewer is ordered, the council, or board of public works where
3 such board exists, shall contract for furnishing labor and material and
4 for the making or reconstruction, either of the entire work in one con-
5 tract, or for parts thereof in separate and specified sections; but no
6 work shall be done under any such contract until a certified copy
7 thereof shall have been filed in the office of the clerk.

[C., '97, § 812.]

SEC. 3877. Bids—notice.

1 All contracts for the making or reconstruction of street improve-
2 ments and sewers shall be let in the name of the city, to the lowest
3 bidder, by sealed proposals, upon giving notice for at least ten days
4 from the first publication by two publications in a newspaper pub-
5 lished in said city, which notice shall state as nearly as practicable the
6 extent of the work and the one or more kinds of materials for which
7 bids will be received, when the work shall be done, the terms of pay-
8 ment fixed, and the time the proposals shall be acted upon; but all bids
9 may be rejected and new bids ordered; provided, however, that if no
10 newspaper is published within the limits of such city or town, then
11 such notice may be given by posting the same in three public places
12 within the limits of such city or town, two of which such places shall
13 be the postoffice, in case there be no postoffice, then in such public
14 place as the council may designate, and the mayor's office of such city
15 or town. All bids must be accompanied, in a separate envelope, with
16 a certified check payable to the order of the treasurer, in a sum to be
17 named in the notice for bids, as security that the bidder will enter
18 into a contract for the doing of the work, and will give the bond
19 required in the following section. All such checks, where the bid has
20 not been accepted, shall be returned to the respective bidders.

[C., '97, § 813; S. S., '15, § 813; 38 G. A., ch. 383, § 1.]

SEC. 3878. Contractor's bond to repair.

1 All contracts for the making or reconstruction of street improve-
2 ments or sewers shall contain a provision obligating the contractor
3 and his bondsmen to keep such improvement or sewer in good repair
4 for not less than four years after the acceptance of the same by the
5 city, and the bond shall be so conditioned as to conform to such con-
6 tract.

[C., '97, § 814; S., '13, § 814; 38 G. A., ch. 234, § 1.]

SEC. 3879. Bond to perform.

1 Each contractor for street improvements and sewers shall give
2 bonds to the city, with sureties to be approved by the council, or
3 board of public works where such board exists, for the faithful per-
4 formance of the contract, and suit on such bond may be brought in the
5 county in which the council may hold its sessions.

[C., '97, § 815.]

SEC. 3880. Lien of tax—filing of notice.

1 After a contract has been made by any city for the making or
 2 reconstruction of any street improvement or sewer, the clerk shall file
 3 with the auditor of the county, or each of the counties, in which said
 4 city is situated, a written or printed copy of the notice of the resolu-
 5 tion provided for, with a true copy of the proof of publication thereof,
 6 together with a certificate of the clerk that an ordinance or resolution
 7 has been adopted directing the making or reconstruction of said street
 8 improvement or sewer. Thereupon all special taxes for the cost
 9 thereof, or any part of said cost, which are to be assessed and levied
 10 against real property, or any railway or street railway, together with
 11 all interest and penalties on all of said assessments, shall become and
 12 remain a lien on such property from the date of the filing of said
 13 papers with the county auditor until paid, and shall have precedence
 14 over all other liens except ordinary taxes, which shall not be divested
 15 by any judicial sale; but such lien for street improvements in case of
 16 abutting property shall not cover to exceed one hundred fifty feet in
 17 depth from the abutting line. Any such assessment against a railway
 18 or street railway shall be a first and paramount lien upon the track
 19 thereof within the limits of the city, provided that in all counties
 20 where taxes are collected in two or more places, no lien shall attach
 21 on any property for special taxes until on and after the notices and
 22 certificates provided for in this section have been filed in the office of
 23 the auditor in the place where said special taxes are collected. The
 24 auditor shall keep a book properly ruled for that purpose and enter
 25 thereon under its tract number all of such notices immediately fol-
 26 lowing the filing of the same.

[C., '97, § 816; S., '13, § 816.]

SEC. 3881. Cost at intersections.

1 The cost of any street improvement or sewer at the intersection
 2 of streets, highways, avenues and alleys, or any part of it, and one-half
 3 of the cost of the same at spaces opposite streets, highways, avenues
 4 and alleys intersecting but not crossing, and at spaces opposite prop-
 5 erty owned by the city or the United States, or any part thereof, may
 6 be paid, in case of sewers, from the city sewer fund or the district
 7 sewer fund of such sewer district, or the general revenue of said city,
 8 or as provided in the second following section; and, in case of street
 9 improvements, from the city improvement fund, except that part to
 10 be constructed by, paid for by, or assessed to railways and street
 11 railways; but the cost in whole or in part of such street improvement
 12 at the places designated in this section, excluding cost of that part
 13 embraced within the foregoing exception, may be assessed against the
 14 property abutting or fronting upon that portion of the street, highway,
 15 avenue or alley so improved in proportion to the linear front feet
 16 fronting or abutting upon such improvement.

[C., '97, § 817.]

SEC. 3882. Cost of improvements—how paid.

1 The cost of opening, widening, extending and grading any street,
 2 highway, avenue, alley, public ground or market place shall be paid
 3 in whole or in part from the grading fund. The cost of making or
 4 reconstructing any street improvement authorized in this chapter,

5 except that embraced within the preceding section, and that herein-
6 after provided to be paid by and assessed to railways or street rail-
7 ways, shall be assessed as a special tax against the property abutting
8 thereon, in proportion to the number of linear front feet of each
9 parcel so abutting.

[C., '73, § 466; C., '97, § 818.]

SEC. 3883. Cost of sewers.

1 The cost, or any part thereof, of making or reconstructing sewers,
2 including that provided for in the second preceding section, may be
3 paid from the district sewer fund of the sewer district in which the
4 same is situated, or from the city sewer fund, or from the general
5 revenue, and the portion thereof not so paid, and not in excess of three
6 dollars per linear foot of sewer, shall be assessed against the property
7 abutting on such sewer in proportion to the number of linear front
8 feet of each parcel thereof, and upon adjacent property in proportion
9 to the benefit thereto; but in estimating the benefits to result there-
10 from to adjacent property, no account shall be taken of improvements,
11 and each lot or parcel of land shall be considered as wholly unimproved.
12 The city may combine any or all of said methods of assessment.

[C., '97, § 819.]

SEC. 3884. Assessment of cost.

1 When the making or reconstruction of any street improvement
2 or sewer shall have been completed, or such part thereof shall have
3 been completed as, under the contract, is to be paid for when done,
4 the council, or board of public works where such board exists, shall,
5 within twenty days following the completion of the making or recon-
6 struction of said street improvement or sewer, ascertain the cost
7 thereof, including the cost of the estimates, notices, inspection, and
8 preparing the assessment and plat, and shall also ascertain what por-
9 tion of such cost shall be, by law and the ordinance or resolution
10 of the council under which such street improvement was made or sewer
11 constructed, assessable upon abutting property; and, in case of sewers,
12 also upon adjacent property, and what portion shall be assessed upon
13 such abutting property, and in case of sewers, upon such abutting and
14 adjacent property, for intersections and spaces opposite property
15 owned by the city or the United States; and the council shall then
16 assess such portions upon and against such property as provided by
17 law.

[C., '97, § 820; S., '13, § 820.]

SEC. 3885. Plat and schedule.

1 In assessing that part of the cost of the making or reconstruction
2 of any street improvement or sewer, or completed part thereof, which
3 is assessable against the lots or parcels of ground abutting thereon,
4 or, in case of sewers, adjacent thereto, the council, or board of public
5 works where such board exists, shall cause to be prepared a plat of
6 the streets, avenues, highways, alleys, or the part thereof on which
7 the same shall have been made or reconstructed, showing the separate
8 lots or parcels of ground, or specified portion thereof, subject to assess-
9 ment for such improvement, the names of the owners thereof as far
10 as practicable, and the amount to be assessed against each lot or parcel
11 of ground, and against any railway or street railway, and shall file

12 said plat and schedule in the office of the clerk, which shall be subject
13 to public inspection.

[C., '97, § 821.]

SEC. 3886. Estimates—city engineer.

1 The city engineer, or other person employed by the council to
2 discharge the duties of such office, shall, under its direction, or that of
3 the board of public works where such board exists, make or assist in
4 making all estimates for street improvements and sewers, furnish the
5 necessary grades and lines, see that the work conforms thereto and
6 is in accordance with the ordinance or resolution of the council, and
7 make or assist in making each required assessment, plat and schedule.

[C., '97, § 822.]

SEC. 3887. Notice of assessment—publication.

1 After filing the plat and schedule, the council shall give notice by
2 two publications in each of two newspapers published in the city, if
3 there be that number, otherwise in one, and by handbills posted in
4 conspicuous places along the line of such street improvement or
5 sewer; but if no such newspaper is published within the limits of such
6 city or town then such notice may be given by posting copies thereof
7 in three public places within the limits of such city or town, two of
8 which such places shall be the postoffice, in case there be no postoffice,
9 then in such public place as the city council may designate, and the
10 mayor's office of such city or town; that said plat and schedule are on
11 file in the office of the clerk, and that within twenty days after the
12 first publication all objections thereto, or to the prior proceedings,
13 on account of errors, irregularities or inequalities, must be made in
14 writing and filed with the clerk; and the council, having heard such
15 objections and made the necessary corrections, shall then make the
16 special assessments as shown in said plat and schedule, as corrected
17 and approved.

[C., '97, § 823; S., '13, § 823; 38 G. A., ch. 386, § 1.]

SEC. 3888. Objections.

1 All objections to errors, irregularities or inequalities in the mak-
2 ing of said special assessments, or in any of the prior proceedings
3 or notices, not made before the council at the time and in the manner
4 herein provided for, shall be waived except where fraud is shown.

[C., '97, § 824.]

SEC. 3889. Levy of assessment—installments.

1 The special assessments made in said plat and schedule, as cor-
2 rected and approved, shall be levied at one time, by ordinance or
3 resolution, against the property abutting on such street improvement
4 or sewer, and, in case of sewers, upon adjacent property, and, when
5 levied and certified, shall be payable at the office of the county treas-
6 urer. If the owner of any lot or parcel of land or railway or street
7 railway, the assessment against which is embraced in any bond or
8 certificate provided for in chapter twenty-six, title thirteen, shall,
9 within thirty days from the date of such assessment, promise and
10 agree in writing, indorsed on such bond or certificate, or in a separate
11 agreement, that, in consideration of having the right to pay his assess-

12 ment in installments, he will not make any objection of illegality or
 13 irregularity as to the assessment or levy of such tax upon and against
 14 his property, and will pay said assessment with interest thereon at
 15 such rate, not exceeding six per cent per annum, as shall by ordinance
 16 or resolution of the council be prescribed, such tax so levied against the
 17 lot or parcel of land or railway or street railway of such owner shall
 18 be payable in seven equal installments, the first of which, with interest
 19 on the whole assessment from date of acceptance of the work by the
 20 city council, shall mature and be payable on the date of such assess-
 21 ment, and the others, with interest on the whole amount unpaid,
 22 annually thereafter, at the same time and in the same manner as the
 23 March semiannual payment of ordinary taxes; but where no such
 24 promise and agreement in writing shall be made by the owner of any
 25 lot or parcel of land or railway or street railway within said time,
 26 then the whole of said special assessment so levied upon and against
 27 the property of such owner shall mature at one time, and be due and
 28 payable, with interest from the date of acceptance of the work by the
 29 city council, on the date of such assessment, and shall be collected at
 30 the next succeeding March semiannual payment of ordinary taxes. All
 31 such taxes with interest shall become delinquent on the first day of
 32 March next after their maturity, and shall bear the same interest,
 33 with the same penalties, as ordinary taxes.

[C., '97, § 825; S., '13, § 825.]

SEC. 3890. Filing certificate of assessment.

1 A certificate of levy of such special assessment, fixing the num-
 2 ber of installments and time when payable, certified as correct by
 3 the clerk, shall be filed with the auditor of the county, or of each of
 4 the counties, in which such city is situated, and thereupon said special
 5 assessment as shown therein shall be placed on the tax list of the
 6 proper county.

[C., '97, § 826.]

SEC. 3891. Interest on installments.

1 Each installment of any special assessment shall bear interest
 2 from the date of the assessment, not to exceed six per cent per annum,
 3 which shall become due and payable at the March semiannual payment
 4 of ordinary taxes. If certificates or bonds issued to pay for said street
 5 improvement or sewer bear a less rate of interest, the clerk shall
 6 certify to the auditor of said county or counties such fact, and the
 7 installments shall draw such rate of interest only. Upon the payment
 8 of any installment, there shall be computed and collected the install-
 9 ment, and interest on the whole assessment remaining unpaid up to
 10 the first day of April following.

[C., '97, § 827.]

SEC. 3892. Payment.

1 The owner of any property against which a street improvement
 2 or sewer assessment has been levied shall have the right to pay the
 3 same, or the unpaid installments thereof, with all interest, as the case
 4 may be, up to the time of said payment, with any penalties and the
 5 cost of any proceedings for the sale of the property for such special
 6 assessment or installments. No part of the line of any railway or
 7 street railway shall be released from the lien for any part of any

8 unpaid assessment which has been made against it for street improve-
9 ments, until the whole assessment shall have been paid. If any owner
10 of property subject to special assessment shall so divide the same that
11 the feet fronting upon such street improvement or sewer are contained
12 in two or more lots or parcels, he may discharge the lien in like man-
13 ner upon any one or more of them, by payment of the amount unpaid,
14 calculated by the ratio of square feet in area of such lot or lots or
15 parcel or parcels to the area of the whole lot.

[C., '97, § 828.]

SEC. 3893. Sale for assessment.

1 Property against which a special assessment has been levied for
2 street improvement or sewers may be sold for any sum of principal or
3 interest due and delinquent at any regular or adjourned tax sale, in
4 the same manner, with the same forfeitures, penalties and right of
5 redemption, and certificates and deeds on such sales shall be made in
6 the same manner and with like effect, as in case of sales for the non-
7 payment of ordinary taxes. At any such sale, where bonds have been
8 issued in anticipation of such special taxes and interest, the city may
9 be a purchaser, and be entitled to all the rights of purchasers at tax
10 sales. The purchaser at such sale shall take the property charged with
11 the lien of the remaining unpaid installments and interest. The pro-
12 ceeds subsequently realized from sales of any property so purchased
13 by a city shall be covered into the city improvement fund.

[C., '97, § 829.]

SEC. 3894. Levy for city improvement fund.

1 When the whole or any part of the cost of the making or recon-
2 struction of any street improvement shall be ordered paid from the
3 city improvement fund, to be levied upon all the property within any
4 city, it shall have the power, after the completion of the work, by
5 ordinance or resolution, to levy at one time the whole or any part of
6 the cost of said improvement upon all the taxable property within such
7 city, and determine the whole percentage of tax necessary to pay the
8 same, and the percentage to be paid each year, not exceeding the
9 maximum annual limit of said taxes, and the number of years, not
10 exceeding ten, given for the maturity of each installment thereof; but
11 no part of such cost shall be levied against property owned by the city
12 or the United States. Certificates of such levies shall be filed with the
13 auditor of the county or counties in which said city is located, setting
14 forth the amount or percentage and maturity of said tax, or each
15 installment thereof, upon the assessed valuation of all the property in
16 said city, certified as correct by the clerk, and thereupon said tax shall
17 be placed on the tax list of the proper county or counties.

[C., '97, § 830.]

SEC. 3895. Levy for sewer fund.

1 When the whole or any part of the cost of making or reconstruct-
2 ing any sewer shall be ordered paid from the sewer fund of any
3 sewer district or from the city sewer fund, the council may, after
4 the completion of the work, by ordinance or resolution, levy at one
5 time the whole or any part of the cost of such sewer upon all the
6 taxable real property within such sewer district or within the city, as
7 the case may be, and determine the whole percentage of tax necessary

8 to pay the same, and the percentage to be paid each year, not exceed-
 9 ing the maximum annual limit of said taxes, and the number of years,
 10 not exceeding ten, given for the maturity of each installment thereof;
 11 but no part of such cost shall be levied against property owned by
 12 the city or the United States. Certificates of such levies shall be
 13 filed with the auditor of the county or counties in which said sewer
 14 district or city is located, setting forth the amount or percentage
 15 and maturity of said tax, or each installment thereof, with a descrip-
 16 tion of the boundaries of the particular sewer district, or a sufficient
 17 description of the real property of the sewer district or city upon
 18 which the tax is levied, duly certified as correct by the clerk, and
 19 thereupon said tax shall be placed on the tax list of the proper county
 20 or counties.

[C., '97, § 831.]

SEC. 3896. Cost of repairs.

1 The cost of the repair of any street improvement or sewer, or
 2 any part thereof, in case of sewers, may be paid from the city sewer
 3 fund, or the district sewer fund of the sewer district in which said
 4 repair is made, or from the general revenue of said city, or part from
 5 each of said funds; and in case of street improvements, may be paid
 6 from the city improvement fund, or the general revenue of said city.

[C., '97, § 832.]

SEC. 3897. Assessments not to be diverted.

1 All special assessments levied against abutting property and
 2 railways and street railways, for the payment of the cost of making
 3 or reconstruction of street improvements or sewers, shall be used for
 4 or appropriated to no other purpose than the payment in whole or in
 5 part of the cost of such work, or in payment of bonds or certificates
 6 issued to pay such cost, with the interest thereon.

[C., '97, § 833.]

SEC. 3898. Assessments on railways and street railways.

1 All railway and street railway companies shall be required to
 2 make, reconstruct and repair all paving, graveling or macadamizing
 3 between the rails of their tracks, and one foot outside thereof, at
 4 their own expense, unless by ordinance of the city, or by virtue of
 5 the provisions or conditions of any ordinance of the city under which
 6 said railway or street railway may have been constructed, or may be
 7 maintained, it may be bound to pave, gravel or macadamize other
 8 portions of said street, and in that case said railway or street railway
 9 shall make, reconstruct and repair the paving, graveling or macadam-
 10 izing of that part of the street specified by such ordinance; and such
 11 improvement, or the reconstruction or repair thereof, shall be of the
 12 material and character ordered by said city, and shall be done at the
 13 same time that the remainder of said improvement is made, recon-
 14 structed or repaired. When the same is made or completed, said
 15 companies shall lay, in the best approved manner, such rail as the
 16 council may require. They shall keep the paving, graveling or mac-
 17 adamizing between said rails, and one foot outside thereof, or such
 18 other part as they are liable to construct or maintain, up to grade
 19 and in good repair, using for such purpose the same material as is
 20 used for the original paving, graveling or macadamizing, or such

21 other material as the council may order. If the owner of said railway
 22 or street railway shall fail or refuse to comply with the order of the
 23 council to make, reconstruct or repair such paving, graveling or mac-
 24 adamizing, such work may be done by the city, and the cost and
 25 expense thereof shall be assessed upon the real estate and personal
 26 property of said railway or street railway company within the cor-
 27 porate limits of said city, and against such railway or street railway
 28 company, in the manner hereinbefore provided for the assessment
 29 of such cost against abutting property and the owners thereof.

[C., '97, § 834.]

SEC. 3899. Cost of paving already laid.

1 Before any street railway company shall lay its track upon any
 2 street that has been paved, and which at the time is not being repaved,
 3 it shall pay into the city treasury the value of all paving between its
 4 tracks, and one foot outside thereof, which value shall be determined
 5 by the city council, but in no case shall exceed the original cost of
 6 the paving, and the money thus paid shall be refunded to the abutting
 7 property owners on said street in proportion to the amounts originally
 8 assessed against the property abutting thereon. The company or any
 9 person affected by or interested in such determination of the value
 10 of such pavement may appeal therefrom to the district court within
 11 thirty days thereafter and in the manner provided in section thirty-
 12 nine hundred three.

[C., '97, § 835; S., '13, § 835.]

SEC. 3900. Relevy—schedule.

1 When by reason of nonconformity to any law or ordinance, or
 2 by reason of any omission, informality or irregularity, any special
 3 tax or assessment levied is invalid, or is adjudged illegal, or in case
 4 of deficiencies, the council shall have the power to correct the same
 5 by resolution or ordinance, and may reassess and relevy the same,
 6 as also an amount to make up such deficiencies, with the same force
 7 and effect as if done at the proper time, in the proper amount, and
 8 in the manner provided by law or by the resolution or ordinance re-
 9 lating thereto. Whenever any such special tax or assessment, upon
 10 property not by law exempt therefrom, shall have been heretofore
 11 or shall be hereafter adjudged to be void for any jurisdictional defect,
 12 and the city adjudged liable to pay the same, the city council shall
 13 as to such property have power, by resolution or ordinance, to cause
 14 to be prepared a schedule and proposed reassessment in proportion
 15 to and not in excess of benefits, and to cause notice thereof to be
 16 given, and to hear objections thereto and make necessary corrections,
 17 as provided by section thirty-eight hundred eighty-seven; and there-
 18 upon the council shall reassess and relevy such special tax or special
 19 assessment as so corrected, with the same force and effect as if juris-
 20 diction had been acquired in the first instance, and all subsequent
 21 proceedings had been regularly and legally had.

[C., '97, § 836; S. S., '15, § 836.]

SEC. 3901. Correction.

1 When, in making any special assessment, any property is here-
 2 after assessed too little or too much, the same may be corrected, and
 3 a reassessment and relevy made in conformity therewith; and any

4 tax collected in excess of the proper amount shall be refunded to the
 5 persons paying the same. Such corrected assessment shall be a lien
 6 on the lots and parcels of land the same as the original, and shall be
 7 certified by the clerk to the county auditor in the same manner, and
 8 shall, so far as practicable, be collected in the same installments, draw
 9 interest at the same rate, and be enforced in the same manner as
 10 the original assessment.

[C., '97, § 837.]

SEC. 3902. Time waived.

1 Any provision of law, resolution or ordinance specifying a time
 2 when, or the order in which, acts shall be done in a proceeding which
 3 may result in a special assessment, shall be taken to be subject to
 4 the qualifications of the two preceding sections.

[C., '97, § 838.]

SEC. 3903. Appeal.

1 Any person affected by the levy of any special assessment pro-
 2 vided for in this chapter may appeal therefrom to the district court
 3 within ten days from the date of such levy, by serving written notice
 4 thereof upon the mayor or clerk, and filing a bond for costs, to be fixed
 5 and approved by either of said officers. Upon such appeal, all ques-
 6 tions touching the validity of such assessment, or the amount thereof,
 7 and not waived under the provisions of this chapter, shall be heard
 8 and determined. The appeal shall be tried as an equitable action, and
 9 the court may make such assessment as should have been made, or
 10 direct the making of such assessment by the council. The costs of
 11 the appeal shall be taxed as in other actions.

[C., '97, § 839.]

**SEC. 3904. Enforcing assessment against railways and street
 railways.**

1 All special assessments made under this chapter against any
 2 railway or street railway shall be a debt due personally from such
 3 railway. Such special assessments and each installment thereof, and
 4 certificates issued therefor when due, may be collected in the district
 5 or superior court by action at law, in the name of the city or town
 6 against such railway or street railway, or the lien thereof enforced
 7 against the property of such railway or street railway, on or against
 8 which the same has been levied, by action in equity, at the election
 9 of the plaintiff; and in any action at law where pleadings are required,
 10 it shall be sufficient to declare generally for work and labor done, or
 11 materials furnished, on the particular street, avenue, alley or highway,
 12 the levy of the tax and nonpayment of the same; and in any action in
 13 equity, it shall be sufficient to aver the same matters, together with
 14 a particular description of the property, or parts thereof, against
 15 which such lien is sought to be enforced. Such action may be main-
 16 tained in the name of the city or town, for the use of any person
 17 entitled thereto or any part thereof, upon filing a bond conditioned
 18 to pay all costs adjudged against the plaintiff and protect it from all
 19 liability therefrom or damages growing out of the same; the amount
 20 of the bond to be fixed by the court, or a judge thereof in vacation, and
 21 the sureties thereon to be approved by the clerk of said court.

[R., '60, § 1068; C., '73, § 478; C., '97, § 840.]

SEC. 3905. Main sewer fund.

1 Any city of the first class shall have power to levy annually a tax
 2 not exceeding five mills on the dollar on the assessed valuation of all
 3 property therein, for a main sewer fund, to be used to pay the whole
 4 or any part of the cost of the making, reconstruction or repair of any
 5 main sewer within the limits of the city.

[S., '13, § 840-b.]

SEC. 3906. Terms defined.

1 A "main sewer" as referred to in the preceding section shall be
 2 held to mean any sewer that is commonly referred to by any one of
 3 the following terms: "intercepting sewer, out-fall sewer, or trunk
 4 sewer."

[S., '13, § 840-c.]

SEC. 3907. Statutes applicable — main sewer assessments may cover entire drainage area.

1 The provisions of this chapter shall be applicable to providing for
 2 the making, reconstruction or repair of main sewers, the whole or any
 3 part of the cost of the making, reconstruction or repair of which shall
 4 be ordered paid from the main sewer fund herein provided for, to the
 5 same extent and in the same manner as the provisions of said chapter
 6 are now applicable to providing for the making, reconstruction or re-
 7 pair of sewers, the whole or any part of the cost of the making, recon-
 8 struction or repair of which may be ordered paid from the city sewer
 9 fund. In addition to the foregoing powers, cities shall have the power
 10 to assess the whole or any part of the cost of the construction of any
 11 main sewer or system of main sewers to the respective lots, tracts or
 12 parcels of ground as adjacent property which are included within a
 13 district to be fixed by the council, which may include all territory
 14 within the drainage area of such main sewer or main sewer system.
 15 And all such lots, tracts or parcels of ground which are subject to be
 16 furnished with sewer connection or drained by such main sewers or
 17 main sewer system shall be considered as adjacent property; provided
 18 sections thirty-nine hundred five to thirty-nine hundred nine, inclu-
 19 sive, shall not apply to cities having a population of more than forty-
 20 seven thousand.

[S., '13, § 840-d.]

SEC. 3908. Main sewer certificates or bonds—statutes applicable.

1 The provisions of chapter thirty-four, title thirteen, shall be
 2 applicable to taxes authorized to be levied for the main sewer fund.
 3 Certificates or bonds issued in anticipation of the collection of taxes
 4 authorized to be levied for the main sewer fund shall be denominated
 5 main sewer certificates or main sewer bonds.

[S., '13, § 840-e.]

SEC. 3909. Aggregate tax for all sewer funds.

1 The aggregate tax levied by any city of the first class in any one
 2 year for a city sewer fund, a district sewer fund, and a main sewer
 3 fund, shall not exceed eight mills on the dollar on the assessed valua-
 4 tion of all the property therein.

[S., '13, § 840-f.]

SEC. 3910. Sewer outlets and purifying plants—tax levy authorized.

1 Cities of the second class and towns shall have the power to levy
 2 annually a tax of not to exceed five mills on the dollar to be used solely
 3 for the purpose of constructing outlets and purifying plants for sewers.
 4 The levy made under this section shall not be considered a part of the
 5 levy made for a sewer fund under provisions of the law as it appears
 6 in paragraph three of section forty hundred thirty-eight. The tax
 7 herein authorized may be anticipated by issuing certificates or bonds,
 8 as provided by section forty hundred sixty-seven. Cities of the second
 9 class and towns shall have the power when constructing a general
 10 sanitary sewer to construct in connection therewith outlets and puri-
 11 fying plants. The costs of said outlets and purifying plants may be
 12 considered a part of the cost of said sanitary sewer system and be
 13 assessed against the property affected by said general sewer system
 14 in conformity to section thirty-eight hundred eighty-three.

[S. S., '15, § 840-g; 37 G. A., ch. 222, § 1.]

SEC. 3911. Statutes applicable.

1 All the provisions of this chapter relating to the assessment of
 2 the cost of sewers against property by special assessment shall apply
 3 to the construction of sanitary sewers when outlets and purifying
 4 plants are constructed in connection therewith.

[37 G. A., ch. 222, § 2.]

SEC. 3912. Paving highways leading into cities.

1 Cities having a population of two thousand or more, shall have
 2 power to construct paved roadways along such streets, avenues or
 3 highways within said cities as, in the judgment of the city councils
 4 thereof, constitute main traveled ways into and out of such cities, and
 5 to repair, improve and reconstruct the same, all as hereinafter pro-
 6 vided.

[S. S., '15, § 840-h.]

SEC. 3913. Paving districts—assessments—limitation.

1 Such cities shall have power to establish paving districts to em-
 2 brace such portions of said cities as, in the judgment of the city
 3 councils thereof, will receive special benefits from the construction,
 4 repair, improvement, or reconstruction of such paved roadways, to
 5 change the boundaries of same from time to time as may become in
 6 the judgment of such councils, just and equitable and to assess so
 7 much of the cost of such paved roadways against all lots or tracts of
 8 land contained in the paving district within which such improvements
 9 are made, as shall equal and be in proportion to the special benefits
 10 conferred by said improvements and not in excess thereof. In no case
 11 shall such assessments exceed twenty-five per centum of the actual
 12 value of said lots or tracts at the time of levy thereof.

[S. S., '15, § 840-i.]

SEC. 3914. Resolution of necessity.

1 Whenever the council of any such city shall deem it advisable or
 2 necessary for the benefit of the city as a whole, to construct, repair,
 3 improve or reconstruct any paved roadway as authorized by sections
 4 thirty-nine hundred twelve to thirty-nine hundred twenty-two, inclu-

5 sive, it shall, in a proposed resolution, declare such advisability or
 6 necessity, stating the streets, avenues or highways along which such
 7 improvement is to be made, the terminal points thereof, one or more
 8 kinds of material proposed to be used and the width of such paved
 9 roadway; establishing a paving district the lots or tracts of land
 10 embraced in which shall be assessed to pay the cost of said improve-
 11 ment as in this chapter provided; estimating the total cost of such im-
 12 provement; and stating the proportion of such estimated total cost
 13 which will be assessed against each lot or tract of land in said district,
 14 which proportion shall be determined and fixed in accordance with the
 15 terms of said sections, and with the benefits, value, area, distance from
 16 said roadway and accessibility thereto.

[S. S., '15, § 840-j.]

SEC. 3915. Plat and estimate to precede resolution of necessity.

1 Before such proposed resolution shall be introduced the city
 2 council of such city shall cause to be prepared a plat and schedule
 3 which shall show the paving district proposed to be established; and
 4 each and every lot and tract of land therein contained, together with
 5 the proportion of the total cost which will be assessed against each
 6 said lot or tract, and an estimate of the total cost of the proposed
 7 improvement, said plat and schedule shall be filed in the office of the
 8 city clerk and shall be referred to as being so on file in said proposed
 9 resolution.

[S. S., '15, § 840-k.]

SEC. 3916. Preliminary notice.

1 Before action may be had upon any such proposed resolution, such
 2 city council shall cause such notice of the time when said resolution
 3 will be considered by it for passage to be given as provided in section
 4 thirty-eight hundred seventy-four.

[S. S., '15, § 840-l.]

SEC. 3917. Objections—right to hearing—amending resolution.

1 At the time fixed in said notice for consideration of said resolu-
 2 tion, any citizen of such city, or owner of any property affected
 3 thereby, may appear and make written objection to the contemplated
 4 improvement, to the boundaries of the proposed paving district, to
 5 the proportion proposed to be assessed against any lot or tract, or to
 6 the passage of said resolution. At which hearing the resolution may
 7 be amended and passed, or passed as proposed.

[S. S., '15, § 840-m.]

SEC. 3918. Ordering construction.

1 Whenever the provisions of the four preceding sections shall have
 2 been complied with, such council may, by ordinance or resolution,
 3 order the construction, repair improvement or reconstruction of said
 4 paved roadway, upon a yea and nay vote, entered of record, which
 5 record shall also show whether such roadway was petitioned for, or
 6 made on the motion of the council.

[S. S., '15, § 840-n.]

SEC. 3919. Levy to pay portion of costs borne by city.

1 Such city shall have power after the completion of any improve-
 2 ment contemplated in sections thirty-nine hundred twelve to thirty-
 3 nine hundred twenty-two, inclusive, to levy upon all taxable property
 4 excepting moneys and credits in said city contained, an annual tax
 5 for the purpose of paying that portion of the cost of such improve-
 6 ment not borne by the special assessments levied against the lots and
 7 tracts of land embraced in the paving district established therefor, but
 8 the aggregate of all such levies shall not exceed ten mills, nor shall
 9 such levies in the aggregate, exceed one mill for any one year, except
 10 that cities having a population of fifty thousand or more may levy a
 11 tax not exceeding in the aggregate more than fifteen mills and not
 12 exceeding more than one and one-half mills for any one year.

[S. S., '15, § 840-o; 37 G. A., ch. 376, § 1.]

**SEC. 3920. Payment by city — limitation — anticipating collec-
 tions.**

1 In no event shall such cities be authorized or empowered to pay
 2 more than fifty per centum of the total cost of any improvement con-
 3 templated in sections thirty-nine hundred twelve to thirty-nine hun-
 4 dred twenty-two, inclusive, out of the fund raised by the levy provided
 5 for in the preceding section nor out of any other city fund. But any
 6 such city may anticipate the collection of taxes authorized to be levied
 7 by the preceding section as provided by sections thirty-seven hundred
 8 eighty-two and thirty-seven hundred eighty-three, relating to bridge
 9 taxes.

[S. S., '15, § 840-p.]

SEC. 3921. Grade to be established.

1 If any such street, avenue or highway along which any improve-
 2 ment herein contemplated is to be constructed, has not an established
 3 grade the city council shall cause a grade, or grades to be established
 4 therein, and no improvement provided for in sections thirty-nine hun-
 5 dred twelve to thirty-nine hundred twenty-two, inclusive, shall be con-
 6 structed upon any street, avenue or highway until the surface thereof
 7 shall have been graded so that such improvement when fully con-
 8 structed will be at the established grade.

[S. S., '15, § 840-q.]

SEC. 3922. Statutes applicable.

1 All the provisions of this chapter, so far as the same are addi-
 2 tional to sections thirty-nine hundred twelve to thirty-nine hundred
 3 twenty-two, inclusive, or applicable thereto, shall be and remain in
 4 the same force and effect as in other street improvements.

[S. S., '15, § 840-r.]

SEC. 3923. Oiling of streets—conditions—assessments.

1 Cities and towns operating under any of the forms of government
 2 provided for by the laws of the state, may by resolution order any
 3 street, alley or part thereof oiled and assess the cost thereof to prop-
 4 erty abutting upon such street, alley or part thereof so improved,
 5 except the intersections which shall be paid for by the city or town,
 6 and to any railway or street railway company whose tracks lay within

7 the limits of such improvement, provided no such oiling shall be
 8 ordered unless the same be petitioned for by the owners of the major-
 9 ity of the linear front feet of property abutting upon such street,
 10 alley or part thereof, so to be improved, or by the majority vote of
 11 the city or town council. Such improvement may be made either by
 12 the municipality or by contract. The cost of preparing the roadbed
 13 except between the rails of any railway or street railway track and
 14 one foot outside, thereof, to receive the oil, shall be paid by the munic-
 15 ipality from any funds which may now be legally appropriated for
 16 general street improvement purposes by grading and draining to pro-
 17 vide adequate surface and under drainage, where necessary to insure
 18 a solid firm roadbed.

19 The cost of said improvement by oiling, except the cost of same
 20 between the rails of any railway or street railway tracks and one foot
 21 outside thereof, shall be assessed to abutting property in proportion
 22 to the benefits conferred thereby. The cost of so much of said
 23 improvement as lies between the rails of the track or tracks of any
 24 railway or street railway and one foot outside thereof, shall be
 25 assessed upon the real estate and personal property of said railway or
 26 street railway within the corporate limits of said city or town.

[37 G. A., ch. 172, § 1.]

SEC. 3924. Report as to cost.

1 Upon the completion of the oiling, the street commissioner or
 2 other officer designated by the council shall, within thirty days, file
 3 with the clerk of such city or town, a statement of the amount due, if
 4 the work was done by contract, or if done by the municipality, an
 5 itemized and verified statement of expenditures for materials and
 6 labor used in making such improvement.

[37 G. A., ch. 172, § 2.]

SEC. 3925. Notice of assessment—hearing.

1 Upon the filing of the statement, as provided in the preceding
 2 section, the clerk shall prepare and file in his office a proposed assess-
 3 ment of the cost of such oiling, and he shall cause a notice of such
 4 facts to be given to all persons liable to such assessment by publica-
 5 tion of the same in a newspaper published within the corporate limits
 6 of such city or town, but if no newspaper be published within the cor-
 7 porate limits of such city, then by posting along the line of said
 8 improvement two copies of such notice for each four hundred lineal
 9 feet thereof. The notice shall contain a statement of the extent of
 10 the work performed, the total cost thereof, that a proposed assessment
 11 of the cost of such oiling against abutting property, and the property
 12 of any railway or street railway occupying the part of the street or
 13 alley so improved, is on file in the office of the city or town clerk,
 14 together with a statement of the time when the council will meet to
 15 hear objections to such assessment, which time shall be not less than
 16 ten days after the publication or posting of such notice.

[37 G. A., ch. 172, § 3.]

SEC. 3926. Assessment—levy—certification of delinquent taxes.

1 At the time designated in such notice, the council shall meet, hear
 2 and consider all objections to the whole or any part of such assess-
 3 ment, and shall correct all errors or omissions therein and after such

4 consideration, the council, by resolution, may adopt said assessment
 5 as proposed or as corrected and levy the same; and all such assess-
 6 ments or any part thereof which are not paid within thirty days after
 7 such levy shall be certified by the clerk to the county auditor as a
 8 special tax against the lot, part of lot, parcel of land, or property
 9 affected, and shall be collected by the county treasurer in the same
 10 manner as other taxes.

[37 G. A., ch. 172, § 4.]

SEC. 3927. Objections to be in writing.

1 All objections to errors, or irregularities in the making of said
 2 special assessments, or in any of the prior proceedings, petition or
 3 notices not made in writing and filed with the clerk within the time
 4 specified in the notice shall be waived except where fraud is shown.

[37 G. A., ch. 172, § 5.]

SEC. 3928. Appeal.

1 Any person affected by the levy of any special assessment made
 2 hereunder, may appeal therefrom to the district court within ten
 3 days from the date of such levy, by serving written notice thereof
 4 upon the mayor or clerk, and filing a bond for costs to be fixed and
 5 approved by either of said officers. Upon such appeal all questions
 6 touching the validity of such assessment, or amount thereof, and not
 7 waived under the provisions hereof shall be heard and determined.
 8 The appeal shall be tried as an equitable action and the court may
 9 make such assessment as should have been made or direct the making
 10 of such assessment by the council. The costs of the appeal shall be
 11 taxed as in other actions.

[37 G. A., ch. 172, § 6.]

CHAPTER 24.

IMPROVEMENT OF CERTAIN THOROUGHFARES BY JOINT ACTION OF CITIES
 AND COUNTIES.

**SECTION 3929. Joint improvement of thoroughfares by cities and
 counties—when.**

1 In all counties in which there is located a permanent federal or
 2 state institution within a distance of five miles from the corporate
 3 limits of the county seat, to which institution there is a main traveled
 4 thoroughfare leading from said county seat to said institution through
 5 another city or town in the county, such counties, cities or towns shall
 6 have the power to improve said thoroughfare to said institution by
 7 grading, paving and curbing the same by the joint action of said
 8 counties, cities and towns, and shall have the power and authority to
 9 maintain and keep said thoroughfare in repair.

[38 G. A., ch. 315, § 1.]

**SEC. 3930. Joint board created—resolution of necessity—notice—
 objections.**

1 Whenever such city or town located as above indicated desires
 2 joint action in the improvement, maintenance and repair of any such

3 thoroughfare the council of such city or town shall fix the time and
 4 place for a joint meeting of the board of supervisors and the councils
 5 of any city or town through which any such thoroughfare runs, and
 6 give ten days' written notice of such meeting. On the day fixed for
 7 such joint meeting the several bodies above referred to shall organize
 8 themselves into a joint board with the mayor of the city initiating the
 9 proceedings presiding, and shall then by resolution determine the
 10 necessity for the grading, paving and curbing of such thoroughfare,
 11 the character and extent thereof, the method of construction, the one
 12 or more kinds and size thereof, the property to be assessed therefor,
 13 the location and terminal points thereof, and the percentage of the
 14 total cost thereof to be borne by the county, and by said city and town,
 15 or each of them if there be more than one, and cause twenty days'
 16 notice of the time when said resolution will be considered by such
 17 joint board for passage to be given by four publications in each of
 18 said cities and towns in some newspaper of general circulation pub-
 19 lished therein the last of which shall be not less than two nor more
 20 than four weeks prior to the time fixed for its consideration, at which
 21 time the owners of the property subject to assessment for the same
 22 may appear and make objection to the contemplated improvement and
 23 the passage of said proposed resolution, at which hearing the same
 24 may be amended and passed, or passed as proposed. If within the
 25 limits of either of such corporations no such newspaper is published,
 26 then such notice may be given by posting copies thereof in three public
 27 places within the limits of the corporation in which no such newspaper
 28 is published, two of which places shall be the postoffice and the mayor's
 29 office of such city or town. After the adoption of the resolution of
 30 necessity herein provided for by the joint board, then the board of
 31 supervisors and the council of each of said cities and towns shall pro-
 32 ceed to carry out the terms thereof by initiating and prosecuting to a
 33 completion the necessary proceedings in each of said corporations,
 34 except that the proposals for bids and the making of the contract for
 35 the improvement shall be left with the city or town initiating the
 36 proceedings.

[38 G. A., ch. 315, § 2.]

**SEC. 3931. Benefited districts—special assessments therein—
 amount of assessment.**

1 Such counties, cities and towns shall have power to establish bene-
 2 fited districts to embrace all or such portions of said counties, cities
 3 and towns as in the judgment of the board of supervisors and the city
 4 council thereof will receive special benefits from the grading, paving
 5 and curbing of such thoroughfare, to change the boundaries of same
 6 from time to time as may become in the judgment of such board of
 7 supervisors and city council just and equitable, and to assess so much
 8 of the cost of such grading, paving and curbing against all lots or
 9 tracts of land contained in the benefited district within which such
 10 improvements are made as shall equal and be in proportion to the
 11 special benefits conferred by said improvement and not in excess
 12 thereof. In no case shall such assessment exceed twenty-five per
 13 centum of the actual value of said lots or tracts at the time of levy
 14 thereof.

[38 G. A., ch. 315, § 3.]

SEC. 3932. Construction ordered.

1 Whenever the resolution of necessity herein above provided for
 2 has been adopted and the provisions of the three preceding sections
 3 complied with, the council initiating the proceedings hereunder may
 4 by ordinance or resolution order the construction of said grading,
 5 paving and curbing upon a ye and nay vote entered of record, which
 6 record shall also show whether such improvement was petitioned for
 7 or made on the motion of the council, and whether the improvement
 8 was the result of the joint action of the counties, cities and towns
 9 interested.

[38 G. A., ch. 315, § 4.]

SEC. 3933. Tax levy.

1 Such counties, cities or towns, as the case may be, shall have
 2 power after the completion of any improvement contemplated in this
 3 chapter to levy upon all taxable property, excepting moneys and credits
 4 in said counties, cities and towns, an annual tax for the purpose of
 5 paying that portion of the cost of such improvement not borne by the
 6 special assessments levied against the lots or tracts of land embraced
 7 in the improvement district established therefor, but such levy shall
 8 not exceed one mill for any one year.

[38 G. A., ch. 315, § 5.]

SEC. 3934. Proportion of cost to be borne by city—may anticipate levy.

1 In no event shall such counties, cities or towns, as the case may
 2 be, be authorized and empowered to pay more than fifty per centum
 3 of the total cost of any improvement contemplated in this chapter out
 4 of the fund raised by the levy provided for in the preceding section,
 5 nor out of any other county, city or town fund, but any such county,
 6 city or town may anticipate the collection of taxes authorized to be
 7 levied by the preceding section, and for that purpose may issue paving
 8 certificates or bonds with interest coupons, and the provisions of sec-
 9 tions thirty-eight hundred forty-nine to thirty-nine hundred four,
 10 inclusive, sections forty hundred sixty to forty hundred sixty-nine,
 11 inclusive, and section forty-three hundred fifty-five shall be operative
 12 as to such certificates, bonds and coupons in so far as they may be
 13 applicable.

[38 G. A., ch. 315, § 6.]

SEC. 3935. Certificates and bonds—funds for payment to be held in trust.

1 Said certificates, bonds and interest thereon shall be secured by
 2 said levy and shall be payable only out of the funds derived therefrom
 3 and pledged to the payment of the same, and no certificates or bonds
 4 shall be issued in excess of taxes authorized and levied to secure the
 5 payment of the same. It shall be the duty of such counties, cities and
 6 towns to collect such funds with interest thereon and to hold the same
 7 separate and apart in trust for the payment of said certificates, bonds
 8 and interest, and to apply the proceeds of said funds pledged for that
 9 purpose to the payment of said certificates, bonds and interest.

[38 G. A., ch. 315, § 7.]

SEC. 3936. Additional powers.

1 This chapter shall be construed as granting additional power
 2 without limiting the power already existing in counties, cities and
 3 towns, and all the provisions of sections thirty-eight hundred forty-
 4 nine to thirty-nine hundred twenty-two, inclusive, sections forty hun-
 5 dred sixty to forty hundred sixty-nine, inclusive, and section forty-
 6 three hundred fifty-five, so far as the same are additional and not in
 7 conflict with this chapter and applicable thereto, shall be and remain
 8 in full force and effect and may be resorted to whenever necessary to
 9 carry out the spirit and purpose of this chapter.

[38 G. A., ch. 315, § 8.]

CHAPTER 25.**PROTECTION OF CITY PROPERTY FROM FLOODS.****SECTION 3937. Protection of property from floods.**

1 In addition to the powers they now have, cities, including cities
 2 under commission form of government, shall have the power, in
 3 accordance with the provisions of this chapter, to protect lots, lands,
 4 and property within their limits from danger and damage from floods
 5 and high water, by deepening, widening, straightening, altering,
 6 changing, diverting or otherwise improving watercourses within their
 7 limits, by constructing levees, embankments, or conduits therefor, and
 8 to provide for levy of special assessments and other taxes to defray
 9 the expenses of such improvements, and the issuance of bonds and
 10 certificates in anticipation of such taxes and special assessments.

[S. S., '15, § 849-a; 37 G. A., ch. 414, § 1; 38 G. A., ch. 285,
 § 2.]

SEC. 3938. Plans—petition—estimate of cost and benefits—plat.

1 Upon the filing of a petition requesting the exercise of the powers
 2 mentioned in the preceding section, signed by one hundred resident
 3 taxpayers of such city, or on its own motion, the city council may direct
 4 the city engineer to make necessary surveys, to prepare plans and
 5 specifications for doing the work, to furnish the council with an esti-
 6 mate of the cost thereof, including an estimate of the damages to
 7 property, if any, and a map or plat showing the boundaries of the
 8 territory or district which will be specially benefited by such improve-
 9 ment, a schedule showing as nearly as may be the ownership and
 10 value of each lot or parcel of land, and other property therein, as
 11 shown by the last assessment roll, and an estimate of the benefit to
 12 each lot or parcel of land, and to any railway or street railway within
 13 such improvement district. The plans, specifications, estimates, maps,
 14 plats, and schedules so prepared shall be filed with the city clerk.

[S., '13, § 849-b; 38 G. A., ch. 285, § 3.]

SEC. 3939. Resolution of necessity—notice—objections.

1 If the council upon receiving the said plans, specifications, esti-
 2 mates, maps, plats and schedules, shall approve, or modify and approve
 3 the same, it shall in a proposed resolution, of which the plat and sched-
 4 ule is made a part by reference, declare the necessity and advisability

5 of such improvement, describing the same in general terms, stating
 6 the estimated cost thereof, and fixing the boundaries of the territory
 7 or district specially benefited, and shall cause fourteen days' notice of
 8 the time when said resolution will be considered for passage to be
 9 given by two publications in some newspaper of general circulation
 10 published in the city, the last of which shall be not less than two,
 11 nor more than four weeks prior to the time fixed for its consideration,
 12 at which time the owners of the property affected by such improve-
 13 ment may appear and make objections in writing to the contemplated
 14 improvement, to the assessment district, or to their assessments, as
 15 shown by the plat and schedule, or to the passage of such proposed
 16 resolution, at which hearing the district, or the assessments, may be
 17 changed, and the resolution be amended and passed, or passed as pro-
 18 posed.

[S., '13, § 849-c; 38 G. A., ch. 285, § 4.]

SEC. 3940. Bids—contract.

1 When the making of any such improvement is ordered, the
 2 council shall advertise for bids and may enter into a contract or con-
 3 tracts for furnishing the labor and materials for doing the work.

[S., '13, § 849-d; 38 G. A., ch. 285, § 5.]

SEC. 3941. Notice—sealed proposals—security.

1 All contracts for such improvement shall be let in the name of
 2 the city to the lowest bidder, by sealed proposals, upon giving notice
 3 for at least ten days by two publications in a newspaper published in
 4 said city, which notice shall state as nearly as practicable the extent
 5 of the work, the one or more kinds of material for which bids will be
 6 received, when the work shall be done, the terms of payment, and
 7 whether a maintenance fund shall be required and the time the pro-
 8 posals will be received and acted upon. All bids must be accom-
 9 panied, in a separate envelope, with a certified check payable to the
 10 order of the city treasurer, in the sum named in the notice for bids,
 11 as security that the bidder will, if his bid is accepted, enter into a
 12 contract for the doing of the work, and will give bond as required by
 13 this chapter. All such checks, where the bid has not been accepted,
 14 shall be returned to the respective bidders. All bids may be rejected
 15 and new bids invited.

[S., '13, § 849-d; 38 G. A., ch. 285, § 6.]

SEC. 3942. Bond to maintain.

1 All contracts for making such improvement may contain a provi-
 2 sion obligating the contractor and his bondsmen to keep the improve-
 3 ment in good repair for one year after the acceptance of the same by
 4 the city, and bond shall be so conditioned as to conform to such pro-
 5 vision.

[S., '13, § 849-d; 38 G. A., ch. 285, § 7.]

SEC. 3943. Bond to perform.

1 Each contractor for such improvement, or part thereof, shall give
 2 bond to the city, with sureties to be approved by the council, for the
 3 faithful performance of the contract, and suit on such bond may be
 4 brought in the county in which the council holds its sessions.

[S., '13, § 849-d; 38 G. A., ch. 285, § 8.]

SEC. 3944. Special assessment.

1 When the work is contracted for, as herein provided, the council
 2 shall assess the lands and other property, included within the improve-
 3 ment district, for such proportion of the cost of the improvement,
 4 including the cost of filling the old channel if it is proposed to divert a
 5 stream from its course and conduct it through a new channel or
 6 conduit, as shall be equal and in proportion to the benefit conferred by
 7 the improvement, but not in excess of twenty-five per cent of the
 8 actual value of the lot or tract at the time of the levy, and the last
 9 preceding assessment roll shall be taken as prima facie evidence of
 10 such value.

[S., '13, § 849-e; 38 G. A., ch. 285, § 9.]

SEC. 3945. Levy—filing certificates—payment of interest and installments.

1 The levy of the assessment, the filing of the certificate of assess-
 2 ment, the payment of interest on installments, the payment of the
 3 installments of assessment, and the sale of property for unpaid
 4 assessments shall all be in conformity with sections thirty-eight hun-
 5 dred eighty-nine to thirty-eight hundred ninety-three, inclusive.

[S., '13, § 849-e; 38 G. A., ch. 285, § 10.]

SEC. 3946. Appeal—waiver.

1 Any person aggrieved by the action of the council in making any
 2 of the assessments herein provided for, may appeal therefrom to the
 3 district court of the county in which it is made, within twenty days
 4 of the date of the assessment, and have the right to review the action
 5 of the council in the said court, in the manner now provided by law.
 6 All objections to errors, irregularities, or inequalities in the making of
 7 said special assessments, or in any of the prior proceedings or notices
 8 not made before the council at the time and in the manner herein
 9 provided, shall be waived.

[S., '13, § 849-f; 37 G. A., ch. 221, § 2; 38 G. A., ch. 285, § 11.]

SEC. 3947. Notice to railway companies — duty of company thereafter.

1 If the improvement contracted for is to cross the right of way
 2 of a railroad, or street railway company, the city clerk shall cause to
 3 be served upon such company, in the manner for the service of original
 4 notices, a notice in writing stating the nature of the improvement,
 5 the place where it will cross the right of way of such company, and
 6 full requirements for its complete construction across such right of
 7 way as shown by the plans, specifications, maps and plats of the
 8 engineer, and directing such company to construct, within a time fixed
 9 by the city council, not exceeding six months from the date of the
 10 service of the notice, in such manner as not to interfere with the con-
 11 struction of the diverted channel, and in such manner as not to
 12 obstruct, impede, or interfere with the free flow of water, the neces-
 13 sary bridge, or bridges, where the diverted channel crosses the right
 14 of way. Upon receiving such notice it shall be the duty of such rail-
 15 road, or street railway company, to provide the necessary temporary
 16 structure to carry its tracks during the constructing of the channel,
 17 and to construct the necessary permanent bridge, or bridges, within
 18 the time specified in said notice. If such company shall fail, neglect,

19 or refuse to comply with the notice, within the time fixed, the tem-
 20 porary structure may be provided, and the bridge, or bridges, may
 21 be built, under the supervision of the engineer in charge of the chan-
 22 nel improvement, and such railroad, or street railway company, shall
 23 be liable for the cost of the construction of such structures, in addi-
 24 tion to its liability for assessment for special benefits as other property
 25 is assessed, and the cost of such structures may be collected by the
 26 city from the company in any court having jurisdiction.

[S., '13, § 849-f; 37 G. A., ch. 221, § 2; 38 G. A., ch. 285,
 § 12.]

SEC. 3948. Condemnation.

1 Such cities may purchase or condemn, and appropriate, such pri-
 2 vate property, including railroad right of way, and property, as may
 3 be necessary to carry into effect the provisions of this chapter, and
 4 the costs of such property shall be included in the cost of the improve-
 5 ment.

[S., '13, § 849-g; 38 G. A., ch. 285, § 13.]

SEC. 3949. Streets extended.

1 A street or alley intersecting the stream or old channel may be
 2 projected across it so as to make a continuous street or alley, and the
 3 expense of filling all such streets or alleys shall be included in and
 4 paid as a part of the costs of such improvements.

[S., '13, § 849-f; 38 G. A., ch. 285, § 14.]

SEC. 3950. Tax levy.

1 After the contract, or contracts, for making such improvement
 2 has been entered into, as herein provided, the council shall ascertain
 3 the cost of the work, including the cost of property purchased, or
 4 condemned and appropriated, for the purpose of carrying into effect
 5 the provisions of this chapter, and the cost of filling the old channel
 6 where it is to be abandoned, and the cost of surveys, plans and speci-
 7 fications, estimates, notices, inspection, and supervision, and the pre-
 8 paring of plats, and schedules of assessments, and shall thereupon by
 9 resolution, levy the whole of the said cost remaining, after deducting
 10 the amount of the special assessments for benefits conferred upon
 11 the lands and other property within the improvement district, at one
 12 time as a special tax, which levy shall not exceed in the aggregate five
 13 mills for all improvements made under this chapter in any one year,
 14 upon all the taxable property of the city, including that within the
 15 improvement district, excepting moneys and credits. A certificate of
 16 such levies and of the special assessments for benefits conferred upon
 17 lands and property within the improvement district, shall then be filed
 18 by the city clerk with the auditor of the county in which the city is
 19 located, and thereupon such taxes and assessments shall be placed
 20 upon the tax lists. The proceeds of such taxes and assessments shall
 21 be kept as a separate fund and shall be used for the purpose of paying
 22 the cost of such improvement, or in paying bonds and certificates with
 23 interest issued in anticipation thereof, and for no other purpose.

[S., '13, § 849-e; 38 G. A., ch. 285, § 15.]

SEC. 3951. Anticipation of tax.

1 Any city constructing an improvement authorized by this chapter
 2 may issue bonds and assessment certificates in anticipation of any
 3 special tax or special assessment; said bonds and certificates shall be
 4 issued and sold in accordance with the provisions of sections thirty-
 5 nine hundred fifty-five to thirty-nine hundred sixty-five, inclusive.

[S., '13, § 849-h; 38 G. A., ch. 285, § 16.]

SEC. 3952. Costs to be paid—how.

1 The entire cost of constructing any improvement authorized by
 2 this chapter, and any bonds or certificates issued in anticipation
 3 thereof, shall be paid out of the special taxes and special assessments
 4 authorized by this chapter, and no part of said cost, and no part of
 5 any such bonds or certificates, shall ever be a charge upon or paid
 6 out of any other fund or the proceeds of any other assessment, tax,
 7 or levy.

[S., '13, § 849-i; 38 G. A., ch. 285, § 17.]

SEC. 3953. Bonds—indebtedness.

1 Cities, including cities acting under commission form of govern-
 2 ment, having fifty thousand population, or more, are hereby authorized
 3 to contract indebtedness and to issue bonds for the purpose of paying
 4 for improvements contemplated by this chapter. Such bonds shall be
 5 payable in not to exceed twenty-five equal annual installments, shall
 6 bear interest not to exceed five per cent per annum, payable semi-
 7 annually, and shall be made payable at such place, and be of such form
 8 as the city council, by ordinance, designate. For the purpose of this
 9 chapter a city may become so indebted in an amount which with all
 10 other municipal indebtedness for general purposes may equal, but not
 11 exceed, five per centum of the actual value of the taxable property of
 12 said city as shown by the last preceding assessment roll.

[S., '13, § 849-j; 38 G. A., ch. 285, § 18.]

SEC. 3954. Additional powers.

1 This chapter shall be construed as granting additional powers,
 2 without limiting the power already existing in cities, including cities
 3 acting under the commission form of government, and without affect-
 4 ing the validity of preliminary steps already taken under the existing
 5 law, so far as applicable, for the purpose of making improvements con-
 6 templated by this chapter, all of which steps shall have the same effect
 7 as if taken under the provisions hereof.

[S., '13, § 849-k; 38 G. A., ch. 285, § 19.]

CHAPTER 26.
STREET IMPROVEMENT AND SEWER BONDS AND CERTIFICATES.**SECTION 3955. Certificates issued.**

1 The council may provide, by ordinance or resolution, for the issu-
 2 ance of street improvement and sewer certificates, payable to bearer,
 3 or to the contractors who have constructed any street improvement or

4 sewer, or completed part thereof, within the meaning of sections thir-
 5 ty-eight hundred forty-nine to thirty-nine hundred twenty-two, inclu-
 6 sive, in payment or part payment therefor, each of which certificates
 7 shall state the amount of one or more assessments, or a part thereof,
 8 made against the property, designating it, including railways and
 9 street railways, and the owners thereof liable to assessment for the
 10 cost of the same, and may negotiate the same. Such certificate shall
 11 transfer to the bearer, contractor or assigns, all the right and interest
 12 of the city in every such assessment or part thereof described therein,
 13 and shall authorize such bearer, contractor or assigns to collect and
 14 receive every assessment embraced in such certificate, by or through
 15 any of the methods provided by law for their collection, as the same
 16 mature. Said certificates shall bear interest at a rate not exceeding
 17 six per cent per annum, payable annually or semiannually, as fixed by
 18 said council, and may be paid by the taxpayer to the county treasurer,
 19 who shall receipt for the same and cause the amount paid to be
 20 applied to the payment of the certificate issued therefor. No certifi-
 21 cate shall be issued or negotiated by the city for less than its par
 22 value, with accrued interest up to the date of the delivery or transfer
 23 thereof.

[C., '97, § 841.]

SEC. 3956. Bonds.

1 For the purpose of providing for the payment of the assessed cost
 2 of any street improvement or sewer which is to be or has been assessed
 3 upon property subject to assessment therefor, including railways and
 4 street railways liable for the payment thereof, and, in case of sewers,
 5 also upon adjacent property, the council may, by ordinance or resolu-
 6 tion, provide for the execution and delivery of bonds for the amount of
 7 so much of the assessed cost or any part thereof, in anticipation of
 8 the deferred payment of the assessments levied therefor, such bonds
 9 to be called "street improvement bonds" or "sewer bonds," and issued
 10 in amounts of one hundred dollars, or multiples thereof not exceeding
 11 one thousand dollars, except that one bond may be issued for the
 12 amount necessary to make up the exact amount of such cost, which
 13 shall not exceed one thousand dollars. Street improvement bonds
 14 shall not include any sewer assessments, nor sewer bonds any street
 15 improvement assessments.

[C., '97, § 842; 37 G. A., ch. 244, § 1.]

SEC. 3957. Form.

1 Street improvement and sewer bonds, respectively, issued for any
 2 one levy, shall all bear the same date and be divided into as many
 3 series as there are installment payments of said special assessments,
 4 and each series shall be as nearly equal in amount as practicable.
 5 Each series of said bonds shall mature on the first day of April of the
 6 years in which the installments of said special taxes come due; shall
 7 bear the name of the street, avenue, highway, alley or district in which
 8 said street improvement or sewer is located, and shall bear interest at
 9 a rate not exceeding six per cent per annum, payable annually or semi-
 10 annually, and coupons for said interest shall be attached thereto. Said
 11 bonds and coupons shall be signed by the mayor, countersigned by the
 12 clerk, and sealed with the corporate seal, and shall be substantially in
 13 the following form, but subject to changes that will conform them to
 14 the ordinance (or resolution) of the council, to wit:

15 The city of....., in the state of Iowa, promises to pay as
 16 hereinafter stated, to the bearer hereof, on the.....day of.....
 17 the sum of.....dollars, with interest thereon at the rate of.....
 18 per cent per annum, payable.....annually, on the presentation and
 19 surrender of the interest coupons hereto attached. Both principal and
 20 interest of this bond are payable at the.....bank in the city
 21 of....., state of..... This bond is issued by the city
 22 of.....under and by virtue of sections thirty-nine hundred
 23 fifty-five to thirty-nine hundred sixty-five, inclusive, and the ordinance
 24 (or resolution) of said city, duly passed on the.....day of,
 25 1.....

26 This bond is one of a series of bonds of like tenor, date and
 27 amount, numbered from.....to.....and issued for the purpose of
 28 defraying the cost of improving, curbing and paving a portion of
 29street (or constructing a sewer on.....street), as
 30 described in said ordinance or resolution, in said city, which cost is
 31 payable by the abutting property along said improvements, and is
 32 made by said law a lien on all said abutting or adjacent property, and
 33 payable in seven annual installments, with interest on all deferred
 34 payments at the rate of six per cent per annum, and this bond is pay-
 35 able only out of the.....fund created by the collection of said
 36 special tax, and said fund can be used for no other purpose.

37 And it is hereby certified and recited that all the acts, conditions
 38 and things required to be done, precedent to, and in the issuing of
 39 this series of bonds, have been done, happened and performed, in regu-
 40 lar and due form, as required by said law and ordinance (or resolu-
 41 tion); and for the assessment, collection and payment hereon of said
 42 special tax, the full faith and diligence of said city of.....are
 43 hereby irrevocably pledged.

44 In testimony whereof, the city of....., by its city council,
 45 has caused this bond to be signed by its mayor and countersigned by
 46 its city clerk, with the seal of said city affixed, thisday of.....,
 47 1.....

48
 49 City Clerk. Mayor.

50 No.....
 51 On the.....day of....., the city of....., Iowa, prom-
 52 ises to pay to bearer, as provided in said bond, the sum of.....
 53 dollars, at the.....bank, in the city of....., being.....
 54 months' interest due that day on its improvement bond No.....,
 55 dated....., 1.....

56
 57 Countersigned. Mayor.

58
 59 City Clerk.

[C., '97, § 843.]

SEC. 3958. How issued.

1 When such bonds have been issued they shall be delivered to the
 2 clerk, who shall register them in a book or books to be kept for that
 3 purpose, countersign them, and then deliver the same to the city
 4 treasurer or some bank selected by the council, which may require of
 5 the treasurer or bank such security or such additional security as it
 6 may think necessary to secure the payment in full of the proceeds
 7 thereof. The city treasurer shall report to the clerk the number of

8 bonds delivered by him, and the amount received therefor, or for
9 which credit has been given by the contractor.

[C., '97, § 844.]

SEC. 3959. Sale.

1 The bonds may be sold at public or private sale, but shall not be
2 sold or negotiated for less than their par value with accrued interest
3 from date to the time of delivery thereof. All the proceeds of bonds
4 and of certificates negotiated shall be paid to the city treasurer, and
5 shall be used only to pay for the cost of street improvements or sewers
6 included in the assessment or assessments pledged to the payment
7 thereof. All money received by said treasurer as proceeds of said
8 bonds or certificates shall be kept in the same manner and subject to
9 all the regulations regarding other money of the city, except that he
10 shall keep an account of each levy of such special assessments, and all
11 interest received and paid shall be credited and charged to such fund.

[C., '97, § 845.]

SEC. 3960. Certificate of completion of work.

1 No money received by the city treasurer from the sale of street
2 improvement and sewer bonds or certificates shall be paid out, nor shall
3 any certificate be issued to the contractor or sold, except upon the
4 resolution of the council ordering the same, and no such resolution for
5 the delivery of any bonds or certificates, or the payment of any of
6 the proceeds of said bonds or certificates, shall be made until the cer-
7 tificate of the city engineer or other competent person selected, or
8 board of public works where such board exists, has been filed, stating
9 that the work contracted for or a completed part thereof, as the case
10 may be, has been completed according to the terms and stipulations of
11 the contract.

[C., '97, § 846.]

SEC. 3961. Bonds paid.

1 Such street improvement and sewer certificates, bonds and cou-
2 pons shall be payable out of funds derived from the special taxes and
3 interest thereon pledged to the payment of the same, and such certifi-
4 cates or bonds shall not be delivered in excess of the special taxes
5 levied; but such certificates, bonds and coupons shall not make the city
6 liable in any way, except for the proper application of said special
7 taxes. If any interest shall become due on any of said bonds when
8 there is no fund from which to pay the same, the council may make a
9 temporary loan for the payment thereof, which loan shall be repaid
10 from the special taxes and interest pledged to secure said bonds, but
11 in case of purchase by the city at tax sale of the property on which
12 such tax is levied, it shall then be repaid from the city improvement
13 fund.

[C., '97, § 847.]

SEC. 3962. Sewer bonds.

1 Cities and towns, including cities operating under the commission
2 form of government, are hereby authorized to contract indebtedness
3 and to issue bonds for the purpose of building and constructing sewers.
4 Said bonds shall be payable in not more than twenty annual install-
5 ments and at interest not exceeding five per centum per annum, and
6 shall be made payable at such place and be of such form as the city
7 council shall by ordinance designate, but no city or town shall become

8 indebted in excess of five per cent of the actual value of the taxable
9 property of said city or town as shown by the last preceding assess-
10 ment roll. The indebtedness so incurred for building or constructing
11 sewers shall not be considered an indebtedness incurred for general or
12 ordinary purposes.

[38 G. A., ch. 243, § 1.]

SEC. 3963. Additional powers.

1 The preceding section shall be construed as granting additional
2 power, without limiting the power already existing, in cities and
3 towns, including cities operating under the commission form of gov-
4 ernment.

[38 G. A., ch. 243, § 2.]

SEC. 3964. Refunding bonds.

1 Refunding bonds may be issued to pay off and take up bonds
2 issued in payment for street improvements and sewers made under
3 prior laws, or to refund any part thereof. Bonds thus issued shall sub-
4 stantially conform to the provisions of this chapter, and the face
5 amount thereof shall be limited to the amount of the unpaid special
6 assessments, with the interest thereon, applicable to the payment of
7 the bonds so taken up. Sewer refunding bonds and street improve-
8 ment refunding bonds thus issued must be kept separate. Said refund-
9 ing bonds or their proceeds shall be used only to pay street improve-
10 ment or sewer bonds so taken up.

[C., '97, § 848.]

SEC. 3965. How paid.

1 When refunding bonds shall be issued to pay street improve-
2 ment or sewer bonds issued under prior laws, all special assessments,
3 taxes and sinking funds applicable to the payment of such bonds
4 previously issued shall be applicable in the same manner and to the
5 same extent to the payment of the refunding bonds issued hereunder,
6 and all the powers and duties to levy and collect special assessments
7 and taxes, to create liens upon property, and to establish sinking funds
8 in respect of the bonds previously issued shall continue until all refund-
9 ing bonds shall be paid. The city shall collect the special assessments
10 out of which the said bonds are payable, and hold the same separate
11 and apart in trust for the payment of said refunding bonds, but it
12 shall be in no way liable except for the proper application of said
13 assessments; but the provisions of this section shall not apply to
14 assessments or bonds adjudicated to be void.

[C., '97, § 849.]

CHAPTER 27.

HEATING PLANTS—WATER OR GASWORKS—ELECTRIC PLANTS.

SECTION 3966. Heating plants — water or gas works — electric plants—purchase and sale of heat, gas, water and electric current.

1 Cities and towns shall have power to purchase, establish, erect,
2 maintain and operate, within or without the corporate limits of any

3 city or town, heating plants, waterworks, gasworks or electric light
 4 or electric power plants, with all the necessary reservoirs, mains,
 5 filters, streams, trenches, pipes, drains, poles, wires, burners, machin-
 6 ery, apparatus and other requisites of said works or plants, and lease
 7 or sell the same. They may also grant to individuals or private cor-
 8 porations the authority to erect and maintain such works or plants
 9 for a term of not more than twenty-five years, and may renew, amend
 10 or extend the term of such grant; but no exclusive franchise shall be
 11 thus granted, amended, extended or renewed. And they shall have
 12 power to enter into contracts with persons, corporations or munici-
 13 palities for the purchase of heat, gas, water, and electric current for
 14 either light or power purposes, and shall have power to sell the same
 15 either to residents of such municipality, or to others, including cor-
 16 porations, and to erect and maintain the necessary transmission lines
 17 therefor either within or without the corporate limits, to the same
 18 extent, in the same manner, and under the same regulations, with
 19 the same power to establish rates and collect rents as is or hereafter
 20 may be provided by law for cities having municipally owned plants.
 21 No such works or plants shall be authorized, established, erected, pur-
 22 chased, leased or sold, or franchise extended or renewed or amended,
 23 or contract of purchase entered into, unless a majority of the legal
 24 electors voting thereon vote in favor of the same at a general, city
 25 or special election. And such plant so established and erected may
 26 utilize steam and excess power in the manufacture of artificial ice
 27 and may install the necessary machinery and equipment therefor.
 28 Provided, however, that this shall only apply to cities, including cities
 29 under commission plan of government under ten thousand population.

[C., '73, §§ 471-473; C., '97, § 720; S., '13, § 720; 38 G. A.,
 ch. 326, § 1.]

SEC. 3967. Question submitted—notice—how given.

1 The council may order any of the questions provided for in the
 2 preceding section submitted to vote at a general or city election, or
 3 at one specially called for that purpose; or the mayor shall submit
 4 said question to such vote upon the petition of twenty-five property
 5 owners of each ward in the city, or of fifty property owners of any
 6 incorporated town. Notice of such election shall be given in two
 7 newspapers published in said city or town, if there are two, if not,
 8 then in one, once each week for at least four consecutive weeks. But
 9 if no such newspaper is published within the limits of the corporation,
 10 then such notice may be given by posting copies thereof in three public
 11 places within the limits of said corporation, two of which places shall
 12 be the postoffice and the mayor's office of such city or town. The
 13 party asking for a renewal or extension of such franchise shall pay
 14 the cost incurred in holding such election.

[C., '97, § 721; S., '13, § 721.]

SEC. 3968. Condemning land, plants and works—limitation.

1 They shall have power to condemn and appropriate so much pri-
 2 vate property as shall be necessary for the construction and operation
 3 of said works or plants, and for the purpose of constructing and main-
 4 taining dams across the nonnavigable waters and watercourses of the
 5 state in forming reservoirs and sources of water to supply such water-
 6 works and plants, as provided for the condemnation of land for city

7 purposes; to issue bonds for the payment of the cost of establishing
 8 the same, including the cost of land condemned on which to locate
 9 them, and to confer by ordinance the power to appropriate and con-
 10 demn private property for such purpose upon any individual or cor-
 11 poration authorized to construct and operate such works or plants.
 12 When any city or town shall have voted at an election as is provided
 13 in sections thirty-nine hundred sixty-six and thirty-nine hundred
 14 sixty-seven, to purchase, establish, erect, maintain, and operate heat-
 15 ing plants, waterworks, gasworks, or electric light or electric power
 16 plants, or when any such city or town shall have voted to contract
 17 indebtedness and issue bonds as is provided in sections forty hundred
 18 fifty-four to forty hundred fifty-seven, inclusive, for any of the pur-
 19 poses therein enumerated, and in such city or town there shall then
 20 exist any such heating plant, waterworks, gasworks, electric light or
 21 electric power plants, or incomplete parts thereof or more than one,
 22 not publicly owned, and the contract or franchise of the owner of
 23 which utility has expired or been surrendered and such owner and
 24 city or town can not agree upon terms of purchase, such city or town
 25 may, by resolution, proceed to acquire by condemnation, as hereinafter
 26 provided, any one or more of such heating plants, waterworks, gas-
 27 works, electric light or electric power plants or incomplete parts
 28 thereof and when so acquired may apply the proceeds of the bonds
 29 voted or issued in payment therefor and in making extensions and
 30 improvements to such works or plants so acquired; but not more than
 31 one of such utilities shall be so acquired when any such city or town
 32 shall be indebted in excess of the statutory limitation of indebtedness
 33 for such purposes for any such acquired property.

[C., '73, § 474; C., '97, § 722; S., '13, § 722.]

**SEC. 3969. Court of condemnation — appointment — vacancies —
 procedure.**

1 Upon the passage of the resolution as provided under the pre-
 2 ceding section and presentation of a certified copy thereof to the su-
 3 preme court while in session, or to the chief justice of the supreme
 4 court, the said court or chief justice shall, within five days thereafter,
 5 appoint three district court judges from three judicial districts, of
 6 which one shall be from the district wherein such city or town is
 7 located, if he be not a resident of such city or town, as a court of
 8 condemnation, and shall enter an order requiring said judges to attend
 9 as such court of condemnation at the county seat in the county in
 10 which said city or town is located, within ten days thereafter, which
 11 judges shall so attend as ordered; and such court of condemnation
 12 at the time it meets to organize, as is provided in said order, or at
 13 any time during the proceeding, which may be adjourned from time
 14 to time for any purpose, may fix a time for the appearance of any
 15 person or persons which any party desires to have joined in the pro-
 16 ceedings and which the court deems necessary, which time for appear-
 17 ance shall be sufficiently remote to give notice upon such parties; but
 18 if such time of appearance shall occur after any proceedings are begun
 19 they shall be reviewed by the court as it may direct to give all parties
 20 full opportunity to be heard. All persons not appearing and having
 21 any right, title, or interest in or to the property which is the subject
 22 of condemnation or any part thereof and including all leaseholders
 23 and mortgagee trustees of bondholders which are to be made parties
 24 to the proceedings, shall be served with notice thereof, and the time

25 and place of meeting of said court in the same manner and for the
26 same length of time as the service of original notices, either by per-
27 sonal service or service by publication, the time so set being the time
28 at which the parties so served are required to appear, and actual per-
29 sonal service of the notice within or without the state shall supersede
30 the necessity of publication. These provisions shall also apply to
31 condemnation proceedings which are pending, but nothing herein shall
32 be held to invalidate any proceedings or notices served in any proceed-
33 ings under sections forty-nine hundred fifty-nine to fifty hundred
34 twelve, inclusive, which have been had or taken at the time of the
35 taking effect of this act [March 22, 1911]. Such court of condemna-
36 tion shall have the power to summon and swear witnesses, take evi-
37 dence, order the taking of depositions, and require the production of
38 any books and papers, as is provided in chapter ten, title twenty-nine
39 of the code, and a reporter may be appointed, as is provided for the
40 district court; and such court shall perform all the duties of com-
41 missioners in the condemnation of property and such duties and the
42 method of condemnation and procedure, including provisions for ap-
43 peal, shall, except as herein otherwise specially provided, be the same,
44 as nearly as may be, as is provided in chapter five, title fifteen, but
45 the clerk of the district court of the county where such city or town
46 is located shall perform all the duties required of the sheriff in said
47 chapter and, in case of a vacancy in said court of condemnation, such
48 vacancy shall be filled in the same manner in which the original ap-
49 pointment was made and the court may review any evidence of its
50 record made necessary by reason of such vacancy.

[S. S., '15, § 722-a.]

SEC. 3970. Costs—expenses of members.

1 The costs of said proceedings shall be the same and paid in the
2 same manner as in proceedings in the district court, and the said dis-
3 trict court judges of said court of condemnation shall receive, while
4 engaged in such service, their actual expenses, which expenses shall
5 be taxed as costs in the case.

[S., '13, § 722-b.]

SEC. 3971. Protection.

1 For the purpose of maintaining and protecting such works or
2 plants from injury, and protecting the water of such waterworks from
3 pollution, the jurisdiction of such city or town shall extend over the
4 territory occupied by such works, and all reservoirs, mains, filters,
5 streams, trenches, pipes, drains, poles, wires, burners, machinery,
6 apparatus and other requisites of said works or plants used in or
7 necessary for the construction, maintenance and operation of the same,
8 and over the stream or source from which the water is taken for five
9 miles above the point from which it is taken.

[C., '73, § 472; C., '97, § 723.]

SEC. 3972. Rates—taxes.

1 They shall have power, when operating such works or plants, and
2 shall have the power to sell the products of such municipal heating
3 plants, waterworks, gasworks or electric light or electric power plants,
4 to any municipality, individual or private corporations outside of the
5 city or town limits as well as to individuals or corporations within its

6 limits, and to erect in the public highway the necessary poles upon
 7 which to construct transmission lines, and to assess from time to time,
 8 in such manner as they shall deem equitable, upon each tenement or
 9 other place supplied with water, gas, heat, light or power, reasonable
 10 rents or rates fixed by ordinance, and to levy a tax, as hereafter pro-
 11 vided, to pay or aid in paying the expenses of running, operating,
 12 renewing, extending and repairing such works or plants owned and
 13 operated by such city or town, and the interest on any bonds issued
 14 to pay all or any part of the cost of their construction.

[C., '73, § 475; C., '97, § 724; S., '13, § 724.]

SEC. 3973. Regulation of rates and service.

1 They shall have power to require every individual or private cor-
 2 poration operating such works or plant, subject to reasonable rules
 3 and regulations, to furnish any person applying therefor, along the
 4 line of its pipes, mains, wires, or other conduits, with gas, heat, water,
 5 light or power, and to supply said city or town with water for fire
 6 protection, and with gas, heat, water, light or power for other neces-
 7 sary public purposes, and to regulate and fix the rent or rate for
 8 water, gas, heat, light or power; to regulate and fix the rents or rates
 9 of water, gas, heat and electric light or power; to regulate and fix the
 10 charges for water meters, gas meters, electric light or power meters,
 11 or other device or means necessary for determining the consumption
 12 of water, gas, heat, electric light or power, and these powers shall not
 13 be abridged by ordinance, resolution or contract.

[C., '73, §§ 473, 475; C., '97, § 725; S., '13, § 725.]

SEC. 3974. Petition—management by board of trustees.

1 The council of any city or town, other than cities of the first class
 2 but including cities of the first class under the commission form of
 3 government having a population of less than thirty-five thousand
 4 which owns or may hereafter acquire waterworks, heating plant, gas-
 5 works, or electric light or electric power plant, may, and upon petition
 6 of ten per cent of the qualified electors of such city or town shall, at
 7 any general election, or at a special election called for that purpose,
 8 submit the question as to whether the management and control of such
 9 waterworks, heating plant, gasworks, or electric light or electric
 10 power plant shall be placed in the hands of a board of trustees.

[38 G. A., ch. 85, § 1.]

SEC. 3975. Election.

1 Notice of such election shall be given by publication in one news-
 2 paper published in said city or town once each week, for not less than
 3 three consecutive weeks, and the election shall be held not less than
 4 seven, nor more than ten days after the completion of such publica-
 5 tion. If no newspaper is published in such city or town, notice may
 6 be given by posting notices for three weeks in five public places in
 7 such city or town. The question to be submitted shall be in the fol-
 8 lowing form:

9 "Shall the city (or town) of place the manage-
 10 ment and control of its waterworks (or heating plant, or gasworks,
 11 or electric light or electric power plant) in the hands of a board of
 12 trustees?"

[38 G. A., ch. 85, § 2.]

SEC. 3976. Mayor to appoint trustees—terms—compensation.

1 If a majority of the votes cast at such election are in favor of
 2 placing the management and control of any or all of the said utilities
 3 in the hands of trustees, the mayor of such city or town shall, within
 4 ten days after the election hereinbefore provided, appoint a board
 5 of three trustees which appointments shall be approved and confirmed
 6 by the city council. The first appointees thereto shall hold office for
 7 the following designated terms, namely, one for two years, one for
 8 four years, and one for six years, and their successors shall be ap-
 9 pointed for a term of six years. All vacancies occurring on said board,
 10 occasioned by expiration of terms, by death, resignation or removal,
 11 shall be filled by appointment of the mayor of such city, which ap-
 12 pointment shall be approved and confirmed by the city council. The
 13 compensation of said trustees shall be not more than one hundred
 14 dollars per year to each member of said board. Each of the said
 15 trustees shall execute and furnish to the city an official bond in the
 16 sum of twenty-five hundred dollars, to be approved by the mayor and
 17 filed with the city clerk. Such trustees may be removed from office
 18 for proper cause under the provisions of chapter twenty-one, title four.

[38 G. A., ch. 85, § 3.]

SEC. 3977. Powers of trustees.

1 The said board of trustees shall have all the power and authority
 2 in the management and control of the utilities mentioned in the ques-
 3 tion submitted to the voters at such election as is conferred upon
 4 waterworks trustees appointed as provided in section thirty-nine hun-
 5 dred eighty-seven.

[38 G. A., ch. 85, § 4.]

SEC. 3978. Compensation trustees in cities under commission plan.

1 In cities operating under the commission plan and having a popu-
 2 lation of less than thirty-five thousand the compensation of said trus-
 3 tees shall be not to exceed three hundred dollars per year to each
 4 member of said board.

[38 G. A., ch. 85, § 5.]

SEC. 3979. Water for military reservations—how furnished.

1 All individuals or private corporations to which any city in this
 2 state has granted authority to erect and maintain waterworks with
 3 all the necessary reservoirs, mains, filters, pipes and other appurte-
 4 nances in such city including the Des Moines waterworks company
 5 now owning and operating such a plant in the city of Des Moines,
 6 shall, whenever the United States has, or may hereafter establish a
 7 military reservation within a distance of five miles from either of the
 8 boundaries of such city, be authorized to use said waterworks plant
 9 in said city, and the mains now or hereafter laid in the highways of
 10 said city for the purpose of furnishing water to such military reser-
 11 vation, such authority to continue so long as under franchises now
 12 held or hereafter granted such individuals or corporations shall be
 13 authorized to maintain and operate such waterworks plant in such
 14 cities.

[S., '13, § 742-d.]

SEC. 3980. Mains in highways.

1 The board of supervisors of any county in which such military
 2 reservation is or may hereafter be located, shall have the power to
 3 authorize any such individual or corporation to lay its mains in any
 4 of the highways of the county for the purpose of extending the same
 5 to any such military reservation.

[S., '13, § 742-e.]

CHAPTER 28.
PURCHASE AND CONSTRUCTION OF WATERWORKS IN CITIES OF FIRST CLASS.**SECTION 3981. Tax—sinking fund.**

1 Cities of the first class shall have power to levy, in addition to
 2 the regular water tax authorized by law, a tax of two mills upon the
 3 dollar upon all the property within the corporate limits of said cities,
 4 excepting lots greater than ten acres in area, used for horticultural
 5 or agricultural purposes, for the purpose of creating a sinking fund,
 6 to be used as provided in this chapter for the purchase or erection of
 7 waterworks in such cities, or for the payment of any indebtedness
 8 incurred by such cities for waterworks now owned by the same. The
 9 proceeds of such two-mill levy shall be deposited in one or more sol-
 10 vent banks or trust companies of the city making such levy, at a rate
 11 of interest not less than three per cent per annum, compounded semi-
 12 annually, and payable, principal and interest, on demand, after sixty
 13 days' notice in writing. The city treasurer depositing the proceeds
 14 of such tax shall exact from the bank or trust company wherein such
 15 money is deposited a satisfactory bond, payable to the city, to be ap-
 16 proved by the treasurer and mayor of such city, and to be filed in the
 17 office of the city treasurer.

[C., '97, § 742; S., '13, § 742.]

SEC. 3982. Use of sinking fund.

1 In all cities of the first class, where a sinking fund has been ac-
 2 cumulated as provided in chapter twenty-eight, title thirteen, and
 3 in which waterworks have not been purchased under said chapter, such
 4 cities are hereby authorized to use and apply such sinking fund and
 5 all accumulations thereof upon the cost of waterworks purchased or
 6 erected under the provisions of sections thirty-nine hundred sixty-six
 7 to thirty-nine hundred seventy, inclusive.

[S., '13, § 742-a1.]

SEC. 3983. Diversion of fund.

1 Any member of the city council, or any officer of any city levying
 2 and collecting taxes under the provisions of this chapter, who shall
 3 in any manner participate in or advise the diversion of any part of
 4 said tax to any other purpose than that provided for in this chapter,
 5 shall be deemed guilty of the crime of embezzlement, and shall be
 6 punished accordingly.

[C., '97, § 743.]

SEC. 3984. Purchase or erection—indebtedness heretofore incurred.

1 Cities of the first class are hereby authorized to purchase or erect
2 waterworks, under the provisions of this chapter, for the purpose of
3 supplying said cities and the inhabitants thereof with water, and are
4 authorized to continue the levy of the two-mill tax herein provided
5 for until the purchase price, principal and interest, or the cost incurred
6 in the erection of said works, or the indebtedness heretofore incurred
7 for and on account of such works, is fully paid and discharged.

[C., '97, § 744; S., '13, § 744.]

SEC. 3985. Contracts—bonds—cities procuring or owning waterworks.

1 Cities levying such sinking fund tax are hereby authorized to let
2 a contract or contracts for the purchase or erection of waterworks, and,
3 upon the approval and adoption of such contract or contracts as here-
4 inafter provided, to apply such sinking fund upon the cost thereof, and
5 cities so purchasing or constructing and those now owning such water-
6 works are authorized to pledge the proceeds of the continuing two-
7 mill levy provided for in this chapter, and the regular water levy, and
8 the net revenues derived from the operation of the waterworks, and
9 shall have the right to mortgage or bond such works, to secure the pay-
10 ment of the purchase price or the cost of constructing such water-
11 works, or the cost of making necessary extensions and improvements
12 of such waterworks, and such cities shall have the right to execute ad-
13 ditional mortgage or mortgages or bonds upon such works for the pur-
14 poses above set forth. Provided that said additional mortgage or
15 mortgages or bonds shall bear not more than six per cent interest per
16 annum; but no part of the general fund of such city shall be applied
17 upon such contracts, bonds or mortgage. In the payment thereof, the
18 city and holders of said contracts, bonds or mortgages shall be re-
19 stricted to the proceeds of the said taxes and the net revenues of the
20 said waterworks, as hereinbefore provided; and such contract, con-
21 tracts or bonds shall not bear a higher rate of interest than five per
22 cent per annum, payable semiannually. Cities of the first class which
23 have adopted or may adopt an ordinance availing themselves of the
24 privileges conferred herein, shall in addition thereto have and possess
25 the following powers:

26 A—In addition to mortgage on the water plant to secure the bonds
27 hereinbefore authorized, the said city may, in addition to the security
28 of said mortgage and as a part thereof, grant a franchise to maintain
29 and operate said plant on foreclosure sale under said mortgage, said
30 franchise to become effective only on the passing of title under the said
31 foreclosure sale and to continue for a period of not exceeding twenty-
32 five years thereafter; providing that the granting of such franchise
33 shall be approved by a majority of the electors of said city, voting at
34 an election thereon, which election shall be held as provided in the fol-
35 lowing section.

36 B—They shall have power to issue the general bonds of the city
37 creating an indebtedness of said city to an amount which, with its
38 other existing indebtedness, shall not exceed five per cent of the actual
39 value of the taxable property of said city, as shown by the last pre-
40 ceeding assessment, the said bonds or proceeds of sale thereof to be
41 used in the purchase or construction of a water plant, as herein pro-
42 vided; provided, however, that such bonds can be issued by order of

43 the city council of said city only after a contract for the purchase or
 44 construction of a water plant and providing for the issuance of such
 45 bonds has been approved by the majority of the electors of said city
 46 voting at an election thereon to be held in accordance with the provi-
 47 sions of the following section. Neither the said bonds nor the proceeds
 48 thereof shall be diverted to another purpose than as herein provided.
 49 Said cities may purchase or contract a water plant and pay for the
 50 same partly out of the water bonds and partly out of the general bonds
 51 herein provided, or wholly out of either class of bonds or proceeds
 52 thereof, as such city may determine. The general bonds of the city
 53 herein provided shall bear interest at not exceeding five per cent per
 54 annum, payable semiannually, and shall be payable not more than
 55 twenty years after date and in the general form of bonds provided by
 56 section thirty-two hundred sixty-one, with such changes as may be nec-
 57 essary to conform the same to this statute and the ordinances or con-
 58 tract of the city under which they are issued.

[C., '97, § 745; S., '13, § 745.]

**SEC. 3986. Question submitted—powers of council after affirm-
 ative vote—preliminary work.**

1 Said contract or contracts shall not be binding upon said city until
 2 the same shall have been approved by the city council at a regular meet-
 3 ing, or a special meeting called for such purpose, and shall have been
 4 adopted by a majority of the electors of said city voting at a city or
 5 special election, which shall have been duly called after thirty days'
 6 notice by said city. The proposition to be submitted at said election,
 7 and the form of ballot, shall be: "Shall the contract or contracts ap-
 8 proved by the city council in relation to the waterworks be adopted?"
 9 The proposition shall be printed and placed on the ballots, and the voter
 10 shall designate his choice, and the election shall be conducted, in the
 11 manner provided in the title on elections. When a majority of the
 12 electors of said city at any election shall have declared in favor of the
 13 purchase or erection of any waterworks, or shall have authorized the
 14 incurring of indebtedness or issuance of bonds for waterworks, the
 15 city council may provide by contract or otherwise without submission
 16 of same to the electors, for surveys, examinations, appraisements, esti-
 17 mates, plans, specifications, advertisements for bids and all other nec-
 18 essary work, preliminary to the making of such contract or contracts
 19 for purchase or erection of waterworks, and pay for the same and the
 20 expense of said election out of said sinking fund.

[C., '97, § 746; S., '13, § 746.]

**SEC. 3987. Trustees—appointment—term—vacancies—compensa-
 tion—bond—removal.**

1 The waterworks owned, purchased or erected by such cities shall
 2 be managed and operated by a board of waterworks trustees, which
 3 shall be composed of three resident electors, appointed for the term
 4 of six years by the mayor of said city. Upon the approval of the con-
 5 tract for the purchase or erection of waterworks by cities as herein
 6 provided, the mayor thereof shall, within ten days thereafter, appoint
 7 such board of waterworks trustees, the first appointees thereto to hold
 8 office for the following designated terms, namely, one for two years,
 9 one for four years, and one for six years. All vacancies occurring on
 10 said board, occasioned by expiration of term, by death, resignation or

11 removal, shall be filed by appointment of the mayor of such city. The
 12 compensation of said trustees shall be three hundred dollars per year
 13 to each member of said board. Each of the said trustees shall execute
 14 and furnish to the city an official bond in the sum of five thousand dol-
 15 lars, to be approved by the mayor and filed with the city clerk. Such
 16 trustees may be removed from office for proper cause under the pro-
 17 visions of chapter twenty-one, title four.

[C., '97, § 747; S., '13, § 747-a.]

SEC. 3988. Applicable to first-class cities.

1 All the provisions of the preceding section shall be held and con-
 2 .strued as applying to cities of the first class.

[S., '13, § 747-b.]

SEC. 3989. Powers—waterworks fund—how disbursed.

1 The said board of trustees shall have the power to carry into
 2 execution the contract or contracts for the purchase or erection of
 3 such waterworks, and to employ a superintendent and such other em-
 4 ployees as may be necessary and proper for the operation of such
 5 works, for the collection of water rentals, and for the conduct of the
 6 business incident to the operation thereof. The said board of trustees
 7 shall require of the superintendent, and of the other employees as they
 8 may deem proper, good and sufficient bonds, the amount thereof to be
 9 fixed and approved by said board, for the faithful performance of their
 10 duty, such bonds to run in the name of the city and to be filed with the
 11 city treasurer and kept in his office. All money collected by the board
 12 of waterworks trustees shall be deposited at least weekly by them,
 13 with the city treasurer; and all money so deposited and all tax money
 14 received by the city treasurer from any source, levied and collected for
 15 and on account of the waterworks, shall be kept by the city treasurer
 16 as a separate and distinct fund. The city treasurer shall be liable on
 17 his official bond for such funds the same as for other funds received
 18 by him as such treasurer. Such moneys shall be paid out by the city
 19 treasurer only on the written order of the board of waterworks trust-
 20 tees, who shall have full and absolute control of the application and dis-
 21 bursement thereof for the purposes prescribed by law, including the
 22 payment of all indebtedness arising in the construction of such works,
 23 and the maintenance, operation, and extension thereof.

[C., '97, § 748; S., '13, § 748.]

SEC. 3990. Fixing rates.

1 The said board of waterworks trustees shall from time to time fix
 2 the water rentals or rates to be charged for the furnishing of water,
 3 and such rates shall be sufficient, together with the proceeds of the five-
 4 mill water levy and the sinking fund levy of two mills, for the main-
 5 tenance and operation of such works, the proper and necessary exten-
 6 sion thereof, for all repairs, and for the payment of the purchase
 7 money or cost, principal and interest, incurred in the purchase or erec-
 8 tion of such works, as the same falls due, according to the tenor of the
 9 mortgage and bonds given to secure the payment of such purchase price
 10 or cost. The said board of waterworks trustees shall make out and
 11 file in the office of the city clerk quarterly statements, giving full and
 12 complete reports of the receipts and disbursements handled and dis-
 13 bursed by them in the administration of their trust; such reports to

14 be filed on the second Monday of January, April, July and October for
 15 the quarters preceding the first days of said months. Such reports
 16 shall be audited by the board of public works of such city. In the event,
 17 however, that said city may not have a board of public works, such
 18 reports shall be audited by the city council.

[C., '97, § 749.]

SEC. 3991. Authority to loan—service to military reservation—conditions.

1 Wherever any corporation engaged in maintaining and operating
 2 a waterworks plant within any city of this state where the United
 3 States has or may hereafter establish a military reservation within
 4 a distance of five miles from the boundaries of said city and such
 5 city has under the provisions of sections thirty-nine hundred eighty-
 6 one to thirty-nine hundred ninety, inclusive, levied taxes for the
 7 purpose of creating a sinking fund to be used for the purchase or
 8 erection of waterworks therein, such city shall be authorized to loan
 9 a portion not however to exceed fifty thousand dollars of the proceeds
 10 of the taxes so levied to such corporation so maintaining and operat-
 11 ing such waterworks plant, with interest at a rate not less than two
 12 per cent per annum, for a period of not more than ten years from
 13 the date of the passage of this act [29 G. A., ch. 38], upon such terms
 14 as the city council of such city may approve; provided, however, that
 15 such corporation shall apply the proceeds of every such loan to the
 16 laying of a main with the necessary attachments and usual branches
 17 to hydrants from its pumping station or other connection with its
 18 mains to the said military reservation and to make the changes in its
 19 plant which may be required to furnish the service demanded by the
 20 United States at such reservation.

[S., '13, § 742-b.]

SEC. 3992. Reversion of funds loaned.

1 When the funds that have been loaned as provided in the preced-
 2 ing section, and the interest thereon, are repaid to the city to which
 3 they belong, said funds together with all interest derived therefrom
 4 shall immediately revert to the fund for which the said taxes were
 5 levied and thereafter be used for no other purpose than as authorized
 6 by sections thirty-nine hundred eighty-one to thirty-nine hundred
 7 ninety, inclusive.

[S., '13, § 742-c.]

SEC. 3993. Additional powers.

1 The powers conferred by this chapter are in addition to the pow-
 2 ers elsewhere granted in this code in respect to waterworks.

[C., '97, § 750.]

CHAPTER 29.

PURCHASE OF WATERWORKS BY CITIES OF ONE HUNDRED THOUSAND OR OVER.

SECTION 3994. Waterworks—powers of cities with one hundred thousand population—elections.

1 All cities now or hereafter having a population of one hundred
 2 thousand inhabitants or over, including cities acting under the com-
 3 mission plan of government, shall have the power to own, construct,
 4 erect, establish, acquire, purchase, maintain and operate a water-
 5 works within their corporate limits, and extensions thereto for not
 6 more than ten miles beyond such limits, with all of the necessary ap-
 7 purtenances, real estate, buildings, galleries, mains, pipes, power
 8 plants, or systems, and lease as lessor or sell the same or any part
 9 thereof, and such city shall also have power to acquire, own and sell
 10 the negotiable bonds or other evidences of indebtedness of such
 11 waterworks; provided, however, no such waterworks shall be con-
 12 structed or purchased, nor when once acquired be leased or sold until
 13 the construction, purchase, leasing or selling of such waterworks shall
 14 have been approved by a majority of the legal voters of such city vot-
 15 ing thereon at a general election, city election, or at a special election
 16 called for that purpose, and in no event shall such waterworks when
 17 once acquired be leased by such city, as lessor, for a period longer
 18 than twenty-five years.

[38 G. A., ch. 288, § 1.]

SEC. 3995. Purchase—condemnation.

1 In the exercise of any of the powers herein granted any such city
 2 is given the power to acquire, take and hold any or all necessary prop-
 3 erty of the character specified in the preceding section, including ex-
 4 isting franchises or contracts, either by purchase or condemnation
 5 proceedings in accordance with the provisions of chapter thirty-one
 6 of this title, except that in such condemnation proceedings the value
 7 of the property shall be determined as provided in sections thirty-nine
 8 hundred sixty-eight to thirty-nine hundred seventy, inclusive.

[38 G. A., ch. 288, § 2.]

SEC. 3996. Bond—tax levy—limitation of indebtedness.

1 For the purpose of acquiring such waterworks either by pur-
 2 chase, condemnation or construction, and from time to time making
 3 permanent extensions thereof, additions to and betterments of the
 4 same and of the power plants and equipment, including the acquisi-
 5 tion of additional real estate, any such city may borrow money and
 6 may issue its negotiable bonds therefor. It shall have the power to
 7 levy upon all the taxable property within the corporate limits of said
 8 city for said purposes in addition to all other taxes now provided by
 9 law a special tax not exceeding in any one year five mills on the dol-
 10 lar, for a period of years not exceeding fifty, and such cities may for
 11 the purpose of purchasing, erecting, maintaining and operating wa-
 12 terworks incur an indebtedness not exceeding in the aggregate added
 13 to all other indebtedness five per centum of the actual value of the
 14 taxable property within such city. The amount of such taxable prop-

15 erty to be ascertained by the last state and county tax lists previous
16 to the incurring of such indebtedness.

[38 G. A., ch. 288, § 3.]

SEC. 3997. Anticipation of tax—trust.

1 Any such city desiring to own, construct, erect, acquire, pur-
2 chase, establish and maintain such waterworks may issue bonds in
3 anticipation of the special tax authorized in the preceding section.
4 Such bonds shall be known as public service bonds, and said bonds
5 and interest thereon shall be secured by said assessment and levy and
6 (unless otherwise paid out of the surplus income derived from the
7 operation of the waterworks) shall be payable only out of the pro-
8 ceeds thereof pledged to the payment of the same, and shall be issued
9 and sold in accordance with the provisions of chapter thirty-four,
10 title thirteen, except as herein otherwise provided. In issuing such
11 bonds, the city council may cause portions of the same to become due
12 at different definite periods, but none of such bonds so issued shall be
13 payable more than fifty years from their date. It shall be the duty
14 of the city treasurer to collect and receive said tax and to hold the
15 same separate and apart in trust for the payment of said bonds and
16 interest, and to apply the proceeds of said tax pledged for that purpose
17 to the payment of said bonds and interest. Said bonds shall be is-
18 sued in sums of not less than one hundred dollars nor more than one
19 thousand dollars, each running not more than fifty years, and bear-
20 ing interest not exceeding five per cent per annum, payable semi-
21 annually.

[38 G. A., ch. 288, § 4.]

SEC. 3998. Certificates—how paid—ordinance.

1 Every such city may issue interest bearing public service certifi-
2 cates to provide for the acquisition, extension or improvement of any
3 waterworks property or equipment. Such certificates shall in no case
4 become an obligation of the city or be payable out of any general fund,
5 but shall be payable solely out of a sinking fund representing a specific
6 portion of the income derived from the waterworks on account of
7 which they were issued, and such certificates may be issued as afore-
8 said to an amount ten per cent in excess of the cost of any such ex-
9 tensions, improvements, waterworks property, or equipment, on ac-
10 count of which such certificates are issued. No ordinance providing
11 for the issuance of such certificates shall be effective until there be
12 filed with the city clerk, prior to the adoption of such ordinance, the
13 recommendation of the waterworks trustees for the issuance of such
14 certificates.

[38 G. A., ch. 288, § 5.]

SEC. 3999. Sinking fund.

1 Every such city shall have the additional power to provide, by
2 ordinance, for a sinking fund to be derived from the earnings of any
3 waterworks acquired by it pursuant to the terms of any ordinance,
4 contract, or other regulation.

[38 G. A., ch. 288, § 6.]

SEC. 4000. Trustees—appointment—number—term—who eligible to appointment—removal.

1 Whenever any such city becomes the owner of a waterworks it
 2 shall be the duty of the city council, unless the same has already been
 3 done by prior action of the council, to forthwith by ordinance on the
 4 nomination of the mayor, elect and appoint a board of waterworks
 5 trustees for such waterworks consisting of five resident voters who
 6 shall hold office: one until the first Monday in April of the second year
 7 after his appointment; two until the first Monday in April of the
 8 fourth year after their appointment; and, two until the first Monday
 9 in April of the sixth year after their appointment; provided such
 10 waterworks has not been sooner leased or sold as provided in section
 11 thirty-nine hundred ninety-four, in which event the term of office of
 12 each of the members of said board shall be held to have expired. In
 13 case said property is neither leased nor sold, then each succeeding
 14 council shall as soon as practicable after organizing appoint a member
 15 or members of the board, as the case may be, for a term of six years,
 16 who shall take the place of the members of the board whose term of
 17 office expires. The chairman of said board shall be selected and named
 18 by a majority vote of the members thereof, and for such term as the
 19 board may determine. No person shall be eligible for appointment
 20 on the board while he holds or is a candidate for, or has within one
 21 year held any other salaried federal, state, county or city office, or
 22 salaried federal or municipal position. This shall not apply to any
 23 officer or soldier in the United States army, or to any officer or sailor
 24 of the United States navy. Three of said members shall constitute a
 25 quorum to transact business. The council may, after a hearing and
 26 upon ten days' written notice, remove any of the members of said
 27 board during their term of office for cause by a vote of four members
 28 of the council in favor of such removal, and shall fill any vacancy
 29 that may occur in such board for the unexpired term, and each mem-
 30 ber thereof shall receive such salary as the council may determine.

[38 G. A., ch. 288, § 7.]

SEC. 4001. Members to qualify—bond.

1 Each member of the board of waterworks trustees shall qualify
 2 by taking the oath as provided by section six hundred nine. An offi-
 3 cial bond in the sum of five thousand dollars shall be required of each
 4 member of said board before he enters upon the duties of his office,
 5 conditioned as provided by law, signed by sureties to be approved by
 6 the council, and when so approved said bond shall be filed in the office
 7 of the city clerk. No member of said board shall be eligible to any
 8 lucrative office in the city or state during his term of service.

[38 G. A., ch. 288, § 8.]

SEC. 4002. Duties of trustees.

1 The board of waterworks trustees shall have supervision over
 2 and be responsible to the city council for all details of administration
 3 and operation of said waterworks, the board to determine all ques-
 4 tions of engineering, mechanical and operating details, and report to
 5 the council, at such stated periods as the council may determine, all
 6 information necessary for its guidance in deciding questions of pub-
 7 lic policy pertaining to the service.

[38 G. A., ch. 288, § 9.]

SEC. 4003. Rules—records—accounts—financial statement.

1 The board shall immediately after its organization make and
 2 prescribe all the necessary rules for the government of the water-
 3 works, and prescribe the form of records and the kind of accounts to
 4 be made and kept in the operation of such waterworks. It shall in-
 5 stitute and require the keeping of a uniform and perfected system of
 6 accounts and requisitions showing the purchase, storing and use of
 7 materials for operation, construction and other purposes. Said ac-
 8 counts shall be kept distinct and separate from other city accounts,
 9 and in such manner as to show the true and complete financial results
 10 of the operation of said waterworks. The board shall at least twice
 11 a year cause to be prepared and printed for public distribution a full
 12 and complete financial report. The account of such waterworks shall
 13 be examined at least once a year by an expert accountant selected by
 14 the city council.

[38 G. A., ch. 288, § 10.]

SEC. 4004. Rates.

1 The board of waterworks trustees in all such cities owning and
 2 operating a waterworks under this chapter shall determine the rates
 3 to be charged for water. Such rates shall be fixed so as to produce
 4 sufficient amount to cover:

- 5 1. Interest on the entire investment at the rate paid by the city
- 6 on its waterworks bonded debt.
- 7 2. The cost of insurance against loss by accidents of all kinds.
- 8 3. The cost of impairment of investment by reason of depreci-
- 9 ation.
- 10 4. The cost of all material used.
- 11 5. The cost of all operating expenses, including salaries and
- 12 wages paid.
- 13 6. All other expenses.
- 14 7. A sufficient annual provision for a sinking fund to fully pay at
- 15 maturity all bonds and certificates which by their terms are payable
- 16 out of the special tax provided for in section thirty-nine hundred
- 17 ninety-four, or out of the earnings of the property purchased under
- 18 the powers herein granted.

[38 G. A., ch. 288, § 11.]

SEC. 4005. Mortgage—restriction—rate of interest.

1 In addition to all the powers hereinbefore granted such cities
 2 shall have the right to mortgage or bond such waterworks and pledge
 3 the net revenues thereof to secure the payment of the purchase price,
 4 and the extension and improvement thereof, but no part of the general
 5 fund of such cities shall be applied upon such contracts, bonds or mort-
 6 gages. In the payment of the securities authorized to be issued by
 7 this section the city and holders thereof, shall be restricted to the
 8 property mortgaged and the net revenues thereof, and such contract
 9 or bonds and all other bonds or certificates issued under this chapter
 10 shall not bear a higher rate of interest than five per cent per annum
 11 payable semiannually.

[38 G. A., ch. 288, § 12.]

SEC. 4006. Free water service or discriminatory rates—punishment.

1 It shall be unlawful for the board or any person to give or receive
 2 free water service, or to give or receive water service at a more favor-
 3 able rate than that accorded to the general public. Any person or
 4 persons violating, either directly or indirectly, the provisions of this
 5 section shall upon conviction be punished by a fine of not less than
 6 three hundred dollars or sixty days in jail for each and every offense.

[38 G. A., ch. 288, § 13.]

SEC. 4007. Extension of mains—guarantees by property owners.

1 The board of waterworks trustees shall establish such rules re-
 2 garding the extension of mains as in its belief will inure to the great-
 3 est benefit of the city, and shall avoid granting special favors in the
 4 extension of mains by requiring property owners when necessary to
 5 make certain guarantees or to pay certain sums to cover the cost of
 6 unprofitable extensions. The power to lease the waterworks or any
 7 part thereof shall be exercised by the city council only upon approval
 8 of the board of waterworks trustees.

[38 G. A., ch. 288, § 14.]

SEC. 4008. Political activity forbidden—misdemeanor.

1 Any member of said board of waterworks trustees or any em-
 2 ployee of such city who is employed in any of the departments of said
 3 waterworks who by solicitation or otherwise, shall exert his influ-
 4 ence, directly or indirectly, to influence other officers or employees of
 5 such city to adopt his political views or to favor any particular per-
 6 son or candidate for office, or who shall in any manner contribute
 7 money, time, labor, or other valuable thing to any person for election
 8 purposes, and any member of the city council who shall, by sollicita-
 9 tion or otherwise, exert his influence directly or indirectly to influ-
 10 ence said board or any member thereof, in the hiring or discharging
 11 of any employee or employees of said waterworks shall be guilty of a
 12 misdemeanor and upon conviction shall be punished by a fine not ex-
 13 ceeding one thousand dollars, or by imprisonment in the county jail
 14 not exceeding six months.

[38 G. A., ch. 288, § 15.]

SEC. 4009. Diversion of funds.

1 Any member of the board of waterworks trustees or any member
 2 of the city council, or any other person who shall while there are out-
 3 standing obligations against such waterworks, divert or attempt to
 4 divert any of the income derived from the operation of the said wa-
 5 terworks by the city for any purpose than that of maintaining, im-
 6 proving, extending or paying the obligations of said waterworks, shall
 7 be held to be guilty of embezzlement and punished accordingly.

[38 G. A., ch. 288, § 16.]

SEC. 4010. Additional powers.

1 Nothing herein shall be held to repeal sections thirty-nine hun-
 2 dred seventy-two and thirty-nine hundred seventy-three, said sections,
 3 however, so far as the rate making power is concerned, shall not apply
 4 to the operation of waterworks constructed or purchased under the

5 provisions of this chapter. In all other respects this chapter shall be
 6 construed as granting additional power without limiting the power
 7 already existing in cities of the first class with a population of one
 8 hundred thousand or over.

[38 G. A., ch. 288, § 18.]

CHAPTER 30.

STREET RAILWAY REGULATIONS.

SECTION 4011. Railway tracks—street railways.

1 Cities and towns shall have the power to authorize or forbid the
 2 construction of street railways within their limits and may define the
 3 motive power by which the cars thereon shall be propelled; and to
 4 authorize or forbid the location and laying down of tracks for rail-
 5 ways and street railways on all streets, alleys and public places; but
 6 no railway track can thus be located and laid down until after the in-
 7 jury to property abutting upon the street, alley or public place upon
 8 which such railway track is proposed to be located and laid down has
 9 been ascertained and compensated for in the manner provided with
 10 reference to taking private property for works of internal improve-
 11 ment.

[R., '60, § 1064; C., '73, § 464; C., '97, § 767.]

SEC. 4012. Street car vestibules.

1 Every person, partnership, company or corporation owning or
 2 operating a street railway in this state shall, from November first of
 3 each year to April first following, provide all cars, except trailers,
 4 used for the transportation of passengers, with vestibules inclosing
 5 the front platform on all sides, for the protection of employees operat-
 6 ing such cars. Any violation of this section shall be punished by a
 7 fine of not less than fifty dollars nor more than one hundred dollars
 8 for each day said cars are operated in violation hereof.

[C., '97, § 768; S., '13, § 768.]

SEC. 4013. Transparent shields.

1 Every person, partnership or corporation owning or operating
 2 street railways in this state shall provide and maintain upon all motor
 3 cars, except trailers, used for the transportation of passengers, not
 4 now by law required to carry an inclosed vestibule, a transparent
 5 shield extending the full width of each car and constructed in such
 6 manner as will afford protection to the motorman and passengers on
 7 the platform of such motor car from inclement weather.

[S., '13, § 768-a.]

SEC. 4014. Penalty.

1 Failure to comply with the terms of the preceding section shall
 2 be deemed a misdemeanor, and shall be punished by a fine of not less
 3 than twenty-five dollars, and each day during which any car shall be
 4 operated in violation of said section shall constitute a separate offense.

[S., '13, § 768-b.]

SEC. 4015. Power brakes—sanding equipment.

1 Every person, partnership, company or corporation, owning or
2 operating a street railway in this state shall equip every double truck
3 passenger car of thirty-seven feet and more in length over all, or
4 weighing thirty-five thousand pounds or more, purchased, built or
5 rebuilt hereafter, with power brakes other than hand, capable of
6 bringing such car to a stop within a reasonable distance, together
7 with equipment for sanding the rails of any street railway, which
8 brake and sand equipment shall be controlled and operated by the
9 motorman on said car.

[S., '13, § 768-c.]

SEC. 4016. Penalty.

1 Any violation of the preceding section shall be punished by a fine
2 of not less than fifty dollars nor more than one hundred dollars for
3 each day every such car is operated in violation thereof.

[S., '13, § 768-d.]

SEC. 4017. Power brakes—sanding equipment—when effective.

1 Every person, partnership, company or corporation owning or
2 operating a street railway in this state shall equip all of its double
3 truck passenger cars with power brakes other than hand, capable of
4 bringing such cars to a stop within a reasonable distance, together
5 with equipment for sanding the rails, which brake and sand equip-
6 ment shall be so constructed as to be operated by the motorman on the
7 car operated by him.

[S., '13, § 768-e.]

SEC. 4018. Single truck cars.

1 All single truck passenger cars over thirty-two feet in length
2 hereafter installed in service upon street railways shall be equipped
3 and operated with the appliances provided for double truck cars in
4 the preceding section.

[S., '13, § 768-f.]

SEC. 4019. Penalty.

1 Any person failing to comply with the terms of the two preced-
2 ing sections shall be deemed guilty of a misdemeanor and upon con-
3 viction thereof, shall be punished by a fine of not more than twenty-
4 five dollars and each day's operation of any car in violation of the
5 terms thereof shall constitute a separate offense.

[S., '13, § 768-g.]

SEC. 4020. Vestibules—heating—equipment.

1 Every person, partnership, company or corporation, owning or
2 operating a street railway in this state, shall, from November first
3 of each year to April first following, provide all motor cars used for
4 the transportation of passengers, with vestibules inclosing the front
5 and rear platforms on all sides for the protection of employees op-
6 erating such cars, when in the performance of their duties, the em-
7 ployees are required to remain on said vestibules, the major portion
8 of their time. Said vestibules shall be heated and each vestibule shall

9 contain a seat for the use of the motormen and conductor, respectively,
10 under reasonable rules and regulations.

[S. S., '15, § 768-h.]

SEC. 4021. Toilets.

1 Every person, partnership, company or corporation owning or
2 operating a street railway in this state shall provide and maintain
3 toilet facilities for the use of the employees at some suitable location
4 upon each line, or run, and the running schedule of said cars, or the
5 operating rules, shall be such as will permit said employee to use said
6 toilet facilities.

[S. S., '15, § 768-i.]

SEC. 4022. Penalties.

1 Every person, partnership, company or corporation, owning or
2 operating a street railway in this state who shall fail or refuse to
3 comply with any of the provisions of the two preceding sections shall
4 be deemed guilty of a misdemeanor, and upon conviction shall be
5 punished by a fine of not less than twenty-five dollars nor more than
6 one hundred dollars for each offense. Each day's failure to comply
7 with any of the provisions of said sections shall be deemed a separate
8 offense.

[S. S., '15, § 768-j.]

CHAPTER 31.

CONDEMNATION AND PURCHASE OF LANDS.

SECTION 4023. For what purposes.

1 Cities and towns shall have power to purchase or provide for the
2 condemnation of, pay for out of the general fund, enter upon and
3 take any lands, within or without the territorial limits of such city or
4 town, for the following purposes:

5 1. For parks, commons, cemeteries, crematories or hospital
6 grounds.

7 2. For establishing, laying off, widening, straightening, narrow-
8 ing, extending and lighting streets, avenues, highways, alleys, wharves,
9 landing places, public squares, public grounds, public markets and
10 market places, and public slaughterhouses.

11 3. For any other purposes provided in this title, and in all cases
12 where such purchase or condemnation is now or may hereafter be
13 authorized.

14 4. Such cities and towns may levy a tax not exceeding in any one
15 year one mill on the dollar of the assessed valuation of the property
16 within the corporate limits thereof, such levy to be used for no other
17 purpose than the payment for the land acquired for cemetery purposes
18 and interest accruing on the purchase or condemnation price thereof.

[R., '60, § 1064; C., '73, §§ 464, 470; C., '97, § 880; S. S.,
'15, § 880.]

SEC. 4024. Sewer outlets—disposal plants.

1 Cities and towns including cities acting under commission form
2 of government shall have the power to acquire real estate and ease-

3 ments therein, within or without their territorial limits, necessary for
 4 the control of streams and surface waters flowing into sewers within
 5 such towns and cities, or necessary for sewer outlets, garbage dis-
 6 posal plants, sewage disposal plants, and dump grounds, by purchase
 7 or condemnation, as in this chapter provided, and the expense of such
 8 acquisition of real estate or easements therein, for the control of
 9 streams and surface waters flowing into sewers, for sewer outlets,
 10 garbage disposal plants, sewage disposal plants, and dump grounds,
 11 shall, in the case of garbage disposal plants and dump grounds, be paid
 12 out of the general fund, and in the case of the control of streams and
 13 surface waters flowing into sewers, sewer outlets and sewage dis-
 14 posal plants, out of the general fund, or out of the city sewer fund,
 15 or out of the sewer fund of the sewer district which is to be served
 16 by such acquisition of land or easement.

[C., '97, § 881; S. S., '15, § 881.]

SEC. 4025. Purchase at execution sale.

1 They shall have power to acquire real estate, or an interest
 2 therein, as a purchaser at an execution sale, when judgment is en-
 3 tered in favor of such city or town, or it is otherwise interested in
 4 the proceeding.

[C., '97, § 882.]

SEC. 4026. Disposal of lands acquired.

1 They shall have power to dispose of and convey lands unsuitable
 2 or insufficient for the purpose of which they were originally acquired,
 3 but when such lands are so disposed of enough thereof shall be re-
 4 served for streets to accommodate adjoining property owners. Con-
 5 veyances executed in accordance with this section shall extinguish all
 6 the rights and claims of the city or town existing prior thereto. They
 7 shall have power also to dispose of the title or interest of such cor-
 8 poration in any real estate, or any lien thereon, or sheriff's certificate
 9 therefor, owned or held by it, including any street or portion thereof
 10 vacated or discontinued, however acquired or held, in such manner and
 11 upon such terms as the council shall direct.

[C., '73, § 470; C., '97, § 883.]

SEC. 4027. Proceedings for condemnation.

1 Proceedings for condemnation of land as contemplated in this
 2 title shall be in accordance with the provisions relating to taking
 3 private property for works of internal improvement, except that the
 4 jurors shall have the additional qualification of being freeholders of
 5 the city or town.

[R., '60, §§ 1065, 1066; C., '73, §§ 469, 476, 477; C., '97,
 § 884.]

SEC. 4028. Donation of sites for depots.

1 They shall have power to acquire by purchase or condemnation
 2 for the purpose of donating and to donate to any railway company
 3 owning a line of railroad in operation or in process of construction
 4 in such city or town sufficient land for depot grounds, engine houses
 5 and machine shops for the construction and repair of engines, cars

6 and other machinery necessary to the convenient use and operation
7 of said railroad.

[C., '97, § 885.]

SEC. 4029. Submission of question.

1 Such donation or appropriation of funds to procure lands there-
2 for can only be made upon a petition to the council, signed by a major-
3 ity of the resident freehold taxpayers of the city or town, asking the
4 same and fixing the sum which shall be thus appropriated. Upon the
5 presentation of the petition, the council shall call a special election,
6 at which the question of the proposed donation shall be submitted to
7 the voters. The clerk shall prepare the ballots and the election shall
8 be held in the manner provided for in the title on elections. If there
9 shall be a two-thirds majority in favor of the donation, the council
10 shall determine the lands to be donated by metes and bounds, the
11 amount to be appropriated for procuring the same, not exceeding the
12 sum named in the petition, and in the name of the city or town may
13 acquire the same by purchase, or by the payment of the estimated
14 damages in case the same or any part thereof shall be taken in the
15 name of the railway corporation under condemnation proceedings as
16 authorized by law; and the council may also vacate and convey all
17 streets and alleys within the boundaries of such site, and prescribe
18 the terms and conditions upon which the grant is made, which shall
19 be binding upon the company accepting it; but land set apart as a
20 public park, square or levee shall not be thus donated, nor shall lands
21 occupied with buildings used for business purposes or private resi-
22 dences be appropriated under the provisions of this section, without
23 the consent of the owner or owners first obtained.

[C., '97, § 886.]

CHAPTER 32.

TAXATION.

SECTION 4030. General fund.

1 The council of each city or town shall levy a tax for the year then
2 ensuing, for the purpose of defraying its general and incidental ex-
3 penses, which shall not exceed ten mills on the dollar.

[R., '60, § 1124; C., '73, § 496; C., '97, § 887.]

SEC. 4031. Road dragging fund.

1 City and town councils, in cities having a population of less than
2 eight thousand, and towns, may, at the time of levying taxes for other
3 purposes, levy a tax of not more than one mill on the dollar of the
4 taxable value of such city or town, which shall be used for dragging
5 the roads or streets of such city or town, and for no other purpose.

[S. S., '15, § 887-a.]

SEC. 4032. City bridge fund.

1 Cities of the first class may annually levy a tax not exceeding
2 three mills on the dollar, to be known as a city bridge fund; provided,
3 however, that any city of the first class, or any city acting under the

4 commission plan of government, and having a population of more
5 than thirty-five thousand, and whose corporate limits are divided by
6 a meandered stream, may annually levy a tax of an additional one
7 mill for such city bridge fund.

[R., '60, § 710; C., '73, § 796; C., '97, § 888; 37 G. A., ch.
43, § 1.]

SEC. 4033. Taxing dogs and other animals.

1 The council of any city or town shall have power to levy and col-
2 lect a tax on dogs and other domestic animals not included in the list
3 of taxable property for state and county purposes.

[R., '60, § 1128; C., '73, § 499; C., '97, § 889.]

SEC. 4034. Road taxes on agricultural land.

1 All property subject to taxation in any city or town which by
2 law is not subject to taxation for general municipal purposes, and
3 all personal property necessary for the use and cultivation of agricul-
4 tural or horticultural lands, shall nevertheless be liable to taxation
5 for road purposes, as may be provided by the council, not exceeding
6 the rate of five mills upon the dollar of the assessed valuation thereof,
7 but it shall not be liable for any other city tax.

[C., '97, § 890.]

SEC. 4035. Labor on highways.

1 Any city or town shall have power to provide that all able-bodied
2 male residents of the corporation between the ages of twenty-one and
3 forty-five years, between the first day of January and the first day
4 of November of each year, either by themselves or satisfactory sub-
5 stitute, shall perform two days' labor of eight hours each upon the
6 streets, avenues, alleys, highways or public grounds within such cor-
7 poration, at such times and places as the proper officer may direct,
8 upon three days' notice in writing given, or pay in lieu thereof in
9 money a sum to be fixed by such council, not exceeding one and a half
10 dollars for each of such day's labor. For each day's failure to attend
11 and perform the labor, or pay said sum of money, as required, at the
12 time and place specified, unless excused by the supervisor of high-
13 ways or street commissioner, the delinquent shall forfeit and pay the
14 sum of two dollars, not exceeding four dollars in all. Any person ex-
15 cused shall be again notified to perform such labor or pay said sum of
16 money in lieu thereof, at any time prior to November first of said
17 year. All persons claiming to be exempt from labor under this sec-
18 tion shall, within three days after receiving notice to perform such
19 labor, furnish the mayor or other proper officer with an affidavit
20 showing the extent and nature of the disabilities entitling him to such
21 exemption. If he fails to do so he shall be liable to perform such labor
22 or pay the penalty provided herein.

[C., '73, § 487; C., '97, § 891; S., '13, § 891.]

SEC. 4036. Enforcement of road tax.

1 In case of failure to pay said sum of money in lieu of said labor,
2 together with such forfeit, to the supervisor of highways, street com-
3 missioner, or other officer of said corporation authorized to receive
4 the same within ten days from the expiration of the time fixed for the
5 performance of such labor, said corporation may recover the same by

6 action brought in the name of such city or town before the mayor of
7 said corporation, or before any justice of the peace in the proper
8 township. No property or wages belonging to said person shall be
9 exempt to the defendant on an execution issued for said judgment and
10 costs. The tax and forfeit money so collected shall be expended upon
11 the streets, avenues, highways, alleys or public grounds of said cor-
12 poration. All of such tax and forfeit money remaining unpaid on
13 the first day of November in each year may be certified to the county
14 auditor at any time before the following first day of December, and
15 shall be entered by him upon the tax list of said county, and treated
16 and collected as ordinary county taxes, and shall be a lien on all the
17 real property of the delinquent.

[C., '73, § 487; C., '97, § 892; S., '13, § 892.]

SEC. 4037. Action.

1 But the entry of such tax and penalty upon the tax list shall not
2 prevent an action being brought therefor as hereinbefore authorized.
3 Such action, however, must be commenced within one year from the
4 first day of October following the giving of notice to perform the la-
5 bor. In event of judgment being rendered therefor and paid in whole
6 or in part after the same has been certified to the county auditor, the
7 court receiving such payment shall execute duplicate receipts, ex-
8 clusive of costs, if so requested, and upon filing such receipt or dupli-
9 cate with the county auditor he shall make the proper entries on the
10 tax lists, showing the full payment of such tax and penalty, or part
11 thereof, as the case may be.

[C., '73, § 487; C., '97, § 893.]

SEC. 4038. Other taxes.

1 Any city shall have power to levy annually the following special
2 taxes:

3 1. *Grading fund.* A tax not exceeding, in any one year, three
4 mills on the dollar, for a grading fund, to be used for the purpose of
5 opening, widening, extending and grading any street, highway, ave-
6 nue, alley, public ground or market place.

7 2. *Improvement fund.* A tax not exceeding, in any one year, five
8 mills on the dollar, for a city improvement fund, to be used for the
9 purpose of paying the cost of the making, reconstruction or repair of
10 any street improvements at the intersections of streets, highways,
11 avenues or alleys, and at spaces opposite streets, highways, avenues
12 and alleys intersecting but not crossing, and at spaces opposite prop-
13 erty owned by the city or the United States, and for the purpose of
14 paying the purchase price and subsequent taxes assessed against
15 property purchased by the city at tax sale.

16 3. *Sewer fund.* A tax not exceeding, in any one year, five mills
17 on the dollar on the assessed valuation of all property therein, for a
18 city sewer fund, when the entire city comprises one sewer district, to
19 be used to pay the cost of the making, reconstruction or repair of any
20 sewer at the intersection of streets, highways, avenues, alleys, and at
21 spaces opposite streets, highways, avenues and alleys intersecting but
22 not crossing, and at spaces opposite property owned by the city or the
23 United States, and to pay the whole or any part of the cost of the
24 making, reconstruction or repair of any sewer within the limits of
25 said city, and for the maintenance and operation of any sewage dis-
26 posal plant included in said sewer district; when a city has been

27 divided into sewer districts, a tax not exceeding five mills on the dol-
28 lar on the assessed valuation of all property in the sewer district, for
29 a district sewer fund, to be used to pay, in whole or in part, the cost
30 of the making, reconstruction or repair of any sewer located and laid
31 in that particular district and for the maintenance and operation of
32 any sewage disposal plant included in said sewer districts.

33 This paragraph shall also apply to cities under commission form
34 of government.

35 4. *Library tax.* In cities and towns which have established, or
36 may hereafter establish, a free public library when the trustees of
37 such library have made the certificate provided for in section thirty-
38 seven hundred fifty-eight, a tax in the amount so certified, but not
39 exceeding in any one year five mills on the dollar in all cities and in-
40 corporated towns to be used for the maintenance of such library; and
41 in such cities and towns an additional tax not exceeding in any one
42 year three mills on the dollar, for the purchase of real estate and the
43 erection of a building or buildings thereon for a public library, or for
44 the payment of interest on any indebtedness incurred for that pur-
45 pose, and for the creation of a sinking fund for the extinguishment of
46 such indebtedness.

47 5. *Waterworks tax.* A tax not exceeding, in any one year, five
48 mills on the dollar, which, with the water rates or rents authorized,
49 shall be sufficient to pay the expenses of running, operating and re-
50 pairing waterworks owned and operated by any city or town, and the
51 interest on any bonds issued to pay all or any part of the cost of con-
52 struction, renewal, repair or extension of such works; but such tax
53 shall not be levied upon property which lies wholly without the limits
54 of the benefit and protection of such works, which limits shall be fixed
55 by the council each year before making the levy.

56 6. *Tax for gasworks or electric plant.* A tax not exceeding, in
57 any one year, five mills on the dollar, which, with the rates or rentals
58 authorized, shall be sufficient to pay the expenses of running, operat-
59 ing and repairing gasworks and electric light or power plants owned
60 by any city or town, and the interest on any bonds issued to pay all or
61 any part of the cost of the construction of such works or plants; but
62 such tax shall not be levied upon property which lies wholly without
63 the limits of the benefit of the same, which limits shall be fixed by the
64 council each year before making the levy.

65 7. *Water tax.* A tax not exceeding, in any one year, five mills on
66 the dollar, for the purpose of paying the amount due or to become due
67 to any individual or company operating waterworks for water sup-
68 plied under any contract, the levy to be limited to the property as in
69 subdivision five hereof; and if in cities of the first class the maximum
70 tax is insufficient to pay such amount under contracts now in force,
71 the deficiency shall be paid out of the general fund.

72 8. *Tax for gas or electric light or power.* A tax not exceeding,
73 in any one year, five mills on the dollar, for the purpose of paying the
74 amount due or to become due to any municipality, individual or com-
75 pany, operating gasworks or electric light or power plants for all gas,
76 electric light or power supplied under any contract and the expense
77 of the gas light, electric light or power inspection department of the
78 city, including the salaries of inspectors therein, the levy to be limited
79 to the property as in subdivision six hereof; providing that in cities of
80 five thousand or less and towns, there may be in any one year a tax
81 not exceeding seven mills on the dollar.

82 9. *Bond fund tax.* A tax for the purpose of creating a bond fund
83 sufficient to pay the interest to accrue before the next annual levy on
84 funding or refunding bonds outstanding, and such proportion of the
85 principal that at the end of five years the sum raised shall equal at
86 least twenty per cent of the amount of the bonds issued; at the end
87 of ten years at least forty per cent of said amount; at the end of fif-
88 teen years at least sixty-five per cent of said amount; and at or be-
89 fore the date of the maturity of said bonds a sum equal to the whole
90 amount of the unpaid principal and interest, which tax shall be used
91 to pay such principal and interest, and for no other purpose.

92 10. *Tax for water or gas works or electric plant bonds.* A tax as
93 authorized in the preceding subdivision, to be levied in the propor-
94 tions therein set forth, and to be used exclusively in payment of the
95 principal of bonds issued for the construction of water and gas works
96 and electric light and power plants, which tax shall not be levied upon
97 property lying wholly without the limits of the benefit of such works
98 or plants, which limits shall be fixed by the council each year before
99 making the levy.

100 11. *Cemetery tax.* A tax, not exceeding one-half of one mill on
101 the dollar of the assessed valuation of the property within the cor-
102 porate limits, for the care, preservation and adornment of any ceme-
103 tery owned or controlled by the city, or any private or incorporated
104 cemetery association utilized by the citizens of said city or town;
105 and the said tax may be so expended for the support and main-
106 tenance of any such cemetery after the same has been abandoned
107 and is no longer used for the purpose of interring the dead.

108 12. *Subdivisions five, six, seven, eight, nine, ten and eleven, ex-*
109 *tended to incorporated towns, and proceedings legalized.* The provi-
110 sions of subdivisions one, five, six, seven, eight, nine, ten and eleven
111 of this section are extended to incorporated towns, and all proceed-
112 ings of incorporated towns had under the assumption that the said
113 provisions were applicable to said incorporated towns are hereby
114 legalized and confirmed, and said proceedings shall be in law held to
115 be valid to the same extent as if the said subdivisions of this section
116 included incorporated towns by the specific terms thereof. The tax
117 authorized by paragraph eleven hereof may as to towns exceed one-
118 half of one mill, but shall in no case exceed three mills on the dollar.

119 13. *Transfer of funds—conditions.* Cities and towns having a
120 population of eight thousand eight hundred or less may make either
121 temporary or permanent transfers from one fund to another by
122 resolution concurred in by unanimous vote of the council; provided
123 that the funds herein referred to shall be those provided for in sub-
124 divisions one, two, three, five, six, seven, and eight of this section;
125 and provided said transfer and resolution are approved by the judge
126 of the district court of the county in which the city or town is situ-
127 ated, after a hearing had on a day to be by him fixed for the hearing
128 of the same, after the publication in one or more newspapers pub-
129 lished in said city or town or circulating therein five days or more
130 prior to such hearing, which notice shall be addressed generally to
131 the taxpayers of said city or town and shall recite the substance of
132 the proposed transfer, the amount thereof and the time when objec-
133 tions to such transfer will be heard. Proof of publication shall be
134 made as in case of original notices and the order of said judge shall
135 be indorsed on the original resolution and entered of record in the
136 minute book as a part of said resolution. Provided that in no case
137 shall such transfer of funds be made where, as a result of such trans-

138 fer, there would be a greater sum credited to any one fund than
 139 would be placed in such fund by the levy of the maximum number of
 140 mills, as provided for by statute.

[C., '73, § 475; C., '97, § 894; S. S., '15, § 894; 37 G. A., ch. 45, § 1; 37 G. A., ch. 126, § 1; 37 G. A., ch. 375, § 1; 38 G. A., ch. 394, § 1.]

SEC. 4039. Park tax—may be anticipated.

1 All cities including cities under commission plan of government,
 2 having a population of eighty-five thousand or over, shall have the
 3 power to certify to the county auditor and to cause to be collected
 4 in addition to all taxes now authorized for park purposes an annual
 5 tax of not to exceed one-half mill on the dollar on all taxable property
 6 of the city, to be used for the sole and only purpose of purchasing and
 7 paying for real estate to be used for park, art and memorial purposes.
 8 Such cities may anticipate the collection of said additional tax author-
 9 ized to be levied for the purchase of real estate for park, art and me-
 10 morial purposes, and for that purpose may issue park certificates or
 11 bonds with interest coupons, and the provisions of chapter thirty-
 12 four, title thirteen, shall be operative as to such certificates, bonds
 13 and coupons in so far as they may be applicable. The proceeds of
 14 such tax shall be kept as a separate fund and shall be issued for the
 15 sole and only purpose of paying certificates or bonds and coupons
 16 issued thereupon, and for no other purpose whatsoever.

[38 G. A., ch. 168, § 1.]

SEC. 4040. Additional powers.

1 The preceding section shall be construed as granting additional
 2 power without limiting the power already existing in all cities, in-
 3 cluding cities acting under the commission plan of government.

[38 G. A., ch. 168, § 2.]

SEC. 4041. Consolidated tax levy.

1 In lieu of any or all of the separate annual levies provided in
 2 sections forty hundred thirty and subdivisions one, two, three, seven
 3 and eight of section forty hundred thirty-eight, cities and towns may
 4 levy one tax which shall not in the aggregate exceed the total amount
 5 of taxes which such city or town might have levied under the sections
 6 and chapters which are consolidated into such single tax levy; pro-
 7 vided, however, that the city or town making such consolidated levy
 8 shall prior to the first day of April thereafter appropriate the esti-
 9 mated revenue to be received from such consolidated levy in such
 10 ratio as the council may determine, said appropriation to be for no
 11 purpose not provided for in the sections and chapters so consolidated.

[38 G. A., ch. 112, § 1.]

SEC. 4042. Budget—what to show—publication—objections.

1 Whenever the power granted in the preceding section is exer-
 2 cised by any city or town, it shall be the duty of the council prior to
 3 the first day of April each year to make up and prepare an annual
 4 budget on the basis of estimates of the expenses of the several depart-
 5 ments of such city or town. Such estimates shall show not only the
 6 purpose for which the consolidated levy authorized in the preceding

7 section is to be used, but in addition thereto the purpose for which all
 8 other levies authorized to be made by said city or town are to be used,
 9 so that said budget when so made up will show all of the proposed ex-
 10 penditures for the ensuing year. Such budget of proposed expendi-
 11 tures shall be published in one or more newspapers of general circu-
 12 lation published in such city or town, but where no newspaper is
 13 published in such town then by posting in three public places, the pub-
 14 lication to be at least two weeks before said budget is finally adopted
 15 by the council, and the time when such budget will be considered by the
 16 council for final adoption shall be stated in said publication. On the
 17 day thus fixed for considering said budget, full opportunity shall be
 18 given for hearing any objections or protests which any taxpayer of
 19 the city or town may desire to make to any item or items in such
 20 budget or to any omissions therefrom.

[38 G. A., ch. 112, § 2.]

SEC. 4043. How construed.

1 Nothing in the two preceding sections shall be construed to af-
 2 fect or repeal any of the existing statutes authorizing tax levies in
 3 cities and towns.

[38 G. A., ch. 112, § 3.]

SEC. 4044. Levy by board of supervisors.

1 The board of supervisors shall, at the time of levying county
 2 taxes, levy on all property within the city the tax certified to them by
 3 the park commissioners for said city. If such commissioners fail to
 4 certify a tax or a sufficient tax for the purpose of paying the interest
 5 on bonds issued by the commissioners for park purposes that may be
 6 due or will mature within the fiscal year next ensuing, the board of
 7 supervisors shall levy such tax as shall be necessary to pay such in-
 8 terest; and if such commissioners each year for fifteen years before
 9 the maturity of bonds issued by them, as provided in chapter twenty-
 10 six of title thirteen, fail to certify a tax equal to one-fifteenth of the
 11 principal of such bonds over and above the amount necessary for the
 12 interest on the same, the board shall annually levy such tax as may be
 13 equal to one-fifteenth of the principal thereof, which tax shall be set
 14 aside by the commissioners in the same manner and for the same pur-
 15 pose as directed in chapter twenty-six of title thirteen.

[C., '97, § 895.]

SEC. 4045. Tax voted for bridges.

1 The board of supervisors of the county in which a city or town
 2 is situated shall levy a special tax on the assessable property in such
 3 city or town to aid in the construction of highway or combination
 4 bridges, when such tax shall have been voted by the city or town.

[C., '97, § 896.]

SEC. 4046. Surplus of judgment or bond tax.

1 When a tax has been levied by any city or town to pay off a judg-
 2 ment against such municipality, or by any city or town or by the ex-
 3 ecutive council, to pay the principal and interest, or either of them,
 4 of funding or refunding bonds issued by such municipality, such tax
 5 shall not be held invalid, if the rate of tax levied raises a sum in ex-
 6 cess of the amount sought for such specific object, but the excess shall

7 go into the general city or town funds. Money so raised is especially
 8 appropriated for such purposes, and constitutes a distinct fund in the
 9 hands of the treasurer until the obligation assumed is discharged.

[C., '51, §§ 123, 124; R., '60, §§ 259, 260; C., '73, §§ 318, 319;
 C., '97, § 897.]

SEC. 4047. Loans in anticipation of revenue.

1 Loans may be negotiated or warrants issued by any municipal
 2 corporation in anticipation of its revenues for the fiscal year in which
 3 such loans are negotiated or warrants issued, but the aggregate
 4 amount of such loans and warrants shall not exceed the estimated
 5 revenue of such corporations for the fund or purpose for which the
 6 taxes are to be collected for such fiscal year.

[R., '60, § 1129; C., '73, § 500; C., '97, § 898.]

SEC. 4048. Highways outside corporate limits—question submitted.

1 When a petition shall be presented to the council of any city or
 2 town, signed by one-third of the resident taxpayers thereof, asking
 3 that the question of aiding in the construction or repair of any high-
 4 way leading thereto be submitted to the voters thereof, the council
 5 shall immediately give notice of a special election by posting a notice
 6 in five public places in said city or town at least ten days before said
 7 election, which shall give the time and place of holding the election, the
 8 particular highway proposed to be aided, and the proportion of the
 9 highway tax then levied and not expended, or next thereafter to be
 10 levied, to be appropriated. At this election a proposition for an ap-
 11 propriation of a portion of the highway tax to aid in the construc-
 12 tion or repair of the particular highway, and the proportion of such
 13 tax proposed to be so appropriated, shall be submitted to the voters
 14 of such city or town, and the clerk shall cause the proposition to be
 15 printed and placed upon the ballots and the election shall be conducted
 16 in the same manner as provided with respect to like or similar propo-
 17 sitions in the title on elections, and if a majority of the votes polled
 18 be for adoption of the proposition, then the council may aid in the
 19 construction or repair of said highway to the extent of said appropria-
 20 tion, which shall not exceed fifty per cent of such tax, in the same
 21 manner as they otherwise would were said highway within the cor-
 22 porate limits of said city or town. No part of such tax shall be
 23 used or expended more than five miles from the limits of such city or
 24 town, and not more than twenty-five per cent thereof more than two
 25 miles from such limits.

[C., '73, § 488; C., '97, § 899.]

SEC. 4049. Warrants—how drawn.

1 The auditor, clerk, or other officer of cities and towns whose duty
 2 it is to draw the warrants thereof, shall not draw any such warrant
 3 except upon the vote of the council, and he shall draw no single war-
 4 rant for an amount in excess of one thousand dollars. Warrants is-
 5 sued by any city or town shall not be received by the county treas-
 6 urer in payment of the city or town taxes.

[C., '97, § 900; 37 G. A., ch. 196, § 1.]

SEC. 4050. List of warrants.

1 The officer drawing such warrants shall, on the first Monday of
2 each month, furnish the council a sworn and complete list of all war-
3 rants, and the amount thereof, drawn by him during the preceding
4 month, which list shall state on whose account and the object and pur-
5 pose for which each warrant was drawn.

[C., '97, § 901.]

SEC. 4051. Assessments and taxes certified—collection.

1 All assessments and taxes of every kind and nature levied by the
2 council, except as otherwise provided by law, shall be certified by the
3 clerk on or before the first Monday in September, to the county audi-
4 tor, and by him placed upon the tax list for the current year, and the
5 county treasurer shall collect all assessments and taxes so levied in
6 the same manner as other taxes, and when delinquent they shall draw
7 the same interest and penalties. Sales for such assessments and taxes
8 when delinquent shall be made at the same time and in the same man-
9 ner as such sales are made for other taxes, and should there be other
10 delinquent taxes or assessments due from the same person, and col-
11 lectible by the county treasurer, the sale shall be for all such delin-
12 quent assessments and taxes, and all the provisions of law relating to
13 the sale of property for delinquent taxes shall be applicable as far as
14 may be to such sales. Before the third Monday of each month, the
15 county treasurer shall give written notice to the mayor of each mu-
16 nicipality in the county of the amount collected for each fund up to the
17 first day of that month, and the mayor of each municipality shall draw
18 an order therefor in favor of the city treasurer, countersigned by the
19 clerk or auditor of the municipality, upon the county treasurer who
20 shall pay such taxes to the treasurers of the several municipalities
21 only on such order.

[R., '60, §§ 1123, 1126; C., '73, §§ 495, 498; C., '97, § 902;
S., '13, § 902.]

SEC. 4052. General provisions as to indebtedness and warrants.

1 All the provisions of sections thirty-one hundred sixty-six, thirty-
2 one hundred sixty-seven, thirty-two hundred thirty-eight to thirty-
3 two hundred forty, inclusive, and sections thirty-two hundred sixty-
4 nine to thirty-two hundred seventy-one, inclusive, shall be applicable
5 to cities and towns, their officers and employees, subject only to such
6 modification as may be necessary therefor.

[C., '97, § 903.]

SEC. 4053. Diversion of funds.

1 Any councilman or officer of a city or town who shall participate
2 in, advise, consent to, permit or allow any tax or assessment levied by
3 such city or town, or by other lawful authority, for city or town pur-
4 poses, to be diverted to any purpose other than the one for which it
5 was assessed and levied, except as provided in subdivision seven, sec-
6 tion forty hundred thirty-eight, and subdivision thirteen of section
7 forty hundred thirty-eight, or shall in any way become a party to such
8 diversion, shall be guilty of embezzlement.

[C., '97, § 904; 37 G. A., ch. 126, § 2.]

CHAPTER 33.

INDEBTEDNESS LIMITED.

SECTION 4054. Amount of indebtedness limited.

1 No county or other political or municipal corporation shall be al-
2 lowed to become indebted in any manner, for its general or ordinary
3 purposes, to an amount exceeding in the aggregate the amount of one
4 and one-fourth per centum of the actual value of the taxable property
5 within such county or corporation; provided, however, cities and in-
6 corporated towns may for the purpose of purchasing, erecting, ex-
7 tending or maintaining and operating waterworks, electric light and
8 power plants, or the necessary transmission lines therefor, gasworks
9 and heating plants incur an additional indebtedness, not exceeding in
10 the aggregate, added to all other indebtedness, five per centum of the
11 actual value of the taxable property within such city or incorporated
12 town. No indebtedness herein provided for, which has been or shall
13 be incurred by cities and incorporated towns for the purpose of pur-
14 chasing, erecting, extending or maintaining and operating water-
15 works, electric light and power plants, gasworks and heating plants,
16 shall be charged against or counted as a part of the one and one-
17 fourth per centum hereinabove mentioned as being available for gen-
18 eral and ordinary purposes until the other three and three-fourths
19 per centum available for the special purposes enumerated has been
20 exhausted. The amount of such taxable property shall be ascertained
21 by the last state and county tax list previous to the incurring of such
22 indebtedness.

[S., '13, § 1306-b; 37 G. A., ch. 85, § 1; 37 G. A., ch. 303,
§ 1; 38 G. A., ch. 250, §§ 1, 2.]

SEC. 4055. Procedure to exceed limitation in cities and towns.

1 Before such indebtedness can be contracted in excess of one and
2 one-quarter per centum of the actual value of the taxable property
3 ascertained as provided in the preceding section, a petition signed by
4 a majority of the qualified electors of such city or town shall be filed
5 with the council of such city or town, asking that an election shall be
6 called, stating the purposes for which the money is to be used and
7 that the necessary waterworks, electric light and power plants, or
8 the necessary transmission lines therefor, gasworks, or heating plants,
9 can not be purchased, erected, built or furnished within the limit of
10 one and one-quarter per centum of the valuation. In cities having a
11 population of more than ten thousand, the petition need not be signed
12 by more than two hundred qualified electors.

[S., '13, § 1306-c; 37 G. A., ch. 303, § 2; 38 G. A., ch. 250,
§ 3.]

SEC. 4056. Election called—notice—ballot.

1 The council of such city or town on the receipt of such petition
2 shall at the next regular meeting call such election, fixing the time
3 and place thereof, and give four weeks' notice thereof, by publication
4 once each week, in some newspaper published in the said town or
5 city, or if none be published there, then in the next nearest town or
6 city in the county. At such election the ballots shall be prepared,
7 and used in substantially the following form:

8 For the issuance of bonds in the sum of \$.....
 9 for waterworks, electric light and power plants, or
 10 the necessary transmission lines therefor, gas-
 11 works, or heating plants.
 12 Against the issuance of bonds in the sum of \$.....
 13 for waterworks, electric light and power plants, or the
 14 necessary transmission lines therefor, gasworks, or
 15 heating plants.

[S., '13, § 1306-d; 37 G. A., ch. 303, § 3; 38 G. A., ch. 250,
 § 4.]

SEC. 4057. Issuance of bonds.

1 If a majority of all the electors voting at such election, provided
 2 said affirmative vote be as large as a majority of all the votes cast
 3 at the last preceding municipal election, vote in favor of the issuance
 4 of such bonds, the council of such city or town shall issue the same
 5 as provided by section thirty-six hundred thirty-eight and make pro-
 6 vision for the payment of the bonds and interest thereon as provided
 7 by title thirteen.

[S., '13, § 1306-e.]

SEC. 4058. Applicable to certain cities.

1 The preceding section shall be held to apply to any city or town
 2 whose qualified electors have heretofore authorized the issuance of
 3 such bonds by such election.

[S., '13, § 1306-e1.]

SEC. 4059. How construed.

1 Nothing in this chapter contained shall be construed to repeal the
 2 provisions of sections twenty-six hundred thirty-five to twenty-six
 3 hundred thirty-eight, inclusive, nor shall anything in this chapter con-
 4 tained be construed as being applicable to bonds issued under section
 5 thirty-nine hundred eighty-five.

[S., '13, § 1306-f.]

CHAPTER 34.

BONDS.

SECTION 4060. Funding.

1 Cities and towns may settle, adjust, renew or extend the legal
 2 indebtedness they may have, or any part thereof, in the sum of one
 3 thousand dollars or upwards, whether evidenced by bonds, warrants
 4 or judgments, and may fund or refund the same and issue coupon
 5 bonds therefor, but no bonds shall be issued under this section for any
 6 other purpose than is above authorized.

[C., '97, § 905.]

SEC. 4061. Form.

1 Such bond shall be issued in sums of not less than one hundred
 2 nor more than one thousand dollars each, running not more than

3 twenty years, bearing interest not exceeding six per cent per annum,
4 payable annually or semiannually, and shall be substantially in the
5 following form, but subject to changes that will conform them to the
6 ordinance (or resolution) of the council, to wit:

7 The city (or town) of.....in the state of Iowa, for
8 value received promises to pay to bearer.....dollars, lawful
9 money of the United States of America, on....., with
10 interest on said sum from the date hereof until paid at the rate of
11per cent per annum, payable.....annually on the first
12 day of.....and.....in each year, on presentation and
13 surrender of the interest coupons hereto attached; both principal and
14 interest payable at.....

15 This bond is issued by the city (or town) of.....,
16 pursuant to the provisions of section....., chapter.....,
17 title....., of the code of Iowa, and in conformity to an ordi-
18 nance (or resolution) of the council of said city (or town) duly passed.
19 And it is hereby certified and recited that all acts, conditions and
20 things required by the laws and constitution of the state of Iowa to
21 be done precedent to and in the issue of this bond have been properly
22 done, happened and been performed in regular and due form as re-
23 quired by law, and that the total indebtedness of said city, including
24 this bond, does not exceed the constitutional or statutory limitations.

25 In testimony whereof said city (or town) by its council has caused
26 this bond to be signed by its mayor and attested by its auditor (or
27 clerk), with the seal of said city attached, this.....day of
28

29

30 Mayor of the city (or town) of.....

31 ATTEST:

32

33 Clerk of the city (or town) of.....

34 (Form of Coupon.)

35 The treasurer of the city (or town) of....., Iowa,
36 will pay to bearer.....dollars, on....., at.....,
37 for.....annual interest on its.....bond, dated.....
38 No.....

39

40 Mayor of the city (or town) of.....

41 ATTEST:

42

43 Clerk of the city (or town) of.....

[C., '97, § 906.]

SEC. 4062. Numbered and signed.

1 Said bonds shall be numbered consecutively, signed by the mayor,
2 and attested by the auditor or clerk, as the case may be, with the seal
3 of the city affixed. The interest coupons attached thereto shall be
4 executed in the same manner.

[C., '97, § 907.]

SEC. 4063. Issuance.

1 All bonds issued under the provisions of this chapter shall be
2 issued pursuant to, and in conformity with, a resolution adopted by
3 the council of said city or town, which shall specify the amount au-

4 thORIZED to be issued, the purpose for which issued, the rate of interest
 5 they shall bear, and whether payable annually or semiannually, the
 6 place where the principal and interest shall be payable, and when to
 7 become due, and such other provisions, not inconsistent with law, in
 8 reference thereto, as the council shall think proper, which resolution
 9 shall be entered of record upon the minutes of the proceedings of the
 10 council, and a true and complete copy thereof printed on the back of
 11 each bond, which resolution shall constitute a contract between the
 12 city or town and the purchasers or holders of said bonds.

[C., '97, § 908.]

SEC. 4064. Registration.

1 When bonds have been executed as aforesaid, they shall be de-
 2 livered to the treasurer of the city or town, and his receipt taken there-
 3 for, who shall register the same in a book provided for that purpose,
 4 which shall show the number of each bond, its date, date of sale,
 5 amount, date of maturity, and the name and address of the purchaser,
 6 and, if exchanged, what evidences of debt were received therefor,
 7 which record shall at all times be open to the inspection of the citizens
 8 of said city or town. The treasurer shall thereupon certify upon the
 9 back of each bond as follows: "This bond duly and properly regis-
 10 tered in my office this day of"

11"
 12 Treasurer of the city (or town) of....."
 13 and shall stand charged on his official bond with all bonds so delivered
 14 to him, and the proceeds thereof. He shall report under oath to the
 15 council of said city or town, at each first regular session thereof in
 16 each month, a statement of all such bonds sold or exchanged by him
 17 since his last report, and the date of such sale or exchange, and, when
 18 exchanged, a description of the indebtedness for which exchanged.

[C., '97, § 909.]

SEC. 4065. Sale.

1 He shall, under a resolution and the direction of the council, sell
 2 the bonds for cash on the best available terms, or exchange them on
 3 like terms for legal indebtedness of the city or town evidenced by
 4 bonds, warrants or judgments outstanding at the date of the passage
 5 of the resolution authorizing the issue thereof, and the proceeds shall
 6 be applied and exclusively used for the purposes for which said bonds
 7 are issued. In no case shall they be sold or exchanged for a less sum
 8 than their face value and all interest accrued at the date of sale or
 9 exchange. After registration, the treasurer shall deliver said bonds
 10 to the purchaser thereof, and, when exchanged for indebtedness of
 11 said city or town, he shall at once cancel all warrants or bonds, or
 12 secure proper credits therefor on judgments.

[C., '97, § 910.]

SEC. 4066. Taxes to pay.

1 Cities and towns issuing funding or refunding bonds under this
 2 chapter shall levy taxes for the payment of the principal and interest
 3 thereof, in accordance with the provisions of the chapter relating to
 4 taxation.

[C., '97, § 911.]

SEC. 4067. Certificates or bonds in anticipation of special taxes.

1 Any city may anticipate the collection of taxes authorized to be
 2 levied for the grading fund, city improvement fund, district sewer
 3 fund, and city sewer fund, and for that purpose may issue certificates
 4 or bonds with interest coupons, to be respectively denominated city
 5 grading certificates or bonds, city improvement certificates or bonds,
 6 district sewer certificates or bonds of the particular sewer district,
 7 and city sewer certificates or bonds of said city, and all the provisions
 8 of this chapter shall apply to such certificates, bonds and coupons,
 9 with such changes only as are necessary to adapt them thereto. Said
 10 bonds and interest thereon shall be secured by said assessments and
 11 levies, and shall be payable only out of the respective funds herein-
 12 before named pledged to the payment of the same, and no bonds shall
 13 be issued in excess of taxes authorized and levied to secure the pay-
 14 ment of the same. It shall be the duty of said city to collect said
 15 several funds with interest thereon, and to hold the same separate and
 16 apart, in trust, for the payment of said bonds and interest, and to
 17 apply the proceeds of said funds pledged for that purpose to the pay-
 18 ment of said bonds and interest.

[C., '97, § 912.]

SEC. 4068. Applicable to towns.

1 All provisions of the preceding section, granting to cities the
 2 power to issue certificates or bonds in anticipation of special taxes,
 3 shall be applicable, and is hereby made to apply to towns.

[S., '13, § 912-a.]

SEC. 4069. Limitation of action questioning legality.

1 No action shall be brought questioning the legality of any of the
 2 bonds authorized by this chapter, waterworks bonds, gasworks bonds,
 3 or electric light or power plant bonds, from and after three months
 4 from the time the same are ordered issued by the proper authority.

[C., '97, § 913.]

CHAPTER 35.**PLATS.****SECTION 4070. For subdivisions or additions.**

1 Every original proprietor of any tract or parcel of land, who has
 2 subdivided, or shall hereafter subdivide the same into three or more
 3 parts, for the purpose of laying out a town or city, or addition thereto,
 4 or part thereof, or suburban lots, shall cause a plat of such subdivi-
 5 sions, with references to known or permanent monuments, to be made,
 6 giving the bearing and distance from some corner of a lot or block
 7 in said town or city to some corner of the congressional division of
 8 which said town, city or addition is a part, which shall accurately
 9 describe all the subdivisions thereof, numbering the same by progres-
 10 sive numbers, giving their dimensions by length and breadth, and the
 11 breadth and courses of all the streets and alleys established therein.
 12 Description of lots or parcels of land in such subdivisions according

13 to the number and designation thereof on said plat, in conveyances
14 or for the purposes of taxation, shall be valid. The duty to file for
15 record a plat as provided herein shall attach as a covenant of war-
16 ranty, in all conveyances of any part or parcel of such subdivisions,
17 by the original proprietors against any and all assessments, costs and
18 damages paid, lost or incurred by any grantee or person claiming
19 under him, in consequence of the omission on the part of said pro-
20 prietor to file such plat.

[C., '73, § 559; C., '97, § 914.]

SEC. 4071. Acknowledgment and recording—abstract of title.

1 Every such plat shall have a complete abstract of title attached
2 thereto, and shall be accompanied by a statement to the effect that
3 the subdivision of (here insert a correct description of the land or
4 parcel subdivided), as appears on this plat, is with the free consent
5 and in accordance with the desire of the proprietor, which shall be
6 signed and acknowledged by him before some officer authorized to
7 take the acknowledgment of deeds. Such proprietor shall also pro-
8 cure from the treasurer of the county in which the land lies, and file
9 with the recorder, a certified statement that the land laid out into
10 lots, streets and alleys is free from taxes, and a certified statement
11 of the clerk of the district court that said land is free from all judg-
12 ment, attachment, mechanics', or other liens, as appears by the records
13 of his office, and a certified statement from the recorder that the title
14 in fee is in such proprietor, and that it is free from incumbrance;
15 but if the parcel of land so laid out shall be incumbered with a debt
16 certain in amount, and which the creditor will not accept with accrued
17 interest to the day of proffered payment if it draws interest, or with
18 a rebate of interest at the rate of six per cent per annum if it draws
19 no interest, or if the creditor can not be found, then such proprietor,
20 and, if a corporation, its proper officer or agent, may file with the
21 recorder of such county an affidavit, stating either that such proprie-
22 tor has offered to pay such creditor the full amount of his debt, with
23 interest, or with a rebate of interest, as the case may be, and that he
24 would not accept the same, or that he can not be found, whereupon
25 such proprietor may execute and file with the recorder a bond in double
26 the amount of such incumbrance, with three sureties who shall be
27 freeholders of the county, to be approved by the recorder and clerk
28 of the district court, which bond shall run to the county, and shall
29 be for the benefit of the purchasers of any lots, and shall be condi-
30 tioned for the payment of such incumbrance and the cancellation
31 thereof of record as soon as practicable after the same becomes due,
32 and for the holding of all purchasers and those claiming under them
33 forever harmless from such incumbrance. When such affidavit and
34 bond shall have been filed with the recorder, together with the cer-
35 tificate of approval of the council of the city or town in which such
36 land is situated or which is proposed to be made an addition thereto
37 and a certificate of the recorder that said land is free from all incum-
38 brance except as secured by said bond, and that the title in fee is in
39 such proprietor, and that of the treasurer that the land is free from
40 taxes, said plat shall be admitted to record, and be as valid as if such
41 proprietor had filed with the recorder the certificate of such officer
42 that said land was free from all incumbrance.

[C., '73, § 560; C., '97, § 915; S., '13, § 915.]

SEC. 4072. Approval by council.

1 All plats of additions to any city or town, or subdivision of any
 2 part or parcels of lands lying within or adjacent to any city or town,
 3 shall be divided by streets into blocks and such blocks and streets shall
 4 conform as nearly as practicable to the size of blocks and the width of
 5 streets in such city or town. And such streets shall be extensions
 6 of the existing system of streets thereof. All plats of such additions
 7 or subdivisions, except subdivisions of less than one block, before
 8 being recorded shall be filed with the clerk of such city or town, and
 9 when so filed, the council within a reasonable time shall consider the
 10 same, and if it is found that such plat conforms to the provisions
 11 hereof, the council shall direct the mayor and clerk to certify its reso-
 12 lution of approval, which shall be affixed to said plat before it shall
 13 be received for record by the county recorder. The council shall have
 14 power to require alleys to be platted separating abutting lots, and if
 15 so platted, said alleys shall conform as nearly as practicable to the
 16 width of alleys in said city or town and shall be extensions of the
 17 existing system of alleys. The council shall have the power to require
 18 the owner to bring all streets to a grade acceptable to the council be-
 19 fore any such plat is approved as herein provided.

[C., '97, § 916; S., '13, § 916; 38 G. A., ch. 241, § 1.]

SEC. 4073. Dedication to public.

1 When the statement and plat are accompanied with the certifi-
 2 cates, affidavit and bond, when so required, and have been entered on
 3 the plat books in the auditor's office, they shall be admitted to record,
 4 and not otherwise, and shall be of no validity until so filed for record
 5 in the office of the recorder, and such acknowledgment and recording
 6 shall be equivalent to a deed in fee simple of such portion of the prem-
 7 ises platted as is set apart for streets or other public use, or as is
 8 dedicated to charitable, religious or educational purposes.

[C., '51, §§ 635-637; R., '60, §§ 1019-1021; C., '73, §§ 560,
 561; C., '97, § 917.]

SEC. 4074. Authority to change name of street.

1 Cities and towns shall have authority to change by ordinance the
 2 name of a platted street. The mayor and city or town clerk shall cer-
 3 tify and file the ordinance, after its passage, with the county recorder
 4 and county auditor in the county where the said city or town is located,
 5 which shall be entered of record in the recorder's office and a refer-
 6 ence made on the margin of the original plat referring to the record
 7 of such change of names.

[S., '13, § 917-a.]

SEC. 4075. Vacation by proprietor.

1 Any such plat may be vacated by the proprietor thereof, at any
 2 time before the sale of any lots, by a written instrument declaring the
 3 same to be vacated, executed, acknowledged and recorded in the same
 4 office with the plat to be vacated, and the execution and recording of
 5 such writing shall operate to annul the plat so vacated, and to divest
 6 all public rights in the streets, alleys and public grounds described
 7 therein. In cases where any lots have been sold, the plat may be va-

8 cated as in this chapter provided by all the owners of lots joining in
9 the execution of the writing aforesaid.

[C., '73, § 563; C., '97, § 918.]

SEC. 4076. Part of plat vacated.

1 Any part of a plat may be thus vacated, provided it does not
2 abridge or destroy any right or privilege of any proprietor in said
3 plat, but nothing contained in this section shall authorize the closing
4 or obstruction of highways. When any part of a plat is vacated, the
5 proprietors of the lots may inclose the streets, alleys and public ground
6 adjoining them in equal proportion, except as provided in the next
7 section. The recorder in whose office the plats are recorded shall
8 write across that part of the plat so vacated, the word "vacated," and
9 make a reference on the same to the volume and page in which the
10 instrument is recorded.

[C., '73, §§ 564-566; C., '97, § 919.]

SEC. 4077. Vacation by lot owners.

1 Whenever the owners of any tract of land which has been platted
2 into town lots, and the plat of which has been recorded, shall desire
3 to vacate the plat or a part thereof, a petition, signed by all the own-
4 ers of it or the part to be vacated, shall be filed in the office of the clerk
5 of the district court of the county in which the land is situated, re-
6 turnable at the ensuing term, and notice thereof given at least four
7 weeks, by posting notices in three conspicuous places in the town
8 where the vacation is prayed, and one upon the door of the courthouse
9 of the county. At the term of court next following the filing of the
10 petition and notice, the court shall fix a time for hearing the petition,
11 and notice of the day so fixed shall be given by the clerk in some news-
12 paper published in the county at least one week before the day ap-
13 pointed for the hearing. At the hearing of the petition, if it shall
14 appear that all the owners of lots in the plat or part thereof to be
15 vacated desire the vacation, and there is no valid objection thereto, a
16 decree shall be entered vacating such portion of the plat, and the
17 streets, alleys and avenues therein, and for all purposes of assessment
18 such portion of the town shall be as if it had never been platted into
19 lots; but if any street as laid out on the plat shall be needed for public
20 use, it shall be excepted from the order of vacation and shall remain
21 a public highway. Vacations made under this chapter shall not be
22 construed to affect any lands lying within any city or town which have
23 been dedicated or deeded to the public for parks or other public pur-
24 poses.

[C., '97, § 920.]

SEC. 4078. Replatting.

1 The owner of any lots in a plat vacated may cause the same and
2 a proportionate part of the adjacent streets and public grounds to
3 be replatted and numbered by the county surveyor in the same man-
4 ner as is required for platting in the first instance, and when such
5 plat is acknowledged by such owner, and is recorded in the recorder's
6 office of the county, such lots may be conveyed and assessed by the
7 numbers given them on such plat.

[C., '73, § 567; C., '97, § 921.]

SEC. 4079. Plat by auditor—special charter cities excepted.

1 Whenever the original proprietor of any subdivision of land has
2 sold or conveyed any part thereof, or invested the public with any
3 rights therein, and has failed and neglected to execute and file for
4 record a plat as provided in this chapter, the county auditor shall by
5 mail or otherwise notify some or all of such owners, and demand its
6 execution. If such owners, whether so notified or not, fail and neglect
7 for thirty days after the issuance of such notice to execute and file
8 said plat for record, the auditor shall cause one to be made, making
9 any survey necessary therefor. Said plat shall be signed and acknowl-
10 edged by the auditor, who shall certify that he executed it by reason
11 of the failure of the owners named to do so, and file it for record in
12 his office and in the office of the county recorder, and when so filed it
13 shall have the same effect as if executed, acknowledged and recorded
14 by the owners. A correct statement of the costs and expenses of such
15 plat, survey and record, verified by oath, shall be by the auditor laid
16 before the first session of the board of supervisors, which shall allow
17 the same and order them paid out of the county treasury, and he
18 shall at the same time assess the amount pro rata upon the several
19 subdivisions of said tract, lot or parcel so subdivided, and it shall be
20 collected in the same manner as general taxes, and shall go to the gen-
21 eral county fund; or said board may direct suit to be brought in the
22 name of the county to recover from the original proprietor such cost
23 and expense. Real estate situated in cities acting under special char-
24 ter shall not be platted by the auditor under this section.

[C., '73, § 568; C., '97, § 922; S., '13, § 922.]

SEC. 4080. Platting for assessment and taxation.

1 Whenever a congressional subdivision of land of one hundred
2 sixty acres or less, or any lot or subdivision, is owned by two or more
3 persons in severalty, and the description of one or more of the different
4 parts or parcels thereof can not, in the judgment of the county auditor,
5 be made sufficiently certain and accurate for the purposes of assess-
6 ment and taxation without noting the metes and bounds of the same,
7 he shall cause to be made and recorded in his office and the office of
8 the county recorder a plat of such tract or lot with its several subdivi-
9 sions, including and replatting in such plat such other plats or parts
10 thereof included within the same lot or congressional subdivision of
11 land as may seem to him to be required in accordance with the provi-
12 sions of this chapter, proceeding as directed in the preceding sec-
13 tion, and all of its provisions shall govern.

[C., '73, § 569; C., '97, § 923; S., '13, § 923.]

SEC. 4081. Insufficiency of description in deed.

1 Every conveyance of land in this state shall be deemed to be a
2 warranty that the description therein contained is sufficiently definite
3 and accurate to enable the auditor to enter the same on the plat book
4 required to be kept; and when there is presented for entry on the
5 transfer book any conveyance in which the description is not suffi-
6 ciently definite and accurate, the auditor shall note such fact on the
7 deed, with that of the entry for transfer, and shall notify the person
8 presenting it that the land therein is not sufficiently described, and
9 must be platted within thirty days thereafter. Any person aggrieved
10 by the opinion of the auditor may within said thirty days appeal there-

11 from to the board of supervisors, by giving notice thereof in writing,
 12 and thereupon no further proceeding shall be taken by the auditor.
 13 At its next session the board of supervisors shall determine said mat-
 14 ter and direct whether the plat shall be executed and filed, and within
 15 what time. If the grantor in such conveyance shall neglect for thirty
 16 days thereafter to file for record a plat thereof, and of the appropriate
 17 congressional subdivision in which the same is found, duly executed
 18 and acknowledged as required by the auditor, or, in case of appeal,
 19 as directed by the board of supervisors, then the auditor shall pro-
 20 ceed as is provided in this chapter, and cause such plat to be made
 21 and recorded in his office and the office of the county recorder, and
 22 thereupon the same result shall follow as provided in the preceding
 23 section. Such plat shall describe said tract and any other subdivisions
 24 of the smallest congressional subdivision of which the same is part,
 25 numbering them by progressive numbers, setting forth the courses
 26 and distances, the number of acres, and such other memoranda as is
 27 necessary; and descriptions of such lots or subdivisions according to
 28 the number and designation thereon said plat shall be deemed suffi-
 29 cient for all purposes.

[C., '73, § 570; C., '97, § 924; S., '13, § 924.]

SEC. 4082. Resurvey of town plats.

1 In all cases where the original plat of any city, town or village,
 2 or any addition thereto, has been or may be lost or destroyed after the
 3 sale and conveyance of any subdivision, block or lot thereof by the
 4 original proprietor and before the same shall have been recorded, any
 5 three persons owning real property within the limits of such plat may
 6 have the same resurveyed and replatted, and such plat recorded as
 7 hereinafter directed, but in no case shall such replat be made and
 8 recorded without the consent in writing, indorsed thereon, of the orig-
 9 inal proprietor, if he be alive and his place of residence known.

[C., '97, § 925.]

SEC. 4083. How made.

1 The county surveyor of any county in which is situated any city,
 2 town, village or addition thereto, as contemplated in this chapter,
 3 may, and upon payment of his legal fees by any person desiring the
 4 same, must, make a resurvey of such city, town, village or addition,
 5 or any portion, and plat thereof, which plat shall conform as near as
 6 may be with the original lines of the parcel or tract so resurveyed,
 7 and be made in all respects in accordance with the provisions of this
 8 chapter. In making a resurvey and plat, the surveyor may summon
 9 witnesses, administer oaths, and take and hear evidence touching the
 10 original plat lines and subdivisions, whether the original proprietor
 11 is dead, and any other matter which may assist in arriving at and
 12 establishing the true lines and boundaries; but no resurvey shall be
 13 made except upon notice to be given by the surveyor by a publication
 14 of the contemplated resurvey, once each week, for four consecutive
 15 weeks in some newspaper printed in the county.

[C., '97, § 926; S., '13, § 926.]

SEC. 4084. Plat certified and filed.

1 When the surveyor has completed the plat, he shall attach his
 2 certificate thereto, to the effect that it is a just, true and accurate plat

3 of said city, town, village or addition so surveyed by him; which shall
 4 be filed for record in the office of the recorder of the proper county,
 5 and from the date of such filing it shall be treated in all courts of this
 6 state as though the same had been made by the original proprietor
 7 thereof.

[C., '97, § 927.]

SEC. 4085. Contesting.

1 Any person may at any time within six months from the date
 2 of its filing for record commence an action in equity against the per-
 3 sons employing the surveyor, setting up his causes of complaint and
 4 asking that such record be canceled. If it appear on the trial that
 5 the city, town, village or addition was originally laid out and platted;
 6 that the original proprietor had sold any or all of the lots thereof,
 7 or that he intended to dedicate to the public the streets, alleys or pub-
 8 lic squares therein; that the plat thereof has never been recorded, but
 9 is lost; that the proprietor is dead or his place of residence unknown;
 10 and that the resurvey and plat filed for record is a substantially ac-
 11 curate survey and plat of the original plat of such city, town, village
 12 or addition, then the action shall be dismissed at the cost of the com-
 13 plainants, otherwise the court shall set aside said plat and cancel the
 14 same of record at the cost of defendants.

[C., '97, § 928.]

SEC. 4086. Penalty for failure to record.

1 Any person who shall dispose of or offer for sale or lease any lots
 2 in any town, or addition to any town or city, until the plat thereof has
 3 been acknowledged and recorded as provided in this chapter, shall
 4 forfeit and pay fifty dollars for each lot and part of lot sold or dis-
 5 posed of, leased or offered for sale.

[R., '60, § 1027; C., '73, § 572; C., '97, § 930.]

SEC. 4087. Public squares used for school purposes.

1 The people of any town located wholly within an independent
 2 school district, wherein is situated a public square or plat of ground
 3 deeded or dedicated to the town or public, may transfer or rededicate
 4 to said school district such square or plat for the purposes of a public
 5 school lot, to be used for the erection thereon of a public schoolhouse,
 6 or for playgrounds in connection with such schoolhouse.

[C., '97, § 931.]

SEC. 4088. Manner of transfer.

1 When a plat or lot of the character described in the preceding
 2 section is located in such town, and one-half of the resident voters
 3 thereof, according to the last census, shall petition the mayor and
 4 council, asking them to submit to the voters of the town, at a general
 5 or special election, the question whether or not such public plat or
 6 lot shall be transferred to such independent district and dedicated and
 7 used for school purposes, they shall submit the question to the voters
 8 of the town, in accordance with the prayer of said petition, after giv-
 9 ing ten days' notice in writing or printing thereof, in which the propo-
 10 sition submitted shall be clearly set forth and signed by the mayor,
 11 three of which notices shall be posted in public and conspicuous places
 12 in the town, and one published in the last two issues preceding such

13 election of a weekly newspaper published therein, or, if there be none,
 14 then in the weekly newspaper published elsewhere in the county, hav-
 15 ing the largest circulation in said town. The notice shall also state
 16 the manner of voting, which shall be by ballot. The ballot shall con-
 17 tain the words: "Shall the proposition to transfer lot (or block, or
 18 square, as the case may be, describing it), for the purposes of a public
 19 schoolhouse lot, be adopted?" Such election shall be conducted as
 20 ordinary town elections are, under the supervision of the town au-
 21 thorities, who shall canvass the vote as provided in other cases. If
 22 it shall appear that two-thirds of the votes cast at such election are
 23 in favor thereof, then such transfer shall be complete, and the lot,
 24 block or square may be appropriated and used for the purposes indi-
 25 cated by said vote, and shall be no longer held for any other purpose.

26 In the event that any such town shall have discontinued its or-
 27 ganization or shall have failed to exercise its municipal powers and
 28 elect officers for a period of more than ten years, then the petition
 29 hereinbefore provided for may be presented to the board of directors
 30 within such school corporation, whereupon, if signed by one-third of
 31 the resident electors thereof, it shall be the duty of said board within
 32 ten days after the filing of the same to call an election in said district
 33 for which they shall give the same notices as required in sections
 34 twenty-five hundred thirty-five and twenty-five hundred thirty-eight,
 35 at which election the proposition submitted shall be in the same form
 36 as in the instance of a submission of such proposition in the case of a
 37 town election, and such election shall be held as provided for the hold-
 38 ing of other school elections. If it shall appear that a majority of
 39 the votes cast at such election are in favor of such proposition then
 40 a transfer of such public square or plat of ground shall be complete
 41 and such lot, plat, block or square may be appropriated and used for
 42 the purposes indicated by said vote and shall be no longer held for
 43 any other purpose.

[C., '97, § 932; S. S., '15, § 932.]

CHAPTER 36.

PENSIONS FOR DISABLED AND RETIRED FIREMEN.

SECTION 4089. Firemen's pension fund—levy of tax for.

1 In all cities and towns now or hereafter having an organized fire
 2 department, there may be and in all such cities having a paid fire
 3 department there shall be annually levied at the time of the levy of
 4 other taxes for city purposes a tax not exceeding one-half of a mill
 5 on the dollar upon all taxable property within the limits of such cities
 6 and towns for the purpose of creating a firemen's pension fund. All
 7 moneys derived from taxes so levied and all moneys received as mem-
 8 bership fees and dues as hereinafter provided and all moneys received
 9 from grants, donations, and devises for the benefit of such fund shall
 10 constitute a fund to be known and designated as a firemen's pension
 11 fund, which said fund shall be under the control of a board of trustees
 12 and shall be exclusively devoted to and for the purposes hereinafter
 13 enumerated.

[S., '13, § 932-a.]

SEC. 4090. Board of trustees—to serve without compensation.

1 The chief officer of the fire department, the city treasurer, and
 2 the city solicitor, or attorney, of such cities and towns shall be ex
 3 officio members of and shall constitute the board of trustees of the
 4 firemen's pension fund. The chief officer of the fire department shall
 5 be president and the city treasurer, treasurer of such board of trus-
 6 tees and the faithful performance of the duties of the treasurer shall
 7 be secured by his official bond as city treasurer. Such trustees shall
 8 not receive any compensation for their services as members of said
 9 board.

[S., '13, § 932-b.]

SEC. 4091. Investment of surplus.

1 The firemen's pension fund shall be kept and preserved as a sep-
 2 arate fund. The board of trustees shall have power to invest any
 3 surplus left in such fund at the end of the fiscal year, but no part of
 4 the fund realized from any tax levy shall be used for any purpose
 5 other than the payment of pensions. Investments shall be limited to
 6 interest-bearing bonds of the United States, of the state of Iowa, of
 7 any county, township or municipal corporation of the state of Iowa.
 8 All such securities shall be deposited with the treasurer of the board
 9 of trustees for safe-keeping.

[S. S., '15, § 932-c.]

**SEC. 4092. Gifts, devises or bequests—membership fees—assess-
ments.**

1 The board of trustees may take by gift, grant, devise, or bequest,
 2 any money or property, real or personal, or other thing of value for
 3 the benefit of the firemen's pension fund. All rewards in money,
 4 fees, gifts, or emoluments of every kind or nature that may be paid
 5 or given to any fire department or to any member thereof, except
 6 when allowed to be retained or given to endow a medal or other perma-
 7 nent or competitive reward on account of extraordinary services ren-
 8 dered by said fire department or any member thereof, and all fines
 9 and penalties imposed upon members shall be paid into the said pen-
 10 sion fund and become a part thereof. Every member of the paid fire
 11 department of any city or incorporated town within the provisions of
 12 this chapter shall be required to pay to the treasurer of said fund a
 13 membership fee to be fixed by the board of trustees, not exceeding
 14 five dollars, and shall also be assessed and required to pay annually
 15 an amount equal to one per cent per annum upon the amount of the
 16 annual salary paid to him, which said assessment shall be deducted
 17 and retained in equal monthly installments out of such salary.

[S., '13, § 932-d.]

**SEC. 4093. Who entitled to pensions—conditions of retirement—
amount paid—disability—exemption.**

1 Any member of an organized paid fire department within the pro-
 2 visions of this chapter who shall have served twenty-two years or
 3 more in such department and shall have reached the age of fifty years,
 4 or who shall, while a member of such department, become mentally
 5 or physically permanently disabled from performing the duties of a
 6 fireman, shall be entitled to be retired, and upon retirement he shall
 7 be paid out of the firemen's pension fund of the city in which such

8 department is located, a monthly pension equal to one-half the amount
9 of salary received by him monthly at the date he actually retires from
10 said fire department. Provided, however, that no member who has
11 not served five years or more in such department shall be entitled to
12 be retired and paid a pension under the provisions of this chapter on
13 account of being mentally or physically permanently disabled, unless
14 such disability was contracted while engaged in the performance of
15 his duties or by reason of following the occupation of such fireman.
16 Provided, further, that the chief officer of any fire department shall
17 have the power to assign any member of the department, retired or
18 drawing pensions under this chapter, to the performance of light
19 duties in such fire department. The question of disability shall be
20 determined by the trustees upon the advice of a physician appointed
21 by the board of trustees for that purpose. Upon the death of any
22 member of such fire department while in the service, or of any mem-
23 ber who shall have been retired, leaving a widow or minor children
24 or dependent father or mother surviving him, there shall be paid out
25 of said fund as follows: To the surviving widow, so long as she re-
26 mains unmarried and of good moral character, a pension of twenty
27 dollars per month. If there be no surviving widow, or upon the death
28 or remarriage of such widow, then to his dependent father and
29 mother, if both survive, or to either dependent parent, if one survive,
30 twenty dollars per month. To the guardian of each surviving minor
31 child under sixteen years of age, six dollars per month. Provided,
32 however, that the aggregate of all such payments shall not exceed one-
33 half of the amount of the salary of such member at the time of his
34 death or retirement. If any such member shall have served twenty-
35 two years in such department but shall not have reached the age of
36 fifty years, he shall be entitled to retirement as above; provided, how-
37 ever, that no pension shall be paid while he lives until he reaches the
38 age of fifty years. The provisions of this chapter shall apply to vol-
39 unteer or call members of a paid fire department, excepting that, as
40 to such volunteer or call members, the amount of pension to be paid
41 shall be such as the board of trustees shall fix or determine. After
42 any member shall become entitled to be retired, such right shall not
43 be lost or forfeited by discharge or for any other reason except con-
44 viction for felony. All pensions paid under the provisions of this
45 chapter shall be exempt from liability for debts of the person to or
46 on account of whom the same is paid and shall not be subject to seizure
47 upon execution or other process.

[S., '13, § 932-e; 38 G. A., ch. 19, § 1.]

SEC. 4094. Reexamination of retired members.

1 If any member of any fire department shall have been retired by
2 reason of physical or mental disability, the board of trustees shall
3 have the right and power, at any time, to cause such retired member
4 to be brought before it and again examined by competent physicians
5 for the purpose of discovering whether such disability yet continues
6 and whether such retired member should be continued on the pension
7 roll, and shall also have the power to examine witnesses for the same
8 purpose. Such retired member shall be entitled to reasonable notice
9 that such examination will be made and to be present at the time of
10 the taking of any testimony, shall be permitted to examine the wit-
11 nesses brought before the board, and shall also have the right to intro-
12 duce evidence in his own behalf. All witnesses produced shall be

13 examined under oath and any member of such board of trustees is
 14 hereby authorized and empowered to administer such oath to such
 15 witnesses. The decision of such board upon such matters shall be
 16 final and conclusive, in the absence of fraud, and no appeal shall be
 17 allowed therefrom. Such disabled member shall remain upon the pen-
 18 sion roll unless and until reinstated in such fire department by reason
 19 of such examination.

[S., '13, § 932-g.]

SEC. 4095. Provisions subject to alteration.

1 The provisions of this chapter shall be, at all times subject to
 2 alteration or change and all persons claiming benefits under the pro-
 3 visions hereof shall be entitled to receive only such benefits as pro-
 4 vided by law at the time such benefits shall be paid.

[S., '13, § 932-h.]

SEC. 4096. Moneys drawn—how paid—report.

1 All pensions paid and all moneys drawn from the pension fund,
 2 under the provisions of this chapter, shall be upon warrants signed
 3 by the board of trustees, which said warrants shall designate the name
 4 of the person and the purpose for which payment is made. The treas-
 5 urer of the board of trustees shall prepare annually, immediately after
 6 the first day of January, a report of the receipts and expenditures for
 7 the year ending December thirty-first of the previous year, showing
 8 the money on hand, how invested, all moneys received and paid out,
 9 which said report shall be filed with the city clerk.

[S., '13, § 932-i.]

CHAPTER 37.

PENSIONS FOR DISABLED AND RETIRED POLICEMEN.

SECTION 4097. Policemen's pension fund—levy of tax for.

1 In all cities and towns now or hereafter having an organized
 2 police department, there shall be annually levied at the time of the
 3 levy of other taxes for city purposes a tax not exceeding one-half of
 4 a mill on the dollar upon all taxable property within the limits of
 5 such cities and towns for the purpose of creating a policemen's pen-
 6 sion fund. All moneys derived from taxes so levied and all moneys
 7 received as membership fees and dues as hereinafter provided and all
 8 moneys received from grants, donations, and devises, for the benefit
 9 of such fund shall constitute a fund to be known and designated as a
 10 policemen's pension fund, which said fund shall be under the control
 11 of a board of trustees and shall be exclusively devoted to and for the
 12 purposes hereinafter enumerated.

[S., '13, § 932-j.]

SEC. 4098. Board of trustees—to serve without compensation.

1 The chief officer of the police department, the city treasurer, and
 2 the city solicitor, or attorney, of such cities and towns shall be ex
 3 officio members of and shall constitute the board of trustees of the
 4 policemen's pension fund. The chief officer of the police department

5 shall be president and the city treasurer, treasurer of such board of
6 trustees and the faithful performance of the duties of the treasurer
7 shall be secured by his official bond as city treasurer. Such trustees
8 shall not receive any compensation for their services as members of
9 said board.

[S., '13, § 932-k.]

SEC. 4099. Investment of surplus.

1 The policemen's pension fund shall be kept and preserved as a
2 separate fund. The board of trustees shall have power to invest any
3 surplus left in such fund at the end of the fiscal year, but no part of
4 the fund realized from any tax levy shall be used for any purpose
5 other than the payment of pensions. Investments shall be limited to
6 interest-bearing bonds of the United States, of the state of Iowa, of
7 any county, township, or municipal corporation of the state of Iowa.
8 All such securities shall be deposited with the treasurer of the board
9 of trustees for safe keeping.

[S., '13, § 932-l.]

SEC. 4100. Gifts, devises or bequests—membership fee—assessments.

1 The board of trustees may take by gift, grant, devise, or bequest,
2 any money or property, real or personal, or other thing of value for
3 the benefit of the policemen's pension fund. All rewards in money,
4 fees, gifts or emoluments of every kind or nature that may be paid
5 or given to any police department or to any member thereof, except
6 when allowed to be retained or given to endow a medal or other perma-
7 nent or competitive reward on account of extraordinary services ren-
8 dered by said police department or any member thereof, and all fines
9 and penalties imposed upon members shall be paid into the said pen-
10 sion fund and become a part thereof. Every member of the paid
11 police department of any city or incorporated town within the pro-
12 visions of this chapter shall be required to pay to the treasurer of said
13 fund a membership fee to be fixed by the board of trustees, not ex-
14 ceeding five dollars, and shall also be assessed and required to pay
15 annually an amount equal to one per cent per annum upon the amount
16 of the annual salary paid to him, which said assessment shall be de-
17 ducted and retained in equal semiannual installments out of such
18 salary.

[S., '13, § 932-m.]

SEC. 4101. Who entitled to pensions—conditions of retirement—amount paid—disability—exemption.

1 Any member of a police department within the provisions of this
2 chapter who shall have served twenty-two years or more in such de-
3 partment, and shall have reached the age of fifty years; or who shall
4 while a member of such become mentally or physically permanently
5 disabled from the duties of a police officer, shall be entitled to be
6 retired, and upon retirement he shall be paid out of the police pension
7 fund of the city in which such department is located, a monthly pen-
8 sion equal to one-half the amount of salary received by him monthly
9 at the date he actually retires from said police department. Provided,
10 however, that no member who has not served five years or more in
11 such department shall be entitled to be retired and paid a pension

12 under the provisions of this chapter on account of being mentally or
13 physically disabled, unless such disability was contracted while en-
14 gaged in the performance of his duties, or by reason of following his
15 occupation as a police officer. Provided, further, that the chief of
16 police of any police department shall have the power to assign any
17 member of the department, retired or drawing pensions under this
18 chapter to the performance of light duties in such police department.
19 The question of disability shall be determined by the trustees upon the
20 advice of a physician appointed by the board of trustees for that pur-
21 pose. Upon the death of any member of such police department while
22 in the service, or of any member who shall have been retired, leaving
23 a widow or minor children, or dependent father or mother surviving
24 him, there shall be paid out of said fund as follows: To the surviving
25 widow, so long as she remains unmarried and of good moral character,
26 a pension of twenty dollars a month. If there be no surviving widow,
27 or upon the death or remarriage of such widow, then to his dependent
28 father or mother, if both survive, or to either dependent parent, if
29 one survive, twenty dollars per month. To the guardian of each sur-
30 viving minor child under sixteen years of age, six dollars per month;
31 provided, however, that the aggregate of all such payments shall not
32 exceed one-half of the amount of the salary of such member at the
33 time of his death or retirement.

34 If any such member shall have served twenty-two years in such
35 department, but shall not have reached the age of fifty years, he shall
36 be entitled to retirement as above; provided, however, that no pension
37 shall be paid while he lives until he reaches the age of fifty years.
38 After any member shall become entitled to be retired, such right shall
39 not be lost or forfeited by discharge, or for any other reason except
40 conviction for felony.

41 All pensions paid under the provisions of this chapter shall be
42 exempt from liability for debts, to or on account of whom the same is
43 paid; and shall not be subject to seizure upon execution or other
44 process.

[S., '13, § 932-n; 37 G. A., ch. 23, § 1; 38 G. A., ch. 45, § 1.]

SEC. 4102. Reexamination of retired members.

1 If any member of any police department shall have been retired
2 by reason of physical or mental disability, the board of trustees shall
3 have the right and power, at any time, to cause such retired member
4 to be brought before it and again examined by competent physicians
5 for the purpose of discovering whether such disability yet continues
6 and whether such retired member should be continued on the pension
7 roll, and shall also have the power to examine witnesses for the same
8 purpose. Such retired member shall be entitled to reasonable notice
9 that such examination will be made and to be present at the time of
10 the taking of any testimony, shall be permitted to examine the wit-
11 nesses brought before the board, and shall also have the right to intro-
12 duce evidence in his own behalf. All witnesses produced shall be
13 examined under oath, and any member of such board of trustees is
14 hereby authorized and empowered to administer such oath to such
15 witnesses. The decision of such board upon such matters shall be
16 final and conclusive, in the absence of fraud, and no appeal shall be
17 allowed therefrom. Such disabled member shall remain upon the pen-

18 sion roll unless and until reinstated in such police department by
19 reason of such examination.

[S., '13, § 932-p.]

SEC. 4103. Provisions subject to alteration.

1 The provisions of this chapter shall be, at all times, subject to
2 alteration or change and all persons claiming benefits under the pro-
3 visions hereof shall be entitled to receive only such benefits as provided
4 by law at the time such benefits shall accrue.

[S., '13, § 932-q.]

SEC. 4104. Member of police department acting as marshal.

1 When any member of the police department has been, or shall be
2 hereafter appointed to the office of city marshal, he shall, while serv-
3 ing as city marshal, be considered as continuing a member of the
4 police department within the provisions of this chapter and as such
5 shall be entitled to all benefits and be subject to all liabilities thereof.
6 In any matter in which the said city marshal shall be individually
7 interested, and which requires the action of the board of trustees of
8 the policemen's pension fund, the said city marshal shall not act as a
9 member of said board, but the mayor of the city shall act with the
10 other two trustees of the board with respect thereto. Upon the termi-
11 nation of his term as city marshal, such member of the police depart-
12 ment shall regain the rank he held in such department at the time of
13 his appointment as city marshal.

[38 G. A., ch. 344, § 1.]

SEC. 4105. Moneys drawn—how paid—report.

1 All pensions paid and all moneys drawn from the pension fund,
2 under the provisions of this chapter, shall be upon warrants signed
3 by the board of trustees, which said warrants shall designate the name
4 of the person and the purpose for which payment is made. The treas-
5 urer of the board of trustees shall prepare annually, immediately after
6 the first day of January, a report of the receipts and expenditures for
7 the year ending December thirty-first of the previous year, showing
8 the money on hand, how invested, all moneys received and paid out,
9 which said report shall be filed with the city clerk.

[S., '13, § 932-r.]

CHAPTER 38.

HOUSING LAW.

SECTION 4106. Housing law—applies to what cities.

1 This chapter shall be known as the housing law of Iowa and shall
2 apply to every city of the first class and cities under commission form
3 of government which, by the last state or federal census, had a popu-
4 lation of fifteen thousand or more, and to every city as its population
5 shall reach fifteen thousand thereafter by any state or federal census;
6 provided, however, that in all other cities having a population of less
7 than fifteen thousand, and in incorporated towns, the council may
8 adopt ordinances for the regulation and control of any or all matters

9 covered by the provisions of this chapter, in so far as same may be
10 reasonably applicable, and fix penalties for the violation thereof; and
11 fix rules and regulations not inconsistent with those provided in this
12 chapter for the enforcement of said ordinances.

[38 G. A., ch. 123, § 1.]

SEC. 4107. Definition of terms.

1 Certain words in this chapter are defined for the purposes thereof
2 as follows: Words used in the present tense include the future; words
3 in the masculine gender include the feminine and neuter; the singular
4 number includes the plural and the plural the singular; the word "per-
5 son" includes a corporation as well as a natural person.

6 1. *Dwelling.* A "dwelling" is any house or building or portion
7 thereof which is occupied in whole or in part as the home or residence
8 of one or more human beings, either permanently or transiently.

9 2. *Classes of dwellings.* For the purposes of this chapter dwell-
10 ings are divided into the following classes: *a* "Private dwellings,"
11 *b* "two-family dwellings," and *c* "multiple dwellings."

12 *a* A private dwelling is a dwelling occupied by but one family
13 alone.

14 *b* A two-family dwelling is a dwelling occupied by but two fam-
15 ilies alone.

16 *c* A multiple dwelling is a dwelling occupied by more than two
17 families.

18 3. *Classes of multiple dwellings.* All multiple dwellings are for
19 the purposes of this chapter divided into two classes, viz.: Class A
20 and Class B.

21 Class A. Multiple dwellings of Class A are dwellings which are
22 occupied more or less permanently for residence purposes by several
23 families and in which the rooms are occupied in apartments, suites
24 or groups. This class includes tenement houses, flats, apartment
25 houses, apartment hotels, bachelor apartments, studio apartments,
26 kitchenette apartments, and all other dwellings similarly occupied
27 whether specifically enumerated or not.

28 Class B. Multiple dwellings of Class B are dwellings which are
29 occupied, as a rule transiently, as the more or less temporary abiding
30 place of individuals who are lodged, with or without meals, and in
31 which as a rule the rooms are occupied singly. This class includes
32 hotels, lodging houses, boarding houses, furnished room houses, club
33 houses, asylums, boarding schools, convents, hospitals, jails and all
34 other dwellings similarly occupied whether specifically enumerated
35 herein or not.

36 4. *Hotel.* A "hotel" is a multiple dwelling of Class B in which
37 persons are lodged for hire and in which there are more than twenty-
38 five sleeping rooms.

39 5. *Family occupancy.* For the purposes of this chapter, a "fam-
40 ily" is a group of persons living together, whether related to each
41 other by birth or not, and may consist of one or more persons.

42 6. *Mixed occupancy.* In cases of mixed occupancy where a
43 building is occupied only in part as a dwelling, the part so occupied
44 shall be deemed a dwelling for the purposes of this chapter.

45 7. *Yards.* A "rear yard" is an open unoccupied space on the
46 same lot with a dwelling, between the extreme rear line of the lot and
47 the extreme rear line of the house. A yard between the front line of
48 the house and the front line of the lot is a "front yard." A yard

49 between the side line of the house and the side line of the lot which
50 extends from the front line or front yard to the rear yard is a "side
51 yard."

52 8. *Courts.* A "court" is an open unoccupied space, other than a
53 yard, on the same lot with a dwelling. A court not extending to the
54 street or front or rear yard is an inner court. A court extending to
55 the street or front yard or rear yard is an outer court.

56 9. *Corner and interior lots.* A "corner lot" is a lot of which at
57 least two adjacent sides abut upon a street. A lot other than a corner
58 lot is an "interior lot". The word "lot" is any deeded parcel of land
59 whether a full platted lot or not.

60 10. *Front, rear and depth of lot.* The front of a lot is that
61 boundary line which borders on the street. In case of a corner lot
62 the owner may elect by statement on his plans either street boundary
63 lines as the front. The rear of a lot is the side opposite to the front.
64 The depth of a lot is the dimension measured from the front of the
65 lot to the extreme rear line of the lot. In case of irregular shaped
66 lots the mean depth shall be taken.

67 11. *Public hall.* A "public hall" is a hall, corridor or passage-
68 way not within the exclusive control of one family.

69 12. *Stair hall.* A "stair hall" is a public hall and includes the
70 stairs, stair landings and those portions of the building through which
71 it is necessary to pass in going between the entrance floor and the roof.

72 13. *Basement, cellar, attic.* a A "basement" is a story partly
73 underground but having at least one-half of its height above the curb
74 level, and also one-half of its height above the highest level of the
75 adjoining ground. A basement shall be counted as a story.

76 b A "cellar" is a story having more than one-half of its height
77 below the curb level, or below the highest level of the adjoining
78 ground. A cellar shall not be counted as a story for purposes of
79 height measurement. If any part of a story is in that part the equiv-
80 alent of a basement or cellar, the provisions of this chapter relative
81 to basements and cellars shall apply to such part of said story.

82 c In the case of private dwellings and two-family dwellings an
83 attic, or space in a sloping roof, if not occupied for living purposes,
84 shall not be counted as a story; in the case of multiple dwellings an
85 attic room shall be counted as a story if used for living purposes.

86 14. *Height.* The "height" of a dwelling is the perpendicular dis-
87 tance measured in a straight line from the curb level to the highest
88 point of the roof beams in the case of flat roofs, and to the average
89 of the height of the gable in the case of pitched roofs; the measure-
90 ments in all cases to be taken through the center of the front of the
91 house. Where a dwelling is situated on a terrace above the curb level
92 such height shall be measured from the level of the adjoining ground.
93 Where a dwelling is on a corner lot and there is more than one grade
94 or level, the measurements shall be taken from the mean elevation.

95 15. *Curb level.* The "curb level" is the level of the established
96 curb in front of the building measured at the center of such front.
97 Where no curb has been established the city engineer shall establish
98 such curb level or its equivalent for the purposes of this chapter.

99 16. *Occupied spaces.* Outside stairways, fire towers, porches,
100 platforms, balconies, boiler flues and other projections shall be con-
101 sidered as part of the building and not as a part of the yards or
102 courts or unoccupied spaces. This provision shall not apply to un-
103 inclosed outside porches not exceeding two story in height which
104 do not extend into the front or rear yard a greater distance than ten

105 feet from the front or rear walls of the building, nor to any such
106 porch which does not extend into the side yard a greater distance
107 than twelve feet from the side wall of the building nor exceed twelve
108 feet in its other horizontal dimension, nor to an enclosed rear porch
109 or attached garage with or without sleeping porch above and not
110 exceeding twelve by twenty feet nor to cornices or eaves not exceed-
111 ing eighteen inches in width.

112 17. *Fire-resistive constructed dwelling.* A dwelling of fire-
113 resistive construction is one with brick, stone, or concrete walls and
114 with brick tile, concrete or terra cotta floors and roof. Floor and
115 roof supports to be of brick, concrete or metal with all metal pro-
116 tected by tile, concrete or similar fire-resistant material. But this
117 definition shall not be construed as prohibiting the use of wooden
118 flooring on top of the fireproof floors or the use of wooden sleepers,
119 nor as prohibiting wooden hand rails or treads of hardwood not less
120 than one inch thick.

121 18. *Wooden buildings.* A "wooden building" is a building of
122 which the exterior walls or a portion thereof are of wood. Court
123 walls are exterior walls.

124 19. *Nuisance.* The word "nuisance" shall be held to embrace
125 nuisance as known at common law or in equity jurisprudence; and
126 whatever is dangerous to human life or detrimental to health; what-
127 ever dwelling is overcrowded with occupants or is not provided with
128 adequate ingress or egress to or from the same, or is not sufficiently
129 supported, ventilated, sewerred, drained, cleaned or lighted, in refer-
130 ence to its intended or actual use; and whatever renders the air or
131 human food or drink unwholesome, are also severally, in contempla-
132 tion of this chapter, nuisances; and all such nuisances are hereby
133 declared illegal.

134 20. *Construction of certain words.* The word "shall" is always
135 mandatory and not directory, and denotes that the dwelling shall be
136 maintained in all respects according to the mandate as long as it
137 continues to be a dwelling. Wherever the words "charter," "ordi-
138 nances," "regulations," "superintendent of buildings," "health de-
139 partment," "the board of health," "health officer," "commissioner of
140 public safety," "commissioner of public health," "department charged
141 with the enforcement of this chapter," "corporation counsel,"
142 "mayor," "city treasury," or "fire limits" occur in this chapter they
143 shall be construed as if followed by the words "of the city in which
144 the dwelling is situated."

145 Wherever the words "health department," "health officer," or
146 "duly authorized assistant" or "board of health," "commissioner of
147 public safety," or "commissioner of public health" are employed in
148 this chapter, such words shall be deemed and construed to mean the
149 official or officials in any city to whom is committed the charge of
150 safeguarding the public health. The terms "superintendent of build-
151 ings," "building department" and "inspector of buildings" shall em-
152 brace the department and the executive head thereof specially
153 charged with the execution of laws and ordinances relating to the
154 construction of buildings. Wherever the words "occupied" or "used"
155 are employed in this chapter such words shall be construed as if fol-
156 lowed by the words "or is intended, arranged, designed, built, altered,
157 converted to, rented, leased, let or hired out, to be occupied or used."

158 Wherever the words "dwelling," "two-family dwelling," "mul-
159 tiple dwelling," "building," "house," "premises" or "lot" are used
160 in this chapter, they shall be construed as if followed by the words

161 "or any part thereof." Wherever the words "city water" are used
162 in this chapter, they shall be construed as meaning any public supply
163 of water through street mains; and wherever the words "public
164 sewer" are used in this chapter they shall be construed as meaning
165 any part of a system of sewers that is used by the public or by con-
166 certed action of several users, whether or not such part was con-
167 structed at the public expense. Wherever the word "street" is used
168 in this chapter it shall be construed as including for the purpose
169 hereinafter stated any public alley sixteen feet or more in width,
170 namely, for the sole purpose of determining the required open space
171 around and the allowable height of any building abutting thereon.
172 "Approved fire-resistive material" means as set forth by ordinances,
173 or if not so determined, as approved by the superintendent of
174 buildings.

[38 G. A., ch. 123, § 2.]

SEC. 4108. Alteration—change of class.

1 A building not a dwelling, if hereafter converted or altered to
2 such use shall thereupon become subject to such provisions of this
3 chapter relative to dwellings hereafter erected as the board of health
4 may require. A dwelling of one class if hereafter altered or con-
5 verted to another class shall thereupon become subject to such pro-
6 visions of this chapter relative to such latter class as the board of
7 health may require.

[38 G. A., ch. 123, § 3.]

SEC. 4109. Unlawful structures.

1 No dwelling hereafter erected shall at any time be altered so as
2 to be in violation of any provision of this chapter. And no dwelling
3 erected prior to the passage of this act [March 31, 1919] shall at any
4 time be altered so as to be in violation of those provisions of this
5 chapter applicable to such dwelling. If any dwelling or any part
6 thereof is occupied by more families than provided in this chapter,
7 or is erected, altered or occupied contrary to law, such dwelling shall
8 be deemed an unlawful structure and the health officer may cause
9 such dwelling to be vacated. Any such dwelling shall not again be
10 occupied until it, or its occupation as the case may be, has been made
11 to conform to the law.

[38 G. A., ch. 123, § 4.]

SEC. 4110. Dwelling rebuilt.

1 If a dwelling be damaged by fire or other cause to the extent of
2 sixty-five per cent or more of its original value, exclusive of the value
3 of the foundations, such dwelling shall not be repaired or rebuilt ex-
4 cept in conformity with the provisions of this chapter relative to
5 dwellings hereafter erected; provided, however, the owner shall be
6 permitted to rebuild a building of the same size as before subject to
7 such reasonable provisions regarding light, ventilation and sanita-
8 tion, as the board of health may prescribe.

[38 G. A., ch. 123, § 5.]

SEC. 4111. Dwelling moved.

1 If any dwellings be hereafter moved from one lot to another it
2 shall thereupon be made to conform to all the provisions of this chap-

3 ter relative to dwellings hereafter erected, unless the board of health
4 shall in a written permit for such removal certify that such dwelling
5 is reasonably safe and sanitary.

[38 G. A., ch. 123, § 6.]

SEC. 4112. Sewer connections—water supply.

1 The provisions of this chapter with reference to sewer connec-
2 tions and water supply shall be deemed to apply only where connection
3 with a public sewer and with public water mains is or becomes rea-
4 sonably accessible. All questions of the practicability of such sewer
5 and water connections shall be decided by the health officer or such
6 other official as the board of health may direct.

[38 G. A., ch. 123, § 7.]

SEC. 4113. Minimum requirements — higher requirements by ordinance.

1 The provisions of this chapter shall be held to be the minimum
2 requirements adopted for the protection of health, welfare and safety
3 of the community. Nothing herein contained shall be deemed to inval-
4 idate existing ordinances or regulations of any city imposing require-
5 ments higher than the minimum requirements laid down in this chap-
6 ter relative to light, ventilation, sanitation, fire prevention, egress,
7 occupancy, maintenance and uses for dwellings; nor be deemed to pre-
8 vent any city subject to this chapter from enacting and putting in
9 force from time to time ordinances and regulations imposing require-
10 ments higher than the minimum requirements laid down in this chap-
11 ter; nor shall anything herein contained be deemed to prevent such
12 cities from prescribing for the enforcement of such ordinances and
13 regulations, remedies and penalties similar or additional to those pre-
14 scribed herein. And every city subject to this chapter is empowered
15 to enact such ordinances and regulations and to prescribe for their
16 enforcement; and to enact such other ordinances pertaining to the
17 housing of the people, not in conflict with the provisions of this chap-
18 ter, as shall be deemed advisable by the city council. No ordinance,
19 regulation, ruling or decision of any municipal body, officer or author-
20 ity shall repeal, amend, modify or dispense with any of the said mini-
21 mum requirements laid down in this chapter, except as specifically
22 provided herein.

[38 G. A., ch. 123, § 8.]

SEC. 4114. Enforcement of law.

1 The state board of health shall have the power to examine into the
2 enforcement of this chapter in each city.

[38 G. A., ch. 123, § 9.]

SEC. 4115. Improvements to be made—when.

1 All improvements specifically required by this chapter upon dwell-
2 ings erected prior to the date of its passage [March 31, 1919] shall be
3 made within one year from said date, unless time is extended by the
4 health department.

[38 G. A., ch. 123, § 10.]

SEC. 4116. Application of provisions.

1 All the provisions of this chapter shall apply to all classes of dwell-
2 ings, except that in sections where specific reference is made to one or
3 more specific classes of dwellings such provisions shall apply only to
4 those specific classes to which reference is made.

[38 G. A., ch. 123, § 11.]

SEC. 4117. Height of buildings.

1 No dwelling hereafter erected shall exceed in height one and
2 one-half times the width of the widest street upon which it abuts,
3 nor in any case shall it exceed one hundred feet in height. Such width
4 of street shall be determined by measuring from front line of the
5 building as constructed to the street line of the opposite side of the
6 street. The provisions of this section shall not apply to hotels.

[38 G. A., ch. 123, § 12.]

SEC. 4118. Rear yards.

1 Immediately behind every single and two-family dwelling here-
2 after erected there shall be, except as hereinafter provided, a rear
3 yard extending across the lot, for a distance equal to at least the width
4 of the dwelling. Such yard shall be open and unobstructed from the
5 ground to the sky. Every part of such yard shall be directly accessible
6 from every other part thereof. The depth of said yard shall be meas-
7 ured at right angles from the rear lot line to the extreme rear part
8 of the dwelling. Such rear yard space shall in no case be less than
9 ten feet deep, and two feet additional for each story of the dwelling on
10 said lot above the first.

11 An irregular shaped lot, or lot subject to building line restrictions,
12 may be occupied by a dwelling without complying with the provisions
13 of this section, if the total yard space equals that required by this
14 section.

15 The provisions of this section shall not apply to hotels.

[38 G. A., ch. 123, § 13.]

SEC. 4119. Building to side line of lot—when—side yards.

1 Dwellings hereafter erected may be built up to the side lot line,
2 if the side wall is without windows, or if with windows the air and
3 light required by this chapter are provided otherwise than by windows
4 on the lot line, or if the side lot line abuts on a street or alley. If,
5 however, any side yard is left, it shall be open and unobstructed from
6 the ground to the sky, and its width shall be proportionate to the
7 height of the dwelling, and no side yard shall be less in width in any
8 part than as follows:

9 *a* Multiple dwellings: In the case of all multiple dwellings here-
10 after erected, one story in height and having a side yard the width
11 of the side yard measured to the side lot line shall be at least four
12 feet, and such side yard shall be increased in width by one foot for
13 each additional story above the first.

14 *b* Private dwellings and two-family dwellings: In the case of pri-
15 vate dwellings and two-family dwellings hereafter erected, one story
16 or two stories in height, the width of the side yard measured to the
17 side lot line shall be at least four feet; such side yard shall be increased
18 in width one foot for each additional story above the second.

19 c Distance between buildings on same lot: Where more than one
20 dwelling is erected upon the same lot, the distance between them shall
21 not be less than eight feet in the case of dwellings of one or two stories
22 in height, this distance to be increased two feet for each additional
23 story above the second.

[38 G. A., ch. 123, § 14.]

SEC. 4120. Courts—size of.

1 The size of all courts in dwellings hereafter erected shall be pro-
2 portionate to the height of the dwelling. No court shall be less in any
3 part than the minimum sizes prescribed in this section. The mini-
4 mum width of an outer court for a one-story dwelling shall be five
5 feet, for a two-story dwelling six feet, for a three-story dwelling seven
6 feet, and shall increase one foot for each additional story above three
7 stories. The least dimension of an inner court shall never be less than
8 twice the minimum width prescribed by this section for an outer court.
9 The width of all courts adjoining the lot line shall be measured to the
10 lot line and not to an opposite building.

[38 G. A., ch. 123, § 15.]

SEC. 4121. Courts not to be covered.

1 No court of a dwelling hereafter erected shall be covered by a
2 roof or skylight. Every such court shall be at every point open from
3 the ground to the sky unobstructed. Except that in the case of hotels,
4 courts may start on the floor level of the lowest bedroom story and in
5 the case of other multiple dwellings where there are stores or shops
6 on the lower story or stories, courts may start on the top of such
7 lower story or stories.

[38 G. A., ch. 123, § 16.]

SEC. 4122. Air intake.

1 In all dwellings hereafter erected every inner court extending
2 through more than one story shall be provided with a horizontal air
3 intake at the bottom.

[38 G. A., ch. 123, § 17.]

SEC. 4123. Cutting off corners of courts.

1 Nothing contained in the foregoing sections concerning courts
2 shall be construed as preventing the cutting off of the corners of said
3 courts.

[38 G. A., ch. 123, § 18.]

SEC. 4124. Other buildings on same lot with dwelling.

1 If any building is hereafter placed on the same lot with a dwell-
2 ing, there shall always be maintained between the said buildings an
3 open and unoccupied space extending upwards from the ground. If
4 such buildings are placed at the side of each other the space between
5 them shall conform to the provisions of section forty-one hundred
6 nineteen relating to side yards, but shall be twice the minimum
7 therein required. If such buildings are placed one at the rear of the
8 other the space between them shall be the same as that prescribed in
9 section forty-one hundred seventeen [4118] for rear yards. In all
10 cases the height of the highest building on the lot shall regulate the
11 dimensions.

12 No building of any kind shall be hereafter placed upon the same
13 lot with a dwelling so as to decrease the minimum sizes of courts or
14 yards hereinbefore prescribed, except that, in case of a lot less than
15 seventy-five feet deep, a one-story garage, not more than twenty-five
16 feet deep, measured lengthwise of the lot, nor more than twenty-five
17 feet in the other dimension, or other one-story building, of like dimen-
18 sions, used exclusively for domestic purposes and not as a dwelling or
19 for the shelter or habitation of animals or fowls of any kind, may
20 occupy one-third of the depth of the open space in this section pre-
21 scribed.

22 If any dwelling is hereafter erected upon any lot upon which
23 there is already another building, it shall comply with all the provi-
24 sions of this chapter, and, in addition, the space between the said build-
25 ing and the said dwelling shall be of such size and arranged in such
26 manner as is herein prescribed, the height of the highest building on
27 the lot to regulate the dimensions.

[38 G. A., ch. 123, § 19.]

SEC. 4125. Windows opening on streets.

1 In every dwelling hereafter erected every room shall have at least
2 one window opening directly upon the street or a public alley or other
3 public space at least sixteen feet in width, or upon a yard or court of
4 the dimensions specified in this chapter, and located on the same lot,
5 and such window shall be so located as to properly light all portions
6 of such rooms. This provision shall not, however, apply to rooms used
7 as art galleries, swimming pools, gymnasiums, squash courts, or for
8 similar purposes, provided such rooms are adequately lighted and
9 ventilated.

[38 G. A., ch. 123, § 20.]

SEC. 4126. Window area.

1 In every dwelling hereafter erected the total window area in each
2 room shall be at least one-eighth of the superficial floor area of the
3 room, and the total minimum window area shall be made so as to
4 open in all its parts.

[38 G. A., ch. 123, § 21.]

SEC. 4127. Size of living and bed rooms.

1 In every dwelling hereafter erected all living rooms and bed-
2 rooms shall be of the following minimum sizes: Every such room
3 shall contain at least eighty square feet of floor area, except that
4 kitchenettes may be forty square feet in area; no such room, except
5 kitchenette, shall be in any part less than seven feet wide. In multiple
6 dwellings of Class A in each apartment, group or suite of rooms there
7 shall be at least one room containing not less than one hundred twenty
8 square feet of floor area.

[38 G. A., ch. 123, § 22.]

SEC. 4128. Height of rooms.

1 No room in a private dwelling hereafter erected shall be in any
2 part less than eight feet three inches high from the finished floor to
3 the finished ceiling downstairs and seven feet six inches upstairs;
4 except that an attic room used for living purposes in such private
5 dwelling need be seven feet six inches in but one-half of its area.

6 No room in a two-family dwelling or multiple dwelling hereafter
7 erected shall be in any part less than eight feet three inches high from
8 the finished floor to the finished ceiling, except that in a two-family
9 dwelling constructed so as to be occupied on two floors by one family,
10 the height of the rooms on the second floor shall be the same as herein
11 provided for a private dwelling.

[38 G. A., ch. 123, § 23.]

SEC. 4129. Partitions.

1 In every dwelling hereafter erected an alcove in any room intended
2 or used for separate occupancy shall be separately lighted and venti-
3 lated as provided for rooms in the foregoing sections. No part of any
4 room in a dwelling hereafter erected shall be inclosed or subdivided
5 at any time, wholly or in part, by a fixed partition for permanent
6 separate occupancy, unless such part of the room so inclosed or sub-
7 divided shall be separately lighted and ventilated as provided for
8 rooms in the foregoing sections.

[38 G. A., ch. 123, § 24.]

SEC. 4130. Windows in bathrooms—area.

1 In every dwelling hereafter erected every water-closet compart-
2 ment and every bathroom shall have an aggregate window area of at
3 least four square feet between stop beads opening directly upon the
4 street, or upon a yard or court of the dimensions specified in this
5 chapter. Every such window shall be made so as to open in all its
6 parts. Nothing in this section contained shall be construed so as to
7 prohibit a general toilet room containing several water-closet compart-
8 ments separated from each other by dwarf partitions, provided such
9 toilet room is adequately lighted and ventilated to the outer air as
10 above provided, and that such water-closets are supplemental to the
11 water-closet accommodations required by the provisions of section
12 forty-one hundred thirty-seven.

13 The above provision shall not apply to hotels or dwellings that
14 have a system of forced ventilation so constructed as entirely to
15 change the air in every bathroom, toilet room or water-closet com-
16 partment every seven minutes.

[38 G. A., ch. 123, § 25.]

SEC. 4131. Lighting and ventilation of halls.

1 Every multiple dwelling, every public hall and stair hall shall
2 have adequate lighting and ventilation as the board of health may
3 require.

[38 G. A., ch. 123, § 26.]

SEC. 4132. Cellar rooms.

1 In dwellings hereafter erected no room in the cellar shall be
2 occupied for living purposes.

[38 G. A., ch. 123, § 27.]

SEC. 4133. Basement rooms.

1 In dwellings hereafter erected no room in the basement shall be
2 occupied for living purposes, unless in addition to the other require-
3 ments of this chapter such room shall have sufficient light and ven-

4 tilation, shall be well drained and dry and shall, in the opinion of the
5 the board of health, be fit for human habitation.

[38 G. A., ch. 123, § 28.]

SEC. 4134. Basement or cellar under entrance floor.

1 Every dwelling hereafter erected shall have a basement, cellar
2 or excavated space under the entire entrance floor, at least three feet
3 in depth, or shall be elevated above the ground so that there will be a
4 clear air space of at least eighteen inches between the top of the
5 ground and the floor joists so as to insure ventilation and protection
6 from dampness, provided, however, that cement floors may be laid
7 on the ground level if desired.

[38 G. A., ch. 123, § 29.]

SEC. 4135. Courts and yards graded and drained.

1 In every dwelling hereafter erected all courts, areas and yards
2 shall be properly graded and drained and when required by the health
3 officer the courts shall be properly concreted in whole or in part as
4 may be necessary.

[38 G. A., ch. 123, § 30.]

SEC. 4136. Sinks and washbowls required.

1 In every dwelling hereafter erected and not exempted in section
2 forty-one hundred twelve, there shall be a proper sink and washbowl
3 with running water, exclusive of any sink in the cellar. In two-family
4 dwellings and in multiple dwellings of Class A there shall be such a
5 sink or washbowl in each apartment, suite or group of rooms.

[38 G. A., ch. 123, § 31.]

SEC. 4137. Water-closets.

1 In every dwelling hereafter erected there shall be a separate
2 water-closet. Each such water-closet shall be placed in a compart-
3 ment completely separated from every other water-closet; such compart-
4 ment shall be not less than thirty inches wide, and shall be
5 inclosed with partitions which shall extend to the ceiling. Every such
6 compartment shall have a window opening directly upon the street or
7 upon a yard or court of the minimum sizes prescribed by this chapter
8 and located upon the same lot. Nothing in this section contained shall
9 be construed so as to prohibit a general toilet room containing several
10 water-closet compartments separated from each other by dwarf parti-
11 tions, provided such toilet room is adequately lighted and ventilated to
12 the outer air as above provided and that such water-closets are sup-
13 plemental to the water-closet accommodations required by other pro-
14 visions of this section for the occupants of said house. No water-closet
15 fixture shall be incased with any woodwork. No water-closet shall be
16 placed in a cellar of a multiple dwelling except with written permit
17 from the health officer. In two-family dwellings and in multiple
18 dwellings of Class A hereafter erected there shall be for each family a
19 separate water-closet constructed and arranged as above provided and
20 located within each apartment, suite or group of rooms. In multiple
21 dwellings of Class B hereafter erected there shall be provided at least
22 one water-closet for every twenty occupants or fraction thereof. Every
23 water-closet compartment hereafter placed in any dwelling shall be

24 provided with proper means of lighting the same at night. The provi-
25 sions of this section regarding windows in water-closet compartments
26 shall not apply to dwellings that have a system of forced ventilation
27 as provided in section forty-one hundred thirty.

[38 G. A., ch. 123, § 32.]

SEC. 4138. Multiple dwellings to be accessible to city water and public sewers.

1 No multiple dwelling shall hereafter be erected unless there is
2 accessible city water and a public sewer, or a private sewer connected
3 directly with a public sewer. No cesspool or similar means of sewage
4 disposal shall be used in connection with any dwelling where connec-
5 tion with a public sewer is practicable.

[38 G. A., ch. 123, § 33.]

SEC. 4139. Plumbing fixtures—requirements.

1 In every dwelling hereafter erected no plumbing fixture shall be
2 incased, but the space underneath shall be left entirely open. Plumb-
3 ing pipes shall be exposed, when so required by the health officer. All
4 plumbing work shall be sanitary in every particular and, except as
5 otherwise specified in this chapter, shall be in accordance with the
6 plumbing regulations of said city. All fixtures shall be trapped. Pan,
7 plunger and long hopper closets will not be permitted. Wooden sinkz
8 will not be permitted.

[38 G. A., ch. 123, § 34.]

SEC. 4140. Certain dwellings to be of fire-resistive materials.

1 No dwelling shall hereafter be erected exceeding four stories in
2 height, unless it shall be of fire-resistive material; the building, how-
3 ever, may step up to follow the street grade, provided no part of it is
4 over four stories in height.

[38 G. A., ch. 123, § 35.]

SEC. 4141. Egress from multiple dwellings.

1 Every multiple dwelling hereafter erected exceeding two stories
2 in height shall have at least two independent ways of egress each of
3 which shall extend from the ground floor to the roof, and shall be
4 located remote from each other, and each shall be arranged as pro-
5 vided elsewhere in this chapter. One of such ways of egress shall be
6 a flight of stairs constructed and arranged as provided in sections
7 forty-one hundred forty-four to forty-one hundred forty-seven, inclu-
8 sive. In multiple dwellings of Class A the second way of egress shall
9 be directly accessible to each apartment, group or suite of rooms with-
10 out having to pass through the first way of egress. In multiple dwell-
11 ings of Class B the second way of egress shall be directly accessible
12 from a public hall. The second way of egress may be any one of the
13 following as the owner may select:

14 1. A system of outside balcony fire escapes constructed and
15 arranged so as to comply with the state fire laws.

16 2. An additional flight of stairs, either inside or outside, con-
17 structed and arranged as provided in sections forty-one hundred forty-
18 three to forty-one hundred forty-six inclusive.

19 3. A fire tower located, constructed and arranged as may be
20 required by the superintendent of buildings.

[38 G. A., ch. 123, § 36.]

SEC. 4142. Flat-roofed multiple dwellings.

1 Every flat-roofed multiple dwelling hereafter erected exceeding
2 one story in height shall have in the roof a bulkhead or a scuttle not
3 less than two feet by three feet in size. Such scuttle or bulkhead shall
4 be fireproof or covered with metal on the outside and shall be provided
5 with stairs leading thereto and easily accessible to all occupants of
6 the building. No scuttle or bulkhead shall be located in a closet or
7 room, but shall be located in the ceiling of the public hall on the top
8 floor, and access through the same shall be direct and uninterrupted.

[38 G. A., ch. 123, § 37.]

SEC. 4143. Stairs in two-story multiple dwellings.

1 Every multiple dwelling two stories or more in height hereafter
2 erected shall have at least one flight of stairs extending from the
3 entrance floor to the roof; and the stairs and public halls therein
4 shall each be at least four feet wide in the clear. All stairs shall be
5 constructed with a rise of not more than eight inches and with treads
6 not less than ten inches wide and not less than four feet long in the
7 clear. Winding stairs will not be permitted.

[38 G. A., ch. 123, § 38.]

SEC. 4144. Stairs in multiple dwellings of more than two stories.

1 In multiple dwellings hereafter erected which exceed two stories
2 in height, the stair halls shall be constructed of fire-resistive material
3 throughout. The risers, strings and balusters shall be of metal, con-
4 crete or stone. The treads shall be of metal, slate, concrete or stone
5 or of hardwood not less than two inches thick. Wooden handrails will
6 be permitted if constructed of hardwood. The floors of all such stair
7 halls shall be constructed of iron, steel or concrete beams and fire-
8 proof filling, and no wooden flooring or sleepers shall be permitted.
9 In multiple dwellings hereafter erected which exceed two stories in
10 height, at least one flight of stairs shall be inclosed in fireproof walls
11 from the cellar to the roof.

[38 G. A., ch. 123, § 39.]

SEC. 4145. Stair halls in such dwellings.

1 In all multiple dwellings hereafter erected which exceed two
2 stories in height, all stair halls shall be inclosed on all sides with walls
3 of brick or other fire-resistive material not less than eight inches
4 thick. The doors opening from such stair halls shall be fire-resistive
5 and self-closing fire doors of the swinging type. There shall be no
6 transom or sash or similar opening from such stair hall to any other
7 part of the building occupied for living purposes.

[38 G. A., ch. 123, § 40.]

SEC. 4146. Stairway in multiple dwelling of less than five stories.

1 In multiple dwellings hereafter erected less than five stories
2 high, where there is but one stairway, the entrance hall shall be not
3 less than five feet wide in the clear; and in multiple dwellings five or

4 more stories high, the width shall be not less than six feet and the
 5 entrance hall shall have an additional width of two feet for each
 6 additional stairway served. In every multiple dwelling hereafter
 7 erected, access shall be had from the street or alley to the yard, either
 8 in a direct line or through a court.

[38 G. A., ch. 123, § 41.]

SEC. 4147. Dumb-waiters, chutes and shafts, inclosed.

1 In multiple dwellings hereafter erected all dumb-waiters, chutes,
 2 ventilating and miscellaneous shafts shall be inclosed in an inclosure
 3 of fire-resistive material with self-closing fire doors at all entrances
 4 into same including cellar entrances.

5 In multiple dwellings hereafter erected which shall exceed two
 6 stories in height or which are occupied by more than two families
 7 above the grade floor, elevators, if provided, shall not be permitted in
 8 well holes or in the same shaft as the stairs but shall be in a separate
 9 shaft or inclosure of fire-resistive material such as brick not less than
 10 eight inches in thickness, reinforced concrete not less than four inches
 11 in thickness, well burned tile or terra cotta not less than six inches
 12 in thickness.

13 All entrances into elevator shaft shall be protected by fire doors
 14 either self-closing or closed inside by elevator operator.

[38 G. A., ch. 123, § 42.]

SEC. 4148. Inside cellar stairs.

1 In multiple dwellings hereafter erected inside cellar stairs shall be
 2 in an inclosure constructed of fire-resistive walls and shall have a fire-
 3 resistive self-closing door of the swinging type at the bottom.

[38 G. A., ch. 123, § 43.]

SEC. 4149. Closets in multiple dwellings.

1 In multiple dwellings hereafter erected no closet of any kind shall
 2 be constructed under any staircase leading from the entrance story
 3 to the upper stories, but such space shall be left entirely open and kept
 4 clear and free from incumbrance.

[38 G. A., ch. 123, § 44.]

SEC. 4150. Cellar entrance.

1 In every multiple dwelling hereafter erected there shall be an
 2 entrance to the cellar or other lowest story from the outside of said
 3 building.

[38 G. A., ch. 123, § 45.]

SEC. 4151. No wooden multiple dwellings erected over certain height.

1 No wooden multiple dwelling shall hereafter be erected exceeding
 2 two stories in height and no wooden building not now used as a multi-
 3 ple dwelling shall hereafter be altered into a multiple dwelling exceed-
 4 ing two stories in height.

[38 G. A., ch. 123, § 46.]

SEC. 4152. Enlargement of dwellings.

1 No dwelling shall hereafter be enlarged or its lot diminished, or
2 other building placed on the lot, so that the rear yard or side yard
3 shall be less in size than the minimum sizes prescribed in sections
4 forty-one hundred eighteen and forty-one hundred nineteen for dwell-
5 ings hereafter erected.

[38 G. A., ch. 123, § 47.]

SEC. 4153. Inner courts—size.

1 An inner court hereafter constructed in a dwelling erected prior
2 to the passage of this act [March 31, 1919], if extending only through
3 one or two stories, shall be not less than six feet by eight feet in size;
4 and if it extends through more than two stories, it shall be not less
5 than eight feet by ten feet in size. All inner courts shall be opened
6 to the sky, without skylight, or roof of any kind.

[38 G. A., ch. 123, § 48.]

SEC. 4154. Additional halls or rooms.

1 Any additional room or hall that is hereafter constructed or
2 created in a dwelling shall comply in all respects with the provisions of
3 this chapter with reference to dwellings hereafter erected, except
4 that it may be of the same height as the other rooms of the same story
5 of the dwelling.

[38 G. A., ch. 123, § 49.]

SEC. 4155. Light and ventilation not to be diminished.

1 No dwelling shall be so altered or its lot diminished that any
2 room or public hall or stairs shall have its light or ventilation dimin-
3 ished in any way not approved by the health officer.

[38 G. A., ch. 123, § 50.]

SEC. 4156. Stairs not to be replaced with ladders.

1 No stairs leading to the roof in any multiple dwelling shall be
2 removed or be replaced with a ladder.

[38 G. A., ch. 123, § 51.]

SEC. 4157. Bulkheads—construction.

1 Every bulkhead hereafter constructed in a multiple dwelling shall
2 be constructed of fire-resistive material or covered with metal.

[38 G. A., ch. 123, § 52.]

SEC. 4158. Reduction of public halls or stairs.

1 No public hall or stairs in a multiple dwelling shall be reduced in
2 width so as to be less than the minimum width prescribed in sections
3 forty-one hundred forty-two [4143] and forty-one hundred forty-five
4 [4146].

[38 G. A., ch. 123, § 53.]

SEC. 4159. Dumb-waiter and elevator shafts—construction.

1 All dumb-waiters and elevators hereafter constructed in multiple
2 dwellings shall be in inclosures constructed of fire-resistive material
3 with fire-resistive doors at all openings at each story, including the

4 cellar. In the case of dumb-waiter shafts such doors shall be self-
5 closing; and such shafts shall be completely separated from the stairs
6 by walls of approved fire-resistive material inclosing the same.

7 This section does not apply to dumb-waiter shafts or elevator
8 shafts which are already in existence, but only to those which may be
9 installed after the act takes effect [July 4, 1919].

[38 G. A., ch. 123, § 54.]

SEC. 4160. Water-closets hereafter placed.

1 Any water-closet hereafter placed in a dwelling, except one pro-
2 vided to replace a defective or insanitary fixture in the same location,
3 shall comply with the provisions of sections forty-one hundred thirty,
4 forty-one hundred thirty-seven and forty-one hundred thirty-nine
5 relative to water-closets in dwellings hereafter erected.

[38 G. A., ch., 123, § 55.]

SEC. 4161. Height of dwellings increased—limitation.

1 No dwelling shall be increased in height so that it exceeds one and
2 one-half times the width of the widest street on which it abuts nor
3 in any case exceeds one hundred feet.

[38 G. A., ch. 123, § 56.]

SEC. 4162. Alterations.

1 Except as specified above, no dwelling shall be so altered nor
2 shall its lot be so diminished, nor shall any building be so placed on
3 the same lot, as to cause the dwelling to be in violation of the require-
4 ments of this chapter for dwellings hereafter erected; nor shall any
5 room, public hall or stairs have its light or ventilation diminished in
6 any way not approved by the health officer.

[38 G. A., ch. 123, § 57.]

SEC. 4163. Skylights—ventilators.

1 All new skylights hereafter placed in a multiple dwelling shall be
2 provided with ventilators having a minimum opening of forty square
3 inches and also with either fixed or movable louvers or with movable
4 sashes, and shall be of such size as may be determined to be prac-
5 ticable by the health officer.

[38 G. A., ch. 123, § 58.]

SEC. 4164. Divided rooms—window—size.

1 No part of any room in a dwelling shall hereafter be inclosed or
2 subdivided for separate occupancy, wholly or in part by a fixed parti-
3 tion, unless such part of a room so inclosed or subdivided shall contain
4 a window as required by sections forty-one hundred twenty-four, forty-
5 one hundred twenty-five [4126] and forty-one hundred twenty-nine
6 and have a floor area of not less than eighty square feet.

[38 G. A., ch. 123, § 59.]

SEC. 4165. Lights to be burning—when.

1 In every multiple dwelling a proper light shall be kept burning
2 by the owner in the public hallways near the stairs upon each floor

3 every night from sunset to sunrise throughout the year if so required
4 by the health officer.

[38 G. A., ch. 123, § 60.]

SEC. 4166. Water-closets in cellars.

1 No water-closet shall be maintained in the cellar of any dwelling
2 without a permit in writing from the health officer, who shall have
3 power to make rules and regulations governing the maintenance of
4 such closets. Under no circumstances shall the general water-closet
5 accommodations of any multiple dwelling be permitted in the cellar or
6 basement thereof; this provision, however, shall not be construed so
7 as to prohibit a general toilet room containing several water-closets,
8 provided such water-closets are supplementary to those required by
9 law.

[38 G. A., ch. 123, § 61.]

SEC. 4167. Number of water-closets.

1 In every dwelling existing prior to the passage of this act [March
2 31, 1919] there shall be provided at least one water-closet for every
3 two apartments, groups or suites of rooms, or fraction thereof, except
4 that in multiple dwellings of Class B there shall be provided at least
5 one water-closet for every twenty occupants or fraction thereof.

[38 G. A., ch. 123, § 62.]

**SEC. 4168. Cellar rooms not to be occupied for living purposes—
basement rooms—requirements when so used.**

1 No room in the cellar of any dwelling erected prior to the passage
2 of this act [March 31, 1919] shall be occupied for living purposes.
3 And no room in the basement of any such dwelling shall be so occu-
4 pied without a written permit from the health officer. No such room
5 shall hereafter be occupied unless all the following conditions are com-
6 plied with:

7 1. Such room shall be at least seven feet high in every part from
8 the floor to the ceiling.

9 2. The ceiling of such room shall be in every part at least three
10 feet six inches above the surface of the street or ground outside of or
11 adjoining the same.

12 3. There shall be appurtenant to such room the use of a water-
13 closet.

14 4. At least one of the rooms of the apartment of which such room
15 is an integral part shall have a window or windows opening directly
16 to the street or yard, with an aggregate of at least twelve square feet
17 in size clear of the sash frame, and which shall open readily for pur-
18 poses of ventilation.

19 5. The lowest floor shall be waterproof and damp proof.

20 6. Such room shall have sufficient light and ventilation, shall be
21 well drained and dry and shall be fit for human habitation.

[38 G. A., ch. 123, § 63.]

SEC. 4169. Color cellar walls.

1 The cellar walls and cellar ceilings of every multiple dwelling shall
2 by the owner be thoroughly whitewashed or painted a light color and
3 shall be so maintained by him when required by the health officer.

[38 G. A., ch. 123, § 64.]

SEC. 4170. Floor beneath water-closets.

1 In all two-family dwellings and multiple dwellings the floor or
2 other surface beneath and around water-closets and sinks shall be
3 maintained in good order and repair and if of wood shall be kept well
4 painted.

[38 G. A., ch. 123, § 65.]

SEC. 4171. Repair of dwelling.

1 Every dwelling and all the parts thereof shall be kept in good
2 repair by the owner, and the roof shall be kept so as not to leak, and
3 all rain water shall be so drained and conveyed therefrom as not to
4 cause dampness in the walls or ceilings.

[38 G. A., ch. 123, § 66.]

SEC. 4172. Water supply—sinks.

1 Every dwelling not exempted in section forty-one hundred twelve
2 shall have within the dwelling at least one proper sink with running
3 water furnished in sufficient quantity at one or more places exclusive
4 of the cellar. In two-family dwellings and multiple dwellings of Class
5 A there shall be at least one sink on every floor, accessible to each
6 family on the floor occupied by said family without passing through
7 any other apartment. Where city water is not available the owner
8 shall provide proper and suitable tanks, pumps or other appliances to
9 receive and to distribute an adequate and sufficient supply of water at
10 each floor in the said dwelling at all times of the year, during all
11 hours of the day and night. But a failure in the general supply of city
12 water shall not be construed to be a failure on the part of such owner,
13 provided proper and suitable appliances to receive and distribute such
14 water have been provided in said dwelling.

[38 G. A., ch. 123, § 67.]

SEC. 4173. Catch basins in yard or court.

1 In the case of dwellings where, because of lack of city water sup-
2 ply or sewers, sinks with running water are not provided inside the
3 dwellings, one or more catch basins or some other approved conven-
4 ience for the disposal of waste water, if necessary in the opinion of
5 the health officer, shall be provided in the yard or court, level with the
6 surface thereof and at a point easy of access to the occupants of such
7 dwelling.

[38 G. A., ch. 123, § 68.]

SEC. 4174. Accumulations of dirt—duty of owner and occupant.

1 Every dwelling and every part thereof shall be kept clean and
2 shall also be kept free from any accumulation of dirt, filth, rubbish,
3 garbage or other matter in or on the same, or in the yards, courts,
4 passages, areas or alleys connected with or belonging to the same.
5 The owner of every dwelling and in the case of a private dwelling the
6 occupant thereof, shall thoroughly cleanse or cause to be cleansed all
7 the rooms, passages, stairs, floors, windows, doors, walls, ceilings,
8 privies, water-closets, cesspools, drains, halls, cellars, roofs and all
9 other parts of the said dwelling, or part of the dwelling of which he
10 is the owner or in case of a private dwelling the occupant, to the satis-

11 faction of the health officer, shall keep the said parts of the said dwell-
12 ing in a cleanly condition at all times.

[38 G. A., ch. 123, § 69.]

SEC. 4175. Color of walls of courts.

1 In multiple dwellings the walls of all courts, unless built of a light
2 color brick or stone, shall be thoroughly whitewashed by the owner or
3 shall be painted a light color by him, and shall be so maintained. Such
4 whitewash or paint shall be renewed whenever necessary, as may be
5 required by the health officer.

[38 G. A., ch. 123, § 70.]

SEC. 4176. Color of walls of rooms not opening on street.

1 In all multiple dwellings erected prior to this act [July 4, 1919]
2 the health officer may require the walls and ceilings of every room
3 that does not open directly on the street to be calcimined or painted
4 so as to furnish adequate lighting of such room and may require this
5 to be renewed as often as may be necessary.

[38 G. A., ch. 123, § 71.]

SEC. 4177. Garbage receptacles.

1 The owner of every dwelling and in the case of a private dwelling
2 the occupant shall provide for said dwelling, keep clean and in place,
3 proper covered receptacles of nonabsorbent material for holding gar-
4 bage, refuse, rubbish and other waste matter. Garbage chutes are
5 prohibited.

[38 G. A., ch. 123, § 72.]

SEC. 4178. Animals not to be kept in dwellings.

1 No horse, cow, calf, swine, sheep, goat, chickens, geese or ducks
2 shall be kept in any dwelling or part thereof. Nor shall any such
3 animal be kept on the same lot or premises with a dwelling except
4 under such conditions as may be prescribed by the health officer. No
5 such animal, except a horse, shall under any circumstances be kept on
6 the same lot or premises with a multiple dwelling. No dwelling or the
7 lot or premises thereof shall be used for the storage or handling of
8 rags or junk.

[38 G. A., ch. 123, § 73.]

SEC. 4179. Storage of articles dangerous to life or health.

1 No dwelling nor any part thereof, nor of the lot upon which it is
2 situated, shall be used as a place of storage, keeping or handling of
3 any article dangerous or detrimental to life or health; nor of any com-
4 bustible article except under such conditions as may be prescribed by
5 the fire commissioner, or the proper official, under authority of a writ-
6 ten permit issued by him.

[38 G. A., ch. 123, § 74.]

SEC. 4180. Openings into public halls from rooms where paint, oil, gasoline, or drugs are stored.

1 There shall be no transom, window or door opening into a public
2 hall from any part of a multiple dwelling where paint, oil, gasoline

3 or drugs are stored or kept for the purpose of sale or otherwise. This
4 provision shall not apply to hotels.

[38 G. A., ch. 123, § 75.]

SEC. 4181. Janitors required—when.

1 In any multiple dwelling in which the owner thereof does not
2 reside, there shall be a janitor, housekeeper or other responsible person
3 who shall have charge of the same, if the health officer shall so require.

[38 G. A., ch. 123, § 76.]

SEC. 4182. Overcrowding of rooms.

1 If any room in a dwelling is overcrowded the health officer may
2 order the number of persons sleeping or living in said room to be so
3 reduced that there shall be not less than four hundred cubic feet of
4 air to each adult and two hundred cubic feet of air to each child under
5 twelve years of age occupying such room.

[38 G. A., ch., 123, § 77.]

SEC. 4183. Subletting of lodgings—eviction.

1 The health officer may prohibit in any multiple dwelling the let-
2 ting of lodgings therein by any of the tenants occupying such multiple
3 dwelling, and may prescribe conditions under which lodgers or board-
4 ers may be taken in multiple dwellings. It shall be the duty of the
5 owner in the case of multiple dwellings to see that the requirements
6 of the health officer in this regard are at all times complied with, and
7 a failure to so comply on the part of any tenant, after due and proper
8 notice from said owner or from the health officer, shall be deemed suf-
9 ficient cause for the summary eviction of such tenant and the can-
10 cellation of his lease. The provisions of this section may be extended
11 to private dwellings and two-family dwellings, as may be found neces-
12 sary by the health officer.

[38 G. A., ch. 123, § 78.]

**SEC. 4184. Dwellings unfit for habitation may be ordered va-
cated—when and how.**

1 Whenever it shall be certified by an inspector or officer of the
2 health department that a dwelling is infected with contagious disease
3 or that it is unfit for human habitation, or dangerous to life or health
4 by reason of want of repair, or of defects in the drainage, plumbing,
5 lighting, ventilation, or the construction of the same, or by reason of
6 the existence on the premises of a nuisance likely to cause sickness
7 among the occupants of said dwelling, the health officer may issue an
8 order requiring all persons therein to show cause why they should not
9 be required to vacate such house within a time to be set by him, for
10 the reasons to be mentioned in said order. In case such order is not
11 complied with within the time specified, the health officer may cause
12 said dwelling to be vacated. The health officer, whenever he is satis-
13 fied that the danger from said dwelling has ceased to exist, or that it is
14 fit for human habitation, may revoke said order or may extend the
15 time within which to comply with the same.

[38 G. A., ch. 123, § 79.]

SEC. 4185. Nuisances—powers of health officer.

1 Whenever any dwelling or any building, structure, excavation,
2 business pursuit, matter or thing, in or about a dwelling, or the lot
3 on which it is situated, or the plumbing, sewerage, drainage, light or
4 ventilation thereof, is in the opinion of the health officer in a condition
5 or in effect dangerous or detrimental to life or health, the health
6 officer may after notice and failure to correct, declare that the same
7 to the extent he may specify is a public nuisance, and may order the
8 same to be removed, abated, suspended, altered or otherwise improved
9 or purified as the order shall specify.

[38 G. A., ch. 123, § 80.]

SEC. 4186. Fire escapes—repair—obstructions on.

1 The owner of every multiple dwelling on which there are fire
2 escapes shall keep them in good order and repair, and whenever rusty
3 shall have them properly painted with two coats of paint. No person
4 shall at any time place an obstruction of any kind before or upon such
5 fire escape.

[38 G. A., ch. 123, § 81.]

SEC. 4187. Scuttles and bulkheads to be accessible—doors not to be locked.

1 In all multiple dwellings where there are scuttles or bulkheads,
2 they and all stairs or ladders leading thereto shall be easily accessible
3 to all occupants of the building and shall be kept free from obstruction
4 and ready for use at all times. No scuttle and no bulkhead door shall
5 at any time be locked with a key, but either be fastened on the inside
6 by movable bolts or hooks.

[38 G. A., ch. 123, § 82.]

SEC. 4188. Windows in dwellings heretofore erected—requirements.

1 No room in a dwelling erected prior to the passage of this act
2 [March 31, 1919] shall hereafter be occupied for living purposes un-
3 less it shall have a window of an area of not less than eight square
4 feet opening directly upon the street, or upon a rear yard not less than
5 four feet deep, or above the roof of an adjoining building, or upon a
6 court or side yard of not less than twenty-five square feet in area open
7 to the sky without roof or skylight, unless such room is located on the
8 top floor and is adequately lighted and ventilated by a skylight, open-
9 ing directly to the outer air; except that a room which can not be
10 made to comply with the above provisions may be occupied if provided
11 with a sash window of not less than fifteen square feet in area, open-
12 ing into an adjoining room in the same apartment group or suite of
13 rooms, which latter room opens directly on the street or on a rear
14 yard of the above dimensions. Said sash window shall be a vertically
15 sliding pulley-hung sash not less than three feet by five feet between
16 stop beads, both halves shall be made so as to readily open, and the
17 lower half shall be glazed with translucent glass, and so far as possi-
18 ble it shall be in line with windows in the said outer room opening on
19 the street or rear yard so as to afford a maximum of light and ventila-
20 tion.

[38 G. A., ch. 123, § 83.]

SEC. 4189. Light and ventilation in multiple dwellings.

1 In all multiple dwellings erected prior to the passage of this
 2 act [March 31, 1919] the public halls and stairs shall be provided with
 3 as much light and ventilation to the outer air as may be deemed prac-
 4 ticable by the board of health who may order the cutting in of win-
 5 dows and skylights and such other improvements and alterations in
 6 said dwellings as in his judgment may be necessary and appropriate
 7 to accomplish this result. All new skylights hereafter placed in such
 8 dwellings shall be of such size as may be determined to be practicable
 9 by said board of health.

[38 G. A., ch. 123, § 84.]

SEC. 4190. Sinks and water-closets in such buildings.

1 In all multiple dwellings erected prior to the passage of this
 2 act [March 31, 1919] the woodwork incasing sinks except sinks in
 3 butler's pantries, and water-closets shall be removed and the space
 4 underneath said fixtures shall be left open. The floor and wall sur-
 5 faces beneath and around the said fixtures shall be put in good order
 6 and repair, and if of wood shall be kept well painted. Defective and
 7 insanitary water-closet fixtures shall be replaced by proper fixtures,
 8 as defined by this chapter.

[38 G. A., ch. 123, § 85.]

SEC. 4191. Sewer connections to be made—when.

1 Whenever a connection with a sewer is possible, all privy vaults,
 2 range closets, cesspools or other similar receptacles used to receive
 3 fecal matter, urine or sewage, shall before July first, nineteen hundred
 4 twenty, with their contents, be completely removed and the place
 5 where they were located properly disinfected under the direction of
 6 the health officer. Such appliances shall be replaced by individual
 7 water-closets of durable nonabsorbent material, properly sewer-con-
 8 nected, and with individual traps and properly connected flush tanks
 9 providing an ample flush of water to thoroughly cleanse the bowl.
 10 Each such water-closet shall be located inside the dwelling or other
 11 building in connection with which it is to be used in a compartment
 12 completely separated from every other water-closet, and such com-
 13 partment shall contain a window of not less than four square feet in
 14 area opening directly to the street or rear yard or on a side yard or
 15 court of the minimum size prescribed in sections forty-one hundred
 16 nineteen and forty-one hundred twenty. Such water-closets shall be
 17 provided in such numbers as required by section forty-one hundred
 18 sixty-seven. Such water-closets and all plumbing in connection there-
 19 with shall be sanitary in every respect and, except as in this chapter
 20 otherwise provided, shall be in accordance with the local ordinances
 21 and regulations in relation to plumbing and drainage. Pan, plunger
 22 and long hopper closets will not be permitted except upon written per-
 23 mit of the health officer. No water-closet shall be placed out of doors.

[38 G. A., ch. 123, § 86.]

SEC. 4192. Lowest floor to be free from dampness.

1 The floor of the cellar or lowest floor of every dwelling shall be
 2 free from dampness, and, when necessary in the judgment of the

3 health officer, shall be concreted with not less than two inches of con-
4 crete of good quality and with a finished surface.

[38 G. A., ch. 123, § 87.]

SEC. 4193. Access to shaft or court.

1 In every dwelling where there is a court or shaft of any kind,
2 there shall be at the bottom of every such shaft and court a door
3 giving sufficient access to such shaft or court to enable it to be
4 properly cleaned out; provided, that where there is already a window
5 giving proper access it shall be deemed sufficient.

[38 G. A., ch. 123, § 88.]

**SEC. 4194. Ways of egress in multiple dwellings—exceptions—
fire escapes.**

1 Every multiple dwelling exceeding two stories in height shall have
2 at least two independent ways of egress constructed and arranged as
3 provided in section forty-one hundred forty-one. In the case of mul-
4 tiple dwellings erected prior to the passage of this act [March 31,
5 1919] where it is not practicable in the judgment of the building in-
6 spector to comply in all respects with the provisions of that section,
7 said building inspector shall make such requirements as may be
8 appropriate to secure proper means of egress from such multiple
9 dwellings for all the occupants thereof. No existing fire escape shall
10 be deemed a sufficient means of egress unless the following conditions
11 are complied with:

12 1. All parts of it shall be of iron, cement or stone.

13 2. The fire escape shall consist of outside balconies which shall
14 be properly connected with each other by adequate stairs or stationary
15 ladders, with openings not less than twenty-four by twenty-eight
16 inches.

17 3. All fire escapes shall have proper drop ladders or stairways
18 from the lowest balcony of sufficient length to reach a safe landing
19 place beneath.

20 4. All fire escapes not on the street shall have a safe and adequate
21 means of egress from the yard or court to the street or alley or to the
22 adjoining premises.

23 5. Prompt and ready access shall be had to all fire escapes, which
24 shall not be obstructed by bathtubs, water-closets, sinks or other fix-
25 tures, or in any other way.

[38 G. A., ch. 123, § 89.]

SEC. 4195. Additional means of egress may be ordered.

1 Whenever any multiple dwelling is not provided with sufficient
2 means of egress in case of fire, the building inspector shall order such
3 additional means of egress as may be necessary.

[38 G. A., ch. 123, § 90.]

SEC. 4196. Skylight over inside stairway—access to roof.

1 Unless there is a bulkhead in the roof there shall be over every
2 inside stairway used by more than one family, a skylight or scuttle
3 not less than two feet by three feet in size. Every flat roof multiple
4 dwelling, exceeding one story in height, shall have at least one con-

5 venient and permanent means of access to the roof located in a public
6 part of the building and not in a room or closet.

[38 G. A., ch. 123, § 91.]

SEC. 4197. Construction or alteration of dwellings—specifications to be filed — requirements — certificate issued — changes of plan—certificate filed in building department—revocation of certificate.

1 Before the construction or alteration of a dwelling, or the altera-
2 tion or conversion of a building for use as a dwelling is commenced and
3 before the construction or alteration of any building or structure on
4 the same lot with a dwelling, the owner, or his agent or architect
5 shall submit to the board of health a detailed statement in writing,
6 certified by the affidavit of the person making the same, of the speci-
7 fications for such dwelling or building, upon blanks or forms to be fur-
8 nished by such board of health, and also full and complete copies of
9 the plans of such work. With such statement there shall be submitted
10 a plat of the lot showing the dimensions of the same, the location of
11 the proposed building and all other buildings on the lot. Such state-
12 ment shall give in full the name and residence, by street and number,
13 of the owner or owners of such dwelling or building and the purposes
14 for which such dwelling or building will be used. If such construction,
15 alteration or conversion is proposed to be made by any other person
16 than the owner of the land in fee, such statement shall contain the
17 full name and residence, by street and number, not only of the owner
18 of the land, but of every person interested in such dwelling, either as
19 owner, lessee or in any representative capacity. Said affidavit shall
20 allege that said specifications and plans are true and contain a correct
21 description of such dwelling, building, structure, lot and proposed
22 work. The statements and affidavits herein provided for may be made
23 by the owner, his agent or architect, or by the person who proposes to
24 make the construction, alteration or conversion or by the agent or
25 architect of such person. No one, however, shall be recognized as the
26 agent of the owner or of such person unless he shall file with said
27 health officer a written instrument signed by such owner or person, as
28 the case may be, designating him as such agent. Any intentional false
29 oath in a material point in any such affidavit shall be deemed perjury.
30 Such specifications, plans and statements shall be filed in said health
31 department and shall be deemed public records, but no such specifica-
32 tions, plans or statements shall be removed from said health depart-
33 ment. The health officer shall cause all such plans and specifications
34 to be examined. If such plans and specifications conform to the pro-
35 visions of this chapter they shall within five days be approved by the
36 health officer or his duly authorized assistant, and a written certificate
37 to that effect shall be issued by him to the person submitting the
38 same. The health officer shall from time to time, approve changes in
39 any plans and specifications previously approved by him, provided the
40 plans and specifications when so changed shall be in conformity with
41 law. The construction, alteration or conversion of such dwelling,
42 building or structure, or any part thereof, shall not be commenced
43 until the filing of such specifications, plans and statements, and the
44 approval thereof, as above provided. No permit shall be granted and
45 no plan approved by the department of buildings, where such exists,
46 for the construction or alteration of a dwelling or for the alteration or
47 conversion of any building for use as a dwelling until there has been

48 filed in the office of the department of buildings a certificate of the
 49 health officer issued as above provided to the effect that such dwelling
 50 conforms to the provisions of this chapter. The construction, altera-
 51 tion or conversion of such dwelling, building or structure shall be in
 52 accordance with such approved specifications and plans. Any permit
 53 or approval which may be issued by the health officer, but under which
 54 no work has been done above the foundation walls within one year
 55 from the time of the issuance of such permit or approval, shall expire
 56 by limitation. The health officer or his duly authorized assistant shall
 57 have power to revoke or cancel any permit or approval in case of any
 58 failure or neglect to comply with any of the provisions of this chapter,
 59 or in case any false statement or representation is made in any speci-
 60 fications, plans or statements submitted or filed for such permit or
 61 approval.

[38 G. A., ch. 123, § 92.]

SEC. 4198. New or altered buildings not to be occupied for habitation until issuance of certificate by health officer.

1 No part of a building hereafter constructed as or altered into a
 2 dwelling shall be occupied in whole or in part for human habitation
 3 until the issuance of a certificate by the health officer that such part
 4 of said dwelling conforms to the requirements of this chapter relative
 5 to dwellings hereafter erected. Such certificate shall be issued within
 6 three days after written application therefor if said dwelling at the
 7 date of such application shall be entitled thereto.

[38 G. A., ch. 123, § 93.]

SEC. 4199. Violation of preceding section.

1 If any building hereafter constructed as, or altered into, a dwell-
 2 ing be occupied in whole or in part for human habitation in violation
 3 of the last section, during such unlawful occupation no rent shall be
 4 recoverable by the owner or lessee of such premises for said period,
 5 and no action or special proceeding shall be maintained therefor or for
 6 possession of said premises for nonpayment of said rent, and said
 7 premises shall be deemed unfit for human habitation and the health
 8 officer may cause them to be vacated accordingly.

[38 G. A., ch. 123, § 94.]

SEC. 4200. Violation of provisions of this chapter—misdemeanor punishable—civil penalties—recovery—lien.

1 Every person who shall violate or assist in the violation of any
 2 provision of this chapter shall be guilty of a misdemeanor punishable
 3 by a fine of not less than ten dollars or more than one hundred dollars,
 4 and in default in payment thereof, by imprisonment in the county jail
 5 for not more than thirty days. The owner of any dwelling, or of any
 6 building or structure upon the same lot with a dwelling, or of the said
 7 lot, where any violation of this chapter, or a nuisance as herein defined,
 8 exists who has been guilty of such violation or of creating or know-
 9 ingly permitting the existence of such nuisance, and any person who
 10 shall violate or assist in violation any provision of this chapter, shall
 11 also jointly and severally for each such violation and each such nui-
 12 sance be subject to a civil penalty of fifty dollars to be recovered for
 13 the use of the health department in civil action brought in the name
 14 of the municipality by the health officer. Such persons and also said

15 premises shall also be liable in such case for all costs, expenses and
16 disbursements paid or incurred by the health department, by any of
17 the officers, agents or employees thereof in the removal of any such
18 nuisance or violation. Any person who having been served with a
19 notice or order to remove any such nuisance or violation shall fail to
20 proceed in good faith to comply with said notice or order within five
21 days after such service, or shall continue to violate any provisions
22 or requirements of this chapter in the respect named in said notice or
23 order, shall also be subject to a civil penalty of fifty dollars. For the
24 recovery of any such penalties, costs, expenses or disbursements, an
25 action may be brought in any court of competent civil jurisdiction.
26 The existence of a nuisance in or upon such dwelling, structure on the
27 same lot with a dwelling or on such lot, which the owner thereof has
28 created or permitted to exist and any violation of this chapter as to
29 such dwelling, structure and lot of which the owner has been guilty
30 shall in such proceeding subject such dwelling, structure and lot
31 respectively to a penalty of fifty dollars, which shall be a lien thereon
32 until paid; and any violation of an order made or a notice given by
33 the health officer permitted or committed by the owner of a dwelling,
34 structure on the same lot with a dwelling or such lot, shall be in such
35 proceeding subject the dwelling, structure and lot respectively to a
36 penalty of fifty dollars, which penalty shall be a lien thereon until paid.

[38 G. A., ch. 123, § 95.]

SEC. 4201. Procedure to prevent violation of provisions—injunctions.

1 Except as herein otherwise specified, the procedure for the pre-
2 vention of violations of this chapter or for the vacation of premises
3 unlawfully occupied, or for other abatement of nuisances, or for the
4 bringing of action therefor, shall be in accordance with the existing
5 practice and procedure. In case any dwelling, building or structure is
6 constructed, altered, converted or maintained in violation of any pro-
7 vision of this chapter or of any order or notice of the health officer, or
8 in case a nuisance exists in any such dwelling, building or structure or
9 upon the lot on which it is situated, said health officer may institute
10 any appropriate action or proceeding to prevent such unlawful con-
11 struction, alteration, conversion or maintenance, to restrain, correct or
12 abate such violation or nuisance, to prevent the occupation of said
13 dwelling, building or structure, or to prevent any illegal act, conduct
14 or business in or about such dwelling or lot. In any such action or
15 proceeding said health officer may by petition duly verified, setting
16 forth the facts, apply to the district, superior or municipal court, or to
17 any judge thereof in term time or vacation, for an order granting the
18 relief for which said action or proceeding is brought, or for an order
19 enjoining all persons from doing or permitting to be done any work in
20 or about such dwelling, building, structure or lot, or from occupying or
21 using the same for any purpose until the entry of final judgment or
22 order. In case any notice or order issued by said health officer is not
23 complied with, said health officer may apply to the district, superior or
24 municipal court or to any judge thereof in term time or vacation for
25 an order authorizing him to execute and carry out the provisions of
26 said notice or order, to correct any violation specified in said notice or
27 order, or to abate any nuisance in or about such dwelling, building or
28 structure or the lot upon which it is situated. The court or any judge

29 thereof is hereby authorized to make any order specified in this
30 section.

[38 G. A., ch. 123, § 96.]

SEC. 4202. Occupant's failure to comply with provisions cause for eviction.

1 If the occupant of a dwelling shall fail to comply with the provi-
2 sions of this chapter after due and proper notice from the health
3 officer, such failure to comply shall be deemed sufficient cause for the
4 eviction of such tenant by the owner and the cancellation of his lease.

[38 G. A., ch. 123, § 97.]

SEC. 4203. Name and address of agent filed—who may be agent.

1 Every owner, agent or lessee of a dwelling may file in the health
2 department a notice containing the name and address of an agent of
3 such dwelling, for the purpose of receiving service of all notices
4 required by this chapter, and also a description of the property by
5 street number or otherwise as the case may be, in such manner as will
6 enable the health department easily to find the same. The name of
7 the owner or lessee may be filed as agent for this purpose.

[38 G. A., ch. 123, § 98.]

SEC. 4204. Notices—when and how served.

1 Every notice or order required by this chapter shall be served at
2 least ten days before the time for doing the thing in relation to
3 which it shall have been issued, unless otherwise herein provided. The
4 posting of a copy of such notice or order in a conspicuous place in the
5 dwelling, together with the mailing of a copy thereof on the same day
6 that it is posted, to the owner and lessee of the dwelling effected
7 thereby, and each person, if any, whose name has been filed with the
8 health department in accordance with the provisions of the preceding
9 section at his address as filed, shall be sufficient service thereof.

[38 G. A., ch. 123, § 99.]

SEC. 4205. Notice of actions—how served.

1 In any action brought by the health officer in relation to a
2 dwelling for injunction, vacation of the premises or abatement of nui-
3 sance, or to establish a lien thereon or to recover a civil penalty,
4 service of notices shall be served in the manner provided by law for
5 the service of original notices; provided that if the address of any
6 agent whose name and address have been filed in accordance with the
7 provisions of the second preceding section is in the county in which
8 the dwelling is situated, then such notice may be served upon such
9 agent.

[38 G. A., ch. 123, § 100.]

SEC. 4206. Enforcement provisions of this chapter.

1 The provisions of this chapter shall be enforced in each city by
2 the health officer, except that the department of buildings, where such
3 department exists in a city, shall enforce the provisions contained in
4 sections forty-one hundred forty to forty-one hundred sixty-four, in-
5 clusive, and sections forty-one hundred ninety-four to forty-one hun-
6 dred ninety-six, inclusive.

[38 G. A., ch. 123, § 101.]

SEC. 4207. Additional powers.

1 The powers conferred by this chapter upon the public officials
 2 heretofore in this chapter mentioned shall be in addition to the powers
 3 already conferred upon said officers, and shall not be construed as in
 4 any way limiting their powers except as provided in section forty-one
 5 hundred thirteen.

[38 G. A., ch. 123, § 102.]

SEC. 4208. Inspection of dwellings.

1 The health officer or such other appropriate public official as the
 2 mayor may designate, shall cause an inspection to be made of every
 3 multiple dwelling at least once a year. Such inspection shall include
 4 thorough examination of all parts of such multiple dwelling and the
 5 premises connected therewith. The health officer or such other official
 6 so designated is also hereby empowered to make similar inspections of
 7 all dwellings as frequently as may be necessary; and shall make inspec-
 8 tion at any time on complaint of the owner, tenant or other person
 9 concerned.

[38 G. A., ch. 123, § 103.]

SEC. 4209. Officers and owner of dwelling may enter—when.

1 The health officer and all inspectors, officers and employees of the
 2 board of health, and such other persons as may be authorized by the
 3 health officer, may without fee or hindrance enter, examine, make
 4 necessary records, and survey all premises, grounds, erections, struc-
 5 tures, apartments, dwellings, buildings and every part thereof in the
 6 city. The owner or his agent or representative and the lessee and
 7 occupant of every dwelling and every person having the care and man-
 8 agement thereof shall at all reasonable times when required by any
 9 such officers or persons give them free access to such dwellings and
 10 premises. The owner of a dwelling and his agents and employees
 11 shall have right of access to such dwelling at reasonable times for the
 12 purpose of bringing about compliance with the provisions of this chap-
 13 ter or any order issued thereunder.

[38 G. A., ch. 123, § 104.]

SEC. 4210. Duty and powers state board of health—actions—how prosecuted.

1 The state board of health shall have power to aid as far as may
 2 be necessary to secure the enforcement of this chapter; and to that
 3 end said board may apply to any court or judge of competent jurisdic-
 4 tion for an injunction mandatory or prohibitive and the county attor-
 5 ney or attorney general shall prosecute such action in the name of the
 6 state of Iowa. The county attorney may also prosecute an action in
 7 equity for injunction in the name of the state of Iowa upon the request
 8 of any local board of health where said chapter is being violated.

[38 G. A., ch. 123, § 105.]

SEC. 4211. Mining camp—permit for erection—enforcement of provisions of this chapter therein.

1 Before any person or persons shall be permitted to lay out or
 2 attempt to construct a mining camp wherein is contemplated the
 3 erection of more than five houses, the said person or persons shall first

4 file with the state board of health a plat of the camp, showing in detail
 5 the geographical location of same, the character of houses to be
 6 erected, the provisions made for drainage, sewerage, outside toilets,
 7 and the provision made to secure water. If after investigation, the
 8 said board of health is convinced that the camp, if built, will comply
 9 with the general provisions of this chapter so far as the same may be
 10 reasonably applicable, and practicable under the circumstances, he
 11 shall within three weeks from the date of application, issue a written
 12 permit for the erection of same. Whenever the health conditions in
 13 any mining camp in the state are or become a menace to the health of
 14 the inhabitants thereof, such state board of health is hereby author-
 15 ized to apply and enforce the provisions of this chapter in so far as
 16 the same may be reasonably applicable and practicable of enforcement
 17 in such camp.

[38 G. A., ch. 123, § 106.]

**SEC. 4212. Charter provisions—regulations and ordinances con-
 flicting herewith.**

1 All charter provisions, regulations and ordinances of cities are
 2 hereby superseded in so far as they do not impose requirements other
 3 than the minimum requirements of this chapter, and except in case of
 4 such higher local requirements, this chapter shall in all cases govern.

[38 G. A., ch. 123, § 107.]

SEC. 4213. Appeal from order local board of health.

1 From any order of the local board of health there lies the right
 2 of appeal to the state board of health, which latter board shall have
 3 the power to hear and determine such appeal, and enforce their orders
 4 in the manner hereinbefore provided.

[38 G. A., ch. 123, § 108.]

CHAPTER 39.

GOVERNMENT OF CERTAIN CITIES BY COMMISSION.

SECTION 4214. Cities affected.

1 Cities having by the last preceding state or national census a popu-
 2 lation of two thousand or over, may become organized as a city under
 3 the provisions of this chapter by proceeding as hereinafter provided.

[S., '13, § 1056-a17.]

SEC. 4215. Reduction in population of no effect.

1 Whenever any city shall have been heretofore or may be hereafter
 2 organized on the commission plan under the provisions of this chapter,
 3 no reduction of the population of such city shown by a subsequent cen-
 4 sus shall have any effect upon the organization, rights, powers, duties
 5 or obligations of such city or any of its officers, but the same shall con-
 6 tinue and remain as though no such reduction or apparent reduction of
 7 population was made to appear.

[S., '13, § 1056-a17a.]

SEC. 4216. Petition—question submitted—result certified—election of officers.

1 Upon petition of electors equal in number to twenty-five per
 2 centum of the votes cast for all candidates for mayor at the last pre-
 3 ceding city election of any such city, the mayor shall, not less than
 4 thirty days prior to the election to be held as herein provided, by
 5 proclamation submit the question of organizing as a city under this
 6 chapter at a special election to be held at a time specified therein, and
 7 within two months after said petition is filed; provided, however, that
 8 in case not less than ten per cent of the qualified electors of any city
 9 reside in each of two or more townships, said petition shall be signed
 10 by not less than ten per centum of the qualified electors of said city
 11 residing in each of said townships. If said plan is not adopted at the
 12 special election called, the question of adopting said plan shall not be
 13 resubmitted to the voters of said city for adoption within two years
 14 thereafter, and then the question to adopt shall be resubmitted upon
 15 the presentation of a petition signed by electors as hereinbefore pro-
 16 vided, equal in number to twenty-five per centum of the votes cast for
 17 all candidates for mayor at the last preceding general city election.
 18 At such election, the proposition to be submitted shall be, "Shall the
 19 proposition to organize the city of (name the city), under chapter
 20 thirty-nine, title thirteen of the code be adopted?" and the election
 21 thereupon shall be conducted, the vote canvassed, and the result de-
 22 clared in the same manner as provided by law in respect to other city
 23 elections. If the majority of the votes cast shall be in favor thereof,
 24 cities having a population of twenty-five thousand and over shall
 25 thereupon proceed to the election of a mayor and four councilmen,
 26 and cities having a population of two thousand and less than twenty-
 27 five thousand shall proceed to the election of a mayor and two council-
 28 men, as hereinafter provided. Immediately after such proposition is
 29 adopted, the mayor shall transmit to the governor, to the secretary of
 30 state, and to the county auditor, each a certificate stating that such
 31 proposition was adopted. At the next regular city election after the
 32 adoption of such proposition there shall be elected a mayor and coun-
 33 cilmen. In the event, however, that the next regular city election does
 34 not occur within one year after such special election the mayor shall,
 35 within ten days after such special election, by proclamation call a spe-
 36 cial election for the election of a mayor and councilmen, sixty days'
 37 notice thereof being given in such call, such election in either case to
 38 be conducted as hereinafter provided.

[S., '13, § 1056-a18.]

SEC. 4217. Statutes applicable—existing ordinances, resolutions.

1 All laws governing cities of the first and second class and not in-
 2 consistent with the provisions of this chapter, and sections forty-three
 3 hundred thirty-three, forty-three hundred thirty-four, forty-three hun-
 4 dred sixty-one, forty-three hundred sixty-eight, forty-four hundred
 5 five, forty-four hundred eighteen, forty-four hundred forty-two, forty-
 6 four hundred seventy-eight, and sections forty-three hundred seventy-
 7 two to forty-three hundred seventy-four, inclusive, now applicable to
 8 special charter cities and not inconsistent with the provisions of this
 9 chapter, shall apply to and govern cities organized under this chapter.
 10 All by-laws, ordinances and resolutions lawfully passed and in force in
 11 any such city under its former organization shall remain in force
 12 until altered or repealed by the council elected under the provisions

13 of this chapter. The territorial limits of such city shall remain the
 14 same as under its former organization and all rights and property of
 15 every description which were vested in any such city under its former
 16 organization, shall vest in the same under the organization herein
 17 contemplated, and no right or liability either in favor of or against it,
 18 existing at the time, and no suit or prosecution of any kind shall be
 19 affected by such change, unless otherwise provided for in this chapter.

[S., '13, § 1056-a19.]

SEC. 4218. Elective officers—vacancies—terms of office.

1 In every city having a population of twenty-five thousand and
 2 over there shall be elected at the regular biennial municipal election a
 3 mayor and four councilmen, and in every city having a population of
 4 two thousand and less than twenty-five thousand, there shall be elected
 5 at such election a mayor and two councilmen. If any vacancy occurs
 6 in any such office the remaining members of said council shall appoint
 7 a person to fill such vacancy during the balance of the unexpired term.
 8 Said officers shall be nominated and elected at large. Said officers
 9 shall qualify and their terms of office shall begin on the first Monday
 10 after their election. The terms of office of the mayor and councilmen
 11 or aldermen in such city in office at the beginning of the terms of office
 12 of the mayor and councilmen first elected under the provisions of this
 13 chapter shall then cease and determine, and the terms of office of all
 14 other appointive officers in force in such city, except as hereinafter
 15 provided, shall cease and determine as soon as the council shall by
 16 resolution declare.

[S., '13, § 1056-a20.]

SEC. 4219. Candidates—how nominated—primary election—ballot—canvass of vote—result published—municipal election.

1 Candidates to be voted for at all general municipal elections at
 2 which a mayor and councilmen are to be elected under the provisions
 3 of this chapter shall be nominated by a primary election, and no other
 4 names shall be placed upon the general ballot except those selected in
 5 the manner hereinafter prescribed. The primary election for such
 6 nomination shall be held on the second Monday preceding the general
 7 municipal election. The judges of election appointed for the general
 8 municipal election shall be the judges of the primary election, and it
 9 shall be held at the same place, so far as possible, and the polls shall
 10 be opened and closed at the same hours, with the same clerks as are
 11 required for said general municipal election. Any person desiring to
 12 become a candidate for mayor or councilman shall, at least ten days
 13 prior to said primary election, file with the said clerk a statement of
 14 such candidacy, in substantially the following form:

15 STATE OF IOWA,

16 }
 17 County, } ss:

18 I,, being first duly sworn, say that I reside at
 19 street, city of county of
 20 state of Iowa; that I am a qualified voter therein; that I am a candi-
 21 date for nomination to the office of (mayor or councilman) to be voted
 22 upon at the primary election to be held on the Monday of
 23 19..... and I hereby request that my name be

24 printed upon the official primary ballot for nomination by such pri-
25 mary election for such office.

26 (Signed)

27 Subscribed and sworn to (or affirmed) before me by.....
28 on this day of 19.....

29 (Signed)

30 and shall at the same time file therewith the petition of at least twenty-
31 five qualified voters requesting such candidacy. Each petition shall
32 be verified by one or more persons as to the qualifications and resi-
33 dence, with street number, of each of the persons so signing the said
34 petition, and the said petition shall be in substantially the following
35 form:

36 PETITION ACCOMPANYING NOMINATING STATEMENT.

37 The undersigned, duly qualified electors of the city of
38 and residing at the places set opposite our respective names hereto,
39 do hereby request that the name of (name of candidate) be placed
40 on the ballot as a candidate for nomination for (name of office) at
41 the primary election to be held in such city on the Monday
42 of 19..... We further state that we know him
43 to be a qualified elector of said city and a man of good moral character
44 and qualified in our judgment for the duties of such office.

45 Name of qualified electors. Number. Street.

46
47 Immediately upon the expiration of the time of filing the state-
48 ments and petitions for candidacies, the said city clerk shall cause to
49 be published for three successive days in all the daily newspapers
50 published in the city, in proper form, the names of the persons as they
51 are to appear upon the primary ballot, and if there be no daily news-
52 paper, then in two issues of any other newspapers that may be pub-
53 lished in said city; and the said clerk shall thereupon cause the pri-
54 mary ballots to be printed, authenticated with a facsimile of his sig-
55 nature. Upon the said ballot the names of the candidates for mayor,
56 arranged alphabetically, shall first be placed, with a square at the left
57 of each name, and immediately below, the words, "Vote for one." Fol-
58 lowing these names, likewise arranged in alphabetical order, shall ap-
59 pear the names of the candidates for councilmen, with a square at
60 the left of each name, and below the names of such candidates shall
61 appear the words "Vote for four," or "Vote for two" as the case may
62 be. The ballots shall be printed upon plain, substantial white paper,
63 and shall be headed:

64 CANDIDATES FOR NOMINATION FOR MAYOR AND COUNCILMEN OF

65 CITY AT THE PRIMARY ELECTION.

66 but shall have no party designation or mark whatever. The ballots
67 shall be in substantially the following form:

68 (Place a cross in the square preceding the names of the parties
69 you favor as candidates for the respective positions.)

OFFICIAL PRIMARY BALLOT.

CANDIDATES FOR NOMINATION FOR MAYOR AND COUNCILMEN OF

----- CITY AT THE PRIMARY ELECTION.

For Mayor

 (Name of candidate)

(Vote for one)

For Councilman

 (Name of candidate)

(Vote for four) or (Vote for two)

as the case may be.

Official ballot attest

(Signature)

City Clerk.

Having caused said ballots to be printed, the said city clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of votes cast in such polling precinct at the last general municipal election for mayor. The persons who are qualified to vote at the general municipal election shall be qualified to vote at such primary election, and challenges can be made by not more than two persons, to be appointed at the time of opening the polls by the judges of election; and the law applicable to challenges at a general municipal election shall be applicable to challenges made at such primary election. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in such precinct for each of the candidates, and make return thereof to the city clerk, upon proper blanks to be furnished by the said clerk, within six hours of the closing of the polls. On the day following the said primary election, the said city clerk shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers of said city, at least once, the result thereof. Said canvass by the city clerk shall be publicly made. The two candidates receiving the highest number of votes for mayor shall be the candidates, and the only candidates, whose names shall be placed upon the ballot for mayor at the next succeeding general municipal election; and in cities having a population of twenty-five thousand and over, the eight candidates receiving the highest number of votes for councilman, or all such candidates if less than eight, and in cities having a population of two thousand and less than twenty-five thousand, the four candidates receiving the highest number of votes for councilman, or all such candidates if less than four, shall be the candidates, and the only candidates, whose names shall be placed upon the ballot for councilman at such municipal election. All electors of cities under this chapter who by the laws governing cities of the first and second class and cities acting under special charter would be entitled to vote for the election of officers at any general municipal election in such cities, shall be qualified to vote at all elections under this chapter; and the ballot at such general municipal election shall be in the same general form as for such primary election, so far as applicable; and in all elections in such city, the election precinct, voting places, method of conducting election, canvassing the vote and announcing the results shall be the same as by law provided for election of officers in such cities, so far as the same are applicable and not inconsistent with the provisions of this chapter.

[S., '13, § 1056-a21.]

SEC. 4220. Services for hire—penalty.

1 Any person who shall agree to perform any services in the inter-
2 est of any candidate for any office provided in this chapter, in consid-
3 eration of any money or other valuable thing for such services per-
4 formed in the interest of any candidate, shall be punished by a fine
5 not exceeding three hundred dollars, or be imprisoned in the county
6 jail not exceeding thirty days.

[S., '13, § 1056-a22.]

SEC. 4221. Bribery and illegal voting—penalty.

1 Any person offering to give a bribe, either in money or other con-
2 sideration, to any elector for the purpose of influencing his vote at any
3 election provided in this chapter, or any elector entitled to vote at any
4 such election receiving and accepting such bribe or other considera-
5 tion; any person making false answer to any of the provisions of this
6 chapter relative to his qualifications to vote at said election; any per-
7 son wilfully voting or offering to vote at such election who has not
8 been a resident of this state for six months next preceding said elec-
9 tion, or who is not twenty-one years of age, or is not a citizen of the
10 United States, or knowing himself not to be a qualified elector of such
11 precinct where he offers to vote; any person knowingly procuring,
12 aiding or abetting any violation hereof shall be deemed guilty of a
13 misdemeanor and upon conviction shall be fined a sum not less than
14 one hundred dollars, nor more than five hundred dollars, and be im-
15 prisoned in the county jail not less than ten nor more than ninety days.

[S., '13, § 1056-a23.]

SEC. 4222. Council—quorum—mayor to preside.

1 Every city having a population of twenty-five thousand and over
2 shall be governed by a council consisting of the mayor and four coun-
3 cilmen, and every city having a population of two thousand and less
4 than twenty-five thousand shall be governed by a council consisting of
5 the mayor and two councilmen, chosen as provided in this chapter,
6 each of whom shall have the right to vote on all questions coming be-
7 fore the council. In cities having four councilmen three members of
8 the council shall constitute a quorum, and in cities having two coun-
9 cilmen, two members of the council shall constitute a quorum, and in
10 cities having four councilmen the affirmative vote of three members,
11 and in cities having two councilmen the affirmative vote of two mem-
12 bers shall be necessary to adopt any motion, resolution or ordinance,
13 or pass any measure unless a greater number is provided for in this
14 chapter. Upon every vote the yeas and nays shall be called and re-
15 corded, and every motion, resolution or ordinance shall be reduced to
16 writing and read before the vote is taken thereon. The mayor shall
17 preside at all meetings of the council; he shall have no power to veto
18 any measure, but every resolution or ordinance passed by the council
19 must be signed by the mayor, or by two councilmen, and be recorded,
20 before the same shall be in force.

[S., '13, § 1056-a24.]

SEC. 4223. Council—powers and duties—departments.

1 The council shall have and possess, and the council and its mem-
2 bers shall exercise all executive, legislative and judicial powers and
3 duties now had, possessed and exercised by the mayor, city council,

4 solicitor, assessor, treasurer, auditor, city engineer and other execu-
 5 tive and administrative officers in cities of the first and second class,
 6 and in cities under special charter, and shall also possess and exercise
 7 all executive, legislative and judicial powers and duties now had and
 8 exercised by the board of public works, park commissioners, the board
 9 of police and fire commissioners, and board of waterworks trustees,
 10 in all cities wherein a board of public works, park commissioners,
 11 board of police and fire commissioners, and board of waterworks trust-
 12 tees, now exist or may be hereafter created.

13 The executive and administrative powers, authority and duties
 14 in such cities shall be distributed into and among five departments,
 15 as follows:

- 16 1. Department of public affairs.
- 17 2. Department of accounts and finances.
- 18 3. Department of public safety.
- 19 4. Department of streets and public improvements.
- 20 5. Department of parks and public property.

21 The council shall determine the powers and duties to be performed
 22 by, and assign them to, the appropriate department; shall prescribe
 23 the powers and duties of officers and employees; may assign particular
 24 officers and employees to one or more of the departments; may re-
 25 quire an officer or employee to perform duties in two or more depart-
 26 ments; and may make such other rules and regulations as may be
 27 necessary or proper for the efficient and economical conduct of the
 28 business of the city.

[S., '13, § 1056-a25.]

SEC. 4224. Department superintendents—officers and assistants.

1 The mayor shall be superintendent of the department of public
 2 affairs, and the council shall at the first regular meeting after election
 3 of its members designate by majority vote one councilman to be su-
 4 perintendent of the department of accounts and finances; one to be
 5 superintendent of the department of public safety; one to be superin-
 6 tendent of the department of streets and public improvements; and
 7 one to be superintendent of the department of parks and public prop-
 8 erty; provided, however, that in cities having a population of less
 9 than twenty-five thousand there shall be designated to each council-
 10 man two of said departments. Such designation shall be changed
 11 whenever it appears that the public service would be benefited thereby.
 12 The council shall, at said first meeting, or as soon as practicable
 13 thereafter, elect by majority vote the following officers: city clerk,
 14 solicitor, assessor, treasurer, auditor, civil engineer, city physician,
 15 marshal, market master, street commissioner, and such other officers
 16 and assistants as shall be provided for by ordinance and necessary to
 17 the proper and efficient conduct of the affairs of the city; provided,
 18 however, that in cities having a population of less than twenty-five
 19 thousand such only of the above named officers shall be appointed as
 20 may, in the judgment of the mayor and councilmen, be necessary for
 21 the proper and efficient transaction of the affairs of the city. In those
 22 cities of the first class not having a superior court, the council shall
 23 appoint a police judge or in any city of the second class under the com-
 24 mission form of government, wherein the census enumerators have
 25 completed taking the census, reported the same to the county auditor,
 26 and the county auditor has made a return of the same to the executive
 27 council, such return showing such city to have a population of fifteen

28 thousand or more, the city council of such city may immediately ap-
 29 point a police judge the same as though the executive council had com-
 30 pleted the canvass of the census and certified the same as official. All
 31 cities of the second class appointing police judges as herein provided
 32 shall within two years after the official census returns are published
 33 abolish such police court, unless such city completes all necessary steps
 34 to become a city of the first class as provided by law. In cities of the
 35 second class not having a superior court the mayor shall hold police
 36 court, as now provided by law. Any officer or assistant elected or
 37 appointed by the council may be removed from office at any time by
 38 vote of a majority of the members of the council, except as otherwise
 39 provided for in this chapter.

[S. S., '15, § 1056-a26.]

SEC. 4225. Library trustees—powers and duties.

1 The board of library trustees in all cities organized under the
 2 commission form of government shall consist of five members (ex-
 3 cept in cities which have heretofore maintained a library under lease
 4 or contract fixing a different number of trustees) and said board shall
 5 have and exercise all the powers possessed by library boards in cities
 6 not organized and acting under this chapter.

[S., '13, § 1056-a26a.]

SEC. 4226. How selected—terms.

1 The said board of five trustees shall be selected as follows: At
 2 the first meeting of the council, or as soon as practicable thereafter,
 3 the mayor shall appoint, by and with the approval of the council, five
 4 library trustees, one to serve for the period of five years, one for four
 5 years, one for three years, one for two years and one for one year,
 6 and until their successors are elected and qualify. Upon the election
 7 of said five trustees the term of the existing board of nine trustees
 8 heretofore acting under the general law shall cease. Annually there-
 9 after there shall be elected in like manner one trustee to serve for five
 10 years and to take the place of the trustee whose term first expires.

[S., '13, § 1056-a26b.]

SEC. 4227. Power to create and discontinue offices.

1 The council shall have power from time to time to create, fill and
 2 discontinue offices and employments other than herein prescribed, ac-
 3 cording to their judgment of the needs of the city; and may by major-
 4 ity vote of all the members remove any such officer or employee, except
 5 as otherwise provided for in this chapter; and may by resolution or
 6 otherwise prescribe, limit or change the compensation of such officers
 7 or employees.

[S., '13, § 1056-a27.]

SEC. 4228. Office in city hall—salaries.

1 The mayor and councilmen shall have an office in the city hall,
 2 and their total compensation shall be as follows:
 3 1. In cities having by the last preceding state or national census
 4 a population of less than twenty-five thousand, the mayor and council-
 5 men shall receive as their annual salaries the amount to be fixed by
 6 ordinance, as follows: For the mayor, not to exceed the sum of one
 7 hundred fifty dollars per annum for each one thousand of population,

8 or major portion thereof, in such city, and for each councilman in such
 9 city, not to exceed the sum of one hundred twenty dollars per annum
 10 for each one thousand population, or major portion thereof; provided,
 11 however, that in such city no mayor shall receive a salary greater than
 12 the sum of twenty-five hundred dollars per annum, nor in such city
 13 shall a councilman receive as his annual salary an amount greater
 14 than two thousand dollars per annum; and provided, further, that
 15 during the first term of his office under the provisions of this chapter,
 16 the mayor and councilmen shall by ordinance fix their compensation
 17 as herein provided for their term of office; but thereafter the salary
 18 of any such officer shall not be increased or decreased during the term
 19 for which he shall have been elected or appointed.

20 2. In cities having by such census a population of twenty-five
 21 thousand and less than forty thousand, the mayor's annual salary shall
 22 be twenty-five hundred dollars, and that of each councilman, eighteen
 23 hundred dollars.

24 3. In cities having by such census a population of forty thousand
 25 and less than sixty thousand, the mayor's annual salary shall be three
 26 thousand dollars, and that of each councilman twenty-five hundred
 27 dollars.

28 4. In cities having by such census a population of sixty thousand
 29 or more, the mayor's annual salary shall be thirty-five hundred dollars,
 30 and that of each councilman, three thousand dollars. Such salaries
 31 shall be payable in equal monthly installments. Any increase in sal-
 32 ary occasioned under the provisions of this scale by increase in popu-
 33 lation in any city shall commence with the month next after the official
 34 publication of the census showing such increase therein. Every other
 35 officer or assistant shall receive such salary or compensation as the
 36 council shall by ordinance provide, payable in equal monthly install-
 37 ments. The salary or compensation of all other employees of such
 38 city shall be fixed by the council and shall be payable monthly or at
 39 such shorter periods as the council shall determine.

[S., '13, § 1056-a28.]

SEC. 4229. Meetings—president of council—vice president.

1 Regular meetings of the council shall be held on the first Monday
 2 after the election of councilmen, and thereafter at least once each
 3 month. The council shall provide by ordinance for the time of hold-
 4 ing regular meetings, and special meetings may be called from time to
 5 time by the mayor or two councilmen. All meetings of the council,
 6 whether regular or special, at which any person not a city officer is
 7 admitted, shall be open to the public. The mayor shall be president of
 8 the council and preside at its meetings, and shall supervise all depart-
 9 ments and report to the council for its action all matters requiring
 10 attention in either. The superintendent of the department of ac-
 11 counts and finances shall be vice president of the council, and in case
 12 of vacancy in the office of mayor, or the absence or inability of the
 13 mayor, shall perform the duties of mayor.

[S., '13, § 1056-a29.]

SEC. 4230. Ordinances and resolutions—franchises.

1 Every ordinance or resolution appropriating money or ordering
 2 any street improvement or sewer, or making or authorizing the mak-
 3 ing of any contract, or granting any franchise or right to occupy or
 4 use the streets, highways, bridges or public places in the city for any

5 purpose, shall be complete in the form in which it is finally passed,
 6 and remain on file with the city clerk for public inspection at least
 7 one week before the final passage or adoption thereof. No franchise
 8 or right to occupy or use the streets, highways, bridges or public places
 9 in any such city shall be granted, renewed or extended, except by or-
 10 dinance, and every franchise or grant for interurban or street rail-
 11 ways, gas or waterworks, electric light or power plants, heating
 12 plants, telegraph or telephone systems, or other public service utilities
 13 within said city, must be authorized or approved by a majority of the
 14 electors voting thereon at a general or special election as provided in
 15 section thirty-eight hundred twenty-five.

[S., '13, § 1056-a30.]

SEC. 4231. Officers and employees—what prohibited.

1 No officer or employee elected or appointed in any such city shall
 2 be interested, directly or indirectly, in any contract or job for work
 3 or materials, or the profits thereof, or services to be furnished or per-
 4 formed for the city; and no such officer or employee shall be inter-
 5 ested, directly or indirectly, in any contract or job for work or ma-
 6 terials, or the profits thereof, or services to be furnished or performed
 7 for any person, firm or corporation operating interurban railway,
 8 street railway, gasworks, waterworks, electric light or power plant,
 9 heating plant, telegraph line, telephone exchange, or other public
 10 utility within the territorial limits of said city. No such officer or
 11 employee shall accept or receive, directly or indirectly, from any per-
 12 son, firm or corporation operating within the territorial limits of said
 13 city, any interurban railway, street railway, gasworks, waterworks,
 14 electric light or power plant, heating plant, telegraph line or telephone
 15 exchange, or other business using or operating under a public fran-
 16 chise, any frank, free pass, free ticket or free service, or accept or
 17 receive, directly or indirectly, from any such person, firm or corpora-
 18 tion, any other service upon terms more favorable than is granted to
 19 the public generally. Any violation of the provisions of this section
 20 shall be a misdemeanor, and every such contract or agreement shall
 21 be void. Such prohibition of free transportation shall not apply to
 22 policemen or firemen in uniform; nor shall any free service to city
 23 officials heretofore provided by any franchise or ordinance be affected
 24 by this section. Any officer or employee of such city who, by solici-
 25 tation or otherwise, shall exert his influence directly or indirectly to in-
 26 fluence other officers or employees of such city to adopt his political
 27 views or to favor any particular person or candidate for office, or who
 28 shall in any manner contribute money, labor, or other valuable thing
 29 to any person for election purposes, shall be guilty of a misdemeanor
 30 and upon conviction shall be punished by a fine not exceeding three
 31 hundred dollars or by imprisonment in the county jail not exceeding
 32 thirty days.

[S., '13, § 1056-a31.]

SEC. 4232. Civil service commissioners—duties—powers of council in certain cities.

1 In cities having a population of fifteen thousand and over the
 2 council shall, and in cities having a population of two thousand and
 3 less than fifteen thousand, the council may, immediately after organ-
 4 izing, by ordinance appoint three civil service commissioners who
 5 shall hold office, one until the first Monday in April of the second year

6 after his appointment, one until the first Monday in April of the fourth
7 year after his appointment, and one until the first Monday in April
8 of the sixth year after his appointment; provided, however, that in
9 all cases in which no civil service commissioners are appointed by the
10 council, the council shall have the same powers and shall exercise and
11 perform all the duties devolving upon such commissioners, as pro-
12 vided for in this chapter. In cities wherein civil service commis-
13 sioners have been appointed under the provisions of this chapter each
14 succeeding council shall, as soon as practicable after organizing, ap-
15 point one commissioner for six years, who shall take the place of the
16 commissioner whose term of office expires. The chairman of the com-
17 mission for each biennial period shall be the member whose term first
18 expires. No person while on the said commission shall hold or be a
19 candidate for any office of public trust. Two of said members shall
20 constitute a quorum to transact business. The commissioners must
21 be citizens of Iowa, and residents of the city for more than three years
22 next preceding their appointment. The council may remove any of
23 said commissioners during their term of office for cause, four coun-
24 cilmen voting in favor of such removal, and shall fill any vacancy that
25 may occur in said commission for the unexpired term. The city coun-
26 cil shall provide suitable rooms in which the said civil service commis-
27 sion may hold its meetings. They shall have a clerk, who shall keep
28 a record of all its meetings, such city to supply the said commission
29 with all necessary equipment to properly attend to such business.

30 *a Oath of office.* Before entering upon the duties of their office,
31 each of said commissioners shall take and subscribe an oath, which
32 shall be filed and kept in the office of the city clerk, to support the con-
33 stitution of the United States and of the state of Iowa, and to obey
34 the laws, and to aim to secure and maintain an honest and efficient
35 force, free from partisan distinction or control, and to perform the
36 duties of his office to the best of his ability.

37 *b Examinations—results certified—soldiers' preference.* Such
38 commission shall, on the first Monday of April and October of each
39 year, or oftener if they shall deem it necessary, under such rules and
40 regulations as it may prescribe, hold examinations for the purpose of
41 determining the qualifications of applicants for positions, including
42 applicants for position of chief of the fire department, and for posi-
43 tions in the fire and police departments, which examinations shall be
44 practical in their character and shall relate to such matters as will
45 fairly test the fitness of the person examined to discharge the duties
46 of the position to which he seeks to be appointed. Such commission
47 shall, as soon as possible after every such examination, certify to the
48 city council the names of ten persons for each department who, ac-
49 cording to its records, have the highest standing for the positions they
50 seek to fill, as a result of such examination, and all vacancies in posi-
51 tions under civil service which shall occur before the holding of the
52 next examination shall be filled from said list so certified; provided,
53 however, if the list for any cause shall be reduced to less than three
54 for any division or department, then the superintendent of the proper
55 department may temporarily fill a vacancy until the next examination
56 of the commission. In all examinations and appointments under the
57 provisions of this chapter, honorably discharged soldiers, sailors or
58 marines of the regular or volunteer army or navy of the United States
59 shall be given a preference if otherwise qualified.

60 *c Removals and discharges—appeal—witnesses—annual report—*
61 *rules and regulations.* All persons subject to such civil service exam-

62 ination shall be subject to removal from office or employment by ma-
63 jority vote of such civil service commission for misconduct or failure
64 to properly perform their duties under such rules and regulations as
65 may be adopted by the council. The chief of police, the chief of the
66 fire department, or any superintendent or foreman in charge of mu-
67 nicipal work, may peremptorily suspend or discharge any subordinate
68 then under his direction for neglect of duty, disobedience of orders
69 or misconduct, but shall, within twenty-four hours thereafter, report
70 such suspension or discharge, with the reason therefor, to the super-
71 intendent of his department, who shall thereupon affirm or revoke
72 such suspension or discharge according to the merits under the facts
73 in the case. Every officer or employee so suspended or discharged
74 and whose suspension or discharge has been affirmed, or the officer
75 or person so suspending or discharging a subordinate when such sus-
76 pension or discharge has been revoked, as the case may be, may, within
77 five days from the affirmance or revocation of any such suspension or
78 discharge, appeal therefrom to the civil service commission, if the per-
79 son taking the appeal was subject to such civil service, otherwise to
80 the city council, and such commission or council, as the case may be,
81 shall fully hear and determine the appeal upon the merits of the case,
82 and if it be determined that any suspension or discharge was unwar-
83 ranted the appellant shall be reinstated, otherwise it shall be affirmed.
84 Any such appeal may be taken by serving upon the proper depart-
85 ment superintendent or his secretary or clerk a notice in writing,
86 within said time, specifying the ruling appealed from, which notice
87 shall be signed by the person taking the appeal. A true copy of such
88 notice of appeal shall be filed with the chairman of the civil service
89 commission or mayor, as the case may be. Within five days from the
90 service of such notice of appeal, the proper department superintend-
91 ent shall file with the civil service commission, or city council, as the
92 case may be, a written specification of the charges or grounds upon
93 which the affirmance or revocation of the suspension or discharge ap-
94 pealed from was based. Within five days after such specifications are
95 filed as aforesaid the commission or council, as the case may be, shall
96 fix the time and place for hearing the appeal and notify the appellant
97 in writing of the time and place so fixed, which notice shall contain a
98 copy of the specifications so filed. The time for hearing any such ap-
99 peal shall not be fixed earlier than five days nor later than twenty
100 days from the filing of such specifications. The council and commis-
101 sion shall have the power to enforce the attendance of witnesses, the
102 production of books and papers, and to administer oaths in the same
103 manner and with like effect, and under same penalties, as in the case
104 of magistrates exercising criminal or civil jurisdiction under the
105 statutes of Iowa. The hearings on such appeals shall be public and
106 appellant may be represented by counsel. The council or commission,
107 as the case may be, shall issue subpoenas for such witnesses as ap-
108 pellant may designate, which shall be signed by the mayor or chair-
109 man of the commission, as the case may be. Such commission shall
110 make annual report to the council and it may require a special report
111 from such commission at any time. Such commission may prescribe
112 such rules and regulations for the proper conduct of its business as
113 shall be found expedient and advisable.

114 *d Chief of fire department—appointment—removal—members*
115 *of fire and police departments—qualifications.* Such commission shall
116 appoint a chief of the fire department, but the tenure of any person
117 holding such position at this time shall not be affected by this sec-

118 tion; provided, however, that such officer may be removed for cause
119 in accordance with the provisions of the next preceding section. No
120 person shall be employed in any capacity in the fire or police depart-
121 ment unless he is a citizen of the United States and has been a resi-
122 dent of such city more than one year and is of good moral character
123 and can read and write the English language and is not addicted to
124 the use of intoxicating liquors as a beverage. Nothing in this chap-
125 ter shall be construed as limiting the powers conferred upon the city
126 council and its members in section forty-two hundred twenty-three.

127 *d1 Campaign contributions prohibited—penalty.* No member
128 of the fire or police department in any such city shall directly or in-
129 directly contribute any money or anything of value to any candidate
130 for nomination or election to any office or to any campaign or po-
131 litical committee. Any person violating any of the provisions of this
132 section shall be deemed guilty of a misdemeanor and upon convic-
133 tion shall pay a fine of not less than twenty-five dollars nor more
134 than one hundred dollars, or be imprisoned in the county jail not to
135 exceed thirty days.

136 *e Penalties.* The council of such city shall have power to pass
137 ordinances imposing suitable penalties for the punishment of persons
138 violating any of the provisions of this chapter relating to the civil
139 service commission.

140 *f Officers and employees affected.* The provisions of this sec-
141 tion shall apply to all appointive officers and employees of such city,
142 except those especially named in section forty-two hundred twenty-
143 four, commissioners of any kind (laborers whose occupation re-
144 quires no special skill or fitness), election officials, and mayor's sec-
145 retary and assistant solicitor, where such officers are appointed;
146 provided, however, that existing employees heretofore appointed, or
147 employed after competitive examination, or for long service under
148 the provisions of sections thirty-five hundred sixty-three to thirty-
149 five hundred seventy-three, inclusive, shall retain their positions
150 without further examination unless removed for cause. All officers
151 and employees in any such city shall be elected or appointed with
152 reference to their qualifications and fitness, and for the good of the
153 public service, and without reference to their political faith or party
154 affiliations. It shall be unlawful for any candidate for office, or any
155 officer in any such city, directly or indirectly, to give or promise any
156 person or persons any office, position, employment, benefit, or any-
157 thing of value, for the purpose of influencing or obtaining the po-
158 litical support, aid or vote of any person or persons. Every elective
159 officer in any such city shall, within thirty days after qualifying, file
160 with the city clerk, and publish at least once in a daily newspaper of
161 general circulation, his sworn statement of all his election and cam-
162 paign expenses, and by whom such funds were contributed. Any
163 violation of the provisions of this section shall be a misdemeanor
164 and be a ground for removal from office.

[S. S., '15, § 1056-a32.]

SEC. 4233. Monthly itemized statement—annual examination.

1 The council shall each month print in pamphlet form a detailed
2 itemized statement of all receipts and expenses of the city and a sum-
3 mary of its proceedings during the preceding month, and furnish
4 printed copies thereof to the state library, the city library, the daily
5 newspapers of the city, and to persons who shall apply therefor at

6 the office of the city clerk. At the end of each year the council shall
 7 cause a full and complete examination of all the books and accounts
 8 of the city to be made by competent accountants, and shall publish
 9 the result of such examination in the manner above provided for pub-
 10 lication of statements of monthly expenditures.

[S., '13, § 1056-a33.]

SEC. 4234. Appropriations.

1 If, at the beginning of the term of office of the first council elected
 2 in such city under the provisions of this chapter, the appropriations
 3 for the expenditures of the city government for the current fiscal year
 4 have been made, said council shall have power, by ordinance, to re-
 5 vise, repeal or change said appropriations and to make additional ap-
 6 propriations.

[S., '13, § 1056-a34.]

SEC. 4235. Terms defined.

1 In the construction of this chapter the following rules shall be
 2 observed, unless such construction would be inconsistent with the
 3 manifest intent, or repugnant to the context of the statute.

4 1. The words "councilman" or "alderman" shall be construed to
 5 mean "councilman" when applied to cities under this chapter.

6 2. When an office or officer is named in any law referred to in
 7 this chapter, it shall, when applied to cities under this chapter, be
 8 construed to mean the office or officer having the same functions or
 9 duties under the provisions of this chapter, or under ordinances passed
 10 under authority thereof.

11 3. The word "franchise" shall include every special privilege in
 12 the streets, highways and public places of the city, whether granted
 13 by the state or city, which does not belong to citizens generally by
 14 common right.

15 4. The word "electors" shall be construed to mean persons quali-
 16 fied to vote for elective offices at regular municipal elections.

[S., '13, § 1056-a35.]

**SEC. 4236. Removal of elective officers—procedure—statement of
 candidacy—election of successors.**

1 The holder of any elective office may be removed at any time by
 2 the electors qualified to vote for a successor of such incumbent. The
 3 procedure to effect the removal of an incumbent of an elective office
 4 shall be as follows: A petition signed by electors entitled to vote for
 5 a successor to the incumbent sought to be removed, equal in number
 6 to at least twenty-five per centum of the entire vote for all candidates
 7 for the office of mayor cast at the last preceding general municipal
 8 election, demanding an election of a successor of the person sought to
 9 be removed, shall be filed with the city clerk, which petition shall con-
 10 tain a general statement of the grounds for which the removal is
 11 sought. The signatures to the petition need not all be appended to
 12 one paper, but each signer shall add to his signature his place of resi-
 13 dence, giving the street and number. One of the signers of each such
 14 paper shall make oath before an officer competent to administer oaths
 15 that the statements therein made are true as he believes, and that each
 16 signature to the paper appended is the genuine signature of the per-
 17 son whose name it purports to be. Within ten days from the date of

18 filing such petition the city clerk shall examine and from the voters'
 19 register ascertain whether or not said petition is signed by the requi-
 20 site number of qualified electors, and, if necessary, the council shall
 21 allow him extra help for that purpose; and he shall attach to said
 22 petition his certificate, showing the result of said examination. If by
 23 the clerk's certificate the petition is shown to be insufficient, it may be
 24 amended within ten days from the date of said certificate. The clerk
 25 shall, within ten days after such amendment, make like examination
 26 of the amended petition, and if his certificate shall show the same to
 27 be insufficient, it shall be returned to the person filing the same;
 28 without prejudice, however, to the filing of a new petition to the same
 29 effect. If the petition shall be deemed to be sufficient, the clerk shall
 30 submit the same to the council without delay. If the petition shall be
 31 found to be sufficient, the council shall order and fix a date for holding
 32 the said election, not less than thirty days or more than forty days
 33 from the date of the clerk's certificate to the council that a sufficient
 34 petition is filed. The council shall make or cause to be made publica-
 35 tion of notice and all arrangements for holding such election, and the
 36 same shall be conducted, returned and the result thereof declared, in
 37 all respects as are other city elections. So far as applicable, except
 38 as otherwise herein provided, nominations hereunder shall be made
 39 without the intervention of a primary election by filing with the clerk
 40 at least ten days prior to said special election, a statement of candi-
 41 dacy accompanied by a petition signed by electors entitled to vote at
 42 said special election equal in number to at least ten per centum of the
 43 entire vote for all candidates for the office of mayor at the last pre-
 44 ceeding general municipal election, which said statement of candidacy
 45 and petition shall be substantially in the form set out in section forty-
 46 two hundred nineteen, so far as the same is applicable, substituting
 47 the word "special" for the word "primary" in such statement and
 48 petition, and stating therein that such person is a candidate for elec-
 49 tion instead of nomination. The ballot for such special election shall
 50 be in substantially the following form:

51 OFFICIAL BALLOT.

52 Special election for the balance of the unexpired term

53 of as

54 FOR

55 (Vote for one only)
 56 (Names of Candidates)

57

58

59 Name of present incumbent.

Official ballot attest:

60 (Signature)

City Clerk.

63 The successor of any officer so removed shall hold office during
 64 the unexpired term of his predecessor. Any person sought to be re-
 65 moved may be a candidate to succeed himself, and unless he requests
 66 otherwise in writing, the clerk shall place his name on the official bal-
 67 lot without nomination. In any such removal election, the candidate
 68 receiving the highest number of votes shall be declared elected. At
 69 such election if some other person than the incumbent receives the
 70 highest number of votes, the incumbent shall thereupon be deemed
 71 removed from the office upon qualification of his successor. In case
 72 the party who receives the highest number of votes should fail to
 73 qualify within ten days after receiving notification of election, the

74 office shall be deemed vacant. If the incumbent receives the highest
75 number of votes, he shall continue in office. The said method of re-
76 moval shall be cumulative and additional to the methods heretofore
77 provided by law.

[S., '13, § 1056-a36.]

**SEC. 4237. Petitions for ordinances—adoption or submission—
how repealed or amended.**

1 Any proposed ordinance may be submitted to the council by peti-
2 tion signed by electors of the city equal in number to the percentage
3 hereinafter required. The signatures, verification, authentication, in-
4 spection, certification, amendment and submission of such petition
5 shall be the same as provided for petitions under the preceding sec-
6 tion. If the petition accompanying the proposed ordinance be signed
7 by electors equal in number to twenty-five per centum of the votes
8 cast for all candidates for mayor at the last preceding general elec-
9 tion, and contains a request that the said ordinance be submitted to a
10 vote of the people if not passed by the council, such council shall either
11 (a) pass said ordinance without alteration within twenty days after
12 attachment of the clerk's certificate to the accompanying petition, or
13 (b) forthwith after the clerk shall attach to the petition accompanying
14 such ordinance his certificate of sufficiency, the council shall call a
15 special election, unless a general municipal election is fixed within
16 ninety days thereafter, and at such special or general municipal elec-
17 tion, if one is so fixed, such ordinance shall be submitted without al-
18 teration to the vote of the electors of said city. But if the petition is
19 signed by not less than ten nor more than twenty-five per centum of
20 the electors, as above defined, then the council shall, within twenty
21 days, pass said ordinance without change, or submit the same at the
22 next general city election occurring not more than thirty days after
23 the clerk's certificate of sufficiency is attached to said petition. The
24 ballots used when voting upon said ordinance shall contain these
25 words: "For the ordinance" (stating the nature of the proposed
26 ordinance), and "Against the ordinance" (stating the nature of the
27 proposed ordinance). If a majority of the qualified electors voting
28 on the proposed ordinance shall vote in favor thereof, such ordinance
29 shall thereupon become a valid and binding ordinance of the city; and
30 any ordinance proposed by petition, or which shall be adopted by a
31 vote of the people, can not be repealed or amended except by a vote of
32 the people. Any number of proposed ordinances may be voted upon
33 at the same election, in accordance with the provisions of this sec-
34 tion; but there shall not be more than one special election in any period
35 of six months for such purpose. The council may submit a proposi-
36 tion for the repeal of any such ordinance, or for amendments thereto,
37 to be voted upon at any succeeding general city election; and should
38 such proposition so submitted receive a majority of the votes cast
39 thereon at such election, such ordinance shall thereby be repealed or
40 amended accordingly. Whenever any ordinance or proposition is re-
41 quired by this chapter to be submitted to the voters of the city at any
42 election, the city clerk shall cause such ordinance or proposition to
43 be published once in each of the daily newspapers published in said
44 city, such publication to be not more than twenty or less than five
45 days before the submission of such proposition or ordinance to be
46 voted on.

[S., '13, § 1056-a37.]

SEC. 4238. Ordinances—when effective—petitions of protest.

1 No ordinance passed by the council, except when otherwise re-
 2 quired by the general laws of the state or by the provisions of this
 3 chapter, except an ordinance for the immediate preservation of the
 4 public peace, health or safety, which contains a statement of its urg-
 5 ency and is passed by a two-thirds vote of the council, shall go into
 6 effect before ten days from the time of its final passage; and if during
 7 said ten days a petition signed by electors of the city equal in number
 8 to at least twenty-five per centum of the entire vote cast for all candi-
 9 dates for mayor at the last preceding general municipal election at
 10 which a mayor was elected, protesting against the passage of such
 11 ordinance, be presented to the council, the same shall thereupon be
 12 suspended from going into operation, and it shall be the duty of the
 13 council to reconsider such ordinance; and if the same is not entirely
 14 repealed, the council shall submit the ordinance, as is provided by
 15 subsection b of the preceding section to the vote of the electors of the
 16 city, either at the general election or at a special municipal election
 17 to be called for that purpose; and such ordinance shall not go into
 18 effect or become operative unless a majority of the qualified electors
 19 voting on the same shall vote in favor thereof. Said petition shall be
 20 in all respects in accordance with the provisions of said section ex-
 21 cept as to the percentage of signers, and be examined and certified to
 22 by the clerk in all respects as is therein provided.

[S., '13, § 1056-a38.]

**SEC. 4239. Abandonment of commission plan of government—
procedure—form of ballot.**

1 Any city which shall have operated for more than six years un-
 2 der the provisions of this chapter may abandon such organization
 3 hereunder, and accept the provisions of the general law of the state
 4 then applicable to cities of its population, or if now organized under
 5 special charter may resume said special charter by proceeding as fol-
 6 lows: Upon the petition of not less than twenty-five per centum of
 7 the electors of such city a special election shall be called, at which the
 8 following proposition only shall be submitted:

9 "Shall the city of (name of city) abandon its organization under
 10 chapter thirty-nine, title thirteen, of the code, and become a city un-
 11 der the general law governing cities, or if now organized under spe-
 12 cial charter shall resume said special charter?"

13 If the majority of the votes cast at such special election be in
 14 favor of such proposition, the officers elected at the next succeeding
 15 biennial election shall be those then prescribed by the general law of
 16 the state for cities of like population, and upon the qualification of
 17 such officers such city shall become a city under such general law of
 18 the state; but such change shall not in any manner or degree affect
 19 the property, rights or liabilities of any nature of such city, but shall
 20 merely extend to such change in its form of government. The suffi-
 21 ciency of such petition shall be determined, the election ordered and
 22 conducted, and the results declared, generally as provided by section
 23 forty-two hundred thirty-six, in so far as the provisions thereof are
 24 applicable.

[S., '13, § 1056-a39.]

SEC. 4240. Petitions.

1 Petitions provided for in this chapter shall be signed by none
 2 but legal voters of the city. Each petition shall contain, in addition
 3 to the names of the petitioners, the street and house number in which
 4 the petitioner resides, his age and length of residence in the city.
 5 It shall also be accompanied by the affidavit of one or more legal
 6 voters of the city stating that the signers thereof were, at the time
 7 of signing, legal voters of said city and the number of signers at the
 8 time the affidavit was made.

[S., '13, § 1056-a40.]

SEC. 4241. Street improvements and sewers in certain cities.

1 Cities under the commission plan having a population of more
 2 than twenty thousand, and in which is situated no city cemetery, but
 3 contain within their confines a cemetery established for more than
 4 twenty years, and is conducted by a cemetery association or corpora-
 5 tion operated not for pecuniary profit, and which cemetery contains
 6 more than forty acres and is so situated as to for a distance of more
 7 than fifteen hundred feet bar access to the city, which cemetery has
 8 a frontage of more than fifteen hundred feet upon one of the main
 9 traveled streets or highways leading into said city, and upon which
 10 street or highway a street car track is laid, and which street or high-
 11 way is so situated as to make it impracticable to levy special assess-
 12 ments against a large portion of the abutting property so situated,
 13 are hereby authorized to avail themselves of the provisions of sections
 14 thirty-nine hundred twelve to thirty-nine hundred twenty-two, in-
 15 clusive, for the purpose of building, repairing and paying for sewer
 16 under and curbing and pavement along and upon said street or high-
 17 way in front of such cemetery; and for the proportion of the cost
 18 thereof not properly assessable against such street car line and not
 19 justly assessable against abutting property other than that owned by
 20 the cemetery association, in addition to all other levies now authorized
 21 by law, may, in lieu of the provisions of section thirty-two hundred
 22 nineteen, levy an annual tax not exceeding one mill upon all taxable
 23 property excepting moneys and credits contained in said city, or any
 24 principal division or district thereof as may be determined or estab-
 25 lished by the city council. The tax herein provided for may be ac-
 26 cumulated from year to year until such special fund is sufficient for
 27 the purposes herein authorized. And such city may anticipate the
 28 collection of such tax under the provisions of section thirty-two hun-
 29 dred twenty.

[38 G. A., ch. 101, § 1.]

SEC. 4242. Drainage in certain cities.

1 All cities in this state organized and existing under this chapter
 2 and having a population of one hundred thousand or over, into or
 3 through which a stream flows which furnishes drainage for any city
 4 or town farther up the stream, and whose boundary lines join, shall
 5 have the power to construct, repair and maintain the necessary drains
 6 and sewers to preserve and protect the health of such cities.

[38 G. A., ch. 407, § 1.]

SEC. 4243. Resolution of necessity—notice—objections.

1 When any such city located as above indicated desires to con-
 2 struct, repair and maintain any such sewer or drain, the council of

3 such city shall by resolution determine the necessity for the construc-
4 tion of such drains and sewers, the character and extent thereof, the
5 method of construction, the one or more kinds and size thereof, the
6 property to be assessed therefor, the location and terminal points
7 thereof, and cause twenty days' notice of time when said resolution
8 will be considered by such council for passage to be given by four pub-
9 lications in said city in some newspaper of general circulation pub-
10 lished therein, the last of which shall be not less than two nor more
11 than four weeks prior to the time fixed for the consideration of said
12 resolution, at which time the owners of the property subject to as-
13 sessment for the same may appear and make objection to the contem-
14 plated improvement, sewer or drain, and the passage of said pro-
15 posed resolution, at which hearing the same may be amended and
16 passed or passed as proposed.

[38 G. A., ch. 407, § 2.]

SEC. 4244. Sewer districts—special assessments.

1 Such city shall have power to establish sewer districts to em-
2 brace all or such portions of said commission governed cities as in
3 the judgment of the council thereof will receive special benefits from
4 the construction, repair, improvement or reconstruction of such sewer
5 or sewers, to change the boundaries of same from time to time as
6 may become in the judgment of such council just and equitable, and
7 to assess so much of the cost of such drains and sewers against all lots
8 or tracts of land contained in the sewer district within which such im-
9 provements are made as shall equal and be in proportion to the special
10 benefits conferred by said improvement and not in excess thereof. In
11 no case shall such assessment exceed twenty-five per centum of the
12 actual value of said lots or tracts at the time of levy thereof.

[38 G. A., ch. 407, § 3.]

SEC. 4245. Construction ordered.

1 Whenever the resolution of necessity herein above provided for
2 has been adopted and the provisions of the three preceding sections
3 complied with, the council may by ordinance or resolution order the
4 construction, repair, improvement or reconstruction of said drain or
5 sewer upon a yea and nay vote entered of record, which record shall
6 also show whether such improvement was petitioned for or made on
7 the motion of the council.

[38 G. A., ch. 407, § 4.]

**SEC. 4246. Flood protection—division of work—power to con-
tinue levy.**

1 Whenever in any such city proceedings have been or shall be be-
2 gun for the purpose of providing flood protection under the provi-
3 sions of chapter twenty-five, title thirteen, the council shall have
4 power after the election in said chapter provided for has been had,
5 and without again submitting the matter at an election, to divide the
6 work into parts, sections or districts, and determine what property
7 would be benefited by the work or improvement in each part, section
8 or district; to omit parts of said work or any part, section or district;
9 and to contract for any part, section or district separately and pro-
10 ceed therewith the same as if the entire work or improvement was
11 contracted for, done or made. Whenever in any such city the tax

12 provided for in said chapter has not been levied beginning on the
13 date fixed in the resolution of necessity and in the proposition sub-
14 mitted to a vote of the electors, and a part of the period in which such
15 levy is authorized to be made by such vote has expired without such
16 levy having been made, and no certificates or bonds have been issued
17 or sold for the payment of the improvement as provided in said chap-
18 ter and title, the council shall have the power to continue the levy
19 provided for in said chapter and title, and in the proposition thereto-
20 fore submitted to a vote of the electors for a period not exceeding
21 twenty years, including the several years, if any, for which such tax
22 has heretofore been levied; and it is hereby made the duty of the
23 council to make the levy in the manner provided in sections thirty-
24 nine hundred thirty-nine and thirty-nine hundred forty, and to ap-
25 propriate and apply the proceeds collected after January first, nine-
26 teen hundred fourteen, from such tax so levied to the payment of
27 flood protection bonds issued by such city under section thirty-nine
28 hundred fifty-three if any such there be.

[S., '13, § 1056-a41.]

SEC. 4247. Special assessments.

1 In all cases where special assessments are authorized and no
2 other mode of proceeding is provided by law, the assessment shall be
3 made as nearly as practicable in the manner provided for assessing
4 the cost of street improvement and sewers.

[S., '13, § 1056-a42.]

SEC. 4248. Certificate for repair of bridges.

1 Any such city shall have power to issue certificates as provided
2 in sections thirty-seven hundred eighty-one, thirty-seven hundred
3 eighty-two, and thirty-seven hundred eighty-three, for the whole or
4 any part of the expense of repairing bridges.

[S., '13, § 1056-a43.]

SEC. 4249. Repairs by street railway companies.

1 In every such city the owner of any street railway occupying or
2 using any bridge shall construct, reconstruct and repair the paving
3 or flooring on said bridge three and one-half feet each way from the
4 center line of the space between the rails of its tracks, the same to be
5 ordered, done, assessed and paid for in the manner provided for pav-
6 ing in sections thirty-eight hundred ninety-eight and thirty-eight hun-
7 dred ninety-nine.

[S., '13, § 1056-a44.]

SEC. 4250. Taxes for parks and cemeteries.

1 In addition to the taxes now or hereafter authorized by law every
2 such city shall have the power to levy upon all taxable property therein
3 the following taxes, viz.: a tax of not more than one and five-tenths
4 mills on the dollar for the purpose of caring for and improving the
5 parks of said city; a tax of not more than one mill on the dollar for
6 the purpose of caring for and improving any cemetery owned by such
7 city.

[S., '13, § 1056-a45.]

SEC. 4251. Cemetery fund—how invested.

1 Every such city shall have power to create a fund from tax levies
 2 heretofore or hereafter authorized for cemeteries or from the sale of
 3 lots in cemeteries, or from sources, including bequests or donations
 4 for the permanent maintenance of cemeteries, and the fund thus cre-
 5 ated shall not be used for any other purpose; and the city council
 6 shall have authority to cause such accumulations to be invested in
 7 bonds of the United States or in municipal bonds or certificates or
 8 other evidence of indebtedness issued by authority of and according
 9 to law of this or any other state when such bonds are at or above par.

[S., '13, § 1056-a46.]

SEC. 4252. Authority to lease city property.

1 Any such city, by a two-thirds vote of its council, shall have au-
 2 thority to lease any city property for a term of not exceeding one year
 3 from the date of leasing the same, where, in the judgment of the coun-
 4 cil expressed by a two-thirds vote thereof, any such property may not
 5 be needed for the immediate use of such city.

[S., '13, § 1056-a47.]

SEC. 4253. Power of certain cities to sell or donate island to county.

1 The council of any city organized and acting under the provisions
 2 of this chapter and having a population of over thirty-five thousand
 3 and under fifty thousand, according to the last preceding state census,
 4 and the corporate limits of which city are divided by a river, shall have
 5 power by ordinance adopted as by law provided, to sell or donate to
 6 the county in which such city is located such part of any island in
 7 such river belonging to such city as may be desirable or necessary for
 8 a courthouse and county seat site.

[38 G. A., ch. 111, § 1.]

SEC. 4254. River front improvement commission—powers and duties—election of—terms.

1 All cities, which have heretofore been organized and acting un-
 2 der special charters and which have heretofore, or shall hereafter
 3 adopt the plan of government provided in chapter thirty-nine, title
 4 thirteen, and in which river front improvement commissions have been
 5 or shall hereafter be organized, under chapter eleven, title thirteen,
 6 shall have and may exercise all the right and powers conferred by said
 7 chapter on the said river front improvement commission, and all such
 8 rights and powers are hereby transferred to and vested in the city
 9 council of any such city or cities. Said council shall have the power
 10 to elect and shall elect a commission of three persons, to be known as
 11 the river front improvement commission, whose duties shall be to
 12 carry out the powers and duties with respect to the beds and banks of
 13 streams in such cities, herein conferred upon said city council, or such
 14 limited powers in respect thereto as the council may prescribe by
 15 ordinance. Said commission shall be elected biennially on the first
 16 Tuesday in May, and shall hold office for a term of six years and until
 17 their successors are elected and qualified. The members of the river
 18 front improvement commission shall be elected, one for two years,
 19 one for four years, and one for six years.

[S., '13, § 1056-a48.]

SEC. 4255. Control over meandered streams—prevention and abatement of nuisances—condemnation—assessment of benefits—tax—bonds.

1 Every city specified in the preceding section shall have control
 2 of all the meandered streams within the boundaries thereof, and of
 3 the beds, banks and waters of such streams. Said cities shall have
 4 power to prevent the placing or maintenance of nuisances and obstruc-
 5 tions in such streams, or on or along the banks thereof, and to abate
 6 and remove such nuisances or obstructions therefrom, and to recover
 7 the expense thereof from the person or persons causing, placing or
 8 maintaining such nuisances therein or thereon; to deepen, widen,
 9 straighten or change the channels of such streams; to improve and
 10 beautify the banks of such streams; to construct levees, embankments
 11 and other works to protect the city and its property and its inhabi-
 12 tants and their property from floods; to acquire and take by purchase
 13 or condemnation any real property necessary for any such works or
 14 improvements; to assess upon property benefited by any such works
 15 or improvements, the cost thereof, to the extent of the special benefits
 16 conferred thereby, but not in excess of such special benefit and not in
 17 excess of twenty-five per cent of the actual value of the property bene-
 18 fitted; to provide funds for any of the expenditures herein authorized,
 19 by levy upon all the taxable property in such city of a continuous tax
 20 of not more than two mills on the dollar each year for not more than
 21 ten years, and to issue bonds in anticipation of such tax, and to
 22 pledge the proceeds of said tax to the payment of said bonds. The
 23 said special tax levy and the issuance of bonds in anticipation thereof
 24 and the general plans recommended by the river front improvement
 25 commission and the estimated costs of said improvement based upon
 26 surveys, plans and estimates made by the city engineer shall be pro-
 27 vided for by ordinance.

[S., '13, § 1056-a49.]

SEC. 4256. Duty of county treasurer—tax sales—redemptions.

1 Whenever any property shall have been heretofore sold for any
 2 taxes or special assessment by any city specified in the second preced-
 3 ing section, or by the treasurer thereof, the county treasurer shall have
 4 the power and it shall be his duty to collect said taxes and on any
 5 such sale to issue tax sale deeds therefor in the same manner and un-
 6 der the same provisions of law as are or may hereafter be applicable
 7 to tax sales made by the county treasurer, and any tax sale deed here-
 8 tofore or hereafter issued on any such sale shall have the same force
 9 and effect as though the tax sales had been made by the county treas-
 10 urer. Redemptions from such tax sales shall be made as from sales
 11 made by the county treasurer.

[S., '13, § 1056-a50.]

SEC. 4257. Care of streets—road districts—fund.

1 The council, or any city specified in section forty-two hundred
 2 fifty-four, shall have the power to divide the city into not less than five
 3 road districts for the purpose of cleaning, sprinkling and repairing
 4 the streets and public places, or any of said purposes, and to provide
 5 for the manner of doing the same and for the payment of the cost
 6 thereof out of the district road fund, and shall determine the amount
 7 of money necessary for such purposes in each district; and such city

8 council may levy a special tax not exceeding two mills on the dollar on
 9 all taxable property in each of said road districts, to be known as the
 10 road district fund and to be used only to pay the cost of cleaning,
 11 sprinkling and repairing the streets and public places in such districts.

[S., '13, § 1056-a51.]

SEC. 4258. Tax for fire department.

1 The council of any city, specified in section forty-two hundred
 2 fifty-four, shall have the power to levy a special tax upon all taxable
 3 property in said city, not exceeding six mills on the dollar each year,
 4 for the purpose of acquiring property for the use of the fire depart-
 5 ment and equipping and maintaining such department. But the levies
 6 of general and special taxes in such cities shall not exceed, in the ag-
 7 gregate, forty-eight mills on the dollar of the taxable value of the
 8 property therein.

[S., '13, § 1056-a52.]

SEC. 4259. Transfer of special taxes heretofore levied.

1 In order to adjust the finances of any city specified in section
 2 forty-two hundred fifty-four, the city council thereof may, by a three-
 3 fourths vote of all its members, transfer any special tax heretofore,
 4 but not hereafter, levied from the improvement and grading fund,
 5 when the same is not needed and can not be used therein for the best
 6 interests of the city, to the fire department fund or general fund.

[S., '13, § 1056-a53.]

SEC. 4260. Tax for police service equipment.

1 The council of any city organized under this chapter shall have
 2 the power to levy a special tax upon all taxable property in said city,
 3 not to exceed one mill on the dollar each year, for the purpose of pur-
 4 chasing and maintaining apparatus and equipment for use in police
 5 service in the department of public safety, but nothing in this section,
 6 or the four following sections shall be held to extend the powers of
 7 such cities to make annual levies for general and special taxes in ex-
 8 cess of forty-eight mills on the dollar of the taxable value of the prop-
 9 erty therein.

[S., '13, § 1056-a55.]

**SEC. 4261. Levy of whole or partial cost—percentage—certifi-
 cates of levy.**

1 When the whole or any part of the cost of purchasing and main-
 2 taining apparatus and equipment for use in police service in the de-
 3 partment of public safety of any city organized under this chapter
 4 shall be ordered paid from the city fund designated to purchase and
 5 maintain apparatus and equipment for use in police service in the
 6 department of public safety, to be levied upon all the taxable property
 7 within such city, it shall have the power after the purchase of said
 8 apparatus and equipment, by ordinance or resolution, to levy at any
 9 one time the whole or any part of the cost of such apparatus and
 10 equipment upon all the taxable property within such city and deter-
 11 mine the whole percentage of taxes necessary to pay the same, and
 12 the percentage to be paid each year not exceeding one-half of the
 13 maximum annual limit of the tax such city may levy for funds to pur-
 14 chase and maintain apparatus and equipment for police service in

15 the department of public safety, and the number of years, not exceed-
 16 ing ten, given for the maturity of each installment thereof, but no
 17 part of such costs shall be levied against property owned by the city,
 18 county, state or the United States. Certificates of such levy shall be
 19 filed with the auditor of the county or counties in which said city is
 20 located, setting forth the amount or percentage and maturity of said
 21 tax, or each installment thereof, upon the assessed valuation of all
 22 taxable property in said city, certified as correct by the city clerk or
 23 auditor, and thereupon said tax shall be placed upon the tax lists of
 24 the proper county or counties.

[S., '13, § 1056-a56.]

SEC. 4262. Police equipment fund bonds.

1 Any such city may anticipate the collection of taxes authorized
 2 to be levied for the purchase and maintenance of apparatus and equip-
 3 ment for police service in the department of public safety, and for that
 4 purpose may issue police equipment fund certificates or bonds with in-
 5 terest coupons, and the provisions of chapter thirty-four, title thir-
 6 teen, shall be operative as to such certificates, bonds and coupons, in
 7 so far as they may be applicable.

[S., '13, § 1056-a57.]

SEC. 4263. How secured and paid—separate fund.

1 Said certificates, bonds and interest thereon shall be secured by
 2 said assessments and levies and shall be payable only out of the funds
 3 derived from such levies and pledged to the payment of the same, and
 4 no certificates, or bonds shall be issued in excess of taxes authorized
 5 and levied to secure the payment of the same. It shall be the duty of
 6 such city to collect such funds with interest thereon and to hold the
 7 same separate and apart in trust for the payment of said certificates,
 8 bonds and interest and to apply the proceeds of such funds pledged for
 9 such purpose to the payment of said certificates, bonds and interest.

[S., '13, § 1056-a58.]

SEC. 4264. To what cities applicable.

1 The four preceding sections shall apply only to cities having a
 2 population of eighty thousand or more as shown by either the last
 3 United States or state census.

[S., '13, § 1056-a59.]

SEC. 4265. Tax for garbage disposal plant.

1 The council of any city having a population of eighty thousand
 2 or more, organized under this chapter, shall have the power to levy a
 3 tax upon all taxable property in said city not to exceed one mill on the
 4 dollar each year for the purpose of acquiring a location for and equip-
 5 ment, maintenance and construction of a garbage disposal plant or
 6 system, but nothing in this section or the three following sections shall
 7 be held to extend the powers of such cities to make annual levies for
 8 general and special taxes in excess of forty-eight mills on the dollar of
 9 the taxable value of the property therein.

[S., '13, § 1056-a61.]

SEC. 4266. Levy of whole or partial cost—percentage—certificates of levy.

1 When the whole or any part of the cost of purchasing a location
 2 for and equipment, maintenance and construction of a garbage dis-
 3 posal plant or system by any such city, shall be ordered paid from the
 4 city fund designated for such purchase, equipment, maintenance and
 5 construction, to be levied upon all taxable property within such city,
 6 it shall have the power after purchase of the property, equipment,
 7 maintenance and construction of any such plant or system, by ordi-
 8 nance or resolution, to levy at any one time, the whole or any part of
 9 the total cost of such plant or system and the maintenance thereof
 10 upon all the taxable property within such city and determine the
 11 whole percentage of taxes necessary to pay the same, and the percent-
 12 age to be paid each year not exceeding one-half of the maximum an-
 13 nual limit of the tax such city may levy for funds to purchase a loca-
 14 tion for, maintain, equip and construct a garbage disposal plant or
 15 system, and the number of years, not exceeding ten, given for the
 16 maturity of each installment thereof, but no part of such cost shall be
 17 levied against property owned by the city, county, state or the United
 18 States. Certificates of such levy shall be filed with the auditor of the
 19 county or counties in which said city is located, setting forth the
 20 amount or percentage and maturity of said tax, or each installment
 21 thereof, upon the assessed valuation of all taxable property in said
 22 city, certified as correct by the city clerk or auditor, and thereupon
 23 said tax shall be placed upon the tax list of the proper county or
 24 counties.

[S., '13, § 1056-a62.]

SEC. 4267. Garbage disposal plant bonds.

1 Any such city may anticipate the collection of taxes authorized
 2 to be levied for the purchase of its location and for the equipment,
 3 maintenance and construction of a garbage disposal plant or system,
 4 and for that purpose may issue garbage disposal plant certificates or
 5 bonds with interest coupons, and the provisions of chapter thirty-four,
 6 title thirteen, shall be operative as to such certificates, bonds and cou-
 7 pons, in so far as they may be applicable.

[S., '13, § 1056-a63.]

SEC. 4268. How secured and paid—separate fund.

1 Said certificates, bonds and interest thereon shall be secured by
 2 said assessments and levies and shall be payable only out of the funds
 3 derived from such levies and pledged to the payment of the same, and
 4 no certificates or bonds shall be issued in excess of taxes authorized
 5 and levied to secure the payment of the same. It shall be the duty of
 6 such city to collect such funds, with interest thereon, and to hold the
 7 same separate and apart in trust for the payment of said certificates,
 8 bonds and interest and to apply the proceeds of such funds pledged
 9 for that purpose to the payment of said certificates, bonds and interest.

[S., '13, § 1056-a64.]

SEC. 4269. Care of trees and shrubbery.

1 Cities now or hereafter having a population of twenty-five thou-
 2 sand or over and organized under this chapter shall have power by
 3 ordinance to take and assume charge, custody and control of all trees
 4 and shrubbery upon the public streets, and to plant, prune, care for
 5 and maintain all trees and shrubbery upon the public streets in such

6 manner as not to interfere with public travel and to pay for the same
 7 out of the general fund or to provide by ordinance for assessing the
 8 cost thereof upon the lots and parcels of land in front of which trees
 9 or shrubbery are planted and maintained. No power shall exist to
 10 remove other than dead, damaged or unsightly trees and shrubbery.
 11 The carrying into effect of the provisions of any ordinance enacted
 12 hereunder shall be vested in the department of parks and public
 13 property.

[S., '13, § 1056-a65.]

SEC. 4270. Additional powers in re parks.

1 The council of any city organized under this chapter, and having
 2 a population of fifty thousand, shall have the power to establish in,
 3 and in connection with the parks, swimming pools, bathing beaches,
 4 bathhouses, ice rinks, dance pavilions, shelter houses, wading pools
 5 and river walls, to pave, macadamize and otherwise improve the road-
 6 ways, drives, avenues and walks in and through such parks.

[37 G. A., ch. 194, § 1.]

SEC. 4271. Tax for swimming pools, paving.

1 The council of all such cities shall have the power, and they are
 2 hereby authorized in their discretion, to certify to the county auditor
 3 and to cause to be collected, a special tax of not to exceed one-half mill
 4 on the dollar on all taxable property of the city to be used for the con-
 5 struction of such swimming pools, bathing beaches, bathhouses, ice
 6 rinks, dance pavilions, shelter houses, wading pools and river walls,
 7 and an additional special tax of one-half mill on the dollar on all tax-
 8 able property of the city to be used for the sole and only purpose of
 9 paving, macadamizing and otherwise improving the roadways, drives,
 10 avenues and walks in and through such parks. The city council may
 11 anticipate the collection of said additional tax herein authorized to be
 12 levied for the purposes herein stated, and for that purpose may issue
 13 park certificates or bonds with interest coupons and the provisions
 14 of chapter thirty-four, title thirteen, shall be operative as to such
 15 certificates, bonds and coupons, in so far as they may be applicable.
 16 The proceeds of such special tax shall be kept as a separate fund and
 17 shall be used for the purpose of paying certificates or bonds and the
 18 coupons issued thereupon and for no other purpose whatsoever.

[37 G. A., ch. 194, § 2.]

CHAPTER 40.

**GOVERNMENT OF CITIES AND INCORPORATED TOWNS BY A COUNCIL AND
 MANAGER.**

SECTION 4272. Organization authorized.

1 Any city, or incorporated towns and cities organized under chap-
 2 ter thirty-nine of this title, may become organized as a city or incor-
 3 porated town, as the case may be, under the provisions of this chapter,
 4 by proceeding as hereinafter provided.

[S. S., '15, § 1056-b; 37 G. A., ch. 68, § 1.]

SEC. 4273. Adoption of plan — election — councilmen — when elected.

1 Upon petition, signed by the electors of any city or town specified
2 in the preceding section equal in number to twenty-five per centum of
3 the votes cast for all candidates for mayor, at the last preceding elec-
4 tion of such city or town, the mayor shall, not less than thirty days
5 prior to the election to be held as herein provided, by proclamation,
6 submit the question of organizing the government of such city or town,
7 under this chapter, at a special election to be held at a time specified
8 in such proclamation, and within two months after such petition is
9 filed with the clerk of such city or town; provided that in case not
10 less than ten per centum of the qualified electors of any city reside in
11 each of two or more townships, said petition shall be signed by not
12 less than ten per centum of the qualified electors of such city, resid-
13 ing in each of such townships. If such plan of government be not
14 adopted at the special election called, the question of adopting said
15 plan shall not be resubmitted to the voters of such city or town, within
16 two years thereafter. At such election, the proposition to be sub-
17 mitted shall be: "Shall the city (or incorporated town, as the case
18 may be) of (name of city or incorporated town), organize under
19 chapter forty, title thirteen, of the code?" The election at which
20 the question of organizing the government of such city or town, un-
21 der this chapter, shall be conducted, the vote canvassed, and the result
22 declared in the same manner as provided by law, in respect to elections
23 in cities and towns organized under the general laws of the state. If
24 a majority of the votes cast at such election shall be in favor of the
25 organization of the government of such city or town, under the pro-
26 visions of this chapter, cities having a population of twenty-five thou-
27 sand or more, shall thereupon proceed to the election of five council-
28 men, and cities and towns having a population of less than twenty-five
29 thousand shall proceed to the election of three councilmen; provided,
30 however, that in any city having a population of twenty-five thousand
31 or more, and less than seventy-five thousand, of which the territory
32 embraced within the boundaries of such city lies in two townships,
33 which are divided by a watercourse, four councilmen shall be elected,
34 two of whom shall be residents of, and elected from that part of the
35 city lying within each of such townships. Upon the adoption of the
36 proposition to organize the government of such city or town, under
37 this chapter, the mayor shall immediately transmit to the governor,
38 to the secretary of state, and to the county auditor, a certificate that
39 the form of government provided by this chapter has been adopted,
40 and the councilmen for which provision is made herein, shall be elected
41 at the next regular city or town election, after the adoption of such
42 form of government. If, however, the next regular city or town elec-
43 tion does not occur within one year after the special election at which
44 such form of government is adopted, the mayor shall, within ten days
45 after such election, by proclamation, call a special election for the
46 election of councilmen, as herein provided, and shall give thirty days'
47 notice of such special election, which notice shall be included and
48 given in the call for such special election. The special election, so
49 called for the election of councilmen, shall in either case be conducted
50 as hereinafter provided.

[S. S., '15, § 1056-b1; 37 G. A., ch. 68, § 2.]

SEC. 4274. Laws applicable — ordinances — territorial limits — rights existing unimpaired.

1 All laws governing cities of the first class, organized under the
2 general laws of the state, not inconsistent with the provisions of this
3 chapter, shall apply to and be in force in every city of the first class,
4 organized hereunder; all laws governing cities of the second class,
5 organized under the general laws of the state, not inconsistent with
6 the provisions of this chapter, shall apply to and be in force in every
7 city of the second class, organized hereunder, and all laws governing
8 incorporated towns, not inconsistent with the provisions of this chap-
9 ter, shall apply to and be in force in every such town organized here-
10 under. All by-laws, ordinances and resolutions lawfully passed, and
11 in force in any such city or incorporated town, under its former organ-
12 ization, shall be and remain in force until altered or repealed by the
13 council elected under the provisions of this chapter. The territorial
14 limits of such city or town shall remain the same as under its former
15 organization, and all rights and property of every description, which
16 were vested in any such city or town, under its former organization,
17 shall vest in the same when organized under the provisions of this
18 chapter, and no right, or liability, in favor of, or against such city
19 or town, existing at the time of the adoption of the form of govern-
20 ment herein contemplated, and no suit or prosecution of any kind,
21 shall be affected by the change of the form of government of such city
22 or town, unless herein otherwise provided.

[S. S., '15, § 1056-b2.]

SEC. 4275. Tenure of office of councilmen, other officers and employees.

1 The councilmen elected at the special election called by the mayor,
2 after the adoption of the form of government contemplated by this
3 chapter, shall qualify, and their terms of office shall begin on the first
4 Monday after their election, and they shall hold office until the next
5 regular biennial municipal election, and until their successors are
6 elected and qualified. At the first regular biennial election, after the
7 organization of any city or town, under the provisions of this chapter,
8 in all such cities and towns where three councilmen are to be elected,
9 one councilman shall be elected for the term of two years, and two
10 for the term of three years. When four councilmen are to be elected,
11 as provided in the second preceding section, one shall be elected from
12 each township for the term of two years, and one from each township
13 for the term of three years, and in cities where five councilmen are
14 to be elected, two shall be elected for two years, and three for three
15 years. At the next regular biennial municipal election, and biennially
16 thereafter, there shall be elected, a member or members of the council
17 for the term of three years to succeed those whose terms of office will
18 expire the first Monday in April, following such election, and there
19 shall also be elected at such regular biennial municipal election, a
20 member or members of the council for a term of three years to suc-
21 ceed those whose terms will expire one year after the first Monday
22 in April following such election.

23 The time when each candidate for councilman shall begin his term
24 of office shall be specified under his name on the ballot, and all peti-
25 tions for nomination of members of the council, to be voted for at
26 such regular biennial municipal election, shall specify the length of
27 the term of office for which the candidate seeks nomination. The

28 terms of office of the mayor and councilmen or aldermen of any city
 29 or incorporated town, adopting the form of government contemplated
 30 by this chapter, in office at the beginning of the terms of office of the
 31 councilmen first elected, under the provisions hereof, shall then cease
 32 and determine, and except the members of the library board, whose
 33 terms of office shall continue as now provided by law, the terms of
 34 office of all other officers including park commissioners, members of
 35 the board of public works, and waterworks trustees, whether elected
 36 or appointed, and of all employees of such city or incorporated town,
 37 shall be subject to the action of the council or manager. Except the
 38 members of the library board, the council shall have power to deter-
 39 mine the tenure of office of any officer or the term of employment of
 40 any employee that it is authorized to appoint or employ, and to declare
 41 any such office vacant, or to discharge any such employee with or
 42 without cause, as it may deem advisable, and the manager shall have
 43 power to determine the tenure of office of any officer or the term of
 44 employment of any employee that he is authorized to appoint or em-
 45 ploy, and to declare any such office vacant, or to discharge any such
 46 employee with or without cause, as he may deem advisable.

[S. S., '15, § 1056-b3.]

**SEC. 4276. Councilmen to be nominated by petition—election—
 form of ballot.**

1 Candidates for councilmen, to be voted for under the provisions
 2 of this chapter, shall be nominated by petition, filed with the city or
 3 town clerk, ten days before the day of election, and no name shall be
 4 placed upon the ballot, except the names of candidates nominated by
 5 such petition. The petition for the nomination of councilmen shall
 6 be signed by at least ten electors of the city or town, for every one
 7 thousand inhabitants of such city or town, as shown by the last pre-
 8 vious federal or state census, and no petitioner shall sign any petition
 9 or petitions for more candidates than are to be elected in the city or
 10 town in which such petition is filed. No person shall be deemed nomi-
 11 nated for the office of councilman, unless the petition for his nomina-
 12 tion shall have been signed as herein required. The petition for the
 13 nomination of councilmen shall be substantially in the following form:

14 "The undersigned, duly qualified electors of (here insert the name
 15 of the city or town), and residing at the place set opposite our respec-
 16 tive names, hereby nominate (name of candidate), as candidate for
 17 the office of councilman, of the (name of city or town), and request
 18 that his name be placed upon the official ballot of said city (or town),
 19 at the municipal election to be held therein, on the.....
 20 Monday, of....., 19..... We further state that we know
 21 the said (name of candidate) to be a qualified elector of said city (or
 22 town), a man of good moral character, and in our judgment, qualified
 23 for the duties of councilman.

24 Name of electors. Residence. Street and number.
 25

26 In cities where the residences are numbered, the street and num-
 27 ber of the residence of each elector, signing such petition, shall be
 28 written on the petition immediately after the name of the elector, and
 29 no name upon any such petition shall be counted unless the street and
 30 number of the residence of the person signing the same appear thereon,
 31 as herein provided. Petitions for nomination of councilmen, filed with
 32 the city or town clerk, shall, within two days after the expiration of

33 the time within which such petitions may be filed, be canvassed by
 34 the city or town council, as the case may be, and the names of all per-
 35 sons who shall have been nominated by such petitions, shall, by the
 36 clerk, be placed upon the official ballot of the city or town, of the mu-
 37 nicipal election for which such nominations are made. The names of
 38 the candidates shall be arranged upon the ballot in the manner pro-
 39 vided by section three hundred seventy-one, as nearly as may be, with
 40 a square at the left of each name, and below the names of each of such
 41 candidates, shall appear the words, "Vote for (here insert the number
 42 of councilmen to be elected)" as the case may be. The ballots shall
 43 be printed upon plain, substantial white paper, through which the
 44 printing or writing can not be read, and shall be headed, "Candidates
 45 for councilmen of (name of city or town), at the general (or special)
 46 municipal election of 19....." The candidates upon the ballot shall
 47 be voted for by placing a cross in the square preceding the name of
 48 the candidate for whom the vote is cast.

[S. S., '15, § 1056-b4; 37 G. A., ch. 15, § 1.]

SEC. 4277. Ballots—clerk to prepare—number—judges—canvass of returns.

1 The city or town clerk shall cause the ballots to be prepared and
 2 printed as herein specified, and shall deliver, or cause to be delivered,
 3 at every polling precinct in the city or town, a number of ballots equal
 4 to twice the number of votes cast at such precinct at the last general
 5 municipal election. The city or town council shall appoint the judges
 6 and clerks of the election. The election shall be conducted, the vote
 7 canvassed, and the certified return thereof made by the judges of such
 8 election as provided by law. The returns from the voting precincts
 9 shall be canvassed, the result declared by the council, and clerk, on
 10 the day after the election, and notice of the result given at the time
 11 and in the manner provided by statute.

[S. S., '15, § 1056-b5.]

SEC. 4278. Election laws applicable.

1 All of the provisions of sections forty-two hundred twenty and
 2 forty-two hundred twenty-one shall apply to elections held under the
 3 provisions of this chapter, and any person violating any of the pro-
 4 visions of either of said sections shall, upon conviction thereof, be
 5 punished as therein provided.

[S. S., '15, § 1056-b6.]

SEC. 4279. Mayor to be elected by the council from its membership—authority of mayor.

1 The councilmen elected hereunder, after having duly qualified as
 2 officers of the city or town in which they are respectively elected,
 3 shall, on the first Monday after their election, organize the govern-
 4 ment of such city or town under the provisions of this chapter, and
 5 shall, at that time, elect one of their number as chairman and presid-
 6 ing officer who shall be designated as mayor of the city or town in
 7 which he is elected. The member of the council so elected shall be
 8 recognized as the official head of the city or town, by the courts and
 9 officers of the state, upon whom service of civil process may be made.
 10 He may take command of the police, and govern the city by proclama-
 11 tion at times of public danger, or during an emergency, and shall be

12 the judge as to what constitutes such public danger or emergency.
13 But the election of a member of such city or town council as mayor,
14 shall not give him or confer upon him any additional power or au-
15 thority, except such as is herein provided and such as is ordinarily
16 exercised by a presiding officer.

[S. S., '15, § 1056-b7.]

SEC. 4280. Quorum—yeas and nays—motions, resolutions and ordinances to be reduced to writing—signing of ordinances.

1 In all cities where five or four councilmen are chosen, three mem-
2 bers of the council shall constitute a quorum, and in cities and incor-
3 porated towns in which three councilmen are chosen, under the pro-
4 visions of this chapter, two of the council shall constitute a quorum.
5 Upon every vote of the city or town council, the yeas and nays shall
6 be called and recorded, and every motion, resolution or ordinance
7 shall be reduced to writing, and read before the vote is taken thereon,
8 and every resolution or ordinance passed by the council must be signed
9 by a majority of the council, and be recorded before the same shall
10 be in force.

[S. S., '15, § 1056-b8.]

SEC. 4281. Compensation — classification of city — powers conferred.

1 The members of the city or town council elected under the pro-
2 visions of this chapter, shall serve and perform all of the duties of
3 their respective offices without compensation, and every city which
4 shall adopt the form of government herein contemplated shall, upon
5 the adoption of such form of government become a city of the first
6 or second class, under the general laws of the state, according to the
7 population of such city. The council of every city or town, organ-
8 ized hereunder, shall have, possess and may exercise all executive,
9 legislative, and judicial powers, not inconsistent with this chapter,
10 conferred by law upon councils of cities and towns of the same class
11 organized under the general laws of the state, and every city and
12 town organized under this chapter, shall have, possess and may exer-
13 cise the corporate powers, not inconsistent with the provisions hereof,
14 conferred upon cities and towns of the same class organized under
15 the general laws of the state.

[S. S., '15, § 1056-b9.]

SEC. 4282. Meetings—presiding officer pro tempore.

1 Regular meetings of the council shall be held on the first Monday
2 after the election of councilmen, and on the first Monday of each month
3 thereafter. Special meetings may be called from time to time by two
4 councilmen. All meetings of the council whether regular or special,
5 shall be open to the public. If, at any meeting, the presiding officer
6 of the council be not present, the members of the council present shall
7 select one of their number to act as presiding officer pro tempore, and
8 his act as presiding officer pro tempore shall have the same force and
9 legality as though performed by the regularly elected presiding officer
10 of the council.

[S. S., '15, § 1056-b10.]

SEC. 4283. Statutes made applicable.

1 All of the provisions of section forty-two hundred thirty-one shall
 2 apply to all officers and employees elected or appointed in any city or
 3 town, organized under this chapter, as fully as though the provisions
 4 of such section were incorporated and repeated herein.

[S. S., '15, § 1056-b11.]

SEC. 4284. Manager—appointment—tenure of office.

1 At the first meeting after their election, or as soon thereafter
 2 as practicable, the council shall appoint a competent person manager,
 3 who shall be the administrative head of the municipal government of
 4 the city or town in which he is appointed. Such manager shall be
 5 under the direction and supervision of the council, and shall hold office
 6 at its pleasure.

[S. S., '15, § 1056-b12.]

SEC. 4285. Qualification—bond.

1 Before entering upon the duties of his office, the manager shall
 2 take an official oath that he will support the constitution of the United
 3 States, the constitution of the state of Iowa, and without fear or favor,
 4 he will, to the best of his ability faithfully and honestly perform the
 5 duties of his office, and shall execute a bond in favor of the city or
 6 town, for the faithful performance of his duties, in such sum as may
 7 be fixed by the council.

[S. S., '15, § 1056-b13.]

SEC. 4286. Manager need not be resident—manager pro tempore.

1 The council in making the appointment of a manager, shall con-
 2 sider the qualification and fitness only of the person appointed, and
 3 he shall be appointed without regard to his political affiliation, and
 4 need not be a resident of the city or town, at the time of his appoint-
 5 ment. During the absence or disability of the manager, the council
 6 may designate some properly qualified person to perform and execute
 7 the duties of his office.

[S. S., '15, § 1056-b14.]

SEC. 4287. Duties of manager.

1 The duties of the manager shall be:
 2 1. To see that the laws and ordinances of the city or town are
 3 faithfully enforced and executed.
 4 2. To attend all meetings of the council.
 5 3. To recommend to the council such measures as he may deem
 6 necessary or expedient for the good government and welfare of the
 7 city or town.
 8 4. He shall have the general supervision and direction of the ad-
 9 ministration of the city or town government. He shall supervise and
 10 direct the official conduct of all appointive officers of the city or town,
 11 except the clerk, police judge or magistrate, solicitor, corporation
 12 counsel, assessor, board of review, and members of the library board.
 13 He shall supervise the performance of all contracts for work to be
 14 done for the city or town, make all purchases of material and sup-
 15 plies, and see that such material and supplies are received, and are
 16 of the quality and character called for by the contract.

17 5. He shall have power to employ and discharge from time to
 18 time, as occasion requires, all employees of the city or town, and to
 19 fix the compensation to be paid to such employees, except as other-
 20 wise herein provided. He shall have power to discharge summarily
 21 and without cause any officer, appointee or employee that he has power
 22 to appoint or employ. He shall supervise and manage all public im-
 23 provements, works and undertakings of the city or town, and shall have
 24 charge of the construction, improvement, repair and maintenance of
 25 streets, sidewalks, alleys, lanes, squares, bridges, viaducts, aqueducts,
 26 public highways, sewers, drains, ditches, culverts, streams and water-
 27 courses, except those designated in and which are covered by the pro-
 28 visions of chapters nine and ten of this title, and of all public buildings.
 29 He shall manage, supervise and control market houses, crematories,
 30 sewage disposal plants and farms, and shall enforce all obligations of
 31 privately owned or operated public utilities enforceable by the city or
 32 town. He shall have charge of the making and preservation of all
 33 surveys, maps, plans, drawings, specifications and estimates for pub-
 34 lic works or public improvements; the cleaning, sprinkling and light-
 35 ing of streets, alleys and public places; the collection and disposal of
 36 waste, and the preservation of tools and appliances belonging to the
 37 city or town. He shall manage all municipal water plants, lighting,
 38 heating or power plants, and transportation enterprises. He shall
 39 manage, supervise and control the use, construction, improvement, re-
 40 pair and maintenance of all recreational facilities of the city or town,
 41 including parks, playgrounds, public gymnasiums and public bath-
 42 houses.

43 6. He may, without notice, and summarily cause the affairs of
 44 any department or the conduct of any officer under his supervision,
 45 or of any employee, to be investigated, and he, or any person appointed
 46 by him to examine or investigate the affairs of any department, or
 47 the conduct of any officer or employee, shall have power to compel the
 48 attendance of witnesses, the production of books and papers, and other
 49 evidence, and to punish for contempt any person who shall fail to
 50 attend and testify as a witness when duly summoned, or who shall fail
 51 to produce any books, papers or other evidence under his control when
 52 required to do so.

53 7. He shall take active control of the police, fire and engineering
 54 departments of the city or town, and employ such assistants and em-
 55 ployees therein as to him shall be deemed advisable.

56 8. He shall, in his discretion, issue licenses, authorized by law,
 57 and may revoke the same at pleasure. All licenses issued shall be
 58 signed by the manager, and clerk, and duly entered in a book kept for
 59 that purpose.

60 9. He shall keep the council fully advised of the financial and
 61 other conditions of the city or town, and of its future needs.

62 10. He shall have power to appoint or employ persons to fill all
 63 places for which no other mode of appointment is provided, and shall
 64 have power to administer oaths.

[S. S., '15, § 1056-b15.]

SEC. 4288. Manager—additional duties—budget.

1 The manager shall prepare and submit to the council, an annual
 2 budget on the basis of estimates of the expenses of the various de-
 3 partments of the city or town. These departmental estimates shall
 4 show the expenses of each department for the preceding year, and

5 shall indicate wherein an increase or a diminution is recommended
6 for the ensuing year. Such estimate shall be published in the official
7 newspapers of the city or town, two weeks before such estimates are
8 submitted by the manager to the council, and printed copies thereof
9 shall be furnished to any citizen upon request to the manager. The
10 budget so submitted to the council shall be taken up by it in open
11 meeting, and full opportunity shall be given for hearing any objec-
12 tions or protests which any taxpayer of the city or town may desire
13 to make to any item or items in such budget, or to any omissions there-
14 from. He shall, at all times, see that the business affairs of the mu-
15 nicipal corporation of which he is manager, are transacted in a modern
16 and scientific method, in an efficient and businesslike manner, and that
17 accurate records of all of the business affairs of the city or town
18 under his management, be fully and accurately kept. He shall make
19 to the council an itemized monthly report in writing, showing in de-
20 tail, the receipts and disbursements, for the preceding month, and
21 such report shall be made by him not later than the tenth day of each
22 month. The reports so made, after having been passed upon by the
23 council, shall be published each month in the official newspapers of
24 the city or town. He shall be accountable to the council for his ac-
25 tions, and conduct, and for the management of the business affairs
26 of the city or town. He shall perform any duty specially required
27 of him by the council, and may be discharged at the will of the council,
28 without cause.

[S. S., '15, § 1056-b16.]

SEC. 4289. Salary.

1 The salary of the manager shall be fixed by the council, and paid
2 monthly from the treasury of the city or town, upon an order, signed
3 by the presiding officer, of the council, and the clerk.

[S. S., '15, § 1056-b17.]

SEC. 4290. Officers appointed by council—official newspapers.

1 The council shall, at the first meeting after its members are
2 elected, appoint a clerk, and at such meeting, or as soon thereafter
3 as practicable, appoint a police judge or magistrate, a solicitor, an
4 assessor, and the members of the library board, as the terms of office
5 of the members of said board shall expire. It may also appoint a
6 corporation counsel, and assistant solicitors, if deemed advisable. All
7 officers so appointed by the council shall have and exercise all powers
8 conferred upon such officers by the laws governing cities and towns
9 organized under the general laws of the state, and their compensation
10 shall be fixed and paid, and they shall perform the duties of their re-
11 spective offices, as required by such laws. The council shall, on or
12 before the first Monday of April, in each year, also appoint three
13 persons who shall constitute a local board of review of the city or
14 town in which they are appointed. The compensation of such board
15 of review shall be fixed by the council and paid from the general fund
16 of the city or town, and such board shall be governed by the statute
17 relating to boards of review, and shall possess and exercise all of the
18 powers conferred upon local boards of review by law. The council
19 shall also select one or more newspapers of general circulation pub-
20 lished within the city or town, which shall be designated official papers.
21 If no newspaper is published in any town organized under this chap-
22 ter, the council of such town may, in its discretion, select a newspaper

23 published in the county, which has a circulation in such town, and
 24 designate the same the official paper of the town. All ordinances,
 25 resolutions, and proceedings of any city or town, organized under the
 26 provisions of this chapter, required to be published, shall be published
 27 in the official paper or papers so selected by the council.

[S. S., '15, § 1056-b18.]

SEC. 4291. Manager not to appoint councilman.

1 No councilman elected under the provisions of this chapter, shall
 2 be, by the manager appointed to any office of the city or town in which
 3 he is elected, or employed in any department thereof, and any council-
 4 man or manager who shall violate the provisions of this section shall
 5 be guilty of a misdemeanor, and shall, upon conviction thereof, be
 6 punished as provided by section eighty-five hundred thirty-eight. Any
 7 councilman or manager violating the provisions of this section, may
 8 be removed from office, under the provisions of chapter twenty-one,
 9 title four.

[S. S., '15, § 1056-b19.]

SEC. 4292. Manager not to influence election—penalty.

1 The manager shall take no part in any election held for the pur-
 2 pose of electing councilmen, except that he may attend at the polls and
 3 cast his vote, if he is a qualified elector of the city or town, and any
 4 attempt upon his part to procure the election of any person as coun-
 5 cilman, or to induce any elector to vote for any person for councilman,
 6 or any solicitation by such manager, of any elector to vote for any
 7 person or persons, for the office of councilman, shall be a misdemeanor,
 8 and upon conviction thereof, he shall be punished as provided by sec-
 9 tion fifty-eight hundred fifty-eight, and in addition to such punish-
 10 ment, he may be removed from office, under the provisions of chapter
 11 twenty-one, title four.

[S. S., '15, § 1056-b20.]

SEC. 4293. Statutes relating to parks made applicable—board of public works may be abolished.

1 The provisions of chapter nine of this title relating to parks and
 2 park commissioners, shall be applicable to and be in force in cities
 3 and towns organized under the provisions of this chapter, to the same
 4 extent and effect that such provisions are applicable to and in force
 5 in cities and towns of the same class organized under the general laws
 6 of the state, except as changed or modified by this chapter. The
 7 board of park commissioners shall have and may exercise all powers
 8 conferred upon them by the provisions of said chapter, except as here-
 9 in changed or modified. Any city adopting the form of government
 10 herein contemplated may abolish any board of public works thereto-
 11 fore existing in such city, and all public works and public improve-
 12 ments shall thereupon be under the supervision and control of the
 13 manager, subject, however, to the action and direction of the council.

[S. S., '15, § 1056-b21.]

SEC. 4294. Departments to continue unless abolished.

1 All departments of cities and towns which shall adopt the form
 2 of government herein contemplated, shall continue to exist as depart-

3 ments of the government of such city or town until abolished, changed
4 or modified under the provisions of this chapter.

[S. S., '15, § 1056-b22.]

SEC. 4295. Ordinances—procedure in passing—electors voting on ordinance.

1 Every ordinance or resolution appropriating money or ordering
2 any sewer or street improvement, or making or authorizing the mak-
3 ing of any contract, or granting any franchise, or the right to use
4 and occupy the streets, highways, bridges or public places of the city
5 or town, for any purpose, shall be complete in the form in which it
6 is finally passed, and, except an ordinance or resolution for an im-
7 provement, the preservation of the public peace, health or safety,
8 which contains a statement of its urgency, shall remain on file with
9 the city or town clerk, for public inspection, at least one week before
10 its final passage or adoption. No ordinance passed by the council,
11 except when otherwise required by the general laws of the state, or
12 by the provisions of this chapter, and, except an ordinance for an
13 improvement, the preservation of the public peace, health or safety,
14 which contains a statement of its urgency, and is passed by a unani-
15 mous vote of the council, shall go into effect, before ten days from
16 the time of its passage; and, if during said ten days, a petition, signed
17 by the electors of the city or town, equal in number to at least twenty-
18 five per centum of the entire vote cast in such city or town, at the
19 last preceding general or municipal election, as shown by the poll books
20 of such election, protesting against the passage of such ordinance, be
21 presented to the council, such ordinance shall thereupon, be suspended
22 from going into operation, and it shall be the duty of the council to
23 reconsider the same, and, if the same be not repealed, the council shall
24 submit the ordinance to the vote of the electors of the city or town
25 at a regular or special election, called for that purpose, in the manner
26 provided by subdivision b of section forty-two hundred thirty-seven.
27 The petition, protesting against an ordinance, shall be in all respects,
28 in accordance with the provisions of section forty-two hundred thirty-
29 seven, except as to the percentage of signers thereof, and shall be
30 examined and certified by the clerk, as provided in such section. If
31 a majority of the qualified electors, voting on the proposed ordinance,
32 shall vote in favor thereof, such ordinance shall thereupon become a
33 valid ordinance of the city or town; and, any ordinance so adopted
34 can not be repealed or amended except by a vote of the electors of
35 the city or town. The council may submit a proposition for the re-
36 peal of any ordinance so adopted by the electors, or for the amend-
37 ment thereof, to be voted upon at any succeeding regular municipal
38 election; and should such proposition so submitted receive a majority
39 of the votes cast at such election, such ordinance shall thereby be
40 repealed or amended, according to the proposition submitted.

[S. S., '15, § 1056-b23.]

SEC. 4296. Franchises.

1 No franchise or right to occupy, or use the streets, highways,
2 bridges or public places of any such city or town, shall be granted,
3 renewed or extended, except by ordinance, and every franchise or
4 grant for interurban or street railways, gas or water works, electric
5 light or power plants, heating plants, telegraph or telephone systems,
6 or other public utilities, within such city or town, must be authorized

7 or approved by a majority of the electors of such city or town, voting
8 thereon, at a regular or special election, as provided by section thirty-
9 eight hundred twenty-five.

[S. S., '15, § 1056-b24.]

SEC. 4297. Vacancies.

1 Any vacancy in the council, caused by the death, resignation, re-
2 moval from office, or removal from the city or town, shall be filled by
3 the appointment made by the council, and in cities where the terri-
4 tory lies in two townships divided by a watercourse, the member of
5 the council so appointed shall be a resident of the township in which
6 his predecessor in office resided at the time of his election. The per-
7 son so appointed by the council shall hold his office for the unexpired
8 term of his predecessor.

[S. S., '15, § 1056-b25.]

SEC. 4298. Abandonment of plan.

1 Any city or town which shall have operated for six years or more
2 under the provisions of this chapter, may abandon its organization
3 hereunder, and accept the provisions of the general law of the state
4 then applicable to cities or towns of like population, or if now organ-
5 ized under special charter, may resume such special charter by pro-
6 ceeding as follows:

7 Upon the petition of not less than twenty-five per centum of the
8 electors of such city or town, a special election shall be called at which
9 the following proposition shall be submitted:

10 "Shall the city (or town) of (name of city or town) abandon its
11 organization under chapter forty, title thirteen, become a city (or
12 town) under the general law governing cities and towns, or if now
13 organized under special charter, resume such special charter?"

14 If the majority of the votes cast at such election be in favor of
15 the abandonment of the form of government provided by this chapter,
16 the officers elected at the next succeeding regular biennial election
17 shall be those then prescribed by the general law of the state for cities
18 and towns of like population, or those prescribed by the special char-
19 ter of such city, as the case may be, and upon qualification of such
20 officers, such city or town shall become a city or town under the gen-
21 eral law of the state, or under special charter, as the case may be;
22 but such change shall not, in any manner, affect the property, rights
23 or liabilities of such city or town, and shall extend only to such change
24 in the form of government thereof. The petition for the abandon-
25 ment of the form of government herein provided, shall be signed,
26 filed, its sufficiency determined, the election ordered and conducted,
27 and the results declared generally, as provided by section forty-two
28 hundred seventy-three, so far as the provisions thereof are applicable.

[S. S., '15, § 1056-b26.]

CHAPTER 41.

CITIES UNDER SPECIAL CHARTERS.

SECTION 4299. General provisions not applicable.

1 The provisions of this chapter shall apply only to cities acting
2 under special charters, and no provisions of this code, nor laws here-

3 after enacted, relating to the powers, duties, liabilities or obligations
4 of cities or towns, shall in any manner affect, or be construed to affect,
5 cities while acting under special charters, unless the same have special
6 reference or are made applicable to such cities.

[C., '97, § 933.]

SEC. 4300. Powers.

1 Any city organized under special charter shall have and exercise,
2 in addition to the provisions of such special charter, the rights, powers
3 and privileges contained in this chapter.

[C., '97, § 934.]

SEC. 4301. Extension of boundary—severance of territory.

1 All the provisions of chapter one of this title in relation to the
2 extension of the boundaries of cities or towns, the annexation of terri-
3 tory thereto, the severance of territory therefrom, are made applicable
4 to cities acting under special charters.

[C., '97, § 935.]

c. 4302. Elections.

1 All elections held in such cities shall be governed by the general
2 election laws.

[C., '97, § 936.]

SEC. 4303. Council—vacancies.

1 In any such city having a population of twenty thousand or more,
2 as shown by the last state or national census, the council shall consist
3 of two aldermen at large, and one alderman from each ward. At the
4 first annual city election after the taking effect of this code, there shall
5 be elected two aldermen at large, and one alderman from each ward.
6 Thereafter the successors of such aldermen shall be elected biennially.
7 The aldermen in office at the time of taking effect of this code shall
8 continue in office only until the election and qualification of the alder-
9 men herein provided for. The mayor shall be the presiding officer
10 of the council with the right to vote only in case of a tie. Vacancies,
11 now existing or hereafter occurring, in the office of alderman, shall
12 be filled by special election, unless such vacancy shall have occurred
13 less than sixty days prior to a regular city election. Such special
14 election shall be called by a proclamation of the mayor, giving at least
15 ten days' notice of such election, designating the time and polling
16 places therefor and the vacancy to be filled thereat. Notice of such
17 election shall be published in at least one newspaper printed and pub-
18 lished in said city and in two, if there be such number, for a period
19 of ten days prior to such election. Notice of such election shall be
20 posted at or near the polling places designated for said election for a
21 similar length of time. The election board at any such special election
22 shall be the same as at the last preceding city election. In case of
23 vacancies happening therein the mayor shall make appointments to
24 fill the same, such appointee to be a member of the same political party
25 or organization as the member filling such position before the vacancy.
26 (The city clerk shall, on notice from the mayor cause ballots to be
27 prepared for such election as provided by law; or, in the event of his
28 refusal or inability to act, the mayor shall cause such ballots to be
29 prepared.) Nominations of candidates for such vacant office may be

30 made by caucus or convention, as provided in section three hundred
 31 ninety-six; or, in the event such nomination be not made by such
 32 caucus or convention, within five days prior to the day fixed for hold-
 33 ing such election, then the regular executive or city central committee,
 34 of any party qualified to nominate by caucus or convention, may make
 35 such nomination.

[C., '97, § 937; S. S., '15, § 937; 38 G. A., ch. 185, § 1.]

SEC. 4304. Vacancies—when filled by council.

1 In the event that such vacancy shall have occurred less than sixty
 2 days prior to a regular city election, then the vacancy so existing shall
 3 be filled by a majority vote, of the remaining aldermen of the city
 4 council.

[S. S., '15, § 937-a.]

SEC. 4305. Marshal—policemen.

1 Cities under special charters shall have power to provide by ordi-
 2 nance for the appointment of a marshal by the mayor, or for his elec-
 3 tion by the electors thereof, or may dispense with such officer, and
 4 confer his duties upon any other officer. All policemen shall be ap-
 5 pointed and may be removed by the mayor.

[C., '97, § 938.]

**SEC. 4306. Police matrons — appointment — number — compen-
 sation.**

1 Section thirty-five hundred twenty-three and section thirty-five
 2 hundred forty-five are applicable to cities acting under special charters.

[S., '13, § 654-a.]

SEC. 4307. Board of police and fire commissioners.

1 Chapter five of this title is applicable to cities acting under spe-
 2 cial charters.

[S., '13, § 679-a.]

SEC. 4308. Assessors.

1 They shall provide by ordinance for the election of one or more
 2 assessors, who shall discharge the duties usually performed by town-
 3 ship assessors, so far as applicable, and such as may be required by
 4 ordinance.

[C., '97, § 939.]

SEC. 4309. Other officers elected—terms.

1 They may provide by ordinance for the election, by the electors,
 2 of a marshal, recorder or clerk, treasurer, collector, auditor, attorney,
 3 and engineer; and all elective officers hereafter elected shall hold office
 4 for the term of two years, and until their successors are elected and
 5 qualified, and, when appointed, for such time as may be fixed by ordi-
 6 nance, not exceeding two years.

[C., '97, § 940.]

SEC. 4310. Treasurer—deposit of city funds.

1 Sections thirty-five hundred thirty to thirty-five hundred thirty-
 2 three, inclusive, are applicable to cities acting under special charters.

[S., '13, § 660-a.]

SEC. 4311. Estimates.

1 Each officer, board or committee shall file in the office of the clerk
 2 or recorder, thirty days before the beginning of each fiscal year, a
 3 detailed statement of the necessary labor, supplies and materials, and
 4 the work to be done by or through his or their department during the
 5 next fiscal year, and the estimated cost thereof.

[C., '97, § 941.]

SEC. 4312. Appropriations.

1 The council shall make the appropriation for all the different
 2 expenditures for each fiscal year at or before the beginning thereof;
 3 and it shall be unlawful to issue any warrant, or to enter into any con-
 4 tract or appropriate any money, in excess of the amount thus appro-
 5 priated, for the different expenses of the city during the year for
 6 which said appropriations shall be made. It shall not appropriate,
 7 in the aggregate, an amount in excess of its annual legally authorized
 8 revenue, but nothing herein shall prevent such cities from anticipat-
 9 ing their revenue for the year for which such appropriations are made,
 10 or from bonding or refunding their outstanding indebtedness.

[C., '97, § 942.]

SEC. 4313. Compensation of aldermen—not to be interested.

1 Aldermen shall be paid an amount prescribed by ordinance, not
 2 in excess of six hundred dollars per annum, which shall be in full
 3 compensation for all services connected with their official duties. No
 4 member of the council shall, during the time for which he has been
 5 elected, or for one year thereafter, be appointed to any municipal
 6 office which shall be created, or the emoluments of which shall be
 7 increased, during the term for which he was elected, nor shall he be
 8 interested directly or indirectly in any contract for work or service
 9 to be performed for the corporation.

[R., '60, § 1122; C., '73, § 490; C., '97, § 943; 38 G. A., ch.
 177, § 1.]

SEC. 4314. No change of compensation.

1 The emoluments of any officer shall not be increased or dimin-
 2 ished during the term for which he shall have been elected or ap-
 3 pointed, nor shall any change of compensation affect any officer dur-
 4 ing his existing term, unless the office be abolished; and no person
 5 who shall have resigned or vacated any office shall be eligible to the
 6 same during the time for which he was elected or appointed, when,
 7 during the same time, the emoluments have been increased.

[R., '60, § 1122; C., '73, § 491; C., '97, § 944.]

SEC. 4315. Compensation of mayor.

1 The mayor shall receive such salary as may be provided by ordi-
 2 nance, not exceeding two thousand five hundred dollars per annum,
 3 and in addition he shall receive for holding a mayor's or police court,
 4 or discharging the duties of a justice of the peace, the compensation
 5 allowed by law for similar services by such officers, to be paid in the
 6 same manner; which amount shall be in full compensation of all such
 7 services.

[R., '60, §§ 1091, 1121; C., '73, §§ 519, 547; C., '97, § 945;
 38 G. A., ch. 178, § 1.]

SEC. 4316. Compensation of other officers.

1 Police judges, magistrates, marshals and police officers, in crim-
 2 inal cases under the ordinances, shall receive the fees allowed for sim-
 3 ilar services in criminal cases under the state law, payable out of the
 4 city treasury; and for criminal cases under the state law they shall be
 5 paid the same fees that justices and constables receive under the state
 6 law, and payable from the county treasury. When such officers are
 7 paid a salary, the same shall be in lieu of all fees, and such fees, when
 8 collected, shall be paid into the city treasury. They shall make, under
 9 oath, a monthly report of such fees to the council.

[R., '60, §§ 1086, 1104, 1107, 1118; C., '73, §§ 515, 533, 536,
 544; C., '97, § 946.]

SEC. 4317. Ordinances—fines.

1 Such cities shall have power to make and publish, from time to
 2 time, ordinances, not inconsistent with the laws of the state, for carry-
 3 ing into effect or discharging the powers and duties conferred by this
 4 chapter, and the charters thereof, and such as are necessary and
 5 proper to provide for the safety, preserve the health, promote the
 6 prosperity, and improve the morals, order, comfort and convenience
 7 of such cities and the inhabitants thereof; and to enforce obedience
 8 to such ordinances by a fine not exceeding one hundred dollars, or by
 9 imprisonment not exceeding thirty days.

[R., '60, §§ 1071-1073; C., '73, § 482; C., '97, § 947.]

SEC. 4318. Prosecutions.

1 In any prosecution or proceeding for the violation of any ordi-
 2 nance, the defendant shall not be entitled to a trial by jury, or to a
 3 change of venue, except on appeal, but shall be tried by the court or
 4 magistrate before whom the action is commenced.

[C., '97, § 948.]

SEC. 4319. Commitment for fines—executions.

1 Whenever a fine and costs imposed for the violation of any ordi-
 2 nance are not paid, the person convicted may be committed at hard
 3 labor until the fine and costs are paid, not to exceed thirty days, and,
 4 in addition thereto, such fine and costs may be collected by the issu-
 5 ance of an execution on such judgment against any property of the
 6 defendant, which execution shall have the same force and effect and
 7 be executed in the same manner as provided by law for the collection
 8 of judgments in civil suits by execution; and transcripts of such judg-
 9 ments may be filed in the district court of the proper county as in
 10 civil cases, and with the same force and effect, and execution may be
 11 issued thereon from such court.

[C., '97, § 949.]

SEC. 4320. Limitation of prosecutions.

1 All suits for the recovery of fines, and prosecutions for the com-
 2 mission of offenses made punishable as herein provided, shall be barred
 3 in one year after the commission of the offense for which the fine is
 4 sought to be recovered or the prosecution is commenced.

[R., '60, § 1075; C., '73, § 486; C., '97, § 950.]

SEC. 4321. Publication of ordinances.

1 The council may authorize the revision and publication, in book
2 or pamphlet form, of all ordinances, and such publication shall be a
3 sufficient publication, and they shall be in force from and after such
4 publication.

[C., '97, § 951.]

SEC. 4322. Ordinances signed, recorded, and published.

1 Sections thirty-five hundred seventy-nine, thirty-five hundred
2 eighty, thirty-five hundred eighty-one, and thirty-five hundred eighty-
3 nine are applicable to cities acting under special charters.

[C., '97, § 952; S., '13, § 952.]

SEC. 4323. General powers.

1 Sections thirty-five hundred ninety-one, thirty-five hundred nine-
2 ty-two, thirty-five hundred ninety-three, thirty-five hundred ninety-
3 five, thirty-five hundred ninety-six, thirty-five hundred ninety-seven,
4 thirty-five hundred ninety-eight, thirty-five hundred ninety-nine,
5 thirty-six hundred two, thirty-six hundred five, thirty-six hundred six,
6 thirty-six hundred seven, thirty-six hundred eight, thirty-six hundred
7 nine, thirty-six hundred ten, thirty-six hundred eleven, thirty-six hun-
8 dred twelve, thirty-six hundred thirteen, thirty-six hundred fourteen,
9 thirty-six hundred fifteen, thirty-six hundred sixteen, thirty-six hun-
10 dred twenty, thirty-six hundred twenty-one, thirty-six hundred
11 twenty-two, thirty-six hundred twenty-three, thirty-six hundred
12 twenty-four, thirty-six hundred twenty-five, thirty-six hundred
13 twenty-six, thirty-six hundred twenty-seven, thirty-six hundred
14 twenty-eight, thirty-six hundred thirty-five and thirty-six hundred
15 thirty-six are applicable to cities acting under special charters.

[C., '97, § 952; S., '13, § 952.]

SEC. 4324. Evidence of ordinances.

1 The printed copies of the ordinances published by authority, and
2 transcripts thereof, or of any official act or proceeding recorded in
3 any book, or entries on any minutes or journal, and certified by the
4 clerk or recorder, shall be received in evidence for any purpose for
5 which the originals would be received, and with the same effect. The
6 clerk or recorder shall furnish such transcript, and be entitled to
7 charge therefor the same fees as the clerk of the district court for
8 like services.

[R., '60, § 1076; C., '73, § 3720; C., '97, § 954.]

SEC. 4325. Municipal courts.

1 Chapter one of title twenty-eight is applicable to cities acting
2 under special charters.

[S. S., '15, § 694-c1.]

SEC. 4326. River front improvement commission — duties and powers.

1 Chapter eleven of this title is applicable to cities acting under
2 special charters.

[S., '13, § 879-o.]

SEC. 4327. Juvenile playgrounds.

1 Chapter fourteen of this title is applicable to cities acting under
2 special charters.

[S. S., '15, § 879-r; 37 G. A., ch. 181, § 1; 38 G. A., ch. 222,
§ 1.]

SEC. 4328. City halls.

1 Sections thirty-seven hundred forty to thirty-seven hundred
2 forty-four, inclusive, are applicable to cities acting under special
3 charters.

[S. S., '15, § 741-d; 37 G. A., ch. 182, § 1.]

SEC. 4329. Public libraries.

1 Sections thirty-seven hundred forty-nine, thirty-seven hundred
2 fifty, thirty-seven hundred fifty-one, thirty-seven hundred fifty-two,
3 thirty-seven hundred fifty-three, thirty-seven hundred fifty-four,
4 thirty-seven hundred fifty-five, thirty-seven hundred fifty-six, thirty-
5 seven hundred fifty-seven, thirty-seven hundred fifty-eight and thirty-
6 seven hundred fifty-nine, are applicable to cities acting under special
7 charters.

[C., '97, § 952; S., '13, § 952.]

SEC. 4330. Soldiers', sailors', and marines' memorial buildings.

1 Chapter seventeen of this title is applicable to cities acting under
2 special charters.

[38 G. A., ch. 170, § 1.]

SEC. 4331. Bridges.

1 Chapter nineteen of this title is applicable to cities acting under
2 special charters.

[C., '97, § 958; S., '13, § 958.]

SEC. 4332. Interstate bridges.

1 Chapter twenty of this title is applicable to cities acting under
2 special charters.

[37 G. A., ch. 140, § 1.]

SEC. 4333. Waterworks and gasworks—electric light and power plants—street railway and telephone franchises.

1 Such cities shall have power to establish, erect, purchase, lease,
2 maintain or operate, within or without the corporate limits, heating
3 plants, waterworks, gasworks, electric light or electric power plants,
4 with all the necessary reservoirs, mains, filters, streams, trenches,
5 pipes, drains, poles, wires, burners, machinery, apparatus, and other
6 requisites of said works or plants; but no such works or plants shall
7 be thus established, erected, purchased or leased unless a majority
8 of the electors voting on such proposition shall vote in favor of the
9 same, at a general or special election. They may also grant indi-
10 viduals or private corporations the authority to erect, maintain or
11 purchase such works or plants or railways, street railways or tele-
12 phone systems, for the term of not more than twenty-five years, and
13 may renew or extend the term of such grants for a period not exceed-
14 ing twenty-five years; but no exclusive franchise shall be thus granted,

15 extended or renewed, and no franchise shall be granted or authorized,
 16 until after notice of the application therefor has been published once
 17 each week for four consecutive weeks in some newspaper published
 18 in such city.

[C., '73, § 471; C., '97, § 955; S., '13, § 955.]

SEC. 4334. Question submitted.

1 The council may order any of the questions, including the grant-
 2 ing to individuals or corporations authority to erect, maintain or pur-
 3 chase water or gas works, electric light or power plants, or street
 4 railway or telephone systems, provided in the preceding section, sub-
 5 mitted to a vote at a general election, or at one specially called for
 6 that purpose; or the mayor shall submit said question to such vote
 7 upon the petition of twenty-five property owners of each ward in the
 8 city. Notice of such election shall be given in two newspapers pub-
 9 lished in said city, if there are two, if not, then in one, once each week
 10 for at least four consecutive weeks. The party asking for a renewal
 11 or extension of such franchise shall pay the cost incurred in holding
 12 such election.

[C., '97, § 956.]

SEC. 4335. Heating plants—water or gas works—electric plants.

1 Sections thirty-nine hundred sixty-six to thirty-nine hundred
 2 seventy-three, inclusive, are applicable to cities acting under special
 3 charters.

[C., '97, §§ 720, 952; S., '13, §§ 720, 952; 38 G. A., ch. 326,
 § 1.]

SEC. 4336. Waterworks tax—sinking fund—contract—bonds.

1 Sections thirty-nine hundred eighty-one and thirty-nine hundred
 2 eighty-five are applicable to cities acting under special charters.

[S., '13, §§ 742-a, 745-b.]

SEC. 4337. Board of waterworks trustees.

1 The waterworks now owned by such special charter cities having
 2 a population of thirty-five thousand or more shall be managed and
 3 operated by a board of waterworks trustees, which shall be composed
 4 of three resident electors, appointed by the mayor of any such city.
 5 Upon the taking effect of this section and the two following sections,
 6 one of such trustees shall be appointed for a term of one year, another
 7 for a term of two years, and the remaining trustee for a term of three
 8 years, and thereafter each such trustee shall be appointed for a term
 9 of three years. Said trustees shall receive no compensation what-
 10 ever for their duties as such. All vacancies occurring on said board
 11 occasioned by death, resignation, removal or otherwise, shall be filled
 12 by appointment to be made by the mayor of said city for the unexpired
 13 term. Each trustee upon qualifying shall execute and furnish the
 14 city an official bond, in the sum of five thousand dollars, for the faith-
 15 ful performance of his duties, which bond, if sufficient, shall be ap-
 16 proved by the city council and filed with the city recorder and by him
 17 kept in his office and recorded in a book kept for that purpose, and
 18 the expense of such bonds shall be paid by the city treasurer, upon
 19 the order of the trustees, out of the waterworks funds. Any of such
 20 trustees may be removed from office for cause under the provisions

21 of chapter twenty-one, title four, and in addition thereto, the mayor
22 may, for like cause after hearing, remove any of such trustees.

[S., '13, § 1056-a1.]

SEC. 4338. Superintendent—employees—duties of board.

1 The said board of trustees shall employ an efficient superintend-
2 ent, and such other employees as may be necessary and proper, for
3 the operation and betterment of such works, for the collection of
4 water rentals, and for the conduct of the business incident to the oper-
5 ation thereof. The said board of trustees shall require of the super-
6 intendent, and of the other employees as they may deem proper, good
7 and sufficient bonds, the amount thereof to be fixed and approved by
8 said board, for the faithful performance of their duties, which bonds
9 shall run in the name of the city and be filed with the city recorder
10 and by him kept in his office and recorded in a book kept for that
11 purpose. All money collected by the board of waterworks trustees
12 shall be deposited at least daily by them with the city treasurer; and
13 all money so deposited and all tax money received by the city treas-
14 urer from any source, levied and collected for and on account of the
15 waterworks, shall be kept by the city treasurer as a separate and
16 distinct fund, for which funds the city treasurer shall be liable upon
17 his official bond the same as for other funds received by him as such
18 treasurer. Such moneys shall be paid out by the city treasurer only
19 on the written order of the board of waterworks trustees, who shall
20 have full and absolute control of the application and disbursement
21 thereof for the purposes prescribed by law, including the payment
22 of all indebtedness arising in the maintenance, operation, betterment,
23 and extension of said waterworks; and said board of waterworks
24 trustees shall make no payment of any kind whatsoever, except by
25 written order on the city treasurer. For the operation, betterment,
26 and improvement of such works, said board of trustees may incur
27 obligations, and to pay therefor may anticipate the revenues of such
28 works for a period not to exceed one year, unless the city council shall
29 by tax levy make provision for the payment thereof. The board of
30 trustees shall fix uniform water rates and make and enforce proper
31 rules and regulations for the collection of water rentals and the sup-
32 plying of good water service, and shall furnish the city council a
33 schedule of such water rates and duplicate of such rules and regula-
34 tions for publication as part of the proceedings of the city council.
35 Such board of trustees shall each three months furnish the city council
36 an itemized statement of all receipts and expenditures during such
37 period, including all current liabilities and outstanding accounts, and
38 also complete annual statements, in the form of a balance sheet, which
39 shall include all assets and liabilities; and, at least annually, and
40 oftener if they see fit, report the general condition and needs of the
41 waterworks plant; and such quarterly and annual statements and such
42 reports shall, when so furnished, be at once published as a part of the
43 proceedings of the city council. Said board of trustees shall keep a
44 book wherein a record shall be entered and kept of their proceedings,
45 and which proceedings, duly attested, shall be at once published in
46 two of the official newspapers of any such city. All books, vouchers,
47 and records of said trustees in any wise relating to the waterworks
48 shall be open to the inspection and examination of any resident of
49 said city.

[S., '13, § 1056-a2.]

SEC. 4339. Cities affected—terms of office of acting trustees.

1 All the provisions of the two preceding sections shall be held and
 2 construed as applying to cities acting under special charters having
 3 a population of thirty-five thousand or more as shown by the last state
 4 census; and all acts or parts of acts in conflict with said sections shall
 5 not be applicable to any such cities in so far as they relate to the fu-
 6 ture management of waterworks; and upon the taking effect of said
 7 sections and the appointment of trustees hereunder, the terms of office
 8 of any and all waterworks trustees now acting in any such city shall
 9 at once cease.

[S., '13, § 1056-a3.]

SEC. 4340. Penalty or interest on unpaid taxes.

1 In cities acting under special charters no penalty or interest shall
 2 be collected upon taxes or assessments remaining unpaid four years
 3 or more, from the first day of January of the year in which the tax
 4 books containing the same were first placed in the hands of the city
 5 collector or treasurer.

[S., '13, § 1056-a4.]

SEC. 4341. Valuation—how provided.

1 The assessed or taxable value of all property, and the value at
 2 which it shall be listed, and upon which the levy shall be made, in
 3 special charter cities shall be provided by the city council of such city.

[S., '13, § 1056-a5.]

**SEC. 4342. Levy upon property valued and returned by execu-
tive council.**

1 Where all property, except such as is listed and valued by the
 2 executive council is assessed upon its full or a certain percentage of
 3 its full valuation, the levy upon all such property valued and returned
 4 by the executive council shall be on a like percentage of the valuation
 5 so returned.

[S., '13, § 1056-a6.]

**SEC. 4343. Purchase and construction of waterworks in cities of
the first class.**

1 Chapter twenty-eight of this title is applicable to cities acting
 2 under special charters.

[C., '97, § 958; S., '13, § 958.]

SEC. 4344. Infirmary—outdoor relief—bathhouses.

1 The council shall have power, by two-thirds vote of the whole
 2 council, to establish and maintain, either within or without the limits
 3 of the city, an infirmary for the accommodation of the poor of the
 4 city, and to provide for the distribution of outdoor relief, and a public
 5 bathhouse or natatorium when declared by the board of health of
 6 such city to be essential to the preservation of the public health, and
 7 to regulate by ordinance the use of such baths and the conduct and
 8 maintenance of the same. The appropriation for the construction and
 9 maintenance of such bathhouse or natatorium shall be paid from the

10 general current revenues of said city not appropriated to other pur-
11 poses.

[R., '60, § 1111; C., '73, § 538; C., '97, § 957.]

SEC. 4345. Prevention of nuisances—prohibition by ordinance—regulation of slaughterhouses.

1 Section thirty-five hundred ninety-two is applicable to cities act-
2 ing under special charters.

[S., '13, § 696-a.]

SEC. 4346. Sanitary districts—cleaning streets—bonds—limit of indebtedness.

1 Section thirty-five hundred ninety-three is applicable to cities act-
2 ing under special charters.

[S. S., '15, § 696-b; 37 G. A., ch. 367, § 1.]

SEC. 4347. Testing milk cows for tuberculosis—power of cities.

1 Section thirty-five hundred ninety-five is applicable to cities act-
2 ing under special charters.

[37 G. A., ch. 342, § 1.]

SEC. 4348. Begging.

1 Section thirty-six hundred eight is applicable to cities acting
2 under special charters.

[37 G. A., ch. 425, § 1.]

SEC. 4349. Building code—penalties.

1 Section thirty-six hundred fourteen is applicable to cities acting
2 under special charters.

[S., '13, § 709-a.]

SEC. 4350. Building lines—resolution of necessity.

1 Sections thirty-six hundred fifteen and thirty-six hundred sixteen
2 are applicable to cities acting under special charters.

[38 G. A., ch. 145, § 1.]

SEC. 4351. Restricted residence districts.

1 Sections thirty-six hundred seventeen to thirty-six hundred nine-
2 teen, inclusive, are applicable to cities acting under special charters.

[37 G. A., ch. 138, § 1.]

SEC. 4352. Fires—electrical apparatus—electric installation.

1 Sections thirty-six hundred twenty-one and thirty-six hundred
2 twenty-two are applicable to cities acting under special charters.

[C., '97, § 952; S., '13, §§ 711, 952; S. S., '15, § 711-a.]

SEC. 4353. Smoke nuisance.

1 The emission of dense smoke within the corporate limits of spe-
2 cial charter cities having a population of sixteen thousand or over is
3 hereby declared a nuisance. Section thirty-six hundred twenty-six is
4 applicable to cities acting under special charters.

[S., '13, § 713-a.]

SEC. 4354. Maintenance of fire departments—special tax for.

- 1 Section thirty-six hundred twenty-nine and sections thirty-six
2 hundred thirty-one to thirty-six hundred thirty-four, inclusive, are
3 applicable to cities acting under special charters.

[C., '97, § 952; S., '13, §§ 716-b-716-e, 952; 37 G. A., ch. 151,
§ 1; 38 G. A., ch. 259, § 1.]

SEC. 4355. Maturity of municipal bonds—cities of first class.

- 1 Sections thirty-six hundred thirty-eight and thirty-six hundred
2 thirty-nine are applicable to cities acting under special charters.

[C., '97, § 952; S., '13, § 952; 37 G. A., ch. 7, § 1.]

SEC. 4356. Community civic congress.

- 1 Section thirty-six hundred forty is applicable to cities acting
2 under special charters.

[37 G. A., ch. 182, § 4; 38 G. A., ch. 247, § 1.]

SEC. 4357. Plumbing—license—regulations—compelling installation sanitary toilets.

- 1 Sections thirty-six hundred forty-six, thirty-six hundred forty-
2 seven, thirty-six hundred forty-eight, thirty-six hundred forty-nine,
3 thirty-six hundred fifty, thirty-six hundred fifty-one, thirty-six hun-
4 dred fifty-two, thirty-six hundred fifty-three, thirty-six hundred fifty-
5 four, thirty-six hundred fifty-five are applicable to cities acting under
6 special charters.

[C., '97, § 958; S., '13, §§ 737-a, 958; 38 G. A., ch. 316, § 1;
38 G. A., ch. 378, § 2.]

SEC. 4358. Other general powers—streets and public grounds.

- 1 Sections thirty-six hundred forty-two, thirty-six hundred forty-
2 three, thirty-six hundred forty-five, thirty-six hundred fifty-six,
3 thirty-eight hundred eight, thirty-eight hundred nine, thirty-eight
4 hundred ten, thirty-eight hundred thirteen, thirty-eight hundred
5 fourteen, thirty-eight hundred fifteen, thirty-eight hundred sixteen,
6 thirty-eight hundred seventeen, thirty-eight hundred eighteen, thirty-
7 eight hundred nineteen, thirty-eight hundred twenty, thirty-eight
8 hundred twenty-one, thirty-eight hundred twenty-two, thirty-eight
9 hundred twenty-three, thirty-eight hundred twenty-six, thirty-eight
10 hundred twenty-seven, thirty-eight hundred twenty-eight, thirty-eight
11 hundred twenty-nine, thirty-eight hundred thirty, thirty-eight hun-
12 dred thirty-one, thirty-eight hundred thirty-two, thirty-eight hundred
13 thirty-three, thirty-eight hundred thirty-four and thirty-eight hun-
14 dred thirty-five are applicable to cities acting under special charters.
15 Wherever the words "boards of supervisors", "county auditor or re-
16 corder of deeds", and "county treasurer" are used in any section made
17 applicable by this chapter to cities acting under special charters, the
18 words "city council", "city clerk" or "city recorder", and "city col-
19 lector or treasurer", shall be respectively substituted.

[C., '97, § 958; S., '13, § 958.]

SEC. 4359. Financial report — published — examiners — uniform system of accounts.

- 1 Sections thirty-six hundred fifty-seven to thirty-six hundred fifty-
2 nine, inclusive, thirty-six hundred sixty to thirty-six hundred sixty-

3 two, inclusive, and one hundred twenty-seven, one hundred thirty-five
4 and one hundred thirty-six are applicable to cities acting under special
5 charters.

[S., '13, § 1056-a13.]

SEC. 4360. Membership Iowa league of municipalities.

1 Sections thirty-six hundred sixty-three and thirty-six hundred
2 sixty-four are applicable to cities acting under special charters.

[S., '13, § 694-b.]

SEC. 4361. Regulations of electric wires.

1 Such cities shall have power to regulate telegraph, district tele-
2 graph, telephone, street car, electric light and power poles, subways
3 and wires, and provide the manner in which and the places where the
4 same shall be placed, including the right to construct subways under
5 and erect poles upon and along the streets, alleys and public places; to
6 compel companies having wires on the same street or alley to use the
7 same poles or subways upon reasonable terms; to regulate the installa-
8 tions and connections of electric light or power wires and apparatus
9 in public or private buildings, and forbid the use of such wires and
10 apparatus for the use or transmissions of electric current until the
11 same have been inspected and such installation approved by a com-
12 petent electrician appointed by such city; and to fix the compensation
13 or fees for such inspection and approval.

[C., '97, § 959.]

SEC. 4362. Changing watercourses.

1 They shall have power to deepen, widen, straighten, wall, fill,
2 cover, alter or change the channel of any watercourse or part thereof
3 flowing through the city; to construct artificial channels or covered
4 drains sufficient to carry the water flowing in such watercourse, and
5 divert it from the natural channel, and conduct the same through such
6 artificial channels or covered drains, and fill old channels; and in
7 doing such work, or in carrying off flowing water, or building main or
8 lateral sewers through ravines or hollows, they shall have the right to
9 pass through private property and condemn the same for such pur-
10 poses; and the cost of such work, including the cost of the land con-
11 demned, shall be paid for as provided herein for the payment of the
12 cost of constructing sewers.

[C., '97, § 960.]

SEC. 4363. Condemning property for.

1 They may condemn and appropriate so much private property as
2 shall be necessary to carry into effect the provisions of this chapter
3 relating to the change of watercourses, the construction of sewers
4 and of artificial channels in the manner provided for condemning land
5 for city purposes.

[C., '97, § 961.]

SEC. 4364. Street improvements.

1 Sections thirty-eight hundred forty-nine, thirty-eight hundred
2 fifty-six, thirty-eight hundred fifty-seven, thirty-eight hundred sixty

3 and thirty-eight hundred seventy-three are made applicable to cities
4 acting under special charters.
[C., '97, § 962.]

SEC. 4365. Special assessment—rate—deficiencies.

1 Sections thirty-eight hundred fifty to thirty-eight hundred fifty-
2 three, inclusive, and section thirty-eight hundred fifty-five are appli-
3 cable to cities acting under special charters.
[S., '13, § 792-e.]

SEC. 4366. Assessing cost of new channel for watercourse.

1 If a covered drain or new channel of a watercourse shall be con-
2 structed along any street or alley, and used by the city as a sanitary
3 or storm waterway, the council shall have the power to assess upon
4 the lots or land adjacent to the line of such covered drain or new
5 channel the whole or a portion of the cost thereof, not exceeding the
6 sum of two dollars per linear foot, in the manner provided for the
7 assessment of the cost of sewers.
[C., '97, § 963.]

SEC. 4367. Applicable to special charter cities.

1 Section thirty-eight hundred seventy-one is hereby made appli-
2 cable to cities acting under special charters.
[S., '13, § 963-a.]

SEC. 4368. Railways and street railways to maintain culverts and drains.

1 Such cities shall have power to order any railway or street rail-
2 way to construct and maintain, under the direction and subject to the
3 approval of the city engineer, culverts and drains across its right of
4 way on any street, alley, highway or other public place as such council
5 may deem necessary, and if any railway or street railway company
6 neglect or refuse, for more than thirty days after such notice as may
7 be prescribed by resolution, to comply with the requirements of any
8 such order, the city may construct such culvert or drain and recover
9 the cost thereof from such company.
[C., '97, § 964.]

SEC. 4369. Street railways—vestibules.

1 Sections forty hundred eleven and forty hundred twelve are appli-
2 cable to cities acting under special charters.
[C., '97, § 958; S., '13, § 958.]

SEC. 4370. Department of public docks—commissioners—powers of—state regulations.

1 Chapter twenty-one of this title is applicable to cities acting under
2 special charters.
[S., '13, § 741-w3.]

SEC. 4371. Protection of property from floods.

1 Chapter twenty-five of this title is applicable to cities acting under
2 special charters.
[38 G. A., ch. 285, § 2.]

SEC. 4372. Water front improvement—levee improvement fund.

1 Any city, acting under special charter, which is bounded in part
2 or divided by a river, may improve said water front by constructing
3 retaining walls, filling, grading, paving, macadamizing or riprapping
4 the same; and to pay for such improvements the councils of said cities
5 are empowered to levy a tax of not exceeding one mill on the dollar
6 per annum on the taxable property thereof, the same when collected
7 to be known as the levee improvement fund. The proceeds of such
8 fund shall be used exclusively for said purposes.

[S., '13, § 1056-a6a.]

SEC. 4373. Bonds.

1 In the event that the proceeds of such tax in any one year shall
2 be insufficient to pay for the improvements of that year, or if the city
3 council shall deem best to extend the payment over a number of years,
4 then upon a majority vote of said council approving the same, said
5 cities may borrow the money to make such improvements and issue
6 the negotiable interest-bearing bonds of said city to evidence said
7 debt; provided that the total bond that may be issued under this
8 chapter by any one city shall not exceed one per centum of the assessed
9 value of said city.

[S., '13, § 1056-a6b.]

SEC. 4374. Form of bonds.

1 Said bonds shall be in amounts provided in, and conform in sub-
2 stance to the requirements of section forty hundred sixty-one.

[S., '13, § 1056-a6c.]

SEC. 4375. Levee improvement commission—term—bond.

1 Any city acting under special charter may establish a levee
2 improvement commission to consist of the mayor, who shall be its
3 chairman, and not more than four other persons to be appointed by the
4 mayor with the approval of the city council. The appointive members
5 shall be residents and qualified electors of the city, and shall hold no
6 other official position in the city, and no member shall receive any
7 salary for his services as a member of such commission. Their term
8 of office shall be fixed by ordinance and shall not exceed six years.
9 Before entering upon their office the appointive members shall each
10 execute a bond in favor of the city in the penal sum of two thousand
11 dollars, with approved fidelity company, surety for the faithful per-
12 formance of their duties. The expense of this bond shall be paid out
13 of the levee improvement fund.

[S., '13, § 1056-a6d.]

SEC. 4376. Powers and duties—treasurer.

1 The levee improvement commission shall have full charge and
2 supervision of all improvements of the water front along any river
3 within the corporate limits of the city. It shall have exclusive charge
4 and control of the levee improvement fund and of all moneys derived
5 from the sale of bonds issued by the city council for the purpose of
6 carrying on the work of making water front improvements. It shall
7 pay out of these funds only for the purposes named. The city treas-
8 urer shall be the treasurer of the levee improvement commission. He

9 shall keep the levee improvement funds and the moneys derived from
 10 the sale of bonds for water front improvements in a separate and
 11 distinct fund from which he shall pay no money except upon the order
 12 of the levee improvement commission signed by its chairman and
 13 secretary, and countersigned by at least one other member of said levee
 14 improvement commission.

[S., '13, § 1056-a6e.]

SEC. 4377. Levee improvement commissions.

1 In cities under special charter which have established levee im-
 2 provement commissions, all of the powers enumerated in section
 3 thirty-six hundred thirty-seven shall be exercised by the levee im-
 4 provement commission and in addition thereto in such cities the levee
 5 improvement commission shall have the exclusive power to prescribe
 6 the character, design and type of construction of any ferry dock or
 7 landing had or used by any ferry running to or from any landing
 8 place, which is on the water front along any river within the corporate
 9 limits of said city; to prescribe the amount of license to be paid by any
 10 such ferry for the privilege of having or using any such landing place;
 11 to prescribe the terms and conditions under which any such ferry may
 12 have the right to run to and from any such landing place; to prescribe
 13 the time during which any such ferry shall operate; and to make any
 14 other reasonable provisions regarding the operation of such ferry.

[37 G. A., ch. 53, § 1.]

SEC. 4378. Regulation of jitney busses.

1 Section thirty-eight hundred fourteen is applicable to cities acting
 2 under special charters.

[S. S., '15, § 754-a.]

SEC. 4379. Street improvements and sewers.

1 Before the council orders any street improved or sewer con-
 2 structed, it shall direct the engineer to prepare a plat, showing the
 3 location and general nature of the improvement, the extent thereof,
 4 the one or more kinds of material, or, in case of sewers, the size and
 5 one or more kinds of material to be used, and an estimate of the cost
 6 thereof, and the amount assessable upon any railway or street railway
 7 and upon each lot or parcel of land adjacent to or abutting on such
 8 improvement per front foot or square foot in area, and file such plat
 9 and estimate in the office of the clerk or recorder. Notice of its inten-
 10 tion to make such improvement shall be published by the city clerk or
 11 recorder in three consecutive issues of a newspaper of such city,
 12 stating that such plat is on file, and, generally, the nature of the im-
 13 provement, its location, one or more kinds of material to be used, and
 14 the estimate of its cost, and fixing the time before which objections
 15 thereto can be filed, which time shall be not less than five days after
 16 the last publication of such notice. The council, after considering such
 17 objections, shall determine what changes, if any, shall be made in the
 18 plan shown by such plat, and may, by resolution, order such improve-
 19 ment, prescribing generally the extent of the work, the one or more
 20 kinds of material and, in case of sewers, the size and one or more kinds
 21 of material to be used, when the work shall be completed, the terms of

22 payment, and provide for the publication of notice asking proposals for
23 doing such work, and the time the same will be acted upon.

[C., '97, § 965; S., '13, § 965.]

SEC. 4380. Other provisions as to street improvements and sewers applicable.

1 Sections thirty-eight hundred seventy-six, thirty-eight hundred
2 seventy-seven, thirty-eight hundred seventy-nine, thirty-eight hun-
3 dred eighty-three to thirty-eight hundred eighty-six, inclusive, and
4 thirty-eight hundred eighty-eight are made applicable to cities acting
5 under special charters.

[C., '97, § 966.]

SEC. 4381. Cost at street intersections.

1 The cost of any street improvement or sewer at the intersection
2 of streets, and half the cost of the same at spaces opposite streets
3 intersecting but not crossing and at spaces opposite property owned
4 by the city or state or any part thereof, may be paid, in case of sewers,
5 from the city sewer or district sewer fund or general fund, or assessed
6 against the property abutting or adjacent thereto; and, in case of
7 street improvements, from the city improvement or general fund, or
8 assessed against the property abutting or adjacent thereto, except
9 that part to be constructed by, paid for, or assessed to railways and
10 street railways.

[C., '97, § 967.]

SEC. 4382. Abutting and adjacent property defined.

1 The terms "abutting or adjacent property" and "property abut-
2 ting on", as used in this chapter, shall be held to include the easement
3 and right of way of any railway company located along any street or
4 on lands abutting on or adjacent thereto, in all cases where no prop-
5 erty of any person, firm or corporation, except a municipal corporation,
6 intervenes between such easement or right of way and the traveled
7 portion of such street or highway.

[C., '97, § 968.]

SEC. 4383. Sewer outlets—disposal plants.

1 Section forty hundred twenty-four is applicable to cities acting
2 under special charters.

[C., '97, § 881; S. S., '15, § 881.]

SEC. 4384. Cost of opening and grading.

1 The cost of opening, widening, extending or grading any street
2 or market place shall be paid from the grading fund. The cost of
3 making or reconstructing any street improvement, not ordered to be
4 paid from the city improvement or grading fund, or by any railway
5 or street railway, shall be assessed as a special tax against the prop-
6 erty abutting thereon, in proportion to the linear front feet thereof.
7 The term "street", wherever used in this chapter, shall be held to
8 include avenue, highway, alley and public ground.

[R., '60, § 1064; C., '73, §§ 464, 465; C., '97, § 969.]

SEC. 4385. Road districts—cost at intersections.

1 The council shall divide the city into not less than three road dis-
2 tricts, or may make each ward a separate road district, for the pur-
3 pose of cleaning, sprinkling and repairing the streets, or for any of
4 said purposes, and provide for the manner of doing the same, and for
5 the payment of the cost thereof out of the district road fund, and shall
6 determine the amount necessary for such purposes in each district, and
7 make appropriations therefor at the time and in the manner in this
8 chapter provided for making appropriations for other purposes; but
9 the cost of making, reconstructing and repairing streets at the inter-
10 section of streets, and one-half of the space opposite streets intersect-
11 ing and not crossing, and opposite city property in any district, shall
12 be paid from the city improvement fund.

[C., '97, § 970.]

SEC. 4386. Notice and levy of special assessments.

1 After filing the plat and schedule referred to in section thirty-
2 eight hundred eighty-five, the council shall direct the clerk or recorder
3 to give ten days' notice, by publishing same three times in a newspaper
4 published in said city, that such plat and schedule are on file in the
5 office of the clerk, fixing a time within which all objections thereto
6 or to the prior proceedings must be made in writing; and the council,
7 having heard the objections and made necessary corrections, shall
8 levy the special assessment as shown in such plat and schedule.

[C., '97, § 971; S., '13, § 971.]

SEC. 4387. Payment.

1 The special assessments made in said plat and schedule, as cor-
2 rected and approved, shall be levied at one time, by resolution, against
3 the property abutting upon or adjacent to such street or sewer, and,
4 when levied and certified, shall be payable as ordinary city taxes. If
5 the owner of any lot or parcel of land or railroad or street railway,
6 the assessment against which is embraced in any bond or certificate
7 provided for in chapter twenty-six of title thirteen, shall, within
8 thirty days from the date of such assessment, promise and agree in
9 writing, indorsed on such bond or certificate, or in a separate agree-
10 ment, that, in consideration of having the right to pay his assessment
11 in installments, he will not make any objections of illegality or irregu-
12 larity, or to the assessment or levy of such tax upon and against his
13 property, and will pay said assessment, with interest from the date
14 of acceptance of the work by the city council at a rate not exceeding
15 six per cent per annum, as shall by ordinance or resolution of the
16 council be prescribed, then such tax so levied against the lot or parcel
17 of land or railroad or street railway shall be payable in not less than
18 five nor more than ten equal installments, the first of which may
19 become due and payable, with interest from the date of acceptance
20 of the work by the city council on the whole amount, at a time fixed
21 in the year in which the levy is made, or in the following year, and
22 the other installments shall be due and payable, with interest on the
23 whole amount unpaid, at intervals of one or two years, as fixed by
24 the resolution making the levy, and all of such installments, with
25 interest from the date of acceptance of the work by the city council,
26 shall mature in ten years or less from the time fixed for the payment
27 of the first installment; but where no such agreement is made, then

28 the whole of such assessment so levied shall mature at one time, and
 29 be due and payable, with interest from the date of acceptance of the
 30 work by the city council, as hereinafter provided.

[C., '97, § 972; S. S., '15, § 972.]

SEC. 4388. Collection.

1 Such assessments shall be duly entered on the tax books of the
 2 city, and shall be then due and payable at the office of the collector,
 3 or other officer authorized to collect city taxes, and shall be collected,
 4 like other special taxes, as provided by ordinance.

[C., '97, § 973.]

SEC. 4389. Interest.

1 Such assessment shall bear interest from the date of acceptance
 2 of the work by the city council at six per cent per annum. Interest on
 3 the whole assessment unpaid shall become due and payable at the time
 4 fixed by resolution or ordinance for the payment of each installment.

[C., '97, § 974; S. S., '15, § 974.]

SEC. 4390. When delinquent—lien.

1 Such assessment, and each installment with the interest thereon,
 2 shall be paid with accrued costs, at the office of the collector or treas-
 3 urer, by the owner of the property upon which it is levied, at or before
 4 the time said property is sold for taxes or interest or both, and each
 5 installment and all interest due and unpaid shall become delinquent at
 6 the time fixed by ordinance or resolution, and shall bear such interest
 7 from the time of becoming delinquent, as ordinary taxes. All special
 8 assessments shall be a lien upon the property against which the same
 9 are assessed, from the date of the resolution of the council levying the
 10 same and shall be prior and superior to all other liens except ordinary
 11 taxes, and shall not be divested by any judicial sale of the property.

[R., '60, § 1068; C., '73, §§ 478, 481; C., '97, § 975; S., '13,
 § 975.]

SEC. 4391. Sale for.

1 Property against which any special assessment has been levied
 2 for street improvements or sewers may be sold for any part of the
 3 principal or interest, due and delinquent, at any regular, adjourned or
 4 special tax sale, in the same manner and under the same forfeiture,
 5 penalty and right of redemption; and certificates and deeds of such
 6 sale shall be made in the same manner and with like effect as in sales
 7 of property for nonpayment of ordinary taxes, at which sale the city
 8 may be a purchaser, and be entitled to all the rights of purchasers at
 9 tax sales, with the right to sell and dispose of the same by the council.
 10 The purchaser at any such tax sale shall have the same rights as pur-
 11 chasers at ordinary tax sales, but shall take the property charged with
 12 the lien of the remaining unpaid installments and interest.

[C., '97, § 976.]

SEC. 4392. Street improvement fund.

1 When the whole or any part of the cost of the making or recon-
 2 struction of any street improvement shall be ordered paid from the
 3 city improvement or grading fund, it shall have power, after the com-

4 pletion of the work, by resolution, to levy at one time the whole or
 5 any part of the cost of said improvement upon all the taxable prop-
 6 erty within such city, and determine the whole percentage of taxes
 7 necessary to pay the same, and the percentage to be paid each year,
 8 not exceeding the maximum annual limit of said taxes, and the num-
 9 ber of years, not exceeding ten, given for the maturity of each install-
 10 ment thereof; but no part of such cost shall be levied against any prop-
 11 erty owned by the city, county or state. Certificates of such levies
 12 shall be filed with the collector or treasurer, setting forth the amount,
 13 percentage and maturity of said taxes and each installment thereof
 14 upon the assessed valuation of all the property in the city, certified as
 15 correct by the clerk or recorder, and thereupon said taxes shall be
 16 placed on the tax books and collected, as provided for the collection of
 17 other special taxes.

[C., '97, § 977.]

SEC. 4393. Sewer fund.

1 When the whole or any part of the cost of the making or recon-
 2 struction of any sewer shall be ordered paid from the district or city
 3 sewer fund, the council may, after the completion, by resolution, levy
 4 at one time the whole or any part of the cost of such sewer upon all
 5 taxable real property within such sewer district or within the city, and
 6 determine the whole percentage of taxes necessary to pay the same,
 7 and the percentage to be paid each year, not exceeding the maximum
 8 annual limit of said taxes, and the number of years, not exceeding ten,
 9 given for the maturity of each installment; but no part of such cost
 10 shall be levied against the property owned by the city, county or state.
 11 Certificates of such levies shall be filed with the collector or treasurer,
 12 setting forth the amount or percentage and maturity of said taxes and
 13 each installment thereof, with a sufficient description of the boundaries
 14 of the particular sewer district, and of the real property of the sewer
 15 district or city upon which taxes are levied, duly certified as correct by
 16 the clerk or recorder, and thereupon said taxes shall be placed on the
 17 tax books of the city and collected, as provided for the collection of
 18 other special taxes.

[C., '97, § 978.]

SEC. 4394. Other provisions as to special assessments.

1 Sections thirty-eight hundred ninety-two, thirty-eight hundred
 2 ninety-six to thirty-nine hundred, inclusive, thirty-nine hundred four,
 3 and thirty-nine hundred seven are made applicable to cities under spe-
 4 cial charters.

[C., '97, § 979; S., '13, § 979.]

SEC. 4395. Oiling of streets—cost—assessment.

1 Sections thirty-nine hundred twenty-three to thirty-nine hundred
 2 twenty-eight, inclusive, are applicable to cities acting under special
 3 charters.

[37 G. A., ch. 172, § 1.]

SEC. 4396. Relevy.

1 When, by reason of nonconformity to any law or ordinance, or by
 2 reason of any omission, informality or irregularity, any special tax
 3 or assessment is invalid, or is adjudged irregular, the council shall

4 have power to correct the same by resolution or ordinance, including
 5 the reordering of the work, and the preliminary notice, and may
 6 reassess and relevy the same with the same effect and force as if
 7 done at the proper time, and in the manner provided by law or by
 8 resolution or ordinance relating thereto; and when so corrected it
 9 shall be a lien upon the property from the same time and in the same
 10 manner and to the same extent as if the original assessment and levy
 11 had been in all respects legal.

[C., '97, § 980.]

SEC. 4397. Correction.

1 When, in making any special assessment, any property is as-
 2 sessed too high or too low, the same may be corrected and a reassess-
 3 ment and relevy made, and any taxes collected in excess of the proper
 4 amount shall be refunded. The corrected assessment shall be a lien
 5 on the lots and parcels of land the same as the original, and shall be
 6 certified by the clerk or recorder to the collector or treasurer in the
 7 same manner, and, so far as possible, be collected in the same install-
 8 ments, draw interest at the same rates, be enforced in the same man-
 9 ner as the original assessments. Any provisions of law, resolution or
 10 ordinance, specifying a time when or order in which acts shall be done
 11 in the proceedings which may result in any special assessment, shall
 12 be taken to be subject to the qualification of this and the preceding
 13 section.

[C., '97, § 981.]

SEC. 4398. Further provisions as to special assessments.

1 All special assessments, where no other provision is made, shall
 2 be levied by the council, and a copy filed with the clerk or recorder,
 3 and entered upon the tax book of the collector or treasurer, and be a
 4 lien upon the property against which the same is assessed from the
 5 date of the levy of such assessment, and shall be prior to all other liens
 6 except ordinary taxes, and shall not be divested by any judicial or tax
 7 sale. The lien of different special assessments shall take priority in
 8 the order of their levy. Special assessments shall bear interest at the
 9 rate of six per cent per annum from the date of the levy, unless other-
 10 wise provided, and shall become delinquent thirty days after the levy,
 11 and be collected in the same manner, and, when delinquent, they shall
 12 bear the same interest, with the same penalties, as ordinary taxes.

[R., '60, § 1068; C., '73, §§ 478, 481; C., '97, § 982.]

SEC. 4399. Sale for.

1 The property upon which any special assessment is a lien, where
 2 not otherwise provided, shall be sold for delinquent assessments and
 3 interest in the same manner, and with the same force and effect, as
 4 property sold for ordinary delinquent city taxes; and tax sale certifi-
 5 cates, certificates of redemption from tax sales, and tax deeds, shall
 6 be made in the same way and with the same force and effect as in
 7 sales for ordinary taxes.

[C., '97, § 983.]

SEC. 4400. Personal debt—action to enforce.

1 All special assessments shall be a debt due personally from the
 2 owner of the property against which the same are levied. Such assess-

3 ments, and each installment thereof, and certificates issued therefor,
4 when due, may be collected in the district or superior court by action
5 at law in the name of the city against such owner, or the lien thereof
6 enforced against the real estate against which the same has been
7 levied, by action in equity, at the election of the plaintiff; and in any
8 action at law where pleadings are required, it shall be sufficient to
9 declare generally for work and labor done or materials furnished on
10 the particular street; and in any action in equity it shall be sufficient
11 to aver the same matters, together with a particular description of
12 the property, or parts thereof, against which such lien is sought to be
13 enforced.

[R., '60, § 1068; C., '73, § 478; C., '97, § 984.]

SEC. 4401. Proceedings.

1 Such action may be brought against any or all of the owners of
2 such property or land, but may be severed, in the discretion of the
3 court, for the purpose of trial, review or appeal, and the judgment or
4 decree shall be rendered separately for the amount properly charged
5 against each. Such action may be maintained in the name of the city
6 or town, for the use of any person entitled thereto or any part thereof,
7 upon filing a bond, approved by the clerk of the court, conditioned to
8 pay all costs adjudged against the city, and to protect it from all liability
9 therefrom or damages growing out of the same, in an amount to
10 be fixed by the court or a judge thereof.

[C., '97, § 985.]

SEC. 4402. Judgment.

1 The judgment or decree shall be rendered for all work done and
2 material furnished, properly chargeable upon the property, or any
3 part thereof, notwithstanding any informality, irregularity, defect or
4 omission on the part of the city or its officers.

[R., '60, § 1069; C., '73, § 479; C., '97, § 986.]

SEC. 4403. Street improvement or sewer bonds or certificates.

1 For the purpose of providing for the payment of the assessed
2 cost of any street improvement or sewer which has been, or is to be,
3 assessed upon the property abutting thereon or adjacent thereto,
4 including railways or street railways liable for the payment thereof,
5 the council is authorized from time to time, as the work progresses
6 or is completed, to make requisition on the mayor for the issuance of
7 bonds or certificates, as herein provided, in such denominations as
8 shall be deemed best, in anticipation of the deferred payment of the
9 taxes, levied or to be levied for such improvement. It shall be the
10 duty of the mayor to make and execute bonds or certificates accord-
11 ingly, to an amount not exceeding the cost and expense of such
12 improvement to be actually assessed on the property liable for the
13 payment of the same. The bonds shall bear the name of the street,
14 place or district improved, or in which any sewer is constructed, which
15 street or place shall be particularly described in the resolution author-
16 izing such issue, and such bonds shall be signed by the mayor, counter-
17 signed by the clerk or recorder, and sealed with the corporation seal,
18 and shall bear the same date and be payable at the time fixed in said
19 resolution, and be redeemable at any time at the option of the city, and
20 shall bear interest at a rate not exceeding six per cent per annum,

21 payable semiannually. The bonds shall be substantially in the follow-
 22 ing form:

23 The city of....., in the state of Iowa, promises to pay,
 24 as hereinafter stated, to the bearer hereof, on the.....day of.....,
 25 or at any time before that date, the sum of.....dollars, with
 26 interest thereon at the rate of.....per cent per annum, payable on the
 27 presentation and surrender of the interest coupons hereto attached.
 28 Both principal and interest of this bond are payable at the.....
 29 bank in the city of....., state of..... This bond is
 30 issued by the city of.....pursuant to and by virtue of the laws
 31 of the state of Iowa, and the ordinance of said city passed in accord-
 32 ance therewith, and in accordance with a resolution of the council of
 33 said city, duly passed on the.....day of....., A. D. This
 34 bond is one of a series of bonds of like tenor, date and amount, num-
 35 bered from.....to....., and issued for the purpose of defraying
 36 the cost of improving, curbing and paving a portion of.....
 37 street or streets in said city (or constructing a sewer on.....
 38 street) as described in said resolution, which cost is assessable to and
 39 levied on the property along said improvements, and is made by said
 40 law a lien on all abutting or adjacent property, and payable in annual
 41 installments, with interest on all deferred payments at the rate of six
 42 per cent per annum, and this bond is payable only out of the money
 43 derived from the collection of said special tax, and said money can be
 44 used for no other purpose. And it is hereby certified and recited that
 45 all the acts, conditions and things required to be done, precedent to
 46 and in the issuing of this series of bonds, have been done, happened
 47 and performed, in regular and due form, as required by said law and
 48 ordinance; and for the assessment, collection and payment hereon of
 49 said special tax, the full faith and diligence of said city of.....
 50 are hereby irrevocably pledged.

51 In testimony whereof, the city of....., by its city council,
 52 has caused this bond to be signed by its mayor and countersigned by
 53 its city clerk, with the seal of said city affixed, this.....day of.....,
 54 A. D.

55
 56 Mayor.

57 City Clerk.

58 COUPON.

59 No..... \$.....
 60 On the.....day of.....the city of....., Iowa,
 61 promises to pay to bearer, as provided in said bond, the sum of
 62dollars, at the.....bank in the city of.....,
 63 being.....months' interest due that day on its improvement bond
 64 No....., dated....., A. D.

65
 66 Mayor.

67 Countersigned.....
 68 City Clerk.

69 It shall be the duty of the city, its council and officers, to comply
 70 with the requirements of this chapter in the issuance of said bonds or
 71 certificates, and to assess and levy upon the property liable therefor
 72 the cost and expenses of such improvement or improvements, and to
 73 collect the same, and to apply the proceeds to the redemption of such
 74 bonds and certificates, and to no other purpose; and they shall be
 75 payable only out of the fund derived from such assessment. The city

76 shall not be obliged to appropriate money from any other fund to the
77 payment of such bonds or certificates or any part of the same.
[C., '97, § 987.]

SEC. 4404. Appropriation of proceeds.

1 No money received from the sale of street improvement or sewer
2 bonds or certificates shall be paid out except upon the resolution of the
3 council ordering the same, and no resolution for the delivery of any
4 bonds or certificates shall be made until the certificate of the engineer,
5 or other person selected therefor, has been filed, showing that work
6 has been done or material furnished to the amount of such order.
[C., '97, § 988.]

SEC. 4405. Limitation of action questioning.

1 No action shall be brought, questioning the legality of any street
2 improvement or sewer certificates or bonds, from and after three
3 months from the time the issuance of such certificates or bonds is
4 ordered by the proper authority.
[C., '97, § 989.]

SEC. 4406. Street improvement and sewer bonds and certificates.

1 Sections thirty-nine hundred fifty-five, thirty-nine hundred fifty-
2 eight, thirty-nine hundred fifty-nine, thirty-nine hundred sixty-one,
3 thirty-nine hundred sixty-four and thirty-nine hundred sixty-five are
4 made applicable to cities acting under special charters.
[C., '97, § 990.]

SEC. 4407. Sewer bonds.

1 Sections thirty-nine hundred sixty-two and thirty-nine hundred
2 sixty-three are applicable to cities acting under special charters.
[38 G. A., ch. 243, § 2.]

**SEC. 4408. Park commissioners—election—ordinance submitted—
terms.**

1 There shall be elected at the regular municipal election in each
2 city acting under special charter, and containing a population of forty
3 thousand or over, and all other special charter cities may by ordinance
4 provide for the election of three park commissioners whose terms of
5 office shall be six years, one to be elected at each regular municipal
6 election. At the first regular municipal election after the passage
7 hereof [March 25, 1911], three commissioners shall be elected, and
8 shall hold their office respectively for two, four and six years, their
9 respective terms to be decided by lot, and their successor shall be
10 elected for the full term of six years; provided, however, that in
11 all such cities under special charter, and containing a population of
12 less than forty thousand, not now having park commissioners, the
13 ordinance establishing such park commissioners shall not be in force
14 until it has been submitted to the voters at a special or regular municipi-
15 pal election, and approved by a majority of the votes cast at such elec-
16 tion; and provided further, that in all such cities under special charter
17 containing a population of forty thousand or over, in which there
18 already exists a board of three park commissioners whose term of
19 office is six years, and one of the members of which board is elected

20 every two years at each regular municipal election, the three commis-
 21 sioners at present holding the office of park commissioners in such
 22 cities are hereby made the commissioners in such city in accordance
 23 with the provisions of this section, and they and their successors shall
 24 have and exercise all the powers and duties of park commissioners
 25 within the provisions of this section.

[C., '97, § 991; S., '13, § 991.]

SEC. 4409. Applicable to park board in special charter cities.

1 Sections thirty-six hundred sixty-six, thirty-six hundred sixty-
 2 seven to thirty-six hundred seventy-one, inclusive, thirty-six hundred
 3 seventy-two, thirty-six hundred seventy-three, thirty-six hundred
 4 seventy-four, thirty-six hundred seventy-five, thirty-six hundred sev-
 5 enty-six, thirty-six hundred seventy-seven, thirty-six hundred sev-
 6 enty-eight, thirty-six hundred seventy-nine, thirty-six hundred eighty,
 7 thirty-six hundred eighty-one, thirty-six hundred eighty-two and
 8 thirty-six hundred eighty-three are applicable to cities acting under
 9 special charters.

[S., '13, § 991-a.]

SEC. 4410. Protection of parks.

1 It shall be deemed a misdemeanor for any person to cut, break
 2 or deface any tree or shrub growing in any such park, or street leading
 3 thereto.

[C., '97, § 997.]

SEC. 4411. Property inside curb line—power of city.

1 Cities under special charter shall have, and are hereby granted
 2 power to place by ordinance, the exclusive charge, custody and con-
 3 trol of all property outside of the lot or property lines and inside
 4 the curb lines and upon the public streets in the park commission.

[S. S., '15, § 997-a; 37 G. A., ch. 174, § 1.]

SEC. 4412. Permanent sidewalks.

1 Cities under special charter now or hereafter having a population
 2 of twenty-five thousand or over shall have and are hereby granted the
 3 power to confer upon the park commission by ordinance, the right to
 4 determine the location of permanent sidewalks outside of the lot or
 5 property lines and upon the public streets.

[S. S., '15, § 997-b.]

SEC. 4413. Permanent sidewalks — objections — tax—certificates of levy—interest—payment—sale—certificates.

1 Sections thirty-eight hundred thirty-seven to thirty-eight hun-
 2 dred forty-three, inclusive, are applicable to cities acting under special
 3 charters.

[S., '13, § 791-h.]

SEC. 4414. Temporary sidewalks.

1 Section thirty-eight hundred forty-five is applicable to cities act-
 2 ing under special charters.

[S., '13, § 777-a.]

SEC. 4415. Care of trees and shrubbery on streets.

1 Cities under special charter shall have, and are hereby granted
 2 the power to place by ordinance, the charge, custody and control in the
 3 park commission, of all trees, shrubbery, flowers and grass outside of
 4 the lot or property lines and inside the curb lines and upon the public
 5 streets, and authorize the park commission to plant, cut, prune,
 6 remove, transplant, spray, care for and maintain all trees, shrubbery,
 7 flowers and grass outside of the lot or property lines and inside the
 8 curb lines and upon the public streets, in such a manner as not to
 9 interfere with public travel; and to pay the same or any part thereof
 10 out of the park fund, or to provide by ordinance, for assessing the
 11 cost thereof or any part thereof upon the lots and parcels of land in
 12 front of which such trees, shrubbery, flowers and grass are planted
 13 and maintained.

[S. S., '15, § 997-c; 37 G. A., ch. 174, § 2.]

SEC. 4416. Board of public works.

1 Such cities shall have power to establish a board of public works,
 2 consisting of not more than three members. The members of the
 3 board shall consist of one commissioner appointed by the mayor with
 4 the approval of the council; when the board consists of two members,
 5 the associate member shall be the city engineer; when the board consists
 6 of three members, the associate members shall be the city engineer
 7 and street commissioner, and shall be appointed for such length
 8 of time, possess such qualifications, receive such compensation, be
 9 removed for such causes, possess such powers, perform such duties,
 10 be governed by such rules and regulations, as may be prescribed by
 11 ordinance.

[C., '97, § 998.]

SEC. 4417. Condemnation of land.

1 They shall have power to purchase and provide for the condemna-
 2 tion of, and pay for out of the general or grading fund, or assess and
 3 levy the whole or part of the cost thereof upon the property benefited
 4 thereby, and enter upon and take any lands within or without the ter-
 5 ritorial limits of such city, for the following purposes:

6 1. For parks, commons, cemeteries, crematories, hospital grounds,
 7 natatoriums or public baths.

8 2. For establishing, laying out, widening, straightening, narrow-
 9 ing, extending and lighting streets, avenues, highways, alleys, landing
 10 places, public squares, public grounds, public markets or market
 11 places and public slaughterhouses.

12 3. For any other purpose, where such purchase or condemnation
 13 is herein, or in the charters of such cities, or may hereafter be, auth-
 14 orized.

[R., '60, § 1064; C., '73, §§ 464, 470; C., '97, § 999.]

SEC. 4418. Purchase of real estate on execution.

1 They shall have power to acquire real estate, or any interest
 2 therein, as a purchaser at an execution sale, when judgment is
 3 entered in favor of the city, or when it has a lien thereon, or is
 4 otherwise interested therein.

[C., '97, § 1000.]

SEC. 4419. Conveyance of land.

1 They shall have power, by a three-fourths vote of all members of
 2 the council, to dispose of and convey lands unsuitable, insufficient or
 3 unnecessary for the purposes for which they were originally acquired;
 4 but when such lands are disposed of, enough shall be reserved for
 5 streets to accommodate adjacent property owners; and to dispose of
 6 the title or interest of such city in any real estate, or any lien thereon,
 7 or share or certificate therefor, owned or held by it, including any
 8 street or portion thereof vacated or discontinued, however acquired
 9 or held, upon such terms as the council shall direct. Conveyance executed
 10 in accordance with this section shall extinguish all the rights
 11 and claims of the city existing prior thereto.

[C., '97, § 1001.]

SEC. 4420. Proceedings to condemn.

1 Proceedings for condemnation of land as contemplated in this
 2 chapter shall be in accordance with the provisions of this code relating
 3 to taking private property for works of internal improvement, except
 4 that the jurors shall have the additional qualification of being free-
 5 holders of the city, or as provided in the charters of said cities.

[R., '60, §§ 1065, 1066; C., '73, §§ 469, 476, 477; C., '97,
 § 1002.]

SEC. 4421. Taxes—levy of.

1 The council shall levy a tax for the year then ensuing for the pur-
 2 pose of defraying its general or incidental expenses, which shall not
 3 exceed eight mills on the dollar of the assessed valuation of all taxable
 4 property in the city, but the aggregate of such levy, together with all
 5 levies for special purposes as hereinafter authorized, shall not exceed
 6 in any city in any one year, sixteen mills, excluding city and district
 7 sewer tax, road district tax, and any tax levied to pay the principal or
 8 interest on any bonds issued by such city, or tax levied to pay judg-
 9 ments, or taxes authorized for library, park or bridge purposes.

[C., '97, § 1003; S., '13, § 1003.]

SEC. 4422. Other provisions as to levying taxes.

1 Sections forty hundred thirty-two to forty hundred thirty-seven,
 2 inclusive, and forty-five hundred ninety-nine to forty-six hundred two,
 3 inclusive, are made applicable to cities under special charters, except
 4 that the words "city treasurer" or "collector" and "city" shall be sub-
 5 stituted for "county auditor" or "county" wherever the same appear
 6 in said sections.

[C., '97, § 1004; S., '13, § 1004.]

SEC. 4423. Special taxes.

1 They shall have power to levy annually the following taxes for
 2 special purposes:

3 1. *Grading fund.* A tax not exceeding three mills on the dollar
 4 for a grading fund, to be used for the purpose of opening, widening,
 5 extending or grading any street, public ground or market place.

6 2. *Improvement fund.* A tax not exceeding three mills on the
 7 dollar for the city improvement fund, to be used for the purpose of
 8 paying the cost of the making, reconstruction and repair of any street

9 improvement at the intersection of streets, and spaces opposite streets
10 intersecting but not crossing, and the spaces opposite property owned
11 by the city or state.

12 3. *Sewer fund.* A tax not exceeding five mills on the dollar on
13 the assessed valuation of all property therein, for the city sewer fund,
14 to be used to pay the cost of making, reconstructing or repairing any
15 sewer at the intersection of streets, and all spaces opposite streets
16 intersecting but not crossing, and at spaces opposite property owned
17 by the city or state, or to pay the whole or any part of the cost of
18 making, reconstructing or repairing any sewer within the limits of
19 such city, and for the maintenance and operation of any sewage dis-
20 posal plant included in said sewer district. When the city has been
21 divided into sewer districts, a tax not exceeding five mills on the tax-
22 able real property in the sewer district, for the district sewer fund,
23 to be used to pay, in whole or in part, the cost of the making, recon-
24 struction or repair of any sewer located or laid in that particular
25 district, and for the maintenance and operation of any sewage dis-
26 posal plant included in said sewer districts; provided that, on petition
27 of the owners of two-thirds in value of all the taxable real estate
28 within such sewer district for the construction of a sewer in such
29 district, then the maximum percentage of taxes that can be levied in
30 any one year shall not be limited to five mills, but shall be such per-
31 centage of the valuation of such property as will produce at least one-
32 tenth of the whole cost of such sewer assessable upon the real property
33 in such district.

34 4. *Fire fund.* A tax not exceeding three mills on the dollar for
35 the purpose of creating a city fire fund, to be used for paying the ex-
36 penses of organizing, keeping and maintaining a fire department, in-
37 cluding the expenses of constructing, purchasing, leasing and main-
38 taining the proper and necessary buildings, grounds and apparatus
39 therefor; provided that where a paid fire department is maintained,
40 all money derived from the sale of any buildings, grounds or apparatus
41 of such fire department which was originally paid for out of the fire
42 fund, shall belong to said fire fund.

43 5. *Road fund.* When any city is divided into road districts, a
44 tax not exceeding two mills on the dollar on all taxable property in
45 such road district, to be known as the district road fund, and to be
46 used only to pay the cost of cleaning, sprinkling and repairing the
47 streets and public places in such district.

48 6. *Library tax.* In cities which have established, or may estab-
49 lish, a free public library, a tax as provided in section thirty-seven
50 hundred fifty-eight.

51 7. *Tax for water and gas works and electric plants.* A tax not
52 exceeding five mills on the dollar, which, with the rates, rents or
53 revenues derived therefrom, shall be sufficient to pay the expenses of
54 running, operating and repairing, water and gas works, electric light
55 and power plants, owned and operated by such city, and the interest
56 on or principal of any bonds issued to pay the cost of the construction
57 of such works; but such taxes shall not be levied upon the property
58 which lies wholly without the limits of the benefits or protection of
59 such works or plants, which limit shall be fixed by the council each
60 year before making the levy.

61 8. *Tax for water, gas and electric light or power.* A tax, not
62 exceeding five mills on the dollar for the purpose of paying the amount
63 due, or to become due, to any individual or company operating water
64 or gas works or electric light power plants, for water, light, gas or

65 power supplied to the city, the levy to be limited to the property bene-
66 fited thereby.

67 9. *Bond fund.* A tax for the purpose of creating a bond fund
68 sufficient to pay the interest, to accrue before the next annual levy,
69 on funding or refunding bonds outstanding, and to pay the principal
70 of such funding or refunding bonds. In case of such bonds, the levy
71 shall be so made that, dividing the principal into as many parts as the
72 bonds have years to run, not less than one such part shall be levied
73 each year, and shall be made so that the fund derived therefrom shall
74 be available and sufficient to pay the bonds at their maturity.

75 10. *Water and gas or electric light and power bonds.* A tax to
76 be used exclusively in payment of the principal and interest of bonds
77 issued for the construction of water and gas works, electric light and
78 power plants, and which shall be levied in the manner provided in
79 the preceding subdivision.

80 11. *Park tax.* A tax not exceeding two mills on the dollar, as
81 authorized by the vote of the electors, to purchase, improve and main-
82 tain public parks in such city.

83 12. *Special bridge tax.* A special tax to aid in the construction
84 of bridges, when such tax has been voted by the electors of the city
85 under the provisions of section thirty-seven hundred eighty-seven.

[C., '73, §§ 461, 475; C., '97, § 1005; S., '13, § 1005; 38 G. A.,
ch. 394, § 1.]

SEC. 4424. Park tax.

1 Sections forty hundred thirty-nine and forty hundred forty are
2 applicable to cities acting under special charters.

[38 G. A., ch. 168, § 1.]

SEC. 4425. Excess of judgment or bond tax.

1 When a tax has been levied to pay any judgment against any
2 such city, or the principal and interest of funding or refunding bonds
3 issued by such city, or for any other special purpose, such tax shall
4 not be held invalid if the amount received exceed the amount sought
5 for such specific object, but the excess shall go into the general fund.
6 Money so raised is especially appropriated for such purposes, and shall
7 constitute a distinct fund in the hands of the treasurer until the
8 obligation is discharged.

[C., '51, §§ 123, 124; R., '60, §§ 259, 260; C., '73, §§ 318, 319;
C., '97, § 1006.]

SEC. 4426. Anticipating revenue.

1 Loans may be negotiated or warrants issued by any such city in
2 anticipation of its revenues for the fiscal year in which such loans are
3 negotiated or warrants issued, but the aggregate amount of such
4 loans and warrants shall not exceed one-half the estimated revenue of
5 such corporation for the fund or purpose for which the taxes are to be
6 collected for such fiscal year.

[R., '60, § 1129; C., '73, § 500; C., '97, § 1007.]

SEC. 4427. Other provisions as to taxes.

1 Sections forty hundred forty-eight, forty hundred fifty and forty
2 hundred fifty-three are made applicable to cities acting under special
3 charter.

[C., '97, § 1008.]

SEC. 4428. Warrants.

1 The auditor, clerk, or other officer whose duty it is to draw war-
2 rants shall draw no warrant except upon the vote of the council, and
3 no warrant for an amount in excess of one thousand dollars.

[C., '97, § 1009; 38 G. A., ch. 339, § 1.]

SEC. 4429. Levy and collection of taxes.

1 The council shall have power to levy and collect taxes for all gen-
2 eral and special purposes in this chapter authorized, upon all property
3 within the city not exempted from taxation by the general law of the
4 state, and to fix the number of mills to be levied on the value thereof,
5 which shall be ascertained by the assessor of said city, and the council
6 shall provide by ordinance the time and manner of taking such assess-
7 ment, when the same shall be equalized and returned to the auditor or
8 recorder, and for the assessing and placing upon the tax list all prop-
9 erty that may have been omitted, overlooked, brought into the city
10 before the levy of said tax, or otherwise not returned by the assessor,
11 and to fix the time when such officer shall make out and deliver a copy
12 of the assessment and the taxes levied thereon to the collector or treas-
13 urer. The council may provide by ordinance for certifying all taxes
14 and assessments to the county auditor, as provided in section forty
15 hundred fifty-one, which shall be applicable to the city adopting the
16 provisions thereof, and the taxes so certified shall be collected and paid
17 over in the same way, with the same penalties, rights and liabilities,
18 as in and for other cities to which such section is applicable.

[C., '97, § 1010.]

SEC. 4430. Assessment.

1 All the property of individuals, companies, copartnerships and
2 corporations shall be listed and returned by the assessor for city taxa-
3 tion; and the duty of the owner, officer, agent or individual having
4 control of the same to assist the assessor in listing the same, and
5 the penalties for his neglect or refusal so to do, shall be as provided in
6 title fourteen of this code, so far as the same may be applicable and
7 not in contravention of any of the provisions herein, or of the charters
8 of such cities; but the equalization of all assessments shall be made by
9 the council as provided by ordinance or the charters of said cities.

[C., '97, § 1011.]

SEC. 4431. Sale.

1 Such cities shall have power and shall provide by ordinance when
2 general or special taxes and assessments shall become delinquent, and
3 the rate of interest which they shall thereafter bear, not exceeding
4 ten per cent per annum on the whole amount thereof, including pen-
5 alty; and for the sale of both real and personal property for the col-
6 lection of general and special delinquent taxes and assessments, on
7 such terms as the council may determine; and in the sale of real
8 property for taxes and assessments, the notice of the time and place
9 of such sale shall be given by the treasurer or the collector, and shall
10 contain the description of each separate tract to be sold, as taken from
11 the tax list; the amount of taxes for which it is liable, delinquent for
12 each year, and the amount of penalty, interest, and cost thereon; the
13 name of the owner, if known, or the person, if any, to whom it is
14 taxable; by publication in some newspaper in the city once each week

15 for three consecutive weeks, the last of which shall be at least one
 16 week before the date of such sale, and by posting a copy thereof at
 17 the door of the office of the collector or treasurer one week before the
 18 day of such sale. The compensation for such publication shall not
 19 exceed twenty cents for each description, and shall be paid by the
 20 city. The amount paid therefor shall be collected as a part of the
 21 costs of sale and paid into the treasury, and no irregularity or infor-
 22 mality in the advertisement shall affect the legality of any sale or the
 23 title of any property conveyed, if it shall appear that said property was
 24 subject to taxation for the year or years for which the same was sold,
 25 and that the tax was due and unpaid at the time of sale; and in all
 26 cases such advertisement shall be sufficient notice to the owners and
 27 persons having an interest in or claiming title to any lot or parcel of
 28 real estate, of the sale of their property for delinquent taxes, and a
 29 failure of the collector to make personal demand of taxes shall not
 30 affect the validity of any sale or the title of any property acquired
 31 under such sale.

[C., '97, § 1012.]

SEC. 4432. Adjournment of tax sale—intoxicating liquor law.

1 Section forty-six hundred seventy-seven and chapter eight, title
 2 five, are made applicable to cities acting under special charters.

[C., '97, § 1013.]

SEC. 4433. Tax list.

1 All assessments and taxes levied by the council, except as other-
 2 wise provided by law, shall be placed by the auditor, clerk or recorder,
 3 as provided by ordinance, upon the proper tax book, to be known as
 4 the "tax list," properly ruled and headed with distinct columns to cor-
 5 respond with the assessment books, with a column for polls and one
 6 for payments, and he shall complete the same by carrying out the
 7 consolidated tax and all other taxes levied, and at the end of the list
 8 shall make an abstract thereof and apportion the consolidated tax
 9 among the respective funds to which it belongs, according to the
 10 number of mills levied for each, and certify the same to the collector
 11 or treasurer at or before the regular time for the collection and pay-
 12 ment of taxes.

[R., '60, §§ 1123, 1126; C., '73, §§ 495, 498; C., '97, § 1014.]

SEC. 4434. Lien of taxes.

1 Taxes upon real estate shall be a lien thereon against all persons
 2 except the state. Taxes due from any person upon personal property
 3 shall be a lien upon any and all real estate owned by such person or to
 4 which he may acquire title. As between vendor and vendee, such lien
 5 shall attach to real estate on the thirty-first day of December following
 6 the levy, unless otherwise provided in this chapter. Taxes upon stocks
 7 of goods and merchandise shall be a lien thereon, and shall continue a
 8 lien thereon when sold in bulk, and may be collected from the owner,
 9 purchaser or vendee, but the property of the seller thereof shall be
 10 first exhausted for the payment; and all of such taxes shall remain a
 11 lien on the property aforesaid from and after the date of the levy in
 12 each year. The collection of such taxes and the enforcement of such
 13 lien may be, in addition to the remedies herein provided, enforced by

14 suit, as is authorized by sections forty-four hundred, forty-four hun-
15 dred one and forty-four hundred two.

[C., '97, § 1015.]

SEC. 4435. Tax receipt.

1 The collector or treasurer shall in all cases make out and deliver
2 to the taxpayer a receipt, which receipt shall contain the description
3 and the assessed value of each lot and parcel of real estate, and the
4 assessed value of personal property, and in case the property has
5 been sold for taxes and not redeemed, the date of such sale and to
6 whom sold, also the amount of taxes, interest and costs paid; and the
7 collector or treasurer shall give separate receipts for each year;
8 whereupon he shall make proper entries of such payments on the
9 books of his office. The council may provide by ordinance that no
10 person shall be permitted to pay taxes of any one year until the taxes
11 for the previous years shall be first paid; and provide that the receipt
12 herein contemplated shall be conclusive evidence that all taxes, and
13 the costs of every kind against the property described in such receipt,
14 are paid to the date of such receipt; and provide that for any failure
15 or neglect on the part of the collector, or on the part of anyone acting
16 as collector, he and his bondsmen shall be liable to an action on his
17 official bond for damages sustained by any person or the city for such
18 neglect.

[C., '97, § 1016.]

SEC. 4436. Sale.

1 The treasurer or collector of taxes, or person authorized to act
2 as collector, shall make, sign and deliver to the purchaser of any real
3 property sold for the payment of any taxes or special assessments
4 authorized by the provisions of this chapter, or by any law applicable
5 to such cities, a certificate of purchase, which shall have the same force
6 and effect as certificates issued by county treasurers for the sale of
7 property for delinquent county taxes.

[C., '97, § 1017.]

SEC. 4437. Redemption.

1 Real property sold under the provisions of this chapter, or by
2 virtue of any power heretofore given, may be redeemed before the
3 time of redemption expires, as hereinafter provided, by payment to
4 the treasurer, collector or person authorized to receive the same, to be
5 held by him subject to the order of the purchaser on surrender of the
6 certificate, or in case the same is lost and destroyed, on his making
7 affidavit of such fact, and of the further fact that it was not assigned,
8 of the amount for which the same was sold, and ten per cent of such
9 amount immediately added as a penalty, with eight per cent per annum
10 of the whole amount thus made from the day of sale, and the amount
11 of all taxes, either general or special, with interest and costs, paid at
12 any time by the purchaser or his assignee subsequent to the sale, and
13 a similar penalty of ten per cent added as before on the amount of
14 the payment made at any subsequent time, with eight per cent interest
15 per annum on the whole of such amount or amounts from the day or
16 days of payment; provided that such penalty for the nonpayment of
17 the taxes at any subsequent time or times shall not attach, unless such
18 subsequent tax or taxes shall have remained unpaid for thirty days

19 after they became delinquent. The treasurer, collector or person
 20 authorized to receive the same, upon application of any party to
 21 redeem real property sold as aforesaid, and being satisfied that such
 22 person has a right to redeem the same, and on payment of the proper
 23 amount, shall issue to such party a certificate of redemption, in sub-
 24 stance and form as provided for the redemption of property sold for
 25 state and county taxes, and shall make proper entry thereof in the sale
 26 book, which redemption shall thereupon be deemed complete without
 27 further proceedings. The provisions of sections forty-six hundred
 28 ninety-one, forty-six hundred ninety-two and forty-six hundred ninety-
 29 three shall, so far as the same shall be applicable, and are not herein
 30 changed or modified, apply to sales of real estate for delinquent taxes
 31 herein contemplated; but where the words "auditor of the county" or
 32 "treasurer" are used in said sections the words "city clerk",
 33 "recorder", "auditor", or "person authorized to make out the tax list"
 34 and "city collector" or "city treasurer or officer authorized to receive
 35 same" shall be substituted.

[C., '97, § 1018.]

SEC. 4438. Deed.

1 Immediately after the expiration of ninety days from the date of
 2 service of the notice, as prescribed by sections forty-six hundred
 3 ninety-three and forty-six hundred ninety-four, the treasurer, col-
 4 lector, or person authorized to act as collector of taxes, shall make out
 5 a deed for each lot or parcel of land sold and remaining unredeemed,
 6 and deliver the same to the purchaser upon the return of the certifi-
 7 cate of purchase. Any number of parcels of real estate bought by one
 8 person may be included in one deed, if required by the purchaser.
 9 Deeds executed by the city treasurer, collector, or person authorized to
 10 act as collector, may be in form substantially as provided by section
 11 forty-six hundred ninety-five, and shall be signed and acknowledged by
 12 him in his official capacity; and all deeds and conveyances hereafter
 13 made and executed on account of any general or special tax sale shall
 14 be of the same force and effect as deeds made by the county treasurer
 15 as provided in section forty-six hundred ninety-six for delinquent
 16 county taxes; and the purchaser as well as the owner of any real
 17 property sold on account of such general or special delinquent taxes
 18 or assessments shall be entitled to all the rights and remedies which
 19 are granted and prescribed by sections forty-six hundred ninety-seven
 20 to forty-seven hundred one, inclusive, forty-six hundred eighty-five and
 21 forty-six hundred eighty-six, but that wherever the words "county and
 22 county treasurer and auditor" are used, the words "city, city treasurer,
 23 city clerk, recorder, auditor, or collector or officer authorized to act as
 24 collector," shall be substituted.

[C., '97, § 1019.]

SEC. 4439. Questioning deed—refund.

1 Sections forty-six hundred eighty-three, forty-six hundred ninety-
 2 eight, forty-six hundred ninety-nine and forty-seven hundred are
 3 hereby made applicable to cities acting under special charters except
 4 that, where the word "treasurer" is used, there shall be used the words
 5 "city collector or treasurer or deputy treasurer or deputy or officer
 6 authorized to collect city taxes." And where the word auditor is used,
 7 there shall be substituted the words, "city clerk or recorder."

[C., '97, § 1020; S., '13, § 1020.]

SEC. 4440. Bonds.

1 Sections forty hundred sixty to forty hundred sixty-six, inclu-
2 sive, and forty hundred sixty-nine are made applicable to cities acting
3 under special charters.

[C., '97, § 1021.]

SEC. 4441. Certificates and bonds for special assessments.

1 Any city may anticipate the collection of taxes authorized to be
2 levied for the grading fund, city improvement fund, district sewer
3 fund, and city sewer fund, and for that purpose may issue certificates
4 or bonds with interest coupons, to be respectively denominated city
5 grading certificates or bonds, city improvement certificates or bonds,
6 district sewer certificates or bonds of a particular sewer district, and
7 city sewer certificates or bonds; and all provisions of chapter thirty-
8 four, title thirteen, shall apply to such certificates or bonds and
9 coupons, with such changes only as are necessary to adapt them
10 thereto. And said bonds and interest thereon shall be secured by said
11 assessment and levy, and shall be payable out of the respective funds
12 hereinbefore named, pledged to the payment of the same, and no bonds
13 shall be issued in excess of taxes authorized and levied or to be levied
14 to secure the payment of the same. It shall be the duty of the col-
15 lector or treasurer to collect said several funds, with interest thereon,
16 and to hold the same separate and apart, in trust, for the payment of
17 said bonds and interest, and to apply the proceeds of said funds
18 pledged for that purpose to the payment of said bonds and interest.

[C., '97, § 1022.]

SEC. 4442. Limitation of action questioning legality of bonds.

1 No action shall be brought questioning the legality of any of the
2 bonds or certificates authorized by the preceding section, or section
3 forty hundred sixty before mentioned, or of any waterworks bonds,
4 gasworks bonds, or electric light or power plant bonds, or any other
5 bonds or certificates authorized by this chapter, from and after three
6 months from the time the same are ordered issued by the proper
7 authority.

[C., '97, § 1023.]

SEC. 4443. Plats.

1 Chapter thirty-five of this title, so far as applicable, is made
2 applicable to cities acting under special charters, except that in section
3 forty hundred seventy-one thereof the word "treasurer" shall be held
4 to mean "city collector or city treasurer."

[C., '97, § 1024.]

SEC. 4444. Authority to change name of street.

1 Section forty hundred seventy-four is applicable to cities acting
2 under special charters.

[S., '13, § 917-a.]

SEC. 4445. Board of health.

1 There shall be appointed in every such city a local board of health
2 consisting of five members, a majority of whom, including the mayor,
3 shall be members of the city council. The mayor of the city shall be

4 ex officio one of said members and the chairman thereof. The manner
5 of appointment and duration of office of said board shall be determined
6 by ordinance of said city.

[C., '97, § 1025.]

SEC. 4446. Officers appointed—quorum.

1 The board of health shall appoint a physician to the board, who
2 shall hold office during the pleasure of the board. The city clerk or
3 recorder shall be clerk of the board, unless some other clerk may be
4 provided by ordinance. The board of health shall appoint, with the
5 consent of the council, all officers and agents necessary to carry their
6 rules and orders into effect, and shall recommend the compensation
7 or salaries to be paid such officers or agents, which shall be determined
8 by the council. In cases of emergency, the board of health may
9 employ persons to aid in the execution of its orders, and fix the com-
10 pensation of such employees. The majority of the members of the
11 board shall constitute a quorum for the transaction of all business and
12 the exercise of powers conferred upon the board.

[C., '97, § 1026.]

SEC. 4447. Physician and clerk.

1 It shall be the duty of such clerk and physician to report at least
2 once a year to the state board of health the proceedings of such
3 board, and such other facts as may be required on blanks in accord-
4 ance with instructions received from the state board. They shall also
5 make special reports whenever required so to do by the state board.

[C., '97, § 1027.]

SEC. 4448. General powers.

1 The local board of health shall make such rules and regulations
2 and orders respecting the connection of buildings and tenements with
3 sewers, and the approval of plans for plumbing and the inspection
4 thereof; and the inspection of milk, provisions, and of all food products
5 sold within such city, and the condemnation and destruction of the
6 same when impure or diseased; the collection and disposition of gar-
7 bage; the condemnation of impure wells and cisterns; the prompt
8 report of contagious or infectious diseases; nuisances, sources of filth
9 and cases of sickness within their jurisdiction, and on all boats in its
10 ports and harbors, or railroad cars passing through such city; and for
11 the prevention of nuisances and the preservation of the public health,
12 as said board may judge necessary for the public health and safety;
13 and shall, from time to time, report to the city council ordinances for
14 carrying such rules, regulations and provisions into effect, and for
15 the appointment of the proper inspectors and officers necessary to
16 enforce the same.

[C., '97, § 1028.]

SEC. 4449. Violation of regulations.

1 Such cities shall have power and may provide by ordinance for
2 the punishment by fine and imprisonment of any person who shall
3 knowingly violate or fail to comply with any rule, regulation or order
4 of such local board of health, but the fine shall not exceed one hun-
5 dred dollars, or the imprisonment thirty days. The prosecution for
6 the violation of any rule, regulation or order of such board of health

7 shall be in the name of the city appointing such board, and shall be
8 conducted in the same manner and before the same tribunals as other
9 prosecutions for the violation of ordinances of such city.

[C., '97, § 1029.]

SEC. 4450. Sewer connections.

1 The board of health shall have power to compel all property own-
2 ers owning property situated on streets along which sewers have been
3 constructed, or within two hundred fifty feet of any sewer, to
4 make proper connections therewith, and to use the same for proper
5 purposes; and in case such owner shall fail to make such connections
6 within the time fixed by such board, they may cause such connections
7 to be made, and report the cost and expense thereof to the city council,
8 which shall assess the same against the property so connected, and
9 such assessment shall be a lien on said property which the city council
10 can enforce by the sale of same.

[C., '97, § 1030.]

SEC. 4451. Plumbing.

1 Such board shall have power to prescribe rules and regulations
2 for all plumbing connections of buildings or tenements with any sewer,
3 and for all plumbing, drainage and ventilation of any building or tene-
4 ment, and may prescribe the kind and size of materials to be used in
5 any plumbing, drainage and ventilation of buildings, and the manner
6 in which plumbing shall be done, and compel the plans and specifica-
7 tions for the plumbing of any building to be submitted to and approved
8 by said board before the same is installed, and that such work be done
9 by a competent, licensed plumber, and provide for the inspection of
10 the work done under such plans and specifications, and have the power
11 to appoint, with the approval of the city council, an inspector of such
12 plumbing, and define his duties and powers.

[C., '97, § 1031.]

SEC. 4452. Nuisances.

1 Such board may order the owner or occupant of any property,
2 place or building at his own expense to remove or abate any nuisance,
3 source of filth or cause of sickness, to dispose of garbage, to destroy
4 diseased or impure milk, provisions or food products, to purify, fill up,
5 or cease from using any impure well or cistern, to report to the proper
6 officer all contagious or infectious diseases found on his property, or
7 property over which he has control, to make sewer connection, and do
8 such acts as may be required. The board may in its discretion specify
9 in its notice the time and manner of compliance with such order, and
10 if such person neglect to comply with such order he may be punished in
11 accordance with the provisions hereof, and the board may do or cause
12 to be done whatever is required by the order.

[C., '97, § 1032.]

SEC. 4453. Abatement.

1 Whenever the owner, occupant or person having the control or
2 management of such property shall not be found in the city, or when-
3 ever the board may deem immediate action necessary, it may, without
4 notice to such owner or occupant or person having the control or man-
5 agement of the same, immediately proceed to remove said nuisance,

6 source of filth, or other cause of sickness, and the expense thereof shall
7 be reported to the council and levied and assessed against the prop-
8 erty, place or building, and collected as a special tax, and shall be a
9 lien upon such property, place and building, or the same may be
10 enforced in any court having jurisdiction, by the proper officer, in
11 the name of the city.

[C., '97, § 1033.]

SEC. 4454. Enjoining.

1 Whenever any person or persons are engaged in a work, or doing
2 things, or threatening to do things, which, in the opinion of the board,
3 will result in a nuisance or endanger the public health, the board may
4 forbid the doing or continuance thereof, and in case any such person
5 shall fail to comply with any such order, after personal service of a
6 notice thereof, he may be proceeded against and punished under the
7 provisions hereof.

[C., '97, § 1034.]

SEC. 4455. Health regulations—how adopted.

1 Whenever any such board shall make or adopt any general rules
2 and regulations for the public health, they shall be signed by the
3 mayor or other presiding officer, and attested by the clerk, of such
4 board, and, when so signed and attested, shall be published twice in
5 the official newspaper of such city. When such publication is com-
6 pleted, due proof thereof by affidavit shall be attached to said rules
7 and regulations, and the same shall then be recorded by the clerk of
8 such board in a book kept for such purpose, which record shall be
9 certified to by the mayor or presiding officer and attested by the clerk.
10 And such general rules and regulations shall be in force and effect
11 from and after the completion of such record.

[C., '97, § 1035.]

SEC. 4456. Notices.

1 Any notice from the board may be served by any city officer, or
2 by any other person whom the board of health may appoint or des-
3 ignate.

[C., '97, § 1036.]

SEC. 4457. Premises unfit for habitation.

1 The board, when satisfied upon due examination that any cellar,
2 room, tenement or building in said city, occupied as a dwelling house,
3 has become, by reason of the number of inhabitants or want of clean-
4 liness or other cause, unfit for such habitation, and a cause of nuisance
5 or sickness to the occupants thereof or to the public, may issue a notice
6 to the occupants thereof or any of them, requiring the premises to be
7 put into a proper condition as to cleanliness or health, or may require
8 the occupants to remove from the premises, within such time as the
9 board deems reasonable. If the persons so notified neglect or refuse
10 to comply with the terms of the notice, the board may cause the prem-
11 ises to be properly cleaned at the expense of the owners or property,
12 or the board may remove the occupants forcibly and close up the prem-
13 ises, and the same shall not again be occupied as a dwelling place until
14 put in a sanitary condition to the satisfaction of the board.

[C., '97, § 1037.]

SEC. 4458. Contagious diseases.

1 Whenever by reason of the prevalence of smallpox, or other con-
2 tagious or infectious disease, in any such city or the vicinity thereof,
3 the board may deem it dangerous to permit the congregation together
4 of people, the board may, with the consent of the council, by public
5 proclamation published once in some newspaper of general circulation
6 in the city, prohibit the congregation of people in schools, churches,
7 theaters, and in all other buildings in said city, and it shall thereupon
8 become the duty of the principals, teachers and other persons in
9 charge of such places or building specified in said publication to keep
10 the same closed; and to prevent the congregation of the people therein;
11 and when smallpox is prevalent in said city or its vicinity, the said
12 board of health may, with the consent of the council, by notice served
13 upon the teachers or persons in charge of any of the public or private
14 schools, prohibit the admission therein of any pupil until such pupil
15 shall have proved, to the satisfaction of the board or the persons
16 selected by it for that purpose, that such pupils have been vaccinated
17 within five years prior thereto, or within such time as the board may
18 designate; and said board may in like manner prevent the admission
19 of persons not furnishing satisfactory proof of vaccination into
20 churches, theaters or other buildings, by notifying the persons in
21 charge thereof not to admit such persons.

[C., '97, § 1038.]

SEC. 4459. Warrant.

1 Whenever the board of health shall think it necessary for the
2 preservation of the lives or the health of the inhabitants to enter a
3 place, building or vessel within its jurisdiction, for the purpose of
4 examining into and destroying, removing or preventing any nuisance,
5 source of filth, or cause of sickness, and shall be refused such entry,
6 any member of the board may make complaint, under oath, before any
7 justice of the peace, or other judicial officer having jurisdiction to
8 enforce the ordinance of such city, stating the facts of the case so far
9 as he has knowledge thereof. Such officer shall thereupon issue a
10 warrant, directed to the sheriff or any constable of the county, mar-
11 shal or public officer, commanding him to take sufficient aid and, being
12 accompanied by two or more members of said board, between the
13 hours of sunrise and sunset, repair to the place where such nuisance,
14 source of filth, or cause of sickness may be, and destroy, remove or
15 prevent the same under the direction of such members of the board.

[C., '97, § 1039.]

SEC. 4460. Removal of diseased person.

1 When any person coming from abroad or residing within such
2 city shall be infected, or lately shall have been infected, with smallpox
3 or other sickness dangerous to the public health, the board shall make
4 provisions in the manner by them deemed best for the safety of the
5 inhabitants, by removing such sick or infected person to a separate
6 house, if it can be done without injury to his health, and by providing
7 nurses and other assistance and supplies, which shall be charged to the
8 person himself, his parents, or other person liable for his support, if
9 able, otherwise to the county.

[C., '97, § 1040.]

SEC. 4461. Care of such person.

1 If any afflicted person can not be removed without danger to his
2 health, the board shall make provision for him, as directed in the pre-
3 ceding section, in the house in which he may be, and in such case they
4 may cause the persons in the neighborhood to be removed, and take
5 other means, as may be deemed necessary for the safety of the inhabi-
6 tants.

[C., '97, § 1041.]

SEC. 4462. Warrant.

1 Any justice of the peace, or tribunal having jurisdiction to enforce
2 the ordinance of such city, on application under oath, showing cause
3 therefor, by any member of said board, shall issue his warrant,
4 directed to the sheriff or constable of the county or marshal or police
5 officer, commanding him, under the directions of the board, to remove
6 any person infected with contagious disease, or to take possession of
7 condemned houses and lodgings, and to provide nurses and attendants
8 and other necessities for the care, safety and relief of the sick.

[C., '97, § 1042.]

SEC. 4463. Meetings—report.

1 Every such board shall meet for the transaction of business at
2 least once each month, and at such other times as occasion may
3 require, and the clerk of the board shall transmit his annual report to
4 the secretary of the state board within two weeks after the October
5 meeting, and at such other time as may be required by the state board.
6 Such report shall embrace a history of any epidemic disease which may
7 have prevailed within the city. The failure of the clerk to make such
8 report shall be considered a misdemeanor, for which he shall be sub-
9 ject to a fine of not more than twenty-five dollars.

[C., '97, § 1043.]

SEC. 4464. Powers of council—assessment of expenses.

1 The foregoing provisions in regard to boards of health shall not
2 in any manner limit the powers of cities acting under special charters
3 in relation to matters affecting the public health, and the city councils
4 of such cities shall provide by ordinance for the manner of the exercise
5 of the powers herein conferred upon such boards, and for the enforce-
6 ment of the orders, rules and regulations thereof, and punishment for
7 the violation of the same, as prescribed in this chapter, and shall also
8 have power to provide and shall provide for the assessment of all
9 expenses incurred by said board and by said cities, in consequence of
10 the failure or neglect of any owner or occupant of property to comply
11 with any order of such board, upon the real estate upon which such
12 expenditures are made or expenses incurred, and it shall be a lien
13 thereon from the time said work is done, and may be assessed, levied
14 and collected as other special assessments, and may be collected and
15 the lien enforced by civil action in any court of competent jurisdiction.

[C., '97, § 1044.]

SEC. 4465. Proceedings reported to council.

1 Boards of health shall report their doings and proceedings to the
2 council from time to time as required by ordinance or resolution, and

3 the council shall have supervision over the orders and proceedings of
4 said board.

[C., '97, § 1045.]

SEC. 4466. Special provisions not to limit general powers.

1 The provisions of this chapter in regard to the police powers,
2 sanitary regulations, and regulations for the prevention and spread of
3 fires and of contagious diseases, shall not be construed as a limitation
4 of the general powers of such cities.

[C., '97, § 1046.]

SEC. 4467. Pensions for disabled and retired firemen.

1 Chapter thirty-six of this title is applicable to cities acting under
2 special charters.

[S., '13, § 932-a.]

SEC. 4468. Pensions for disabled and retired policemen.

1 Chapter thirty-seven of this title is applicable to cities acting
2 under special charters.

[S., '13, § 932-j.]

SEC. 4469. Housing law.

1 Chapter thirty-eight of this title is applicable to cities acting
2 under special charters.

[38 G. A., ch. 123, § 1.]

SEC. 4470. Government of certain cities by commission.

1 Special charter cities having by the last state or national census a
2 population of two thousand or over may become organized as a city
3 under the provisions of chapter thirty-nine of this title by proceeding
4 as therein provided.

[S., '13, § 1056-a17.]

SEC. 4471. Government of cities by council and manager.

1 Any special charter city may become organized as a city under
2 the provisions of chapter forty of this title by proceeding as therein
3 provided.

[S. S., '15, § 1056-b; 37 G. A., ch. 68, § 1.]

SEC. 4472. Amendment of charter.

1 On the presentation of a petition signed by one-fourth of the elec-
2 tors, as shown by the vote at the next preceding city election, of any
3 city or town acting under a special charter or act of incorporation, to
4 the governing body thereof, asking that the question of the amend-
5 ment of such special charter or act of incorporation be submitted to
6 the electors of such city, such governing body shall immediately pro-
7 pose sections amendatory of said charter or act of incorporation, and
8 shall submit the same, as requested, at the first ensuing city or town
9 election. At least ten days before such election the mayor of such
10 city or town shall issue his proclamation setting forth the nature and
11 character of such amendment, and shall cause such proclamation to
12 be published in a newspaper published therein, or, if there be none, he
13 shall cause the same to be posted in five public places in such city.

14 On the day specified, the proposition to adopt the amendment shall
 15 be submitted to the electors thereof for adoption or rejection, in the
 16 manner provided by the general election laws.

[R., '60, § 1141; C., '73, § 548; C., '97, § 1047.]

SEC. 4473. Proclamation of result.

1 If a majority of the votes cast be in favor of adopting said amend-
 2 ment, the mayor shall issue his proclamation accordingly; and the
 3 amendment shall thereafter constitute a part of said charter.

[R., '60, § 1142; C., '73, § 549; C., '97, § 1048.]

SEC. 4474. Special election.

1 The legislative body of said city may submit any amendment to
 2 the vote of the people as aforesaid at any special election, provided
 3 one-half of the electors as aforesaid petition for that purpose, and the
 4 proceedings shall be the same as at the general election.

[R., '60, § 1143; C., '73, § 550; C., '97, § 1049.]

SEC. 4475. Notice of unliquidated claim—limitation of action.

1 No suit shall be brought against any such city for any unliqui-
 2 dated claim or demand unless within three months from the time the
 3 same became due or cause of action accrued thereon, nor unless a
 4 written, verified statement of the general nature, cause and amount
 5 of same is filed with the clerk or recorder thirty days before the com-
 6 mencement of such suit.

[C., '97, § 1050.]

SEC. 4476. Notice of claim for personal injury—limitation.

1 In all cases of personal injury or damage to property resulting
 2 from defective streets or sidewalks, or from any cause originating in
 3 the neglect or failure of any municipal corporation or its officers to
 4 perform their duties, no suit shall be brought against any such city
 5 after three months from the time of the injury or damage, and not
 6 then unless a written verified statement of the amount, nature and
 7 cause of such injury or damage, and the time when and the place
 8 where such injury occurred, and the particular defect or negligence
 9 of the city or its officers which it is claimed caused or contributed to
 10 the injury or damage, shall be presented to the council or filed with the
 11 clerk within thirty days after said alleged injury or damage was sus-
 12 tained.

[C., '97, § 1051.]

SEC. 4477. Building permits.

1 Such cities shall require plans and specifications for all buildings
 2 costing over two thousand dollars, and all buildings to be erected
 3 within the fire limits of such cities, to be submitted for approval, and
 4 no such building shall be erected until such plans be approved by
 5 the board of public works, chief of fire department or other proper
 6 officer of such city. Such city shall require any person, before erect-
 7 ing any building or improvement within the city, to submit plans and
 8 specifications for the plumbing, drainage and ventilation and electric
 9 wiring of such building, for approval, and provide for the inspection
 10 of the construction thereof, and obtaining a permit for such erection
 11 or construction, which shall not be issued until such plans and specifi-

12 cations have been approved by the board of health or electrician, and
 13 may make reasonable charges for such approval and inspection, as
 14 provided by ordinance, and the money derived therefrom shall be paid
 15 monthly to the treasurer or collector.

[C., '97, § 1052.]

SEC. 4478. Notice to person liable over.

1 In case any action is brought against any such city for damages
 2 for injury to person or property claimed to have been caused by or
 3 through the negligence of said city, the city may notify in writing
 4 any person or corporation, by or in consequence of whose negligence
 5 it is claimed by said city the injury occurred or was caused, of the
 6 pendency of said suit, the name of the plaintiff and where pending,
 7 and the general nature of the claim, and that the city claims that
 8 the person or corporation so notified is liable to said city for any
 9 judgment obtained against said city, and asking such person or cor-
 10 poration to appear and defend; thereupon any judgment obtained in
 11 such suit shall be conclusive in any action by the city against any per-
 12 son or corporation so notified as to the existence of the defect or other
 13 cause of the injury or damage, and as to the liability of the city to the
 14 plaintiff in the first named suit in consequence thereof, and as to the
 15 amount of the damage or injury occasioned thereby; and every such
 16 city is hereby empowered to maintain an action against the person or
 17 corporation so notified to recover the amount of any such judgment,
 18 together with all the expenses incurred by such city in such suit.

[C., '97, § 1053.]

SEC. 4479. Public grounds.

1 Any such cities situated on the Mississippi river, having within
 2 their limits public grounds heretofore set apart or dedicated for levee,
 3 warehouse or other public purposes, and in which the use of such
 4 ground for such purposes has ceased or been abandoned in whole or
 5 in part, may use or provide for the use of such grounds otherwise
 6 than for levee and warehouse purposes, as said council of such cities
 7 may determine are for the public interests, and upon such terms and
 8 conditions as may be fixed by said council.

[C., '97, § 1054.]

SEC. 4480. Repeal.

1 All general acts and parts of acts passed prior to the taking effect
 2 of this code, relating to cities acting under special charter, are hereby
 3 repealed, except so far as the same are contained in this chapter or
 4 referred to herein; but the charters of such cities, or any of the pro-
 5 visions of the same, are not hereby repealed, but shall continue in
 6 force and effect, except as changed or modified by the provisions of
 7 this chapter.

[C., '97, § 1055.]

SEC. 4481. Saving clause.

1 All officers elected or appointed in such cities prior to the taking
 2 effect of this code shall continue in office until after the expiration of
 3 their term of office, unless otherwise provided in this chapter, and all
 4 ordinances in force in such cities, not inconsistent with the provisions
 5 of this chapter, shall continue in force until repealed. When the term

6 of office of any elective officer shall expire after the first city election
7 after this code takes effect and before the next biennial city election,
8 the mayor, by and with the consent of the council, shall fill the office
9 by appointment until such election.

[C., '97, § 1056.]

TITLE XIV.

TAXATION.

CHAPTER 1.

PROPERTY EXEMPT AND TAXABLE.

SECTION 4482. Exemptions.

1 The following classes of property are not to be taxed:

2 1. The property of the United States and this state, including
3 university, agricultural college and school lands; the property of a
4 county, township, city, town or school district or militia company,
5 when devoted entirely to public use and not held for pecuniary profit;
6 municipal, school, and drainage bonds or certificates hereafter issued
7 by any municipality, school district, drainage district or county within
8 the state of Iowa; public grounds, including all places for the burial
9 of the dead, crematoriums, the land on which they are built and appur-
10 tenant thereto not exceeding one acre, so long as no dividends or
11 profits are derived therefrom; fire engines and all implements for ex-
12 tinguishing fires, with the grounds used exclusively for their buildings
13 and meetings of the fire companies; no deduction from the assessment
14 of the stock of any bank or trust company shall be permitted because
15 of such bank or trust company holding such bonds and certificates as
16 may be exempted above; provided, however, that in determining the
17 assessed value of bank stock, the amount of obligations issued by the
18 United States government since the declaration of war against Ger-
19 many, actually owned by a bank or trust company shall be deducted,
20 and any bank or trust company which since January first, nineteen
21 hundred nineteen, has been assessed on its shares of stock without so
22 deducting such United States government securities shall be entitled
23 to have its assessment on its shares reduced by the board of super-
24 visors of the county in which such bank is located, so as to deduct from
25 its total valuation such government securities; provided, however,
26 that no deduction shall be made unless the bank or trust company
27 claiming the same shall have been the owner in good faith and not
28 for the sole purpose of securing such deduction, of said securities for
29 a period of more than sixty days prior to December thirty-first of the
30 year preceding that for which the assessment is made.

31 2. All grounds and buildings used for public libraries, including
32 libraries owned and kept up by private individuals, associations or
33 corporations for public use and not for private profit, for cemetery
34 associations and societies, and for literary, scientific, charitable, be-
35 nevolent, agricultural and religious institutions, and societies devoted
36 solely to the appropriate objects of these institutions, not exceeding
37 one hundred sixty acres in extent, and not leased or otherwise used
38 with a view to pecuniary profit, but all deeds or leases by which such
39 property is held shall be filed for record before the property above
40 described shall be omitted from the assessment; the books, papers and
41 apparatus belonging to the above institutions, used solely for the pur-

42 poses above contemplated, and the like property of students in any
43 such institution used for their education; moneys and credits belong-
44 ing exclusively to such institutions, and devoted solely to sustaining
45 them, but not exceeding in amount or income the amount prescribed
46 by their charters or articles of incorporation; real estate to the extent
47 of not to exceed one hundred sixty acres in any civil township, owned
48 by any educational institution of this state as a part of its endowment
49 fund, shall not be taxed.

50 3. The farm produce of the person assessed, harvested by or for
51 him, and all wool shorn from his sheep, within one year previous to
52 the listing; all poultry, ten stands of bees, all swine and sheep under
53 six months of age; and all other domestic animals under one year of
54 age not hereinbefore exempt; obligations for rent not yet due, in the
55 hands of the original payees, private libraries, professional libraries
56 to the actual value of three hundred dollars; family pictures; house-
57 hold furniture to the actual value of three hundred dollars and kitchen
58 furniture; beds and bedding requisite for each family; all wearing
59 apparel in actual use; and all food provided for the family; but the
60 exemptions allowed in this subdivision shall not be held to apply to
61 hotels and boarding houses except so far as said exempted classes of
62 property shall be for the actual use of the family managing the same.

63 4. The polls or estates, or both, of persons who by reason of age
64 or infirmity may in the opinion of the assessor be unable to contribute
65 to the public revenue, such opinion and the fact on which it is based
66 being in all cases entered on the assessment roll, and subject to re-
67 versal by the board of review.

68 5. The farming utensils of any person who makes his livelihood
69 by farming, the team, wagon and harness of the teamster or drayman
70 who makes his living by their use in hauling for others, and the tools
71 of any mechanic, not in any case to exceed three hundred dollars in
72 actual value.

73 6. Government lands entered and located, or lands purchased
74 from this state, for the year in which the entry, location or purchase
75 is made.

76 7. The property, not to exceed seven hundred dollars in taxable
77 value, and poll tax, of any honorably discharged Union soldier or sailor
78 of the Mexican war or of the war of the rebellion or of the widow
79 remaining unmarried of such soldier or sailor and the property not
80 to exceed three hundred dollars in taxable value and poll tax, of any
81 honorably discharged soldier or sailor of the war with Spain, Chinese
82 relief expedition, or the Philippine insurrection or the widow of any
83 such soldier or sailor remaining unmarried. It shall be the duty of
84 every assessor annually to make a list of such soldiers, sailors and
85 widows, and to return such list to the county auditor upon forms to
86 be furnished by such auditor for that purpose; but the failure on the
87 part of any assessor so to do shall not affect the validity of any exemp-
88 tion. All soldiers, sailors, or widows thereof, referred to herein, shall
89 receive a reduction equal to their amount of exemption, the same to
90 be made from the homestead of such soldier or sailor or widow, if he
91 or she shall so own a homestead of the value of such exemption, other-
92 wise out of such property as shall be designated and owned by the
93 soldier, sailor or widow, such designation to be made either to the
94 assessor or by writing filed with the county auditor on or before July
95 first, each year.

96 The exemptions herein provided shall also extend to property of
97 the wife of any such soldier or sailor, where they are living together

98 and occupying the same as their homestead, and he has not otherwise
 99 received the benefits of this section; provided, however, that such
 100 exemption shall only extend to the period during which such soldier,
 101 sailor or marine or widow thereof or the wife or minor child of any
 102 such soldier, sailor or marine remains the owner of said property,
 103 and upon the sale thereof to any person other than those of the class
 104 included in this section, said exemption shall cease, and the property
 105 shall be subject to taxation as other property.

106 8. The accumulations and funds held or possessed by fraternal
 107 beneficiary associations for the purposes of paying the benefits con-
 108 templated by section fifty-five hundred fifty-two, or for the payment
 109 of the expenses of such association.

[C., '51, § 455; R., '60, § 711; C., '73, § 797; C., '97, § 1304;
 S. S., '15, § 1304; 37 G. A., ch. 191, § 1; 38 G. A., chs. 115,
 214, 257, 377.]

SEC. 4483. Claimant of soldier's exemption to file statement.

1 The beneficiary of the exemption allowed by subdivision seven
 2 of the preceding section shall file with the assessor a statement under
 3 oath that he is the owner of the real property on which such exemp-
 4 tion is claimed. Such statement shall be returned by the assessor to
 5 the county auditor, and, if no such statement be so filed, no exemp-
 6 tion shall be allowed by the assessor, but may be allowed by the board
 7 of supervisors if filed before September first of the year for which
 8 the same is claimed.

[S. S., '15, § 1304-1a.]

SEC. 4484. Owners of capital stock exempt.

1 The owner of the capital stock in any telegraph or telephone
 2 company operating any line or lines in this state shall not be assessed
 3 for taxation upon said capital stock.

[S., '13, § 1330-g.]

SEC. 4485. Stockholders.

1 The individual stockholders or owners of interests of freight line
 2 and equipment companies shall not be required to list their shares or
 3 interests in such companies so long as the companies pay the taxes on
 4 their property as hereinafter provided.

[S., '13, § 1342-g.]

SEC. 4486. Capital stock not taxed.

1 The owner of the capital stock in any company owning or operat-
 2 ing any transmission line or lines referred to in section forty-five
 3 hundred seventy-seven shall not be assessed for taxation upon such
 4 capital stock.

[S. S., '15, § 1346-s.]

SEC. 4487. Waterworks bonds and certificates exempt.

1 All bonds and certificates issued under sections thirty-nine hun-
 2 dred ninety-four to forty hundred ten, inclusive, shall be exempt from
 3 taxation as provided in section forty-four hundred eighty-two.

[38 G. A., ch. 288, § 17.]

SEC. 4488. What taxable—lands of other counties.

1 All other property, real or personal, is subject to taxation in the
 2 manner prescribed, and this section is also intended to embrace: Ferry
 3 franchises and toll bridges, which, for the purpose of this chapter are
 4 considered real property; horses, cattle, mules and asses over one
 5 year of age; sheep and swine over six months of age; money whether
 6 in possession or on deposit; and credits, including bank bills, gov-
 7 ernment currency, property or labor due from solvent debtors on con-
 8 tract or judgment, mortgages or other like securities, accounts bear-
 9 ing interest, property situated in this state belonging to any bank or
 10 company, incorporated or otherwise, whether incorporated in this or
 11 any other state; corporation shares or stocks not otherwise assessed
 12 or excepted; public or municipal bonds, stocks or loans, except as oth-
 13 erwise provided; household furniture, beds and bedding made use of
 14 in hotels and boarding houses and not hereinbefore exempted; gold
 15 and silver plate, watches, jewelry and musical instruments; every de-
 16 scription of vehicle, including bicycles, except as otherwise provided;
 17 threshing machines; boats and vessels of every description, wherever
 18 registered or licensed, and whether navigating the waters of the state
 19 or not, if owned either wholly or in part by inhabitants of this state,
 20 to the amount owned in this state. All lands in this state which are
 21 owned or held by any other county or counties claiming title under
 22 locations with swamp land indemnity scrip, or otherwise, shall be
 23 taxed the same as other real estate within the limits of the county.

[C., '51, § 456; R., '60, § 712; C., '73, § 801; C., '97, § 1308.]

SEC. 4489. Agricultural college lands.

1 In all cases where land belonging to any state institution has been
 2 leased and the leases renewed, containing an option of purchase, the
 3 interest of the lessees therein shall be subject to assessment and taxa-
 4 tion as real estate. The value of such interest shall be fixed by deduct-
 5 ing from the value of the lands and improvements the amount re-
 6 quired by the lease to acquire the title thereto, which leasehold interest
 7 so assessed and taxed may be sold for delinquent taxes, and deeds is-
 8 sued thereunder as in other cases of tax sales, and the same rights
 9 shall accrue to the grantee therein as were held and owned by the
 10 tenant.

[C., '97, § 1351.]

CHAPTER 2.
LISTING IN GENERAL.**SECTION 4490. Listing—by whom.**

1 Every inhabitant of this state, of full age and sound mind, shall
 2 list for the assessor all property subject to taxation in the state, of
 3 which he is the owner, or has the control or management, in the man-
 4 ner herein directed: The property of one under disability, by the
 5 person having charge thereof; that of a married woman, by herself
 6 or husband; that of a beneficiary for whom the property is held in
 7 trust, by the trustee, and the personal property of a decedent by the
 8 executor or administrator, or if there is none, by any person interested

9 therein; that of a body corporate, company, society or partnership, by
 10 its principal accountant, officer, agent or partner, as the assessor may
 11 demand. Property under mortgage or lease is to be listed by and
 12 taxed to the mortgagor or lessor, unless listed by the mortgagee or
 13 lessee. In listing moneys and credits as provided in chapter three
 14 of this title, any administrator, executor, trustee or agent shall be
 15 entitled to deductions, as prescribed in section forty-five hundred five,
 16 of debts owing by the legatee, devisee, beneficiary or principal to the
 17 same extent as such fund might be reduced if it were held by such
 18 legatee, devisee, beneficiary or principal who may be entitled to the
 19 income on such trust or fiduciary fund.

[C., '51, § 458; R., '60, § 714; C., '73, § 803; C., '97, § 1312;
 S., '13, § 1312.]

SEC. 4491. Listing property of another.

1 Any person required to list property belonging to another shall
 2 list it in the same county in which he would be required to list it if it
 3 were his own, except as herein otherwise directed; but he shall list it
 4 separately from his own, giving the assessor the name of the person
 5 or estate to which it belongs.

[C., '51, § 461; R., '60, § 716; C., '73, § 805; C., '97, § 1316.]

SEC. 4492. Agent personally liable.

1 Any person acting as the agent of another, and having in his
 2 possession or under his control or management any money, notes and
 3 credits, or personal property belonging to such other person, with a
 4 view to investing or loaning or in any other manner using or holding
 5 the same for pecuniary profit, for himself or the owner, shall be re-
 6 quired to list the same at the real value, and such agent shall be per-
 7 sonally liable for the tax on the same; and if he refuse to render the
 8 list or to swear to the same, the amount of such money, property,
 9 notes or credits may be listed and valued according to the best knowl-
 10 edge and judgment of the assessor.

[R., '60, § 725; C., '73, § 817; C., '97, § 1320.]

SEC. 4493. Personal property—real estate—buildings.

1 Property shall be taxed each year, and personal property shall be
 2 listed and assessed each year in the name of the owner thereof on the
 3 first day of January. Real estate shall be listed and valued in each
 4 odd-numbered year, and in each year in which real estate is not regu-
 5 larly assessed the assessor shall list and assess any real property not
 6 included in the previous assessment, and also any buildings erected
 7 since the previous assessment, with a minute of the tract or lot of
 8 land whereon the same are situated, and the auditor shall thereupon
 9 enter the taxable value of such buildings on the tax list as a part of
 10 the real estate to be taxed; but if such buildings are erected by an-
 11 other than the owner of the real estate, they shall be listed and as-
 12 sessed to the owner as personal property.

[C., '51, §§ 460, 465; R., '60, §§ 719, 720; C., '73, § 812; C.,
 '97, § 1350.]

SEC. 4494. Unknown or deceased owners.

1 When the name of the owner of any real estate is unknown, it
 2 shall be assessed without connecting therewith any name, but inscrib-

3 ing at the head of the page the words "owners unknown," and such
 4 property, whether lands or town lots, shall be listed as nearly as prac-
 5 ticable in the order of the numbers thereof. No one description shall
 6 comprise more than one town lot, or more than the sixteenth part of
 7 a section or other smallest subdivision of the land according to the
 8 government surveys, except in cases where the boundaries are so ir-
 9 regular that it can not be described in the usual manner in accordance
 10 therewith. The real estate of persons deceased may be listed as be-
 11 longing to his estate or his heirs, without enumerating them.

[C., '51, § 461; R., '60, §§ 716, 737; C., '73, §§ 805, 826; C.,
 '97, § 1353.]

SEC. 4495. Place of listing.

1 Moneys and credits, notes, bills, bonds, and corporate shares or
 2 stocks not otherwise assessed, shall be listed and assessed where the
 3 owner lives, except as otherwise provided, and except that, if personal
 4 property not consisting of moneys, credits, corporation or other shares
 5 of stock, or bonds, has been kept in another assessment district dur-
 6 ing the greater part of the year preceding the first of January, or of
 7 the portion of that period during which it was owned by the person
 8 subject to taxation therefor, it shall be taxed where it has been so kept.

[C., '97, § 1313.]

SEC. 4496. Who deemed owners—commission merchants.

1 Commission merchants, and all persons trading and dealing on
 2 commission, and assignees authorized to sell, and persons having in
 3 their possession property belonging to another subject to taxation in
 4 the assessment district where said property is found, when the owner
 5 of the goods does not reside in the county, are, for the purpose of taxa-
 6 tion, to be deemed the owners of the property in their possession.

[C., '51, § 459; R., '60, § 715; C., '73, § 804; C., '97, § 1314.]

SEC. 4497. Grain, ice and coal dealers.

1 Each grain, ice or coal dealer shall be assessed upon the average
 2 amount of capital used by him in conducting his business. In estimat-
 3 ing the amount of capital so used, there shall be taken into considera-
 4 tion the increase and decrease of the value of grain held in store, and
 5 upon the value of his warehouses, ice houses, granaries or cribs situ-
 6 ated upon lands leased from railway companies or other persons, and
 7 upon the value, if any, of such leasehold interest.

[C., '97, § 1315.]

SEC. 4498. Business in different districts—partners.

1 When a person, firm or corporation is doing business in more
 2 than one assessment district, the property and credits existing in any
 3 one of such districts, or arising from business done in such district,
 4 shall be listed and taxed in that district, and the credits not existing
 5 in or pertaining especially to the business in any district shall be
 6 listed and taxed in that district where the principal place of business
 7 may be. The personalty, moneys and credits connected with or grow-
 8 ing out of all business transacted directly or indirectly by or through
 9 the servants, employees or agents of any person, firm or corporation
 10 engaged in the banking business, having an office or agency in more
 11 than one assessment district for the transaction of business, shall be

12 taxable as provided in chapter four of this title for the taxing of pri-
13 vate banks and bankers, in the assessment district where said branch
14 business is done. An assessment made in such district shall be con-
15 sidered and proper deduction made in determining the taxable prop-
16 erty of such person or firm, or shares of stock of such corporation, at
17 its principal place of business. The stipulation for the payment of
18 obligations growing out of the business of such agency, in another
19 district than the place where such agency is located, shall not deter-
20 mine where the property or credits of such parties shall be taxed.
21 Any individual of a partnership is liable for the taxes due from the
22 firm.

[C., '51, § 463; R., '60, § 717; C., '73, § 806; C., '97, § 1317.]

SEC. 4499. Merchants.

1 Any person, firm or corporation owning, or having in his posses-
2 sion, or under his control within the state, with authority to sell the
3 same, any personal property purchased with a view of its being sold,
4 or which has been consigned to him from any place out of this state
5 to be sold within the same, or to be delivered or shipped by him within
6 or without this state, shall be held to be a merchant for the purposes
7 of this title. In assessing such stocks of merchandise, the assessor
8 shall require the production of the last inventory taken, and in the
9 assessment roll shall state the date thereof, and if in the judgment of
10 the assessor such is not correct, or if such time has elapsed since the
11 inventory was taken that it shall have ceased to be reliable as to the
12 value thereof, he shall appraise the same by personal examination.
13 The assessment shall be made at the average value of the stock during
14 the year next preceding the time of assessment, and, if the merchant
15 has not been engaged in business so long, then the average value dur-
16 ing such time as he shall have been so engaged, and, if commencing,
17 then the value at the time for assessment, and the provisions of this
18 section shall apply and constitute the method of taxation of a corpora-
19 tion whose business or principal business is of a like character, and
20 shall be in lieu of any tax on the corporate shares.

[C., '51, § 468; R., '60, § 723; C., '73, § 815; C., '97, § 1318.]

SEC. 4500. Manufacturers.

1 Any person, firm or corporation who purchases, receives or holds
2 personal property of any description for the purpose of adding to the
3 value thereof by any process of manufacturing, packing of meats, re-
4 fining, purifying, or by the combination of different materials, with a
5 view to making gain or profit by so doing, and selling the same, shall
6 be held a manufacturer for the purposes of this title, and he shall list
7 for taxation such property in his hands; but the average value thereof
8 to be ascertained as in the preceding section, whether manufactured
9 or unmanufactured, shall be estimated upon those materials only which
10 enter into its combination or manufacture. Machinery used in manu-
11 facturing establishments shall, for the purpose of taxation, be re-
12 garded as real estate. Corporations organized under the laws of this
13 state for pecuniary profit, and engaged in manufacturing as defined
14 by this section, and which have their capital represented by shares of
15 stock, shall, through their principal accounting officers, list their real
16 estate, personal property and moneys and credits in the same manner
17 as is required of individuals. The owners of capital stock of manu-
18 facturing companies, as herein provided for, having listed their prop-

19 erty as above directed, shall be exempt from assessment and taxation
20 on such shares of capital stock.

[C., '51, § 469; R., '60, § 724; C., '73, § 816; C., '97, § 1319.]

**SEC. 4501. Water and gas works—electric plants—street rail-
ways.**

1 The lands, buildings, machinery and mains belonging to individ-
2 uals or corporations operating waterworks or gasworks; the lands,
3 buildings, machinery, tracks, poles and wires belonging to individuals
4 or corporations furnishing electric light or power; the lands, build-
5 ings, machinery, poles, wires, overhead construction, tracks, cables,
6 conduits and fixtures belonging to individuals or corporations operat-
7 ing railways by cable or electricity, or operating elevated street rail-
8 ways; and the lands, buildings, tracks and fixtures of street railways
9 operated by animal power, shall be listed and assessed in the assess-
10 ment district where the same are situated. But where any such prop-
11 erty except the capital stock is situated partly within and partly with-
12 out the limits of a city or town, such portions of the said plant shall
13 be assessed separately, and the portion within the said city or town
14 shall be assessed as provided in section forty-five hundred fifty-one,
15 and the portion without the said city or town shall be assessed in the
16 district or districts in which it is located. All the personal property
17 of such individuals and corporations used or purchased by them for
18 the purposes of such gas or water works, electric light plants, electric
19 or cable railways, elevated street railways or street railways operated
20 by animal power, including the rolling stock of such railways and
21 street railways, and the animals belonging to such street railways
22 operated by animal power, shall be listed and assessed in the assess-
23 ment district where usually housed or kept. The actual value of the
24 capital stock over and above that of the above listed property shall be
25 listed and assessed as prescribed in section forty-five hundred thirteen.

[C., '97, § 1343.]

SEC. 4502. Real estate of corporations.

1 All real estate owned by corporations, returned in their state-
2 ments as part of their assets for purposes of taxation, shall be valued
3 therein for such assessment as other real estate, except as otherwise
4 provided, and shall not be otherwise assessed.

[C., '97, § 1327.]

CHAPTER 3.

MONEYS AND CREDITS.

SECTION 4503. Credits defined.

1 The term credit, as used in this chapter, includes every claim or
2 demand due or to become due for money, labor or other valuable thing,
3 every annuity or sum of money receivable at stated periods, and all
4 money or property of any kind secured by deed, title bond, mortgage
5 or otherwise; but pensions of the United States or any of them, or
6 salaries, or payments expected for services to be rendered, are not in-
7 cluded in the above term.

[C., '51, § 457; R., '60, § 713; C., '73, § 802; C., '97, § 1309.]

SEC. 4504. Moneys—credits—annuities—bank notes—stock.

1 Moneys, credits and corporation shares or stocks, except as other-
 2 wise provided, cash, circulating notes of national banking associa-
 3 tions, and United States legal tender notes, and other notes, and cer-
 4 tificates of the United States payable on demand, and circulating or
 5 intended to circulate as currency, notes, including those secured by
 6 mortgage, accounts, contracts for cash or labor, bills of exchange,
 7 judgments, choses in action, liens of any kind, securities, debentures,
 8 bonds other than those of the United States, annuities, and corpora-
 9 tion shares or stocks not otherwise taxed in kind, shall be assessed,
 10 and, excepting shares of stock of national, state and savings banks
 11 and loan and trust companies, and moneyed capital as hereinafter
 12 defined, shall be taxed upon the uniform basis throughout the state of
 13 five mills on the dollar of actual valuation, same to be assessed and
 14 collected where the owner resides. The millage tax here provided for
 15 shall be in lieu of all other taxes upon moneys and credits and shall
 16 be levied by the board of supervisors, placed upon the tax list and col-
 17 lected by the county treasurer, and the amount collected in the vari-
 18 ous taxing districts of the state shall be divided between the various
 19 funds upon the same pro rata basis as other taxes collected in such
 20 taxing district are apportioned. All moneyed capital within the mean-
 21 ing of section fifty-two hundred nineteen of the revised statutes of the
 22 United States shall be listed and assessed against the owner thereof
 23 at his place of business, and if a corporation at its principal place of
 24 business, at the same rate as state, savings, national bank and loan
 25 and trust company stock is taxed, in the same taxing district, and at
 26 the actual value of the moneyed capital so invested. The person or
 27 corporation using moneyed capital in competition with bank capital
 28 shall furnish the assessor upon demand a full and complete itemized
 29 sworn statement showing the amount of moneyed capital so used.

[C., '51, § 466; R., '60, § 721; C., '73, § 813; C., '97, § 1310;
 S., '13, § 1310.]

SEC. 4505. Deducting debts.

1 In making up the amount of money or credits which any person
 2 is required to list, or to have listed or assessed, including actual value
 3 of any building and loan shares, he will be entitled to deduct from the
 4 actual value thereof the gross amount of all debts in good faith owing
 5 by him, but no acknowledgment of indebtedness not founded on actual
 6 consideration, and no such acknowledgment made for the purpose of
 7 being so deducted, shall be considered a debt within the intent of this
 8 section, and so much only of any liability of such person as security
 9 for another shall be deducted as he believes he will be compelled to
 10 pay on account of the inability of the principal debtor, and if there are
 11 other sureties able to contribute, then so much only as he in whose
 12 name the list is made will be bound to contribute; but no person will
 13 be entitled to any deduction on account of any deposit or security note
 14 given in aid of the organization of a mutual insurance company for
 15 the premiums of insurance, nor on account of any unpaid subscrip-
 16 tion to any institution, society, corporation or company; and no per-
 17 son shall be entitled to any deduction on account of any indebtedness
 18 contracted for the purchase of United States bonds or other nontax-
 19 able property; provided, however, that no deduction for debts shall
 20 be allowed from the shares of stock of any state, savings or national
 21 bank or loan and trust company, nor from moneyed capital used in

22 competition with banks, within the meaning of section fifty-two hun-
23 dred nineteen, of the revised statutes of the United States.

[C., '51, § 467; R., '60, § 722; C., '73, § 814; C., '97, § 1311;
S., '13, § 1311.]

SEC. 4506. Loans—loan corporations—requirements.

1 Any domestic corporation engaged in the business of loaning
2 money to deserving persons whose business or circumstances are such
3 as to make it desirable or convenient for them to accumulate funds
4 with which to repay such loans by paying into a fund comparatively
5 small amounts at frequent regular intervals, which fund may be held
6 by such corporation as collateral security for the payment of such
7 loans, may take advantage of the provisions of this and the two fol-
8 lowing sections on or before January fifteenth of each year by filing
9 with the auditor of state, of the state of Iowa, a verified report and
10 statement of its financial condition, and showing the following items:

11 *a* Its total capital stock paid in.

12 *b* Its net surplus and undivided profits.

13 *c* The total amount of loans outstanding.

14 *d* The highest rate of interest charged and collected on loans
15 made by it.

16 *e* Whether its loans have been made to deserving persons whose
17 business or circumstances are such as to make it desirable or con-
18 venient for them to accumulate funds with which to repay such loans
19 by paying into a fund comparatively small amounts at frequent regu-
20 lar intervals.

21 *f* Such further information in detail as the auditor of state shall
22 from time to time require.

[38 G. A., ch. 151, § 1.]

SEC. 4507. Examination of books—expense.

1 The auditor of state may in his discretion examine the books,
2 records, business and methods of doing business of such corporation
3 once each year, and the annual expense of said examination shall not
4 exceed twenty-five dollars, which shall be paid by the corporation.

[38 G. A., ch. 151, § 2.]

SEC. 4508. Report—certificate—taxation.

1 If the auditor of state finds from such report or said examination,
2 or both, that such corporation has honestly and in good faith so con-
3 ducted its business as to aid deserving persons in the manner provided
4 in section forty-five hundred six, and that the corporation has not
5 collected a usurious rate of interest from the borrower on his loan;
6 then the auditor of state shall issue to said corporation a certificate
7 to that effect which shall entitle the corporation to be assessed on the
8 net actual value of its moneys and credits at the rate of five mills on
9 the dollar, which taxation shall be in lieu of all other taxes on the
10 stock of said corporation and on its moneys and credits.

[38 G. A., ch. 151, § 3.]

CHAPTER 4.

BANKS.

SECTION 4509. Private bankers.

1 Private banks or bankers, or any persons other than corporations
 2 hereinafter specified, a part of whose business is the receiving of de-
 3 posits subject to check, on certificates, receipts, or otherwise, or the
 4 selling of exchange, shall prepare and furnish to the assessor a sworn
 5 statement, showing the assets, aside from real estate, and liabilities
 6 of such bank or banker on January first of the current year, as fol-
 7 lows:

8 1. The amount of moneys, specifying separately the amount of
 9 moneys on hand or in transit, the funds in the hands of other banks,
 10 bankers, brokers or other persons or corporations, and the amount of
 11 checks or other cash items not included in either of the preceding
 12 items.

13 2. The actual value of credits, consisting of bills receivable owned
 14 by them, and other credits due or to become due.

15 3. The amount of all deposits made with them by others, and also
 16 the amount of bills payable.

17 4. The actual value of bonds and stocks of every kind and shares
 18 of capital stock or joint stock of other corporations or companies held
 19 as an investment, or in any way representing assets, and the specific
 20 kinds and description thereof exempt from taxation.

21 5. All other property pertaining to said business, including real
 22 estate, which shall be specially listed and valued by the usual descrip-
 23 tion thereof; the aggregate actual value of moneys and credits, after
 24 deducting therefrom the amount of deposits, and the aggregate actual
 25 value of bonds and stocks, after deducting the portion thereof other-
 26 wise taxed in this state, and also the other property pertaining to the
 27 business, shall be assessed as provided by section forty-five hundred
 28 eighty-four, not including real estate, which shall be listed and as-
 29 sessed as other real estate.

[C., '51, §§ 460, 465; R., '60, §§ 719, 720; C., '73, § 812;
 C., '97, § 1321; S., '13, § 1321.]

SEC. 4510. National, state and savings banks—refusal to comply with statute—penalty.

1 Shares of stock of national banks and state and savings banks,
 2 and loan and trust companies, located in this state, shall be assessed
 3 to the individual stockholders at the place where the bank or loan and
 4 trust company is located. At the time the assessment is made the
 5 officers of national banks and state and savings banks and loan and
 6 trust companies shall furnish the assessor with lists of all the stock-
 7 holders and the number of shares owned by each, and the assessor
 8 shall list to each stockholder under the head of corporation stock the
 9 total value of such shares. To aid the assessor in fixing the value of
 10 such shares, the said corporation shall furnish him a verified state-
 11 ment of all the matter provided in section forty-five hundred nine,
 12 which shall also show separately the amount of the capital stock and
 13 the surplus and undivided earnings, and the assessor from such state-
 14 ment shall fix the value of such stock based upon the capital, surplus,
 15 and undivided earnings. In arriving at the total value of the shares
 16 of stock of such corporations, the amount of their capital actually in-

17 vested in real estate owned by them and in the shares of stock of cor-
 18 porations owning only the real estate (inclusive of leasehold interests,
 19 if any,) on or in which the bank or trust company is located, shall be
 20 deducted from the real value of such shares, and such real estate
 21 shall be assessed as other real estate, and the property of such cor-
 22 poration shall not be otherwise assessed. A refusal to furnish the
 23 assessor with the list of stockholders and the information required
 24 under this section shall be deemed a misdemeanor and any bank or
 25 officer thereof so refusing shall be punished by a fine not exceeding
 26 five hundred dollars.

[C., '51, §§ 460, 465; R., '60, §§ 719, 720; C., '73, §§ 812,
 818-820; C., '97, § 1322; S., '13, § 1322.]

SEC. 4511. Bank stocks—moneyed capital—taxable value.

1 For the purpose of placing the taxation of bank and loan and
 2 trust company stock and moneyed capital as nearly as possible upon
 3 a taxable value relatively equal to the taxable value at which other
 4 property is now actually assessed throughout the state as compared
 5 with the actual value thereof, it is hereby provided that state, sav-
 6 ings and national bank stock and loan and trust company stock and
 7 moneyed capital shall be assessed and taxed upon the taxable value of
 8 twenty per cent of the actual value thereof, determined as herein
 9 provided, which twenty per cent of the actual value shall be taken and
 10 considered as the taxable value and shall be taxed as other property in
 11 such taxing district.

[S., '13, § 1322-1a.]

SEC. 4512. In special charter cities.

1 The provisions of sections forty-five hundred four, forty-five hun-
 2 dred five, forty-five hundred nine, forty-five hundred ten and forty-
 3 five hundred eleven, so far as applicable, shall apply to cities acting
 4 under special charters and in such cities stocks and moneyed capital
 5 referred to in section forty-five hundred eleven shall be assessed at
 6 the taxable value of eighty per cent of that applied to other property.
 7 If the taxable value of such other property is fixed at any portion
 8 thereof except twenty-five per cent of the actual value thereof, as
 9 shown by the assessment, the city council, when the levy for all city
 10 purposes has been determined, shall ascertain the equivalent thereof
 11 based upon such twenty-five per cent valuation and shall certify the
 12 aggregate of the levy so ascertained to the county treasurer of the
 13 county in which such city is located. When the millage tax provided
 14 in section forty-five hundred four is collected the county treasurer
 15 shall pay to the treasurer of such city such portion of said millage
 16 tax collected as the aggregate levy so certified is of the total levy ob-
 17 tained by adding such certified levy to the levy for all purposes ex-
 18 cept city purposes, and such city shall not be permitted to impose
 19 taxes upon the property referred to in section forty-five hundred four.

[S., '13, § 1322-3a.]

CHAPTER 5.

CORPORATION STOCK.

SECTION 4513. Shares of corporation stock.

1 The shares of stock of any corporation organized under the laws
 2 of this state, except those which are not organized for pecuniary
 3 profit, and except corporations otherwise provided for in chapters
 4 two to twelve, inclusive, of this title, shall be assessed to the owners
 5 thereof, at the place where its principal business is transacted, the
 6 assessment to be on the value of such shares on the first day of January
 7 in each year; but in arriving at the total value of the shares of stock
 8 of such corporations, the amount of their capital actually invested in
 9 real estate owned by them, either in this state or elsewhere, shall be
 10 deducted from the real value of such shares, and such real estate shall
 11 be assessed as other real estate, and the property of such corporation,
 12 except real estate situated within the state, shall not be otherwise as-
 13 sessed. Every such corporation annually, on or before the twenty-
 14 fifth day of January, shall furnish to the assessor of the assessment
 15 district in which its principal place of business is located a verified
 16 statement, showing specifically, with reference to the year next pre-
 17 ceding the first day of January then last past:

- 18 1. Total authorized capital stock and number of shares thereof.
- 19 2. Number of shares of stock issued and par value of each.
- 20 3. Amount paid into the treasury on each share and the total
- 21 capital paid in.
- 22 4. Description and value of each tract of real estate owned by said
- 23 corporation.
- 24 5. Date, rate per cent and amount of each dividend declared, and
- 25 the amount of capital on which each such dividend was declared.
- 26 6. Gross and net earnings, respectively, during the year, and
- 27 amount of surplus.
- 28 7. Amount of profit added to sinking fund.
- 29 8. Highest price of sales of stock between the first and tenth days
- 30 of January of the current year.
- 31 9. Highest price of sales of stock during the preceding year, and
- 32 average price of such sales.

[C., '97, § 1323.]

SEC. 4514. Valuation of corporation stock.

1 If the assessor is not satisfied with the appraisalment and valua-
 2 tion furnished as provided in the preceding sections, he may make a
 3 valuation of the shares of stock based upon the facts contained in the
 4 statements above required, or upon any information within his pos-
 5 session, or that shall come to him, and shall, in either case, assess to
 6 the owners the stock at the valuation made by him. If the officers of
 7 any corporation refuse or neglect to make the statement required, the
 8 assessor shall make a valuation of the capital stock of the defaulting
 9 corporation from the best information obtainable. In deducting, un-
 10 der the provisions of this title, the value of real estate from the actual
 11 value of the properties, shares or capital stock of any person, firm,
 12 association or corporation, the actual value at which said real estate
 13 is valued by the assessor or other taxing officer or body where the
 14 same is assessed shall be the value thereof.

[C., '97, § 1324.]

SEC. 4515. Corporation liable.

1 The corporations described in the preceding sections of this chap-
 2 ter shall be liable for the payment of the taxes assessed to the stock-
 3 holders of such corporations, and such tax shall be payable by the cor-
 4 poration in the same manner and under the same penalties as in case of
 5 taxes due from an individual taxpayer, and may be collected in the
 6 same manner as other taxes, or by action in the name of the county.
 7 Such corporations may recover from each stockholder his proportion
 8 of the taxes so paid, and shall have a lien on his stock and unpaid divi-
 9 dends therefor. If the unpaid dividends are not sufficient to pay such
 10 tax, the corporation may enforce such lien on the stock by public sale
 11 of the same, to be made by the sheriff at the principal office of such cor-
 12 poration in this state, after giving the stockholders thirty days' no-
 13 tice of the amount of such tax and the time and place of sale, such
 14 notices to be by registered letter addressed to the stockholder at his
 15 postoffice address, as the same appears upon the books of the company,
 16 or is known by its secretary.

[C., '97, § 1325.]

SEC. 4516. Stock of building and loan associations—classification.

1 The shares of stock of mutual building and loan, or savings and
 2 loan associations, exclusively engaged in such business, shall be as-
 3 sessed and taxed to the individual holders thereof at their place of
 4 residence. When such association owns real estate, or maintains a
 5 reserve, expense or other fund, or its equivalent, the real estate and
 6 the total amount of such fund or funds shall be subject to taxation at
 7 the principal place of business of the association and shall be assessed
 8 against the association as real estate or other personal property, the
 9 tax of same to be paid by the association. Every domestic and domes-
 10 tic local building and loan, or savings and loan association, on or be-
 11 fore the thirty-first day of January of each year, shall furnish to the
 12 assessor of the assessment district in which its principal place of
 13 business is located a verified statement, showing specifically, with
 14 reference to the year preceding the first day of January last past, the
 15 total amount of their reserve, expense or other fund, or its equivalent,
 16 and the description and value of each tract of real estate owned by
 17 such association. The auditor of state shall, on or before the tenth
 18 day of February of each year, send to the county auditor of each
 19 county a statement of the name and postoffice address of each stock-
 20 holder of a foreign building and loan, or savings and loan associa-
 21 tion residing in their respective counties, together with the number of
 22 shares owned by each person on the first day of January preceding,
 23 and the actual value of each share of stock on said first day of Janu-
 24 ary, which facts shall be reported to him by such associations under
 25 the law governing building and loan, or savings and loan associations.
 26 It shall be the duty of the county auditor to immediately furnish to
 27 each assessor in his county the name of each stockholder in any such
 28 foreign association residing in such assessor's district, together with
 29 the number of shares held by each person, and the actual value of
 30 each share on the first day of January preceding.

31 Shares of stock issued by building and loan or savings and loan
 32 associations shall be classified as moneys and credits for the purposes
 33 of taxation.

[C., '97, §§ 1326, 1920; S., '13, § 1326.]

CHAPTER 6.

INSURANCE COMPANIES.

SECTION 4517. Insurance companies.

1 Every insurance company or association organized or incorpo-
 2 rated under the laws of any state or nation other than the United
 3 States, and every other insurance company whose charter may be
 4 owned or a majority of whose stock may be controlled or whose busi-
 5 ness shall be carried on in the interest or for the benefit of any insur-
 6 ance company or association incorporated under the laws of any state
 7 or nation other than the United States, shall, at the time of making
 8 the annual statements as required by law, pay into the state treasury
 9 as taxes two and one-half per cent of the gross amount of premiums
 10 received by it or its agents, in cash, promissory obligation or other
 11 form of settlement for business done in this state, including all in-
 12 surance upon property situated in this state and upon the lives of
 13 persons resident in this state during the preceding year. Every in-
 14 surance company incorporated under the laws of any state of the
 15 United States other than the state of Iowa, not including associations
 16 operating under the provisions of chapter four, title eighteen of this
 17 code, or fraternal beneficiary associations doing business in the United
 18 States, shall, at the time of making the annual statements as required
 19 by law, pay into the state treasury as taxes two and one-half per cent
 20 of the gross amount of premiums received by it for business done in
 21 this state, including all insurance upon property situated in this state
 22 and upon the lives of persons resident in this state during the pre-
 23 ceding year. At the time of paying said taxes, said companies and
 24 associations shall take duplicate receipts therefor, one of which shall
 25 be filed with the auditor of state, and upon filing of said receipt, and
 26 not till then, the auditor shall issue the annual certificate as provided
 27 by law. No deduction or exemption from the taxes herein provided
 28 shall be allowed for or on account of any indebtedness owing by any
 29 such insurance company or association; provided, however, that com-
 30 panies doing a fire insurance business may deduct from the gross
 31 amount of premiums received, the amount of premiums returned upon
 32 canceled policies issued upon property situated in this state.

[C., '51, § 464; R., '60, § 718; C., '73, § 807; C., '97, § 1333;
 S., '13, § 1333.]

SEC. 4518. Domestic companies.

1 The shares of stock of every insurance corporation or association
 2 having capital stock, organized under the laws of this state, shall be
 3 assessed for taxation in the manner provided for the assessment of
 4 the shares of corporate stock in sections forty-five hundred thirteen,
 5 forty-five hundred fourteen and forty-five hundred fifteen and in the
 6 four following sections, and said shares of stock shall not be otherwise
 7 assessed. In addition to the statement required in section forty-five
 8 hundred thirteen, the corporation shall furnish to the assessor a copy
 9 of its annual report made to the auditor of state.

[S., '13, § 1333-a.]

SEC. 4519. Statement to be furnished local assessor—what to contain—duty of assessor.

1 Every insurance corporation or association organized under the
 2 laws of this state, not including corporations with capital stock,

3 county mutuals, and fraternal beneficiary associations, which county
 4 mutuals and fraternal beneficiary associations are not organized for
 5 pecuniary profit, shall on or before the twenty-sixth day of January
 6 in each year, for the purpose of assessment of its property, furnish
 7 to the assessor of the assessment district in which its principal place
 8 of business is located, a statement verified by its president, showing
 9 specifically with reference to the year next preceding the first day of
 10 January then last past:

11 1. A duplicate of the statement required by law to be made to
 12 the auditor of state for the said year last past.

13 2. A detailed statement of all its property and assets of every
 14 kind and nature whatsoever, and the value of each item thereof, in-
 15 cluding surplus, guaranty and reserve fund, and the amount of each.

16 It shall be the duty of the assessor, upon the receipt of said
 17 statements, and from other information acquired by him, to assess
 18 against every corporation or association referred to in this section,
 19 the value of all personal property owned by such corporation or as-
 20 sociation, together with the actual value of each parcel of real estate
 21 situated in the assessment district of such assessor, and all the said
 22 property shall be assessed at the same rate, and for the same pur-
 23 poses as the property of private individuals, as provided in section
 24 forty-five hundred eighty-four.

[S., '13, § 1333-b.]

SEC. 4520. Assessment of moneys and credits.

1 . In assessing for taxation the moneys and credits of every insur-
 2 ance corporation, company or association organized under the laws
 3 of this state, except county mutuals and fraternal beneficiary associa-
 4 tions, which county mutuals and fraternal beneficiary associations are
 5 not organized for pecuniary profit, the assessor shall ascertain the
 6 debts or liabilities, if any, of such corporation, company or associa-
 7 tion to its shareholders or other persons, which debts and liabilities
 8 shall be deducted, as provided in section forty-five hundred five, but
 9 in ascertaining the indebtedness or liability of such corporation, com-
 10 pany or association, a debt shall be deemed to exist on account of its
 11 liability on the policies, certificates or other contracts of insurance
 12 issued by it equal to the amount of the surplus or other funds accumu-
 13 lated by any such corporation or association for the purpose of ful-
 14 filling its policies, certificates or other contracts of insurance, and
 15 which can be used for no other purpose.

[S., '13, § 1333-c; 37 G. A., ch. 258, § 1.]

SEC. 4521. State tax—date payable.

1 Every insurance corporation or association of whatever kind or
 2 character, organized under the laws of the state of Iowa, not includ-
 3 ing county mutuals or fraternal beneficiary associations, which county
 4 mutuals and fraternal beneficiary associations are not organized for
 5 pecuniary profit, shall, on or before the first day of March of each
 6 year, pay to the treasurer of state a sum equivalent to one per centum
 7 of the gross receipts from premiums, assessments, fees and promis-
 8 sory obligations required by insurance contracts which are received
 9 during the next year preceding the first day of January last past,
 10 after deducting the amounts actually paid for losses, matured endow-
 11 ments, dividends to policy holders and the increase in the amount of
 12 the reserve as certified by the department actuary in his official state-

13 ment to the auditor of state on the thirty-first day of December previ-
 14 ous, based on the actuaries' table of mortality and four per cent, and
 15 the amounts returned to members upon canceled policies, certificates
 16 and rejected applications, during said year, and not until such pay-
 17 ment shall the auditor of state issue the annual certificate, as provided
 18 by law; provided that insurance companies organized under the pro-
 19 visions of chapter seven, title eighteen, of the code shall only be re-
 20 quired to pay to the treasurer of state a sum equivalent to one per
 21 centum upon the gross receipts from premiums, assessments, fees and
 22 promissory obligations for business done within this state, including
 23 all insurance upon property situated in the state, after deducting the
 24 amount actually paid for losses on property located within the state,
 25 or on claims arising within the state, and the amount returned upon
 26 canceled policies and rejected applications covering property situated
 27 or on business done within this state.

[S., '13, § 1333-d; 38 G. A., ch. 371, § 1.]

SEC. 4522. Supervisors to correct assessments—when and how.

1 In the event that any insurance corporation or association, af-
 2 fected by the five preceding sections, shall pay to the treasurer of
 3 state prior to May first, nineteen hundred, a sum so that the amount
 4 of its payment to said treasurer of state for the year nineteen hundred
 5 shall equal what said corporation or association would be compelled to
 6 pay to said treasurer of state had the five preceding sections been in
 7 force prior to the granting of the annual certificate by the auditor of
 8 state for the year nineteen hundred, then such corporation or associa-
 9 tion shall, for the levy made in the year nineteen hundred, be subject
 10 to the provisions of the five preceding sections, respecting the levy and
 11 assessment of taxes by local and municipal authorities, and upon
 12 presentation of the receipt from the said treasurer of state showing
 13 a compliance with this section by such insurance corporation or as-
 14 sociation, it is hereby made the duty of the board of supervisors of
 15 the proper county to alter and correct the assessment of such corpora-
 16 tion, association or shareholder made in the year nineteen hundred,
 17 so that said assessment shall be the same in amount as though it had
 18 been made under the provisions of the five preceding sections, and the
 19 tax levied by the local or municipal authorities against every such
 20 corporation or association or its shareholders entitled to the benefit
 21 of this section, is corrected accordingly. Any corporation or associa-
 22 tion entitled to, but failing to take advantage of, the provisions of
 23 this section, shall not be relieved from any local or municipal tax
 24 heretofore levied by any of the provisions of the five preceding sections.

[S., '13, § 1333-e.]

CHAPTER 7.

TELEGRAPH AND TELEPHONE COMPANIES.

SECTION 4523. Telegraph and telephone companies.

1 Every telegraph and telephone company operating a line in this
 2 state shall, on or before the first day of May in each year, furnish to
 3 the executive council of Iowa a statement verified by its president or
 4 secretary showing:

- 5 1. The total number of miles owned, operated or leased within
6 the state, with a separate showing of the number leased.
- 7 2. The average number of poles per mile, and the whole number
8 of poles on their lines in this state.
- 9 3. The total number of miles in each separate line or division
10 thereof, also the average number of separate wires thereon.
- 11 4. The whole number of stations on each line, and the value of
12 the same, including furniture.
- 13 5. The whole number of instruments on each separate line, and
14 the gross rental charges per instrument, where the same are rented
15 to patrons of the company making the return, together with the num-
16 ber of stations maintained, other than railroad stations.
- 17 6. The gross receipts and operating expenses of said company
18 for the year ending December thirty-first next preceding on business
19 originating and terminating in this state.
- 20 7. The gross receipts and operating expenses of said company
21 for the year ending December thirty-first next preceding, and not in-
22 cluded in the statement made under subsection six hereof.
- 23 8. The total capital stock of said company.
- 24 9. The number of shares of capital stock issued and outstanding,
25 and the par or face value of each share.
- 26 10. The market value of such shares of stock on the first day of
27 January next preceding, and if such shares have no market value,
28 the actual value thereof.
- 29 11. All real estate and other property owned by such company
30 and subject to local taxation within this state.
- 31 12. The specific real estate, together with the permanent im-
32 provements thereon, owned by such company and situated outside
33 this state and taxed as other real estate in the state where located,
34 with a specific description of each piece, where located and the pur-
35 pose for which the same is used, and the actual value thereof in the
36 locality where situated.
- 37 13. All mortgages upon the whole or any part of its property, to-
38 gether with the dates and amounts thereof.
- 39 14. The total length of the lines of said company.
- 40 15. The total length of the lines of said company outside this
41 state.

[C., '97, § 1328; S., '13, § 1328.]

SEC. 4524. Failure to make statement.

1 Upon the receipt of said statements from the several companies,
2 the executive council shall examine said statements and if it shall deem
3 the same insufficient and that further information is requisite, it shall
4 require the officer making same to make such other or further state-
5 ment as it may desire. In case of failure or refusal of any company
6 to make out or deliver to the auditor of state the statements required
7 in the preceding section, such company shall forfeit and pay to the
8 state of Iowa one hundred dollars for each day such report is delayed
9 beyond the first day of May, to be sued and recovered in any proper
10 form of action in the name of the state, and on the relation of the
11 executive council of Iowa, and such penalty, when collected, shall be
12 paid into the general fund of the state.

[C., '97, § 1329; S., '13, § 1329.]

SEC. 4525. Assessment by executive council.

1 The executive council shall, at its meeting on the second Monday
 2 in July in each year, proceed to find the actual value of the property
 3 of such companies in this state, taking into consideration the informa-
 4 tion obtained from the statements above required, and any further
 5 information they can obtain, using the same as a means for determin-
 6 ing the actual cash value of the property of such companies within
 7 this state; also taking into consideration the valuation of all property
 8 of such companies, including franchises and the use of the property
 9 in connection with lines outside the state, and making such deduc-
 10 tions as may be necessary on account of extra value of property out-
 11 side the state as compared with the value of property in the state,
 12 in order that the actual cash value of the property of the company
 13 within this state may be ascertained. Said assessment shall include
 14 all property of every kind and character whatsoever, real, personal,
 15 or mixed, used by said companies in the transaction of telegraph and
 16 telephone business; and the property so included in said assessment
 17 shall not be taxed in any other manner than as provided in this chap-
 18 ter and section forty-four hundred eighty-four.

[C., '97, § 1330; S., '13, § 1330.]

SEC. 4526. Actual value per mile—taxable value.

1 The executive council shall ascertain the value per mile of the
 2 property of each of said companies within this state by dividing the
 3 total value, as above ascertained, by the number of miles of line of
 4 such company within the state, and the result shall be deemed and
 5 held to be the actual value per mile of line of the property of such
 6 company within this state. The taxable value shall be determined
 7 by taking the percentage of the actual value so ascertained, as pro-
 8 vided by section forty-five hundred eighty-four, and the ratio between
 9 the actual value and the assessed or taxable value of the property of
 10 each of said companies shall be the same as in the case of property of
 11 private individuals. At such meeting in July any company interested
 12 shall have the right to appear, by its officers or agents, before the
 13 executive council and be heard on the question of the valuation of
 14 its property for taxation.

[S., '13, § 1330-a.]

SEC. 4527. Assessment in each county—how certified.

1 The executive council shall, for the purpose of determining what
 2 amount shall be assessed to any one of said companies in each county
 3 of the state into which the line of the said company extends, multiply
 4 the assessed or taxable value per mile of line of said company, as above
 5 ascertained, by the number of miles in each of said counties, and the
 6 result thereof shall be by said council certified to the several county
 7 auditors of the respective counties into, over or through which said
 8 line extends.

[S., '13, § 1330-b.]

SEC. 4528. Levy and collection of tax.

1 At the first meeting of the board of supervisors held after such
 2 statement is received by the county auditor it shall cause such state-
 3 ment to be entered in its minute book, and make and enter therein
 4 an order stating the length of the lines and the assessed value of the

5 property of each of said companies situated in each city, town, town-
 6 ship, or lesser taxing district in its county, as fixed by the executive
 7 council, which shall constitute the taxable value of said property for
 8 taxing purposes, and the taxes on said property when collected by
 9 the county treasurer shall be disposed of as other taxes on real estate.
 10 The county auditor shall transmit a copy of said order to the council
 11 or trustees of each city, town, or township in which the lines of said
 12 company extend.

[S., '13, § 1330-c.]

SEC. 4529. Rates—purposes.

1 All telegraph and telephone property shall be taxable upon said
 2 assessment at the same rates, by the same officers, and for the same
 3 purposes as the property of individuals within such counties, cities,
 4 towns, townships, or lesser taxing districts, and the county treasurer
 5 shall collect such taxes at the same time and in the same manner as
 6 other taxes, and the same penalties for the nonpayment shall be due
 7 and collectible as for the nonpayment of individual taxes.

[S., '13, § 1330-d.]

SEC. 4530. Other real and personal property.

1 Land, lots, and other real estate and personal property belong-
 2 ing to any telegraph company or telephone company not used ex-
 3 clusively in its telegraph or telephone business shall be subject to
 4 assessment and taxation on the same basis as other property of indi-
 5 viduals in the several counties where situated.

[S., '13, § 1330-e.]

SEC. 4531. "Company" defined.

1 The word "company" as used in this chapter and section forty-
 2 four hundred eighty-four shall be deemed and construed to mean and
 3 include any person, copartnership, association, corporation, or syndi-
 4 cate that shall own or operate, or be engaged in operating, any tele-
 5 graph or telephone line whether formed or organized under the laws
 6 of this state or elsewhere.

[S., '13, § 1330-f.]

SEC. 4532. Line operated by railroad.

1 No telegraph line shall be assessed which is owned and operated
 2 by any railroad company exclusively for the transaction of its busi-
 3 ness, and which has been duly reported as such in its annual report
 4 under the laws providing for the taxation of railroad property.

[C., '97, § 1332.]

SEC. 4533. Telegraph and telephone plats—when filed.

1 On or before the first day of August, A. D. nineteen hundred four,
 2 each telephone or telegraph company owning or operating a telephone
 3 or telegraph line, any part of which lies within the state of Iowa,
 4 shall file with the several county auditors of the counties within which
 5 any part of its line is located, a map of all its lines within said county,
 6 except its line within any platted city or town, drawn to a scale of not
 7 less than one inch to four miles, on which the location of the line or
 8 lines of said company is correctly shown. The map of any line situ-

9 ated upon any highway or street which is the dividing line between
 10 taxing districts, shall show on which side of said street or highway
 11 said line is situated and shall locate all points at which said line may
 12 cross said street or highway. A statement showing the length of pole
 13 line in each taxing district, of each company shall be filed when no
 14 map of the pole lines of such company is required under the terms of
 15 this section. A telephone or telegraph company whose line is situ-
 16 ated upon the right of way of a railway may file, in lieu of the map
 17 required to be filed by the provisions of this section, a certificate set-
 18 ting forth along what lines of railway said company's telephone or
 19 telegraph line extends. On or before the first day of March, A. D.
 20 nineteen hundred five, and annually thereafter, like maps, statements
 21 or certificates shall be filed with the several county auditors of coun-
 22 ties in which any part of said lines may have been extended, con-
 23 structed, relocated or taken down entirely, during the preceding cal-
 24 endar year, showing the correct location of all such new or relocated
 25 lines, and the location of any part abandoned or taken down, as the
 26 same existed on the thirty-first day of December preceding; provided
 27 county auditors of the several counties shall, upon application of any
 28 company, owning or operating a telephone or telegraph line in their
 29 respective counties, furnish a map or maps accurately showing the
 30 boundaries of all taxing districts in said county, and the public high-
 31 ways located within such taxing districts.

[S., '13, § 1400-a.]

SEC. 4534. Failure or refusal to file.

1 In the event of the failure or refusal of any telephone or tele-
 2 graph company, owning or operating any telephone or telegraph line
 3 not situated upon the right of way of a railway, to file the map re-
 4 quired under the provisions of the preceding section, at the time and
 5 according to the conditions named, then the county auditor may cause
 6 the same to be prepared by the county surveyor and the cost thereof
 7 shall, in the first place, be audited and paid by the board of super-
 8 visors of the county, out of the county fund, and the amount thereof
 9 shall be by said board levied as a special tax against said company
 10 and the property of said company, which shall be collected in the same
 11 manner as county taxes and become a part of the county fund.

[S., '13, § 1400-b.]

CHAPTER 8.

RAILWAY COMPANIES.

**SECTION 4535. Railway companies—statement as basis for assess-
 ment.**

1 On the second Monday in July in each year, the executive council
 2 shall assess all the property of each railway corporation in the state,
 3 excepting the lands, lots and other real estate belonging thereto not
 4 used in the operation of any railway, and excepting railway bridges
 5 across the Mississippi and Missouri rivers, and excepting grain eleva-
 6 tors; and for the purpose of making such assessment its president,
 7 vice president, general manager, general superintendent, receiver or
 8 such other officer as the council may designate, shall on or before the

- 9 first day of April in each year, furnish it a verified statement, showing
 10 in detail, for the year ended December thirty-first next preceding:
- 11 1. The whole number of miles of railway owned, operated or
 12 leased by such corporation or company within and without the state.
 - 13 2. The whole number of miles of railway owned, operated or
 14 leased within the state, including double tracks and sidetracks, the
 15 mileage of the main line and branch lines to be stated separately, and
 16 showing the number of miles of track in each county.
 - 17 3. A full and complete statement of the cost and actual present
 18 value of all buildings of every description owned by said railway
 19 company within the state not otherwise assessed.
 - 20 4. The total number of ties per mile used on all its tracks within
 21 the state.
 - 22 5. The weight of rails per yard in main line, double tracks and
 23 sidetracks.
 - 24 6. The number of miles of telegraph lines owned and used within
 25 the state.
 - 26 7. The total number of engines, and passenger, chair, dining, of-
 27 ficial, express, mail, baggage, freight and other cars, including hand
 28 cars and boarding cars used in constructing and repairing such rail-
 29 way, in use on its whole line, and the sleeping cars owned by it, and
 30 the number of each class on its line within the state, each class to be
 31 valued separately.
 - 32 8. Any and all other movable property owned by said railway
 33 within the state, classified and scheduled in such manner as may be
 34 required by said council.
 - 35 9. The gross earnings of the entire road, and the gross earnings
 36 in this state.
 - 37 10. The operating expenses of the entire road, and the operating
 38 expenses within this state.
 - 39 11. The net earnings of the entire road, and the net earnings
 40 within this state.

[C., '73, §§ 810, 1317, 1318; C., '97, § 1334; S., '13, § 1334.]

SEC. 4536. Detailed statements—what to include.

1 Each railway or other corporation required by law to report to
 2 the executive council under the provisions of the law as it appears
 3 in the preceding section shall, on or before the first day of April,
 4 nineteen hundred five, make to the executive council a detailed state-
 5 ment showing the amount of real estate owned or used by it on De-
 6 cember thirty-first, nineteen hundred four, for railway purposes, in
 7 each county in the state in which said real estate is situated, includ-
 8 ing the right of way, roadbed, bridges, culverts, depot grounds, station
 9 buildings, yards, section and tool houses, roundhouses, machine and
 10 repair shops, water tanks, turntables, gravel beds and stone quarries,
 11 and for all other purposes, with the estimated actual value thereof,
 12 in such manner as may be required by the executive council. Only
 13 one such detailed statement by any corporation shall be necessary, and
 14 when received by the council it shall become the record of railway
 15 lands of such corporation, and be deemed as annually thereafter re-
 16 ported for valuation and assessment by the executive council. On or
 17 before the first day of April of each subsequent year such corporation
 18 shall in like manner report all real estate acquired for any of the rail-
 19 way purposes above named during the preceding calendar year; and
 20 also a list of any real estate, previously reported, disposed of during

21 the same period, which disposition shall be noted by the council in an
 22 appropriate column opposite to the description of said tract in the
 23 original report of the same in the record of railway land.

[S., '13, § 1334-a.]

SEC. 4537. Record of railway lands.

1 The executive council shall, by some convenient method of bind-
 2 ing, arrange the statements required to be made under the provision
 3 of the preceding section so as to form a consolidated list of all real
 4 estate reported to it as being owned or used for railway purposes
 5 within the state of Iowa, which list shall be known as the record of
 6 railway lands.

[S., '13, § 1334-b.]

SEC. 4538. Number of sleeping and dining cars.

1 In addition to the matters required to be contained in the state-
 2 ment made by the company for the purposes of taxation, such state-
 3 ment shall show the number of sleeping and dining cars not owned
 4 by such corporation, but used by it in operating its railway in this
 5 state during each month of the year for which the return is made,
 6 the value of each car so used, and also the number of miles each month
 7 said cars have been run or operated on such railway within the state,
 8 and the total number of miles said cars have been run or operated
 9 each month within and without the state. Such statement shall show
 10 the average daily sleeping car and dining car service or wheelage op-
 11 erated on each part or division of the line or system within the state,
 12 designating the points on the line where variations occur, with the
 13 mileage of that part having the same daily service or wheelage.

[C., '97, § 1340; S., '13, § 1340.]

SEC. 4539. Gross earnings—proportion.

1 For the purpose of making reports to the executive council, the
 2 gross earnings of railway companies, owning or operating a line or
 3 lines of railway partly within this state, and partly within another
 4 state, or other states, or territory, or territories, upon their line or
 5 lines within this state, shall be ascertained and reported by said rail-
 6 way companies as follows, to wit: The aggregate of the earnings
 7 upon business originating and terminating within this state, upon
 8 business originating in this state and terminating elsewhere, upon
 9 business originating elsewhere and terminating in this state, and upon
 10 business neither originating or terminating in this state but carried
 11 on or done over the line or lines in this state or over some part thereof,
 12 shall be reported; and with respect to all such interstate business the
 13 earnings in this state for the purpose of report shall be actually com-
 14 puted upon the basis of the length of haul or carriage in this state
 15 as compared with the length of haul or carriage elsewhere. It being
 16 hereby declared that for the purpose of making reports looking to the
 17 assessment of railway property for taxation the gross earnings or
 18 business done or carried partly within this state and partly in an-
 19 other state, or other states, or territories, shall be that proportion of
 20 the entire earnings of such business that the haul or carriage in this
 21 state bears to the entire haul or carriage.

[S., '13, § 1340-a.]

SEC. 4540. Rules and regulations—power of executive council.

1 The executive council shall have the power to prescribe such rules
2 and regulations with respect to the keeping of accounts by the railway
3 companies doing business in this state as will insure the accurate
4 division of earnings as aforesaid, and uniformity in reporting the
5 same to the executive council.

[S., '13, § 1340-b.]

SEC. 4541. Net earnings.

1 The executive council shall have the power to prescribe a method
2 for all railway companies doing business in this state, together with
3 the rules and regulations for the ascertainment of the net earnings
4 of the railway lines in this state, to the end that all such railway com-
5 panies, in ascertaining and making report of net earnings, shall pro-
6 ceed upon the same basis and in a uniform manner.

[S., '13, § 1340-c.]

SEC. 4542. Reports additional—when made.

1 The reports provided for in the three preceding sections are not
2 in lieu of, but in addition to, the reports provided for by law, and
3 they shall be made at the time and as a part of the reports already
4 required.

[S., '13, § 1340-d.]

SEC. 4543. Additional rules and regulations.

1 The rules, regulations, method, and requirements herein pro-
2 vided to be made by the executive council shall be made and com-
3 municated in writing or print to the said several railway companies
4 within thirty days from and after April fifteenth, nineteen hundred
5 two, and shall be and become binding upon said railway companies
6 from the time they are so communicated; provided, however, that the
7 said executive council shall have the power to prescribe supplemental
8 or additional rules, regulations, and requirements at any time, and
9 communicate them to the several railway companies in the manner
10 aforesaid, and with respect to such additional or supplemental rules,
11 regulations, and requirements, they shall be and become binding upon
12 the said railway companies within thirty days after they are so com-
13 municated.

[S., '13, § 1340-e.]

SEC. 4544. Refusal to conform to rules—penalty.

1 If any railway company shall fail or refuse to obey or conform
2 to the rules, regulations, method, and requirements so made or pre-
3 scribed by the executive council under the provisions of the five pre-
4 ceding sections, or to make the reports therein provided, the executive
5 council shall proceed and assess the property of such railway company
6 so failing or refusing, according to the best information obtainable,
7 and shall then add to the taxable valuation of such railway company
8 twenty-five per centum thereof, which valuation and penalty shall be
9 separately shown, and together shall constitute the assessment for
10 that year.

[S., '13, § 1340-f.]

SEC. 4545. Operating expenses—amended statement.

1 There shall not be included in said operating expenses any pay-
2 ments for interest or discount, or construction of new tracks except
3 needed sidings, for raising or lowering tracks above or below cross-
4 ings at grade in cities or towns, for new equipment except replace-
5 ments, for reducing any bonded or permanent debt, nor for any other
6 item of operating expenses not fairly and reasonably chargeable as
7 such in railway accounts. The council may demand, in writing, de-
8 tailed, explanatory and amended statements of any of the items men-
9 tioned in section forty-five hundred thirty-five, or any other items
10 deemed by it important, to be furnished it by such railway corpora-
11 tion within thirty days from such demand, in such form as it may
12 designate, which shall be verified as required for the original state-
13 ment. The returns, both original and amended, shall show such other
14 facts as the council, in writing, shall require.

[C., '73, § 1318; C., '97, § 1335.]

SEC. 4546. Valuation.

1 The said property shall be valued at its actual value, and the as-
2 sessments shall be made upon the taxable value of the entire railway
3 within the state, except as otherwise provided, and shall include the
4 right of way, roadbed, bridges, culverts, rolling stock, depots, station
5 grounds, shops, buildings, gravel beds and all other property, real and
6 personal, exclusively used in the operation of such railway. In as-
7 sessing said railway and its equipments, said council shall take into
8 consideration the gross earnings per mile for the year ending Janu-
9 ary first, preceding, and any and all other matters necessary to enable
10 said council to make a just and equitable assessment of said railway
11 property. If a part of any railway is without this state, then, in es-
12 timating the value of its rolling stock and movable property, they
13 shall take into consideration the proportion which the business of
14 that part of the railway lying within the state bears to the business
15 of the railway without this state.

[C., '73, § 1319; C., '97, § 1336.]

SEC. 4547. Assessment by executive council.

1 The council shall, at the time of the assessment of other railway
2 property for taxation, assess for taxation the average number of
3 sleeping and dining cars as provided in section forty-five hundred
4 thirty-eight so used by such corporation each month, and the assessed
5 value of said cars shall bear the same proportion to the entire value
6 thereof that the monthly average number of miles such cars have been
7 run or operated within the state shall bear to the monthly average
8 number of miles such cars have been used or operated within and
9 without the state. Such valuation shall be in the same ratio as that
10 of the property of individuals, and shall be added to the assessed valu-
11 ation of the corporation, fixed under the preceding sections.

[C., '97, § 1341.]

SEC. 4548. Statement sent county auditors.

1 On or before the third Monday in August of each year, the coun-
2 cil shall transmit to the county auditor of each county, through and
3 into which any railway may extend, a statement showing the length
4 of the main track within the county, and the assessed value per mile

5 of the same, as fixed by a ratable distribution per mile of the assessed
6 valuation of the whole property.

[C., '73, § 1320; C., '97, § 1337; S., '13, § 1337; 37 G. A., ch.
416, § 2.]

SEC. 4549. Plats—when filed.

1 Every railroad company owning or operating a line of railroad
2 within this state, shall on or before the first day of August, A. D.
3 nineteen hundred two, place on file in the office of the county auditor
4 of each county in the state, into which any part of the lines of any
5 said company lies, a plat of the lines of said companies within said
6 county, showing the length of their said lines and the area of the land
7 owned or occupied, by said companies in each government subdivision
8 of land, not included within the platted portion of any town or city,
9 within each of said counties, and the length of the said lines within
10 the platted portion of cities and towns. Companies having on file
11 such plats of part or all of their lines, in any of said counties, shall
12 be required to file plats only of that part of their lines not fully shown
13 as above required on the plats now on file. On the first day of Janu-
14 ary of each year hereafter, like plats shall be filed of all new lines or
15 extensions of existing lines built or completed within the calendar
16 year preceding.

[S., '13, § 1337-a.]

SEC. 4550. Refusal to file.

1 In the event of the failure or refusal of any railroad company to
2 file the plats required under the provisions of the preceding section,
3 at the time or according to the conditions named, then the county
4 auditor may cause the same to be prepared by the county surveyor
5 and the cost thereof shall, in the first place, be audited and paid by
6 the board of supervisors out of the county fund, and the amount
7 thereof shall be by said board levied as a special tax against said com-
8 pany and the property of said company which shall be collected as
9 county taxes and when collected be paid into the county fund.

[S., '13, § 1337-b.]

SEC. 4551. Real property of railways.

1 Lands, lots and other real estate belonging to any railway com-
2 pany, not used exclusively in the operation of the several roads, and
3 all railway bridges across the Mississippi and Missouri rivers, and
4 grain elevators, shall be subject to assessment and taxation on the
5 same basis as property of individuals in the several counties where
6 situated.

[C., '73, § 808; C., '97, § 1342.]

SEC. 4552. Roadbeds and highways.

1 No real estate used by railway corporations for roadbeds shall
2 be included in the assessment to individuals of the adjacent property,
3 but all such real estate shall be the property of such companies for
4 the purpose of taxation; nor shall any real estate occupied as a public
5 road be assessed and taxed as part of adjacent lands.

[C., '73, § 809; C., '97, § 1344.]

SEC. 4553. Levy and collection of tax.

1 At the first meeting of the board of supervisors held after said
 2 statement is received by the county auditor, it shall cause the same to
 3 be entered on its minute book, and make and enter therein an order
 4 stating the length of the main track and the assessed value of each
 5 railway lying in each city, town, township or lesser taxing district
 6 in its county, through or into which said railway extends, as fixed by
 7 the council, which shall constitute the taxable value of said property
 8 for taxing purposes; and the taxes on said property, when collected
 9 by the county treasurer, shall be disposed of as other taxes. The
 10 county auditor shall transmit a copy of said order to the council or
 11 trustees of the city, town or township.

[C., '73, § 1321; C., '97, § 1338.]

SEC. 4554. Rate.

1 All such railway property shall be taxable upon said assessment
 2 at the same rates, by the same officers and for the same purpose as
 3 the property of individuals within such counties, cities, towns, town-
 4 ships and lesser taxing districts.

[C., '73, § 1322; C., '97, § 1339.]

CHAPTER 9.
FREIGHT LINE AND EQUIPMENT COMPANIES.**SECTION 4555. Freight line and equipment companies.**

1 Every company engaged in the business of operating cars, not
 2 otherwise listed for taxation or taxed in Iowa, for the transportation
 3 of freight, whether such freight be owned by such company, or any
 4 other person or company, over any railway line or lines, in whole or
 5 in part within this state, such line or lines, not being owned, leased
 6 or operated by such company, whether such cars be termed box, flat,
 7 coal, ore, tank, stock, gondola, furniture or refrigerator cars, or by
 8 some other name, shall be deemed to be a freight line company. Every
 9 company engaged in the business of furnishing or leasing cars of
 10 whatsoever kind or description, to be used in the operation of any
 11 railway line or lines, wholly or partially within this state, such line
 12 or lines not being owned, leased or operated by such company, and
 13 such cars not being otherwise listed for taxation in Iowa shall be
 14 deemed to be an equipment company.

[S., '13, § 1342-a.]

SEC. 4556. Verified statement—what to include.

1 Every freight line and every equipment company, as designated
 2 in the preceding section, doing business, or owning cars which are
 3 operated in this state, shall, annually, on or before the first Monday
 4 of June, in each year, commencing with the year nineteen hundred
 5 three, make out and deliver to the executive council a statement,
 6 verified by oath of an officer or agent of such company making such
 7 statement, with reference to the first day of January next preceding,
 8 showing:

- 9 1. The name of the company.
- 10 2. The nature of the company, whether a person or persons, an

11 association, copartnership, corporation or syndicate, and under the
12 laws of what state or county organized.

13 3. The location of its principal office or place of business.

14 4. The name and postoffice address of the president, secretary,
15 auditor, treasurer and superintendent or general manager.

16 5. The name and postoffice address of the chief officer or manag-
17 ing agent of the company in Iowa.

18 6. The aggregate number of miles traveled within the state of
19 Iowa by its cars during the preceding calendar year.

20 7. The average number of miles traveled by the cars of each class
21 of its cars during the preceding calendar year. The number of cars
22 necessary for the mileage traveled within the state of Iowa, under the
23 circumstances that ordinarily attend the use of such cars, and where
24 different classes of cars are used by said company, as to the matters
25 embraced in this and the preceding paragraph, it shall furnish the
26 required information as to each class of said cars, in the form pre-
27 scribed by blanks to be furnished by the executive council.

28 8. The actual cash value, on the first day of January next pre-
29 ceding, of the said number of cars necessary to provide for the mile-
30 age, to be reported as required by paragraph six of this section.

31 9. The real estate, personal property, structure, machinery, fix-
32 tures and appliances, owned by said company, subject to local taxation
33 within the state, and the location and the actual value thereof in the
34 county, township or district where the same is assessed for local
35 taxation.

[S., '13, § 1342-b.]

SEC. 4557. Additional statements—refusal to furnish—penalty.

1 Upon the filing of such statements the executive council shall ex-
2 amine each of them, and if it shall deem the same insufficient, or if
3 they fail to fully set out the matters required to be reported, it shall
4 require such officer or agent to make such other and further state-
5 ments as to such matters as it may deem proper. In case of the fail-
6 ure or refusal of any company to make and deliver to the executive
7 council any statement or statements required by the preceding section,
8 such company shall forfeit and pay to the state of Iowa one hundred
9 dollars each day such report is delayed beyond the first Monday of
10 June, to be sued and recovered in any proper form of action, in the
11 name of the state of Iowa, and such penalty when collected shall be
12 paid into the general fund of the state.

[S., '13, § 1342-c.]

SEC. 4558. Assessment by executive council.

1 Upon the meeting of the executive council on the second Monday
2 of July in each year, it shall value and assess as the property of said
3 company within this state, the cars of the said company necessary,
4 under the circumstances ordinarily attending the use of such cars,
5 for the mileage to be reported under paragraphs six and seven of sec-
6 tion forty-five hundred fifty-six, after examining such statements
7 and after ascertaining the actual value of said property of such com-
8 pany therefrom, and from such other information as it may have or
9 obtain. For that purpose the executive council may require such com-
10 pany, by its agents or officers, to appear before said council with
11 such books, papers, or additional statements as the council may require,

12 and may compel the attendance of witnesses in case said council shall
 13 deem it necessary to enable it to ascertain the actual value of such
 14 property. From the entire actual value of the property within the
 15 state so ascertained, there shall be deducted by the said council the
 16 actual value of all cars locally assessed, and one-fourth of the residue
 17 of such actual value so ascertained shall be by the executive council
 18 assessed to said company.

[S., '13, § 1342-d.]

SEC. 4559. Tax—when due.

1 The council shall also at said meeting determine the rate of tax
 2 to be levied and collected upon said assessments, which shall be equal,
 3 as nearly as may be, to the average rate of taxes, state, county, munic-
 4 ipal and local, levied throughout the state during the previous year,
 5 which rate shall be ascertained from the records and files in the audi-
 6 tor's office, and said tax shall be in full of all taxes except on real es-
 7 tate, personal property locally assessed, and special assessments, and
 8 shall become due and payable at the state treasury on the first day of
 9 February following the levy thereof, and if not so paid, the state
 10 treasurer shall collect the same by distress and sale of any property
 11 belonging to such company in the state in the same manner as is re-
 12 quired of county treasurers in like cases; and the order of the execu-
 13 tive council in such cases shall be sufficient authority therefor.

[S., '13, § 1342-e.]

SEC. 4560. "Company" defined.

1 The word "company" as used in this chapter, shall be deemed and
 2 construed to mean any person, copartnership, association, corporation
 3 or syndicate that may own or operate, or be engaged in operating,
 4 furnishing or leasing cars, as defined and described in section forty-
 5 five hundred fifty-five, whether formed or organized under the laws
 6 of this state, or any other state or territory, or any foreign country.

[S., '13, § 1342-f.]

CHAPTER 10.

EXPRESS COMPANIES.

SECTION 4561. Express companies—annual statement—what to contain.

1 Every company engaged in conveying to, from, through, in, or
 2 across this state, or any part thereof, money, packages, gold, silver,
 3 plate, merchandise, or any other article, by express, under a contract,
 4 express or implied, with any railroad company, or the managers,
 5 lessees, agents, or receivers thereof, provided such company is not a
 6 railroad company, a freight line company, nor an equipment com-
 7 pany, shall be deemed and held to be an express company within the
 8 meaning of this and the following eight sections, and every such ex-
 9 press company shall, annually, between the first day of February and
 10 the first day of March, make out and deliver to the executive council
 11 a statement verified by the oath of an officer or agent of said company,
 12 making such statement, with reference to the first day of January
 13 next preceding, showing:

- 14 1. The name of the company, and whether a corporation, partner-
 15 ship, or person, and under the laws of what state or country organized.
 16 2. The principal place of business, and the location of its prin-
 17 cipal office and the name and postoffice address of its president, secre-
 18 tary, and superintendent or general manager and the name and
 19 postoffice address of its principal officers or managing agent in Iowa.
 20 3. The total capital stock of said company; (a) authorized; (b)
 21 issued.
 22 4. The number of shares of capital stock issued and outstanding,
 23 and the par face value of each share, and in case no shares of stock
 24 are issued, in what manner the capital stock thereof is divided, and in
 25 what manner such holdings are evidenced.
 26 5. The market value of said shares of stock on the first day of
 27 January next preceding, and if such shares have no market value then
 28 the actual value thereof; and in case no shares of stock have been
 29 issued state the market value, or the actual value, in case there is no
 30 market value of the capital thereof, and the manner in which the same
 31 is divided.
 32 6. The real estate, buildings, machinery, fixtures, appliances, and
 33 personal property owned by said company and subject to local tax-
 34 ation within the state of Iowa, and the location and actual value thereof
 35 in the county, township, or district where the same is assessed for
 36 local taxation.
 37 7. The specific real estate, together with the improvements there-
 38 on, and all bonds, mortgages, and other personal property owned by
 39 said company, situated outside of the state of Iowa, and used exclu-
 40 sively outside the conduct of the business, with a specific description
 41 of all bonds, mortgages, and other personal property, and the cash
 42 value thereof, the purposes for which the same are used, and where
 43 the same are kept or deposited and each piece of real estate, where
 44 located, the purpose for which the same is used, and the actual value
 45 thereof, in the locality where situated.
 46 8. All mortgages upon the whole or any part of its property, to-
 47 gether with the dates and amounts thereof.
 48 9. a The total length of lines or routes over which the company
 49 transports such merchandise, freight, or express.
 50 b The total length of such lines or routes as are outside of
 51 the state of Iowa.
 52 c The length of such lines or routes within each of the coun-
 53 ties, townships, and assessment districts within the state
 54 of Iowa.
- [C., '73, § 811; C., '97, §§ 1345, 1346; S., '13, § 1346-a.]

SEC. 4562. Additional statement—delay—penalty.

1 Upon the filing of such statements, the executive council shall
 2 examine each of them, and if it shall deem the same insufficient, or
 3 in case it shall deem that other information is requisite, it shall re-
 4 quire such officer or agent to make such other and further statements
 5 as the executive council may call for. In the case of the failure or
 6 refusal of any company to make out and deliver to the executive coun-
 7 cil any statement or statements required by this and sections forty-
 8 five hundred sixty-one and forty-five hundred sixty-three, such com-
 9 pany shall forfeit and pay to the state of Iowa one hundred dollars
 10 for each day such report is delayed beyond the first Monday in March
 11 of that year, to be sued and recovered in any proper form of action

12 in the name of the state of Iowa, on the relation of the executive coun-
 13 cil, and such penalty when collected shall be paid into the general fund
 14 of the state.

[S., '13, § 1346-b.]

SEC. 4563. Assessment by executive council.

1 The executive council shall meet on the second Monday in July
 2 in each year, and it shall thereupon value and assess the property of
 3 such company, in the manner hereinafter set forth, after examining
 4 such statements, and after ascertaining the actual value of the prop-
 5 erty of such company therefrom, and from such other information as
 6 it may have or obtain. For that purpose the executive council may
 7 require such company, by its agents or officers, to appear before said
 8 council with such books, papers, or statements as the council may re-
 9 quire, or it may require additional statements to be made by such
 10 company, and may compel the attendance of witnesses, in case said
 11 council shall deem it necessary, to enable it to ascertain the actual
 12 value of such property; any such company interested may, upon writ-
 13 ten application, appear before the executive council at such meeting,
 14 and be heard in the matter of the valuation of the property of such
 15 company for taxation.

[S., '13, § 1346-c.]

SEC. 4564. Actual value—how ascertained.

1 The executive council shall first ascertain the actual value of the
 2 entire property owned by said company, from said statements or other-
 3 wise, for that purpose taking the aggregate market value of all shares
 4 of capital stock, in case said shares have a market value, and in case
 5 they have none taking the actual value thereof or of the capital of
 6 said company, in whatever manner the same is divided, in case no
 7 shares of capital stock have been issued; provided, however, that in
 8 case the whole or any portion of the property of said company shall
 9 be incumbered by a mortgage or mortgages, such council shall ascer-
 10 tain the actual value of such property by adding to the market value
 11 or the aggregate shares of stock or to the value of the capital, in case
 12 there shall be no such shares, the aggregate amount of the market
 13 or cash value of such mortgage or mortgages, and the result shall be
 14 deemed and treated as the actual value of the property of such com-
 15 pany. The executive council shall, for the purpose of ascertaining
 16 the actual value of the property within the state of Iowa, next ascer-
 17 tain from such statements or otherwise the actual value of the prop-
 18 erty, both real and personal, owned by the company, and which is used
 19 exclusively outside the general business of the company, and also the
 20 actual value of that part of its property, if any, without the state
 21 which can not lawfully be considered in determining the mileage value
 22 of its routes; and the aggregate of such values shall be deducted from
 23 the entire actual value of the property as above ascertained. The
 24 executive council shall next ascertain and deduct the actual value of
 25 the sea or ocean routes of any such company, and in ascertaining the
 26 same may take into consideration the earnings, both gross and net
 27 per mile, of such sea or ocean routes, as compared with the earnings,
 28 gross and net, of the land routes of such company or may ascertain
 29 their value in any other practicable manner, and may require that the
 30 reports heretofore provided for shall show such earnings. Thereupon
 31 the executive council shall ascertain the actual value of the property

32 of such company within the state of Iowa, and for that purpose may
 33 take into consideration the proportional value of the company's prop-
 34 erty without and within the state, and shall take as a basis of valua-
 35 tion of the company's property in this state the proportion of the
 36 whole aggregate value of the property of said company, as above
 37 ascertained, after making the deductions above provided for which
 38 the length of the routes within the state of Iowa bears to the whole
 39 length of the routes of such company other than sea or ocean routes,
 40 and such amount so ascertained shall be considered and taken to be
 41 the entire actual value of the property of such company within the
 42 state of Iowa. From the entire actual value of the property within
 43 the state so ascertained, there shall be deducted by the said council
 44 the actual value of all the real estate, buildings, machinery, appliances,
 45 and personal property not used exclusively in the conduct of the busi-
 46 ness within the state that are subject to local taxation within the
 47 counties, townships, and other assessment districts as hereinbefore
 48 described in the sixth item of section forty-five hundred sixty-one.

[S., '13, § 1346-d.]

SEC. 4565. Actual value per mile—taxable value.

1 The executive council shall thereupon ascertain the value per mile
 2 of the property within the state, by dividing the total value as above
 3 ascertained, after deducting the specific properties locally assessed
 4 within the state, by the number of miles within the state, and the result
 5 shall be deemed and held to be the actual value per mile of the prop-
 6 erty of such company within the state of Iowa. The assessed or tax-
 7 able value shall be determined by taking that percentage of the actual
 8 value so ascertained, as is provided by section forty-five hundred
 9 eighty-four, and such valuation and assessment shall be in the same
 10 ratio as that of the property of individuals.

[S., '13, § 1346-e.]

SEC. 4566. Assessment in each county—how certified.

1 Said executive council shall thereupon, for the purpose of deter-
 2 mining what amount shall be assessed by it to said company, in each
 3 county of the state, through, across, into, or over which the route of
 4 said company extends, multiply the value per mile, as above ascer-
 5 tained, by the number of miles in each of said counties, as reported
 6 in said statements, or as otherwise ascertained, and the result thereof,
 7 with the mileage and the rate of assessment per mile, shall be by said
 8 council certified to the auditors respectively of the several counties
 9 through, into, over and across which the routes of said company
 10 extend.

[S., '13, § 1346-f.]

SEC. 4567. Levy and collection of tax—rates.

1 At the first meeting of the board of supervisors held after such
 2 certificate is received by the county auditor, it shall cause the same
 3 to be entered in its minute book and make and enter therein an order
 4 stating the length of the routes and the assessed value of each in each
 5 city, town, township, or other taxing district in its county, through
 6 or into which said routes extend, which shall constitute the taxable
 7 value of said property for taxing purposes, and the taxes on said prop-
 8 erty, when collected by the county treasurer, shall be disposed of as
 9 other taxes. The county auditor shall immediately thereafter trans-

10 mit a copy of said order to the councils of cities, or towns, and to the
 11 trustees of each township, in the county. The county auditor shall
 12 also add to the value so apportioned the assessed value of the real
 13 estate, buildings, machinery, fixtures, appliances, and personal prop-
 14 erty not used exclusively in the conduct of the business situated in
 15 any township or taxing district as returned by the assessor thereof,
 16 and extend the taxes thereon upon the tax list as in other cases. All
 17 such property shall be taxable upon said assessment at the same rates,
 18 by the same officers, and for the same purposes as the property of
 19 individuals within such counties, townships, or taxing districts. The
 20 property so included in said assessment and the shares of stock in
 21 such companies so assessed shall not be taxed in this state, except as
 22 provided in this chapter.

[S., '13, § 1346-g.]

SEC. 4568. Penalty.

1 In case any such company shall fail or refuse to pay any taxes
 2 assessed against it in any county, township, or assessment district
 3 in the state, in addition to other remedies provided by law for the
 4 collection of taxes, an action may be prosecuted in the name of the
 5 state of Iowa by the county attorneys of the different counties of the
 6 state, on the relation of the auditors of the different counties of the
 7 state, and judgment in such action shall include a penalty of fifty per
 8 cent of the amount of the taxes so assessed and unpaid, together with
 9 reasonable attorney's fees for the prosecution of such action, which
 10 action may be prosecuted in any county into, through, over, or across
 11 which the routes of any such company shall extend, or in any county
 12 where such company shall have an officer or agent for the transaction
 13 of business.

[S., '13, § 1346-h.]

SEC. 4569. "Company" defined.

1 The word "company," as used in this chapter, shall be deemed
 2 and construed to mean and include any person, copartnership, asso-
 3 ciation, corporation, or syndicate that may own or operate, or be en-
 4 gaged in operating, any express route as herein defined, whether
 5 formed or organized under the laws of this state, any other state or
 6 territory, or of any foreign country.

[S., '13, § 1346-i.]

CHAPTER 11.

ELECTRIC TRANSMISSION LINES.

**SECTION 4570. Electric transmission lines—annual statement—
 what to contain.**

1 Every company owning or operating a transmission line or lines
 2 for the conduct of electric energy and which line or lines are located
 3 within the state, and which said line or lines are also located wholly
 4 or partly outside cities and towns, shall on or before the first day of
 5 May in each year, furnish to the executive council of the state of Iowa
 6 a verified statement as to its entire line or lines within this state,

7 when all of said line or lines are located outside cities and towns, and
 8 as to such portion of its line or lines within this state as are located
 9 outside cities and towns, when such line or lines are located partly
 10 outside and partly inside cities and towns, showing:

11 1. The total number of miles of line owned, operated or leased,
 12 located outside cities and towns within this state, with a separate
 13 showing of the number of miles leased.

14 2. The location and length of each division within the state and
 15 the character of poles, towers, wires, substation equipment and other
 16 construction of each such division, designating the length and por-
 17 tion thereof in each separate county into which each such division
 18 extends.

[S. S., '15, § 1346-k.]

SEC. 4571. Additional statement—delay—penalty.

1 Upon receipt of said statements from the several companies, the
 2 executive council shall examine such statements, and if it shall deem
 3 same insufficient, and that further information is requisite, it shall
 4 require the company making same to make such other or further
 5 statement as it may desire, notifying such company thereof by regis-
 6 tered mail. In case of the total failure or refusal to make any state-
 7 ment required by this and the preceding section to be made by May
 8 first in any year, or of failure or refusal to make such other or further
 9 statement within thirty days from the time the registered notice
 10 thereof is received by said company that the same is required by the
 11 executive council, such company shall forfeit and pay to the state of
 12 Iowa, one hundred dollars for each day the total failure or refusal
 13 to make any report is continued beyond the said first day of May of
 14 the year in which it is required, or in case of any such other or further
 15 report required by the executive council for each day the same is
 16 delayed beyond thirty days from the receipt of the notice by said com-
 17 pany that same is required, such forfeiture to be sued for and recov-
 18 ered in any proper form of action in the name of the state and on
 19 relation of the executive council of the state of Iowa, and such penalty
 20 when collected, shall be paid into the general fund.

[S. S., '15, § 1346-l.]

SEC. 4572. Assessment by executive council.

1 The executive council shall, at its meeting on the second Monday
 2 in July of each year, proceed to find the actual value of that part of
 3 such transmission line or lines referred to in section forty-five hun-
 4 dred seventy, owned or operated by any company, that are located
 5 within this state but outside cities and towns, including the whole
 6 of such line or lines when all of such line or lines owned or operated
 7 by said company are located wholly outside cities and towns, taking
 8 into consideration the information obtained from the statements re-
 9 quired by this chapter, and any further information they can obtain,
 10 using the same as a means of determining the actual cash value of
 11 such transmission line or lines or part thereof, within this state,
 12 located outside cities and towns. The executive council shall then
 13 ascertain the value per mile of such transmission line or lines owned
 14 or operated by each company specified in section forty-five hundred
 15 seventy by dividing the total value as above ascertained by the num-
 16 ber of miles of line of such company within the state located outside
 17 cities and towns, and the result shall be deemed and held to be the

18 actual value per mile of said transmission line or lines of each of said
19 companies within the state located outside of cities and towns. The
20 taxable value of such line or lines of which said executive council by
21 this chapter are required to find the value, shall be determined by
22 taking the percentage of the actual value so ascertained, as provided
23 by section forty-five hundred eighty-four, and the ratio between the
24 actual value and the assessed or taxable value of the transmission line
25 or lines of each of said companies located outside of cities and towns
26 shall be the same as in the case of the property of private individuals.
27 At said meeting in July, any company interested shall have the right
28 to appear by its officers, agents and attorneys before the executive
29 council, and be heard on the question of the value of its property for
30 taxation.

[S. S., '15, § 1346-m.]

SEC. 4573. Amount assessed to company—how determined—result certified to auditors.

1 The executive council shall, for the purpose of determining what
2 amount shall be assessed to any one of said companies in each county
3 of the state into which the line or lines of the company extend, multi-
4 ply the assessed or taxable value per mile of line of said company, as
5 ascertained according to the provisions of the three preceding sections,
6 by the number of miles of line in each of said counties, and the result
7 thereof shall be by said council certified to the several county auditors
8 of the respective counties into, over or through which said line or
9 lines extend.

[S. S., '15, § 1346-n.]

SEC. 4574. Duty of board of supervisors—levy and collection of tax.

1 At the first meeting of the board of supervisors held after said
2 statements are received by the county auditor, it shall cause such state-
3 ment to be entered in its minute book and make and enter therein an
4 order stating the length of the lines and the assessed value of the prop-
5 erty of each of said companies situated in each township or lesser
6 taxing district in each county outside cities and towns, as fixed by
7 the executive council, which shall constitute the taxable value of said
8 property for taxing purposes. The county auditor shall transmit a
9 copy of said order to the trustees of each township and to the proper
10 taxing boards in lesser taxing districts into which the line or lines
11 of said company extend in the county. The taxes on said property
12 when collected by the county treasurer shall be disposed of as other
13 taxes on real estate.

[S. S., '15, § 1346-o.]

SEC. 4575. Tax rate same as of individuals.

1 Such portions of the transmission line or lines within the state
2 referred to in section forty-five hundred seventy hereof, as are located
3 outside cities and towns, shall be taxable upon said assessment pro-
4 vided for by sections forty-five hundred seventy-two and forty-five
5 hundred seventy-three at the same rate, by the same officers and for
6 the same purposes as property of individuals within such counties,
7 townships or lesser taxing districts, outside cities and towns, and the
8 county treasurer shall collect said taxes at the same time and in the

9 same manner as other taxes, and the same penalties shall be due and
10 collectible as for the nonpayment of individual taxes.

[S. S., '15, § 1346-p.]

SEC. 4576. Not otherwise assessed—exceptions.

1 Every transmission line or part thereof, of which the executive
2 council is required by this chapter and section forty-four hundred
3 eighty-six, to find the value, shall be exempt from other assessment
4 or taxation either under section forty-five hundred one, or under any
5 other law of this state except as provided in this chapter, and section
6 forty-four hundred eighty-six; provided that all lands, buildings, ma-
7 chinery, poles, towers, wires, station and substation equipment and
8 other construction owned or operated by any company referred to in
9 section forty-five hundred seventy, and which such property is located
10 within any city or town within this state shall be listed and assessed
11 for taxation in the same manner as provided in section forty-five hun-
12 dred one, for the listing and assessments of that part of the lands,
13 buildings, machinery, tracks, poles and wires within the limits of any
14 city or town belonging to individuals or corporations furnishing elec-
15 tric light or power, and whose such property, except the capital stock,
16 is situated partly within and partly without the limits of a city or
17 town. All personal property of every company owning or operating
18 any such transmission line referred to in section forty-five hundred
19 seventy, used or purchased by it for the purpose of such transmission
20 line shall be listed and assessed in the assessment district where
21 usually kept and housed and under section forty-five hundred one.

[S. S., '15, § 1346-q.]

SEC. 4577. Company defined—verification of statement.

1 The word "company" as used in this chapter and section forty-
2 four hundred eighty-six, shall be deemed and construed to mean and
3 include any person, copartnership, association, corporation or syndi-
4 cate that shall own or operate a transmission line or lines for the con-
5 ducting of electric energy located within the state and wholly or partly
6 outside cities and towns, whether formed or organized under the laws
7 of this state or elsewhere; and the verification of any statement re-
8 quired by law shall, in the case of a person, be made by such person;
9 in case of a corporation, by the president or secretary thereof; and in
10 the case of a copartnership, association or syndicate, by some member,
11 officer, or agent thereof, having knowledge of the facts.

[S. S., '15, § 1346-r.]

SEC. 4578. Statutes made applicable.

1 The provisions of sections forty-five hundred seventy-nine and
2 forty-five hundred eighty, shall apply to the property of transmission
3 lines included in and referred to in section forty-five hundred seventy.

[S. S., '15, § 1346-t.]

CHAPTER 12.

REASSESSMENT BY EXECUTIVE COUNCIL.

SECTION 4579. Reassessment and relevy.

1 When by reason of nonconformity to any law, or by any omission,
 2 informality, or irregularity, or for any other cause, any tax heretofore
 3 or hereafter levied and assessed against any person, company, asso-
 4 ciation, or corporation by the executive council is invalid or is ad-
 5 judged illegal, the executive council may assess and levy a tax against
 6 such person, company, association, or corporation for the year or
 7 years for which such tax is invalid or illegal, or when necessary may
 8 assess and certify the same to the proper county officers, who shall
 9 levy such tax as by law in such cases made and provided, with the
 10 same force and effect as though done at the proper time and under
 11 any valid law, whether in force at the time of said levy and assess-
 12 ment or thereafter enacted.

[S., '13, § 1330-h.]

SEC. 4580. Voluntary payments.

1 When any person, company, association, or corporation, against
 2 whom any tax has been assessed and levied by the executive council
 3 and held invalid or illegal, shall have paid the same voluntarily or shall
 4 otherwise waive such invalidity and illegality, the executive council
 5 shall accept such tax in lieu of the tax to be raised by the reassess-
 6 ment and relevy provided for in the preceding section.

[S., '13, § 1330-i.]

CHAPTER 13.

THE LOCAL ASSESSOR.

SECTION 4581. Listing property—valuation.

1 Each assessor shall enter upon the discharge of the duties of his
 2 office immediately after the second Monday in January in each year,
 3 and shall, with the assistance of each person assessed, or who may
 4 be required by law to list property belonging to another, enter upon
 5 the assessment rolls furnished him for that purpose the several items
 6 of property required to be entered for assessment. He shall person-
 7 ally affix values to all property assessed by him.

[C., '51, § 473; R., '60, § 733; C., '73, § 822; C., '97, § 1352.]

SEC. 4582. Duty of assessor—owner to assist.

1 The assessor shall list every person in his township, and assess
 2 all the property, personal and real, therein, except such as is hereto-
 3 fore exempted or otherwise assessed, and any person who shall refuse
 4 to assist in making out a list of his property, or of any property which
 5 he is by law required to assist in listing, or who shall refuse to make
 6 either of the oaths or affirmations or combinations thereof required
 7 by the next section, shall be guilty of a misdemeanor, and, upon con-
 8 viction thereof, shall be fined in a sum not to exceed five hundred
 9 dollars.

[C., '51, § 477; R., '60, § 734; C., '73, § 823; C., '97, § 1354;
 S., '13, § 1354.]

SEC. 4583. Oath.

1 The assessor shall administer the oath or affirmation printed on
2 the assessment rolls hereinafter prescribed, or combination thereof,
3 to each person assessed, and require the person taking such oath to
4 subscribe the same, and in case anyone refuses so to do, he shall note
5 the fact in the column of remarks opposite such person's name.

[C., '51, §§ 474, 475; R., '60, § 735; C., '73, § 824; C., '97,
§ 1355; S., '13, § 1355.]

SEC. 4584. Valuation.

1 All property subject to taxation shall be valued at its actual value,
2 which shall be entered opposite each item, and except as otherwise
3 provided shall be assessed at twenty-five per cent of such actual value.
4 Such assessed value shall be taken and considered as the taxable value
5 of such property, upon which the levy shall be made. Actual value
6 of property as used in this title shall mean its value in the market in
7 the ordinary course of trade.

[C., '97, § 1305; S., '13, § 1305.]

SEC. 4585. Taxable valuation.

1 Forest reservations fulfilling the conditions of sections sixteen
2 hundred ninety-nine to seventeen hundred eleven, inclusive, shall be
3 assessed on a taxable valuation of one dollar per acre. Fruit-tree
4 reservations shall be assessed on a taxable valuation of one dollar per
5 acre for a period of eight years from the time of planting. In all
6 other cases where trees are planted upon any tract of land, without
7 regard to area, for forest, fruit, shade or ornamental purposes, or
8 for windbreaks, the assessor shall not increase the valuation of such
9 property because of such improvements.

[S., '13, § 1400-1.]

SEC. 4586. Notice of valuation.

1 The assessor shall, at the time of making the assessment, inform
2 the person assessed, in writing, of the valuation put upon his prop-
3 erty, and notify him, if he feels aggrieved, to appear before the board
4 of review and show why the assessment should be changed.

[C., '97, § 1356.]

SEC. 4587. Refusal to furnish statement.

1 If any corporation or person refuse to furnish the verified state-
2 ments required in chapters two to twelve, inclusive, or to list his
3 property, or to take or subscribe the oath required, the executive coun-
4 cil, or assessor, as the case may be, shall proceed to list and assess
5 such property according to the best information obtainable, and shall
6 add to the taxable valuation one hundred per cent thereof, which
7 valuation and penalty shall be separately shown, and shall constitute
8 the assessment; and if the valuation of such property shall be changed
9 by any board of review, or on appeal therefrom, a like penalty shall
10 be added to the valuation thus fixed.

[C., '51, § 475; R., '60, § 734; C., '73, §§ 823, 1318; C., '97,
§ 1357.]

SEC. 4588. False statement.

1 Any person making any verified statement or return, or taking
2 any oath required by this title, who knowingly makes a false state-
3 ment therein, shall be guilty of perjury.

[C., '97, § 1358.]

SEC. 4589. Meeting of assessors.

1 The county auditor of each county shall, before the third day of
2 January annually, issue a call to all the assessors of his county to
3 meet at his office, or some other place at the county seat, within ten
4 days for consultation, and to receive from such auditor such informa-
5 tion as shall tend to the proper discharge by them of their official
6 duties. It shall be the duty of each of such assessors to attend such
7 meeting, and they shall be allowed pay of one day for such attendance,
8 and mileage at six cents per mile one way.

[C., '97, § 1359.]

SEC. 4590. Assessment rolls and books.

1 The auditor shall procure and furnish to each assessor a supply
2 of blank assessment rolls, on which to enter, separately, the names of
3 all persons, partnerships, corporations or associations assessed, which
4 rolls shall be made in duplicate, except that the oath form in the orig-
5 inal may be omitted and the following inserted in lieu thereof: "If
6 you are not satisfied that the foregoing assessment is correct, you
7 can appear before the board of review, which meets at.....
8 on the first Monday of April next. Dated.....day of.....
9 19..... Assessor." Said duplicate shall be
10 signed by the assessor, detached from the original, and delivered to
11 the person assessed. He shall also furnish to each assessor a supply
12 of blanks in this chapter described as "Assessment Roll, Form No.
13 2," which shall be in duplicate, and subject to the same conditions as
14 the roll above provided for. The auditor shall also furnish to the
15 assessor two assessment books, each page of which shall be headed
16 "Assessor's book for.....township,.....county,
17 Iowa, independent district of.....," and shall contain col-
18 umns ruled and headed for the information required by this chapter,
19 which rolls and books shall be substantially in the following form:

ASSESSMENT ROLL.

Name.....Age..... Address.....No. Dogs.....male.....female.....

No. road district. Name or number of school district.	Part of Section or Name of Town.	Section or lot. Township or block. Range.	Value of new buildings.	No. of acres improved.	No. of acres unimproved.	Total Number of Acres Taxable.	Lands		Lts.	Total taxable value of real estate.	Ex-emp-tions. For roads. For homesteads. Net value of lands and lots.	No. of articles.	Description of Personal Property.	Actual value. Remarks.
							Actual value per acre.	Actual value.						
						Acres 100							Colts 1 year old.....	
													Colts 2 years old.....	
													Colts 3 years old.....	
													Horses over 3 years old.....	
													Stallions.....	
													Mules and asses over 1 year old.....	
													Heifers 1 year old.....	
													Heifers 2 years old.....	
													Cows.....	
													Steers 1 year old.....	
													Steers 2 years old.....	
													Steers 3 years old or over.....	
													Bulls.....	
													Work oxen.....	
													Sheep over 6 months old.....	
													Swine over 6 months old.....	
													Vehicles.....	
													Household furniture of hotel and boarding house.....	
													Moneys and credits from form No. 2.....	
													Merchandise.....	
													Other personal property.....	
													Corporation stock.....	
													Total actual value personal.....	
													Total taxable value personal.....	
													Total actual value real estate.....	
													Total net taxable value real estate.....	
<p>Total number of acres - - - - -</p> <p>Total actual value of real estate - - - - - \$</p> <p>Total taxable value of real estate - - - - -</p> <p>Total exemptions - - - - -</p> <p>Net total value of lands and lots - - - - -</p>														

Date of Inventory.....

Report name of soldier or sailor; or widow of soldier or sailor, and names of persons who by reason of age or infirmity claim to be unable to contribute to public revenue.

Notice of right to appear before board of review given.....A. D.....

Changes by board of review are as follows:

STATE OF IOWA,

.....COUNTY. }
 I, do
 solemnly swear (or affirm) that I am the person assessed above, that I have read the foregoing assessment roll of property listed or assessed to me, and that the same is a full, true and correct list of my taxable property, both real and personal property, subject to taxation within this district, and all property which should be listed on this assessment roll to me or by me.

Subscribed and sworn to (or affirmed) this.....day of.....A. D..... before me.

.....Assessor.

ASSESSOR'S BOOK.

Township, County, Iowa.
 Independent District of

Owner's name.	
Under 45.	Polls.
Over 45.	
Number of road district.	
Name or number of school district.	
Part of section or name of town.	
Section or lot.	
Township or block.	
Range.	
Number of acres improved.	
Number of acres unimproved.	
Acres.	Total No. of acres taxable.
100.	
Value of new buildings.	
Actual value per acre.	Lands.
Actual value.	Lots.
Total actual value of real estate.	
For Roads.	Exemption.
For Homesteads.	
Net actual value of lands and lots.	
Total taxable value of real estate.	
Number.	Colts 1 year old.
Actual value.	
Number.	Colts 2 years old.
Actual value.	
Number.	Horses 3 years old and over.
Actual value.	
Number.	Stallions.
Actual value.	
Number.	Mules.
Actual value.	

(CONTINUED)

		Cattle.
Number.	Heifers 1 year old.	
Actual value.		
Number.	Heifers 2 years old.	
Actual value.		
Number.	Cows.	
Actual value.		
Number.	Steers 1 year old.	
Actual value.		
Number.	Steers 2 years old.	
Actual value.		
Number.	Steers 3 years old or over.	
Actual value.		
Number.	Bulls.	
Actual value.		
Number.		Swine
Actual value.		
Number.	Sheep over 6 months.	
Actual value.		
Number.	Vehicles.	
Actual value.		
Actual value.	H'sld f'n'tre, hotel and boarding house.	
Actual value.	Moneys and credits.	
Corporation stocks.		
Merchandise.		
Other personal property.		
Actual value.	Total personal property.	
Taxable value.		
Actual value of all property.		
Taxable value.		
Male.	Dogs.	
Female.		

ASSESSMENT ROLL—Form No. 2.

ASSESSMENT OF MONEYS AND CREDITS.

Of.....of.....township of.....state of Iowa, January 1,.....

Notes, Bonds and Other Evidence of Credit.	Actual Value.
Aggregate amount of notes
Aggregate amount of bonds
Aggregate amount of other written evidences of credit.....
Aggregate amount of money in bank.....
Aggregate amount of other money
Aggregate amount of book accounts—good
Aggregate amount of book accounts—doubtful
Aggregate amount of checks, drafts and other cash items.....
Total moneys and credits.....
Liabilities.	
Total amount of notes
Total amount of accounts
Total amount of other debts
Total amount of debts.....
Net amount of moneys and credits.....

The party assessed need list only such of his liabilities as he may desire to have subtracted from his moneys and credits.

STATE OF IOWA.....County, ss.

I,do solemnly swear (or affirm) that the above is a full, true and correct statement of all moneys and credits owned by me, and that the liabilities above given to be deducted therefrom are obligations in good faith actually owed by me.

Signed.....

Subscribed and sworn to (or affirmed) before me by..... this.....day of.....

.....Assessor.

[C., '51, §§ 471, 473; R., '60, §§ 732, 733; C., '73, § 821; C., '97, § 1360; S., '13, § 1360.]

SEC. 4591. Schedules returned.

1 The assessor shall furnish to each person, partnership, corpora-
 2 tion or association, except those otherwise assessed as provided by
 3 law, a blank known as "Assessment Roll—Form No. 2," as provided
 4 in the preceding section, upon which such person, partnership, cor-
 5 poration or association shall enter and set out all moneys and credits
 6 of whatsoever kind or nature belonging to such person, partnership,
 7 corporation or association, and such liabilities as they claim should
 8 be deducted from the total of their moneys and credits. The assessor
 9 shall carry the aggregate moneys and credits of such persons, part-
 10 nerships, corporations or associations to the regular schedule. The
 11 assessor shall return all schedules with the assessment books to the
 12 county auditor as is provided in this chapter, and the county auditor
 13 shall carefully keep all schedules known and described in this chapter
 14 as "Assessment Roll—Form No. 2," for the period of five years from
 15 the time of filing of the same in his office; provided, however, that
 16 it shall be lawful to combine the affidavit with reference to real and

17 personal property, and the affidavit as to moneys and credits, into one
18 affidavit.

[C., '97, § 1361; S., '13, § 1361.]

SEC. 4592. Instructions.

1 The state board of review shall from time to time prepare and
2 certify to each county auditor such instruction as to a uniform method
3 of making up the assessment rolls as it thinks necessary to secure a
4 compliance with the law and uniform returns, which shall be printed
5 upon each assessment roll, and also prepare instructions for the same
6 purpose as to making up the assessment books, which shall be printed
7 therein.

[C., '97, § 1362.]

SEC. 4593. Plat book.

1 The county auditor shall furnish to each assessor a plat book
2 on which shall be platted the lands and lots in his assessment district,
3 showing on each subdivision or part thereof written in ink or pencil,
4 the name of the owner, the number of acres, or the boundary lines
5 and distances in each, and showing as to each tract the number of
6 acres to be deducted for railway right of way and for roads.

[C., '51, § 181; R., '60, § 733; C., '73, § 821; C., '97, § 1364.]

SEC. 4594. Completion of assessment.

1 The assessment shall be completed by the first day of April, and
2 the assessor shall attach to the assessment rolls his oath in the follow-
3 ing form:

4 I, (A..... B.....), assessor of.....county of..... and
5 state of Iowa, do solemnly swear (or affirm) that the actual and tax-
6 able values of all property, money and credits, of which a statement
7 has been made and verified by the oath of the person required to list
8 the same, is herein truly set forth in such statement; that in every
9 case, where I have been required to ascertain the amount or value of
10 any property, I have diligently, and by the best means in my power,
11 endeavored to ascertain the true amount and value, and as I verily
12 believe the actual and taxable values thereof are set forth in the an-
13 nexed return; in no case have I knowingly omitted to demand of any
14 person, of whom I was required to do so, a statement of the items of
15 his property which he was required by law to list, nor to administer
16 the oath to him, unless he refused to take it, nor in any way connived
17 at any violation or evasion of any of the requirements of the law in
18 relation to the assessment of property for taxation.

19 Subscribed and sworn (or affirmed) to this.....day of.....
20 A. D....., before me.

21

[C., '51, § 479; C., '97, § 1365.]

SEC. 4595. Assessors' books returned.

1 Such rolls shall be laid before the local board of review on or
2 before the first Monday of April in each year for correction, and when
3 such correction has been completed, the assessor shall proceed to make
4 up the assessor's books from such assessment rolls, allotting a suffi-
5 cient number of pages to each letter, and return to the county auditor,
6 together with the assessment rolls, plat book, and all statements which

7 have been furnished to him in connection with the assessment, and
 8 the county auditor shall foot up each column of numbers and values
 9 on each page and enter such footings in recapitulation sheets; and
 10 the assessor shall furnish to the clerk of the city, town or township,
 11 as the case may be, a list of all persons subject to poll tax.

[C., '51, § 478; R., '60, § 736; C., '73, § 825; C., '97, § 1366;
 S., '13, § 1366; 38 G. A., ch. 385, § 1.]

SEC. 4596. Penalty.

1 If any assessor or member of any board of review shall know-
 2 ingly fail or neglect to make or require the assessment of property
 3 for taxation to be of and for its taxable value as provided by law or
 4 to perform any of the duties required of him by law, at the time and
 5 in the manner specified, he shall forfeit and pay the sum of five hun-
 6 dred dollars, to be recovered in an action in the district court in the
 7 name of the county and for its use, and the action against the assessor
 8 shall be against him and his bondsmen.

[R., '60, § 738; C., '73, § 827; C., '97, § 1367.]

SEC. 4597. Examination of assessors.

1 It shall be lawful for the boards of supervisors, the trustees of
 2 townships, and councils of cities and incorporated towns as boards
 3 of review to summon any assessor or assessors to appear before them,
 4 respectively, to be inquired of under oath with respect to the method
 5 by which he or they has or have ascertained and fixed any valuation
 6 or valuations returned by him or them, and as to the correctness of
 7 any such valuation or valuations, and to administer the oath by any
 8 one of their members to the assessor or assessors so summoned before
 9 them; and any assessor so summoned who shall fail without good
 10 cause to appear, or, appearing, shall refuse to submit to such inquiry,
 11 shall be deemed guilty of a misdemeanor, and on conviction thereof
 12 shall be punished accordingly.

[C., '97, § 1368.]

SEC. 4598. Publication of revenue laws.

1 The auditor of state shall publish in pamphlet form the revenue
 2 laws of the state, for the benefit of the assessors and boards of review,
 3 and distribute them to the county auditors, who shall distribute the
 4 same to the assessors and boards of their respective counties.

[C., '73, § 828; C., '97, § 1369.]

CHAPTER 14.

BOARDS OF REVIEW.

SECTION 4599. Local board of review.

1 The township trustees shall constitute the local board of review
 2 for the township or the portion thereof not included within any city
 3 or town, and the city or town council shall constitute such board for
 4 such city or town. The board shall meet on the first Monday of April,
 5 at the office of the township, city or town clerk or recorder, and sit
 6 from day to day until its duties are completed, which shall be not

7 later than the first day of May, and shall adjust assessments for the
 8 township, city or town by raising or lowering the assessment of any
 9 person, partnership, corporation or association as to any or all of the
 10 items of his assessment, in such manner as to secure the listing of
 11 property at its actual value and the assessment of property at its
 12 taxable value, and shall also add to the assessment rolls any taxable
 13 property not included therein, assessing the same in the name of the
 14 owner thereof, as the assessor should have done; provided, however,
 15 that in townships having a population of twenty thousand or more,
 16 and situated entirely within the limits of a city under special charter,
 17 and in cities having a population of twenty thousand or more, includ-
 18 ing cities under special charters, the board of review may begin the
 19 performance of the duties herein defined on and after the first day of
 20 March each year; provided, however, that in townships having a
 21 population of twenty thousand or more, and situated entirely within
 22 the limits of a city under special charter, and in cities under special
 23 charters having a population of twenty thousand or more, the city
 24 council of said city shall be the board of review, except that the town-
 25 ship trustees of said townships may, in the event the city council does
 26 not act as such board of review for such townships, be the board of
 27 review, the same as township trustees would be in townships in which
 28 the township lines are not coterminous with city limits. All equaliza-
 29 tions and reviews of taxes heretofore made by township trustees in
 30 townships as hereinbefore defined are hereby legalized, except that
 31 nothing herein contained shall be construed to affect pending litigation;
 32 provided further, that the township board of review shall finish
 33 its labors not later than May first following commencement of the
 34 work.

[C., '73, §§ 829, 830; C., '97, § 1370; S., '13, § 1370; 38 G. A.,
 ch. 244, § 1.]

SEC. 4600. Clerk—correction of assessments.

1 The clerk or recorder of the township, city or town, as the case
 2 may be, shall be clerk of the board of review, and keep a record of its
 3 proceedings, and the assessor shall be present at its meeting and
 4 make upon the assessment rolls all corrections or additions directed
 5 by the board. At such meetings it shall be the duty of the assessor
 6 to read each and every taxpayer's name and assessment on the assess-
 7 ment rolls, and, if the assessment is approved, pass to the next name.
 8 After checking the same, the board shall then take up the unchecked
 9 names in alphabetical order, and raise or lower the same as in their
 10 opinion will be just, checking off each taxpayer as the same is ad-
 11 justed.

[R., '60, § 740; C., '73, § 831; C., '97, § 1371; S., '13, § 1371.]

SEC. 4601. Notice of assessments raised.

1 In case the value of any specific property or the entire assessment
 2 of any person, partnership, corporation or association is raised, or new
 3 property is added by the board, the clerk shall give immediate notice
 4 thereof by mail to each at the postoffice address shown on the assess-
 5 ment rolls, and at the conclusion of the action of the board therein the
 6 clerk shall post an alphabetical list of those whose assessments are
 7 thus raised and added, in a conspicuous place in the office or place of
 8 meeting of the board, and enter upon the records a statement that
 9 such posting has been made, which entry shall be conclusive evidence

10 of the giving of the notice required. The board shall hold an ad-
 11 journed meeting, with at least five days intervening after the post-
 12 ing of said notices, before final action with reference to the raising of
 13 assessments or the adding of property to the rolls is taken, and the
 14 posted notices shall state the time and place of holding such adjourned
 15 meeting, which time and place shall also be stated in the proceedings
 16 of the board.

[C., '97, § 1372; S., '13, § 1372.]

SEC. 4602. Complaint to board of review—appeal.

1 Any person aggrieved by the action of the assessor in assessing
 2 his property may make oral or written complaint thereof to the board
 3 of review, which shall consist simply of a statement of the errors
 4 complained of, with such facts as may lead to their correction, and
 5 any person whose assessment has been raised or whose property has
 6 been added to the assessment rolls, as provided in the preceding sec-
 7 tion, shall make such complaint before the meeting of the board for
 8 final action with reference thereto, as provided in said section, and
 9 appeals may be taken from the action of the board with reference to
 10 such complaints to the district court of the county in which such
 11 board holds its sessions, within twenty days after its adjournment.
 12 Appeals shall be taken by a written notice to that effect to the chair-
 13 man or presiding officer of the reviewing board, and served as an orig-
 14 inal notice. The court shall hear the appeal in equity and determine
 15 anew all questions arising before the board which relate to the liability
 16 of the property to assessment or the amount thereof, and its decision
 17 shall be certified by the clerk of the court to the county auditor, who
 18 shall correct the assessment books in his office accordingly. Any
 19 officer of a county, city, town, township or school district interested
 20 or a taxpayer thereof may in like manner make complaint before said
 21 board of review in respect to the assessment of any property in the
 22 township, city or town and an appeal from the action of the board of
 23 review in fixing the amount of assessment on any property concern-
 24 ing which such complaint is made, may be taken by any of such afore-
 25 mentioned officers. Such appeal is in addition to the appeal allowed
 26 to the person whose property is assessed and shall be taken in the
 27 name of the county, city, town, township or school district interested
 28 and tried in the same manner, except that the notice of appeal shall
 29 also be served upon the owner of the property concerning which the
 30 complaint is made and affected thereby or person required to return
 31 said property for assessment. Upon trial of any appeal from the
 32 action of the board of review fixing the amount of assessment upon
 33 any property concerning which complaint is made, the court may
 34 increase, decrease or affirm the amount of the assessment appealed
 35 from.

[R., '60, § 740; C., '73, § 831; C., '97, § 1373; S., '13, § 1373.]

SEC. 4603. County board of review.

1 The board of supervisors shall constitute a county board of review,
 2 and shall adjust the assessments of the several townships, cities and
 3 towns of their county at their regular meeting in June, and add to or
 4 deduct from the assessed value of the property substantially as the
 5 state board adjusts assessments of the several counties of the state.

[R., '60, § 739; C., '73, § 832; C., '97, § 1375.]

SEC. 4604. Appeals.

1 Appeals may be taken from any action or decision of a county
 2 board of review by the board of review of any city, town or township
 3 aggrieved thereby, within the same time and in the same manner as
 4 appeals are taken from the local board of review.

[C., '97, § 1376.]

SEC. 4605. Abstract.

1 Each auditor shall, on or before the third Monday in June, make
 2 out and transmit to the auditor of state an abstract of the real and
 3 personal property in his county, in which he shall set forth:

4 1. The number of acres of land and the aggregate actual and
 5 taxable values of the same, exclusive of town lots, returned by the
 6 assessors, as corrected by the county board of review.

7 2. The aggregate actual and taxable values of real estate in each
 8 township, city and town in the county, returned as corrected by the
 9 county board of review.

10 3. The aggregate actual and taxable values of personal property.

11 4. An abstract as to the number and value of all animals as the
 12 same are returned by the assessor, showing the aggregate actual and
 13 taxable values and number of each kind or class, and such other facts
 14 as may be required by the state board of review.

[R., '60, § 741; C., '73, § 833; C., '97, § 1377.]

SEC. 4606. State board of review.

1 The executive council shall constitute the state board of review,
 2 and shall meet at the seat of government on the second Monday of
 3 July in each year. The auditor of state shall lay before it the abstracts
 4 transmitted to him by the county auditors, as required by the preced-
 5 ing section.

[C., '51, §§ 481, 482; R., '60, § 742; C., '73, § 834; C., '97,
 § 1378; S., '13, § 1378.]

SEC. 4607. Adjusting valuation in counties.

1 It shall adjust the valuation of property of the several counties,
 2 adding to or deducting from the valuation of each kind or class of
 3 property such percentage in each case as will bring the same to its
 4 taxable value as fixed in chapters one to fifteen, inclusive, of this title,
 5 but before such executive council shall add to the valuation of any kind
 6 or class of property any such percentage, it shall serve ten days' notice
 7 by mail, on the auditor of the county whose valuation is proposed to be
 8 raised and shall hold an adjourned meeting after such ten days' notice,
 9 at which time such county may appear by its board of supervisors,
 10 county attorney, or otherwise, and make written or oral protest
 11 against such proposed raise, which protest shall consist simply of a
 12 statement of the error, or errors, complained of with such facts as
 13 may lead to their correction, and at such adjourned meeting final
 14 action may be taken in reference thereto.

[C., '51, §§ 481, 482; R., '60, § 742; C., '73, § 834; C., '97,
 § 1379; 37 G. A., ch. 139, § 1.]

SEC. 4608. Adjustment by county auditor.

1 The board shall keep a record of its proceedings, and finish its
 2 review and adjustment on or before the third Monday of August. The

3 county auditor shall thereupon add to or deduct from the valuation of
 4 each kind or class of property in his county the required percentage,
 5 rejecting all fractions of fifty cents or less in the result, and counting
 6 all over fifty cents as one dollar.

[C., '51, § 483; R., '60, § 743; C., '73, § 836; C., '97, § 1382;
 S., '13, § 1382; 37 G. A., ch. 416, § 1.]

CHAPTER 15.

TAX LIST.

SECTION 4609. Tax list.

1 All taxes, except road taxes, which are uniform throughout any
 2 township or school district shall be formed into a single tax, and
 3 entered upon the tax list in a single column, to be known as a con-
 4 solidated tax, and each receipt shall show the percentage levied for
 5 each separate fund. Before the first day of January in each year, the
 6 county auditor shall transcribe the assessments of the several town-
 7 ships, towns or cities into a book, to be provided at the expense of the
 8 county for that purpose, to be known as the tax list, properly ruled and
 9 headed, with distinct columns, in which shall be entered the names of
 10 taxpayers, descriptions of lands, number of acres and value, number
 11 of town lots and value, value of personal property and each descrip-
 12 tion of tax, with a column for polls and one for payments, and shall
 13 complete the same by carrying out the totals and footings of col-
 14 umns. At the end of the list for each township, town or city he shall
 15 make an abstract thereof, and apportion the consolidated tax among
 16 the respective funds to which it belongs, according to the number of
 17 mills levied for each.

[C., '51, §§ 485, 486; R., '60, §§ 745, 746; C., '73, §§ 837-839;
 C., '97, § 1383; S., '13, § 1383.]

SEC. 4610. Tax list delivered.

1 He shall make an entry upon the tax list showing what it is, for
 2 what county and year, and deliver it to the county treasurer on or
 3 before the thirty-first day of December, taking his receipt therefor;
 4 and such list shall be a sufficient authority for the treasurer to collect
 5 the taxes therein levied. But no informality therein, and no delay in
 6 delivering the same after the time above specified, shall affect the
 7 validity of any taxes, sales, or other proceedings for the collection of
 8 such taxes.

[C., '51, § 487; R., '60, § 748; C., '73, § 843; C., '97, § 1387.]

SEC. 4611. Aggregate valuation certified.

1 At the time of delivering the list to the treasurer, the auditor
 2 shall furnish to the auditor of state a certified statement, showing
 3 separately the aggregate full and taxable valuations of the real and
 4 personal property in the county, and also the aggregate amount of
 5 each separate tax as shown by the tax list.

[R., '60, § 748; C., '73, § 844; C., '97, § 1388.]

SEC. 4612. Withholding property from assessment—penalty.

1 When property subject to taxation is withheld, overlooked, or
 2 from any other cause is not listed and assessed, the county treasurer
 3 shall, when apprised thereof, at any time within five years from the
 4 date at which such assessment should have been made, demand of the
 5 person, firm, corporation or other party by whom the same should
 6 have been listed, or to whom it should have been assessed, or of the
 7 administrator thereof, the amount the property should have been
 8 taxed in each year the same was so withheld or overlooked and not
 9 listed and assessed, together with six per cent interest thereon from
 10 the time the taxes would have become due and payable had such
 11 property been listed and assessed, and upon failure to pay such sum
 12 within thirty days, with all accrued interest, he shall cause an action
 13 to be brought in the name of the treasurer for the use of the proper
 14 county, to be prosecuted by the county attorney, or such other person
 15 as the board of supervisors may appoint, and when such property has
 16 been fraudulently withheld from assessment, there shall be added to
 17 the sum found to be due a penalty of fifty per cent upon the amount,
 18 which shall be included in the judgment. The amount thus recovered
 19 shall be by the treasurer apportioned ratably as the taxes would have
 20 been if they had been paid according to law.

[C., '97, § 1374.]

SEC. 4613. Errors corrected—omitted property.

1 The auditor may correct any error in the assessment or tax list,
 2 and may assess and list for taxation any omitted property; but before
 3 assessing and listing for taxation any omitted property he shall notify
 4 by registered letter the person, firm, corporation, or administrator, or
 5 other person in whose name the property is taxed, to appear before
 6 him at his office within ten days from the time of said notice and show
 7 cause, if any there be, why such correction or assessment should not
 8 be made, and should such party feel aggrieved at the action of said
 9 auditor he shall have the right of appeal therefrom to the district
 10 court. And if such correction or assessment is made after the books
 11 have passed into the hands of the treasurer he shall be charged or
 12 credited therefor as the case may be. All expense incurred in the
 13 making of said correction or assessment shall be borne pro rata by
 14 the funds which are affected by said correction and the proceedings
 15 to be reported to the board of supervisors.

[R., '60, § 747; C., '73, § 841; C., '97, § 1385; S., '13, § 1385-b.]

SEC. 4614. Appeal.

1 The appeal provided for in the preceding section shall be taken
 2 within ten days from the time of the final action of the auditor, by a
 3 written notice to that effect to the auditor, and served as an original
 4 notice. The court on appeal shall hear and determine the rights of
 5 the parties in the same manner as appeals from the board of review,
 6 as prescribed in section forty-six hundred two.

[S., '13, § 1385-c.]

SEC. 4615. Assessment of omitted property.

1 The treasurer shall assess any real property subject to taxation
 2 which may have been omitted by the assessor, board of review or
 3 county auditor, and collect taxes thereon, and in such cases shall note,

4 opposite the tract or lot assessed, the words "by treasurer," but such
 5 assessment shall be made within four years after the tax list shall
 6 have been delivered to him for collection, and not afterwards, if the
 7 property is then owned by the person who should have paid the tax.
 [C., '51, § 491; R., '60, § 752; C., '73, § 85r; C., '97, § 1398.]

SEC. 4616. Duty of owner.

1 In all cases where real estate subject to taxation has not been
 2 assessed, the owner, by himself or agent, shall have the same done
 3 by the treasurer, and pay the taxes thereon; and if he fails to do so
 4 the treasurer shall assess the same and collect the tax assessed as he
 5 does other taxes. And no failure of the owner to have such property
 6 assessed or to have the errors in the assessment corrected, and no
 7 irregularity, error or omission in the assessment of such property,
 8 shall affect in any manner the legality of the taxes levied thereon, or
 9 affect any right or title to such real estate which would have accrued
 10 to any party claiming or holding under and by virtue of a deed exe-
 11 cuted by the treasurer as provided by this title, had the assessment of
 12 such property been in all respects regular and valid.

[R., '60, § 753; C., '73, § 852; C., '97, § 1399.]

**SEC. 4617. Contracts for discovery of unassessed property pro-
 hibited.**

1 It shall be unlawful for the council of any city or town, including
 2 cities under special charters and the commission plan, or for the
 3 board of supervisors of any county, to employ or contract with any
 4 person, corporation or firm to assist the proper officers in the discovery
 5 of property not listed or assessed for taxation as required by law.

[S., '13, § 1407-f.]

CHAPTER 16.

TAX LEVIES.

SECTION 4618. Rate of taxation—adjusted taxable value.

1 In all taxing districts in the state, including townships, school dis-
 2 tricts, cities, towns and counties, when by law then existing the people
 3 are authorized to determine by vote, or officers are authorized to esti-
 4 mate or determine, a rate of taxation required for any public purpose,
 5 such rate shall in all cases be estimated and based upon the adjusted
 6 taxable valuation of such taxing district for the preceding calendar
 7 year.

[37 G. A., ch. 343, § 1.]

SEC. 4619. Amounts certified in dollars, not by rate.

1 When any authorized tax rate within any taxing district of the
 2 state, including townships, school districts, cities, towns and counties,
 3 shall have been thus determined as provided by law, the officer or
 4 officers charged with the duty of certifying said authorized rate to the
 5 county auditor or board of supervisors shall, before certifying the
 6 same, compute upon the adjusted taxable valuation of such taxing dis-
 7 trict for the preceding calendar year (not including moneys and credits

8 and other moneyed capital taxed at a flat rate, as provided in section
9 forty-five hundred four), the amount of tax said rate will raise, stated
10 in dollars, and shall certify said computed amount in dollars, and not
11 by rate, to the county auditor and board of supervisors.

[37 G. A., ch. 343, § 2.]

SEC. 4620. Computation of rate.

1 When the valuations for the several taxing districts shall have
2 been adjusted by the several boards, as provided by law, for the cur-
3 rent year, the county auditor shall thereupon compute and spread
4 upon the records such a rate, not exceeding the rate authorized by
5 law, on said adjusted taxable valuations for the current year (not
6 including moneys and credits and other moneyed capital taxed at a flat
7 rate, as provided in section forty-five hundred four), as shall raise the
8 amount required for each taxing district within the county, as there-
9 tofore determined according to law, and no larger amount; provided,
10 however, that in fixing such rate the auditor, with the approval of the
11 board of supervisors, may provide for an excess in the amount to be
12 raised not exceeding five per cent on the amount of the tax, for the
13 purpose of meeting possible shrinkage due to exemptions or other
14 cause; and provided further, that if in adjusting the rate to be levied
15 in any taxing district to conform to law, such rate shall make neces-
16 sary the levying of a fraction of a mill in excess of one-half of one-
17 tenth of a mill, said fractional excess may be computed as one-tenth
18 of a mill, which latter shall be the smallest required to be spread upon
19 the tax lists for any purpose except rates applicable to state purpose,
20 provided, however, that nothing herein shall be construed as inter-
21 fering with the right of any taxing district to receive its due propor-
22 tion of the taxes on moneys and credits and other moneyed capital
23 taxed at a flat rate as provided in section forty-five hundred four.

[37 G. A., ch. 343, § 3; 38 G. A., ch. 57, § 1.]

SEC. 4621. Record of rates.

1 On the determination by the auditor of the necessary rates as
2 herein directed, it is made his duty to enter a record of such rates for
3 each taxing district upon the permanent records of his office in a book
4 to be kept for that purpose.

[37 G. A., ch. 343, § 4.]

SEC. 4622. Excessive tax—penalty.

1 It is hereby made a misdemeanor for the board of supervisors to
2 authorize, or the county auditor to carry upon the tax lists for any
3 year, an amount of tax for any public purpose in excess of the amount
4 certified or authorized as provided by law.

[37 G. A., ch. 343, § 5.]

SEC. 4623. Mandatory provisions.

1 The provisions of the five preceding sections, and the methods of
2 computation, certification and levy therein provided, shall be obliga-
3 tory on all officers within the several counties of the state upon whom
4 devolves the duty of determining, certifying and levying taxes.

[37 G. A., ch. 343, § 6.]

SEC. 4624. Levy—amount of.

1 The board of supervisors of each county shall, annually, at its
 2 September session, levy the following taxes upon the assessed value
 3 of the taxable property in the county:

4 1. For state revenue, such rate of tax as shall be fixed by the
 5 executive council as hereinafter provided.

6 2. For ordinary county revenue, not more than six mills on a
 7 dollar in counties having a population of less than forty thousand, and
 8 in counties having a population of forty thousand or more, four mills,
 9 with a poll tax in either case of fifty cents on each male resident over
 10 twenty-one years of age. But in any county in which the levy is
 11 limited to four mills the board of supervisors may, at any general
 12 election, submit the question of increasing such levy to six mills or less
 13 to a vote of the electors, and if such proposition is adopted the board
 14 of supervisors may make the next general levy at the proposed rate;
 15 provided, however, that in any county where, by reason of extraor-
 16 dinary or unusual litigation the rates herein fixed for ordinary county
 17 revenue are found to be insufficient to pay the same, the board of
 18 supervisors may create an additional fund to be known as court
 19 expense fund, and may levy for such fund such rate of taxes as shall
 20 be necessary to pay all court expenses chargeable to the county. Such
 21 fund shall be used for no other purpose, and the levy therefor shall be
 22 dispensed with when the authorized levy for the ordinary county
 23 revenue is sufficient to meet the necessary county expenditures includ-
 24 ing such court expenses. Provided, further, that the levy for the pur-
 25 pose of providing an additional fund shall not exceed three mills on a
 26 dollar.

[C., '51, § 454; R., '60, § 710; C., '73, § 796; C., '97, § 1303;
 S. S., '15, § 1303.]

SEC. 4625. Orphans' fund.

1 The board of supervisors may levy a tax, not exceeding one-half
 2 mill on the dollar in any one year, on all the taxable property in its
 3 county, at the same time other taxes are levied, and to be collected
 4 in the same manner, to aid in and for the maintenance and education
 5 of destitute orphans. The fund thus raised shall be called the "county
 6 orphan fund," and shall be expended in such sums and manner as the
 7 exigencies of each case may demand. If there are such children who
 8 are without guardian, or, having one, are neglected, they shall be
 9 cared for through some suitable person to be appointed by the board.

[C., '73, §§ 1638-1641; C., '97, § 2687.]

SEC. 4626. Peddlers—amount of tax.

1 Peddlers plying their vocation in any county in this state outside
 2 of a city or incorporated town, shall pay an annual county tax of
 3 twenty-five dollars for each pack peddler or hawker on foot, fifty
 4 dollars for each one-horse conveyance, and seventy-five dollars for each
 5 two-horse conveyance. Such tax shall be paid to the county treasurer,
 6 who shall issue to the person making such payment duplicate receipts
 7 therefor and upon presentation of one of same to the county auditor,
 8 he shall issue to the person presenting such receipt a license which
 9 shall not be transferable authorizing such person to ply the vocation
 10 of a peddler in such county for the term of one year from the date
 11 thereof. The word "peddlers" under the provisions of this section,

12 and wherever found in the code, shall be held to include and apply to
13 all transient merchants and itinerant vendors selling by sample or by
14 taking orders, whether for immediate or future delivery. The provi-
15 sions of this section shall not be construed to apply to persons selling
16 at wholesale to merchants, nor to transient vendors of drugs, nor to
17 persons running a huckster wagon, or selling and distributing fresh
18 meats, fish, fruit, or vegetables, nor to persons selling their own work
19 or production either by themselves or employees.

[C., '51, § 510; R., '60, § 791; C., '73, § 906; C., '97, § 1347;
S., '13, § 1347-a.]

SEC. 4627. License.

1 Any person peddling outside the limits of a city or town without
2 such license or after the expiration thereof, shall be guilty of a mis-
3 demeanor, whether he be the owner of the goods sold or carried by
4 him or not, and, on conviction thereof, shall forfeit and pay into the
5 county treasury, in addition to the penalty imposed therefor, double
6 the amount of the tax for one year as fixed in the preceding section.
7 The license shall be good only in the county in which issued, and shall
8 not authorize peddling in cities and towns.

[C., '51, §§ 511, 512; R., '60, § 792; C., '73, § 907; C., '97,
§ 1348; S., '13, § 1348.]

SEC. 4628. Public shows.

1 No person shall exhibit any traveling show or circus, nor show
2 any natural or artificial curiosity, or exhibition of horsemanship in a
3 circus or otherwise for any price, gain or reward in any county out-
4 side the limits of a city or town, until he shall have obtained a license
5 therefor from the county auditor, upon the payment to the county
6 treasurer of such sum as may be fixed by the board of supervisors, not
7 exceeding one hundred dollars for each place in the county at which
8 such show or circus may exhibit, and any person exhibiting any such
9 show without first having obtained such license shall be guilty of a
10 misdemeanor, and shall also forfeit and pay to the county treasurer
11 double the amount fixed for such license, for the benefit of the school
12 fund.

[C., '97, § 1349.]

SEC. 4629. Levy to pay municipal bonds.

1 Whenever any municipal corporation, board or tribunal is charged
2 with the duty of levying a tax to pay any bonds or interest thereon,
3 and fails to make such levy, the holder thereof may, after obtaining
4 final judgment thereon, in addition to any other remedies he may
5 have, file a transcript thereof with the auditor of state, taking his
6 receipt therefor, and the same shall be registered in his office, and the
7 state board of review at its regular annual session shall levy upon the
8 taxable property of the county, city, town or school district for which
9 such bonds were issued a sufficient rate of taxation to realize the
10 amount of interest, or principal and interest, due or to become due on
11 the bonds so filed, prior to the next levy, and the money arising from
12 such levy shall be known as the bond fund, and collected as a part of
13 the state tax, paid into the state treasury, and placed to the credit of
14 such county, city, town or school district for the payment of said bonds
15 and interest, and shall be paid out as the interest installments or the

16 principal may mature, by warrants drawn by the auditor of state in
 17 favor of the holder of such bonds, as shown by the register in his
 18 office, until the same shall be paid; and, when paid, the bonds and
 19 coupons shall be canceled and returned to the treasurer of the county,
 20 city, town or school district issuing the same, who shall receipt
 21 therefor.

[C., '97, § 1381.]

SEC. 4630. Annual levy fixed by general assembly.

1 In the year nineteen hundred and each subsequent year the execu-
 2 tive council shall fix the rate per centum to be levied upon the valua-
 3 tion of the taxable property of the state necessary to raise such
 4 amount for general state purposes as shall be designated by the gen-
 5 eral assembly, either by statute or joint resolution.

[S., '13, § 1380-c.]

SEC. 4631. Executive council to certify to county auditor.

1 The executive council shall certify the rate so fixed to the auditor
 2 of each county.

[S., '13, § 1380-d.]

CHAPTER 17.

COLLECTION OF TAXES.

SECTION 4632. Treasurer to collect.

1 The treasurer, after making the entry provided in section forty-
 2 six hundred forty-one, shall proceed to collect the taxes, and the list
 3 shall be his authority and justification against any illegality in the
 4 proceedings prior to receiving the list; and he is also authorized and
 5 required to collect, as far as practicable, the taxes remaining unpaid
 6 on the tax books of previous years, his efforts to that end to include
 7 the sending by mail of a statement to each delinquent taxpayer not
 8 later than the first day of November of each year.

[R., '60, § 751; C., '73, § 846; C., '97, § 1390; 37 G. A., ch.
 137, § 1.]

SEC. 4633. Resistance.

1 If the treasurer, his deputy, or collector is resisted or impeded in
 2 the execution of the duties of his office, he may require any person to
 3 assist him therein, and if such person refuses, he shall forfeit a sum
 4 not exceeding ten dollars, to be recovered by civil action in the name of
 5 the county, and the person resisting shall be punished as in the case
 6 of resisting an officer in the execution of legal process.

[C., '51, § 494; R., '60, § 758; C., '73, § 860; C., '97, § 1408.]

SEC. 4634. Actions authorized.

1 In addition to all other remedies and proceedings now provided by
 2 law for the collection of taxes on personal property, the county treas-
 3 urer is hereby authorized to bring or cause an ordinary suit at law
 4 to be commenced and prosecuted in his name for the use and benefit

5 of the county for the collection of taxes from any person, persons, firm
6 or corporation as shown by the tax list in his office, and the same shall
7 be in all respects commenced, tried and prosecuted to final judgment
8 the same as provided by the code for ordinary actions.

[S., '13, § 1452-a.]

SEC. 4635. Statutes applicable—writ of attachment—damages.

1 All the provisions of sections seventy-nine hundred fifty-one to
2 eighty hundred thirty, inclusive, are hereby made applicable to any
3 proceedings instituted by a county treasurer under the preceding
4 section, and a writ of attachment shall be issued upon the county treas-
5 urer complying with the provisions of said sections, for taxes, whether
6 due or not due, except that no bond shall be required from the treas-
7 urer or county in such cases, but the county shall be liable for dam-
8 ages, only, as provided by section seventy-six hundred ninety-two.

[S., '13, § 1452-b.]

SEC. 4636. Receipt.

1 The treasurer shall in all cases make out and deliver to the tax-
2 payer a receipt, stating the time of payment, the description and
3 assessed value of each parcel of land, and the assessed value of per-
4 sonal property, the amount of each kind of tax, the interest on each
5 and costs if any, giving a separate receipt for each year; and he shall
6 make the proper entries of such payments on the books of his office.
7 Such receipt shall be in full of the first or second half or all of such
8 person's taxes for that year, but the treasurer shall receive the full
9 amount of any county, state or school tax whenever the same is ten-
10 dered, and give a separate receipt therefor.

[R., '60, § 760; C., '73, § 867; C., '97, § 1405.]

SEC. 4637. Collection.

1 The treasurer shall collect all delinquent taxes by distress or sale
2 of any personal property belonging to the person to whom such taxes
3 are assessed, and not exempt from taxation, or any real or personal
4 property upon which they are a lien, but he shall continue to receive
5 the same until collected, and any owner or claimant of any real estate
6 advertised for sale may pay to the county treasurer, at any time
7 before the sale thereof, the taxes due thereon, with accrued penalties,
8 interest and costs to the time of payment.

[C., '51, §§ 495, 497; R., '60, §§ 759, 760, 769; C., '73, §§ 865,
866; C., '97, § 1414.]

SEC. 4638. Delinquent personal tax—treasurer to keep record.

1 The treasurer shall, after October first, and before December
2 thirty-first, of each year, enter in a book to be kept in his office as a
3 part of the records thereof, to be known as the delinquent personal
4 tax list, all delinquent personal taxes of any preceding year.

[C., '51, § 488; R., '60, § 750; C., '73, § 845; C., '97, § 1389;
S., '13, § 1389-a.]

SEC. 4639. Record—what to contain.

1 Such entry of tax on delinquent personal tax list shall give the
2 names of delinquents alphabetically arranged, with amounts of tax

3 and for what year or years, and where property was located when
4 assessed.

[R., '60, § 750; C., '73, § 845; C., '97, § 1389; S., '13, § 1389-b.]

SEC. 4640. Lien on real estate.

1 Personal tax entered on delinquent personal tax list, as provided
2 in the two preceding sections, shall constitute a lien on any real estate
3 owned or acquired by any such delinquent, and so remain until the
4 same has been paid or legally canceled, and taxes not so entered for
5 each year shall cease to be a lien.

[R., '60, § 750; C., '73, § 845; C., '97, § 1389; S., '13, § 1389-c.]

SEC. 4641. Entry of delinquent real estate taxes.

1 The treasurer shall each year, upon receiving the tax list, enter
2 upon the same in separate columns opposite each parcel of real estate
3 on which the tax remains unpaid for any previous year, the amount of
4 such unpaid tax, and unless such delinquent real estate tax is so
5 brought forward and entered it shall cease to be a lien upon the real
6 estate upon which the same was levied, and upon any other real
7 estate of the owner. But to preserve such lien it shall only be neces-
8 sary to enter such tax, as aforesaid, opposite any tract upon which it
9 was a lien. Any sale for the whole or any part of such delinquent tax
10 not so entered shall be invalid.

[R., '60, § 750; C., '73, § 845; C., '97, § 1389; S., '13, § 1389-d.]

SEC. 4642. Penalty on taxes not brought forward—unavailable taxes—delinquent taxes.

1 No penalty or interest, except for the first four years, shall be
2 collected upon taxes remaining unpaid four years or more from the
3 thirty-first day of December of the year in which the tax books con-
4 taining the same were first placed in the hands of the county treasurer,
5 and the board of supervisors at the January meeting may declare such
6 tax unavailable, and when so declared by the board, the amount shall
7 be credited to the treasurer by the auditor as unavailable and he shall
8 apportion such tax among the funds to which it belongs. Any por-
9 tion of such tax belonging to the state shall be reported by him in his
10 semiannual settlement sheets to the auditor of state as unavailable,
11 whereupon the auditor of state shall credit the county with the
12 amount so reported, but nothing in this section shall be construed to
13 in any way release the county treasurer from any duty required of
14 him in the collection of delinquent taxes, nor to release the taxpayer
15 from his liability for the same. Should any of such tax afterward be
16 collected, the county treasurer shall distribute the net amount col-
17 lected among the several funds the same as though it had never been
18 declared unavailable, and the portion belonging to the state shall be
19 credited back to the state and included in the treasurer's remittance
20 of other state taxes to the treasurer of state and shall be reported by
21 the county auditor in his semiannual settlement sheets to the auditor
22 of state, who shall recharge the same to the county.

[C., '97, § 1391; S. S., '15, § 1391.]

SEC. 4643. Certificate of taxes due.

1 The county treasurer, when requested to do so by anyone having
2 an interest therein, shall certify in writing the entire amount of taxes

3 and assessments due upon any parcel of real estate, together with all
4 sales of the same for unpaid taxes or assessments shown by the books
5 in his office, with the amount required for redemption from the same,
6 if still redeemable, if he is paid or tendered his fees for such certificate
7 at the rate of fifty cents for the first parcel in each township, town or
8 city, and ten cents for each subsequent parcel in the same township,
9 town or city, and in computing such fees each description in the tax
10 list shall be reckoned a parcel.

[C., '73, § 848; C., '97, § 1393.]

SEC. 4644. Effect.

1 Such certificate, with the treasurer's receipt showing the payment
2 of all the taxes therein specified, and the auditor's certificate of
3 redemption from the tax sales therein mentioned, shall be conclusive
4 evidence for all purposes, and against all persons, that the parcel of
5 real estate in said certificate and receipt described was, at the date
6 thereof, free and clear of all taxes and assessments, and sales for taxes
7 or assessments, except sales whereon the time of redemption had
8 already expired, and the tax purchaser had received his deed.

[C., '73, § 849; C., '97, § 1394.]

SEC. 4645. Treasurer liable.

1 For any loss resulting to the county, or any subdivision thereof,
2 or to any tax purchaser, or taxpayer, from an error in said certificate
3 or receipt, the treasurer and his sureties shall be liable on his official
4 bond.

[C., '73, § 850; C., '97, § 1395.]

SEC. 4646. Information as to taxes due.

1 The treasurer, when applied to by letter and receiving thirty
2 cents in postage stamps or money, and ten cents additional for each
3 tract of one hundred sixty acres in excess of three hundred twenty
4 acres, in no case to exceed fifty cents, shall correctly answer the
5 same by mail, giving the amount and interest of unpaid taxes and of
6 any tax sales thereof as the same appear upon the tax list in his office,
7 and upon the return of the letter or a copy, before the last day of the
8 current month, with the demand due as shown therein, he shall pay
9 the taxes and forward to the sender a tax receipt without further
10 charge.

[C., '73, § 3794; C., '97, § 1396.]

SEC. 4647. Penalty.

1 Any treasurer who shall neglect for twenty days after the receipt
2 of any such letter, with money or stamps inclosed as aforesaid, to
3 answer the same fully as required in the preceding section, or who
4 shall directly or indirectly receive or be concerned in receiving any
5 greater compensation for the service mentioned than as above pro-
6 vided, shall forfeit to the person aggrieved, for each offense, the sum
7 of fifty dollars, which may be recovered in a civil action.

[C., '73, § 3795; C., '97, § 1397.]

SEC. 4648. Lien of taxes.

1 Taxes upon real estate shall be a lien thereon against all persons
2 except the state. Taxes due from any person upon personal prop-

erty shall be a lien upon any and all real estate owned by such person or to which he may acquire title. As against a purchaser, such liens shall attach to real estate on and after the thirty-first day of December in each year. Taxes upon stocks of goods or merchandise, fixtures and furniture in hotels, rooming houses, billiard halls, moving picture shows and theaters, shall be a lien thereon and shall continue a lien thereon when sold in bulk, and may be collected from the owner, purchaser or vendee, and such owner, purchaser or vendee of any of such goods, merchandise, furniture or fixtures shall be personally liable for all taxes thereon. In all cases where buildings are assessed as personal property, the taxes shall be and remain a lien on said buildings from the date of levy until paid.

[C., '51, § 495; R., '60, § 759; C., '73, §§ 853, 865; C., '97, § 1400; S., '13, § 1400; 37 G. A., ch. 337, § 1.]

SEC. 4649. Payment.

Auditor's warrants shall be received by the county treasurer in full payment of state taxes, and county warrants shall be received by the treasurer of the proper county for ordinary county taxes, but money only shall be received for the school tax. Road taxes, except the portion payable in money, may be discharged and road certificates of work done received, as provided by law.

[C., '51, § 489; R., '60, §§ 754, 2057, 2059; C., '73, §§ 854, 1779; C., '97, § 1401.]

SEC. 4650. What receivable.

The treasurer is authorized and required to receive in payment of all taxes by him collected, together with the interest and principal of the school fund, the circulating notes of national banking associations organized under and in accordance with the conditions of the act of the congress of the United States, entitled, "An act to provide a national currency secured by the pledge of the United States stocks, and to provide for the redemption thereof," approved February twenty-fifth, eighteen hundred sixty-three, and acts amendatory thereto, United States legal tender notes, and other notes and certificates of the United States payable on demand and circulating or intended to circulate as currency.

[C., '73, § 855; C., '97, § 1402.]

SEC. 4651. Payment—installments.

No demand of taxes shall be necessary, but it shall be the duty of every person subject to taxation to attend at the office of the treasurer, at some time between the first Monday in January and the first day of March following, and pay his taxes in full; or one-half thereof before the first day of March succeeding the levy, and the remaining half before the first day of September following; but in all cases where the half of any taxes has not been paid before the first day of April succeeding the levy, the whole amount charged against such entry shall become delinquent from the first day of March after due; and in case the second installment is not paid before the first day of October succeeding its maturity, it shall become delinquent from the first day of September after due. In all cases where taxes are paid by installment, each of such payments, except road taxes, shall be

14 apportioned among the several funds for which taxes have been
15 assessed in their proper proportions.

[C., '51, § 492; R., '60, § 756; C., '73, § 857; C., '97, § 1403.]

SEC. 4652. Lien on personal property of nonresident.

1 All personal property, the owner of which is a nonresident of the
2 state, and which property is by the owner thereof intended for sale
3 or consumption at a place or shipment to a place other than where
4 said property is located, shall be assessed in the owner's name, if the
5 owner is known, and if the owner is unknown or uncertain the same
6 shall be assessed to "unknown owner," and shall be by the assessor
7 sufficiently described so that said property may be identified. A lien
8 for the tax upon said property as herein provided shall relate back to
9 and exist from the first day of January of the year for which it is
10 assessed, and if anyone seeks to remove the said property from the
11 county before the tax for said year shall be paid, the tax shall imme-
12 diately become due and collectible. It shall be the duty of the assessor
13 to notify the county auditor if said property is being, or is about to
14 be, removed from the county. In such event, or if the knowledge of
15 the removal of or intent to remove said property shall come to him
16 in any other authentic manner, the said auditor shall certify such fact
17 to the county treasurer, with a full description of the property as the
18 same appears on the assessor's books, giving assessment district, where
19 located, and the amount of said assessment, and the county treasurer
20 shall thereupon proceed by distress to restrain the removal of said
21 property and secure the lien of the tax due or to become due. If at the
22 time of such distress the levy for the year is unknown, the auditor is
23 authorized to release the lien of such tax upon a good and sufficient
24 bond, with sureties resident of the county, being filed with said
25 auditor, to be by him approved, which bond shall obligate all parties
26 thereto to pay all taxes due on said property when same are payable.
27 Upon the filing and approving of such bond, the auditor shall make a
28 certificate releasing the said personalty from the lien of such tax.
29 The payment of said tax shall be a bar against the collection of taxes
30 for same year on said property in any other county in this state.

[C., '97, § 1404.]

SEC. 4653. Collectors—appointment of—compensation—sheriff.

1 Immediately after the taxes become delinquent, each county treas-
2 urer shall proceed to collect the same by distress and sale of the per-
3 sonal property of the delinquent taxpayers, and for this purpose he
4 may appoint one or more collectors to assist him in collecting the same.
5 Each collector appointed shall receive for his services and expenses
6 the sum of five per cent on the amount of all taxes collected and paid
7 over by him, which percentage he shall collect from the delinquent,
8 together with the whole amount of delinquent taxes and interest; and
9 pay the same to the treasurer at the end of each month, and in the
10 discharge of his duties as collector, should it become necessary to make
11 the delinquent taxes by distress and sale, or should no collector be
12 appointed, or should the collector fail to institute proceedings to col-
13 lect said delinquent taxes, the treasurer shall place the same in the
14 hands of the sheriff, or a constable, who shall proceed to collect the
15 same, and either shall be entitled to receive the same compensation,
16 in addition to the five per cent, as constables are entitled to receive

17 for the sale of property on execution. And the boards of supervisors
18 may in their discretion authorize the appointment by the treasurer of
19 one or more collectors to assist in the collection of such delinquent
20 personal tax as the board may designate and may pay such collector
21 as full compensation for all services rendered and expenses incurred
22 a sum not to exceed ten per cent of the amount collected which sum
23 shall in no event be paid or allowed until all such taxes collected have
24 been paid over to the county treasurer by such collector.

[C., '73, § 859; C., '97, § 1407; S., '13, § 1407.]

SEC. 4654. Compensation to be deducted ratably from the several funds.

1 The amount allowed as compensation to such collector shall be
2 deducted ratably from the several funds to which such taxes so col-
3 lected by the collector belong.

[S., '13, § 1407-1a.]

SEC. 4655. Taxes certified to another county.

1 In all cases of delinquent taxes in any county, where the person
2 upon whose property the same were levied shall have disposed of or
3 removed the said property and the treasurer of the county where the
4 taxes were levied can find no property within said county out of which
5 said taxes can be made, the treasurer of the county where said taxes
6 are delinquent shall make out a certified abstract thereof, and forward
7 the same to the treasurer of the county in which the delinquent
8 resides or has property, when the treasurer transmitting the said
9 abstract has reason to believe that said taxes can be collected thereby.

[C., '73, § 861; C., '97, § 1409; S. S., '15, § 1409.]

SEC. 4656. Collection in such case.

1 The treasurer forwarding and the one receiving said abstract
2 shall each keep a record thereof, and, upon receipt and filing in the
3 office of the treasurer to whom sent, it shall have the effect of a levy
4 of taxes in that county, and the collection of the same shall be pro-
5 ceeded with in the same manner as in the collection of other taxes.

[C., '73, § 862; C., '97, § 1410.]

SEC. 4657. Penalty.

1 The officer collecting taxes so certified into another county shall,
2 in addition to the penalties on delinquent taxes, assess and collect the
3 further penalty of twenty per cent on the whole amount of such taxes,
4 inclusive of the penalties thereon.

[C., '73, § 863; C., '97, § 1411.]

SEC. 4658. Return.

1 The officer receiving said abstract shall, when in his opinion the
2 taxes are uncollectible, return the same with the indorsement thereon
3 "uncollectible," and, if collected, he shall remit the amount to the
4 treasurer of the county where said taxes were levied, less the penalty
5 provided by the preceding section.

[C., '73, § 864; C., '97, § 1412.]

SEC. 4659. When taxes delinquent—penalties.

1 If the first installment of taxes shall not be paid by April first,
2 the whole shall become due and draw interest as a penalty of one
3 per cent per month until paid from the first of March following the
4 levy; and if the first half shall be paid when due, and the last half
5 shall not be paid by October first following such levy, then a like
6 interest shall be charged from the date such last half became delin-
7 quent; and the tax with all penalties shall be collected at the same time
8 and in the same manner; but no interest as a penalty shall be added
9 to taxes levied by any court to pay a judgment on county, city, town
10 or school district indebtedness, other than the interest which such
11 judgment may draw, nor upon taxes levied in aid of the construction
12 of any railroad. All road taxes payable to the county treasurer shall
13 be due with the first installment of other taxes, and subject to the
14 penalty for nonpayment as other taxes.

[C., '51, §§ 495, 497; R., '60, §§ 759, 760; C., '73, §§ 865, 866;
C., '97, § 1413.]

SEC. 4660. Apportionment—recovery on treasurer's bond of interest or penalty misapplied.

1 On or before the tenth day of each month the treasurer shall
2 apportion all taxes and interest on same collected during the preceding
3 month among the several funds to which it belongs according to the
4 number of mills levied for each fund and enter the same upon his
5 cash account, and report the amount of each tax and interest collected
6 on same to the county auditor who shall charge him in each fund with
7 the same. Any interest or penalty on delinquent taxes apportioned or
8 transferred to any fund other than the fund upon which same was
9 collected, together with a penalty of ten per cent and interest at six
10 per cent on the aggregate from the time such tax was due and pay-
11 able, may be recovered in a civil action brought against the county
12 treasurer and his bondsmen by any person in control of the fund
13 affected thereby.

[C., '73, § 868; C., '97, § 1415; S., '13, § 1415.]

SEC. 4661. Separate funds.

1 The auditor shall keep a complete account with the treasurer,
2 with each separate fund or tax by itself, and in each account he shall
3 charge him with the amounts in his hands at the opening of such
4 account whether it be delinquent taxes, notes, cash or other assets
5 belonging to such fund, the amount of each tax for each year when
6 the tax list is received by him, and all additions to each tax or fund,
7 whether by additional assessments, interest on delinquent taxes,
8 amount received for licenses, or other items, and upon proper vouchers
9 shall credit him for money disbursed for double and erroneous assess-
10 ments, including all improper and illegal assessments the correction or
11 remission of which causes a diminution of the tax, and for unavailable
12 or uncollectible taxes, as directed by the board of supervisors.

[R., '60, § 761; C., '73, § 869; C., '97, § 1416.]

SEC. 4662. Refunding erroneous tax.

1 The board of supervisors shall direct the treasurer to refund to
2 the taxpayer any tax or portion thereof found to have been errone-
3 ously or illegally exacted or paid, with all interest and costs actually

4 paid thereon. In case any real estate subject to taxation shall be sold
 5 for the payment of such erroneous tax, interest or costs, the error or
 6 irregularity in the tax may be corrected at any time provided in this
 7 chapter, but such correction shall not affect the validity of the sale or
 8 the right or title conveyed by a treasurer's deed, if the property was
 9 subject to taxation for any of the purposes for which any portion of
 10 the taxes for which the land was sold was levied, and the taxes were
 11 not paid before the sale, or the property redeemed from sale.

[R., '60, § 762; C., '73, § 870; C., '97, § 1417.]

SEC. 4663. Remission in case of loss.

1 The board of supervisors shall have power to remit in whole or
 2 in part the taxes of any person whose buildings, crops, stock or other
 3 property has been destroyed by fire, tornado or other unavoidable
 4 casualty, if said property has not been sold for taxes, or if said taxes
 5 have not been delinquent for thirty days at the time of the destruction.
 6 But the loss for which such remission is allowed shall be such only as
 7 is not covered by insurance.

[R., '60, § 818; C., '73, § 800; C., '97, § 1307.]

CHAPTER 18.

TAX SALE.

SECTION 4664. Sale shown.

1 The auditor when making up the tax list, before it is placed in
 2 the hands of the county treasurer, shall designate each piece or parcel
 3 of real estate sold for taxes, and not redeemed, by writing opposite the
 4 same the year in which it was sold in a column made for that purpose
 5 and headed "sold in."

[C., '73, § 842; C., '97, § 1386.]

SEC. 4665. Notice of previous sale.

1 Each county treasurer, when any person offers to pay taxes on
 2 any real estate marked "sold," shall notify him of such fact, and
 3 inform him for what taxes and when the sale was made.

[C., '73, § 847; C., '97, § 1392.]

SEC. 4666. Sale of personal property.

1 If anyone neglects to pay his taxes at or before maturity, the
 2 treasurer may collect the same by distress and sale of his personal
 3 property not exempt from taxation, and the tax list alone shall be
 4 sufficient warrant therefor. When the treasurer distrains goods, and
 5 the owner refuses to give a sufficient bond for the delivery of the same
 6 on the day of sale, he may keep them at the expense of the owner, and
 7 shall give notice of the time and place of their sale within five days
 8 after the taking, in the manner constables are required to give notice
 9 of the sale of personal property under execution. The time of sale
 10 shall not be more than twenty days from the day of taking, but he
 11 may adjourn the sale from time to time, not exceeding five days in all,
 12 and shall adjourn at least once when there are no bidders, and, in case

13 of adjournment, he shall post up a notice thereof at the place of sale,
14 announcing the time to which the adjournment is ordered. Any sur-
15 plus remaining above the taxes, charges of keeping, and fees for sale,
16 shall be returned to the owner, and the treasurer shall, on demand,
17 render an account in writing of the sale and charges.

[C., '51, §§ 492, 493; R., '60, §§ 756, 757; C., '73, §§ 857, 858;
C., '97, § 1406.]

SEC. 4667. Tax sale—when and how made.

1 Annually, on the first Monday in December, the treasurer shall
2 offer at his office at public sale all lands, town lots or other real prop-
3 erty on which taxes of any description for the preceding year or years
4 are delinquent, which sale shall be made for the total amount of taxes,
5 interest and costs due and unpaid thereon. But in counties having
6 two county seats and divided into two districts for the collection of
7 taxes, such sale may be made by the deputy treasurer and the recorder
8 or his deputy at the county seat where the taxes for the district are
9 collected, and the records thereof shall be kept thereat. Such deputy
10 treasurer and the recorder or his deputy shall have all the powers
11 conferred by law upon the treasurer and auditor in relation to the
12 collection of the revenue, sales for delinquent taxes, redemption there-
13 from, the execution of tax deeds thereunder, and every other matter
14 connected therewith.

[C., '51, § 496; R., '60, § 763; C., '73, § 871; C., '97, § 1418.]

SEC. 4668. Notice.

1 Notice of the time and place of such sale shall be given by the
2 treasurer, and shall contain a description of each separate tract to be
3 sold as taken from the tax list, the amount of taxes for which it is
4 liable delinquent for each year, and the amount of penalty, interest and
5 costs thereon, the name of the owner, if known, or the person, if any,
6 to whom it is taxed, by publication in some newspaper in the county,
7 once each week, for three consecutive weeks, the last of which shall
8 be at least one week before the day of sale, and by immediately posting
9 a copy of the first publication thereof at the door of the courthouse, if
10 there be one, if not, at the door of the place where the last term of
11 district court was held. The compensation for such publication shall
12 not exceed forty cents for each description, and shall be paid by the
13 county. The amount paid therefor shall be collected as a part of the
14 costs of sale and paid into the county treasury. If the treasurer can
15 not procure the publication of the notice for the sum herein fixed, then
16 the notice may be given by posting the same in four of the most public
17 places in the county, to be selected by him, for four weeks, and filing
18 a copy thereof with the auditor before the day of sale, with his veri-
19 fied statement thereon that it had been posted as and for the time
20 herein required, and that he could not obtain a publication thereof at
21 the legal rate.

[C., '51, § 498; R., '60, § 764; C., '73, §§ 872-874, 3833; C.,
'97, § 1419; S., '13, § 1419; 38 G. A., ch. 389, § 1.]

SEC. 4669. Certificate of publication.

1 The treasurer shall obtain a copy of the notice of sale, with a
2 certificate of the publication thereof, from the printer or publisher,

3 and file it in the office of the auditor, which certificate shall be sub-
4 stantially in the following form:

5 I, A..... B....., publisher (or printer) of the.....,
6 a newspaper printed and published in the county of.....and
7 state of Iowa, do hereby certify that the foregoing notice and list were
8 published in said newspaper once in each week for three successive
9 weeks, the last of which publications was made on the.....day of
10, A. D....., and that copies of each number of said
11 paper in which said notice and list were published were delivered by
12 carrier or transmitted by mail to each of the subscribers to said paper,
13 according to the accustomed mode of business in this office.

14 A..... B.....
15 State of Iowa, }
16County. } ss.

17 The above certificate of publication was subscribed and sworn to
18 before me by the above named A..... B....., who is personally
19 known to me to be the identical person described therein, on the.....
20 day of....., A. D.....

21
22 Auditor.....County, Iowa.

[C., '51, § 500; R., '60, § 771; C., '73, § 881; C., '97, § 1420.]

SEC. 4670. Advertisement.

1 In all entries required to be made by the auditor, treasurer or
2 other officer, letters and figures may be used to denote townships,
3 ranges, sections, parts of sections, lots, blocks, date, and the amount of
4 taxes, interest and costs. No irregularity or informality in the adver-
5 tisement shall affect the legality of the sale or the title to any real
6 estate conveyed by the treasurer's deed under this and the two fol-
7 lowing chapters, and in all cases its provisions shall be sufficient notice
8 to the owners of the sale thereof.

[R., '60, § 770; C., '73, § 880; C., '97, § 1421.]

SEC. 4671. Offer for sale.

1 The treasurer shall on the day of the sale, at ten o'clock in the
2 forenoon, at his office, offer for sale, separately, each tract or parcel
3 of real estate advertised for sale on which the taxes and costs shall not
4 have been paid.

[C., '51, § 499; R., '60, § 765; C., '73, § 875; C., '97, § 1422.]

SEC. 4672. Bid—purchaser.

1 The person who offers to pay the amount of taxes which are a
2 lien on any parcel of land or town lot for the smallest portion thereof
3 shall be the purchaser, and when such purchaser shall designate the
4 portion of any tract of land or town lot for which he will pay the whole
5 amount of taxes for which it may be sold, the portion thus designated
6 shall be an undivided portion.

[C., '51, § 501; R., '60, § 766; C., '73, § 876; C., '97, § 1423.]

SEC. 4673. Sale continued.

1 The treasurer shall continue the sale from day to day as long as
2 there are bidders, or until the taxes are all paid.

[C., '51, § 499; R., '60, § 767; C., '73, § 877; C., '97, § 1424.]

SEC. 4674. Sale of property remaining unsold.

1 Each treasurer shall, on the day of the regular tax sale each
 2 year or any adjournment thereof, offer and sell at public sale, to the
 3 highest bidder, all real estate which remains liable to sale for delin-
 4 quent taxes, and shall have previously been advertised and offered for
 5 two years or more and remained unsold for want of bidders, general
 6 notice of such sale being given at the same time and in the same man-
 7 ner as that given of the regular sale. Any taxes on such real estate,
 8 in excess of the amount for which the same was sold, shall be cred-
 9 ited to the treasurer by the auditor as unavailable, and he shall appor-
 10 tion such excess among the funds to which it belongs, and if any of
 11 such excess belongs to the state, it shall be reported by him to the
 12 auditor of state as unavailable, who shall give the county credit
 13 therefor.

[C., '97, § 1425.]

SEC. 4675. Resale.

1 The person purchasing any parcel or part thereof shall forthwith
 2 pay to the treasurer the amount bid, and on failure to do so the same
 3 shall at once be again offered as if no such sale had been made. Such
 4 payments may be made in the funds receivable in payment of taxes.

[C., '51, § 502; R., '60, § 768; C., '73, § 878; C., '97, § 1426.]

SEC. 4676. Record of sales.

1 The auditor shall attend all sales of real estate for taxes, and
 2 keep a record thereof in a book to be kept by him for that purpose,
 3 therein describing each tract of real estate on which the taxes and
 4 costs were paid by the purchaser as they are described in the copy of
 5 the notice on file in his office, stating in separate columns the amount,
 6 as obtained from the treasurer's tax list, of each kind of tax, interest
 7 and costs for each tract, how much and what part of each parcel was
 8 sold, to whom, and date thereof. The treasurer shall also keep a book
 9 of sales in which he shall make the same record. He shall also note in
 10 the tax list, opposite the description of the property sold, the fact and
 11 date thereof.

[R., '60, § 772; C., '73, § 882; C., '97, § 1427.]

SEC. 4677. Sale adjourned.

1 When all the real estate advertised for sale has been offered, and
 2 a part remains unsold for want of bidders, the treasurer shall adjourn
 3 the sale to some day not exceeding two months from adjournment,
 4 due notice of which day shall be given at the time thereof, and by
 5 keeping such notice posted in a conspicuous place in his office, and no
 6 further notice shall be necessary. On the day fixed by the adjourn-
 7 ment, the same proceedings shall be had as in the first instance.
 8 Further adjournment shall be made from time to time, not exceeding
 9 two months, and the sales thus continued until the next regular annual
 10 sale, or until all the taxes are paid.

[R., '60, § 773; C., '73, § 883; C., '97, § 1428.]

SEC. 4678. Penalty for misconduct of officers.

1 Any treasurer or auditor failing to attend a sale of lands in per-
 2 son or by deputy shall forfeit and pay the sum of one hundred dollars,

3 to be recovered in an action in the name of the county and for its use.
 4 If such officer or deputy shall sell or assist in selling any real estate,
 5 knowing it is not subject to taxation, or that the taxes for which it is
 6 sold have been paid, or shall knowingly and wilfully sell or assist in
 7 selling any real estate for taxes to defraud the owner thereof, or shall
 8 knowingly and wilfully execute a deed for property so sold, he shall,
 9 upon conviction, be fined in a sum of not less than one thousand nor
 10 more than three thousand dollars, or imprisoned in the county jail not
 11 exceeding one year, or both fined and imprisoned, and shall be liable to
 12 pay the injured party all damages sustained by him on account thereof,
 13 and all such sales shall be void.

[R., '60, § 774; C., '73, § 884; C., '97, § 1429.]

SEC. 4679. Fraud of officers.

1 If any treasurer or auditor shall be directly or indirectly con-
 2 cerned in the purchase of any real estate sold for the nonpayment of
 3 taxes, he and his sureties shall be liable on his official bond for all dam-
 4 ages sustained by the owner of such property, and all such sales shall
 5 be void. In addition thereto, the officer so offending shall, upon con-
 6 viction, be fined in a sum of not more than one thousand dollars.

[R., '60, § 775; C., '73, § 885; C., '97, § 1430.]

SEC. 4680. Subsequent sale.

1 If from neglect of officers to make returns, or other good cause,
 2 real estate can not be advertised and offered for sale on the first Mon-
 3 day of December, the treasurer shall make the sale on the first Monday
 4 of the next succeeding month in which the required notice can be
 5 given.

[R., '60, § 776; C., '73, § 886; C., '97, § 1431.]

SEC. 4681. Certificate of purchase.

1 The treasurer shall prepare, sign, and deliver to the purchaser of
 2 any real estate sold for the nonpayment of taxes a certificate of pur-
 3 chase, describing it as shown in the record of sales, giving the part of
 4 each tract or lot sold, the amount of each kind of tax, interest and
 5 costs for each tract or lot as described in such record, and that pay-
 6 ment has been made therefor. If any person is the purchaser of
 7 more than one parcel, he may have the whole included in one certifi-
 8 cate, but each parcel shall be separately described. And in case of
 9 loss of said certificate of purchase, the owner thereof, as appears on
 10 record, may, by filing an affidavit of such loss or destruction with the
 11 county treasurer, receive a duplicate thereof, which shall take the
 12 place of the original certificate and have the same force and effect in
 13 law and be subject to the same rules and regulations.

[C., '51, § 503; R., '60, § 777; C., '73, § 887; C., '97, § 1432;
 S., '13, § 1432.]

SEC. 4682. Assignment.

1 The certificate of purchase shall be assignable by indorsement and
 2 entry in the register of tax sales in the office of county treasurer of the
 3 county from which said certificate issued, and when such assignment is
 4 so entered in the register of tax sales in the treasurer's office, it shall
 5 vest in the assignee or his legal representatives all the right and title

6 of the assignor. The statement in the treasurer's deed of the fact of
7 the assignment shall be presumptive evidence thereof.

[R., '60, § 778; C., '73, § 888; C., '97, § 1433; S., '13, § 1433.]

SEC. 4683. Payment of subsequent taxes.

1 The treasurer shall also prepare, sign, and deliver to the pur-
2 chaser of any real estate sold for taxes duplicate receipts for taxes,
3 interest and costs paid by him after the date of his purchase for any
4 subsequent year or years, one of which receipts shall be filed in the
5 office of the auditor and noted on the register of sales therein. If
6 such duplicate receipt is not so filed before redemption, such tax shall
7 not be a lien upon the land, and the person paying the tax shall not
8 be entitled to recover it of the owner of the real estate.

[C., '73, § 889; C., '97, § 1434.]

SEC. 4684. School, agricultural college or university land.

1 When any school, agricultural college or university land sold on
2 credit is sold for taxes, the purchaser shall only acquire the interest
3 of the original purchaser therein, and no sale of any such lands for
4 taxes shall prejudice the rights of the state, agricultural college or
5 university. In all cases where the real estate is mortgaged or other-
6 wise incumbered to the school, agricultural college or university fund,
7 the interest of the person who holds the fee shall alone be sold for
8 taxes, and in no case shall the lien or interest of the state be affected
9 by any sale thereof. The foregoing provision shall include all lands
10 exempt from taxation by law, and any legal or equitable estate therein
11 held, possessed, or claimed for any public purpose, and no assessment
12 or taxation of such lands, nor the payment of any such tax by any
13 person, or the sale and conveyance for taxes of any such lands, shall
14 in any manner affect the right or title of the public therein, or confer
15 upon the purchaser or person who pays such taxes any right or
16 interest in such land.

[R., '60, §§ 810, 811; C., '73, § 900; C., '97, § 1435.]

SEC. 4685. Assessment to wrong person.

1 No sale of real estate for taxes shall be invalid on account of its
2 having been taxed in any other name than that of the rightful owner,
3 if it is in other respects sufficiently described.

[R., '60, § 787; C., '73, § 904; C., '97, § 1450.]

SEC. 4686. Certified copies of records.

1 The books and records belonging to the offices of the auditor and
2 treasurer, or copies thereof properly certified, shall be sufficient evi-
3 dence to prove the sale of any real estate for taxes, the redemption
4 thereof, or the payment of taxes thereon.

[R., '60, § 788; C., '73, § 905; C., '97, § 1451.]

SEC. 4687. Cancellation of sale.

1 After eight years have elapsed from the time of any tax sale, and
2 no action has been taken by the holder of a certificate to obtain a
3 deed, it shall be the duty of the county auditor and county treasurer
4 to cancel such sales from their tax sale index and tax sale register.

[C., '97, § 1452.]

CHAPTER 19.

TAX REDEMPTION.

SECTION 4688. Redemption—how effected.

1 Real estate sold under the provisions of this and the preceding
2 chapter may be redeemed at any time before the right of redemption
3 is cut off, by the payment to the auditor, to be held by him subject to
4 the order of the purchaser, of the amount for which the same was sold
5 and eight per cent of such amount added as a penalty, with eight per
6 cent interest per annum on the whole amount thus made from the day
7 of sale, and the amount of all taxes, interest and costs paid by the pur-
8 chaser or his assignee for any subsequent year or years, with a similar
9 penalty added as before on the amount of the payment for each subse-
10 quent year, and eight per cent per annum on the whole of such amount
11 or amounts from the day or days of payment; but the penalty for non-
12 payment of taxes of any subsequent year or years shall not attach,
13 unless the same shall have remained unpaid until the first day of April
14 after they become due and have become delinquent, nor shall said
15 penalties apply to taxes voted in aid of the construction of any rail-
16 road. In redeeming from a sale of a leasehold interest in agricultural
17 college land, the amount to be paid shall include any amount paid by
18 the holder of the certificate as interest or principal due by the terms of
19 the lease or otherwise to prevent a forfeiture thereof, as provided by
20 law, and for which proper voucher shall have been filed with the
21 auditor, with interest thereon at eight per cent per annum from date
22 of payment, which amount shall be paid by the auditor to the holder
23 of the certificate, and the certificate of redemption shall show the
24 amount so paid by the party redeeming.

[C., '51, § 505; R., '60, § 779; C., '73, § 890; C., '97, § 1436;
S., '13, § 1436.]

SEC. 4689. Redemption from sale for part of tax.

1 In case a redemption is made of any real estate sold for a less
2 sum than the taxes, penalty, interest and costs, the purchaser shall
3 receive only the amount paid and a ratable part of such penalty, in-
4 terest and costs. In determining the interest and penalties to be paid
5 upon redemption from such sale, the sum due on any parcel sold shall
6 be taken to be the full amount of taxes, interest and costs due thereon
7 at the time of such sale, and the amount paid for any such parcel at
8 such sale shall be apportioned ratably among the several funds to
9 which it belongs. Real estate so sold shall be redeemable in the same
10 manner and with the same penalties as that sold for the taxes of the
11 preceding year.

[C., '97, § 1437.]

SEC. 4690. Certificate of redemption.

1 The auditor shall, upon application of any party to redeem real
2 estate sold for taxes, and being satisfied that he has a right to redeem
3 the same upon the payment of the proper amount, issue to such party
4 a certificate of redemption, setting forth the facts of the sale sub-
5 stantially as contained in the certificate thereof, the date of the re-
6 demption, the amount paid, and by whom redeemed, and make the
7 proper entries in the book of sales in his office, and immediately give
8 notice of such redemption to the treasurer. The certificate of redemp-

9 tion shall then be presented to the latter, who shall countersign it,
10 noting such fact in the sale book opposite the entry of the sale, and
11 no certificate of redemption shall be evidence of such redemption with-
12 out the signature of the treasurer.

[R., '60, § 780; C., '73, § 891; C., '97, § 1438.]

SEC. 4691. Minors and lunatics.

1 If real property of any minor, lunatic or person of unsound mind
2 is sold for taxes, it may be redeemed at any time within one year
3 after such disability is removed, in the manner specified in the fol-
4 lowing section, or redemption may be made by the guardian or legal
5 representative under the third preceding section at any time before
6 the delivery of the deed.

[R., '60, § 779; C., '73, § 892; C., '97, § 1439.]

SEC. 4692. Equitable action.

1 Any person entitled to redeem lands sold for taxes after the de-
2 livery of the deed shall do so by an equitable action in a court of rec-
3 ord, in which all persons claiming an interest in the land derived from
4 the tax sale, as shown by the record, shall be made defendants, and the
5 court shall determine the rights, claims and interest of the several
6 parties, including liens for taxes and claims for improvements made
7 on the land by the person claiming under the tax title. No person
8 shall be allowed to redeem land sold for taxes in any other manner
9 after the service of the notice provided for by the next section and
10 the execution and delivery of the treasurer's deed.

[C., '73, § 893; C., '97, § 1440.]

SEC. 4693. Notice of expiration of right of redemption.

1 After two years and nine months from the date of sale, the holder
2 of the certificate of purchase may cause to be served upon the person
3 in possession of such real estate, and also upon the person in whose
4 name the same is taxed, if such person resides in the county where
5 the land is situated, in the manner provided for the service of original
6 notices, a notice signed by him, his agent or attorney, stating the date
7 of sale, the description of the property sold, the name of the purchaser,
8 and that the right of redemption will expire and a deed for the land
9 be made unless redemption is made within ninety days from the com-
10 pleted service thereof. Service may be made upon nonresidents of
11 the county by publishing the same, once each week, for three consecu-
12 tive weeks in some newspaper of said county, or by personal service
13 thereof elsewhere in the same manner original notices may be served;
14 but any such nonresident may in writing appoint a resident of the
15 county in which said land is situated an agent, and file said appoint-
16 ment with the treasurer of said county, who shall forthwith record
17 the same in a record kept in his office therefor, and index the same,
18 after which personal service of said notice shall be made upon said
19 agent. Service shall be complete only after an affidavit has been filed
20 with the treasurer, showing the making of the service, the manner
21 thereof, the time when and place where made, and under whose direc-
22 tion the same was made; such affidavit to be made by the holder of
23 the certificate or by his agent or attorney, and in either of the latter
24 cases stating that such affiant is the agent or attorney, as the case
25 may be, of the holder of such certificate; which affidavit shall be filed

26 by the treasurer and entered upon the sale book opposite the entry
 27 of the sale, and said record or affidavit shall be presumptive evidence
 28 of the completed service of said notice, and the right of redemption
 29 shall not expire until ninety days after service is complete. Any per-
 30 son knowingly and wilfully swearing falsely to any fact or statement
 31 contained in said affidavit shall be guilty of perjury. The cost of
 32 serving the notice and affidavit of publication shall be added to the
 33 amount necessary to redeem. The fee for serving the notice shall be
 34 the same as for service of an original notice, including copy fee and
 35 mileage. The treasurer shall, upon the filing of proof of service and
 36 statement of costs, forthwith report the same in writing to the audi-
 37 tor, who shall enter it in the sale book against the proper tract of real
 38 estate. The holder of the certificate of sale or his agent may report
 39 in writing to the county auditor the amount of costs incurred in giving
 40 such notice, and the auditor shall enter the same in the sale book as
 41 aforesaid, and no redemption shall be complete until such costs are
 42 paid.

[R., '60, § 781; C., '73, § 894; C., '97, § 1441; S., '13, § 1441.]

CHAPTER 20.

TAX DEED.

SECTION 4694. Deed executed.

1 Immediately after the expiration of ninety days from the date of
 2 completed service of the notice provided in the preceding section, the
 3 treasurer then in office shall make out a deed for each lot or parcel
 4 of land sold and unredeemed, and deliver it to the purchaser upon the
 5 return of the certificate of purchase. The treasurer shall receive
 6 twenty-five cents for each deed made by him, and may include any
 7 number of parcels of land purchased by one person in one deed, if
 8 desired by him.

[C., '51, §§ 503, 504; R., '60, §§ 781, 782; C., '73, § 895; C.,
 '97, § 1442.]

SEC. 4695. Form of.

1 Deeds executed by the treasurer shall be substantially in the fol-
 2 lowing form:

3 KNOW ALL MEN BY THESE PRESENTS, that the following described
 4 real estate, viz.: (here follows the description), situated in the county
 5 of..... and state of Iowa, was subject to taxation for the year (or
 6 years) A. D....., and the taxes assessed thereon for the year (or
 7 years) aforesaid remained due and unpaid at the date of the sale here-
 8 inafter named; and the treasurer of said county, having on the
 9 day of, A. D., by virtue of the authority in him vested
 10 by law, at (an adjournment of) the sale begun and publicly held on
 11 the first Monday of December, A. D., exposed to public sale
 12 at the office of the county treasurer in the county aforesaid, in sub-
 13 stantial conformity with all the requirements of the statute, the real
 14 property above described, for the payment of the taxes, interest and
 15 costs then due and remaining unpaid on said property, and at the time
 16 and place aforesaid A..... B....., of the county of and
 17 state of, having offered to pay the sum of dollars and

18 cents, being the whole amount of taxes, interest and costs then
 19 due and remaining unpaid on said property, for (here follows the de-
 20 scription of the property sold) which was the least quantity bid for,
 21 and payment of said sum having been made by him to said treasurer,
 22 the property was stricken off to him at that price; and the said
 23 A..... B..... did, on the day of, A. D., duly
 24 assign the certificate of the sale of the property as aforesaid and all
 25 his right, title and interest to said property to E..... F..... of
 26 the county of and state of; and by the affidavit of
 27, filed in said treasurer's office on the day of, A.
 28 D., it appears that notice has been given more than ninety
 29 days before the execution of these presents to and of
 30 the expiration of the time of redemption allowed by law; and three
 31 years having elapsed since the date of said sale, and said property
 32 having not been redeemed therefrom:

33 Now, I, C..... D....., treasurer of said county, for the con-
 34 sideration of said sum to the treasurer paid as aforesaid and by virtue
 35 of law, have granted, bargained and sold, and by these presents do
 36 grant, bargain and sell to the said A..... B..... (or E.....
 37 F.....), his heirs and assigns, the real property hereinbefore de-
 38 scribed, to have and to hold unto him (or E..... F.....), his heirs
 39 and assigns, forever; subject, however, to all the rights of redemption
 40 provided by law. In witness whereof, I, C..... D....., treasurer
 41 as aforesaid, by virtue of the authority aforesaid, have hereunto sub-
 42 scribed my name on this day of, A. D.
 43

44 STATE OF IOWA, }
 45 County. } ss.

46 I hereby certify that before me,, in and for said county,
 47 personally appeared the above named C..... D....., treasurer of
 48 said county, personally known to me to be the treasurer of said county
 49 at the date of the execution of the above conveyance, and to be the
 50 identical person whose name is affixed to and who executed the above
 51 conveyance as treasurer of said county, and acknowledged the execu-
 52 tion of the same to be his voluntary act and deed as treasurer of said
 53 county, for the purposes therein expressed.

54 Given under my hand (and seal) this day of, A.
 55 D.
 56

[R., '60, § 783; C., '73, § 896; C., '97, § 1443.]

SEC. 4696. Effect of deed—vests title.

1 The deed shall be signed by the treasurer as such, and acknowl-
 2 edged by him before some officer authorized to take acknowledgments,
 3 and when substantially thus executed and recorded in the proper rec-
 4 ord in the office of the recorder of the county in which the property
 5 is situated, shall vest in the purchaser all the right, title, interest and
 6 estate of the former owner in and to the land conveyed, and all the
 7 right, title, interest and claim of the state and county thereto, and
 8 shall be presumptive evidence in all the courts of this state in all con-
 9 troversies and actions in relation to the rights of the purchaser, his
 10 heirs or assigns, to the land thereby conveyed, of the following facts:

- 11 1. That the real property conveyed was subject to taxation for
- 12 the year or years stated in the deed.
- 13 2. That the taxes were not paid at any time before the sale.

14 3. That the real property conveyed had not been redeemed from
15 the sale at the date of the deed.

16 4. That the property had been listed and assessed.

17 5. That the taxes were levied according to law.

18 6. That the property was duly advertised for sale.

19 7. That the property was sold for taxes as stated in the deed.

20 It shall be conclusive evidence of the following facts:

21 1. That the manner in which the listing, assessment, levy, notice
22 and sale were conducted was in all respects as the law directed.

23 2. That the grantee named in the deed was the purchaser.

24 3. That all the prerequisites of the law were complied with by
25 all the officers who had, or whose duty it was to have had, any part
26 or action in any transaction relating to or affecting the title conveyed
27 or purporting to be conveyed by the deed, from the listing and valua-
28 tion of the property up to the execution of the deed, both inclusive,
29 and that all things whatsoever required by law to make a good and
30 valid sale and to vest the title in the purchaser were done, except in
31 regard to the points named in this section wherein the deed shall be
32 presumptive evidence only.

[C., '51, § 503; R., '60, § 784; C., '73, § 897; C., '97, § 1444.]

SEC. 4697. Who may question.

1 In all actions involving the title to real estate claimed and held
2 under a deed executed substantially as aforesaid by the treasurer, the
3 person claiming title adverse to the title conveyed thereby shall be
4 required to prove, in order to defeat the title, either that the real
5 property was not subject to taxation for the year or years named
6 in the deed, that the taxes had been paid before the sale, that the
7 property had been redeemed from the sale and that such redemption
8 was had or made for the use and benefit of persons having the right
9 of redemption, or that there had been an entire omission to list or
10 assess the property, or to levy the taxes, or to give notice of the sale,
11 or to sell the property; but no person shall be permitted to question
12 the title acquired by a treasurer's deed without first showing that he,
13 or the person under whom he claims title, had title to the property at
14 the time of the sale, or that the title was obtained from the United
15 States or this state after the sale, and that all taxes due upon the
16 property have been paid by such person, or the person under whom
17 he claims title; but in any case where a person had paid his taxes, and
18 through mistake in the entry made in the treasurer's books, or in the
19 receipt, the land upon which the taxes were paid was afterward sold,
20 the treasurer's deed shall not convey the title; and in all cases where
21 the owner of the lands sold for taxes shall resist the validity of the
22 tax title, he may prove fraud committed by the officer selling the same,
23 or in the purchaser, to defeat the same, and, if fraud is established,
24 the sale and title shall be void.

[C., '51, § 503; R., '60, § 784; C., '73, § 897; C., '97, § 1445.]

SEC. 4698. Sales wrongfully made—purchaser indemnified.

1 When, by mistake or wrongful act of the treasurer, land has been
2 sold on which no tax was due at the time, or when land is sold in
3 consequence of error in describing it in the tax receipt, the county
4 shall hold the purchaser harmless by paying him the amount of prin-
5 cipal, interest and costs to which he would have been entitled had the
6 land been rightfully sold, and the treasurer and his bondsmen shall

7 be liable to the county therefor to the amount of his official bond; or
 8 the purchaser, or his assignee, may recover the same directly of him
 9 and his bondsmen.

[C., '51, § 509; R., '60, § 785; C., '73, § 899; C., '97, § 1446.]

SEC. 4699. Land not subject to taxation.

1 When it shall be made to appear to the treasurer, before the exe-
 2 cution of a deed for real estate sold for taxes, or if the deed be re-
 3 turned by the purchaser, that any tract or lot was sold which was
 4 not subject to taxation, or upon which the taxes had been paid, he
 5 shall make an entry opposite such tract or lot on the sale book that
 6 the same was erroneously sold, and such entry shall be evidence of
 7 the fact therein stated, and the purchase money shall be refunded to
 8 the purchaser.

[R., '60, § 789; C., '73, § 901; C., '97, § 1447.]

SEC. 4700. Limitation of actions.

1 No action for the recovery of real estate sold for the nonpayment
 2 of taxes shall be brought after five years from the execution and re-
 3 cording of the treasurer's deed, unless the owner is, at the time of
 4 the sale, a minor, insane person or convict in the penitentiary, in
 5 which case such action must be brought within five years after such
 6 disability is removed.

[R., '60, § 790; C., '73, § 902; C., '97, § 1448.]

SEC. 4701. Officers de facto.

1 In all actions and controversies involving the question of title to
 2 real property held under a treasurer's deed, all acts of assessors, treas-
 3 urers, auditors, supervisors and other officers de facto shall be of the
 4 same validity as acts of officers de jure.

[R., '60, § 786; C., '73, § 903; C., '97, § 1449.]

CHAPTER 21.

COLLATERAL INHERITANCE TAX.

SECTION 4702. Definitions and rules of construction.

1 In the construction of this chapter, the words "collateral heirs"
 2 shall be held to mean all persons who are not specifically exempt from
 3 the tax imposed by the provisions hereof. The word "person" shall
 4 include a plural as well as singular, and artificial as well as natural
 5 persons. This chapter shall not be construed to confer upon a county
 6 attorney authority to represent the state in any case, and he shall
 7 represent the treasurer of state only when especially authorized by
 8 him to do so.

[S., '13, § 1481-a45.]

SEC. 4703. "Debts"—defined—when deducted.

1 The term "debts" as used in this chapter shall include, in addi-
 2 tion to debts owing by the decedent at the time of his death, the local
 3 or state taxes due from the estate in January of the year of his death,

4 a reasonable sum for funeral expenses, court costs, the cost of ap-
 5 praisement made for the purpose of assessing the collateral inherit-
 6 ance tax, the statutory fees of executors, administrators, or trustees
 7 estimated upon the appraised value of the property, the amount paid
 8 by the executor or administrator for a bond, the attorney fee in a
 9 reasonable amount, to be approved by the court, for the ordinary pro-
 10 bate proceedings in said estate and no other sum; but said debts shall
 11 not be deducted unless the same are approved and allowed by the court
 12 within eighteen months from the death of the decedent, as established
 13 claims against the estate, unless otherwise ordered by the judge or
 14 court of the proper county.

[S., '13, § 1481-a2.]

**SEC. 4704. Property subject to tax—rate—foreign beneficiaries—
 lien—release.**

1 The estates of all deceased persons, whether they be inhabitants
 2 of this state or not, and whether such estate consists of real, personal
 3 or mixed property, tangible or intangible, and any interest in, or in-
 4 come from any such estate or property, which property is, at the
 5 death of the decedent owner, within this state or is subject to, or
 6 thereafter, for the purpose of distribution, is brought within this state
 7 and becomes subject to the jurisdiction of the courts of this state, or
 8 the property of any decedent, domiciled within this state at the time
 9 of the death of such decedent, even though the property of such de-
 10 cedent so domiciled was situated outside of the state, except real estate
 11 located outside of the state passing in fee from the decedent owner,
 12 which shall pass by will or by the statutes of inheritance of this or
 13 any other state or country, or by deed, grant, sale, gift, or transfer
 14 made in contemplation of the death of the donor, or made or intended
 15 to take effect in possession or enjoyment after the death of the grantor
 16 or donor, to any person, or for any use in trust or otherwise, other
 17 than to or for the use of persons, or uses exempt by this chapter shall
 18 be subject to a tax of five per centum; provided, however, that when
 19 property or any interest therein shall pass to heirs, devisees or other
 20 beneficiaries subject to the tax imposed by this chapter who are aliens,
 21 nonresidents of the United States, the same shall be subject to a tax
 22 of twenty per centum of its true value except when such foreign benefi-
 23 ciaries are brothers or sisters of the decedent owner, when the rate
 24 of tax to be assessed and collected therefrom shall be ten per centum
 25 of the value of the property or interest so passing. Any person benefi-
 26 cially entitled to any property or interest therein because of any
 27 such gift, legacy, devise, annuity, transfer or inheritance, and all ad-
 28 ministrators, executors, referees and trustees, and any such grantee
 29 under a conveyance, and any such donee under a gift, and any such
 30 legatee, annuitant, devisee, heir or beneficiary, shall be respectively
 31 liable for all such taxes to be paid by them respectively. The tax
 32 aforesaid shall be for the use of the state, shall accrue at the death
 33 of the decedent owner, and shall be paid to the treasurer of state
 34 within eighteen months thereafter, except when otherwise provided
 35 in this chapter, and shall be and remain a legal charge against and
 36 a lien upon such estate, and any and all of the property thereof from
 37 the death of the decedent owner until paid. Real estate sold under
 38 order of court shall be released from the lien imposed by this chapter
 39 and the lien shall attach to the proceeds of such sale, provided that
 40 prior to the approval of such sale there shall have been given by the

41 person making such sale a good and sufficient bond conditioned to
 42 secure the payment of all tax secured by the lien so released. This
 43 provision shall not be construed to relieve from personal liability any
 44 person owing such tax or whose duty it is to collect and pay such tax
 45 to the treasurer of state.

[C., '97, § 1467; S., '13, § 1481-a.]

SEC. 4705. Exceptions.

- 1 The tax imposed by this chapter shall not be collected:
 2 1. When the entire estate of the decedent does not exceed the sum
 3 of one thousand dollars after deducting the debts as defined in this
 4 chapter.
 5 2. When the property passes to the husband or wife.
 6 3. When the property passes to the father, mother, lineal descend-
 7 ant, adopted child, or the lineal descendant of an adopted child of
 8 decedent.
 9 4. When the property passes to educational and religious socie-
 10 ties or institutions, public libraries and public art galleries within this
 11 state and open to the free use of the public.
 12 5. Property passing to or for hospitals within this state open to
 13 the public, and not operated for gain, or to societies within this state
 14 organized for purposes of public charity, including cemetery associa-
 15 tions, but not including societies maintained by fees, dues, or assess-
 16 ments in whose benefits the public may not share.
 17 6. Bequests for the care and maintenance of the cemetery or
 18 burial lot of decedent and his family, and bequests not to exceed five
 19 hundred dollars in any estate, to or for the performance of a religious
 20 service or services by some person regularly ordained, authorized or
 21 licensed by any religious society to perform such service to be per-
 22 formed for or in behalf of the testator, or some person named in his
 23 last will, provided such person so named is, or would be exempt from
 24 the tax imposed by this chapter.
 25 7. When the property passes to a municipal or political corpora-
 26 tion within this state for a purely public purpose.

[S., '13, § 1481-a1.]

SEC. 4706. Collateral inheritance tax and lien book.

- 1 The clerk of the district court in and for each county shall pro-
 2 vide and keep a suitable book, substantially bound and suitably ruled,
 3 to be known as the collateral inheritance tax and lien book, in which
 4 shall be kept a full and accurate record of all proceedings in cases
 5 where property is charged or sought to be charged with the payment
 6 of a collateral inheritance tax under the laws of this state, to be
 7 printed and ruled so as to show upon one page:
 8 1. The name, place of residence, and date of death of the decedent.
 9 2. Whether the decedent died testate, or intestate, and if testate,
 10 the record and page where the will was probated and recorded.
 11 3. The name and postoffice address of the executor, administra-
 12 tor, trustee, or grantee, with date of appointment or transfer.
 13 4. The names, postoffice addresses and relationship, if known,
 14 of all the heirs, devisees and grantees.
 15 5. The appraised valuation of the personal property.
 16 6. The amount of inheritance tax due upon said personal prop-
 17 erty.

- 18 7. A record of payment with amount and date.
 19 8. Date of filing objections and names of objectors.
 20 9. Blank for index and reference to all proceedings and for memo-
 21 randum entries of the court or judge in relation thereto.
 22 Upon the opposite page of such record shall be printed:
 23 1. Real estate derived from..... (naming
 24 decedent) which is subject to the lien prescribed by the statute for
 25 collateral inheritance tax.
 26 2. A full and accurate description of such real estate, by forty-
 27 acre or fractional tracts, or by lots, or other complete individual de-
 28 scription.
 29 3. The appraised valuation as reported by the appraisers, with
 30 a reference to the record of their report, as to each piece of such real
 31 estate.
 32 4. The amount of the inheritance tax due upon each such piece.
 33 5. A record of payments, with dates and amounts.

[S., '13, § 1481-a25.]

SEC. 4707. Report by executor, administrator or trustee—delinquency—order—entry of tax lien.

- 1 Upon the appointment and qualification of such executor, admin-
 2 istrator and testamentary trustee, the clerk issuing the letters shall
 3 at the same time deliver to him a blank form upon which he shall be
 4 required to make detailed report of the following facts:
 5 1. Name and last residence of decedent.
 6 2. Date of death.
 7 3. Whether or not he left a will.
 8 4. Name and postoffice of executor, administrator or trustee.
 9 5. Name and postoffice of surviving wife or husband if any.
 10 6. If testate, name and postoffice of each beneficiary under will.
 11 7. Relationship of each beneficiary to the testator.
 12 8. If intestate, name and postoffice of each heir at law.
 13 9. Relationship of each heir at law to decedent.
 14 10. Inventory of all the real estate of the decedent giving amount
 15 and description of each tract.
 16 11. Whether the property passes in possession and enjoyment in
 17 fee for life or for a term of years.
 18 Within thirty days after his qualification, each executor, adminis-
 19 trator, and testamentary trustee shall make and return to the clerk,
 20 under oath, a full and detailed report as indicated in the preceding
 21 paragraph, any will to the contrary notwithstanding, and upon his
 22 failure to do so, the clerk shall forthwith report his delinquency to
 23 the district court if in session, or to a judge of said court if in vaca-
 24 tion, for such order as may be necessary to enforce an observance of
 25 this section. If it appears from the inventory or report so filed that
 26 the real estate or any part of it is subject to an inheritance tax, it
 27 shall be the duty of the executor or administrator or of any person
 28 interested in the property if there be no administration, to cause the
 29 lien of the same to be entered upon the lien book in the office of the
 30 clerk of the court in each county where each particular tract of said
 31 real estate is situated, and when said real estate or any interest there-
 32 in, is subject to such tax, no conveyance either before or after the en-
 33 tering of said lien, shall discharge the real estate so conveyed from
 34 said lien, no final settlement of the account of any executor, adminis-
 35 trator or trustee shall be accepted or allowed unless a strict compliance

36 with the provisions of this section has been had by such person. Upon
 37 the filing of such report, the clerk of the court shall immediately for-
 38 ward a true copy thereof to the treasurer of state.

[S., '13, § 1481-a26.]

SEC. 4708. Lien.

1 It shall be the duty of the executor, administrator or trustee,
 2 immediately upon his appointment, to make and file a separate inven-
 3 tory, any will to the contrary notwithstanding, of all the real estate
 4 of the decedent liable to such tax, and to cause the lien of the same to
 5 be entered upon the lien book in the office of the clerk of the court in
 6 each county where each particular part of said real estate is situated,
 7 and no conveyance of said estate or interest therein, which is subject
 8 to such tax before or after the entering of said lien, shall discharge
 9 the estate so conveyed from the operation thereof.

[C., '97, § 1468.]

SEC. 4709. Property certified to treasurer.

1 Whenever any real estate of a decedent shall so pass, either in
 2 possession and enjoyment or in remainder as to be subject to such tax,
 3 the executor, administrator or trustee, within six months after he has
 4 assumed the duties of his trust, shall file with the treasurer of state a
 5 description of such real estate, giving the name of the county where
 6 the same is situated, the name of the decedent, the name of the person
 7 or persons to whom it so passes, whether the same passes in posses-
 8 sion and enjoyment in fee, for life or for a term of years (naming
 9 the term of years), and if a prior estate is created, he shall give the
 10 name of the remainderman.

[C., '97, § 1478.]

SEC. 4710. Copy of appraisement.

1 As soon as any such real estate is appraised it shall be the duty
 2 of the executor, administrator or trustee, if he has not been dis-
 3 charged, and if he has been finally discharged, then it shall be the
 4 duty of the clerk, to file with the treasurer of state a copy of such
 5 appraisement, stating also the amount of tax to be paid and within
 6 what time ordered to be paid.

[C., '97, § 1479.]

SEC. 4711. Record of estates by treasurer—form.

1 The treasurer of state shall record in a book kept in his office for
 2 that purpose, all estates reported to him as liable for a tax under the
 3 provisions of this chapter, showing:
 4 1. The name of the decedent.
 5 2. The place of his residence or county from which such estate
 6 was reported.
 7 3. The date of his death.
 8 4. The name of the administrator, executor or trustee.
 9 5. The appraised value of the property, or the value of any tax-
 10 able pecuniary legacy.
 11 6. The amount of indebtedness that was deducted before estimat-
 12 ing the tax.
 13 7. The amount of tax collected.
 14 8. The amount of fees paid for reporting and collecting such tax.

- 15 9. The amount of tax, if any refunded.
 16 He shall also keep a separate record of any deferred estate upon
 17 which the tax due is not paid within eighteen months from the death
 18 of the decedent, showing substantially the same facts as is required
 19 in other cases, and also showing:
- 20 *a* The date and amount of all bonds given to secure the payment
 21 of the tax with a list of the sureties thereon.
 22 *b* The name of the person beneficially entitled to such estate or
 23 interest, with place of residence.
 24 *c* A description of the property or a statement of conditions upon
 25 which such deferred estate is based or limited.

[S., '13, § 1481-a46.]

SEC. 4712. Administrator—appointment on application of treasurer—bond of nonresident administrator.

1 If, upon the death of any person leaving an estate that may be
 2 liable to a tax under the provisions of this chapter, a will disposing
 3 of such estate is not offered for probate, or an application for adminis-
 4 tration made within four months from the time of such decease, the
 5 treasurer of state may, at any time thereafter, make application to the
 6 proper court, setting forth such fact and praying that an adminis-
 7 trator may be appointed, and thereupon said court shall appoint an
 8 administrator to administer upon such estate. When the heirs or
 9 persons entitled to inherit the property of an estate subject to the tax
 10 hereby imposed, desire to avoid the appointment of an administrator
 11 as provided in this section, they or one of them shall, before the ex-
 12 piration of four months from the death of the decedent file under oath
 13 the inventories and reports and perform all the duties required by this
 14 chapter, of administrators, including the filing of the lien; proceedings
 15 for the collection of the tax when no administrator is appointed, shall
 16 conform as nearly as may be to the provisions of this chapter in other
 17 cases. A nonresident of this state shall not be appointed as executor,
 18 administrator or trustee of any estate that may be subject to the tax
 19 imposed by this chapter, unless such nonresident first file a bond con-
 20 ditioned upon the payment of all tax, interest and costs for which
 21 the estate may be liable, such bond to be signed by not less than two
 22 resident freeholders or by an approved surety company and in an
 23 amount not less than twenty-five per cent of the total value of the
 24 estate, or of the property within this state if the estate is a foreign
 25 estate.

[S., '13, § 1481-a3.]

SEC. 4713. Appraisal.

1 All the real estate of the decedent subject to such tax shall, except
 2 as hereinafter provided, be appraised within thirty days next after
 3 the appointment of an executor, administrator or trustee, and the tax
 4 thereon, calculated upon the appraised value after deducting debts for
 5 which the estate is liable, shall be paid by the person entitled to said
 6 estate within fifteen months from the approval by the court of such
 7 appraisal, unless a longer period is fixed by the court, and, in de-
 8 fault thereof, the court shall order the same, or so much thereof as
 9 may be necessary to pay such tax, to be sold.

[C., '97, § 1469.]

SEC. 4714. Appraisers—appointment by court—term—bond not required—removal—vacancies.

1 In each county, the court shall annually at the first term of the
2 court therein appoint three competent residents and freeholders of
3 said county, to act as appraisers of all property within its jurisdiction
4 which is charged or sought to be charged with the collateral inher-
5 itance tax. Said appraisers shall serve for one year, and until their
6 successors are appointed and qualified. They shall each take an oath
7 to faithfully and impartially perform the duties of the office, but shall
8 not be required to give bond. They shall be subject to removal at any
9 time at the discretion of the court, and the court or judge thereof in
10 vacation, may also in its discretion, either before or after the appoint-
11 ment of the regular appraisers, appoint other appraisers to act in any
12 given case. Vacancies occurring otherwise than by expiration of
13 term, shall be filled by the appointment of the court or by a judge in
14 vacation. No person interested in any manner in the estate to be ap-
15 praised may serve as an appraiser of such estate.

[S., '13, § 1481-a4.]

SEC. 4715. Commission to appraisers—when issued.

1 Whenever it appears that an estate or any property or interest
2 therein is or may be subject to the tax imposed by this chapter, the
3 clerk shall issue a commission to the appraisers, who shall fix a time
4 and place for appraisement, except that if the only interest that is
5 subject to such tax is a remainder or deferred interest upon which the
6 tax is not payable until the determination of a prior estate or interest
7 for life or term of years, he shall not issue such commission until the
8 determination of such prior estate, except at the request of parties
9 in interest who desire to remove the lien thereon.

[S., '13, § 1481-a5.]

SEC. 4716. Notice of appraisement—returns filed—appraisement when property is in more than one county.

1 It shall be the duty of all appraisers appointed under the pro-
2 visions of this chapter, upon receiving a commission as herein pro-
3 vided, to forthwith give notice to the treasurer of state and other
4 persons known to be interested in the property to be appraised, of the
5 time and place at which they will appraise such property, which time
6 shall not be less than ten days from the date of such notice. The
7 notice shall be served in the same manner as is prescribed for the
8 commencement of civil actions, and if not practicable to serve the
9 notice provided for by statute, they shall apply to the court or a judge
10 thereof in vacation for an order as to notice and upon service of such
11 notice and the making of such appraisement, the said notice, return
12 thereon and appraisement shall be filed with the clerk, and a copy of
13 such appraisement shall at once be filed by the clerk with the treasurer
14 of state. When property is located in more than one county, the ap-
15 praisers of the county in which the estate is being administered may
16 appraise the whole estate, or those of the several counties may serve
17 for the property within their respective counties or other appraisers
18 be appointed as the district court if in session, or judge thereof in
19 vacation, may direct.

[C., '97, § 1476; S., '13, § 1481-a6.]

SEC. 4717. Objections—when filed—appraisement approved or set aside—appeal.

1 The treasurer of state or any person interested in the estate or
2 property appraised, may, within twenty days thereafter, file objec-
3 tions to said appraisement and give notice thereof as in beginning
4 civil actions, on the hearing of which as an action in equity either
5 party may produce evidence competent or material to the matters
6 therein involved. If upon such hearing the court finds the amount at
7 which the property is appraised is its value on the market in the
8 ordinary course of trade, and the appraisement was fairly and in good
9 faith made, it shall approve such appraisement; but if it finds that
10 the appraisement was made at a greater or less sum than the value
11 of the property in the ordinary course of trade, or that the same was
12 not fairly or in good faith made, it shall set aside the appraisement,
13 appoint new appraisers and so proceed until a fair and good appraise-
14 ment of the property is made at its value in the market in the ordi-
15 nary course of trade. The treasurer of state or anyone interested
16 in the property appraised may appeal to the supreme court from the
17 order of the district court approving or setting aside any appraise-
18 ment to which exceptions have been filed. Notice of appeal shall be
19 served within sixty days from the date of the order appealed from,
20 and the appeal shall be perfected in the time now provided for appeals
21 in equitable actions. In case of appeal the appellant, if he is not the
22 treasurer of state, shall give bond to be approved by the clerk of the
23 court, which bond shall provide that the said appellant and sureties
24 shall pay the tax for which the property may be liable with cost of
25 appeal. If upon the hearing of objections to the appraisement the
26 court finds that the property is not subject to the tax, the court shall
27 upon expiration of time for appeal, when no appeal has been taken,
28 order the clerk to enter upon the lien book a cancellation of any claim
29 or lien for taxes. If at the end of twenty days from the filing of the
30 appraisement with the clerk, no objections are filed, the appraisement
31 shall stand approved.

[S., '13, § 1481-a7.]

SEC. 4718. Transferred property—appraisement of—foreign and domestic—market value—deduction of debts.

1 Within ninety days after the transfer of any property that may
2 be liable for a tax under the provisions of this chapter, except as herein
3 otherwise provided, the clerk of the proper county upon his own mo-
4 tion or upon the application of the treasurer of state, county attorney,
5 or person interested in the property, shall cause the property to be
6 appraised as provided herein. If there be an estate or property sub-
7 ject to said tax wherein the records in the clerk's office do not disclose
8 that there may be a tax due under the provisions of this chapter, the
9 person or persons interested in the property shall report the matter
10 to the clerk with an application that the property be appraised. The
11 appraised value of the property shall in all cases be its market value
12 in the ordinary course of trade, and in domestic estates the tax shall
13 be calculated thereon after deducting the debts as defined herein; pro-
14 vided, however, that the debt of a domestic estate owing for or secured
15 by property outside of the state, shall not be deducted before estimat-
16 ing the tax, except when the property for which the debt is owing or
17 by which it is secured is subject to the tax imposed by this chapter, or
18 when the foreign debt exceeds the value of the property securing it or

19 for which it was contracted, then the excess may be deducted provided
 20 that satisfactory proof of the value of the foreign property and the
 21 amount of such debt is furnished to the treasurer of state.

[S., '13, § 1481-a8.]

SEC. 4719. Relief from appraisement.

1 All estates subject in whole or in part to the tax imposed by this
 2 chapter shall be appraised for the purpose of computing said tax by
 3 the regular collateral inheritance tax appraisers; provided that estates
 4 liable for the payment of the inheritance tax upon specific legacies, an-
 5 nuities, bequests of money or other property the value of which may
 6 be determined without appraisement, and estates which consist of
 7 money, book accounts, bank deposits, notes, mortgages and bonds,
 8 need not be appraised by the collateral inheritance tax appraisers if
 9 the administrator, executor or trustee or the persons entitled to or
 10 claiming such property are willing to charge themselves with the full
 11 face value of such bequests or property, together with the interest,
 12 earnings or undivided profits which may be due on said properties, at
 13 the time of death of the testator or intestate, as the basis for the assess-
 14 ment of said tax, but in all cases the relief from appraisement for the
 15 collateral inheritance tax is dependent upon the consent of the treas-
 16 urer of state, and the subsequent approval thereof by the court or
 17 judge thereof in vacation. In the event that the estate has been duly
 18 appraised under the ordinary statutes of inheritance or the property
 19 has been sold and such appraisement or selling price is accepted by
 20 the treasurer of state as satisfactory for collateral inheritance tax
 21 purposes, the court or judge thereof in vacation may, upon proper
 22 application, relieve the estate from the appraisement by the collateral
 23 inheritance tax appraisers; but in order to obtain such relief, the
 24 administrator, executor, trustee or other party interested must file
 25 an application for relief with the consent of the treasurer of state
 26 thereto in the office of the clerk of the court before said clerk issues
 27 a commission to the collateral inheritance tax appraisers. The court
 28 or judge thereof in vacation may, upon application of the representa-
 29 tives of the estate or parties interested, relieve the estate of the ap-
 30 praisement for collateral tax purposes if it be shown to said court
 31 that the market value of the entire estate will not exceed one thou-
 32 sand dollars; provided that prior to the application to said court or
 33 judge the written consent of the treasurer of state to such relief is
 34 procured. In all cases where an estate is relieved from an appraise-
 35 ment for collateral inheritance tax purposes, the order granting relief
 36 shall be recorded in the clerk's office, and the fact of such relief and
 37 reasons therefor shall be duly noted in the decree or order of final
 38 settlement made by the court.

[S., '13, § 1481-a9.]

SEC. 4720. Remainders in realty after term estates to exempted persons—when appraised.

1 When any person, whose estate over and above the amount of
 2 his debts, as defined in this chapter, exceeds the sum of one thousand
 3 dollars, shall bequeath or devise any real property to or for the use
 4 of persons exempt from the tax imposed by this chapter, during life
 5 or for a term of years, and the remainder to a collateral heir, said
 6 property upon the determination of such estate for life or years, shall
 7 be appraised at its then actual market value from which shall be de-

8 ducted the value of any improvements thereon, or betterments thereto,
 9 if any, made by the remainderman during the time of the prior estate,
 10 to be ascertained and determined by the appraisers and the tax on the
 11 remainder shall be paid by such remainderman as provided in section
 12 forty-seven hundred twenty-two.

[S., '13, § 1481-a10.]

SEC. 4721. Remainders.

1 When any person whose estate, over and above the amount of his
 2 just debts, exceeds the sum of one thousand dollars shall bequeath or
 3 devise any real property to or for the use of the father, mother, hus-
 4 band, wife, lineal descendant, adopted child, or lineal descendant of
 5 such child, during life or for a term of years, and the remainder to
 6 a collateral heir or to a stranger to the blood, the court, upon the de-
 7 termination of such estate for life or years, shall, upon its own mo-
 8 tion or upon the application of the treasurer of state, cause such es-
 9 tate to be appraised at its then actual market value, from which shall
 10 be deducted the value of any improvements thereon, or betterments
 11 thereto, if any, made by the remainderman during the time of the
 12 prior estate, to be ascertained and determined by the appraisers, and
 13 the tax on the remainder shall be paid by such remainderman within
 14 sixty days from the approval by the court of the report of the ap-
 15 praisers. If such tax is not paid within said time; the court shall
 16 then order said real estate, or so much thereof as shall be necessary
 17 to pay such tax, to be sold.

[C., '97, § 1470.]

**SEC. 4722. Life and term estates in realty to those not exempt—
 appraisalment—payment of tax—determination of prior es-
 tates—report—tax to be paid by remainderman.**

1 Whenever any real property of a decedent shall be subject to
 2 such tax and there be an estate or interest for life or term of years
 3 given to a party other than those especially exempt by this chapter,
 4 the clerk shall cause such property to be appraised at the actual mar-
 5 ket value thereof, as is provided in ordinary cases, and the party en-
 6 titled to such estate or interest shall, within one year from the death
 7 of decedent owner, pay such tax, and in default thereof the court shall
 8 order such interest in said estate, or so much thereof as shall be nec-
 9 essary to pay such tax and interest, to be sold. Upon the determina-
 10 tion of any prior estate or interest, when the remainder or deferred
 11 estate or interest or any part thereof is subject to such tax and the
 12 tax upon such remainder or deferred interest has not been paid, the
 13 person or persons entitled to such remainder or deferred interest
 14 shall immediately report to the clerk of the proper court the fact of
 15 the determination of the prior estate, and upon receipt of such report,
 16 or upon information from any source, of the determination of any
 17 such prior estate when the remainder interest has not been appraised
 18 for the purpose of assessing such tax, the clerk shall forthwith issue
 19 a commission to the collateral inheritance tax appraisers, who shall
 20 immediately proceed to appraise the property as provided in like
 21 cases in section forty-seven hundred twenty, and the tax upon such
 22 remainder interest shall be paid by the remainderman within one
 23 year next after the determination of the prior estate. If such tax is
 24 not paid within said time the court shall then order said property,

25 or so much thereof as may be necessary to pay such tax and interest,
26 to be sold.

[S., '13, § 1481-a11.]

SEC. 4723. Life estate.

1 Whenever any real estate of a decedent shall be subject to such
2 tax, and there be a life estate or interest for a term of years given to
3 a party other than named in section forty-seven hundred twenty-one,
4 and the remainder to a collateral heir or stranger to the blood, the
5 court shall direct the interest of the life estate or term of years to
6 be appraised at the actual market value thereof, and, upon the ap-
7 proval of such appraisal by the court, the party entitled to such
8 life estate, or term of years, shall within sixty days thereafter pay
9 such tax, and in default thereof the court shall order such interest
10 in said estate, or so much thereof as shall be necessary to pay such
11 tax, to be sold. Upon the determination of such life estate or term
12 of years, the same provision shall apply as to the ascertainment of
13 the amount of the tax and the collection of the same on the real estate
14 in remainder as in like cases is provided in section forty-seven hun-
15 dred twenty-one. Whenever any personal estate of a decedent shall
16 be subject to such tax, and there be a life estate or interest for a term
17 of years given to a party other than named in section forty-seven
18 hundred twenty-one, and remainder to a collateral heir or stranger
19 to the blood, the court shall inquire into and determine the value of the
20 life estate or interest for the term of years, and order and direct the
21 amount of the tax thereon to be paid by the prior estate and that to
22 be paid by the remainderman, each of whom shall pay their propor-
23 tion of such tax within sixty days from such determination, unless a
24 longer period is fixed by the court, and in default thereof the executor
25 administrator or trustee shall pay the same out of said property, and
26 hold the same from distribution, and invest it at interest under the
27 order of the court until said tax is paid, or until the interest on the
28 same equals the amount of such tax, which shall thereupon be paid.

[C., '97, § 1471.]

**SEC. 4724. Life and term estates in personal property—appraise-
ment—payment of tax.**

1 Whenever any personal property shall be subject to the tax im-
2 posed by this chapter and there be an estate or interest for life or
3 term of years given to one or more persons and remainder or deferred
4 estate to others, the clerk shall cause the property so devised or con-
5 veyed to be appraised as provided herein in ordinary estates and the
6 value of the several estates or interests so devised or conveyed shall
7 be determined as provided in section forty-seven hundred twenty-
8 eight, and the tax upon such estates or interests as are liable for the
9 tax imposed by this chapter shall be paid to the treasurer of state
10 from the property appraised or by the persons entitled to such estate
11 or interest within eighteen months from the death of the testator,
12 grantor, or donor; provided, however, that payment of the tax upon
13 any deferred estate or remainder interest may be deferred until the
14 determination of the prior estate by the giving of a good and sufficient
15 bond as provided in the next succeeding section.

[S., '13, § 1481-a12.]

SEC. 4725. Bond to defer payment of tax until determination of prior estate—exception.

1 When in case of deferred estates or remainder interests in personal
2 personal property or in the proceeds of any real estate that may be sold
3 during the time of a life, term or prior estate, the persons interested
4 who may desire to defer the payment of the tax until the determination
5 of the prior estate, shall file with the clerk of the proper district
6 court a bond as provided herein in other cases, such bond to be renewed
7 every two years until the tax upon such deferred estate is paid.
8 If at the end of any two-year period the bond is not promptly renewed
9 as herein provided and the tax has not been paid, the bond shall be
10 declared forfeited, and the amount thereof be forthwith collected.
11 When the estate of a decedent consists in part of real and in part of
12 personal property, and there be an estate for life or for a term of years
13 to one or more persons and a deferred or remainder estate to others,
14 and such deferred or remainder estate is in whole or in part subject
15 to the tax imposed by this chapter, if the deferred or remainder estates
16 or interests are so disposed that good and sufficient security for
17 the payment of the tax for which such deferred or remainder estates
18 may be liable can be had because of the lien imposed by this chapter
19 upon the real property of such estate, then payment of the tax upon
20 such deferred or remainder estates may be postponed until the determination
21 of the prior estate without giving bond as herein required
22 to secure payment of such tax, and the tax shall remain a lien upon
23 such real estate until this tax upon such deferred estate or interest
24 is paid.

[S., '13, § 1481-a13.]

SEC. 4726. Bonds—conditions.

1 All bonds required by this chapter shall be payable to the treasurer
2 of state and shall be conditioned upon the payment of the tax,
3 interest and costs for which the estate may be liable, and for the faithful
4 performance of all the duties hereby imposed upon and required
5 of the person whose acts are by such bond to be guaranteed, and shall
6 be in an amount equal to twice the amount of the tax, interest and
7 costs that may be due, but in no case less than five hundred dollars
8 and must be secured by not less than two resident freeholders or by a
9 fidelity or surety company authorized by the auditor of state to do
10 business in this state.

[S., '13, § 1481-a14.]

SEC. 4727. Removal of taxable property from state—penalty—bond.

1 It shall be unlawful for any person to remove from this state any
2 property, or the proceeds thereof, that may be subject to the tax imposed
3 by this chapter, without paying the said tax to the treasurer of state.
4 Any person violating the provisions of this section shall be guilty of a
5 felony and upon conviction shall be fined an amount equal to twice
6 the amount of tax, interest and costs for which the estate may be liable,
7 but in no case less than two hundred dollars and imprisoned as the court
8 shall direct, until the fine is paid; provided, however, that the penalty
9 hereby imposed shall not be enforced, if prior to the removal of such
10 property or the proceeds thereof, the person desiring to effect such
11 removal files with the clerk a bond conditioned

12 upon the payment of the tax, interest and costs, as is provided in
13 the preceding section hereof.

[S., '13, § 1481-a15.]

SEC. 4728. Determination of value of annuities and life and term estates—basis of computation—release of lien on remainders and reversions.

1 The value of any annuity, deferred estate, or interest, or any
2 estate for life or term of years, subject to the collateral inheritance
3 tax, shall be determined for the purpose of computing said tax by
4 the rule of standards of mortality and of value commonly used in
5 actuaries' combined experience tables as now provided by law. The
6 taxable value of annuities, life or term, deferred or future estates,
7 shall be computed at the rate of four per cent per annum of the ap-
8 praised value of the property in which such estate of interest exists
9 or is founded. Whenever it is desired to remove the lien of the col-
10 lateral inheritance tax on remainders, reversions, or deferred estates,
11 parties owning the beneficial interest may pay at any time the said
12 tax on the present worth of such interests determined according to
13 the rules herein fixed.

[S., '13; § 1481-a16.]

SEC. 4729. Executors, administrators, trustees — powers and duties—suit by treasurer—extension of time of payment.

1 It is hereby made the duty of all executors, administrators, trus-
2 tees, or other persons charged with the management or settlement of
3 any estate subject to the tax provided for in this chapter, to collect
4 and pay to the treasurer of state the amount of the tax due from any
5 devisee, grantee, donee, heir or beneficiary of the decedent, except in
6 cases where payment of the tax is deferred until the determination
7 of a prior estate in which cases the treasurer of state shall collect the
8 same. Executors, administrators, trustees, or the state treasurer,
9 shall have power to sell so much of the property of the decedent as
10 will enable them to pay said tax, in the same manner as is now pro-
11 vided by law for the sale of such property for the payment of debts
12 of testators or intestates. The treasurer of state may bring, or cause
13 to be brought in his name of office, suit, for the collection of said tax,
14 interest and costs, against the executor, administrator, or trustee, or
15 against the person entitled to property subject to said tax, or upon
16 any bond given to secure payment thereof, either jointly or severally
17 and obtaining judgment may cause execution to be issued thereon as
18 is provided by statute in other cases. The proceedings shall conform
19 as nearly as may be to those for the collection of ordinary debt by
20 suit. If because of necessary litigation or other unavoidable cause of
21 delay enforced payment of the tax hereby imposed, by suit and execu-
22 tion, would result in loss or be to the detriment of the best interests of
23 the estate, the court may extend the time for the payment of the tax.
24 Such extensions of time shall not be granted except in cases where
25 security is given for payment of the tax, interest and costs.

[S., '13, § 1481-a17.]

SEC. 4730. Tax deducted from legacy or collected from legatee.

1 Every executor, administrator, referee or trustee having in charge
2 or trust any property of an estate subject to said tax, and which is

3 made payable by him, shall deduct the tax therefrom or shall collect
4 the tax thereon from the legatee or person entitled to said property
5 and pay the same to the treasurer of state, and he shall not deliver
6 any specific legacy or property subject to said tax to any person until
7 he has collected the tax thereon.

[S., '13, § 1481-a18.]

SEC. 4731. Payment by executor or trustee.

1 Every executor, administrator or trustee having in charge or
2 trust any property subject to said tax, and which is made payable by
3 him, shall deduct the tax therefrom, or shall collect the tax thereon
4 from the legatee or person entitled to said property, and he shall not
5 deliver any specific legacy or property subject to said tax to any per-
6 son until he has collected the tax thereon.

[C., '97, § 1474.]

SEC. 4732. Payment to state.

1 All taxes imposed by this chapter shall be payable to the treas-
2 urer of state, and those which are made payable by executors, admin-
3 istrators or trustees shall be paid within fifteen months from the death
4 of the testator or intestate, or within fifteen months from assuming
5 of the trust by such trustee, unless a longer period is fixed by the
6 court. All taxes not paid within the time prescribed in this chapter
7 shall draw interest at the rate of eight per centum per annum until
8 paid.

[C., '97, § 1475.]

SEC. 4733. Collection.

1 It is hereby made the duty of all executors, administrators or
2 trustees charged with the management or settlement of any estate
3 subject to the tax provided for in this chapter, to collect and pay to
4 the treasurer of state the amount of the tax due from any devisee,
5 grantee or donee of the decedent, except in cases falling under the
6 provisions of sections forty-seven hundred twenty-one and forty-seven
7 hundred twenty-three, in which cases the treasurer of state shall col-
8 lect the same. Applications may be made to the district court by such
9 executor, administrator, trustee or state treasurer to sell the real es-
10 tate subject to said tax in an equitable action, or, if made to the court
11 having charge of the settlement of said estate, the proceedings shall
12 conform as nearly as may be to those for the sale of the real estate
13 of a decedent for the settlement of his debts.

[C., '97, § 1477.]

SEC. 4734. Settlements with executors or trustees.

1 No final settlement of the account of any executor, administrator
2 or trustee shall be accepted or allowed unless it shall show, and the
3 court shall find, that all taxes imposed by the provisions of this chap-
4 ter upon any property or interest therein belonging to the estate to
5 be paid by such executors, administrators or trustees, and to be set-
6 tled by said account, shall have been paid, and the receipt of the treas-
7 urer of state for such tax shall be the proper voucher for such payment.

[C., '97, § 1480.]

**SEC. 4735. Order on final settlement void if taxes not paid—
recording of treasurer's receipt on lien book.**

1 No final settlement of the account of any executor, administrator,
2 or trustee shall be accepted or allowed unless it shall show, and the
3 court shall find, that all taxes imposed by the provisions of this chap-
4 ter upon any property or interest therein, that is hereby made pay-
5 able by such executors, administrators or trustees, and to be settled
6 by said account, shall have been paid, and the receipt of the treasurer
7 of state for such tax shall be the proper voucher for such payment.
8 Any order contravening the provision of this section shall be void.
9 Upon the filing of such receipt showing payment of the tax, the clerk
10 shall record the same upon the collateral inheritance tax lien book in
11 his office.

[S., '13, § 1481-a19.]

SEC. 4736. Jurisdiction—treasurer to represent state.

1 The district court in the county in which some part of the prop-
2 erty is situated, of the decedent who was not a resident, or such court
3 in the county of which the deceased was a resident at the time of his
4 death or where such estate is administered, shall have jurisdiction to
5 hear and determine all questions regularly brought before it in rela-
6 tion to said tax that may arise affecting any devise, legacy, annuity,
7 transfer, grant, gift or inheritance, subject to appeal as in other cases,
8 and the treasurer of state shall in his name of office, with all the rights
9 and privileges of a party in interest, represent the state in any such
10 proceedings.

[S., '13, § 1481-a20.]

SEC. 4737. Jurisdiction of court.

1 The district court having either principal or ancillary jurisdic-
2 tion of the settlement of the estate of the decedent shall have juris-
3 diction to hear and determine all questions in relation to said tax that
4 may arise affecting any devise, legacy or inheritance, or any grant or
5 gift, under this chapter, subject to appeal as in other cases, and the
6 treasurer of state shall in his name of office represent the interests of
7 the state in any such proceeding.

[C., '97, § 1481.]

SEC. 4738. Bequests to executors, trustees—when subject to tax.

1 Whenever a decedent appoints one or more executors or trust-
2 ees and in lieu of their allowance or commission, makes a bequest or
3 devise of property to them which would otherwise be liable to said
4 tax, or appoints them his residuary legatees, and said bequests, de-
5 vises or residuary legacies exceed the statutory fees as compensation
6 for their services, such excess shall be liable to such tax.

[S., '13, § 1481-a21.]

SEC. 4739. Executors or trustees.

1 Whenever a decedent appoints one or more executors or trustees
2 and in lieu of their allowance or commission, makes a bequest or devise
3 of property to them which would otherwise be liable to said tax, or
4 appoints them his residuary legatees, and said bequests, devises or
5 residuary legacies exceed what would be a reasonable compensation

6 for their services, such excess shall be liable to such tax, and the court
7 having jurisdiction of their accounts, upon its own motion or on the
8 application of the treasurer of state, shall fix such compensation.

[C., '97, § 1472.]

SEC. 4740. Legacies charged upon real estate—lien.

1 Whenever any legacies subject to said tax are charged upon or
2 payable out of any real estate, the heir or devisee, before paying the
3 same, shall deduct said tax therefrom and pay it to the executor, ad-
4 ministrator, trustee or treasurer of state, and the same shall remain
5 a charge against and be a lien upon said real estate until it is paid;
6 and payment thereof shall be enforced by the executor, administrator,
7 trustee or treasurer of state in his name of office as herein provided.

[S., '13, § 1481-a22.]

SEC. 4741. Legacies charged upon land.

1 Whenever any legacies subject to said tax are charged upon or
2 payable out of any real estate, the heir or devisee, before paying the
3 same, shall deduct said tax therefrom and pay it to the executor, ad-
4 ministrator, trustee or treasurer of state, and the same shall remain
5 a charge and be a lien upon said real estate until it is paid; and pay-
6 ment thereof shall be enforced by the executor, administrator, trustee
7 or treasurer of state in his name of office, in the same manner as
8 the payment of the legacy itself could be enforced.

[C., '97, § 1473.]

SEC. 4742. Delinquent taxes—interest on—duplicate receipts.

1 All taxes imposed by this chapter shall be payable to the treas-
2 urer of state, and except when otherwise provided in this chapter,
3 shall be paid within eighteen months from the death of the testator
4 or intestate. All taxes not paid within the time prescribed in this
5 chapter shall draw interest at the rate of eight per centum per an-
6 num thereafter until paid, and upon payment of such tax the treas-
7 urer of state shall forthwith transmit a duplicate receipt, to the clerk
8 of the court of the county in which the estate is being settled, show-
9 ing the payment of such tax.

[S., '13, § 1481-a23.]

SEC. 4743. Treasurer to enforce collection of delinquent taxes.

1 It shall be the duty of the treasurer of state to enforce the col-
2 lection of the delinquent collateral inheritance tax, and the provisions
3 of law with reference thereto, and to that end he is authorized and
4 empowered, with the consent of the executive council, to employ such
5 assistants and at such salaries as may be necessary; and there is
6 hereby appropriated from the funds thus collected, an amount suffi-
7 cient to pay the salaries and actual expenses of such assistants, but
8 not to exceed fifteen thousand dollars annually.

[38 G. A., ch. 300, § 1.]

SEC. 4744. Proofs of amount of tax due—treasurer may demand information—assessment without deduction of debts.

1 Before issuing his receipt for the tax, the treasurer of state may
2 demand from administrators, executors, trustees or beneficiaries such
3 information as may be necessary to verify the correctness of the

4 amount of the tax and interest, and when such demand is made they
 5 shall send to said treasurer certified copies of wills, deeds, or other
 6 papers, or of such parts of their reports as he may demand, and upon
 7 the refusal or neglect of said parties to comply with the demand of the
 8 treasurer of state, it is the duty of the clerk of the court to comply
 9 with such demand, and the expenses of making such copies and trans-
 10 scripts shall be charged against the estate, as are other costs in pro-
 11 bate, or the tax may be assessed without deducting debts for which
 12 the estate may be liable.

[S., '13, § 1481-a24.]

SEC. 4745. Extension of time of appraisalment — complicated estates.

1 Whenever, by reason of the complicated nature of an estate, or
 2 by reason of the confused condition of the decedent's affairs, it is im-
 3 practicable for the executor, administrator, trustee or beneficiary of
 4 said estate to file with the clerk of the court a full, complete and item-
 5 ized inventory of the personal assets belonging to the estate, within
 6 the time required by statute for filing inventories of the estates, the
 7 court may, upon the application of such representatives or parties in
 8 interest, extend the time for making the collateral inheritance ap-
 9 praisalment for a period not to exceed three months beyond the time
 10 fixed by this chapter.

[S., '13, § 1481-a27.]

SEC. 4746. Heirs at law to make report—failure to report does not relieve estate from lien.

1 Whenever any property passing under the intestate laws may be
 2 subject to the tax imposed by this chapter, the person or persons en-
 3 titled to such property shall make or cause to be made to the clerk of
 4 the courts of the county wherein such property is located, within
 5 ninety days next following the death of such intestate, a report in
 6 writing embodying therein substantially the information required by
 7 section forty-seven hundred seven. Failure to furnish such report
 8 or to probate the will in a testate estate shall not relieve the estate
 9 from the lien created hereby or the persons entitled to the property
 10 of such decedent from payment of the tax, interest or other penalties
 11 imposed by this chapter.

[S., '13, § 1481-a28.]

SEC. 4747. Entries made by clerk.

1 The clerk shall enter upon the collateral inheritance tax and lien
 2 book, the title of all estates subject to the inheritance tax as shown
 3 by the inventories or lists of heirs filed in his office, or as reported to
 4 him by the county attorney, treasurer of state, or other person, and
 5 shall enter in said book as against each estate or title at the appropri-
 6 ate place, all such information relating to the situation and condition
 7 of the estate as he may be able to obtain from the papers filed in his
 8 office, or from any other source, as may be necessary to the collection
 9 and enforcement of the tax. He shall also immediately index in the
 10 book kept in his office for that purpose, all liens entered upon the col-
 11 lateral inheritance tax and lien book. Failure to make such entries
 12 as are herein required, shall not operate to relieve the estate from the
 13 lien or defeat the collection of the tax.

[S., '13, § 1481-a29.]

SEC. 4748. Probate record.

1 In all cases entered upon the inheritance tax and lien book, the
 2 clerk shall make a complete record in the proper probate record, of
 3 all the proceedings, orders, reports, inventory, appraisements and all
 4 other matters and proceedings therein.

[S., '13, § 1481-a30.]

SEC. 4749. Clerk to examine probate records and report estates subject to tax—fee.

1 It shall be the duty of each clerk of the district court to make ex-
 2 amination from time to time of all reports filed with him by admin-
 3 istrators, executors and trustees, pursuant to law; also to make ex-
 4 amination of all foreign wills offered for probate or recorded within
 5 his county, as well as of the record of deeds and conveyances in the
 6 recorder's office of said county, and if from such examination or from
 7 information or knowledge coming to him from any other source, he
 8 finds or believes that any property within his county, or within the
 9 jurisdiction of the district court of said county has, since July fourth,
 10 eighteen hundred ninety-six, passed by will or by the intestate laws of
 11 this or any other state, or by deed or other method of conveyance,
 12 made in anticipation of or intended to take effect, in possession or in
 13 enjoyment after the death of the testator, donor or grantor, to any
 14 person other than to or for the use of the persons, societies, or organ-
 15 izations exempt from the tax hereby imposed, he shall make report
 16 thereof in writing to the treasurer of state, embodying in such report
 17 such information as he may be able to obtain as to the name and resi-
 18 dence of decedent, date of death, name and address of administrator,
 19 executor, or trustee, the description of any property liable to said tax
 20 and the county in which it is located and name and relationship of
 21 all beneficiaries or heirs. Any citizen of the state having knowledge
 22 of property liable to such tax, against which no proceeding for en-
 23 forcing collection thereof is pending, may report the same to the clerk
 24 and it shall be the duty of such officer to investigate the case, and if
 25 he has reason to believe the information to be true, he shall forthwith
 26 enter the estate and report the same substantially as above indicated.
 27 For reporting such estates or property the clerk shall receive a com-
 28 pensation of one dollar for each one hundred dollars or fraction thereof
 29 of tax paid, but not to exceed the sum of five dollars in any one estate,
 30 the same to be in addition to the compensation now allowed him by
 31 law. Except when this information has first been received from an-
 32 other source, the treasurer of state, when he has issued his receipt for
 33 the tax in such estate, shall certify to the auditor of state the amount
 34 due the clerk for such service and the auditor of state shall issue his
 35 warrant on the treasurer of state in favor of said clerk for the sum
 36 due as herein provided.

[S., '13, § 1481-a31.]

SEC. 4750. Duties of county attorney — compensation — other counsel may be employed.

1 It shall be the duty of the county attorney of each county, when
 2 directed by the treasurer of state, to perform such legal services as
 3 shall be necessary in the enforcement of said tax, but such attorney
 4 shall have no authority to receipt for or receive any of such tax. He
 5 shall advise and assist the clerk and appraisers in the discharge of

6 their duties in collateral inheritance tax matters, and see that the
 7 notices required by law are properly made and returned. In each
 8 estate where the county attorney has performed such legal services,
 9 he shall receive a compensation as follows, viz.: On the first one
 10 hundred dollars or fraction thereof of tax paid, ten per cent; on the
 11 excess of one hundred dollars to five hundred dollars, five per cent; on
 12 the excess of five hundred dollars to one thousand dollars, three per
 13 cent; on all sums in excess of one thousand dollars, one per cent, but
 14 not to exceed one hundred fifty dollars from any one estate; pro-
 15 vided, however, that except in cases of litigation requiring the filing
 16 of a petition or answer in court, the fee in any case shall not exceed
 17 the sum of fifty dollars. When the treasurer of state has issued his
 18 receipt for the tax in an estate, in which the county attorney has been
 19 directed to render legal services, and has performed such services, the
 20 treasurer of state shall certify the amount due for such services to
 21 the auditor of state, who shall issue his warrant on the treasurer of
 22 state in favor of said county attorney for the sum due. If the county
 23 attorney is attorney for the executor, administrator or other person
 24 interested in the estate, the treasurer of state may employ another
 25 attorney to represent the state.

[S., '13, § 1481-a32.]

SEC. 4751. Conflicting claims for fees—treasurer to adjust.

1 In the event of uncertainty or of conflicting claims as to fees due
 2 county attorneys or clerks under this chapter, the treasurer of state
 3 is empowered to determine the amount of fees, to whom payable, and
 4 when the same are due, and as far as possible, such determination
 5 shall be in accord with fixed rules made by the treasurer of state.

[S., '13, § 1481-a33.]

**SEC. 4752. Regular inspection of records and reports by court—
 order instituting proceedings.**

1 On the first day of each regular term, the court shall require the
 2 clerk to present for its inspection the inheritance tax and lien book
 3 hereinbefore provided for, together with all reports of administrators,
 4 executors and trustees which have been filed pursuant to this chapter,
 5 since the last preceding term. The county attorney shall also attend
 6 and make report to the court concerning the progress of all cases pend-
 7 ing for the collection of such taxes, together with any other facts,
 8 which in his judgment may aid the court in enforcing the general ob-
 9 servance of the collateral inheritance tax law. If from information
 10 obtained from the records or reports, or from any other source, the
 11 court has reason to believe that there is property within its jurisdic-
 12 tion liable to the payment of an inheritance tax, against which pro-
 13 ceedings for collection are not already pending, it shall enter an order
 14 of record, directing the county attorney to institute such proceedings
 15 forthwith. Should any estate, or the name of any grantee or grantees
 16 be placed upon the book at the suggestion of the county attorney, the
 17 treasurer of state, or other person, in which the papers already on
 18 file in the clerk's office do not disclose that an inheritance tax is due
 19 or payable, the county attorney shall forthwith give to all parties in
 20 interest such notice as the court or judge may prescribe, requiring
 21 them to appear on a day to be fixed by the said court or judge, and
 22 show cause why the property should not be appraised and subjected

23 to said tax. At any such hearing any person may be required to
24 appear and answer as to his knowledge of any such estate or prop-
25 erty. If upon any such hearing the court is satisfied that any prop-
26 erty of the decedent or any property devised, granted or donated by
27 him, is subject to the tax, the same proceedings shall be had as in
28 other cases, so far as applicable.

[S., '13, § 1481-a34.]

SEC. 4753. Costs charged against estate—exceptions.

1 In all cases where an estate or interest therein so passes as to be
2 liable to taxation under this chapter, all costs of the proceedings had
3 for the assessment of such tax shall be chargeable to such estate as
4 other costs in probate proceedings and to discharge the lien, all costs,
5 as well as the taxes must be paid. In all other cases the costs are to
6 be paid as ordered by the court. When a decision adverse to the state
7 has been rendered, with an order that the state pay the costs, it shall
8 be the duty of the clerk of the court in which such action was pend-
9 ing to certify the amount of such costs to the treasurer of state, who
10 shall, if said costs be correctly certified, and the case has been finally
11 terminated, and the tax if any due has been paid, present the claim to
12 the executive council to audit, and said claim being allowed by said
13 council, the auditor of state is directed to issue a warrant on the treas-
14 urer of state in payment of such costs.

[S., '13, § 1481-a35.]

SEC. 4754. Securities and assets held by bank or trust company—notice to transfer.

1 No safe deposit company, trust company, bank or other institu-
2 tion, person or persons holding securities or assets of the decedent
3 shall deliver or transfer the same to the executor, administrator or
4 legal representative of said decedent unless the tax for which such
5 securities or assets are liable under this chapter shall be first paid,
6 or the payment thereof is secured by bond as herein provided. It
7 shall be lawful for and the duty of the treasurer of state personally,
8 or by any person by him duly authorized, to examine such securities
9 or assets at the time of any proposed delivery or transfer. Failure
10 to serve ten days' notice of such proposed transfer upon the treasurer
11 of state or to allow such examination on the delivery of such securi-
12 ties or assets to such executor, administrator or legal representative
13 shall render such safe deposit company, trust company, bank or other
14 institution, person or persons liable for the payment of the tax upon
15 such securities or assets as provided in this chapter.

[S., '13, § 1481-a36.]

SEC. 4755. Transfer of corporation stock by foreign executor, administrator or trustee—liability of corporation for tax.

1 If a foreign executor, administrator or trustee shall assign or
2 transfer any corporate stock or obligations in this state standing in
3 the name of a decedent, or in trust for a decedent, liable to such tax,
4 the tax shall be paid to the treasurer of state on or before the trans-
5 fer thereof; otherwise the corporation permitting its stock to be so
6 transferred shall be liable to pay such tax, interest, and costs, and it
7 is the duty of the treasurer of state to enforce the payment thereof.

[S., '13, § 1481-a37.]

SEC. 4756. Annual reports by corporations of certain transfers of stock—liability for payment of tax.

1 All Iowa corporations organized for pecuniary profit, shall on
2 July first of each year, by its proper officers under oath make a full
3 and correct report to the treasurer of state of all transfers of its
4 stocks made during the preceding year by any person who appears
5 on the books of such corporation as the owner of such stock, when
6 such transfer is made to take effect at or after the death of the owner
7 or transferor, and all transfers which are made by an administrator,
8 executor, trustee, referee, or any person other than the owner or per-
9 son in whose name the stocks appeared of record on the books of such
10 corporation, prior to the transfer thereof. Such report shall show
11 the name of the owner of such stocks and his place of residence, the
12 name of the person at whose request the stock was transferred, his
13 place of residence and the authority by virtue of which he acted in
14 making such transfer, the name of the person to whom the transfer
15 was made, and the residence of such person; together with such other
16 information as the officers reporting may have relating to estates of
17 persons deceased who may have been owners of stock in such corpora-
18 tion. If it appears that any such stock so transferred is subject to tax
19 under the provisions of this chapter, and the tax has not been paid,
20 the treasurer of state shall notify the corporation in writing of its
21 liability for the payment thereof, and shall bring suit against such
22 corporation as in other cases herein provided unless payment of the
23 tax is made within sixty days from the date of such notice.

[S., '13, § 1481-a38.]

SEC. 4757. Foreign estates—deduction of debts.

1 Whenever any property belonging to a foreign estate, which es-
2 tate in whole or in part passes to persons not exempt herein from such
3 tax, the said tax shall be assessed upon the market value of said prop-
4 erty remaining after the payment of such debts and expenses as are
5 chargeable to the property under the laws of this state. In the event
6 that the executor, administrator or trustee of such foreign estate files
7 with the clerk of the court having ancillary jurisdiction, and with the
8 treasurer of state, duly certified statements exhibiting the true market
9 value of the entire estate of the decedent owner, and the indebtedness
10 for which the said estate has been adjudged liable, which statements
11 shall be duly attested by the judge of the court having original juris-
12 diction, the beneficiaries of said estate shall then be entitled to have
13 deducted such proportion of the said indebtedness of the decedent
14 from the value of the property as the value of the property within
15 this state bears to the value of the entire estate.

[S., '13, § 1481-a39.]

SEC. 4758. Property in this state belonging to a foreign estate and not specifically devised—how assessed.

1 Whenever any property, real or personal, within this state be-
2 longs to a foreign estate and said foreign estate passes in part exempt
3 from the tax imposed by this chapter and in part subject to said tax
4 and there is no specific devise of the property within this state to di-
5 rect heirs or if it is within the authority or discretion of the foreign
6 executor, administrator or trustee administering the estate to dispose
7 of the property not specifically devised to direct heirs or devisees in

8 the payment of debts owing by the decedent at the time of his death,
9 or in the satisfaction of legacies, devises, or trusts given to direct or
10 collateral legatees or devisees or in payment of the distributive shares
11 of any direct and collateral heirs, then the property within the jurisdic-
12 tion of this state, belonging to such foreign estate, shall be subject
13 to the tax imposed by this chapter, and the tax due thereon shall be
14 assessed as provided in the next preceding section relating to the de-
15 duction of the proportionate share of indebtedness; provided, how-
16 ever, that if the value of the property so situated exceeds the total
17 amount of the estate passing to other persons than those exempt
18 hereby from the tax imposed by this chapter such excess shall not be
19 subject to said tax.

[S., '13, § 1481-a40.]

SEC. 4759. Compromise settlement—how effected—discharge of lien.

1 Whenever an estate charged or sought to be charged with the
2 collateral inheritance tax is of such a nature, or is so disposed, that
3 the liability of the estate is doubtful, or the value thereof can not with
4 reasonable certainty be ascertained under the provisions of law, the
5 treasurer of state may, with the written approval of the attorney gen-
6 eral, which approval shall set forth the reasons therefor, compromise
7 with the beneficiaries or representatives of such estates, and com-
8 pound the tax thereon; but said settlement must be approved by the
9 district court or judge of the proper court, and after such approval
10 the payment of the amount of the taxes so agreed upon shall discharge
11 the lien against the property of the estate.

[S., '13, § 1481-a41.]

SEC. 4760. Unknown heirs.

1 Whenever the heirs or persons entitled to any estate or any in-
2 terest therein, are unknown or their place of residence can not with
3 reasonable certainty, be ascertained, a tax of five per cent shall be
4 paid to the treasurer of state upon all such estates or interests, sub-
5 ject to refund as provided herein in other cases; provided, however,
6 that if it be afterwards determined that any estate or interest passes
7 to aliens, there shall be paid within sixty days after such determina-
8 tion and before delivery of such estate or property, an amount equal
9 to the difference between five per centum, the amount paid, and the
10 amount which such person should pay under the provisions of this
11 chapter.

[S., '13, § 1481-a42.]

SEC. 4761. Refund of tax improperly paid.

1 When within five years after the payment of the tax, a court of
2 competent jurisdiction may determine that property upon which a
3 collateral inheritance tax has been paid is not subject to or liable for
4 the payment of such tax, or that the amount of tax paid was exces-
5 sive, so much of such tax as has been overpaid to the treasurer of
6 state shall be returned or refunded to the executor or administrator
7 of such estate, or to those entitled thereto, when a certified copy of
8 the record of such court showing the fact of nonliability of such prop-
9 erty to the payment of such tax has been filed with the executive
10 council of the state, the executive council shall if the case has been

11 finally determined issue an order to the auditor of state directing
 12 him to issue a warrant upon the treasurer of state to refund such tax.
 13 Such order of court shall not be given until fifteen days' notice of the
 14 application therefor shall have been given to the treasurer of state of
 15 the time and place of the hearing of such application, which notice
 16 shall be served in the same manner as provided for original notices.

[S., '13, § 1481-a43.]

SEC. 4762. Contingent estates—appraisement—refund of excess payment.

1 Estates in expectancy which are contingent or defeasible and in
 2 which proceedings for the determination of the tax have not been
 3 taken or where the taxation thereof has been held in abeyance, shall
 4 be appraised at their full, undiminished value when the persons en-
 5 titled thereto shall come into the beneficial enjoyment or possession
 6 thereof, without diminution for or on account of any valuation there-
 7 tofore made of the particular estates for purposes of taxation, upon
 8 which said estates in expectancy may have been limited. When an
 9 estate, devise, or legacy can be divested by the act or omission of the
 10 legatee or devisee, it shall be taxed as if there were no possibility of
 11 such divesting. When a devise, bequest or transfer is one in part
 12 contingent, and in part vested so that the beneficiary will come into
 13 possession and enjoyment of a portion of his inheritance on or before
 14 the happening of the event upon which the possible defeating con-
 15 tingency is based, a tax shall be imposed and collected upon such be-
 16 quest or transfer as upon a vested interest, at the highest rate pos-
 17 sible under the terms of this chapter if no such contingency existed;
 18 provided that in the event such contingency reduces the value of the
 19 estate or interest so taxed, and the amount of tax so paid is in excess
 20 of the tax for which such bequest or transfer is liable upon the re-
 21 moval of such contingency, such excess shall be refunded as is pro-
 22 vided in the preceding section in other cases.

[S., '13, § 1481-a44.]

CHAPTER 22.

SECURITY OF THE REVENUE.

SECTION 4763. County responsible to state.

1 Each county is responsible to the state for the full amount of
 2 tax levied for state purposes, excepting such amounts as are certified
 3 to be unavailable, double or erroneous assessments.

[R., '60, § 793; C., '73, § 908; C., '97, § 1453.]

SEC. 4764. Defaulting treasurer.

1 If any treasurer prove to be a defaulter to any amount of state
 2 revenue, such amount shall be made up to the state within the next
 3 three years by additional levies in such manner as to annual amounts
 4 as the board of supervisors may direct.

[R., '60, § 794; C., '73, § 909; C., '97, § 1454.]

SEC. 4765. Interest on warrants.

1 When interest is due and allowed by the treasurer of any county
 2 or the state treasurer on the redemption of auditor's warrants or
 3 county warrants, the same shall be receipted on the warrants by the
 4 holder, with the date of the payment, and no interest shall be allowed
 5 by the auditor of state or board of supervisors except such as is thus
 6 receipted.

[R., '60, § 795; C., '73, § 910; C., '97, § 1455.]

SEC. 4766. Discounting warrants.

1 If the state treasurer or any county treasurer, by himself or
 2 through another, discounts auditor's warrants, either directly or in-
 3 directly, he shall upon conviction be fined in any sum not exceeding
 4 one thousand dollars.

[R., '60, § 796; C., '73, § 911; C., '97, § 1456.]

SEC. 4767. Loaning or depositing public funds—interest on daily balances.

1 A county treasurer shall be liable to a like fine for loaning out, or
 2 in any manner using for private purposes, state, county or other funds
 3 in his hands, but the county treasurer shall, with the approval of the
 4 board of supervisors as to place of deposit, by resolution entered of
 5 record, deposit such funds in any bank or banks in the state to an
 6 amount fixed by such resolution at interest at the rate of at least two
 7 per cent per annum on ninety per cent of the daily balances payable
 8 at the end of each month all of which shall accrue to the benefit of
 9 the general county fund; but before such deposit is made, such bank
 10 shall file a bond with sureties to be approved by the treasurer and the
 11 board of supervisors in double the amount deposited, conditioned to
 12 hold the treasurer harmless from all loss by reason of such deposit or
 13 deposits; provided that in cases where an approved surety company's
 14 bond is furnished, said bond may be accepted in an amount equal to
 15 ten per cent more than the amount deposited. Said bond shall be filed
 16 with the county auditor and action may be brought thereon either by
 17 the treasurer or the county as the board of supervisors may elect;
 18 and the state treasurer shall be liable to a fine of not more than ten
 19 thousand dollars for a like misdemeanor. But nothing done under
 20 the provisions of this section shall alter or affect the liability of the
 21 treasurer or the sureties of his official bonds.

[R., '60, § 797; C., '73, § 912; C., '97, § 1457; S., '13, § 1457.]

SEC. 4768. Settlement with treasurer.

1 At the meetings in January and June of each year, the board of
 2 supervisors shall make a full and complete settlement with the treas-
 3 urer, and shall certify to the auditor of state all credits to him for
 4 double or erroneous assessments and unavailable taxes, and all dues
 5 for state revenue, interest, or delinquent taxes, sales of land, ped-
 6 dlers' licenses, and other dues, the amounts collected therefor, and
 7 revenues still delinquent, each year to itself, which reports shall be
 8 forwarded by mail.

[C., '51, §§ 157, 158; R., '60, § 798; C., '73, § 913; C., '97,
 § 1458.]

SEC. 4769. Payments to state treasurer.

1 The treasurer of each county shall, on or before the fifteenth
2 day of each month, prepare a sworn statement of the amount of money
3 in his hands on the last day of the preceding month belonging to the
4 state treasury, and forward the same by mail to the auditor of state,
5 and shall pay into the state treasury, on or before the fifteenth day
6 of each month, all money due the state remaining in his hands on the
7 last day of the preceding month; he shall also, at any time when di-
8 rected by the auditor of state, forthwith pay into the state treasury,
9 or treasury of any county, any or all the money due the state and re-
10 maining in his hands, and the treasurer of state or any county treas-
11 urer is hereby required to receive on such payments the same kinds
12 of money and notes which the county treasurer is authorized and re-
13 quired by law to receive in payment of taxes. In case the treasurer
14 of any county shall fail to prepare and forward the statement re-
15 quired in this section, he shall forfeit and pay for each and every
16 failure a sum not less than one hundred nor more than five hundred
17 dollars, to be recovered in an action brought in the name of the state
18 auditor against him and his bondsmen.

[R., '60, § 799; C., '73, § 914; C., '97, § 1459.]

SEC. 4770. Settlement with county treasurer.

1 When a county treasurer goes out of office, he shall make a full
2 and complete settlement with the board of supervisors, and deliver up
3 all books, papers, moneys, and all other property pertaining to the
4 office, to his successor, taking his receipt therefor. The board of su-
5 pervisors shall make a statement of state dues to the auditor of state,
6 showing all charges against the treasurer during his term of office,
7 and all credits made, the delinquent taxes and other unfinished busi-
8 ness charged over to his successor, and the amount of money paid over
9 to his successor, showing to what year and to what account the amount
10 so paid over belongs. It shall also see that the books of the treasurer
11 are correctly balanced before passing into the possession and control
12 of the treasurer elect.

[R., '60, § 802; C., '73, § 917; C., '97, § 1461.]

SEC. 4771. Public funds—how kept and accounted for.

1 The state treasurer and each county treasurer shall at all times
2 keep all funds coming into their possession as public money, in a vault
3 or safe, to be provided for that purpose, or in some bank legally des-
4 ignated as a depository for such funds. At the time of any examina-
5 tion of any such office, or at the time of any settlement with the treas-
6 urer in charge of any such public funds, the treasurer shall produce
7 and count in the presence of the officer or officers making such exam-
8 ination or settlement, all moneys or funds then on deposit in the safe
9 or vault in his office, and shall produce a statement of all money or
10 funds on deposit with any depository wherein he is authorized to de-
11 posit such funds, which statement shall be certified by one or more
12 officers of such depository, and shall correctly show the balance re-
13 maining on deposit in such depository at the close of business on the
14 day preceding the day of such settlement. The treasurer shall also
15 file a statement setting forth the numbers, dates, and amounts of all
16 outstanding checks, or other items of difference, reconciling the bal-
17 ance as shown by the treasurer's books with those of the depositories.

18 It shall be the duty of the officer or officers making such settlement to
 19 see that the amount of money produced and counted, together with
 20 the amounts so certified by the legally designated depositaries, agrees
 21 with the balance with which such treasurer should be charged, and
 22 he shall make a report in writing of any such settlement or examina-
 23 tion, and attach thereto the certified statement of all such depositaries.
 24 The report of any such settlement with the treasurer of state shall
 25 be filed in the office of the auditor of state, and the report of a settle-
 26 ment with a county treasurer with the auditor of the county.

[R., '60, § 804; C., '73, § 918; C., '97, § 1462; S., '13, § 1462.]

SEC. 4772. False statements or reports—penalty.

1 Any officer or other person making a false statement or report
 2 or in any manner violating any of the provisions of the preceding
 3 section, shall be guilty of a misdemeanor and shall be liable to a fine
 4 of not less than five hundred dollars.

[S., '13, § 1462-a.]

SEC. 4773. Penalty for official delinquency.

1 If any auditor or treasurer or other officer shall neglect or refuse
 2 to perform any act or duty specifically required of him, such officer
 3 shall be guilty of a misdemeanor, and, upon conviction, shall be fined
 4 in any sum not exceeding one thousand dollars, and he and his bonds-
 5 men shall be liable on his official bond for such fine, and for the dam-
 6 ages sustained by any person through such neglect or refusal.

[R., '60, §§ 744, 749, 805; C., '73, § 919; C., '97, § 1463.]

SEC. 4774. Refunding to counties.

1 The auditor of state shall draw his warrant on the state treasury
 2 in favor of any county in the state for the amount of any excess in
 3 any fund or tax due the state from said county, excepting the state
 4 taxes.

[C., '97, § 1464.]

SEC. 4775. Warrant.

1 When it shall appear from the books in the office of the auditor
 2 of state that there is a balance due any county in excess of any revenue
 3 due the state, except state taxes, he shall draw his warrant for such
 4 excess in favor of the county entitled thereto, and forward the same
 5 by mail, or otherwise, to the county auditor of the county to which it
 6 belongs, and charge the amount so sent to such county.

[C., '97, § 1465.]

SEC. 4776. Delivered to treasurer.

1 The auditor to whom said warrant is sent shall immediately,
 2 upon receipt thereof, deliver it to the treasurer of his county, and
 3 charge the amount thereof to the treasurer, and shall acknowledge
 4 the receipt of the amount to the state auditor.

[C., '97, § 1466.]

TITLE XV.

CERTAIN INTERNAL IMPROVEMENTS.

CHAPTER 1.

LEVEES, DRAINS, DITCHES AND WATERCOURSES.

SECTION 4777. Supervisors to locate.

1 The board of supervisors of any county may locate and cause to
2 be constructed levees, ditches or drains, or change the direction of any
3 watercourse in such county, whenever the same will be conducive to
4 the public health, convenience or welfare.

[C., '73, § 1207; C., '97, § 1939.]

SEC. 4778. Proceedings—bond—survey—notice.

1 A petition signed by a majority of the persons resident in the
2 county, owning land abutting upon such proposed improvement, shall
3 be first filed in the office of the county auditor, setting forth the neces-
4 sity for the same, the starting point, route and terminus, together
5 with a bond, with sufficient sureties to be approved by him, condi-
6 tioned to pay all costs and expenses incurred in case the supervisors
7 refuse to grant the prayer of the petition. The auditor shall thereupon
8 place a copy of the petition in the hands of the county surveyor or a
9 competent engineer, who shall make a survey of the proposed improve-
10 ment, and return a plat and profile thereof to the auditor; which
11 return shall set forth a full and detailed description thereof, its avail-
12 ability, necessity and probable cost, with a description of each tract
13 of land owned by different persons, through or abutting upon which
14 the improvement is proposed to be located, how it will be affected
15 thereby, and its situation and elevation as compared with that of
16 adjoining lands, with such other facts as he may deem material. The
17 auditor shall immediately thereafter cause notice in writing to be
18 served on the owner of each tract of land, through or abutting upon
19 which the proposed improvement is to be located, who is a resident
20 of the county, of the pendency and prayer of said petition, and the
21 session of the board of supervisors at which the same will be heard,
22 which notice shall be served ten days prior to said session in the same
23 manner that original notices are required to be served. In case any
24 such owner is a nonresident of the county, such notice as to him shall
25 be published, once each week, for two consecutive weeks in some news-
26 paper published in the county, proof thereof being made by affidavits
27 as in the case of legal notices published in newspapers, which proof
28 shall be filed with the board.

[C., '73, § 1208; C., '97, § 1940; S., '13, § 1940.]

SEC. 4779. Location—damages.

1 The board, at the session set for hearing said petition, shall
2 thereupon proceed to hear and determine the petition, and, if neces-

3 sary, view the premises, and if they find such improvement conducive
4 to the public health, convenience or welfare, and no claims shall have
5 been made for damages as provided in the next section, they shall
6 locate and establish the same on the route specified in the plat and
7 return of the county surveyor or engineer. But if any such claim has
8 been made, further proceedings shall be adjourned to the next regular
9 session, and the county auditor shall forthwith appoint appraisers to
10 assess such damages, who shall proceed in the manner provided by
11 law for the assessment of damages in the opening of roads; and the
12 sum so assessed in favor of said claimant shall be paid in the first
13 instance by the parties benefited by such improvement, or secured to
14 be paid upon such terms and conditions as the county auditor may
15 deem just and proper; and the board shall, at the next regular session
16 after such damages have been assessed and paid, or secured, as afore-
17 said, proceed to locate and establish the improvement as hereinbefore
18 provided, and place a competent engineer in charge of the work.

[C., '73, § 1209; C., '97, § 1941.]

SEC. 4780. Claim for damages.

1 Any person claiming damages as compensation for land required
2 for the construction of such improvement, or for injury sustained by
3 the change of direction of any such watercourse, shall make his appli-
4 cation in writing therefor to the board of supervisors, on or before the
5 first day of the session at which the petition has been set for hearing,
6 and on failure to make the same shall be held to have waived his right
7 thereto.

[C., '73, § 1210; C., '97, § 1942.]

SEC. 4781. Work divided.

1 When the board shall have established any such improvement, it
2 shall divide the same into suitable sections, not less in number than
3 the number of tracts of land of different owners through which the
4 same may be located, and prescribe the time within which work upon
5 each section shall be completed.

[C., '73, § 1211; C., '97, § 1943.]

SEC. 4782. Letting work—payment.

1 The auditor shall cause notice to be given of the time and place
2 of letting, the kind and approximate amount of work to be done on
3 each section, and the time fixed for its completion, by publication, once
4 each week, for four consecutive weeks in some newspaper printed in
5 said county, and shall let it upon each separate section to the lowest
6 bidder therefor, who shall be required to execute a bond, with suffi-
7 cient sureties, in an amount equal to ten per cent of the estimated
8 cost of the work so let, or deposit such amount in cash with the auditor,
9 as security for the performance of his contract. The engineer in
10 charge of the construction shall furnish the contractor monthly esti-
11 mates of the amount of work done on each section, and upon the filing
12 of the same with the auditor, he shall draw a warrant in favor of the
13 contractor for eighty per cent of the value of the work done, according
14 to the estimate; and when said improvement is completed to the satis-
15 faction of the engineer in charge, and so certified by him to the auditor,
16 he shall draw a warrant in favor of said contractor upon the levee or
17 drainage fund for the balance due, as provided in the following sec-

18 tion. If any person to whom any portion of said work has been let
 19 shall fail to perform the same as, and in the time, specified in his con-
 20 tract, the cash deposited by him shall be forfeited to, or the penalty
 21 named in the bond may be recovered in an action thereon by, the
 22 county auditor, for the benefit of the levee or drainage district, on
 23 said contract, as liquidated damages, and it shall be relet by the auditor
 24 in the manner hereinbefore provided.

[C., '73, § 1212; C., '97, § 1944; S., '13, § 1944.]

SEC. 4783. Costs and fees—how paid.

1 The auditor and engineer shall each be allowed for their services
 2 such sum as may be fixed by the board of supervisors, and all other
 3 fees or costs shall be the same as is provided by law for like services
 4 in other cases, and if the county surveyor performs service in relation
 5 thereto, the same as is provided by law; all of which, together with
 6 damages assessed, shall be paid out of the county treasury from the
 7 fund collected for that purpose, upon the order of the county auditor.

[C., '73, § 1213; C., '97, § 1945.]

SEC. 4784. Assessment of costs and damages—classification.

1 When any levee, ditch, drain, or change of direction of any wa-
 2 tercourse shall have been located and established, as provided in this
 3 chapter, or when it shall be necessary to cause the same to be repaired
 4 or reopened, the auditor shall appoint three persons, one of whom
 5 shall be a competent civil engineer, and two who shall be resident free-
 6 holders of the county, not living within the township or townships
 7 where the improvement is or is to be located, and not interested
 8 therein or in a like question, nor related to any party whose land is
 9 affected thereby, who shall within twenty days after such appoint-
 10 ment personally inspect and classify as "dry," "low," "wet," or
 11 "swamp" all the land benefited by the location and construction of the
 12 improvement, or the repairing or reopening of the same, and shall
 13 make an equitable apportionment of the cost, expenses, cost of con-
 14 struction, fees, and damages assessed for the construction of any
 15 such improvement, or of repairing or reopening the same, and make
 16 report thereof in writing to the board of supervisors and file the same
 17 with the county auditor who shall immediately thereafter fix a time
 18 for hearing objections thereto before the board of supervisors, and
 19 cause to be served upon the owner of each tract of land or lot de-
 20 scribed in said report as shown by the transfer books in the auditor's
 21 office notice in writing of the filing and pendency of said report, the
 22 amount of special assessment apportioned to such owner, the day set
 23 for hearing the same, and that all objections thereto must be made in
 24 writing and filed with the county auditor on or before noon of the
 25 day set for such hearing, which notice as to residents of the county
 26 shall be served not less than ten days prior to the day set for such
 27 hearing in the same manner that original notices are required to be
 28 served, and as to nonresidents of the county such notice shall be
 29 served by publishing the same once each week for two consecutive
 30 weeks, the last publication not less than ten days prior to the day set
 31 for hearing, in some newspaper published in the county, and by serv-
 32 ing the same upon the person or persons in the actual occupancy of
 33 the property not less than ten days prior to the day set for such hear-
 34 ing. When the day set for hearing has arrived the board of super-

35 visors shall proceed to hear and determine all objections made and
 36 filed to said report, and may increase, diminish, annul or affirm the
 37 apportionment made in said report or any part thereof as may ap-
 38 pear to the board to be just and equitable, which apportionment shall
 39 be assessed among the owners of the land along or in the vicinity of
 40 such improvement and to be benefited thereby, in proportion to the
 41 benefit to each of them, and levied upon the lands of the owners so
 42 benefited in said proportions, and collected in the same manner as
 43 other taxes are levied and collected for county purposes; which fund
 44 so collected shall be kept separate from other county funds, and shall
 45 be paid out only for purposes properly connected with the improve-
 46 ment, on the order of the county auditor, on claims properly certified
 47 by the engineer in charge of the improvement as in this chapter pro-
 48 vided, or on the order of the board of supervisors. The engineer shall
 49 receive for each day's service, while so engaged, five dollars, and the
 50 other commissioners shall receive each two dollars per day, to be paid
 51 out of the funds so collected. In order to prevent or repair a break in
 52 any levee in time of high water, any member of the board of super-
 53 visors may at once employ the necessary labor to repair the levee or
 54 prevent a break thereof, and the necessary and reasonable expense
 55 therefor shall be audited by the board of supervisors and paid from
 56 the levee fund.

[C., '73, § 1214; C., '97, § 1946; S., '13, § 1946.]

SEC. 4785. Applicable to proceedings now pending.

1 Section forty-seven hundred eighty-four shall be construed to
 2 apply to all proceedings now pending before boards of supervisors for
 3 the location and construction of levees, drains, ditches or watercourses
 4 under the provisions of this chapter, where the apportionment, as-
 5 sessment or levy of the cost of the improvement has not yet been
 6 made, as well as to proceedings instituted hereafter.

[S., '13, § 1946-a.]

SEC. 4786. Reassessment and relevy.

1 Where the assessment and levy on account of any ditch, drain
 2 or watercourse has been made by the board of supervisors of any
 3 county under the provisions of section forty-seven hundred eighty-
 4 four without notice or legal notice to the owner of the land affected
 5 thereby, and the whole or any part thereof remains unpaid, the board
 6 of supervisors shall have the authority to recall the assessment or levy
 7 thus made without notice and proceed anew as provided in section
 8 forty-seven hundred eighty-four to apportion and levy the cost of
 9 such improvement among the owners and upon the land benefited
 10 thereby, taking as a basis the original apportionment, and report of
 11 the commissioners upon which the board had theretofore acted, and
 12 the new assessment and levy made upon notice and hearing in such
 13 cases shall be certified by the county auditor to the county treasurer,
 14 reentered upon the tax list and collected as other taxes for county
 15 purposes, and all payments made under the prior assessment and levy
 16 shall be credited upon the new assessment and levy.

[S., '13, § 1946-b.]

SEC. 4787. Completion of and payment for work already begun.

1 When any levee, ditch, drain, watercourse or change of water-
 2 course shall have been heretofore established by any of the boards of

3 supervisors of this state and contract or contracts let therefor, and
 4 the improvement wholly or partly constructed or drainage bonds is-
 5 sued on account thereof and the proceedings or tax therefor have
 6 been or shall be for any cause found invalid and the board of super-
 7 visors has found or shall find that such improvement will be conducive
 8 to the public health, convenience or welfare, such board is authorized
 9 to provide for the completion of the work and the payment therefor,
 10 and for the payment of the work already done and of the drainage
 11 bonds issued and to that end shall recall the tax theretofore levied and
 12 shall reascertain the cost and expense of such improvement, and after
 13 notice and hearing as provided in sections forty-seven hundred eighty-
 14 four to forty-seven hundred eighty-nine, inclusive, shall assess and
 15 levy the same upon the lands benefited thereby, and the said board
 16 and the other county officers shall proceed as provided by the preced-
 17 ing section and the other provisions of said sections. Such reassess-
 18 ment and relevy of taxes shall be in proportion to and not in excess
 19 of benefits, and all taxes theretofore paid upon such improvement
 20 shall be credited as provided in the preceding section.

[S., '13, § 1946-c.]

SEC. 4788. Drainage bonds.

1 Section forty-seven hundred ninety-five shall be construed to
 2 apply to and authorize the issuance of drainage bonds in proceedings
 3 heretofore or hereafter instituted under section forty-seven hundred
 4 seventy-eight.

[S., '13, § 1946-d.]

SEC. 4789. Future levies.

1 Such assessment shall fix the proportion for all future levies on
 2 account of such improvement or the repair or reopening thereof, and
 3 may be levied in one year or apportioned among a series of years, and
 4 drainage bonds issued therefor as provided by section forty-seven
 5 hundred ninety-five, and appeals may be taken as provided by the
 6 following section.

[S., '13, § 1946-e.]

SEC. 4790. Appeals.

1 An appeal may be taken to the district court from the order of
 2 the board of supervisors in fixing the assessment upon lands, in the
 3 same manner appeals may be taken in the location of roads, and
 4 within the same time. But on such appeal it shall not be competent
 5 to show that the lands assessed were not benefited by the improve-
 6 ment. The petitioners, or any of them, and claimants for damages
 7 as compensation for lands taken or injuries sustained in any such
 8 proceedings, may in like manner appeal from the order locating and
 9 establishing such improvement, or refusing so to do, or from the
 10 amount of damages allowed, and the county auditor shall keep a full
 11 and complete record of all proceedings in each case, and, upon an ap-
 12 peal being taken, shall make out transcripts thereof as provided in
 13 appeals taken from the assessment of damages in cases of the loca-
 14 tion of roads.

[C., '73, §§ 1215, 1216; C., '97, § 1947.]

SEC. 4791. Through two or more counties.

1 When the improvement petitioned for extends into or through
 2 two or more contiguous counties, or parts thereof, the boards of su-

3 supervisors of each of the counties, upon the presentation of the peti-
4 tion, shall appoint a commissioner, and the commissioners thus ap-
5 pointed, within twenty days after the selection of the one last named,
6 shall meet and locate the same through or into said counties. They
7 shall appoint a competent engineer, who shall have charge of the con-
8 struction of the work, and with him shall make a survey of the pro-
9 posed levee, ditch, drain, or change of watercourse, and make written
10 return thereof to the county auditors of the several counties in which
11 the location shall be made in whole or in part; which return shall in
12 all respects be the same as is required in case of the location of such
13 improvement in but a single county; and thereafter all subsequent
14 proceedings relating to the condemnation or taking of land, the com-
15 pensation therefor, damages on account of the work, assessment of
16 lands for taxation, and in every other matter and thing, shall in all
17 respects be the same as in like cases where the improvement is situ-
18 ated in but one county. Appeals in such case may be taken to the dis-
19 trict court of the county where the land is situated.

[C., '97, § 1949.]

SEC. 4792. Apportionment of assessments.

1 If the first assessment made by the board of supervisors of the
2 several counties is insufficient to pay the cost of construction, addi-
3 tional assessment may be made in the same ratio as the first; and they
4 shall make additional assessments in like manner for repairing said
5 improvements, when needed; if a greater amount is collected in either
6 county by such assessments than is required to pay for the work
7 actually done therein, or if more work be done than the equitable tax
8 in that county will pay for, then the boards of supervisors of the coun-
9 ties interested shall jointly meet and ascertain in which the excess
10 and deficiency exist, and the excess shall be transferred to the county
11 having a deficit, or, if there be more than one, then ratably to such
12 counties.

[C., '97, § 1950.]

SEC. 4793. Levees, ditches or drains in public highway—highway along levee.

1 Levees, ditches, drains and embankments may be located and
2 constructed within the limits of public highways, on either or both
3 sides of and along the same, to be so built as not materially to inter-
4 fere with the public travel thereon, by taxation and assessment under
5 the provisions of this chapter, and, when constructed, shall be under
6 the control of the board of supervisors of the county in which they
7 are situated; and it shall have power to grant a right of way thereon
8 to any railway that will maintain them while used by it, subject to
9 any claim for damages against the company in any condemnation pro-
10 ceedings which shall be instituted, and the damages awarded, paid, or
11 secured to be paid before possession shall be given, but the county
12 shall not be required on account thereof or otherwise to keep up such
13 improvements at its expense. The board of supervisors shall have
14 power to establish public highways along and upon any levee built
15 under the provisions of this chapter, provided that when so used the
16 same shall be worked as other highways and so as to at all times main-
17 tain its condition as a levee.

[C., '97, § 1951; S., '13, § 1951.]

SEC. 4794. Petition for drain—proceedings.

1 When the petition of one hundred voters of the county, setting
 2 forth that any body or district of land in said county, described by
 3 metes and bounds or otherwise, is subject to overflow, or too wet for
 4 cultivation, and the public health, convenience or welfare will be pro-
 5 moted by draining, ditching or leveeing the same, or changing a water-
 6 course, and also a bond conditioned as required in case of proceed-
 7 ings for the location of levees, drains, ditches, and changes of water-
 8 courses shall be filed with the county auditor, he shall appoint a com-
 9 petent engineer or commissioner, who shall proceed to examine the
 10 lands described, and may survey and locate such improvement as may
 11 be necessary for the reclamation of such lands or any part thereof,
 12 and for the public health, convenience or welfare, and shall make sub-
 13 stantially the same report, and the same proceedings shall be had, as
 14 is provided by law for the location and construction of ditches, drains,
 15 and changes in watercourses, and two or more counties may in the
 16 same manner unite in such work.

[C., '97, § 1952.]

SEC. 4795. Drainage bonds.

1 If the board of supervisors shall determine that the estimated
 2 cost of reclamation of such district of lands is greater than should
 3 be levied in a single year upon the lands benefited, it shall fix the pro-
 4 portion that should be levied and collected each year, and may issue
 5 drainage bonds of the county, bearing not more than eight per cent
 6 annual interest, and payable in the proportions and at the times when
 7 such taxes so apportioned will have been collected, and may devote
 8 the same at par to the payment of the work as it progresses, or may
 9 sell the same at not less than par and devote the proceeds to such pay-
 10 ment; and should the cost of such work exceed the estimate, a new
 11 apportionment of taxes may be made, and other bonds issued and used
 12 in like manner; but in no case shall the bonds run longer than fifteen
 13 years, and at least ten per cent in amount of those issued on the first
 14 estimate shall be payable annually. The board may divide the land
 15 to be benefited into drainage districts, which shall be accurately de-
 16 scribed and numbered, and such drainage bonds shall be in sums of
 17 not less than fifty dollars each, numbered consecutively, and issued as
 18 other county bonds are, and shall specify that they are drainage bonds,
 19 and designate by number the drainage district on account of which
 20 they are issued. In no case shall the amount of the bonds issued ex-
 21 ceed fifty per cent of the value of the lands in the drainage district,
 22 as shown by the last assessment for taxation. Each bond so issued
 23 shall express on its face that it shall only be paid by taxes assessed,
 24 levied and collected on the lands within the district so designated and
 25 numbered, and for the benefit of which district such bond was issued.
 26 In no case shall any tax be levied or collected for the payment of such
 27 bond or bonds, or the interest thereon, on any property outside of the
 28 district so numbered, designated and benefited.

[C., '97, § 1953.]

SEC. 4796. Tax to pay bonds.

1 The board shall levy each year on the lands benefited a tax suffi-
 2 cient to pay the interest on such bonds, and so much of the principal
 3 as falls due in the succeeding year; and such tax shall be collected in

4 the same manner as other county taxes, and carried to the credit of
 5 the drainage district on account of which the bonds are issued, and be
 6 used to pay the principal and interest of said bonds as the same fall
 7 due, and any surplus may be devoted to payment for works of reclama-
 8 tion in said district, or repairs thereof.

[C., '97, § 1954.]

SEC. 4797. Drains through land of another—application—notice.

1 Whenever the owner of any land shall desire to construct any
 2 levee, open ditch, tile or other underground drain, for agricultural,
 3 sanitary or mining purposes, or for the purpose of securing more com-
 4 plete drainage or a better outlet, across the lands of others, or across
 5 or through the right of way and roadbed of a railroad, and shall be
 6 unable to agree with the owner of any such lands, or with any such
 7 railroad company, through whose land or property he desires to con-
 8 struct the same, with regard to the location or manner of constructing
 9 any such ditch, drain or levee, or with regard to the compensation to
 10 be made, or with regard to any other matter properly connected
 11 therewith, he may file with the township clerk of the township in
 12 which any such land or right of way is situated, an application in
 13 writing, setting forth a description of the land or other property
 14 through which he is desirous of constructing any such levee, ditch or
 15 drain, the starting point, route, terminus, character, size and depth
 16 thereof. Upon the filing of any such application, the clerk shall forth-
 17 with fix a time and place for hearing thereon before the township
 18 trustees of his township, which hearing shall be not more than ninety
 19 days nor less than thirty days from the time of the filing of such ap-
 20 plication and thereupon the township clerk shall cause notice in writ-
 21 ing to be served upon the owner of each tract of land across which
 22 any such levee, ditch or drain, is proposed to be located, as shown by
 23 the transfer books in the office of the county auditor, and also upon
 24 the person in actual occupancy of any such lands, of the pendency and
 25 prayer of such application, and the time and place set for hearing on
 26 the same before the township trustees, which notice, as to residents of
 27 the county and railroad companies, shall be served not less than ten
 28 days before the time set for such hearing, in the manner that original
 29 notices are required to be served. In case any such owner is a non-
 30 resident of the county, such notice as to him shall be posted in three
 31 public places within the township where his land is situated at least
 32 fifteen days before the time set for such hearing, one of which places
 33 shall be upon the land of which he is the owner. Such notices may
 34 be served upon a railroad company by serving the same upon its near-
 35 est station agent. If at the hearing it should appear that any person
 36 entitled to notice, as provided herein, has not been served with notice
 37 as herein provided, the township trustees may postpone such hearing
 38 and fix a new time for the same, and notice of such new day of hear-
 39 ing may be served on such omitted persons in the manner and for the
 40 same length of time provided herein, and by fixing such new day for
 41 hearing and by adjournment of the proceedings to such time, the
 42 trustees shall not be held to have lost jurisdiction of the subject matter
 43 of such proceeding nor of any persons previously served with notice.
 44 Any person or corporation claiming damages as compensation for or
 45 on account of the construction of any such improvement, shall file a
 46 claim in writing therefor with the township clerk at least two days
 47 before the day fixed for hearing on the application and a failure to

48 file such claim at the time specified shall be deemed to be a waiver of
49 the right to claim or recover such damage. The term "lands" as used
50 in this and the next section shall include right of way and other real
51 estate of a railroad company.

[C., '73, §§ 1217, 1218; C., '97, § 1955; S., '13, § 1955.]

SEC. 4798. Hearing—action of trustees.

1 At the time set for hearing on any such application, the trustees,
2 if they are satisfied that the provisions of the preceding section have
3 been complied with, shall proceed to hear and determine the sufficiency
4 of the application as to form and substance, which application may be
5 amended both as to form and substance before final action thereon.
6 They shall also determine the merits of the application, all objections
7 thereto and all claims filed for damages that may be occasioned by
8 the location and construction of the proposed drainage improvement,
9 and, if deemed necessary, the trustees may view the premises. The
10 trustees may adjourn the proceedings from day to day, but no adjourn-
11 ment shall be for a longer period than ten days. When the time for
12 final action shall have arrived, the township trustees shall, if they find
13 that the levee, ditch or drain petitioned for will be beneficial for sani-
14 tary, agricultural or mining purposes, locate the same and fix the
15 points of entrance and exit on such land or property, the course of
16 the same through each tract of land, the size, character and depth
17 thereof, when and in what manner the same shall be constructed, how
18 kept in repair, what connections may be made therewith, what com-
19 pensation, if any, shall be made to the owners of such land or property
20 for damages by reason of the construction of any such improvements,
21 and any other question arising in connection therewith. The trustees
22 shall reduce their findings, decision and determination to writing,
23 which shall be filed with the clerk of such township, who shall record
24 it in his book of records, together with the application and all other
25 papers filed in connection therewith, and he shall cause the findings
26 and decision of the trustees to be recorded in the office of the county
27 recorder of the county in which such land is situated, and said de-
28 cision shall be final unless appealed from as provided in the next
29 section.

[C., '73, §§ 1219, 1220, 1222; C., '97, § 1956; S., '13, § 1956.]

SEC. 4799. Appeal.

1 Either party may appeal to the district court from any such de-
2 cision by causing to be served, within ten days from the time it was
3 filed with the clerk, a notice in writing upon the opposite party of the
4 taking of such appeal, which notice shall be served in the same manner
5 as is provided for the service of original notices. If the appellant is
6 the party petitioning for the drain, he shall also file a bond, condi-
7 tioned to pay all costs of appeal that may be assessed against him,
8 which bond, if good and sufficient, shall be approved by the township
9 clerk. The cause shall be tried in the district court by ordinary pro-
10 ceedings, upon such pleading as the court may direct, each party
11 having the right to offer such testimony as shall be admissible under
12 the rules of law. If the appellant does not recover a more favorable
13 judgment in the district court than he received in the decision of the
14 trustees, he shall pay all the costs of appeal.

[C., '73, § 1223; C., '97, § 1957.]

SEC. 4800. Transcript.

1 In case of appeal, the township clerk shall certify to the district
 2 court a transcript of the proceedings before the trustees, which shall
 3 be filed in said court with the appeal bond, the party appealing paying
 4 for said transcript and the docketing of said appeal, as in other cases.
 5 The party claiming damages shall be the plaintiff, and the applicant
 6 shall be the defendant; and the court shall render such judgment as
 7 shall be warranted by the verdict, the facts, and the law upon all the
 8 matters involved, and make such orders as will cause the same to be
 9 carried into effect.

[C., '73, § 1224; C., '97, § 1958.]

SEC. 4801. Costs and damages paid—railroad land.

1 The applicant shall pay the costs of the trustees and clerk and
 2 for the serving of notices for hearing, the fees of witnesses sum-
 3 moned by the trustees on said hearing, and the recording of the find-
 4 ing of said trustees by the county recorder. He shall pay all damages
 5 awarded, before entering on the construction of the drain through
 6 the land of another. If, after the decision of the trustees locating said
 7 drain, the party applying therefor shall pay to the party through
 8 whose land said drain is to be constructed the damages awarded to
 9 said party, or shall pay the same to the trustees for his use, he may
 10 proceed to construct said drain in accordance with the decision of
 11 the trustees, and the taking of an appeal shall not affect his right to
 12 proceed with the construction of the same. If any such ditch or drain
 13 shall be located through or across the right of way or other land of a
 14 railroad company, the trustees shall determine the cost of constructing
 15 the same across and through such property and the railroad company
 16 shall have the privilege of constructing such improvement through its
 17 property in accordance with the specifications made by the trustees
 18 and recover the cost thereof as fixed by the trustees. But such rail-
 19 road company before it may exercise such privilege shall file its elec-
 20 tion to that effect with the township clerk within five days after the
 21 decision of the trustees is filed, and in case such election is filed the
 22 applicant shall within ten days thereafter pay to the township clerk
 23 for the use of the railroad company, the cost of constructing the drain-
 24 age improvement through its property, in addition to the amount that
 25 may be allowed as damages, and when the railroad company shall have
 26 completed the improvement through its property in accordance with
 27 such specifications it shall be entitled to demand and receive from the
 28 township clerk such cost. If the railroad company shall fail to so
 29 construct the improvement for a period of thirty days after filing its
 30 election so to do, the applicant may proceed to do so and may have
 31 returned to him the cost thereof deposited with the township clerk.

[C., '73, § 1221; C., '97, § 1959; S., '13, § 1959.]

SEC. 4802. Repairs.

1 In case any dispute shall thereafter arise as to the repair of any
 2 such drain, the same shall be determined by said trustees upon appli-
 3 cation in substantially the same manner as in the original construc-
 4 tion thereof.

[C., '73, § 1226; C., '97, § 1960.]

SEC. 4803. Penalty for obstructing.

1 Any person who shall dam up, obstruct or in any way injure any
2 ditch or drain so constructed, shall be liable to pay to the person own-
3 ing or possessing the swamp, marsh or other low lands, for the drain-
4 ing of which such ditch or ditches have been opened, double the dam-
5 ages that shall be sustained by the owner, and, in case of a second or
6 subsequent offense by the same person, treble such damages.

[C., '73, § 1227; C., '97, § 1961.]

SEC. 4804. Connecting drains.

1 When any watercourse or natural drainage line crosses the bound-
2 ary line between two adjoining landowners, and both parties desire
3 to drain the land along such watercourse or natural drainage line,
4 but are unable to agree as to the junction of the lines of drainage at
5 the boundary line aforesaid, the township trustees shall have full
6 power and authority, upon the application of either party, to hear and
7 determine all questions arising between such parties, after giving due
8 notice to each of the time and place of such hearing, and may render
9 such decision thereon as to said trustees shall seem just.

[C., '97, § 1962.]

SEC. 4805. Along highways.

1 Any person shall have the right to go upon any public road to
2 construct an outlet to a drain, but he shall leave the road in as good
3 condition as it was before the drain was constructed, the question as
4 to such condition to be determined by the superintendent of roads of
5 the district where the work is done.

[C., '97, § 1963.]

SEC. 4806. Drains across highways.

1 When any watercourse or natural drain crosses any public road
2 in the state, and the adjoining or abutting landowner wishes to cross
3 said road with an underground tile drain, he shall notify the road su-
4 perintendent having supervision over the road to be crossed, in writ-
5 ing, specifying the depth of drain and size of tile to be used in cross-
6 ing said road, and give the road superintendent twenty days' time to
7 construct said underground drain.

[C., '97, § 1964.]

SEC. 4807. Supervisor shall construct.

1 When the road superintendent receives said written notice, he
2 shall order said drain constructed across said road, and pay for the tile
3 and construction of the same out of any money or fund in his hands.

[C., '97, § 1965.]

SEC. 4808. Construction by owner.

1 If the superintendent fails to construct said drain within twenty
2 days' time, then the abutting or adjoining landowner may go upon
3 the road and construct the same across said road, and he shall receive
4 pay for constructing the same, including tile used in crossing said
5 road, out of any money or fund belonging to such road district; pro-

6 vided he shall leave the road in as good condition as it was before the
7 drain was constructed.

[C., '97, § 1966.]

SEC. 4809. Damages assessed.

1 Any person or corporation owning or possessing any land under-
2 laid with coal, who is unable to mine the same by reason of the ac-
3 cumulation of water in such mine, may drain the same through, over
4 or under the surface of land belonging to another person, and if such
5 person or corporation and the owner of the land can not agree as to
6 the amount of damages that will be sustained by such owner, the par-
7 ties may proceed to have the necessary right of way condemned and
8 the damages assessed in the manner provided for taking private prop-
9 erty for works of internal improvement.

[C., '73, § 1228; C., '97, § 1967.]

SEC. 4810. Compensation.

1 Any person or corporation who by machinery, such as engines
2 or pumps, or by making drains or adit levels, or in any other way,
3 shall rid any lead or zinc bearing mineral lands or lead or zinc mines
4 of water, thereby enabling the miners and the owners of mineral in-
5 terest in said lands to make them productive and available for min-
6 ing purposes, shall receive one-tenth of all the lead and zinc mineral
7 taken from said lands as compensation for said drainage.

[C., '73, § 1229; C., '97, § 1968; S., '13, § 1968.]

SEC. 4811. Setting apart.

1 The owners of the mineral interest in said lands, and persons
2 mining upon and taking lead or zinc mineral from said lands, shall
3 jointly and severally set apart and deliver from time to time, when
4 demanded, the said one-tenth part of the mineral taken from said lands
5 to the person or corporation entitled thereto, and the owners of the
6 mineral interest therein shall allow the party entitled to such com-
7 pensation and his agents at all times to descend into and examine said
8 mines, and to enter any building occupied for mining purposes upon
9 any of said lands, and examine and weigh the mineral taken there-
10 from.

[C., '73, § 1230; C., '97, § 1969; S., '13, § 1969.]

SEC. 4812. Penalty.

1 Upon the failure or refusal of any owner of the mineral interest
2 in said lands, or of any person taking the mineral therefrom, to com-
3 ply with the provisions of the preceding section, the person or corpora-
4 tion entitled to said compensation may recover the value of said min-
5 eral. And if it shall appear that the defendant obstructed the plaintiff
6 in the exercise of the right to examine such mines, and to weigh such
7 mineral, or concealed or secretly carried away any mineral taken from
8 them, the court shall render judgment for double the amount proved
9 to be due from such defendant.

[C., '73, § 1231; C., '97, § 1970.]

SEC. 4813. Notice to smelters.

1 The person or corporation entitled to said drainage compensa-
2 tion may at any time leave with any smelter of lead or zinc mineral

3 in this state a written notice, stating that said person or corporation
 4 claims of the persons named in said notice the amount to which said
 5 person or corporation may be entitled, which notice shall have the
 6 effect of notices in garnishment, and also authorize the said smelter
 7 to retain, for the use of the person entitled thereto, the one-tenth
 8 part of the mineral taken from said land and received from the person
 9 named in said notice. The payment or delivery of the one-tenth part
 10 of the mineral taken from any of said lands by any one of the persons
 11 whose duty it is hereby made to pay or deliver the same, shall dis-
 12 charge the parties liable jointly with him, except liability to contribute
 13 among themselves.

[C., '73, § 1232; C., '97, § 1971; S., '13, § 1971.]

SEC. 4814. Right of way.

1 Any person or corporation engaged as aforesaid in draining such
 2 mines and lead or zinc bearing mineral lands, when he or they shall
 3 find it necessary for the prosecution of their work, shall have the right
 4 of way upon, over or under the surface of such mineral lands, and
 5 the contiguous and neighboring lands, for the purpose of conveying
 6 the water from said mineral lands by troughs, pipes, ditches, water
 7 races or tunnels, and the right to construct and use shafts and air-
 8 holes in and upon the same, doing as little injury as possible in mak-
 9 ing said improvements.

[C., '73, § 1233; C., '97, § 1972; S., '13, § 1972.]

SEC. 4815. Damages.

1 If the said person or corporation engaged in draining as afore-
 2 said, and the owner of any land upon which said right of way may
 3 be deemed necessary, can not agree as to the amount of damages which
 4 will be sustained by the owner by reason thereof, the parties may pro-
 5 ceed to have the same assessed in the manner provided for taking pri-
 6 vate property for works of internal improvement.

[C., '73, § 1234; C., '97, § 1973.]

SEC. 4816. Consent of owners.

1 The foregoing provisions shall not be construed to require the
 2 owners of the mineral interest in any of said lands to take mineral
 3 therefrom, or to authorize any other person to take the mineral from
 4 said lands without the consent of the owners.

[C., '73, § 1235; C., '97, § 1974.]

SEC. 4817. Assistance by counties.

1 In any case where the United States may have undertaken, or
 2 may hereafter undertake, the work of building a levee along or near
 3 the bank of a navigable stream forming a part of the boundary of
 4 this state, the board of supervisors of any and every county through
 5 which the same may pass shall have the right and power to aid in
 6 procuring the right of way for the same, maintaining the same, and
 7 providing a system of internal drainage made necessary or advisable
 8 by the construction of such levee, whenever in their judgment such
 9 work will be conducive to the public health, convenience or welfare.

[C., '97, § 1975.]

SEC. 4818. Proceedings.

1 Proceedings as contemplated by the preceding section may be be-
2 gun by filing with the county auditor a petition asking the board of
3 supervisors to form a levee or a drainage district, for any one or all
4 of the purposes specified in the preceding section. Said petition shall
5 be signed by one or more owners of lands lying within the limits of
6 such proposed district; the general limits of said district shall be given
7 therein, and a plat of the proposed district shall be filed with said
8 petition. There shall be filed with said petition a bond, with sureties
9 approved by the county auditor, conditioned for the payment of all
10 costs and expenses incurred, in case the board of supervisors shall
11 refuse to grant the prayer or the petition.

[C., '97, § 1976; S., '13, § 1976.]

SEC. 4819. Commission—appointment of—qualifications—report.

1 At their next regular session held after the filing of such petition,
2 or at a special session called for the purpose, the board of supervisors
3 shall, if the foregoing provisions have been complied with, appoint a
4 commission of three disinterested freeholders of the county, one of
5 whom shall be, if practicable, a competent civil engineer or surveyor.
6 This commission shall, after being duly sworn, proceed to examine
7 the lands within such proposed district, lay out the work required, and
8 make an estimate of the probable cost of the same. They shall make
9 a full report to the board of supervisors, and may recommend that
10 such district be formed as prayed, or that it be enlarged or diminished,
11 as in their judgment will best subserve the general good and promote
12 the general welfare.

[C., '97, § 1977; S., '13, § 1977.]

SEC. 4820. Notice.

1 Upon the filing of the report of the commissioners, the county
2 auditor shall fix a time, not less than twenty days thereafter, when the
3 board of supervisors will proceed to take final action on the petition.
4 At least ten days' notice of such hearing shall be given to each owner
5 of land lying within such proposed district, as shown by the transfer
6 books in the auditor's office. Such notice shall be over the hand and
7 seal of the county auditor, shall state in brief the substance of the
8 petition, the recommendation of the commissioners, and the time when
9 the board of supervisors will proceed to a hearing on the same. This
10 notice shall be served by the sheriff, if the person named can be found
11 in the county, but, if the sheriff shall return that any such person can
12 not be found in the county, the notice shall then be served by posting
13 two copies thereof at least fifteen days before the time fixed for the
14 hearing, one to be posted at the front door of the courthouse, and the
15 other at some public place in the township within which such lands
16 are situated, and within the limits of such proposed drainage district;
17 a copy of such notice, with an affidavit of the posting of the same, to
18 be filed with the county auditor before the hearing; provided, how-
19 ever, that service of such notice may be acknowledged in the manner
20 provided for the service of an original notice, and substituted service
21 of such notice may be made under the circumstances and in the man-
22 ner provided for substituted service of an original notice.

[C., '97, § 1978.]

SEC. 4821. Hearing.

1 At the time named, or at such other time to which the board of
2 supervisors may adjourn the matter, they shall proceed with the hear-
3 ing, at which any interested parties may appear, either in person or
4 by counsel, and be heard, and may file written pleadings. The board
5 shall hear and determine the matter, and if they determine against
6 the formation of such district, they shall dismiss the proceedings at
7 the cost of the petitioners. If they shall decide to form such levee
8 or drainage district, they shall proceed to fix the boundaries of the
9 same, and their finding shall be entered upon their records. The find-
10 ing and the report of the commissioner shall be competent evidence
11 at the hearing above provided for, but shall not be conclusive.

[C., '97, § 1979; S., '13, § 1979.]

SEC. 4822. Appeal.

1 Any person aggrieved by such action of the board of supervisors
2 may, within twenty days after such action is taken, appeal to the dis-
3 trict court of the county in which such lands are situated, where such
4 appeal shall be heard on its merits, regardless of technicalities, and
5 appeal may be taken from the district to the supreme court, but under
6 and subject to the restrictions now imposed by law upon appeals gen-
7 erally. The appeal to the district court shall be taken by serving
8 notice of such appeal on the county auditor and the three persons first
9 named among the signers to the petition specified in section forty-
10 eight hundred eighteen. If the appeal is taken by the petitioners,
11 notice of such appeal shall be served on the county auditor and any
12 three of the successful remonstrants, if there be so many, but on all
13 if they be less than three. Upon service of notice of such appeal, the
14 county auditor shall file with the clerk of the district court a copy of
15 the petition, written objections filed by the parties complaining, or
16 complained against, and of the action taken by the board of super-
17 visors, all certified by him; these may constitute the pleadings, and
18 the clerk of the district court shall docket the same, as in case of any
19 other action brought, entitling the same in the names of the three
20 first signing the petition, on behalf of all, and against the remon-
21 strants who are successful, or who appeal, as the case may be. Such
22 appeal, however, shall not interfere with the board of supervisors in
23 the prosecution of the work, unless the same shall have been taken
24 by not less than one-half of the acreage lying within the limits of such
25 proposed district; but if so taken, by not less than one-half such acre-
26 age; then the board of supervisors shall so enter upon their records,
27 and shall also enter an order suspending all proceedings pending the
28 final disposition of such appeal.

[C., '97, § 1980.]

SEC. 4823. Work carried on—land condemned.

1 After entering the order as provided in section forty-eight hun-
2 dred twenty-one, unless further proceedings are suspended as pro-
3 vided in the preceding section, the board of supervisors shall proceed
4 and adopt such plan or system as in their judgment is proper and best
5 under all the circumstances, and cause the work to be done, causing
6 such ditches to be dug, channels opened, embankments erected, fills
7 made, and such other work done as in their judgment will most effi-
8 ciently promote the general good and the public welfare. They shall
9 have power, in the manner now provided by law for the taking of

10 private property for works of internal improvements to condemn any
 11 land which they deem it necessary to take or use in the prosecution
 12 of such work, including any that may be required to aid the United
 13 States in completing such levee, the costs and expenses of which shall
 14 be paid out of the drainage fund pertaining to such district as here-
 15 inafter provided. In the doing of this work the board of supervisors
 16 shall have power to employ such help and assistance as they deem
 17 necessary, and to fix compensation for the same. All the work to be
 18 done which shall involve an estimated expenditure of five hundred
 19 dollars or over shall be let by contract, after advertising the same,
 20 once each week, for three weeks in some newspaper of general circu-
 21 lation published in the county, to the lowest bidder who shall furnish
 22 satisfactory security for the performance of the contract; provided,
 23 however, that the board of supervisors may reject all bids, and do
 24 the work themselves whenever in their judgment the work can be so
 25 done at a substantial saving.

[C., '97, § 1981; S., '13, § 1981.]

SEC. 4824. Costs assessed.

1 If said district is established, the entire costs and expenses in-
 2 curred under this chapter shall be assessed against and collected from
 3 the lands lying within such district, by the levy of a rate upon the
 4 assessable value of the land within such district, sufficient to raise the
 5 required sum; provided that where the proposed improvement is for
 6 drainage only the board may, in their discretion, classify the land
 7 within such district and graduate the tax thereon, as provided in
 8 chapter two of this title and sections twenty-eight hundred fifty-seven
 9 and eighty-seven hundred thirty-eight. When the board decides to
 10 make such classification, they shall proceed in the manner set forth
 11 in section forty-eight hundred fifty-one, and the commissioners shall
 12 each be allowed three dollars per day.

[C., '97, § 1982; S., '13, § 1982.]

SEC. 4825. Collection of tax.

1 The assessment required under the preceding section shall be
 2 made by the board of supervisors at the time of levying general taxes,
 3 after the work has been authorized, and the same shall be entered on
 4 the records of the board of supervisors, then entered on the tax books
 5 by the county auditor as drainage taxes, and shall be collected by the
 6 county treasurer at the same time, in the same manner, and with the
 7 same penalties, as general taxes; and if the same is not paid he shall
 8 sell all such lands upon which such assessment remains unpaid, at the
 9 same time, and in the same manner, as is now by law provided for
 10 the sale of lands for delinquent taxes, including all steps up to the
 11 execution and delivery of the tax deed for the same. The landowners
 12 shall take notice of and pay such assessments, without other or
 13 further notice than such as is provided for in this chapter. The
 14 funds realized from such assessments shall constitute the drainage
 15 fund, as contemplated in this chapter, and shall be disbursed on war-
 16 rants drawn against that fund by the county auditor, on the order of
 17 the board of supervisors.

[C., '97, § 1983.]

SEC. 4826. Annual installments.

1 If the proposed improvement is the maintenance of a levee, the
 2 amount collected in any one year shall not exceed fifty mills on the
 3 dollar of the assessment valuation, which said assessment shall be
 4 levied at a level rate on the assessable value of the said lands, ease-
 5 ments and railroads within the district. If the amount necessary to
 6 pay for the improvement, under section forty-eight hundred twenty-
 7 four, exceed said sum, it shall be levied and collected in annual install-
 8 ments. For all other improvements, the board shall levy a rate suffi-
 9 cient to pay for the same, and may, at their discretion, make the same
 10 payable in annual installments of ten or less.

[C., '97, § 1984; S., '13, § 1984.]

SEC. 4827. Bonds.

1 If the entire amount required under this chapter can not be col-
 2 lected in one year, the board of supervisors of such county shall have
 3 the power to issue drainage bonds for all which can not thus be pro-
 4 vided for in one year, in substantially the manner and form as pro-
 5 vided in section forty-seven hundred ninety-five, such issue to be
 6 determined upon by them before the levy, and an amount sufficient
 7 to pay the interest on such bonds shall be estimated and included in
 8 the assessment. If the amount of money required for the improve-
 9 ment under the provisions of this chapter can not be collected in one
 10 year, or if the board of supervisors in their discretion deem it advis-
 11 able that the taxes shall be paid in installments, or in case it becomes
 12 necessary to expend an extraordinary sum for the preservation of the
 13 levee in case of an emergency, the board of supervisors of the county
 14 shall have the power to issue bonds for all which can not thus be
 15 provided for in one year in substantially the manner and form pro-
 16 vided in section forty-eight hundred seventy-five, and all acts and pro-
 17 ceedings in relation thereto shall conform therewith, except that bonds
 18 issued in anticipation of taxes for the maintenance of a levee shall
 19 not exceed five years' taxes and shall be due in six years from the date
 20 of issue.

[C., '97, § 1985; S., '13, § 1985.]

SEC. 4828. Claim for repairs.

1 Whenever a levee or drainage district is organized, the board or
 2 boards of supervisors, as the case may be, shall have power and au-
 3 thority to audit and allow claims for money and labor expended in the
 4 preservation of said levee prior to and since the organization of the
 5 said district, all sums so allowed to be payable from the levee or drain-
 6 age fund. The said board or boards shall also have full power and
 7 authority to make an equitable adjustment of and credit for any taxes
 8 paid for repairing the levee where the same has been heretofore levied
 9 and collected in any manner by said board or boards of supervisors
 10 under any prior proceedings.

[S., '13, § 1985-a.]

SEC. 4829. Cost of maintaining.

1 The board of supervisors shall have the right and power to keep
 2 up and maintain any such levee, ditches, drains, or system of drain-
 3 age, either in whole or in part, established under the preceding sec-
 4 tions of this chapter, as may in their judgment be required, and to

5 levy the expense thereof upon the real estate within such drainage
6 district as herein provided for, and collect and expend the same; pro-
7 vided, however, that no such work which shall impose a tax exceeding
8 fifty mills on the dollar on the assessable value of the lands within
9 the district shall be authorized by them, unless the same is first peti-
10 tioned for and authorized in substantially the manner required by this
11 chapter for the inauguration of new work.

[C., '97, § 1986; S., '13, § 1986.]

SEC. 4830. Districts.

1 The petitioners who proceed under section forty-eight hundred
2 eighteen may ask that the lands described in the petition be formed
3 into more than one drainage district, and, whether they do so or not,
4 the board of supervisors shall have the right and power to arrange
5 said lands, or the lands which they shall finally determine to bring
6 within the provisions of sections forty-eight hundred seventeen to
7 forty-eight hundred thirty-two, inclusive, into two or more districts,
8 the boundaries of which shall be so fixed as will, in the judgment of
9 the board, tend to a more equitable and just apportionment of the
10 burdens to be imposed. It shall be the duty of the commissioners
11 provided for in section forty-eight hundred nineteen hereof to report
12 whether, in their judgment, there should be more than one such dis-
13 trict formed, and to make their plans and estimates according to such
14 districts as they recommend.

[C., '97, § 1987.]

SEC. 4831. Apportionment of cost.

1 In case more than one such district is created as provided in the
2 preceding section the board of supervisors shall require separate ac-
3 counts to be kept of the costs and expenses incurred in each, making
4 an equitable apportionment of such as is not susceptible of exact divi-
5 sion, and the lands in each drainage district shall be liable to assess-
6 ment for the costs and expenses incurred in such district only.

[C., '97, § 1988.]

SEC. 4832. Through two or more counties.

1 The boards of supervisors of any two or more adjoining counties
2 where a government levee has been constructed, or partly constructed
3 by the government and partly by other means, may carry on the work
4 provided for in this chapter concurrently, provided that they first
5 agree upon a plan or system and a basis of an equitable apportion-
6 ment of the work to be done and the share of the cost and expense of
7 the same to be borne by each of said counties; or when said levee has
8 been built and separate districts have been heretofore formed the
9 boards of supervisors may unite said districts into one district, but
10 before said districts can be so united each board of supervisors, acting
11 separately, must by resolution vote in favor of such consolidation, and
12 upon said separate votes being favorable the said levee districts shall
13 be consolidated into one district, and thereafter the same shall be gov-
14 erned in all respects as now provided, except all action governing the
15 new district shall be by the boards of supervisors acting jointly.

[C., '97, § 1989; S., '13, § 1989.]

SEC. 4833. Levee or drainage district—powers of board.

1 Where a petition has been filed asking for the establishment of
2 a levee or drainage district, and the board of supervisors have at-
3 tempted to establish said district, under the provisions of title ten,
4 chapter two, McClain's Code, 1888, or as amended, and said estab-
5 lishment has failed on account of said provision being unconstitutional
6 and the work and improvement petitioned for shall have been in whole
7 or part completed, whether the original construction work, or repairs
8 and maintenance work thereto, the board of supervisors shall have
9 power and shall proceed to establish a district, as provided by chapter
10 two of title fifteen, in the same manner as though a petition and bond
11 had been filed therefor, and shall have power to establish any new
12 improvement work in connection with that already constructed as may
13 be recommended by the report of the engineer therein appointed, and
14 all sections of said chapter two of title fifteen shall be applicable
15 thereto, and shall govern all proceedings in the matter of said estab-
16 lishment and the levy of taxes thereunder.

[38 G. A., ch. 334, § 1.]

SEC. 4834. Improvements—apportionment of benefits.

1 In all proceedings under sections forty-eight hundred thirty-two
2 to forty-eight hundred thirty-five, inclusive, where the improvement
3 originally recommended has been in whole or in part constructed, or
4 where certain repair or maintenance shall have been in whole or in
5 part constructed, the board of supervisors shall and they are hereby
6 empowered to take over and establish the same as the improvement
7 work of the district established under said sections, and in apportion-
8 ing the benefits to the land in said district, use as a basis for the
9 amount to be raised in the district for the improvement already con-
10 structed and the repair and maintenance work that may have been
11 completed, the actual cost of said work, and that amount together
12 cost of and additional improvement or repair work and expenses shall
13 be assessed as benefits as by the provisions of chapter two of title
14 fifteen, provided and in all cases where an assessment and levy of
15 taxes has heretofore been attempted to have been made and taxes paid
16 thereunder, the commissioners appointed to apportion the benefits
17 shall be governed by section forty-eight hundred fifty-seven of said
18 chapter.

[38 G. A., ch. 334, § 2.]

SEC. 4835. Damages.

1 In all proceedings under this and the two preceding sections, the
2 commission appointed to fix the amount of damages, and the board of
3 supervisors in determining the same, where damages have been here-
4 tofore attempted to have been fixed for the improvement or repair and
5 maintenance work, constructed, and the same have been paid to the
6 owner of lands affected by the improvement, shall deduct from the
7 amount of damages now found and determined upon the amount here-
8 tofore paid, if there be any.

[38 G. A., ch. 334, § 3.]

CHAPTER 2.

LEVEES, DITCHES, DRAINS AND WATERCOURSES.

SECTION 4836. Board of supervisors to establish drainage district.

1 The board of supervisors of any county shall have jurisdiction,
2 power and authority at any regular, special or adjourned session, to
3 establish a drainage district or districts, and to locate and establish
4 levees, and cause to be constructed as hereinafter provided any levee,
5 ditch, drain or watercourse, or to straighten, widen, deepen or change
6 any natural watercourse, in such county, whenever the same will be
7 of public utility or conducive to the public health, convenience or wel-
8 fare, and the drainage of surface waters from agricultural lands shall
9 be considered a public benefit and conducive to the public health, con-
10 venience, utility and welfare.

[S., '13, § 1989-a1.]

SEC. 4837. Proceedings—bond—survey.

1 Whenever a petition signed by one or more of the landowners
2 whose lands will be affected by, or assessed for the expenses of, the
3 proposed improvement, shall be filed in the office of the county auditor,
4 setting forth that any body or district of land in the county, described
5 by metes and bounds, or otherwise, so as to convey an intelligible
6 description of such lands, is subject to overflow or too wet for culti-
7 vation, and that the public benefit or utility, or the public health, con-
8 venience or welfare will be promoted by draining, ditching, tiling or
9 leveeing the same, or by changing a natural watercourse, and setting
10 forth therein the starting point, route and terminus and lateral
11 branches, if necessary, of the proposed improvement, and there is filed
12 therewith a bond, in amount and with sureties to be approved by the
13 county auditor and conditioned for the payment of all costs and ex-
14 penses incurred in the proceedings in case the supervisors do not
15 grant the prayer of said petition, the board shall at its first session
16 thereafter, regular, special or adjourned, appoint a disinterested and
17 competent engineer, who shall give bond to the county for the use
18 and benefit of the proposed levee or drainage district, if it be estab-
19 lished, in amount and with sureties to be approved by the county audi-
20 tor and conditioned for the faithful and competent performance of
21 his work, and place a copy of the petition in his hands and he shall
22 proceed to examine the lands described in said petition and any other
23 lands which would be benefited by said improvement or necessary in
24 the carrying out of said improvement, and survey and locate such
25 drain or drains, ditch or ditches, improvement or improvements, as
26 may be practicable and feasible to carry out the purposes of the peti-
27 tion and which will be of public benefit or utility or conducive to pub-
28 lic health, convenience or welfare; provided, however, that when the
29 proposed drainage district involves only the straightening of a creek
30 or river, the board of supervisors may refuse to consider any such
31 petition unless and until signed by those landowners who own at least
32 ten per cent of the land affected by, or assessed for the expense of,
33 the proposed improvement. Provided, however, that this act [37 G.
34 A., ch. 415] shall not affect drainage projects where the drainage of
35 swamps and sloughs are involved that are not in the congressional
36 forty-acre tracts adjoining such creek or river. He shall make return

37 of his proceedings to the county auditor, which returns shall set forth
 38 the starting point, the route, the terminus or termini of the said ditch
 39 or ditches, drain or drains, or other improvements, together with a
 40 plat and profile showing the ditches, drains or other improvements,
 41 and the course and length of the drain or drains through each tract
 42 of land, together with the number of acres appropriated from said
 43 tract for construction of said improvement, and the elevation of all
 44 lakes, ponds and deep depressions in said district, and the boundary
 45 of the proposed district, so as to include therein all lands that will
 46 be benefited or otherwise affected by the proposed improvements, and
 47 the description of each tract of land therein and names of the owners
 48 thereof as shown by the transfer books in the auditor's office, together
 49 with the probable cost, and such other facts and recommendations as
 50 he may deem material. The engineers' notes of the preliminary sur-
 51 vey, together with the original tracing of plat and profile of the drain-
 52 age district, are to be filed with the county auditor at the time of
 53 making report, and to be the property of the drainage district, together
 54 with all other plats, profiles and reports specified in this section. The
 55 board of supervisors may at any time recall the appointment of any
 56 engineer made under the provisions of this section, if deemed advis-
 57 able to do so, and select another to act in his place. The ditches or
 58 drains herein provided for shall so far as practicable be surveyed and
 59 located along the general course of the natural streams and water-
 60 courses or in the general course of natural drainage of the lands of
 61 said district, but where it will be more economical or practicable such
 62 ditch or drain need not follow the course of such natural streams,
 63 watercourses, or course of natural drainage, but may straighten,
 64 shorten or change the course of any natural stream, watercourse or
 65 general course of drainage. Whenever any such ditch or drain
 66 crosses any railroad right of way it shall when practicable be located
 67 at the place of the natural waterway across such right of way unless
 68 said railroad company shall have provided another place in the con-
 69 struction of the roadbed for the flow of the water; and if located at
 70 the place provided by the railroad company, such company shall be
 71 estopped from afterwards objecting to such location on the ground
 72 that it is not at the place of the natural waterway.

[S., '13, § 1989-a2; 37 G. A., ch. 334, § 1; 37 G. A., ch. 344,
 § 1; 38 G. A., ch. 141, § 1.]

**SEC. 4838. Notice of hearing—approval of plan—fees and mile-
 age for serving notice.**

1 Upon the filing of the return of the engineer, if the same recom-
 2 mends the establishment of the levee or drainage district, the board
 3 of supervisors shall then examine the return of the engineer, and if
 4 the plan seems to be expedient and meets with the approval of the
 5 board of supervisors, they shall direct the auditor to cause a notice
 6 to be given, as hereinafter provided; but if it does not appear to be
 7 expedient and is not approved, the board of supervisors are hereby
 8 authorized to direct said engineer, or another engineer, selected by
 9 them, to report another plan. At any time prior to the establishment
 10 of the district, the plan may be amended, and as amended shall be con-
 11 clusive, unless appealed from as provided in section forty-eight hun-
 12 dred forty-one of this chapter. When the plan, if any, shall have been
 13 finally adopted by the board of supervisors, they shall order the audi-
 14 tor immediately thereafter to cause notice to be given to the owner

15 of each tract of land or lot within the proposed levee or drainage dis-
16 trict, as shown by the transfer books of the auditor's office, including
17 railway companies having right of way in the proposed district, and
18 to each lienholder or incumbrancer of any land through which or abut-
19 ting upon which the proposed improvement extends as shown by the
20 county records, and also to all other persons whom it may concern, in-
21 cluding actual occupants of the land in the proposed district (without
22 naming individuals), and when there is included within such proposed
23 district any portion of a city or incorporated town it shall be sufficient
24 that such notice set forth the boundaries of the territory within such
25 city or town included within the proposed district and be directed to
26 the owners, lienholders and incumbrancers of the property within such
27 boundaries without naming individuals, of the pendency and prayer
28 of said petition, the favorable report thereon by the engineer and that
29 such report may be amended before final action, the day set for hear-
30 ing on said petition and report before the board of supervisors, and
31 that all claims for damages must be filed in the auditor's office not
32 less than five days before the day set for hearing upon the petition,
33 which notice shall be served, except as otherwise hereinafter provided,
34 by publication thereof once each week for two consecutive weeks in
35 some newspaper of general circulation published in the county, the
36 last of which publications shall be not less than twenty days prior to
37 the day set for hearing upon the petition, proof of such service to be
38 made by affidavit of the publisher and filed with the county auditor;
39 provided further, however, that when any resident, nonresident, cor-
40 poration, railroad company, or other persons owning or having an
41 interest in any land or property affected by the proposed improve-
42 ment shall have filed with the county auditor of the county wherein
43 such improvement is proposed, an instrument in writing, duly signed,
44 and designating the name and postoffice address of his or its agent
45 upon whom service of notice in said matter shall be made, the county
46 auditor shall, at least twenty days prior to the date set for hearing
47 upon said petition, mail a true copy of said notice in a registered letter
48 addressed to the person or agent so designated in said written instru-
49 ment, as aforesaid. Proof of such service of said notice shall be made
50 by affidavit of said county auditor and filed by him in said matter in
51 his said office on or before the date of the hearing upon the petition,
52 and such service shall be in lieu of all other service of notice to such
53 residents, nonresidents, corporations, railroad companies or other per-
54 sons. No notice need be served by the auditor upon any of the per-
55 sons hereinbefore described who shall file with said auditor a state-
56 ment in writing signed by him entering his appearance at said hearing
57 and waiving any additional notice. If, at the date set for the hearing
58 before the board of supervisors, it should appear that any person en-
59 titled to notice, as provided in this section, has not been served with
60 notice for the time, or in the manner, as herein provided, the board
61 may postpone said hearing and set another time for the same, and
62 notice of such day of hearing may be served on such omitted parties
63 in the manner and for the same length of time as provided for in this
64 section; and by fixing such new day for hearing and by adjourning
65 said proceedings to said time, the board of supervisors shall not be
66 held to have lost jurisdiction of the subject matter of said proceeding,
67 nor of any parties so previously served with notice. Personal service
68 upon any of the parties above described in the manner and for the

69 time required for service of original notices shall be sufficient and
70 make publication of notice as to such persons unnecessary.

[S., '13, § 1989-a3; 38 G. A., ch. 138, § 1:]

SEC. 4839. Claims for damages.

1 Any person claiming damages as compensation for or on account
2 of the construction of such improvement shall file such claim in the
3 office of the county auditor at least five days prior to the day on which
4 the petition has been set for hearing, and on failure to file such claim
5 at the time specified, shall be held to have waived his rights thereto;
6 provided, however, that it shall not be necessary to file claims covering
7 value of land appropriated for right of way for construction of pro-
8 posed improvements.

[S., '13, § 1989-a4.]

SEC. 4840. Location—appraisers.

1 The board of supervisors at the session set for the hearing on
2 said petition, which session may be regular, special or adjourned,
3 shall thereupon proceed to hear and determine the sufficiency of the
4 petition in form and substance, which petition may be amended as to
5 form and substance at any time before final action thereon, and, if
6 deemed necessary, the board may view the premises, and if they shall
7 find that such levee or drainage districts would not be for the public
8 benefit or utility, nor conducive to the public health, convenience or
9 welfare, they shall dismiss the proceedings; but, if they shall find such
10 improvement conducive to the public health, convenience or welfare
11 or to the public benefit or utility and no claim shall have been filed
12 for damages as provided in the preceding section, they may, if deemed
13 advisable, locate and establish the same in accordance with the recom-
14 mendations of the engineer, or they may refuse to establish the same
15 as they may deem best; and at said hearing, the board may order the
16 said engineer or a new engineer appointed by them if deemed advis-
17 able, to make further examination and report to said board as to said
18 proposed improvement, and if they determine that further examina-
19 tion and report shall be made, or if any claims have been filed for
20 damages, as provided in the preceding section, then the board of
21 supervisors shall proceed no further than to determine the necessity
22 of the levee or drainage districts and further proceedings shall be
23 continued to an adjourned, regular or special session, the date of which
24 shall be fixed at the time of the adjournment; and the county auditor
25 shall appoint three appraisers to assess such damages, one of whom
26 shall be the engineer theretofore appointed as above provided, or, in
27 case of his absence or inability to act, some other engineer, and two
28 freeholders of the county who shall not be interested in, nor related
29 to any party interested in the proposed improvement.

[S., '13, § 1989-a5.]

SEC. 4841. Assessment of damages—appeal.

1 The appraisers appointed to assess damages shall proceed to view
2 the premises and determine and fix the amount of damages to which
3 each claimant is entitled, and shall place a valuation upon all acreage
4 taken for right of way as shown by plat of engineer and shall, at least
5 five days before the date fixed by the board to hear and determine the
6 same, file with the county auditor reports in writing showing the

7 amount of damages sustained by each claimant. Should the report
8 not be filed in time, or should any good cause for delay exist, the board
9 may postpone the time of final action on the subject and, if necessary,
10 the auditor may appoint other appraisers. When the time for final
11 action shall have arrived, and after the filing of the report of the ap-
12 praisers, said board shall consider the amount of damages awarded
13 in their final determination in regard to establishing such levee or
14 drainage district, and if in their opinion the cost of construction and
15 the amount of damages awarded is not excessive and a greater burden
16 than should be properly borne by the land benefited by the improve-
17 ment, they shall locate and establish the same, and they shall there-
18 upon appoint said engineer, or if deemed advisable, may appoint a new
19 engineer as a commissioner, who shall make a permanent survey of
20 said ditch as so located, showing the levels and elevations of each
21 forty-acre tract of land and shall file a report of the same with the
22 county auditor together with a plat and profile thereof and shall there-
23 upon proceed to determine the amount of damages sustained by each
24 claimant, and may hear evidence in respect thereto and may increase
25 or diminish the amount awarded in respect thereto, and any party ag-
26 grieved may appeal from the finding of the board in establishing or
27 refusing to establish the improvement district or from its finding in
28 the allowance of damages to the district court by filing notice with
29 the county auditor at any time within twenty days after such finding,
30 at the same time filing a bond with the county auditor, approved by
31 him, and conditioned to pay all costs and expenses of the appeal unless
32 the finding of the district court shall be more favorable to the appel-
33 lant or appellants than the finding of the board, which appeal shall be
34 tried in the district court as an ordinary proceeding, except that when
35 the appeal is from the order of the board in establishing or refusing
36 to establish the levee or drainage district, it shall be tried in equity
37 and the appearance term shall be the trial term; the finding of the
38 court in relation to the establishment of or refusal to establish the
39 levee or drainage district shall be certified by the clerk of the district
40 court to the board of supervisors, who shall enter an order in harmony
41 therewith and proceed accordingly. If the appeal is from the amount
42 of damages allowed, the amount ascertained in the district court shall
43 be entered of record, but no judgment shall be rendered therefor. The
44 amount thus ascertained shall be certified by the clerk of said court to
45 the board of supervisors, who shall thereafter proceed as if such
46 amount had been by it allowed the claimant as damages. If the appeal
47 is from the action of the board in establishing or refusing to establish
48 said drainage district, the court shall enter such order as may be
49 proper in the premises, and the clerk of said court shall certify the
50 same to the board of supervisors, who shall proceed thereafter in
51 said matter in accordance with the order of the court. How the costs
52 shall be distributed among the litigants and against whom the same
53 shall be taxed shall rest in the discretion of the trial court.

[S., '13, § 1989-a6.]

**SEC. 4842. Damages—by whom paid—division into districts—
engineer.**

1 The amount of damages finally determined by the board in favor
2 of any claimant or claimants shall be required to be paid in the first
3 instance by the parties benefited by the said levee or drainage district,
4 or secured to be paid by sufficient bond to be fixed and approved by

5 the county auditor, and after such damages shall have been paid or
 6 secured as aforesaid, the board shall divide said improvement into suit-
 7 able sections, numbering the same consecutively from the source or
 8 beginning of the improvement downward towards its outlet and pre-
 9 scribe the time within which the improvement shall be completed and
 10 appoint a competent engineer to have charge of the work of construc-
 11 tion thereof, who shall be required before entering upon the work to
 12 give a bond to the county for the use and benefit of the levee or drain-
 13 age district to be approved by the auditor in such sum as the board
 14 may fix, conditioned for the faithful discharge of his duties.

[S., '13, § 1989-a7.]

SEC. 4843. Letting work—notice—bids.

1 The board shall cause notice to be given by publication, once each
 2 week, for two consecutive weeks in some newspaper published in the
 3 county wherein such improvement is located and such additional publica-
 4 tion elsewhere as they may direct, of the time and place of letting
 5 the work of construction of said improvement, and in such notice they
 6 shall specify the approximate amount of work to be done in each sec-
 7 tion and the time fixed for the commencement and completion thereof;
 8 and when the estimated cost of said improvement exceeds fifteen thou-
 9 sand dollars the board shall make additional publication for two con-
 10 secutive weeks in some contracting journal of general circulation, of
 11 such notice as they may prescribe, and they shall award contract or
 12 contracts for each section of the work to the lowest responsible bidder
 13 or bidders therefor, bids to be submitted, received and acted upon
 14 separately as to the main drain and each of the laterals, exercising
 15 their own discretion as to letting such work as to the main drain as
 16 a whole, or as to each lateral as a whole, or by sections as to both main
 17 drain and laterals, and reserving the right to reject any and all bids
 18 and readvertise the letting of the work. Each person bidding for such
 19 work shall deposit in cash or certified check a sum equal to ten per
 20 centum of the amount of the bid, not in any event, however, to exceed
 21 ten thousand dollars, said deposit to be returned to him if his bid is
 22 not successful, and if successful to be retained as a guarantee only
 23 of his good faith in entering on said contract. The successful bidder
 24 shall be required to execute a bond with sufficient sureties in favor
 25 of the county for the use and benefit of the levee or drainage district
 26 in an amount equal to twenty-five per centum of the estimated cost
 27 of the work so let, or he may deposit such amount in cash with the
 28 auditor as security for the performance of his contract and for the
 29 payment as they become due of all just claims for labor performed
 30 and material used in the completion of said contract, and upon the
 31 execution of such bond, or the making of such deposit, the deposit
 32 originally made with his bid shall be returned to him.

[S. S., '15, § 1989-a8.]

SEC. 4844. Monthly estimates—payment.

1 The engineer in charge of the construction shall furnish the con-
 2 tractor monthly estimates of the amount of work done on each section,
 3 and upon filing the same with the auditor, he shall draw a warrant
 4 in favor of such contractor, or deliver to him improvement certificates,
 5 as the case may be, for eighty per centum of the value of the work
 6 done according to the estimate, and when said improvement is com-

7 pleted to the satisfaction of the engineer in charge thereof and so
 8 certified by him to the board and approved by it, the auditor shall
 9 draw a warrant in favor of said contractor upon the levee or drainage
 10 fund, or deliver to him improvement certificates, as the case may be,
 11 for the balance due. All warrants drawn upon the funds of any drain-
 12 age district which can not be paid for want of funds shall bear interest
 13 at the rate of six per centum, payable annually, from and after the
 14 date of presentation thereof to the county treasurer.

[S., '13, § 1989-a9; 37 G. A., ch. 264, § 1.]

SEC. 4845. Unpaid warrants—record of holders.

1 When a warrant drawn upon the funds of any drainage district
 2 is presented to the county treasurer for payment and not paid for
 3 want of funds and so indorsed by the treasurer, said treasurer shall
 4 make and keep a record of the owner and holder presenting such
 5 warrant, together with his or its postoffice address.

[38 G. A., ch. 162, § 1.]

SEC. 4846. Transfer—record to show.

1 Whenever such drainage warrant shall be assigned and trans-
 2 ferred after having been so indorsed by the county treasurer, the
 3 assignee thereof may notify the treasurer of such assignment, giving
 4 the treasurer his or its name and postoffice address; and upon receipt
 5 of such notice by the treasurer he shall make a memorandum in the
 6 record kept of such warrant, showing the name and address of each
 7 such successive assignee or holder.

[38 G. A., ch. 162, § 2.]

SEC. 4847. Funds—notice—interest.

1 Whenever the treasurer shall have funds on hand to pay such
 2 warrant or warrants, he shall, in addition to the call provided for in
 3 section thirty-one hundred sixty-nine, mail a written notice of such
 4 call to the then holder thereof as shown by his said record, and shall
 5 make a memorandum showing the date of mailing such notice as shown
 6 by the memorandum herein required to be made, the interest on such
 7 warrant or warrants shall cease.

[38 G. A., ch. 162, § 3.]

SEC. 4848. Unpaid drainage warrants—duty of treasurer.

1 The county treasurer shall indorse such warrants, keep a record
 2 of the same, issue calls for outstanding warrants at such times as he
 3 may have funds to pay the same, and pay such warrants under the
 4 same procedure as is prescribed in the case of county warrants by
 5 sections thirty-one hundred sixty-eight to thirty-one hundred seventy,
 6 inclusive.

[37 G. A., ch. 264, § 2.]

SEC. 4849. Failure to perform work — penalty — completion of work.

1 If any person to whom any portion of said work shall have been
 2 let shall fail to perform the same according to the terms specified in
 3 his contract, then the cash deposited by him shall be forfeited to the
 4 county, or recovery may be had in an action on the bond by the county,
 5 for the benefit of the levee or drainage district, for the damages sus-

6 tained, and the work may be relet by the board in the manner here-
 7 inbefore provided; or the board may cause the uncompleted work to
 8 be done, paying therefor out of the balance of the contract price not
 9 theretofore paid over to the contractor, and if the expenses of so com-
 10 pleting the work exceed such balance of the contract price, then the
 11 board of supervisors may cause an action to be brought in the name
 12 of the county in behalf of said district, or in the name of the board
 13 of supervisors and of the said district, for the recovery of the amount
 14 of such excess from the contractor and his bondsmen.

[S., '13, § 1989-a10.]

SEC. 4850. Changes in dimensions—notice—objections—appeal.

1 If, after the establishment of said district, and before the comple-
 2 tion of the drainage improvements therein, it shall become apparent
 3 that a levee or drain should be enlarged, deepened or otherwise changed
 4 or that a change or alteration in the location should be made for the
 5 better service thereof, said board may by resolution authorize such
 6 change or changes in the said improvement as the engineer shall recom-
 7 mend; provided that, whenever any change or changes are made either
 8 under this section or under any other section of this chapter, all per-
 9 sons whose land shall be taken, or whose assessments shall be increased
 10 thereby, shall first have been given like notices as provided in section
 11 forty-eight hundred thirty-eight of this chapter, and shall have like
 12 opportunity to file claims for damages, as provided for in section
 13 forty-eight hundred thirty-nine of this chapter, or file objection to
 14 such assessment as provided in the following section, as the case may
 15 be, and like opportunity to appeal from the action of the board as
 16 provided in section forty-eight hundred forty-one of this chapter, or
 17 section forty-eight hundred fifty-four of this chapter, as the case
 18 may be.

[S., '13, § 1989-a11.]

SEC. 4851. Assessment of costs and damages—apportionment.

1 When the levee or drainage district or other improvement herein
 2 provided for shall have been located and established as provided for
 3 in this chapter, or when it shall be necessary to cause the same to be
 4 repaired, enlarged, reopened or cleared from any obstruction therein,
 5 unless such repairs, reopening or clearing of obstructions can be paid
 6 for as hereinafter provided, the board shall appoint three commis-
 7 sioners, one of whom shall be a competent civil engineer and two of
 8 whom shall be resident freeholders of the state not living within the
 9 levee or drainage district and not interested therein, nor related to
 10 any party whose land is affected thereby; and they shall within twenty
 11 days after such appointment begin to personally inspect and classify
 12 all the lands benefited by the location and construction of such levee
 13 or drainage district, or the repairing or reopening of the same, in
 14 tracts of forty acres or less according to the legal or recognized subdi-
 15 visions in a graduated scale of benefits, to be numbered according to
 16 the benefit to be received by the proposed improvement; and they shall
 17 make an equitable apportionment of the costs, expenses, costs of con-
 18 struction, fees and damages assessed for the construction of any such
 19 improvement, or the repairing or reopening of the same, and make
 20 report thereof in writing to the board of supervisors. In making the
 21 said estimate the lands receiving the greatest benefit shall be marked
 22 on a scale of one hundred and those benefited in a less degree shall be

23 marked with such percentage of one hundred as the benefit received
24 bears in proportion thereto. This classification when finally estab-
25 lished shall remain as a basis for all future assessments connected
26 with the objects of said levee or drainage district, unless the board,
27 for good cause, shall authorize a revision thereof. In the report of
28 the appraisers so appointed, they shall specify each tract of land by
29 proper description and the ownership thereof as the same appears on
30 the transfer books in the auditor's office, and the auditor shall cause
31 notice to be served upon each person whose name appears as owner
32 and also upon the person or persons in actual occupancy of any such
33 land in the time and manner provided for the establishment of a
34 levee or drainage district, which notice shall state the amount of spe-
35 cial assessments apportioned to such owner, upon each tract or lot,
36 the day set for hearing the same before the board of supervisors and
37 that all objections thereto must be made in writing and filed with the
38 county auditor on or before noon of the day set for such hearing.
39 When the day set for hearing shall have arrived, the board of super-
40 visors shall proceed to hear and determine all objections made and
41 filed to said report and may increase, diminish, annul or affirm the
42 apportionment made in said report or in any part thereof as may ap-
43 pear to the board to be just and equitable; but in no case shall it be
44 competent to show that the lands assessed would not be benefited by
45 the improvement, and when such hearing shall have been had the
46 board shall levy such apportionment so fixed by it upon the lands
47 within such levee or drainage district; and all installments of the tax
48 shall be levied at that time, and shall bear interest at six per cent per
49 annum from that date; provided that if the owner of any parcel of
50 land, lot or premises against which any such levy shall have been
51 made and certified, shall, within twenty days from the date of such
52 assessment, promise and agree in writing filed in the office of the
53 county auditor that in consideration of his having the right to pay
54 his assessments in installments he will not make any objection of
55 illegality or irregularity as to the assessment of benefits or levy of
56 such taxes upon or against his property, but will pay said assessment,
57 then said taxes levied against said land, lot or premises of such owner
58 shall be payable without interest, as follows: one-third of the amount
59 of said assessment at the time of filing the above agreement; one-third
60 within ten days after the engineer in charge of said drainage improve-
61 ment shall file a certificate in the office of the county auditor that said
62 improvement is one-half completed, and the remaining one-third with-
63 in ten days after the said improvement shall have been accepted by
64 the board of supervisors, and if said installments are not paid as above
65 provided, the failure to pay any installment shall cause the whole sum
66 to become due and payable at once with interest at the rate of one
67 per cent per month from the date of filing said agreement, and such
68 assessments shall thereupon be collected as other taxes on real estate,
69 which rate may be later reduced to correspond with the rate specified
70 in the certificates or bonds, as the case may be; provided, however,
71 that no deferred installment of the amount assessed, as between vendor
72 and vendee, mortgagor and mortgagee, shall become a lien upon the
73 property against which it is assessed and levied, until the thirty-first
74 day of December of the year next preceding that in which it is due
75 and payable; and in case the board of supervisors shall increase said
76 apportionment, service of notice thereof shall be made upon the owner
77 of such tract or lot of land as shown by the transfer books in the audi-
78 tor's office, in the same manner in which original notices are required

79 to be served, where such owner is a resident of the county, and in
 80 case such owner is a nonresident of the county such notice as to him
 81 shall be served on the actual occupant of the tract or lot of land; pro-
 82 vided that in case any railroad company shall be affected by such in-
 83 creased apportionment said notice shall be served upon the station
 84 agent of the said railroad company nearest the proposed improvement.
 85 If the first assessment made by the board of supervisors for the orig-
 86 inal cost or for repairs of any improvement as provided in this chap-
 87 ter is insufficient, the board may make an additional assessment and
 88 levy in the same ratio as the first for either purpose; provided, fur-
 89 ther, that any assessment may be paid in full without interest at any
 90 time within twenty days from the date the assessment is confirmed
 91 by the board of supervisors.

[S. S., '15, § 1989-a12; 37 G. A., ch. 127, § 1; 37 G. A., ch. 344, § 2.]

SEC. 4852. Districts—levees—outlet—costs.

1 When it shall become necessary hereafter to clean out, enlarge,
 2 deepen or widen any ditch or drain of any levee or drainage district,
 3 which ditch or drain has heretofore been established and constructed
 4 or which shall hereafter be established or constructed, and into or
 5 through which any of the waters of any other levee or drainage dis-
 6 trict shall flow, each levee or drainage district flowing annually into
 7 or through such other levee or drainage district, including the levee
 8 or drainage district carrying the combined discharge of water, shall
 9 be assessed for the cost of such work in the same ratio to such total
 10 cost as the discharge of waters of such district bears to the com-
 11 bined discharge of waters of the several districts flowing into or
 12 through such a ditch or drain. And when it shall become necessary
 13 hereafter to extend any ditch or drain of any levee or drainage dis-
 14 trict for a better outlet for the waters flowing annually into or through
 15 such a ditch or drain so extended for a better outlet, each district, in-
 16 cluding the district carrying the combined discharge of water, shall
 17 be assessed for the cost of such work in the same ratio to the total
 18 cost as hereinbefore provided.

[38 G. A., ch. 332, § 1.]

SEC. 4853. Levy and collection of tax—warrants.

1 In estimating the benefits as to the lands not traversed by said
 2 improvement they shall not consider what benefits such lands will
 3 receive after some other improvements shall have been constructed,
 4 but only the benefits which will be received by reason of the construc-
 5 tion of the improvement in question as it affords an outlet for the
 6 drainage of such lands, or brings an outlet nearer to said lands or
 7 relieves the same from overflow. Said tax shall be levied upon the
 8 lands of the owners so benefited in the ratio aforesaid and collected
 9 in the same manner as other taxes for county purposes, and the funds
 10 so collected shall be kept as a separate fund and shall be paid out only
 11 for purposes properly connected with such improvement on the order
 12 of the board of supervisors; provided, however, that warrants drawn
 13 upon the funds of any drainage district shall be accepted by the county
 14 treasurer in payment of drainage assessments levied upon any lands
 15 in that district owned by the person to whom the said warrants were
 16 issued, and when the amount of the warrant exceeds the amount of

17 the assessment, the treasurer shall cancel the said warrant, and give
 18 the holder thereof a certificate for the amount of the overplus, upon
 19 the presentation of which certificate to the county auditor he shall file
 20 it, and issue a new warrant for the amount of the overplus, and charge
 21 the treasurer therewith; and such certificate is transferable by de-
 22 livery, and will entitle the holder of the new warrant, made payable
 23 to his order, and bearing the original number, preceded by the words,
 24 "Issued as unpaid balance due on warrant number"

[S., '13, § 1989-a13.]

SEC. 4854. Appeal—drainage record — counsel — establishment rescinded—new hearing.

1 An appeal may be taken to the district court from the order of
 2 the board fixing the assessment of benefits upon the lands in the same
 3 manner and time as herein provided for appeals from the assessment
 4 of damages, and such appeal may be taken from the order of the board
 5 of supervisors increasing the apportionment within twenty days after
 6 the completed service of notice of such increased apportionment in
 7 the same manner as herein provided for appeals in assessment for
 8 damages, whether objection was made to the report of the commis-
 9 sioner or not. The appeal herein provided for shall be tried in the
 10 district court as an action in equity and the appearance term shall
 11 be the trial term; and when several appeals are taken and pending
 12 in the district court by landowners of the same drainage district
 13 whose lands have been assessed by the board, the court may, in its
 14 discretion, order the consolidation of such cases, and try the same as
 15 one cause of action. When any appeal is taken from any order of the
 16 board made in any drainage proceeding coming before it for action,
 17 it shall be the duty of the board to employ counsel to represent the
 18 interests of the drainage district affected by said appeal on the trial
 19 thereof in the appellate courts and the expense thereof shall be paid
 20 out of the drainage fund of such district. In all actions or appeals
 21 involving or affecting the drainage district, the board of supervisors
 22 shall be a proper party for the purpose of representing the drainage
 23 district, and all interested parties therein, other than the adversary
 24 parties thereto, and the employment of counsel by the board, as au-
 25 thorized by this chapter, shall be for the purpose of protecting all
 26 the rights of the drainage district and interested parties therein other
 27 than the adversary parties thereto; in all appeals or actions adversary
 28 to the district, the appellant or complaining party shall be entitled
 29 the plaintiff, and the board of supervisors and drainage district it
 30 represents, the defendants, and in all appeals or actions for or in be-
 31 half of the district, the board of supervisors and the drainage district
 32 it represents may sue as and be entitled the plaintiffs. When an ap-
 33 peal authorized by this chapter is taken, the county auditor shall forth-
 34 with make a transcript of the notice of appeal and appeal bond and
 35 transmit the same to the clerk of the district court, and the clerk shall
 36 docket the same upon payment by the appellant of the docket fee;
 37 and on or before the first day of the next succeeding term of the dis-
 38 trict court, the appellant shall file a petition setting forth the order
 39 or decision of the board appealed from and his claims and objections
 40 relating thereto, and attach thereto a copy of his claim for damages
 41 or objections filed by him with the county auditor. A failure to com-
 42 ply with these requirements shall be deemed a waiver of the appeal,
 43 and in such case the court shall dismiss the same; it shall not be neces-

44 sary for the appellee to file answer to the petition unless some affirm-
 45 ative defense is made thereto, but he may do so. The board shall
 46 provide a book to be known as the drainage record, and the county
 47 auditor shall keep a full and complete record therein of all proceed-
 48 ings of the board relating to drainage districts. In any case where
 49 the decree is or has been entered setting aside the establishment of
 50 a drainage district for errors in the proceedings taken, and such de-
 51 cree becomes final, the board of supervisors shall rescind its order
 52 establishing the drainage district, assessing benefits, and levying the
 53 tax based thereon, and shall also cancel any contract made for con-
 54 struction work or material, and may refund any or all assessments
 55 paid in. The board shall fix a new date for hearing, giving notice
 56 thereof by publication for two weeks, and at the time so fixed enter
 57 its order as to the establishment of the proposed district, and there-
 58 after proceed as by law provided.

[S., '13, § 1989-a14; 37 G. A., ch. 344, § 3.]

SEC. 4855. Obstructions—nuisance—abatement.

1 Any ditch, drain or watercourse, which is now or hereafter may
 2 be constructed so as to prevent the surface and overflow water from
 3 the adjacent lands from entering the same, is hereby declared as a
 4 nuisance and may be abated as such.

[S., '13, § 1989-a15.]

SEC. 4856. Subsequent proceedings—use of former surveys.

1 In any proceedings heretofore or hereafter had for the establish-
 2 ment of a ditch, drain, levee or the changing of a natural watercourse,
 3 or the establishment of a levee or drainage district where an engineer
 4 has been appointed and has made a complete survey, return and plat
 5 thereof and for any reason the improvement has been abandoned and
 6 the proceedings dismissed and afterwards proceedings are instituted
 7 for the establishment of a levee or drainage district, or the changing
 8 of a natural watercourse, for the benefit or reclamation of the same
 9 territory surveyed in said former proceedings, or part thereof, or the
 10 same with territory additional thereto, the engineer shall use the re-
 11 turn, levels, surveys, plat and profile made in said former proceedings,
 12 or so much thereof, as may be applicable; and in case the cost of said
 13 returns, levels, surveys, plat and profile made in said former proceed-
 14 ings have been paid for by the former petitioners or their bondsmen,
 15 then a reasonable amount shall be allowed said petitioners or bonds-
 16 men for the use of the same.

[S., '13, § 1989-a16.]

SEC. 4857. Relevy.

1 Where proceedings have been had for the establishment of a
 2 ditch, drain, levee, change of natural watercourse or the establish-
 3 ment of a drainage district under the law as heretofore existing, and
 4 such improvement has been established and constructed and taxes
 5 levied upon the land benefited thereby, or upon any portion thereof
 6 for the cost of such improvement, and where the levy so made can not
 7 for any reason be enforced, the board shall proceed as to all lands
 8 benefited by said improvement in the same manner as if the appraise-
 9 ment and apportionment of benefits had never been made; and they
 10 shall proceed in the manner hereinbefore provided, using as a basis

11 the entire cost of such improvement, and in taxing up said benefits
 12 account shall be taken of the amount of tax, if any, that has been paid
 13 by those benefited and credit therefor shall be given accordingly.

[S., '13, § 1989-a17.]

SEC. 4858. Establishment and construction across railroad right of way.

1 Whenever the board of supervisors shall have established any
 2 levee, or drainage district, or change of any natural watercourse and
 3 the levee, ditch, drain or watercourse as surveyed and located crosses
 4 the right of way of any railroad company, the county auditor shall
 5 immediately cause to be served upon such railroad company, in the
 6 manner provided for the service of original notices, a notice in writ-
 7 ing stating the nature of the improvement to be constructed, the place
 8 where it will cross the right of way of such company, and the full
 9 requirements for its complete construction across such right of way
 10 as shown by the plans, specifications, plat and profile of the engineer
 11 appointed by the board, and directing such company to construct such
 12 improvement according to said plans and specifications at the place
 13 designated, across its right of way, and to build and construct or re-
 14 build and reconstruct the necessary culvert or bridge where any ditch,
 15 drain or watercourse crosses its right of way, so as not to obstruct,
 16 impede or interfere with the free flow of the water therein, within
 17 thirty days from the time of the service of such notice upon it; and
 18 upon receiving said notice it shall be the duty of such railroad company
 19 to construct the improvement across its right of way according to the
 20 plans and specifications furnished in said notice and to build and con-
 21 struct or rebuild and reconstruct the necessary culvert or bridge above
 22 mentioned and complete the same within the time specified in said
 23 notice; if such railroad company shall fail, neglect or refuse to do so
 24 within the time fixed in said notice the auditor shall cause the same
 25 to be done under the supervision of the engineer in charge of the im-
 26 provement and such railroad company shall be liable for the cost
 27 thereof to be collected by the county in any court having jurisdiction;
 28 and the cost of constructing the improvement across the right of way
 29 of such company, not including the cost of building and constructing
 30 or rebuilding and reconstructing any necessary culvert or bridge when
 31 such improvement is located at the place of the natural waterway or
 32 place provided by the railroad company for the flow of the water, shall
 33 be considered as an element of such company's damages by the ap-
 34 praisers thereof; and the cost of building and constructing or rebuild-
 35 ing and reconstructing any necessary culvert or bridge, when such
 36 improvement is located at the place of the natural waterway or place
 37 provided by the railroad company for the flow of the water, shall be
 38 borne by such railroad company without reimbursement therefor.
 39 The commissioners to assess benefits shall fix and determine the bene-
 40 fits to the property of the railroad company within the levee or drain-
 41 age district and make return thereof with their regular return. Such
 42 special assessment shall be a debt due personally from the railroad
 43 company, and unless the same is paid by the railroad company as spe-
 44 cial assessment, it may be collected in the name of the county in any
 45 court having jurisdiction. All other proceedings in relation to rail-
 46 roads shall be the same as provided for individual property owners
 47 within the drainage district.

[S., '13, § 1989-a18.]

SEC. 4859. Construction across highway—interest on assessments.

1 Whenever such levee, ditch, drain or change of any natural water-
 2 course crosses a public highway, necessitating the removal or the
 3 building or rebuilding of any bridge or bridges, the board of super-
 4 visors shall remove, build or rebuild such bridge or bridges, paying
 5 the costs and expenses thereof from the county bridge fund. When-
 6 ever any county or township highway within the levee or drainage
 7 district will be beneficially affected by the construction of any improve-
 8 ment or improvements in such district, it shall be the duty of the com-
 9 missioners appointed to classify and assess benefits to determine and
 10 return in their report the amount of benefit to such highway, and no-
 11 tice thereof shall be served upon the clerk of the township in which
 12 said highway is located, as provided in the case of an individual prop-
 13 erty owner. The township trustees or clerk of such township may file
 14 objections to such assessment in the time and manner provided in
 15 case of landowners, and the trustees shall have the same right of ap-
 16 peal from the finding of the board with reference to the assessment
 17 on account of the benefits to such highway. One-fourth of such as-
 18 sessment shall be paid by the county from the county road fund, or
 19 from the county drainage fund, and three-fourths by the township.
 20 Such assessment may be paid by the township from its road fund, or
 21 out of a fund created for said purpose as provided in section twenty-
 22 nine hundred seventy. The amount finally assessed for benefits to
 23 highways shall draw interest at the same rate and from the same time
 24 as the assessment against lands.

[S., '13, § 1989-a19; 37 G. A., ch. 344, § 4.]

SEC. 4860. Construction on or along highway.

1 Whenever a levee or drainage district shall have been established
 2 by the board and it shall become necessary or desirable that the levee,
 3 ditch, drain or improvement should be located and constructed within
 4 the limits of any public highway, on either or both sides and along
 5 the same, it shall be so built as not materially to interfere with the
 6 public travel thereon; and the board of supervisors shall have power
 7 and authority to lay out and establish public highways along and upon
 8 any levee or embankment along any ditch or drain built under the
 9 provisions of this chapter, provided that when so established the same
 10 shall be worked as other highways and so as not to impair the levee,
 11 ditch or drain.

[S., '13, § 1989-a20.]

SEC. 4861. Control—repairs—cost.

1 Whenever any levee or drainage district shall have been estab-
 2 lished and the improvement constructed as in this chapter provided,
 3 the same shall at all times be under the control and supervision of
 4 the board of supervisors, and it shall be the duty of the board to keep
 5 the same in repair, and for that purpose they may cause the same to
 6 be enlarged, reopened, deepened, widened, straightened or lengthened
 7 for a better outlet, and they may change or enlarge the same or cause
 8 all or any part thereof to be converted into a closed drain when con-
 9 sidered for the best interests of the public rights affected thereby.
 10 The cost of such repairs or change shall be paid by the board from
 11 the drainage fund of said levee or drainage district, or by assessing

12 and levying the cost of such change or repair upon the lands in the
 13 same proportion that the original expenses and cost of construction
 14 were levied and assessed, except where additional right of way is re-
 15 quired or additional lands affected thereby, in either of which cases
 16 the board shall proceed as hereinbefore provided; provided, however,
 17 that if the repair is made necessary by the act or negligence of the
 18 owner of any land through which such improvement is constructed
 19 or by the act, or the negligence of his agent or employee, or if the same
 20 is filled and obstructed by the cattle, hogs or other stock of such owner,
 21 employee or agent, then the cost thereof shall be assessed and levied
 22 against the lands of such owner alone. Whenever any ditch, drain or
 23 watercourse which has been heretofore, or may be hereafter con-
 24 structed by any drainage district shall become obstructed by the roots
 25 of trees or by the roots of osage orange, willow or any other hedge, it
 26 shall be the duty of the board of supervisors to repair the same and
 27 remove the cause of the obstruction; they may cause any tile drain so
 28 obstructed to be relaid in concrete or other protection, and they may, if
 29 deemed best, cause the trees or hedge causing such obstruction to be
 30 removed, and if said trees or hedge are not within the area of the right
 31 of way originally acquired for the construction of said improvement,
 32 and if said board can not agree with the owner thereof as to his dam-
 33 age for the destruction of said trees, they may proceed to acquire juris-
 34 diction of said trees and the right to destroy and remove the same by
 35 the same proceedings as are provided for acquiring right of way for
 36 said drainage improvement in the first instance, and the owner shall
 37 have the same right of appeal from the award of damages made in said
 38 proceedings as is provided in section forty-eight hundred forty-one,
 39 and the damages, if any, allowed the owner, together with all other
 40 costs of said proceedings and repairs, shall be paid out of the drainage
 41 fund of such district.

[S., '13, § 1989-a21; 38 G. A., ch. 121, § 1.]

SEC. 4862. Maintenance of levee—conditions—levy.

1 In any levee or drainage district which maintains a levee, the
 2 board or boards of supervisors shall have the right and power to keep
 3 up and maintain any such levees, ditches or drains, established under
 4 chapter one of this title, or in case of washout or other injury to en-
 5 large or strengthen or increase the height of the same as may in their
 6 judgment be required; provided, however, that said work shall only be
 7 done or changes made upon the recommendation of a competent en-
 8 gineer appointed by said board, and said board or boards of supervisors
 9 are empowered to levy the expense thereof upon the real estate within
 10 said drainage or levee district.

[37 G. A., ch. 302, § 1.]

SEC. 4863. Alterations—notice.

1 If after the ordering of said repairs or improvements and before
 2 the completion thereof, it shall become apparent that the same should
 3 be enlarged, strengthened or otherwise changed or alteration in the lo-
 4 cation should be made for the better service thereof, said board or
 5 boards may by resolution authorize such change or changes in said im-
 6 provement as the engineer may recommend, provided that when any
 7 changes are made, all persons whose lands shall be taken shall have
 8 been given notice as at the original establishment of said district and

9 have the right to be heard as to damages and appeal as in said chapter
10 provided at the original establishment.

[37 G. A., ch. 302, § 2.]

SEC. 4864. Reclassifications.

1 When it shall be necessary to repair or strengthen or reopen said
2 levee, ditches or drains in any district maintaining a levee, and assess
3 the costs and damages therefor, and the board or boards shall find that
4 the original assessments are no longer equitable as a basis, then and
5 in that case they shall order a new classification of all the lands in said
6 district and thereupon the auditor shall appoint three persons, one of
7 whom shall be a competent civil engineer, and two of whom shall be
8 resident freeholders of the county, not living within the township or
9 townships where the improvement is or is to be located and not inter-
10 ested therein nor related to any party whose land is affected thereby,
11 who shall, within twenty days after such appointment, personally in-
12 spect and classify all the lands within said district according to the
13 benefits which said lands have received by the location and construc-
14 tion of the improvement or the repairing or reopening of the same,
15 and they shall make an equitable apportionment on the costs, expenses,
16 cost of construction, fees and damages assessed for the construction of
17 said improvement or the repairing or reopening of the same and make
18 report thereof in writing to the board of supervisors and file the same
19 with the county auditor; and thereafter all the proceedings in reference
20 to notice and hearing and the confirming of said assessments shall be
21 as provided in chapter one of this title.

[37 G. A., ch. 302, § 3.]

**SEC. 4865. Board of supervisors may relinquish jurisdiction—
conditions.**

1 Whenever heretofore the board of supervisors of any county has,
2 or may hereafter, establish any drainage district which is located
3 wholly within the incorporated limits of any city or town, and the drain
4 thereof having been wholly or partially constructed of sewer tile, or
5 whenever the ground that has been used for said drain is needed by
6 the city or town for sewer or other purposes, it shall be lawful for the
7 said board of supervisors to relinquish all authority or control of all
8 of said drain that is included within the incorporated limits of the city
9 or town to the city or town upon the request of the city or town council,
10 which request shall be made by resolution and certified to the board of
11 supervisors of the county.

[37 G. A., ch. 224, § 1.]

SEC. 4866. Duty of supervisors.

1 Upon the request of the city or town council, as above provided,
2 it shall be the duty of the board of supervisors to pass a resolution and
3 have the same made a part of their proceedings relinquishing all au-
4 thority and control of the drainage district which is within the incor-
5 porated limits of the city or town to the said city or town.

[37 G. A., ch. 224, § 2.]

SEC. 4867. Duty of council.

1 It is hereby made the duty of any city or town council, if it deem
2 the same for the best interest of the said city or town, to take over and

3 control any drainage districts located within its incorporated limits,
4 to pass, by a majority vote, a resolution requesting the board of super-
5 visors to permit the city or town to take over and control the drains
6 within its incorporated limits, which resolution shall be certified to
7 the board of supervisors of the county and filed by the county auditor,
8 who shall spread the same upon the records of the drainage district
9 referred to.

[37 G. A., ch. 224, § 3.]

SEC. 4868. Jurisdiction of municipality.

1 After the said drainage district has been taken over by the city or
2 town, it shall have complete control and authority of all of the drainage
3 district and drain so taken over, and may by resolution declare its use
4 and use the same for any purpose that said city or town through its
5 city or town council deem proper and necessary for the advancement
6 of the city or town or its health or welfare, and the city or town shall
7 be responsible for the maintenance and upkeep of said drainage district
8 so taken over only from and after its relinquishment by the board of
9 supervisors to the city or town as herein provided.

[37 G. A., ch. 224, § 4.]

SEC. 4869. Pending litigation or proceedings.

1 Nothing shall prevent the board of supervisors from making and
2 certifying assessments against the district for construction heretofore
3 lawfully made or repairs thereon heretofore lawfully made on drains
4 legally established.

[37 G. A., ch. 224, § 5.]

SEC. 4870. Outlet for lateral drains—specifications.

1 The owner of any land, lot or premises that have been assessed
2 for the payment of the cost of the location and construction of any
3 ditch, drain or watercourse as hereinbefore provided, shall have the
4 right to use the ditch, drain or watercourse as an outlet for lateral
5 drains from said land, lot or premises. In making connections with
6 the drainage improvements provided for in this chapter, care must be
7 taken to so protect the drain or drains where such connection is made
8 as to prevent damage thereto by washing out the banks or by permit-
9 ting soil or silt to be carried into the public improvement, and to this
10 end the board of supervisors may make specifications as to the manner
11 in which all such connections shall be made.

[S., '13, § 1989-a22.]

SEC. 4871. Subdrainage districts.

1 If any person who owns land within the drainage district which
2 has been assessed for benefits and which is separated from the ditch,
3 drain or watercourse for which it has been assessed, by the land of
4 another or others, shall desire to ditch or drain his said land across the
5 land of such other or others into such ditch, drain or watercourse and
6 shall be unable to agree with such other or others on the terms and
7 conditions on which he may enter upon their lands and construct such
8 drain or ditch, he may proceed in the manner in this section provided,
9 and the ditch or drain which he shall construct or cause to be con-
10 structed shall be considered to be conducive to the public health, wel-

11 fare, convenience and utility to promote which said drainage district
 12 was established. He may file his petition with the county auditor
 13 asking the board to establish a subdistrict within the limits of the orig-
 14 inal district for the purpose of securing more complete drainage,
 15 describing the lands to be affected thereby by metes and bounds or oth-
 16 erwise so as to convey an intelligible description of such lands; and the
 17 bond and all other proceedings shall be the same as herein provided for
 18 the establishment, formation and construction of original districts and
 19 improvement thereof, including the assessment of damages and the as-
 20 sessment of benefits, and when established and constructed, it shall be
 21 and become a part of the drainage system of such drainage district
 22 and be under the control and supervision of the board of supervisors.

[S., '13, § 1989-a23.]

SEC. 4872. Enlargement of watercourse or stream.

1 When two or more districts shall have their outlet or discharge
 2 into the same natural watercourse or stream and it shall become nec-
 3 essary to deepen or enlarge said natural watercourse or stream, each
 4 district shall be assessed for the cost of such work in the same ratio
 5 to such total cost as the discharge of waters of such district bears to
 6 the combined discharge of waters of the several districts emptying into
 7 said natural watercourse or stream; but no district shall be liable to
 8 contribute for any improvement or costs and expenses incurred in im-
 9 proving said natural watercourse or stream above the point of dis-
 10 charge of the waters of such district into the same.

[S., '13, § 1989-a24.]

SEC. 4873. New levee or drainage districts.

1 If any levee, drainage district or improvement heretofore estab-
 2 lished, either by legal proceedings or by private parties, or which may
 3 hereafter be established, shall prove insufficient to protect or drain all
 4 of the lands necessarily tributary thereto, the board of supervisors,
 5 upon petition therefor as for the establishment of an original levee or
 6 drainage district, shall have the power and authority to establish a
 7 new levee or drainage district covering and including such old district
 8 or improvement, together with any additional lands deemed necessary;
 9 and whenever a new district shall be established as contemplated in
 10 this section and the new improvement shall extend into or along the
 11 former improvement, the commissioners of classification and benefits
 12 shall take into consideration the value of such old improvement in
 13 the construction of the new improvement and credit the same to the
 14 parties owning the old improvement as their interests may appear.

[S., '13, § 1989-a25.]

**SEC. 4874. Special assessment — how paid — improvement cer-
 tificates—waivers.**

1 The special assessment for benefits made by the commissioners
 2 appointed for that purpose, as corrected and approved by the board
 3 of supervisors, shall be levied at one time by the board against the
 4 property so benefited, and when levied and certified shall be payable
 5 at the office of the county treasurer. If the owner of any parcel of
 6 land, lot or premises against which any such levy shall have been made
 7 and certified, which is embraced in any certificate provided for in this
 8 section, shall within thirty days from the date of such assessment

9 promise and agree in writing indorsed upon such certificate, or in a
10 separate agreement, that in consideration of having the right to pay
11 his assessment in installments, he will not make any objection of
12 illegality or irregularity as to the assessment of benefits, or levy of
13 such tax upon and against his property, but will pay said assess-
14 ment with interest thereon at such rate not exceeding six per centum
15 per annum as shall be prescribed by resolution of the board, such tax
16 so levied against the land, lot or premises of such owner shall be pay-
17 able in not less than ten nor more than twenty equal installments, the
18 first of which, with interest on the whole assessment, shall mature and
19 be payable on the date of such assessment, and the others with inter-
20 est on the whole amount unpaid annually thereafter at the same time
21 and in the same manner as the March semiannual payment of ordinary
22 taxes, but the foregoing provision as to payment in installments shall
23 not apply to assessments of twenty dollars or less on a single lot or
24 tract of land; but where no such terms and agreement in writing shall
25 be made by the owner of any land, lot or premises, then the whole of
26 said special assessment, so levied upon and against the property of
27 such owner, shall mature at one time and be due and payable with
28 interest from the date of such assessment, and shall be collected at
29 the next succeeding March semiannual payment of ordinary taxes.
30 All of such tax with interest shall become delinquent on the first day
31 of March next after its maturity and shall bear the same interest
32 with the same penalties as ordinary taxes. /And the board may provide
33 by resolution for the issuance of improvement certificates, pay-
34 able to bearer or to the contractors who have constructed the said
35 improvement or completed part thereof within the meaning of this
36 chapter in payment or part payment therefor, each of which certifi-
37 cates shall state the amount of one or more assessments or part thereof
38 made against the property, designating it and the owners thereof
39 liable to assessments for the cost of same, and said certificate may be
40 negotiated. Such certificates shall transfer to the bearer, contractor
41 or assigns all right and interest in and to the tax in every such as-
42 sessment or part thereof described therein, and shall authorize such
43 bearer, contractor or assignee to collect and receive every assessment
44 embraced in said certificate, by or through any of the methods pro-
45 vided by law for their collection, as the same mature. Such certificates
46 shall bear interest not to exceed six per centum per annum, payable
47 annually, and shall be paid by the taxpayer to the county treasurer
48 who shall receipt for the same and cause the amount paid to be ap-
49 plied to the payment of the certificate issued therefor; provided that
50 any person shall have the right to pay the full amount of the tax so
51 levied against his property, together with interest thereon to date of
52 payment, at any time he desires so to do, even before the maturity of
53 any certificates issued therefor. No certificate shall be issued or ne-
54 gotiated for the use of the drainage district for less than par value
55 with accrued interest up to the delivery or transfer thereof. } Should
56 the costs of such work exceed the amount of benefits assessed and
57 certificates issued, a new apportionment and levy of tax may be made
58 and other certificates issued in like manner. If the board of super-
59 visors provides for the issuance of improvement certificates by the
60 owners of lands, the township trustees may execute waivers, and
61 there may be issued improvement certificates for such part of the
62 assessment for benefits to highways as is to be paid by the township,

63 such waivers and certificates to conform as nearly as may be to those
64 executed upon the assessments against lands.

[S., '13, § 1989-a26; 37 G. A., ch. 344, § 5; 38 G. A., ch. 64,
§ 1; 38 G. A., ch. 271, § 1.]

SEC. 4875. Drainage bonds—benefits to highways included.

1 If the board of supervisors shall determine that the estimated
2 cost of reclamation and improvement of such district of land is greater
3 than should be levied in a single year upon the lands benefited, instead
4 of issuing improvement certificates as provided in the preceding sec-
5 tion, it may fix the amount that shall be levied and collected each year
6 and may issue drainage bonds of the county, bearing not more than
7 six per centum annual interest and payable semiannually in the pro-
8 portions and at the times when such taxes shall have been collected,
9 and may devote the same at par, with accrued interest, to the payment
10 of the work as it progresses or may sell the same at not less than par,
11 with accrued interest, and devote the proceeds to such payment; and
12 if in the sale of said bonds a premium is received, such premium shall
13 be credited to the drainage fund, and should the cost of such work
14 exceed the estimate, or should the proceeds of the tax when collected
15 be insufficient to pay the principal and interest of bonds sold, a new
16 apportionment of the tax may be made and other bonds issued and
17 sold in like manner, to meet such excess of cost or shortage in the pro-
18 ceeds of tax, but in no case shall the bonds run longer than not more
19 than twenty years. Provided, however, that no assessments of twenty
20 dollars or less on a single lot or tract shall be included in such bond
21 issue and such sums shall be collected as provided in the preceding
22 section, at the next succeeding March semiannual payment of ordinary
23 taxes; provided, however, that nothing herein shall prevent owners
24 of such lots or tracts to take advantage of the provisions of section
25 forty-eight hundred fifty-one, providing for payment in three install-
26 ments. Any property owner may pay the full amount of the benefit
27 assessed against his property before such bonds are issued and receive
28 a receipt in full therefor. Such payment shall be made to the county
29 treasurer, and it shall be the duty of the county auditor to certify to
30 the treasurer the amount of any such assessment when requested to
31 do so, and the treasurer shall enter the same upon the tax lists in his
32 hands in a separate place provided therefor, and shall furnish the au-
33 ditor with duplicate receipts given for all assessments so paid in full.
34 The terms and times of payment of the bonds so issued shall be fixed
35 by the board. Said bonds shall be issued for the benefit of the dis-
36 trict numbered thereon and each district shall be numbered by the
37 board of supervisors and recorded by the auditor, said record showing
38 specifically the lands embraced in said district and upon which the
39 tax has not been previously paid in full. In no case shall the amount
40 of bonds exceed the benefits assessed. Each bond issued shall show
41 expressly upon its face that it is to be paid only by a tax assessed,
42 levied and collected on the lands within the district so designated and
43 numbered, and for the benefit of which district such bond is issued;
44 nor shall any tax be levied or collected for the payment of said bond
45 or bonds, or the interest thereon, on any property outside the district
46 so numbered, designated and benefited. When the board of super-
47 visors shall provide for the issuance of drainage bonds, it shall deter-
48 mine what part, if any, of the amount assessed for the benefits to
49 highways shall be included in such bond issue, and such part, with

50 interest, shall be paid out of the proper funds in the same yearly
51 proportion and at the same times as the assessments against the lands
52 of private owners.

[S., '13, § 1989-a27; 37 G. A., ch. 344, § 6; 38 G. A., ch. 64,
§ 2; 38 G. A., ch. 271, § 2.]

SEC. 4876. Establishment when owners mutually agree.

1 Owners of land which requires combined drainage may provide
2 for the establishment of a drainage district or location and construc-
3 tion of drains, ditches and watercourses upon their own lands by mu-
4 tual agreement in writing duly signed, acknowledged and filed with
5 the county auditor; such agreement may include the location, the
6 character of the work to be done, the adjustment of the damages, the
7 classification of the lands to be benefited thereby, the amount of taxes
8 or special assessments to be levied, when the same shall be levied, or
9 so many of these or other provisions as may be agreed upon, and to
10 such extent shall be as valid and binding as though performed in the
11 mode and manner provided for in this chapter. Upon the filing of the
12 agreement with the county auditor, the board of supervisors shall at
13 the next session thereafter establish such drainage district, and locate
14 the ditch, drain or watercourse provided for in said mutual agree-
15 ment according to the terms thereof, and shall thereafter have full and
16 complete jurisdiction of the parties and subject matter, and order such
17 procedure under the provisions of this chapter as may be required or
18 necessary to carry out the object, purpose and intent of such agree-
19 ment and to complete and construct the desired improvement and
20 shall retain jurisdiction of the same as fully as in other cases made
21 and provided for in this chapter.

[S., '13, § 1989-a28.]

SEC. 4877. Establishment through two or more counties—voting powers of boards of supervisors equalized.

1 When the desired levee or drainage district extends into or
2 through two or more counties and embraces land in two or more
3 counties, the petition of one or more owners of land to be affected or
4 benefited by such improvement shall be presented to the county au-
5 ditor of each county into or through which said levee or drainage dis-
6 trict will extend, accompanied by a bond to be filed with the county
7 auditor of each of the said counties at the time of filing such petition,
8 conditioned as provided when the district is wholly within one county,
9 in an amount and with sureties satisfactory to and approved by the
10 board of supervisors. Upon the presentation of such petition and the
11 approval of such bond, the board of supervisors of each of said coun-
12 ties shall appoint a commissioner, and the commissioners of the sever-
13 al counties thus appointed shall meet within thirty days thereafter
14 and appoint a competent engineer, and such commissioners and engi-
15 neer shall together make a survey of the entire lands embraced in
16 the district, and shall determine what improvement or improvements
17 in the way of levees, drains, ditches or changing of natural water-
18 courses are necessary for the reclamation of the lands described in
19 the said petition; the engineer shall make a plat of all of the lands of
20 said district, showing thereon the proposed improvements, the eleva-
21 tions and levels of said lands, so far as he may deem necessary, and
22 a profile of said levee, drains, ditches or changes in any natural wa-

23 tercourse and shall file a copy in the auditor's office of each of said
 24 counties, together with a full return of said commissioners and engi-
 25 neer explaining the situation, describing the lands, the improvements,
 26 what effect said improvements will have upon the lands of said dis-
 27 trict, the course and length of any levee, drain, ditch or change of any
 28 natural watercourse through each tract of land, the estimated cost of
 29 the same, the dimensions of said improvement, together with the
 30 names of the owners of all lands included within said district, as
 31 shown by the transfer books in the auditor's office, and which in their
 32 opinion will be affected or benefited thereby, together with such other
 33 facts and recommendations as to them shall seem advisable, and espe-
 34 cially whether or not in their judgment such levee or drainage district
 35 should be established. Immediately upon the filing of such return,
 36 plat and profile, if such recommends the establishment of the levee or
 37 drainage district, each county auditor of said counties shall cause the
 38 owners of the lands, as shown by the transfer books in the auditor's
 39 office, and also the person in actual occupancy of any lots or lands in
 40 the district, and also each lienholder or incumbrancer, as shown by
 41 the county records, of any land through or abutting upon which the
 42 proposed improvement extends, to be notified of the time and place
 43 where the boards of the several counties will meet in joint session for
 44 the consideration of said petition and return. Such notice shall be the
 45 same and served in the same time and manner as provided in this
 46 chapter when the levee or drainage district is wholly within one
 47 county. When the boards of supervisors are of unequal number, each
 48 member of the board of the smallest number of members shall cast a
 49 full vote, and each member of any larger board shall cast such frac-
 50 tional part of a full vote as may be determined by making the smallest
 51 number of the membership of any board the numerator and the num-
 52 ber of the membership of any such larger board entitled to vote the
 53 denominator of such fraction, so as to equalize the voting power of
 54 each board.

[S., '13, § 1989-a29.]

SEC. 4878. Claims for damages—where filed.

1 Any person claiming damages as compensation for, or on account
 2 of, the construction of such improvement shall file his claim in writ-
 3 ing therefor in the office of the county auditor of the county in which
 4 his land is situated, at least five days prior to the time at which the
 5 petition has been set for hearing, and on failure to file such claims
 6 at the time specified shall be held to have waived his right thereto.

[S., '13, § 1989-a30.]

SEC. 4879. Hearing—appraisers.

1 At the time set for hearing such petition the boards of the several
 2 counties shall meet at the place designated in said notice and sit jointly
 3 in considering the petition and proceed in the same manner as pro-
 4 vided in section forty-eight hundred forty, except that if it becomes
 5 necessary to appoint appraisers, the boards of supervisors acting jointly
 6 shall appoint one appraiser from each county, and if said levee or
 7 drainage district extends into or through only two counties then the
 8 two appraisers shall choose a third, each of whom shall have like
 9 qualifications as provided where the improvement is wholly within one
 10 county and they shall then proceed in the same manner and make the

11 same return as provided in section forty-eight hundred forty-one, ex-
12 cept that a copy thereof shall be filed in the auditor's office of each of
13 the several counties. After the filing of the report of such appraisers
14 the further proceedings of the boards of supervisors acting jointly
15 shall be the same as in this chapter provided where the levee or drain-
16 age district is wholly within one county, so far as applicable, except
17 as herein otherwise provided.

[S., '13, § 1989-a31.]

SEC. 4880. Assessment of costs and damages—improvement certificates—bonds.

1 If the boards of supervisors, acting jointly, shall establish the
2 levee or drainage district, they shall appoint a commission, one of
3 whom shall be selected from each county, and in addition thereto
4 a competent engineer, each of whom shall have the same qualifications
5 as provided where the district is wholly within one county; and said
6 commission shall within twenty days go upon and view the premises
7 and begin the work of classifying the same as hereinbefore provided
8 where the district is wholly within one county, and in addition thereto
9 shall make an equitable apportionment of the costs, expenses, costs of
10 construction, fees and damages assessed for the construction of such
11 improvement or of the repairing or reopening the same, and make
12 report thereof as provided where the improvement is wholly within
13 one county, except a copy of said report shall be filed with each of the
14 several county auditors. Immediately upon the filing of such report
15 the several county auditors, acting jointly, shall cause notice to be
16 served of the time when and the place where the boards of super-
17 visors will meet and consider such report, which notice shall be the
18 same and served in the same time and manner, and all proceedings
19 thereon shall be the same as provided where the district is wholly
20 within one county, except that the objections not filed prior to the day
21 of the hearing shall be filed with the boards of supervisors at the place
22 where the hearing is to be held, and except after the amount to be
23 assessed and levied against the several parcels or tracts of land shall
24 have been apportioned and finally determined, the several boards of
25 supervisors, acting separately, and within their own counties, shall
26 proceed to levy and collect the taxes thus apportioned in the same
27 manner as provided where the district is wholly within one county,
28 and they may issue improvement certificates or may sell bonds for the
29 full amount of the benefits apportioned to such county.

[S., '13, § 1989-a32; 37 G. A., ch. 344, § 7.]

SEC. 4881. Letting work.

1 If the boards of supervisors, acting jointly, shall establish
2 such levee or drainage district, the auditors of the several counties
3 shall immediately thereafter, acting jointly, cause notice to be given
4 of the time and place of the meeting of the boards for letting the con-
5 tract or contracts for the construction of the improvement. The
6 notices, bond and all other proceedings in relation to letting the con-
7 tract or contracts shall be the same as in this chapter provided where
8 the district is wholly within one county, except that the several boards
9 shall act jointly.

[S., '13, § 1989-a33.]

SEC. 4882. Supervising engineer—contractor—how paid.

1 At the time of establishing the levee or drainage district the
2 boards of supervisors shall appoint a competent engineer to have
3 charge of the construction of the work, and they shall fix his com-
4 pensation therefor, and he shall, before entering upon and taking
5 charge of said work, give bond to the counties for the use and benefit
6 of the levee or drainage district, approved by the boards of supervisors
7 in such sum as they may direct, conditioned for the faithful discharge
8 of his duties. The engineer in charge of the work shall furnish the
9 contractor monthly estimates of the amount of work done on each
10 section and the amount due from each county, a duplicate of which
11 shall be filed with the auditor of each of the several counties. Upon
12 the filing of such statement each auditor shall draw a warrant or
13 deliver to him improvement certificates, as the case may be, in favor of
14 the contractor for eighty per centum of the amount due from his
15 respective county. When said improvement is completed to the satis-
16 faction of the engineer in charge and accepted by the boards of super-
17 visors, the engineer shall certify such fact to the several county
18 auditors and each county auditor shall draw a warrant in favor of
19 the contractor, or deliver to him improvement certificates, for the
20 balance due from his respective county.

[S., '13, § 1989-a34.]

SEC. 4883. Appeals—notice—bond.

1 Any person or persons aggrieved shall have the right to appeal
2 in the same time and in the same manner as provided when the dis-
3 trict is wholly in one county, except that if the appeal is taken from the
4 action of the boards in establishing the levee or drainage district,
5 such appeal may be taken to the district court of either county in
6 which the district or some part thereof is located. If said appeal is
7 from the award of damages or assessment of benefits the appeal shall
8 be taken to the district court of the county in which the land affected
9 is located. Notice of appeal and bond shall be given to and filed with
10 the county auditor in the county where the appeal is taken.

[S., '13, § 1989-a35.]

SEC. 4884. District court to establish—when.

1 Whenever the establishment of a levee or drainage district,
2 extending into or through two or more counties, is petitioned for as
3 hereinbefore provided and one or more of such boards of supervisors
4 neglect, fail or refuse to take action thereon, the petitioner or peti-
5 tioners may cause notice in writing to be served upon the chairman of
6 such board or boards, demanding that action be taken upon the prayer
7 of the petition within twenty days from and after the service of such
8 notice; and if such board or boards shall neglect, fail or refuse to take
9 action thereon within the time named, or if such action is taken and
10 the boards of supervisors can not agree as to the proper determina-
11 tion thereof, the petitioner or petitioners may cause such proceedings
12 to be transferred to the district court of either of the counties into or
13 through which such proposed district, or some part thereof, extends
14 by serving notice upon the auditors of the several counties within ten
15 days after the expiration of the time fixed by the notice, served upon
16 the chairman of the board or boards, or within ten days after the
17 failure of such boards to agree. Upon such notice being given, the

18 auditors shall, acting jointly, prepare and certify to the clerk of the
 19 district court a full and complete transcript of all proceedings had in
 20 such case, on or before the first day of the next succeeding term of
 21 said court. The clerk of the district court shall thereupon docket the
 22 case and the same shall be tried as in equity and the appearance term
 23 shall be the trial term, and the court shall enter judgment and decree
 24 dismissing the case or establishing such levee or drainage district and
 25 may by proper orders and writs enforce its judgment and decree.

[S., '13, § 1989-a36.]

SEC. 4885. Special sessions of boards of supervisors.

1 Whenever the district is located in two or more counties, the
 2 boards of supervisors shall have power and authority to adjourn from
 3 time to time and meet in special session and in all cases shall have the
 4 same jurisdiction, power and authority as provided where the improve-
 5 ment is wholly within one county, and all proceedings shall be the
 6 same so far as applicable and not herein otherwise provided, except
 7 that the board of supervisors of one county shall have jurisdiction to
 8 establish a subdrainage district of lands included within a joint drain-
 9 age district when the lands to compose said subdistrict lie wholly
 10 within such county, and to make improvements therein, repair and
 11 maintain the same, fix and levy assessments for the payment thereof,
 12 and to do the like for all drainage subdistricts heretofore established,
 13 the lands of which lie wholly within one county.

[S., '13, § 1989-a37; 37 G. A., ch. 344, § 8; 38 G. A., ch. 54,
 § 1.]

**SEC. 4886. Cities and towns may be included—benefits assessed—
 notice—objections—appeal.**

1 The board of supervisors shall have the same power, right and
 2 authority to establish a levee or drainage district that includes the
 3 whole or any part of any incorporated town or city, including cities
 4 acting under special charters, as they have to establish districts as
 5 hereinbefore provided, and they shall have the same power, right and
 6 authority with respect to the assessment of damages and benefits
 7 within such towns or cities as they have in other cases provided for in
 8 this chapter, and like notice to such city or town with respect to the
 9 establishment of such district and the apportionment and assessment
 10 of damages and benefits shall be given as is required by this chapter
 11 to be given to owners of property damaged or benefited by the estab-
 12 lishment or construction of such improvement. Whenever the streets,
 13 alleys, public ways or parks of any incorporated town or city, or city
 14 acting under special charter, so included within a levee or drainage
 15 district, will be beneficially affected by the construction of any
 16 improvement or improvements in such district, it shall be the duty of
 17 the commissioners appointed to classify and assess benefits to deter-
 18 mine and return in their report the amount of benefit to such streets,
 19 alleys, public ways and parks, and notice thereof shall be served upon
 20 the clerk of such incorporated town or city, or city acting under special
 21 charter, and the town or city council, or clerk of such town or city,
 22 may file objections to such assessment in the time and manner pro-
 23 vided in case of landowners, and the town or city council shall have
 24 the same right to appeal from the finding of the board with reference
 25 to such an assessment, and such assessment, as finally established,
 26 shall draw interest at the same rate and from the same time as the

27 assessments against lands, and the board of supervisors and the town
 28 or city council shall have the same power and authority in reference
 29 to issuing improvement certificates or drainage bonds and executing
 30 waivers on account of such assessment for benefits to streets, alleys,
 31 public ways and parks as is herein conferred upon the board of super-
 32 visors and township trustees in reference to assessment for benefits to
 33 highways. Cities or towns affected by this section may issue their
 34 funding bonds in accordance with the provisions of chapter thirty-
 35 four, title thirteen, for the purpose of securing the money to pay any
 36 assessment.

[S., '13, § 1989-a38; 37 G. A., ch. 28, § 1.]

SEC. 4887. Retroactive.

1 The provisions of this act [35 G. A., ch. 157] are hereby made
 2 retroactive, and all waivers and improvement certificates heretofore
 3 issued by boards of supervisors are hereby legalized, confirmed and
 4 made valid.

[S., '13, § 1989-a38a.]

SEC. 4888. Outlet in another state—right of way.

1 Whenever a drainage district is established in any county in this
 2 state and no practicable or feasible outlet can be obtained except
 3 through the lands of an adjoining state, the board of supervisors of
 4 such county shall have power and authority to purchase a right of
 5 way for such outlet in such adjoining state and pay for the same out
 6 of the funds of such district.

[S., '13, § 1989-a39.]

SEC. 4889. Watchmen.

1 Whenever a levee has been established, or shall hereafter be estab-
 2 lished, and constructed in any county, the board of supervisors shall be
 3 empowered and authorized to employ one or more persons whose duty
 4 it shall be to watch such levee and make repairs thereon in case of
 5 emergency or cause the same to be made. And such employee shall
 6 file with the county auditor an itemized bill for services rendered, and
 7 cost and expense incurred in watching or repairing such levee, and the
 8 same shall be audited and allowed by the board as other claims and
 9 demands, and the amount or amounts so allowed shall be paid by the
 10 county from the funds belonging to such levee district. If there are
 11 no funds on hand belonging to such district, the same shall be paid in
 12 the first instance by the county from the general fund, and the
 13 board shall proceed to assess and levy a tax upon the lands in such
 14 district, which assessment and levy shall be apportioned to each tract
 15 of land in the same ratio that the original cost thereof was appor-
 16 tioned, and when collected the auditor shall draw a warrant thereon in
 17 favor of the county for the sum or sums so paid from the county funds.

[S., '13, § 1989-a40.]

SEC. 4890. Fees and expenses.

1 Any engineer employed under the provisions of this chapter shall
 2 receive such compensation per diem as shall be fixed and determined
 3 by the board of supervisors. Appraisers of damages and commission-
 4 ers to assess benefits, other than the engineer, shall receive such com-
 5 pensation as the board of supervisors may allow, not to exceed five

6 dollars per day each, and all other fees and costs required under the
 7 provisions of this chapter shall be the same as provided by law for like
 8 services in other cases. Such costs and expenses shall be paid by the
 9 order of the board of supervisors out of the county treasury from the
 10 levee or drainage funds collected for that purpose upon warrants
 11 drawn by the county auditor. And the amount of fees for publica-
 12 tion of all notices required to be published by the provisions of this
 13 chapter shall be fixed by the board of supervisors not exceeding thirty-
 14 three and one-third cents for each ten lines of brevier type, or its
 15 equivalent.

[S., '13, § 1989-a41; 38 G. A., ch. 76, § 1.]

SEC. 4891. Drainage record—county auditor—additional help.

1 Whenever a levee or drainage district or districts shall be peti-
 2 tioned for or established in any county, the board of supervisors shall
 3 furnish such additional help as shall be just and reasonable, to be paid
 4 by the county; and the county auditor shall be the custodian of all
 5 papers and records pertaining to the levee or drainage matter in his
 6 county, and shall keep the book known as the "drainage record" and
 7 shall record therein all of the proceedings of the board of supervisors
 8 pertaining to the subject of levees or drainage, as well as the papers
 9 required to be filed by the county auditor in such proceedings.

[S., '13, § 1989-a42.]

SEC. 4892. Annual inspection.

1 The board of supervisors of any county in or through which an
 2 improvement of the character provided for in this chapter extends, or
 3 shall extend, shall cause a competent engineer to inspect such improve-
 4 ment whenever they may deem it necessary, and at least once in each
 5 year, and he shall make report to such board of the condition of the
 6 improvement, together with such recommendation as he deems neces-
 7 sary.

[S., '13, § 1989-a44.]

SEC. 4893. Tax lien upon premises.

1 The tax provided for in this chapter, when levied, shall be a lien
 2 upon all premises upon which the same is assessed to the same extent
 3 and in the same manner as taxes levied for county and state purposes.

[S., '13, § 1989-a45.]

SEC. 4894. Defects in proceedings.

1 The provisions of this chapter shall be liberally construed to pro-
 2 mote the leveeing, ditching, draining and reclamation of wet, overflow
 3 or agricultural lands; the collection of the assessments shall not be
 4 defeated, where the proper notices have been given, by reason of any
 5 defect in the proceedings occurring prior to the order of the board of
 6 supervisors locating and establishing the levee, ditch, drain or change
 7 of natural watercourse provided for in this chapter, but such order or
 8 orders shall be conclusive and final that all prior proceedings were
 9 regular and according to law unless they were appealed from. But if
 10 upon appeal the court shall deem it just and proper to release any
 11 person or modify his assessment or liability, it shall in no manner
 12 affect the rights or liability of any person other than the appellant;
 13 and the failure to appeal from the order of the board of supervisors of

14 which complaint is made shall be a waiver of any illegality in the pro-
 15 ceedings, and the remedies provided for in this chapter shall exclude
 16 all other remedies.

[S., '13, § 1989-a46.]

SEC. 4895. Additional to certain statutes.

1 The provisions of this chapter shall be construed as an inde-
 2 pendent procedure additional to chapter one of this title relating to
 3 the location, establishment and construction of levees, drains, ditches
 4 and watercourses and shall not be held to repeal any of such provisions.

[S., '13, § 1989-a47.]

SEC. 4896. Preliminary expenses—how paid.

1 Whenever a petition is filed with the county auditor of any county
 2 within the state, as contemplated in this chapter, for the establishment
 3 of a drainage district in any county or counties within the state, the
 4 board of supervisors of said county (or counties if there be more than
 5 one) are hereby authorized to pay all necessary preliminary expenses
 6 in connection with said drainage district, out of the general county
 7 fund of said county, or if there be more than one county from the
 8 general county fund of each of the counties included in said district in
 9 such proportion as the work done or expense created in each county
 10 bears to the whole amount of work done or expense created, said
 11 amounts to be determined by the engineer in charge of the work, and
 12 they shall replace the same to the credit of the county fund of said
 13 county or counties as their interests may appear as soon as possible
 14 after the drainage district is established, or if said district be not
 15 established, then said amounts shall be paid from the proceeds of the
 16 bond deposited with the county auditor for that purpose, as provided
 17 for in this chapter.

[S., '13, § 1989-a48.]

SEC. 4897. Pumping stations—petition.

1 The board of supervisors of any county or counties in the state in
 2 which a drainage or levee district has been or may hereafter be organ-
 3 ized as provided in this chapter may provide as a part of said drainage
 4 system for the establishment and maintenance of a pumping station or
 5 stations, when and where the same may be necessary to secure a
 6 proper outlet for the drainage of the land comprising the said district
 7 or any portion thereof, and the cost of construction and maintenance
 8 of said pumping station or stations, shall be levied upon and collected
 9 from the lands in the drainage or levee district, or the lands benefited
 10 by such pumping station or stations, in the same manner as provided
 11 for in the construction and maintenance of ditches or drains or levees
 12 in this chapter; provided that such pumping station or stations shall
 13 not be established or maintained unless a petition therefor shall be
 14 presented to the board of supervisors signed by not less than one-
 15 third of the owners of lands benefited thereby, and the lands benefited
 16 by such pumping station or stations shall be determined by the board
 17 of supervisors on the report of the engineer, nor shall additional land
 18 be taken into any such drainage district after the improvements
 19 therein have been substantially completed, unless thirty-three and

20 one-third per cent of the owners of the land proposed to be taken in
21 shall have petitioned therefor or consented in writing thereto.

[S., '13, § 1989-a49.]

SEC. 4898. Drainage districts—pumping stations.

1 After the establishment of a drainage district, including a pump-
2 ing plant, and before the completion of the drainage improvement
3 therein, the board or boards of supervisors may, if deemed necessary
4 to more effectually drain the lands in said district and fully accom-
5 plish the purposes of said improvement, by resolution, authorize the
6 establishment and maintenance of such additional pumping station or
7 stations as the engineer may recommend, and if a petition shall be
8 filed by one-third of the owners of land within such district asking the
9 establishment of such additional pumping plant or plants the board or
10 boards must direct the engineer to investigate the advisability of the
11 establishment thereof and upon the report of said engineers the board
12 or boards shall proceed to determine whether such additional pumping
13 plant or plants shall be established. If the board or boards determine
14 that additional pumping plant or plants shall be established and main-
15 tained a pump or pumps may be removed from any pumping station
16 already established and may be installed in any such additional plant,
17 if such removal can be made without injuring the efficient operation
18 of the plant from which removed. The cost of the establishment of
19 such additional pumping plant or plants shall be paid in the same
20 manner and upon the same basis as is provided for the cost of the
21 original improvement.

[38 G. A., ch. 283, § 1.]

SEC. 4899. Districts—engineer—jurisdiction of board.

1 Whenever a drainage district has been created and more than one
2 pumping plant is established therein, the board or boards of super-
3 visors may, and upon petition of one-third of the owners of land within
4 said district, shall appoint an engineer to determine the advisability
5 of dividing said district into two or more districts so as to include at
6 least one pumping plant in each of such districts. If the engineer rec-
7 ommends such division, the board of supervisors shall fix a time for
8 hearing upon the question of such division and shall publish notice
9 directed to all whom it may concern of the time and place of such hear-
10 ing, which notice shall be published for the time and in the manner as
11 is required for the publication of notice of the establishment of said
12 district, except that said notice need not name the owners and lien-
13 holders but shall be sufficient if directed as above provided. At the
14 time fixed, the board shall determine the advisability of such division
15 and shall make such order with reference thereto as shall be deemed
16 proper, having consideration for the interests of all concerned. If such
17 division is made, the board or boards having jurisdiction of the orig-
18 inal district shall retain jurisdiction of the new districts created by
19 such division for the purpose of collecting assessments theretofore
20 made and for the purpose of making such additional assessments as
21 are necessary to pay the obligations theretofore contracted and for
22 paying debts theretofore contracted. For all other purposes, each
23 division shall be under the jurisdiction of the board or boards of
24 supervisors which would have had jurisdiction thereof if originally

25 established as an independent district, the same as though originally
26 established by such board or boards.

[38 G. A., ch. 283, § 2.]

SEC. 4900. Districts—boards or commissioners—maintenance—tax, when divided.

1 Whenever any levee or drainage district operating a pumping
2 plant shall have been established and the improvement constructed
3 and accepted, the board or boards of supervisors, or commissioners
4 (if they have been appointed), and it shall become apparent that the
5 lands can be more effectually drained, managed or controlled by a
6 division thereof, then the said board or boards, or commissioners, may
7 divide said district, and if the district is divided by a stream and sub-
8 divided into subdistricts, they shall divide the district and, thereafter,
9 said district shall be carried on as though established originally as a
10 district, except nothing herein shall affect the legality or collection of
11 any assessments levied before the division, except that the mainte-
12 nance tax, if any, shall be divided in accordance with the amount paid
13 in by each district, and provided further, that if said district before
14 division was under the control and management of commissioners,
15 then each commissioner shall continue to serve in the district in which
16 his lands are situated, and other commissioners shall be elected in each
17 new district and the election for said new commissioners shall be
18 called by the old board of commissioners in each district, which said
19 election shall be called within ten days after said division is made and
20 shall be carried on as now provided for the election of commissioners.

[38 G. A., ch. 283, § 3.]

SEC. 4901. Settling basin—channel—board to provide.

1 If before a district operating a pumping plant is completed, or if
2 after such district shall have been completed and accepted, it develops
3 or appears that portions of the lands within said district are caused to
4 be wet or nonproductive by reason of the floods or overflow waters
5 from some stream running into, through or along said district and that
6 said district or some other district of which this district shall have
7 formed a part, shall have constructed or provided a settling basin
8 to care for the said floods and overflow waters of said stream or
9 watercourse, but no channel to said settling basin has been provided,
10 said board or boards of supervisors may and are hereby empowered
11 to lease, buy or condemn the necessary lands within or without the
12 district to provide said channel to said settling basin, and if necessary
13 to condemn the said lands to provide said channel the proceedings
14 shall be as provided by this chapter and sections twenty-eight hundred
15 fifty-seven and eighty-seven hundred thirty-eight.

[38 G. A., ch. 283, § 4.]

SEC. 4902. Proceedings under petitions heretofore filed.

1 Whenever any petition has heretofore been filed and any action
2 thereon has been taken by the board of supervisors that is not final,
3 it shall not be necessary that a new petition shall be filed in order to
4 obtain the benefits of this chapter, but the board of supervisors are
5 hereby empowered to proceed with the improvement from the point
6 at which legal proceedings thereon were stopped.

[S., '13, § 1989-a50.]

SEC. 4903. Statutes applicable.

1 The measure of damages for locating, establishing and construct-
 2 ing a levee, ditch, drain or watercourse across the right of way of any
 3 railroad company provided for in section forty-eight hundred fifty-
 4 eight shall be construed to apply to all cases and proceedings now pend-
 5 ing involving such questions; and the provisions of this chapter shall
 6 also be applicable to chapter one of this title.

[S., '13, § 1989-a51.]

SEC. 4904. Pumping stations.

1 The board of supervisors of any county or counties in the state in
 2 which a drainage district has been or may hereafter be organized in
 3 the manner provided in chapter one of this title may provide for the
 4 establishment and maintenance of a pumping station when and where
 5 the same shall be necessary to secure a proper outlet for the lands
 6 comprising the district, and the costs of construction and mainte-
 7 nance of such pumping station or plant shall be levied upon and col-
 8 lected from the lands in the drainage district in the same manner as
 9 provided for the construction and maintenance of ditches as provided
 10 in chapter one of this title, except the petition referred to shall require
 11 the signatures of fifty per cent of the landowners of such district.

[S., '13, § 1989-a52.]

SEC. 4905. Pumping stations and levees — management by trustees—petition.

1 In all drainage or levee districts having or operating a pumping
 2 station or maintaining a levee, or both, heretofore established, or
 3 which may hereafter be established under the laws of the state of
 4 Iowa, at any time after the completion of the contract for the original
 5 construction has been accepted by the board of supervisors, any three
 6 or more persons who own land within the district which has been
 7 assessed for benefits may file in the office of the county auditor of
 8 the county or counties in which the district is located a petition signed
 9 by a majority of the persons owning land within the district which
 10 has been assessed for benefits, asking that said district be placed
 11 under the control and management of three trustees, residents of the
 12 county or counties in which the said district is located, and land-
 13 owners in said district, to be elected by the persons owning lands in
 14 said district that has been assessed for benefits.

[S. S., '15, § 1989-a52a; 37 G. A., ch. 307, § 1.]

SEC. 4906. Canvass of petition—election—judges and clerks—notice.

1 Upon filing of said petition the board of supervisors, or the joint
 2 boards of supervisors of the counties wherein said district is located,
 3 shall at a regular or special meeting canvass the same, and if it shall
 4 be determined that the same is signed by a majority of all the persons
 5 owning land in said district that has been assessed for benefits, the
 6 board, or joint boards of supervisors, shall order an election to be
 7 held at some convenient place in the district at some time not less
 8 than thirty days, nor more than sixty days from the date of the can-
 9 vass of said petition, for the election of said trustees, and shall name
 10 from the residents of the district three judges and two clerks of
 11 election and shall cause notice of said election together with the time

12 and place of holding the same to be published for two consecutive
 13 weeks in one newspaper in each county into which said district
 14 extends, in which the official proceedings of the boards of supervisors
 15 are published.

[S., '13, § 1989-a52b; 37 G. A., ch. 307, § 2.]

**SEC. 4907. Election—assessment governing voting power—man-
 ner of voting.**

1 On the day designated for said election, the polls shall open at
 2 eight o'clock a. m., and remain open until seven o'clock p. m., and
 3 the judges of election shall canvass the vote, and certify the same to
 4 the boards of supervisors and deposit the ballots cast and the poll
 5 books showing the names of the voters with the county auditor. The
 6 owner of each tract of land over twenty-one years of age, without
 7 regard to sex, and any railroad or corporation owning property in
 8 said district and assessed for benefits, shall be entitled to at least one
 9 vote; provided, however, that if a petition asking for the right to
 10 vote in proportion to their assessment at all elections for any pur-
 11 pose thereafter to be held within said district, signed by sixty per
 12 cent of the landowners owning land within said district is presented
 13 to said trustees, then in all elections thereafter, held within said
 14 district under the provisions of this chapter, anyone whose land is
 15 assessed for benefits in a sum exceeding ten dollars, without regard to
 16 age, sex or condition, shall be entitled to one vote for each ten dollars
 17 of the original assessment for benefits against the land actually owned
 18 by him in said district at the time of the election and which has been
 19 assessed for benefits in said district, but in order to have his ballot
 20 counted for more than one vote, he shall write his name upon his
 21 ballot. The vote of any resident of a county in which the district
 22 is located, in whole or in part, must be cast in person. The vote of
 23 any person or corporation, including railroads owning land or right
 24 of way lying wholly or in part within the district as located and
 25 established, may have his or its vote cast by some resident taxpayer
 26 of the district or agent of such railroad or corporation who is author-
 27 ized by a power of attorney signed and acknowledged by such non-
 28 resident landowner or duly authorized officer of such railroad or corpo-
 29 ration to cast the vote for him, but the power of attorney in such
 30 case shall be filed with the county auditor, at least five days prior
 31 to the election at which it is to be effective. The vote of any person
 32 who is a minor, insane or under other legal disability shall be cast by
 33 the parent, guardian or other legal representative. The canvass of the
 34 returns shall be on Monday following said election, and the county
 35 auditor shall issue a certificate to the trustees of their election.

[S., '13, § 1989-a52c; 37 G. A., ch. 307, § 3.]

SEC. 4908. Term of office—vacancy.

1 The trustees shall hold office for a period of two years and until
 2 their successors are elected and qualify. Should there be a vacancy in
 3 the board of trustees by death, removal or resignation, the remaining
 4 members of the board shall have power to fill the vacancy, by appoint-
 5 ment, for the unexpired portion of the term.

[S. S., '15, § 1989-a52d.]

SEC. 4909. Biennial elections for trustees—time of holding—tenure of office.

1 Elections shall be held biennially in such district upon the first
2 Monday of the month in which the first election was held, or on a date
3 which shall be the choice of a majority of the electors of such district
4 expressed by ballot, for the election of trustees, which shall be called
5 by the trustees, held and the returns certified in the same manner as
6 the first election. The term of such trustees shall be for two years or
7 until their successors are duly elected and qualified.

[S., '13, § 1989-a52e; 37 G. A., ch. 307, § 4.]

SEC. 4910. Trustees—duties—bonds—reclassification—compensation.

1 The trustees shall qualify in the same manner as township trust-
2 tees and also by giving a bond in the sum of one thousand dollars
3 each, conditional for the faithful discharge of their duties, and the
4 said bond to be duly approved by the county auditor of the county in
5 which the greater portion of the district is located. The trustees shall
6 have control and supervision of said district with all of the same
7 powers that are now conferred on the board or boards of supervisors
8 for the control or supervision of drainage and levee districts under the
9 drainage and levee laws of Iowa, and they shall promptly and faith-
10 fully look after all of the business of the district. If a reclassification
11 and readjustment of the assessments of property or any important
12 change of the district shall be deemed advisable by the said trustees,
13 they shall submit the question of the reclassification and readjustment
14 of the assessments of property, or change of district to the vote of the
15 electors of said district by ballot, at the next regular election of trust-
16 tees, or they shall have the power to demand a special election there-
17 for. Should the proposition receive the sanction of the majority of
18 the voters at said election, then the trustees shall proceed in the
19 same manner in the reclassification and readjustment of the assess-
20 ments as are now provided for governing the actions of the board or
21 boards of supervisors. All costs and expense necessary to carry out
22 the powers and duties hereby conferred upon said trustees shall be
23 levied and collected upon the land in said district in the same manner
24 as the same are now levied and collected, upon certificate by the trust-
25 tees to the board or boards of county supervisors of the amount neces-
26 sary therefor. The said fund, when so levied and collected, shall be
27 held by the county treasurer of the county in which the same is col-
28 lected, subject to the order of the trustees of said district, and shall
29 be expended only upon their order upon warrants bearing a legal rate
30 of interest, drawn by the county auditors upon certificates approved
31 by the said board of trustees, signed by the president of the board.
32 The said trustees shall have power to issue drainage or levee bonds
33 when necessary, said bonds to be approved by a judge of the district
34 court of the county or counties in which said district lies. The said
35 trustees shall have power, if in their judgment, it is necessary to
36 employ a clerk for said district, and to fix his compensation. The
37 members of the board of trustees shall receive three dollars per day
38 each for time actually spent in looking after the affairs of the district,
39 and necessary traveling expenses.

[S. S., '15, § 1989-a52f; 37 G. A., ch. 307, § 5.]

SEC. 4911. Report—filed with auditor for record.

1 Such trustees shall, from time to time, and with reasonable
 2 promptness furnish the auditor of each county in which any part of
 3 said district is situated with a correct record of their acts and pro-
 4 ceedings, which statement must be signed by at least two of their
 5 number and shall be recorded by the auditor in the drainage record.

[S., '13, § 1989-a52g.]

SEC. 4912. Owners may drain.

1 Owners of land may drain the same in the general course of nat-
 2 ural drainage, by constructing open or covered drains, discharging the
 3 same into any natural watercourse, or into any natural depression,
 4 whereby the water will be carried into some natural watercourse, and
 5 when such drainage is wholly upon the owner's land he shall not be
 6 liable in damages therefor to any person or persons or corporation.
 7 Nothing in this chapter shall, in any manner, be construed to affect
 8 the rights or liabilities of proprietors in respect to running waters or
 9 streams.

[S., '13, § 1989-a53.]

SEC. 4913. Additional lands—procedure for annexation.

1 After the original establishment of a drainage district, as in this
 2 chapter provided, if the said board is satisfied that additional lands
 3 should be included within any drainage district, and that said lands
 4 are benefited by the improvement therein, and that said lands should
 5 have been included in said original district, then, in such case, the
 6 board may order the engineer to make a plat of said lands, with the
 7 elevations thereof, and report thereon; and thereupon, if said report
 8 be in favor of including additional lands, which shall be particularly
 9 described in the report, said board shall proceed in such matter as to
 10 said proposed annexed territory as in the original establishing of such
 11 district, including the fixing and levying of the special tax for benefits,
 12 and thereafter the said annexed territory shall be a part of said dis-
 13 trict, and governed in all respects as lands within the original district;
 14 or said annexation may be made and brought under the jurisdiction of
 15 the board for all of said purposes upon the petition of the owners of
 16 all the lands to be annexed.

[S., '13, § 1989-a54.]

SEC. 4914. Outlet—acquisition of land for outside limits of county—procedure.

1 In any case where the necessary outlet of any proposed drainage
 2 district is beyond the limits of the county wherein such district is pro-
 3 jected, and in the judgment of the board of supervisors expense will
 4 be saved such district by avoiding joint proceedings with such adjoin-
 5 ing county and by proceeding as hereinafter authorized or whenever
 6 after establishment of any district it is found necessary to extend the
 7 main ditch beyond the limits of such district as established, in order
 8 to secure proper outlet therefor, the board of supervisors shall have
 9 power to so extend such outlet and to use the general funds of the
 10 district for such purposes; and generally such board of supervisors
 11 shall have full power to treat with and to make fair and equitable
 12 agreements with any landowner, any other drainage district, ditching
 13 organization, corporation or association within this state, whether the

14 same may be acting under this or any other law, touching any work
15 in which such district may be interested, or which may facilitate the
16 flow of the waters from the lands within such district or the flow of
17 waters from the lands lying above said district, through the ditches of
18 such district. Where such drainage district shall find it necessary to
19 acquire real estate for such outlet purposes the board of supervisors
20 may proceed in the county where said real estate is located to con-
21 demn the same under the provisions of the chapter relating to the
22 taking of private property for works of internal improvement.

[S., '13, § 1989-a55.]

SEC. 4915. Claims of subcontractors—filing—priority.

1 Every mechanic, laborer, or other person who as subcontractor,
2 shall perform labor upon or furnish materials for the construction of
3 any drainage ditch provided for in this chapter, shall have a claim
4 against the funds provided for the payment of said ditch and improve-
5 ments for the value of such services and material not in excess of the
6 amount of the contract price for which no warrants shall have been
7 issued at the time of the filing of said claim. Such claim shall be made
8 by filing with the county auditor an itemized sworn statement of the
9 demand at any time after the performance of the labor or furnishing
10 of the material, but within thirty days from and after the completion
11 of the contract, and such claims shall have priority in the order in
12 which they are filed; provided that the county auditor shall not issue
13 warrants in excess of eighty per cent of the contract price until thirty
14 days after the completion of the contract; provided, further, that
15 neither the county auditor, nor the county, nor the drainage district
16 shall be liable for any greater sum than the contract price, nor shall
17 they or either of them be liable for the payment of the same before
18 the time provided for in the principal contract.

[S., '13, § 1989-a57.]

SEC. 4916. Adjudication—attorney's fee.

1 Any party in interest may cause an adjudication of the amount,
2 priority and mode and time of payment of such claims by an equi-
3 table action in the district court in the proper county. In such action
4 the court may assess a reasonable attorney's fee against the party
5 failing, in favor of said drainage district or county.

[S., '13, § 1989-a58.]

SEC. 4917. Release of claim—contractor may file bond for.

1 The contractor may at any time release such claim by filing with
2 the county auditor of the county in which the drainage ditch is located,
3 a bond for the benefit of such claimant in sufficient penalty and with
4 sureties to be approved by said county auditor, conditioned for the
5 payment of any sum which may be found due such claimant. Such
6 contractor may prevent the filing of such claims by filing in a like
7 manner a bond conditioned for the payment of persons who may be
8 entitled to file such claims. And actions may be brought on any such
9 bond by any claimant within one year after his cause of action ac-
10 crues, and judgment shall be rendered on said bond for the amount
11 due such claimant.

[S., '13, § 1989-a59.]

SEC. 4918. Drainage district under trustees—procedure.

1 In all drainage or levee districts heretofore established or which
2 may be hereafter established and not containing a pumping station
3 and costing for establishment and construction one hundred thousand
4 dollars or more and less than twenty-five per cent of which has been
5 spent for tile construction, any three or more persons who own land
6 within the district which has been assessed for benefits, may, after the
7 completion of the construction work of such district, file in the office
8 of the county auditor or county auditors, if the district is in more
9 than one county, a petition signed by a majority of the persons own-
10 ing land within the district assessed for benefits, and who in the
11 aggregate own a majority of the number of acres of land assessed for
12 benefits, asking that such district be placed under the management
13 and control of three trustees, who are owners of land assessed for
14 benefits in the district and residents of the county or counties in which
15 the district is situated, to be elected by the persons owning land as-
16 sessed for benefits in such district, such trustees shall be agents for
17 the property owners for the management of the business of the dis-
18 trict, but shall not be considered public officers.

[S. S., '15, § 1989-a61.]

SEC. 4919. Intercounty district—petition where filed.

1 If the district is located in more than one county, the petition
2 shall be presented to the boards of supervisors of the several coun-
3 ties in which the district is located.

[S. S., '15, § 1989-a62.]

SEC. 4920. Canvass of petition — election ordered — election board—election of trustees.

1 Upon the filing of said petition, the board of supervisors shall,
2 at their next regular meeting, canvass the same and if it shall be de-
3 termined that the same is signed by a majority of all the persons
4 owning land in said district that has been assessed for benefits, and
5 owning, in the aggregate, a majority of the acres of land assessed for
6 benefits in such district, the board of supervisors shall order an elec-
7 tion to be held at some convenient place in the district, at some time
8 not less than thirty days nor more than sixty days from the date of
9 the canvass of said petition, for the election of said trustees, and shall
10 name from the residents of the district owning land assessed for bene-
11 fits three judges and two clerks of election and shall cause notice of
12 said election, together with the time and place of holding same, to be
13 published in the county in which the district is situated, in which the
14 official proceedings of the board of supervisors are published, and if
15 any district is located in more than one county, it shall be published
16 in one such newspaper in each county. If the district is located in
17 more than one county, the boards of the several counties shall meet
18 in joint session as soon as possible after the petition is filed and can-
19 vass same in the same manner and for the same purpose as would be
20 done by one board if in one county, and if the petition is found to con-
21 tain the names of a majority of the owners owning a majority of the
22 area of the district, the joint boards shall call an election and perform
23 all the same duties that would be discharged by one board if the dis-
24 trict was located wholly within one county.

[S. S., '15, § 1989-a63.]

SEC. 4921. Canvass of vote—certification of result—certificates of election.

1 On the date designated for said election, the polls shall open at
2 eight o'clock a. m. and remain open until seven o'clock p. m., and the
3 judges of election shall canvass the vote and certify the result to the
4 county auditor or auditors with whom the petition was originally filed
5 and deposit the ballots cast and the poll books showing the names of
6 the voters, with the county auditor of that county having the greatest
7 part of the acreage of such district, and such county auditor shall issue
8 certificates to the trustees of their election.

[S. S., '15, § 1989-a64.]

SEC. 4922. Tenure of office.

1 The trustees so elected, shall hold office until the fourth Saturday
2 in January next succeeding their election and until their successors
3 are elected and qualified, and on the third Saturday in the January,
4 next succeeding their original election, an election shall be held at
5 which three trustees shall be chosen, one for one year, one for two
6 years, and one for three years, and each shall qualify and enter upon
7 the duties of his office on the fourth Saturday of the same January:

[S. S., '15, § 1989-a65.]

SEC. 4923. Tenure of office.

1 The term of the trustee shall be three years, and each shall serve
2 until his successor is elected and qualified.

[S. S., '15, § 1989-a66.]

SEC. 4924. Time of elections.

1 On the third Saturday in January in each year, an election shall
2 be held to choose a successor to the trustee whose term is about to
3 expire, and fill any vacancies that may have occurred since the last
4 election.

[S. S., '15, § 1989-a67.]

SEC. 4925. Vacancies.

1 If any vacancy occurs in the membership of the board between
2 the annual elections, the remaining members of the board shall have
3 power to fill such vacancies by appointment of persons having the
4 same qualifications as themselves, and the persons so appointed shall
5 qualify in the same manner and hold office until the next annual elec-
6 tion and until their successors are elected and qualified, and in the
7 event all places on the board become vacant, then a new board shall
8 be appointed by the county auditor of the county in which the greater
9 portion of the acreage of the district is located and the persons ap-
10 pointed by him shall hold office until the next annual election and
11 until their successors are elected and qualified.

[S. S., '15, § 1989-a68.]

SEC. 4926. Elections—how conducted.

1 The trustees shall act as judges of election; the clerk of the board
2 shall act as one of the clerks and some taxpayer of the district shall
3 be selected by the board to act as another clerk. The trustees shall
4 fill all vacancies in the election board. The result of all elections shall

5 be certified to the county auditor, or the several county auditors if the
6 district is located in more than one county.

[S. S., '15, § 1989-a69.]

SEC. 4927. Organization—selection of clerk.

1 As soon as the trustees have qualified, they shall organize by
2 electing one of their own number as chairman and may select some
3 other taxpayer of the district as clerk of the board, and the clerk shall
4 serve until the fourth Monday in January succeeding his election and
5 qualification unless sooner discharged by the board.

[S. S., '15, § 1989-a70.]

**SEC. 4928. Trustees — bond — duties — powers — readjustment
of assessment—expenses.**

1 The trustees shall qualify by giving a bond in the sum of five
2 thousand dollars each, conditioned for the faithful discharge of their
3 duties, signed by two or more sureties to be approved by the county
4 auditor of the county in which the greater portion of the area of the
5 district is located; but this bond shall be subject to be increased by
6 order of the board or boards of supervisors under whose supervision
7 the change to the trustee system was made. Upon the election and
8 qualification of the trustees, they shall have control and supervision
9 of such district in the same manner and with all the same powers that
10 are conferred on the board or boards of supervisors for the control
11 and supervision of drainage and levee districts under the drainage
12 and levee laws of Iowa and shall promptly and faithfully look after
13 all business of the district. If a reclassification and readjustment of
14 the assessment of property should ever be made, it shall be done under
15 the board or boards of supervisors in the same manner as the original
16 assessment. All costs and expenses incurred in making the change to
17 the trustee system, and all costs and expenses necessary to carry out
18 the powers and duties hereby conferred upon said trustees, shall, upon
19 certificate of the trustees to the board or boards of supervisors of the
20 amount of the same necessary therefor, be levied and collected upon
21 the land in said district in the same manner as taxes are levied and
22 collected upon such lands for drainage purposes.

[S. S., '15, § 1989-a71.]

SEC. 4929. Trustees to report proceedings to auditor.

1 Such trustees shall, from time to time, and with reasonable
2 promptness, furnish the auditor of each county in which any part of
3 said district is situated, with a correct record of their acts and pro-
4 ceedings, which statement must be signed by the chairman and the
5 clerk of the board and shall be recorded by the auditor in the drain-
6 age record, and same shall be published as a part of the proceedings
7 of the board of supervisors.

[S. S., '15, § 1989-a72.]

**SEC. 4930. Voting by agent—votes cast in proportion to assess-
ment—how nonresidents may vote.**

1 In all elections held under sections forty-nine hundred eighteen
2 to forty-nine hundred thirty-five, inclusive, the owner of each tract
3 of land, if he or she is over twenty-one years of age, shall, without re-

4 gard to sex, and any railroad or corporation owning property in such
 5 district and assessed for benefits shall, be entitled to at least one vote,
 6 and anyone whose land is assessed for benefits in a sum exceeding ten
 7 dollars shall be entitled to one vote for each ten dollars of the original
 8 assessment for benefits against the land actually owned by him in
 9 such district at the time of the election and which has been assessed
 10 for benefits in such district, but in order to have his ballot counted for
 11 more than one vote he shall write his name upon his ballot. The vote
 12 of any resident of a county in which the district is located in whole or
 13 in part must be cast in person. The vote of any owner of land includ-
 14 ing railroads and corporations assessed within the district who is not
 15 a resident of a county in which the district is located in whole or in
 16 part may have his or its vote cast by some resident taxpayer of the
 17 district or agent of such railroad or corporation who is authorized by
 18 a power of attorney signed and acknowledged by such nonresident
 19 landowner or duly authorized officer of such railroad or corporation
 20 to cast the vote for him, but the power of attorney in such case shall
 21 be filed with the county auditor.

[S. S., '15, § 1989-a73.]

SEC. 4931. Compensation.

1 The compensation of the trustees and the clerk of the board is
 2 hereby fixed at three dollars per day and necessary expenses to be
 3 paid out of the funds of the drainage district for each day necessarily
 4 expended in the transaction of the business of the district, but no one
 5 shall draw compensation for services as trustee and as clerk at the
 6 same time.

[S. S., '15, § 1989-a74.]

SEC. 4932. Certified copies of assessment to determine voting power of persons assessed.

1 Before any election is held, the election board shall obtain from
 2 the county auditor or auditors a certified copy of so much of the rec-
 3 ord of the establishment of such drainage district and the assessment
 4 of lands therein as will show what lands are embraced within such
 5 district, the classification of each tract and the amount of assessment
 6 levied against each tract for benefits in such district and the name
 7 of the person against whom same was so assessed for benefits, and
 8 such certified record shall be kept by such trustees for use in subse-
 9 quent elections and they shall, from time to time, procure from the
 10 county auditors additional certificates showing changes of title of
 11 lands assessed for benefits in the district and the name of the new
 12 owner, and anyone who has acquired ownership of assessed lands
 13 since the latest certificate from the auditor shall be entitled to vote
 14 for such lands if he presents to the election board for its inspection
 15 at the time he demands the right to vote the original recorded deed or
 16 a duly certified copy of the record of the deed under which he holds
 17 title.

[S. S., '15, § 1989-a75.]

SEC. 4933. Interstate drainage—cooperation with authorities of sister state—procedure.

1 Whenever proceedings for the drainage of lands within this
 2 state and bordering upon the state line are had and the total cost,

3 including all damage, of constructing the improvement in this state
 4 has been ascertained by the authorities of this state, and the engineer
 5 in charge, before the final establishment of the district, reports that
 6 the establishment and construction of such improvements ought to be
 7 jointly constructed with like proceedings for the drainage of adjoining
 8 lands in an adjoining state and that drainage proceedings are
 9 pending in such adjoining state for the drainage of such adjoining
 10 lands, then and in that case the said authorities of this state may enter
 11 an order continuing the hearing on the establishment of such district
 12 to the named date, of which all parties shall take notice, but
 13 shall have power, whenever the total cost, including damages, of constructing
 14 the improvement in such other state has been ascertained
 15 by the authorities of such other state, to enter into an arrangement
 16 or tentative agreement as to the separate amounts which the authorities
 17 of each state should in equity pay toward the construction of the
 18 joint undertaking. When such amount is thus determined, the authorities
 19 of this state shall enter the same in the minutes of their proceedings
 20 and shall proceed therewith as though such amount had been
 21 originally determined by them as the cost of constructing the improvement
 22 in this state.

23 When the bids for construction are opened, unless the construction
 24 work on each side of the line can go forward independently and
 25 without undue friction when let to contractors, no contract shall be
 26 let by the authorities in this state, unless by joint conference of the
 27 authorities of both states, the acceptance of a bid or bids for the construction
 28 of the whole project is first jointly agreed upon, but the contract
 29 or contracts for the construction of that portion of the improvement
 30 within this state shall be entirely distinct and separate
 31 from the contract or contracts let by the authorities of the neighboring
 32 state; provided that the contract or contracts for the construction
 33 of the work within this state shall not exceed an amount equal to the
 34 amount of the benefits assessed in this state less the damages allowed
 35 in this state and less the incidental expenses in this state.

[S. S., '15, § 1989-a77.]

SEC. 4934. Conditions precedent to letting contract or issuing bonds.

1 No contract shall be let until the improvement shall be conditionally
 2 and finally established in both states, and after final adjustment
 3 in both states of damages and benefits both as between individuals
 4 and lands. No bonds shall be issued until all litigation in both
 5 states arising out of said proceedings has been finally terminated by
 6 actual trial and hearing, or by the expiration of all right of appeal.

[S. S., '15, § 1989-a78.]

SEC. 4935. Repairs and improvements.

1 In so far as applicable, sections forty-nine hundred eighteen to
 2 forty-nine hundred thirty-four, inclusive, shall also apply to the repair
 3 and improvement of any work of drainage constructed under its provisions.
 4

[S. S., '15, § 1989-a79.]

CHAPTER 3.

MILLDAMS AND RACES.

SECTION 4936. Petition.

1 Any person who owns land on one or both sides of a watercourse,
 2 and desires to erect or heighten any dam thereon, or construct or en-
 3 large a race therefrom, for the purpose of propelling any mill or ma-
 4 chinery, erected or to be erected thereon or adjacent thereto, by the
 5 water thereof, or to use the water thereof in connection with any fac-
 6 tory, or for any other lawful purpose; provided, however, that in the
 7 use of such water, the same shall not be injuriously polluted or af-
 8 fected, nor the quantity thereof materially diminished; and provided,
 9 further, that such water shall be returned to the natural course of
 10 such stream, may file in the office of the clerk of the district court of
 11 the county in which such mill or machinery is, or is to be erected, a
 12 petition, designating himself as plaintiff and the owners of lands af-
 13 fected thereby as defendants, and describing with reasonable cer-
 14 tainty the locality where such mill or machinery is or is to be erected,
 15 with that of such dam or race, and also of the lands that will be over-
 16 flowed or otherwise affected thereby. No right acquired hereunder
 17 or hereby shall be absolute or perpetual.

[R., '60, §§ 1264, 1265, 1274; C., '73, §§ 1188, 1189; C., '97,
 § 1921; 37 G. A., ch. 25, § 1.]

SEC. 4937. Order for a jury—notice.

1 The clerk shall thereupon issue an order, with a copy of the peti-
 2 tion attached, directed to the sheriff, commanding him to summon a
 3 jury of twelve disinterested electors of his county to meet on a day
 4 fixed therein, and upon the lands described, which order, including
 5 the copy of the petition, shall be served on the defendants in the same
 6 manner and for the same length of time previous to the day fixed in
 7 the order as is required for the service of original notices. When
 8 service is made upon a minor or insane person having no guardian,
 9 the clerk at the time of issuing the order shall, by indorsement made
 10 thereon, appoint a suitable person to make defense for him.

[R., '60, §§ 1266, 1270; C., '73, § 1190; C., '97, § 1922.]

SEC. 4938. Continuance.

1 If the order shall not be executed by the sheriff on the day therein
 2 mentioned, he may, from time to time, appoint another day, notice
 3 thereof being given to the parties interested as hereinbefore provided;
 4 and if the inquest can not be completed in one day, the sheriff shall ad-
 5 journ the same from day to day until it is.

[R., '60, § 1270; C., '73, § 1200; C., '97, § 1932.]

SEC. 4939. Lands in another county.

1 If any of the lands are situated in a different county than that
 2 in which the petition is required to be filed, the proceedings shall apply
 3 thereto to the same extent as if such lands were situated in the county
 4 where it is filed.

[R., '60, § 1270; C., '73, § 1191; C., '97, § 1923.]

SEC. 4940. Action of jury.

1 The jury shall be sworn to, and shall, impartially and to the best
2 of their skill and judgment, view the lands described in the petition,
3 and ascertain and appraise the damages each of the defendants will
4 sustain by reason of such lands being overflowed or otherwise in-
5 juriously affected by the dam or race, or heightening or enlarging the
6 same, and ascertain whether the dwelling house, outhouse, orchard, or
7 garden of any defendant will be so affected, and, if so, whether the
8 same has been placed there for that purpose.

[R., '60, § 1267; C., '73, § 1192; C., '97, § 1924.]

SEC. 4941. Evidence—report.

1 The jury may, in addition to examining the premises, hear and
2 examine witnesses, and shall report their findings in writing, and at-
3 tach the same to the order, which shall be returned by the sheriff to
4 the clerk.

[R., '60, § 1267; C., '73, § 1193; C., '97, § 1925.]

SEC. 4942. Appeal.

1 Either party may appeal from such assessment of damages to
2 the district court within thirty days after the assessment is made,
3 in the manner, and the proceedings on such appeal shall be, as pro-
4 vided in case of appeals from assessment of damages in taking prop-
5 erty for works of internal improvement.

[C., '73, § 1194; C., '97, § 1926.]

SEC. 4943. Cause shown.

1 When the report of the jury is filed, the clerk shall issue an or-
2 der, directed to the defendants, requiring them to appear at the next
3 term of court and show cause why a license should not be granted to
4 construct or heighten the dam, or construct or enlarge the race; which
5 order shall be served in the same manner as the original order in the
6 proceeding.

[R., '60, § 1268; C., '73, § 1195; C., '97, § 1927.]

SEC. 4944. Objections filed—pleadings—another jury.

1 On or before the day fixed in the order to show cause, the de-
2 fendants may file any objections they see proper to the prior proceed-
3 ings, or to granting the license. The petition and objections shall
4 constitute the pleadings, and may be amended upon such reasonable
5 terms as the court may order; and if the proceedings of the jury are
6 found defective in substance, it may direct a new jury to be impaneled
7 and prescribe the terms of the notice to be given. The return of the
8 sheriff may be amended at any stage of the proceedings in accordance
9 with the facts.

[C., '73, § 1196; C., '97, § 1928.]

SEC. 4945. Evidence taken.

1 Evidence may be taken, to be introduced on the final hearing be-
2 fore the court, in the same manner as in equitable actions.

[C., '73, § 1197; C., '97, § 1929.]

SEC. 4946. License granted.

1 If the court shall find that neither the dwelling house, outhouse,
 2 garden or orchard of any defendant will be overflowed or injuriously
 3 affected, or that the same were placed on the premises for the pur-
 4 pose of being thereby overflowed or injuriously affected, and the same
 5 is reasonable and for the public benefit, license shall be granted to
 6 construct such dam or race thereon, the plaintiff paying to the right-
 7 ful parties the damages found by the jury and decreed by the court.

[R., '60, § 1269; C., '73, §§ 1193, 1198; C., '97, § 1930.]

SEC. 4947. Forfeiture of.

1 If the plaintiff does not begin within one year from the granting
 2 of the license to construct said dam or race, and finish and have in
 3 operation the mill or machinery within three years thereafter, and
 4 afterwards keep it in good repair for the accommodation of the pub-
 5 lic, or, in case it or the machinery is destroyed, he shall not begin to
 6 repair or rebuild the same within one year, and finish it within three
 7 years, the license shall be forfeited.

[R., '60, § 1269; C., '73, § 1199; C., '97, § 1931.]

SEC. 4948. No bar to action.

1 No proceedings under this chapter shall bar an action which could
 2 have been maintained if this chapter had not been enacted, unless the
 3 prosecution or action was actually foreseen and estimated upon the
 4 inquest.

[R., '60, § 1271; C., '73, § 1201; C., '97, § 1933.]

SEC. 4949. New party.

1 Any owner of land affected by any proceedings under this chap-
 2 ter, who has not been made a party thereto, may be brought in by
 3 proper proceedings at any time before final decree.

[R., '60, § 1272; C., '73, § 1202; C., '97, § 1934.]

SEC. 4950. Costs.

1 Costs and fees under this chapter shall be the same as in other
 2 cases for like services, and shall be paid by the plaintiff.

[R., '60, § 1273; C., '73, § 1203; C., '97, § 1935.]

SEC. 4951. Right to repair.

1 Where the water backed up by any dam belonging to any mill
 2 or machinery is about to break through or over the banks of the stream
 3 or race, or to wash a channel, so as to turn the water of such stream
 4 or race, or any part thereof, out of its ordinary channel, whereby
 5 such mill or machinery will be materially injured or affected, the
 6 owner or occupant of such mill or machinery, if he does not own such
 7 banks or the land lying contiguous thereto, may, if necessary, enter
 8 thereon, and erect and keep in repair such embankments and other
 9 works as may be necessary to prevent such water from breaking
 10 through or over the banks, or washing a channel as aforesaid; such
 11 owner or occupier committing thereon no unnecessary waste or dam-
 12 age, and being liable to pay all damages which the owner of the lands
 13 may actually sustain by reason thereof.

[R., '60, §§ 1275, 1276; C., '73, § 1204; C., '97, § 1936.]

SEC. 4952. Penalty for injuring embankment.

1 If any person shall injure, destroy or remove any such embank-
 2 ment or other works, the owner or occupier of such mill or machinery
 3 may recover of such person all damages he may sustain by reason
 4 thereof.

[R., '60, § 1277; C., '73, § 1205; C., '97, § 1937.]

SEC. 4953. Fall below dam.

1 Any person owning and using a water power for the purpose of
 2 propelling machinery shall have the right to acquire, maintain and
 3 utilize the fall below such power for the purpose of improving the
 4 same, in like manner and to the same extent as provided in this chap-
 5 ter for the erection or heightening of milldams. After such right has
 6 been acquired, the fall shall be considered part and parcel of said
 7 water power or privilege, and the deepening or excavating of the
 8 stream or tailrace, as herein contemplated, shall in no way affect any
 9 rights relating to such water power acquired by the owner thereof
 10 prior to such change.

[C., '73, § 1206; C., '97, § 1938.]

CHAPTER 4.
WATER POWER IMPROVEMENTS.**SECTION 4954. Taking land for.**

1 Any person, or any corporation organized for the purpose of
 2 utilizing and improving any water power within this state, or in the
 3 streams lying upon the borders thereof, may take and hold so much
 4 real estate as may be necessary for the location, construction and con-
 5 venient use of its canals, conduits, mains and waterways, or other
 6 means employed in the utilization of such water power, and for the
 7 construction of such buildings and their appurtenances as may be re-
 8 quired for the purposes aforesaid. Such person or corporation may
 9 also take, remove and use, for the construction and repair of its said
 10 canals, waterways, buildings and appurtenances, any earth, gravel,
 11 stone, timber or other materials on or from the land so taken. Com-
 12 pensation shall be made for the lands and materials so taken and used
 13 by such person or corporation, to the owner, in the manner provided
 14 for taking private property for works of internal improvement.

[C., '73, § 1236; C., '97, § 1990.]

SEC. 4955. Use of highways.

1 Such person or corporation may use, raise or lower any road for
 2 the purpose of having its said canals, waterways, mains and pipes
 3 pass over, along or under the same, and in such case shall put such
 4 road, as soon as may be, in good repair and condition for the safe and
 5 convenient use of the public. Any such person or corporation may
 6 construct and carry its canals, conduits, waterways, mains or water
 7 pipes across, over or under any railway, canal, stream or watercourse,
 8 when it shall be necessary for the construction or operation of the
 9 same, but shall do so in such manner as not to impede the travel,
 10 transportation or navigation upon, or other proper use of, such rail-

11 way, canal or stream. But the powers conferred in this section can
12 only be exercised in cities and towns with the consent and under the
13 control of the council.

[C., '73, § 1237; C., '97, § 1991.]

SEC. 4956. Public lands.

1 Such person or corporation is authorized to pass over, occupy
2 and enjoy any of the school, university and saline or other lands of
3 this state, whereof the fee or any use, easement or servitude therein
4 is in the public, making compensation therefor. But no more of such
5 land shall be taken than is required for its necessary use and con-
6 venience.

[C., '73, § 1238; C., '97, § 1992.]

SEC. 4957. Powers.

1 Such corporation, in addition to other powers, shall have the fol-
2 lowing: To borrow money for the purpose of constructing, renewing
3 or repairing its works; to make, execute and deliver contracts, bonds,
4 notes, bills, mortgages, deeds of trust, and other conveyance charging
5 or incumbering its property, including its franchises, or any part or
6 parcel thereof; to erect, maintain and operate canals, conduits, mains,
7 waterways, mills, factories, and other buildings and machinery, in-
8 cluding waterways, sluices and conduits for the purpose of carrying
9 waste water off from said premises to the stream from which the
10 same was taken, or other convenient place; to let, lease, or sell and
11 convey, any portion of their water supply, and any of the buildings,
12 mills or factories, or machinery, for such sums, prices, rents, tolls
13 and rates as shall be agreed upon between the parties; and to lay
14 down, maintain and operate such water mains, conduits, leads and
15 service pipes as shall be necessary to supply any building, village,
16 town or city with water; and the grantee of any such person or cor-
17 poration, or purchaser of said property, franchise, right and privi-
18 leges under and by virtue of any judicial sale, shall take and hold the
19 same as fully as the same were held and enjoyed by such person or
20 corporation.

[C., '73, § 1239; C., '97, § 1993.]

SEC. 4958. Completion of work—legislative control.

1 Such person or corporation shall take, hold and enjoy the privi-
2 lege of utilizing and improving the water power and the rights, powers
3 and privileges aforesaid, and shall proceed in good faith to make the
4 improvements and employ the powers above conferred, and shall, with-
5 in two years from the date of acquiring such powers, provide the
6 necessary capital, complete the preliminary surveys, and actually com-
7 mence the work of improving and utilizing the water power and fur-
8 nishing the supply of water as contemplated; and said waterworks
9 and canals shall be completed within five years thereafter. The
10 rights, powers, and privileges conferred by this chapter shall be at
11 all times subject to legislative control.

[C., '73, § 1240; C., '97, § 1994.]

CHAPTER 5.

EMINENT DOMAIN.

SECTION 4959. State may condemn.

1 When in the opinion of the governor the public interest requires
 2 the taking of any real estate for the making or construction of any
 3 drain, sewers, yards, walls, buildings or other improvements or con-
 4 veniences for the use or benefit of the penitentiaries, hospitals for the
 5 insane, or other institutions of the state, upon or across private prop-
 6 erty, the same proceedings may be had in the name of the state as
 7 provided in this chapter, and the proceedings shall be conducted by
 8 the county attorney of the county in which the land is situated, when-
 9 ever directed by the governor, or he may appoint some other person
 10 for that purpose.

[C., '73, § 1271; C., '97, § 2024.]

SEC. 4960. Institutions of United States—state to condemn land for—procedure.

1 When in the opinion of the governor of the state, the public inter-
 2 est requires the laying or construction of any drain, sewer or aque-
 3 duct, and the acquisition of an easement therefor, upon or across
 4 private property, or the taking of any real estate for the making or
 5 construction of any drain, sewer or aqueduct, or for rifle ranges, exer-
 6 cise, drill or parade grounds, yards, walls, buildings or other improve-
 7 ments or conveniences for the use or benefit of any fort, arsenal,
 8 military post or other institution of the United States, upon or across
 9 private property, the same proceedings may be had in the name of
 10 the state as are provided for the taking of private property for works
 11 of internal improvement, and the proceedings shall be conducted by
 12 the county attorney of the county in which the land is situated, when-
 13 ever directed by the governor, or he may appoint some other person
 14 for that purpose.

[S., '13, § 2024-a.]

SEC. 4961. Institutions of United States—state to condemn land for—damages certified—how paid—conveyance of title.

1 When the amount of the damages is finally determined, the sheriff
 2 or clerk, as the case may be, shall certify the amount thereof to the
 3 governor, who shall, by an order indorsed thereon, direct the payment
 4 of the same, including all costs and expenses incurred, and the auditor
 5 of state shall issue a warrant on the treasury for the amount, which
 6 shall be paid out of such money as may have been deposited in the
 7 treasury by the United States, or by any person or persons for and
 8 on its behalf, and when paid to the sheriff or person entitled thereto,
 9 the governor and auditor of state are hereby authorized and instructed
 10 to convey the easement or real estate so taken, and all of the rights
 11 of the state so acquired therein, to the United States, by good and
 12 sufficient deed of conveyance executed for, on behalf of and in the name
 13 of the state of Iowa, and thereupon the United States, through its
 14 proper officer or agent, may enter upon the premises and construct
 15 the desired work.

[S., '13, § 2024-b.]

SEC. 4962. United States may purchase or condemn.

1 Where the United States of America has undertaken or may here-
2 after undertake to improve any river, stream, or watercourse, forming
3 a part of the boundary line of this state, or within this state, or to
4 utilize any river, stream, or watercourse, for any purpose, deemed
5 advisable, the said United States may purchase, or condemn land and
6 private property, in accordance with the provisions of this chapter.

[S., '13, § 2024-c.]

SEC. 4963. Additional grounds for state purposes—jury selected by chief justice.

1 When, in the opinion of the executive council of the state, public
2 interest requires the taking of real estate as a site for any state build-
3 ing, or as additional grounds for any existing state building, or for
4 any other state purpose, the state may take and hold, under its right
5 of eminent domain, so much real estate as is necessary for the purpose
6 for which the same is taken; and proceedings may be instituted in
7 the name of the state of Iowa for the condemnation of such real estate
8 under the provisions of this chapter, except that the members of the
9 sheriff's jury shall be selected by the chief justice of the supreme court
10 of the state of Iowa upon receipt of notice from the sheriff of the
11 county in which the real estate is situated that the application here-
12 inafter mentioned has been made to such sheriff, and not more than
13 one member of such jury shall be residents of the same county, and
14 the names and places of residence of each juror so selected by the said
15 chief justice shall be returned by him and filed with said sheriff, and
16 the proceedings shall be conducted by some person appointed by the
17 governor of the state.

[S., '13, § 2024-d.]

SEC. 4964. Damages—how paid.

1 When the amount of damages is determined, the sheriff or clerk,
2 as the case may be, shall certify the amount thereof to the executive
3 council which shall, by an order indorsed upon the certificate, direct
4 the payment of the same, and the auditor of state shall, upon receipt
5 of such order, issue a warrant on the treasury for the amount, which
6 warrant shall be paid out of any money appropriated by the general
7 assembly for that purpose, or out of any money received from the
8 sale of other property, the proceeds of which may have been author-
9 ized by law to be used for the purpose of the purchase of real estate
10 for state use; and when the amount of such damages is paid to the
11 sheriff, the clerk, or the person entitled thereto, the state, through
12 its proper officer or agent, may enter upon the possession of the real
13 estate taken, and use and occupy the same for state purposes.

[S., '13, § 2024-e.]

SEC. 4965. Courthouses—jails—procedure.

1 When the interest of any county requires real estate for the erec-
2 tion of courthouses or jails by a county, such county may take and
3 hold such real estate for the purpose for which same is taken, by con-
4 demnation proceedings. Such proceeding shall be instituted pursuant
5 to a resolution of the board of supervisors of a county, and shall be
6 instituted and prosecuted in the name of the county seeking such con-

7 demnation by the county attorney for such county under the provisions
8 of this chapter.

[S., '13, § 2024-f.]

SEC. 4966. County fair society—real estate—acquisition of.

1 Any incorporated county fair society, county agricultural asso-
2 ciation, or district agricultural associations shall have the power to
3 acquire real estate for the necessary and convenient use of such so-
4 ciety or association in the same manner as is provided by law for
5 taking private property for works of internal improvement in this
6 chapter.

[38 G. A., ch. 292, § 1.]

SEC. 4967. Courthouses—jails—damages—how paid.

1 In cases where such condemnation is sought by a county, the
2 sheriff or clerk, as the case may be, shall, when the amount of the
3 damages is determined, certify the amount thereof to the board of
4 supervisors, and such board may direct payment thereof by resolution,
5 and the county auditor shall thereupon issue his warrant therefor
6 upon the proper fund of such county. In any case when the amount
7 of the damages is paid to the sheriff or clerk, or the person entitled
8 thereto, and the time for appeal has expired or final judgment entered
9 upon appeal, the county may enter into possession of the real estate
10 taken, through its proper officers or agents, and use and occupy the
11 same for the purpose taken.

[S., '13, § 2024-g.]

SEC. 4968. Courthouses—jails—appeals.

1 No county condemning or seeking to condemn land under the
2 provisions of this chapter shall be entitled to the possession of the
3 lands condemned or sought to be condemned until the time for appeal
4 to the district or supreme court from such condemnation has expired,
5 or final judgment rendered on appeal, and in all appeals from the
6 award of the sheriff's jury in such proceedings, the court shall have
7 jurisdiction to pass upon the public necessity for the condemnation
8 of such real estate, and shall determine the same without the inter-
9 vention of a jury, and may make such order with reference thereto
10 as it may deem proper within its discretion, and may modify, enlarge
11 or diminish the area of grounds sought to be condemned, but all ques-
12 tions as to amount of damages shall be determined by ordinary pro-
13 ceedings as in other cases of condemnation.

[S., '13, § 2024-h.]

SEC. 4969. Courthouses—jails—cities and towns.

1 Cities and towns including cities under special charters are hereby
2 authorized and empowered within or without their limits to procure,
3 purchase or condemn, enter upon and take any lands for the purpose
4 of obtaining gravel, stone or other suitable material with which to
5 improve the streets and alleys of such city or town, including a suitable
6 roadway thereto by the most reasonable route, and pay for the same
7 from the general fund, grading fund, or from the highway or poll
8 taxes of such city or town, or partly from each of said funds.

[S., '13, § 2024-j.]

SEC. 4970. Courthouses — jails — condemnation proceedings by cities and towns.

1 Proceedings for condemnation of land for the purposes aforesaid
2 shall be in accordance with the provisions relating to taking private
3 property for works of internal improvements.

[S., '13, § 2024-k.]

SEC. 4971. Private cemeteries—additional land for—petition to condemn.

1 When any private cemetery association, incorporated under the
2 provisions relating to corporations not for pecuniary profit, and hav-
3 ing its cemetery located outside the limits of an incorporated city or
4 town, shall desire to acquire additional land for cemetery use, it may
5 file with the auditor of the county in which its cemetery is situated,
6 a petition, directed to the governor of the state, asking that it may
7 be granted the right to condemn property. The petition shall be veri-
8 fied and shall contain a description of the land desired to be condemned,
9 the amount of land comprised therein, the names and addresses of
10 the owner or owners, so far as known, and a statement in general
11 terms that the association has been unable to agree with the owner
12 upon the price to be paid for the land, and that the land is reasonably
13 needed by the association for use for cemetery purposes.

[S., '13, § 1644-a.]

SEC. 4972. Notice—publication.

1 Notice that the petition is on file and will be heard at the next
2 regular meeting of the board of supervisors, stating the first day of
3 the said meeting, shall be prepared by the auditor, and, at the expense
4 of the association, be served upon the landowner whose land they seek
5 to condemn, the same as original notices are served. If the owner
6 is a nonresident of the county where the property sought to be con-
7 demned is located, notice shall be given by publication in some news-
8 paper of general circulation in the county for two consecutive weeks,
9 said paper to be designated by the auditor, and the last publication
10 to be at least ten days prior to the first day of the meeting of the board.

[S., '13, § 1644-b.]

SEC. 4973. Hearing before board of supervisors—recommendation to governor.

1 The board of supervisors, at its regular meeting, shall hear the
2 petitioner, and any persons appearing in opposition to the petition.
3 If it appears to the board that the land is reasonably necessary for
4 cemetery uses of the petitioner, the board shall recommend to the gov-
5 ernor of the state that the petitioner be given the right to condemn
6 the property, and the petition, with the recommendation of the board,
7 shall be transmitted to the governor by the auditor.

[S., '13, § 1644-c.]

SEC. 4974. Governor may grant right to condemn.

1 When such a petition is presented to the governor, with the
2 recommendation of the board of supervisors of the county that the
3 petition be granted, the governor may grant to the petitioner the right
4 to condemn the property named in the petition.

[S., '13, § 1644-d.]

SEC. 4975. Proceedings.

1 When the right to condemn is granted by the governor, proceed-
2 ings for condemnation may be taken by the private cemetery associa-
3 tion, as provided in this chapter. In such proceedings, the grant of
4 the right to condemn given by the governor shall be prima facie evi-
5 dence that the proceedings prior to the grant of the right by the
6 governor were in due form.

[S., '13, § 1644-e.]

SEC. 4976. Courthouses—jails—reversion of lands.

1 When lands that have been condemned and taken under the two
2 preceding sections and under section twenty-eight hundred eighty-
3 eight, and not used for the purpose herein specified for the period of
4 five consecutive years, such lands shall then revert to the owner or
5 owners of the tract from which it was taken.

[S., '13, § 2024-1.]

SEC. 4977. Ways to lands which have none.

1 Any person, corporation or copartnership owning or leasing any
2 land not having a public or private way thereto, may have a public
3 way to any railway station, street or highway established over the
4 land of another, not exceeding forty feet in width, to be located on
5 a division, subdivision or "forty" line or immediately adjacent thereto;
6 but if a railway is to be constructed thereon, as hereinafter provided,
7 the same may be located wherever necessary and practicable, but not
8 exceeding one hundred feet in width, and not interfering with build-
9 ings, orchards, gardens or cemeteries; and when the same shall be
10 constructed it shall, when passing through inclosed land, be fenced
11 on both sides by the person or corporation causing it to be established.

[C., '97, § 2028; S., '13, § 2028.]

SEC. 4978. Proceedings to condemn.

1 If the owner of any real estate necessary to be taken refuses to
2 grant the right of way, or if he and the person, partnership or cor-
3 poration asking its establishment can not agree upon the compensation
4 to be paid therefor, the sheriff of the county in which said real estate
5 is situated shall, upon the application of either party, appoint six free-
6 holders of the county, not interested in the same or a like question,
7 who shall assess the damage which said owner will sustain, and make
8 report thereof in writing to the sheriff, and, if the applicant for such
9 way shall, before entering upon said real estate for the purpose of
10 constructing such way, pay to the sheriff for the use of the owner
11 the sum assessed, said road may be at once constructed and maintained.

[C., '97, § 2029.]

SEC. 4979. Provisions applicable.

1 The application to the sheriff, and all other proceedings relating
2 thereto, the result of nonuser, and the rights and duties as to other
3 roads, shall be the same as provided in this chapter in relation to the
4 taking of private property for the right of way of railroads, the effect
5 of nonuser or abandonment of such rights of way and roadbeds, and
6 in the chapter or chapters of this code relating to roads, except that
7 the report of the commissioner and the record thereof shall confer no

8 title upon the applicant for the land so taken, but shall be presump-
9 tive evidence of the establishment of such way.

[C., '97, § 2030.]

SEC. 4980. By railway—limit of—cemeteries.

1 Any railway corporation organized in this state, or chartered by
2 or organized under the laws of the United States or any state or terri-
3 tory, may take and hold under the provisions of this chapter so much
4 real estate as may be necessary for the location, construction and con-
5 venient use of its railway, providing no part of any territory actually
6 platted, used and devoted to cemetery purposes shall be taken without
7 the consent of the proper officers or owners thereof, and may also
8 take, remove and use for the construction and repair of said railway
9 and its appurtenances, any earth, gravel, stone, timber or other ma-
10 terials on or from the land so taken. The land so taken, otherwise
11 than by the consent of the owners, shall not exceed one hundred feet
12 in width, except for wood and water stations, unless where greater
13 width is necessary for excavation, embankment or depositing waste
14 earth.

[R., '60, § 1314; C., '73, § 1241; C., '97, § 1995; S., '13,
§ 1995.]

SEC. 4981. For reservoirs.

1 It may also take and hold additional real estate at its water sta-
2 tions, for the purpose of constructing dams and forming reservoirs
3 of water to supply its engines. Such real estate shall, if the owner
4 requests it, be set apart in a square or rectangular shape, including
5 all the overflowed land, by the commissioners as hereafter provided;
6 but the owner of the land shall not be deprived of access to the water
7 or the use thereof, in common with the company, on his own land.
8 And the dwelling, outhouse, orchards and gardens of any person shall
9 not be overflowed or otherwise injuriously affected by any proceeding
10 under this section.

[C., '73, § 1242; C., '97, § 1996.]

SEC. 4982. Pipes.

1 Any such railway corporation may lay down pipes through any
2 land adjoining the track of the railway, not to a greater distance than
3 three-fourths of a mile therefrom, unless by consent of the owners
4 of the land through which the pipes may pass beyond that distance,
5 and maintain and repair such pipes, and thereby conduct water for
6 the supply of its engines from any running stream; and shall, without
7 unnecessary delay after laying down or repairing such pipes, cover
8 the same so as to restore the surface of the land through which they
9 may pass to its natural grade, and, as soon as practicable, replace any
10 fence that it may be necessary to open in laying down or repairing
11 such pipes; and the owner of the land through which the same may
12 be laid shall have a right to use the land through which such pipes
13 pass in any manner so as not to interfere therewith. Said pipes shall
14 not be laid to any spring, nor be used so as to injuriously withdraw
15 the water from any farm. Such corporation shall be liable to the
16 owner of any such land for any damages occasioned by laying down,
17 regulating, keeping open or repairing such pipes, to be recoverable,
18 from time to time, as they may approve.

[C., '73, § 1243; C., '97, § 1997.]

SEC. 4983. Additional depot grounds, yards and other purposes.

1 Any railway corporation owning or operating or constructing a
 2 railway shall have power to condemn lands for necessary additional
 3 depot grounds or yards, for the purpose of constructing a track or
 4 tracks to any mine, quarry, gravel pit, manufactory, warehouse, or
 5 mercantile establishment, for additional or new right of way for con-
 6 structing double track, reducing or straightening curves, changing
 7 grades, shortening or relocating portions of the line, for excavations,
 8 embankments, or places for depositing waste earth in the same man-
 9 ner as is provided by law for the condemnation of the right of way.
 10 Before any proceedings shall be instituted therefor, the company shall
 11 apply to the railway commissioners, who shall give notice to the land-
 12 owner, and examine into the matter and report by certificate to the
 13 clerk of the district court in the county in which the land is situated,
 14 the amount and description of the additional lands necessary for such
 15 purposes, present and prospective, of such company; whereupon the
 16 company shall have the power to condemn the lands so certified by
 17 the commissioners.

[C., '97, § 1998; S., '13, § 1998; 37 G. A., ch. 407, § 1.]

SEC. 4984. Manner of condemnation.

1 If the owner of any real estate necessary to be taken for either
 2 of the purposes mentioned in this chapter refuses to grant the right
 3 of way or other necessary interest in said real estate required for
 4 such purposes, or if the owner and the corporation can not agree upon
 5 the compensation to be paid for the same, the sheriff of the county in
 6 which such real estate may be situated shall, upon written application
 7 of either party, appoint six freeholders of said county, not interested
 8 in the same or a like question, who shall inspect said real estate, and
 9 assess the damages which said owner will sustain by the appropria-
 10 tion of his land for the use of said corporation, and make report in
 11 writing to the sheriff of said county; and, if the corporation shall, at
 12 any time before it enters upon said real estate for the purpose of con-
 13 structing said railway, pay to the sheriff, for the use of the owner,
 14 the sum so assessed and returned to him as aforesaid, it may con-
 15 struct and maintain its railway over and across such premises.

[R., '60, §§ 1317, 1318; C., '73, §§ 1244, 1245; C., '97, § 1999.]

SEC. 4985. Assessment of damages—notice.

1 The freeholders appointed shall be the commissioners to assess
 2 all damages to the owners of real estate in said county, and said cor-
 3 poration, or the owner of any land therein, may, at any time after
 4 their appointment, have the damages assessed in the manner herein
 5 prescribed, by giving the other party ten days' notice thereof in writ-
 6 ing, if a resident of this state, specifying therein the day and hour
 7 when such commissioners will view the premises, which shall be
 8 served in the same manner as original notices.

[R., '60, § 1318; C., '73, § 1245; C., '97, § 2000.]

SEC. 4986. Minor or insane owner.

1 If the owner of any lands is a minor, insane, or other person
 2 under guardianship, the guardian of such minor, insane or other
 3 person may, under the direction of the judge of the district court,
 4 agree and settle with said corporation for all damages by reason of

5 the taking of such lands for any of the purposes aforesaid, and may
6 give valid conveyances of such land.

[R., '60, § 1316; C., '73, § 1246; C., '97, § 2001.]

SEC. 4987. Nonresident owner.

1 If the owner of such lands is a nonresident of this state, no
2 demand of the land for a right of way or other purpose shall be neces-
3 sary, except the publication of a notice, which may be in the following
4 form:

5 Notice for the appropriation of lands for railway purposes.

6 To (here name each person whose land is to be taken or affected)
7 and all other persons having any interest in or owning any of the fol-
8 lowing real estate (here describe the land by its congressional num-
9 bers in tracts not exceeding one-sixteenth of a section, or, if the land
10 consists of lots in a town or city, by the numbers of the lot and block).

11 You are hereby notified that the.....has located its rail-
12 way over the above described real estate, and desires the right of way
13 over the same, to consist of a strip or belt of land.....feet in
14 width, through the center of which the center line of said railway will
15 run, together with such other land as may be necessary for berms,
16 waste banks and borrowing pits, and for wood and water stations (or
17 desires the same for any other purpose for which property is author-
18 ized by this chapter to be taken), and unless you proceed to have the
19 damages as to the same appraised on or before the.....day of
20, A. D..... (which time must be at least four weeks
21 after the publication of the notice), said company will proceed to have
22 the same appraised on the.....day of....., A. D.
23 (which must be at least eight weeks after the first pub-
24 lication of the notice), at which time you can appear before the
25 appraisers that may be selected.

26 By.....Attorney, or.....Agent,Railway
27 Company.

[R., '60, § 1320; C., '73, § 1247; C., '97, § 2002.]

SEC. 4988. Notice—how published.

1 Said notice shall be published in some newspaper in the county,
2 if there is one; if not, then in a newspaper published in the nearest
3 county through which the proposed railway is to be run, once each
4 week, for at least eight successive weeks prior to the day fixed for the
5 appraisalment at the instance of the corporation.

[C., '73, § 1248; C., '97, § 2003; S., '13, § 2003.]

SEC. 4989. Appraisalment.

1 At the time fixed for either of the aforesaid notices, the appraise-
2 ment of the lands described may be made and returned; but the
3 appraisalment and return may be in parcels larger than forty acres
4 belonging to one person and lying in one tract, unless the agent or
5 attorney of the corporation or the commissioners have actual knowl-
6 edge that the tract does not belong wholly to the person in whose
7 name it appears of record; and in case of such knowledge the appraise-
8 ment shall be made of the different portions as they are known to be
9 owned.

[C., '73, § 1249; C., '97, § 2004.]

SEC. 4990. Dwelling house, garden, or orchard.

1 If it appears from the finding of the commissioners that the
 2 dwelling house, outhouse, orchard or garden of the owner of any land
 3 taken will be overflowed or otherwise injuriously affected by any dam
 4 or reservoir to be constructed as authorized by this chapter, such dam
 5 shall not be erected until the question of such overflowing or other
 6 injury has been determined in favor of the corporation upon appeal.

[C., '73, § 1250; C., '97, § 2005.]

SEC. 4991. Vacancies filled.

1 In case of the death, absence, neglect or refusal of any of said
 2 freeholders to act as commissioners as aforesaid, the sheriff shall
 3 summon other freeholders to complete the panel.

[R., '60, § 1319; C., '73, § 1251; C., '97, § 2006.]

SEC. 4992. Costs.

1 The corporation shall pay all the costs of the assessments made
 2 by the commissioners and those occasioned by the appeal, including
 3 reasonable attorney fees to be taxed by the court, unless on the trial
 4 thereof the same or a less amount of damages is awarded than was
 5 allowed by the commissioners.

[R., '60, § 1317; C., '73, § 1252; C., '97, § 2007.]

SEC. 4993. Report recorded.

1 The report of the commissioners, where the same has not been
 2 appealed from, and the amount of damages assessed and costs has
 3 been deposited with the sheriff, or if an appeal is taken, and the
 4 amount of damages assessed on the trial thereof has been paid to the
 5 sheriff, may be recorded in the records of deeds in the county where
 6 the land is situated, and such record shall be presumptive evidence of
 7 title in the corporation of the property so taken, and shall constitute
 8 constructive notice of the rights of such corporation therein.

[C., '73, § 1253; C., '97, § 2008.]

SEC. 4994. Appraisement—appeal.

1 Either party may appeal from such assessment to the district
 2 court, within thirty days after the assessment is made, by giving the
 3 adverse party, or, if such party is the corporation, its agent or attor-
 4 ney, and the sheriff notice in writing that such appeal has been taken.
 5 The sheriff shall thereupon file a certified copy of so much of the
 6 appraisement as applies to the part appealed from, and said court shall
 7 try the same as in an action by ordinary proceedings. The land-
 8 owner shall be plaintiff and the corporation defendant.

[R., '60, § 1317; C., '73, § 1254; C., '97, § 2009; S., '13,
 § 2009; 38 G. A., ch. 189, § 1.]

SEC. 4995. Deposit—acceptance.

1 An appeal shall not delay the prosecution of work upon said
 2 railway, if said corporation pays or deposits with the sheriff the
 3 amount assessed. The sheriff shall not pay such deposit over to the
 4 person entitled thereto after the service of notice of appeal, but shall
 5 retain the same until the determination thereof. An acceptance by

6 the landowner of the damages awarded by the commissioners shall
7 bar his right to appeal.

[R., '60, § 1317; C., '73, §§ 1255, 1256; C., '97, § 2010.]

SEC. 4996. Trial—judgment—costs.

1 On the trial of the appeal, no judgment shall be rendered except
2 for costs. The amount of damages shall be ascertained and entered of
3 record, and if no money has been paid or deposited with the sheriff, the
4 corporation shall pay the amount so ascertained, or deposit the same
5 with the sheriff, before entering upon the premises. Should the cor-
6 poration decline to take the property and pay the damages awarded on
7 final determination of the appeal, then it shall pay, in addition to the
8 costs and damages actually suffered by the landowner, reasonable
9 attorney's fees, to be taxed by the court.

[C., '73, § 1257; C., '97, § 2011.]

SEC. 4997. Additional deposit.

1 If, on the trial of the appeal, the damages awarded by the com-
2 missioners are increased, the corporation shall pay or deposit with the
3 sheriff the whole amount of damages awarded before entering on or
4 using or controlling the premises. The sheriff, upon being furnished
5 with a certified copy of the assessment, may remove said corporation,
6 and all persons acting for or under it, from said premises, unless the
7 amount of the assessment is forthwith paid or deposited with him.

[C., '73, § 1258; C., '97, § 2012.]

SEC. 4998. Damages reduced.

1 If the amount awarded by the commissioners is decreased on the
2 trial of the appeal, the reduced amount only shall be paid the land-
3 owners.

[C., '73, § 1259; C., '97, § 2013.]

SEC. 4999. Channels or ditches along right of way.

1 In any case where it would have the right to dig a channel or cut
2 a ditch, so as to change and straighten the course of a stream or
3 watercourse too frequently crossed by such road, for the purpose of
4 protecting the right of way and roadbed, or promoting safety and
5 convenience in operation of the road, it may, if it can not agree with
6 the owners of the land to be crossed by such channel or ditch, either
7 as to its location or the price to be paid for land taken, condemn an
8 amount sufficient and convenient for such purpose, in the same manner
9 that lands for the right of way for the roadbed may be condemned;
10 and such condemnation shall be made with the same rights of appeal
11 as in other cases of condemnation of land for right of way uses. Noth-
12 ing in this section shall give the corporation the right to change the
13 course of any stream or watercourse where such right does not other-
14 wise exist, nor to turn such stream or watercourse off from any culti-
15 vated meadow, or pasture lands, when it only touches such lands at
16 one point, unless the owner or owners thereof consent to such
17 diversion.

[C., '97, § 2014.]

SEC. 5000. Nonuser of right of way.

1 Where a railway constructed in whole or in part has ceased to be
2 operated for more than five years; or where the construction of a

3 railway has been commenced and work on the same has ceased and
4 has not, in good faith, been resumed for more than five years, and
5 remains unfinished; or where any portion of any such railway has not
6 been operated for four consecutive years, and the rails and rolling
7 stock have been wholly removed therefrom; it shall be treated as
8 abandoned, and all rights of the person or corporation constructing or
9 operating any such railway, over so much as remains unfinished or
10 from which the rails and rolling stock have been wholly removed, may
11 be entered upon and appropriated as provided in the next section. If
12 the railway or any part thereof shall not be used or operated for a
13 period of eight years, or if, its construction having been commenced,
14 work on the same has ceased and has not been in good faith resumed
15 for eight years, the right of way, including the roadbed, shall revert
16 to the owner of the land from which said right of way was taken.

[C., '73, § 1260; C., '97, § 2015.]

SEC. 5001. Condemning abandoned right of way.

1 In case of abandonment, as provided in the preceding section, any
2 other corporation may enter upon such abandoned work, or any part
3 thereof, and acquire the right of way over the same, and the right to
4 any unfinished work or grading found thereon, and the title thereto, by
5 proceeding as near as may be in the manner provided in this chapter;
6 but parties who have previously received compensation in any form for
7 the right of way on the line of such abandoned railway, which has
8 not been refunded by them, shall not be permitted to recover the second
9 time. The value of such roadbed and right of way, excluding the
10 work done thereon, when taken for a new company, shall be assessed
11 for the benefit of the former company or its legal representative.

[C., '73, § 1261; C., '97, § 2016.]

SEC. 5002. Raising or lowering highways for crossings—railroad commission shall adjust disagreements.

1 Any such corporation may raise or lower any turnpike, plank
2 road, or other road, for the purpose of having its railroad cross over
3 or under the same, and, in such cases, such corporation shall put such
4 road, as soon as may be, in as good repair and condition as before
5 such alteration. Wherever a railroad now crosses an established high-
6 way or when a new railroad crosses an established highway, or when
7 it is desired to locate a new highway across an established railroad,
8 or when it is desired, by any citizen of or the board of supervisors of
9 any county or by the township trustees of any township, or by any
10 railroad company operating a railroad in this state, for the safety of
11 the public using such highway, to change, alter, relocate, or vacate an
12 established highway, where same crosses a railroad, and the railroad
13 company and the board of supervisors of the county or township trust-
14 tees of any township in which such highway crossing is located can
15 not agree in respect thereto, the board of railroad commissioners of
16 this state, upon application of either the board of supervisors or town-
17 ship trustees of any township or of twenty-five freeholders of said
18 county, or the railroad company interested, are authorized and em-
19 powered, after hearing upon reasonable notice, to determine the neces-
20 sity for such crossings, location thereof, whether the same shall be at
21 grade or otherwise, the manner in which the same shall be constructed,
22 maintained, or changed, division of expense thereof, and generally to

23 make such orders in respect thereto as are equitable and just, includ-
24 ing the right to require condemnation proceedings to be instituted by
25 the board of supervisors as may be necessary to carry out such order;
26 providing, however, that any portion of such expense that is borne by
27 any city, town, county, state, or other public body, shall forever be
28 considered as held in trust by said railroad company receiving same,
29 and no part of the same shall be considered a part of the value of the
30 properties of said railroad company upon which it is entitled to
31 receive a return.

[R., '60, § 1321; C., '73, § 1262; C., '97, § 2017; S. S., '15,
§ 2017.]

SEC. 5003. Further repairs.

1 If the supervisors, trustees, city council, or other person having
2 jurisdiction over such road, require further or different repairs or
3 alterations made thereon, or if the same, in their opinion, is unsafe,
4 they shall give notice thereof in writing to any agent or officer of the
5 corporation, and, if the parties are unable to agree respecting the
6 same, either may apply by petition, setting out the facts, to the
7 district court or judge thereof, and such court or judge shall cause
8 reasonable notice to be given the adverse party of the application.
9 The petition shall be filed in the clerk's office, and may be answered
10 as in other cases. The court shall determine the matter in a summary
11 way, and make the necessary orders in relation thereto, giving such
12 corporation, if found at fault, a reasonable time to comply therewith,
13 and, upon failure to do so, it may enjoin the corporation from using
14 so much of its road as interferes with any such roads, and may award
15 costs in favor of the prevailing party.

[R., '60, §§ 1322, 1323; C., '73, § 1263; C., '97, § 2018.]

SEC. 5004. Temporary ways.

1 Every such corporation, when employed in raising or lowering any
2 road, or in making any other alteration by means of which the same
3 may be obstructed, shall provide and keep in good order suitable tem-
4 porary ways to enable travelers to avoid or pass such obstructions.

[R., '60, § 1324; C., '73, § 1264; C., '97, § 2019.]

SEC. 5005. Crossing railways, canals.

1 Any such corporation may construct and carry its railway across,
2 over or under any railway, canal or watercourse, when it may be neces-
3 sary in the construction of the same, and in such cases it shall so
4 construct its crossings as not unnecessarily to impede the travel, trans-
5 portation or navigation upon the railway, canal or stream so crossed.
6 Said corporation shall be liable for the damages occasioned to any
7 person injured by reason of said crossing.

[R., '60, § 1325; C., '73, § 1265; C., '97, § 2020.]

SEC. 5006. Bridges—damages.

1 Every such corporation shall maintain and keep in good repair
2 all the bridges, with their abutments, which it may construct for the
3 purpose of enabling its railway to pass over or under any turnpike,
4 road, canal, watercourse or other way, and shall be liable for all dam-

5 ages sustained by any person in consequence of any neglect or viola-
6 tion of the provisions of this chapter.

[R., '60, §§ 1326, 1327; C., '73, §§ 1266, 1267; C., '97, § 2021.]

SEC. 5007. Private crossings.

1 When any person owns land on both sides of any railway, or when
2 the railway runs parallel with the public highway, thereby severing
3 the farm from the public highway, the corporation owning the same
4 shall, when requested to do so, make and keep in good repair a
5 sufficient causeway or other adequate means of crossing the same and
6 one cattle guard on each side thereof connected by cross fences to the
7 right of way fence on each side of the right of way at such reasonable
8 place as may be designated by the owner. If such person desires more
9 than one crossing or desires an overhead or underground crossing over
10 or under said railway, he shall serve or cause to be served a notice in
11 writing upon such railway company setting forth his demand, with a
12 plat of the land showing the place and manner of the desired crossing
13 or crossings. If such railroad company, within thirty days after hav-
14 ing been served with such notice, has failed and refused to construct
15 such crossing or crossings, such person may apply to the board of
16 railroad commissioners of this state, which shall have full authority
17 to determine all questions growing out of such demand, and upon
18 hearing, after due notice, make such order as it may deem just and
19 equitable.

[R., '60, § 1329; C., '73, § 1268; C., '97, § 2022; S., '13,
§ 2022.]

SEC. 5008. Right of way for canal, turnpike, or bridge.

1 When any corporation or person desires to construct a canal, turn-
2 pike, graded, macadamized or plank road, or a bridge, such corpora-
3 tion or person may take such private property as may be necessary for
4 right of way, not exceeding one hundred feet in width, by pursuing the
5 course prescribed in this chapter.

[C., '51, §§ 759-769; R., '60, §§ 1278-1288; C., '73, § 1269; C.,
'97, § 2023.]

SEC. 5009. Damages.

1 When the amount of the damages is finally determined, the sheriff
2 or clerk, as the case may be, shall certify the amount thereof to the
3 governor, who shall, by an order indorsed thereon, direct the payment
4 of the same, and the auditor of state shall issue a warrant on the
5 treasury for the amount, which shall be paid with any money not
6 otherwise appropriated, and when paid to the sheriff or person entitled
7 thereto, the state, through its proper officer or agent, may enter on
8 the premises and construct the desired work.

[C., '73, § 1272; C., '97, § 2025.]

SEC. 5010. Damages to abutting owners.

1 Unless the owners of the land abutting each side of said road
2 shall consent to such use, the railway company shall pay all damages
3 sustained by the landowners caused by building said road, which shall
4 be ascertained and paid in the same manner as is provided for taking
5 private property for works of internal improvement, and it shall also

6 be liable for all damages resulting from the carelessness of its officers,
7 agents or servants in the construction or operation of its railway.

[C., '97, § 2027.]

SEC. 5011. Railway established.

1 Any owner, lessee or possessor of lands having coal, stone, lead
2 or other mineral thereon, who has paid the damages assessed for roads
3 established as hereinbefore provided, may construct, use and maintain
4 a railway thereon, for the purpose of reaching and operating any
5 quarry or mine on such land and of transporting the products thereof
6 to market. In giving the notices required in such cases, the applicant
7 shall state whether a railway is to be constructed and maintained on
8 the way sought to be established, and, if it be so stated, the jury
9 shall consider that fact in the assessment of damages.

[C., '97, § 2031.]

SEC. 5012. Rights of riparian owners.

1 All owners and lessees of lands or lots situated upon the Iowa
2 banks of the Mississippi or Missouri rivers, upon which any business
3 is carried on which is in any way connected with the navigation of
4 either of said rivers, or to which such navigation is a proper or con-
5 venient adjunct, are authorized to construct and maintain, in front
6 of their property, piers, cribs, booms and other proper and convenient
7 erections and devices for the use of their respective pursuits, and the
8 protection and harbor of rafts, logs, floats and other water crafts, in
9 such manner as to create no material or unreasonable obstruction to
10 the navigation of the stream, or to a similar use of adjoining property.

[C., '97, § 2032.]

SEC. 5013. Construction of railroad.

1 No person or corporation shall construct or operate any railroad
2 or other obstruction between such lots or lands and either of said
3 rivers, or upon the shore or margin thereof, unless the injury and
4 damages to owners or lessees occasioned thereby shall be first ascer-
5 tained and compensated in the manner provided in this chapter for
6 taking private property for works of internal improvement.

[C., '97, § 2033.]

TITLE XVI.

COMMON CARRIERS.

CHAPTER 1.

BOARD OF RAILROAD COMMISSIONERS.

SECTION 5014. Election—organization.

1 The board of railroad commissioners shall consist of three persons
2 having the qualifications of electors, who shall be elected in the same
3 manner as other state officers. Immediately after the new member
4 has qualified, the board shall organize by electing one of its members
5 as chairman, and appointing a secretary, who shall take the same oath
6 as the commissioners; but this, or a part of this, may be done at a
7 subsequent meeting. Any person ineligible to the office of commis-
8 sioner shall be ineligible to the office of secretary of the board. The
9 board shall have power to employ such additional clerical help as it
10 may find necessary. No person in the employ of any common carrier,
11 or owning any bonds, stock or property in any railroad company, or
12 who is in any way or manner pecuniarily interested in any railroad
13 corporation, shall be eligible to the office of railroad commissioner, and
14 the entering into the employ of any common carrier, or the acquiring
15 of any stock or other interest in any common carrier by any officer
16 under this chapter, after his election or appointment, shall disqualify
17 him to hold the office and to perform the duties thereof.

[C., '97, § 2111.]

SEC. 5015. Supervision.

1 The board shall have the general supervision of all railroads in
2 the state operated by steam, express companies, car companies, sleep-
3 ing car companies, freight and freight line companies, and any com-
4 mon carrier engaged in the transportation of passengers or freight
5 by railroad, street railroads excepted, and shall investigate any alleged
6 neglect or violation of the laws of the state by any railroad corpora-
7 tion doing business therein, or by the officers, agents or employees
8 thereof.

[C., '97, § 2112.]

SEC. 5016. Powers and duties.

1 It shall from time to time carefully examine into and inspect the
2 condition of each railroad, its equipment, and the manner of its con-
3 duct and management with regard to the public safety and conven-
4 ience in the state; make semiannual examination of its bridges, and
5 report the condition thereof to the company to which they belong; and
6 if found by it unsafe it shall immediately notify the railroad com-
7 pany whose duty it is to put the same in repair, which shall be done
8 by it within ten days after receiving such notice. If any corporation
9 fails to perform this duty the board may forbid and prevent it from

10 running trains over the same while unsafe. And should any railroad
 11 or transportation company in this state fail to provide proper shelter
 12 for its patrons at stations where two or more tracks are operated, or
 13 fail or refuse to connect by proper switches or tracks with the tracks
 14 or lines of other railroad or transportation companies, the board may
 15 require such railroad or transportation company to provide the same
 16 in such manner and upon such conditions as it may determine. When,
 17 in the judgment of the board, any railway corporation fails in any
 18 respect to comply with the terms of its charter or articles of incor-
 19 poration or the laws of the state; or when in its judgment any repairs
 20 are necessary upon its road; or any addition to its rolling stock, or
 21 addition to or change in its stations or station houses, or the equip-
 22 ment thereof for the health and convenience of the public, or change in
 23 its rates of fare for transporting freight or passengers, or change in
 24 the mode of operating its road or conducting its business, is reasonable
 25 and expedient in order to promote the security, convenience, and
 26 accommodation of the public, the board may make an order prescrib-
 27 ing such improvements and changes and shall serve a notice upon such
 28 corporation, in the manner provided for the service of an original
 29 notice in a civil action, which notice shall be signed by its secretary, of
 30 the improvements and changes which it finds to be proper; and a
 31 report of such proceedings shall be included in its annual report to
 32 the governor as provided in the next section; but nothing in this
 33 section shall be so construed as relieving any railroad company from
 34 its present responsibility or liability for damage to person or property.

[C., '97, § 2113; S., '13, § 2113.]

SEC. 5017. Report.

1 The board shall annually, on or before the first Monday in Decem-
 2 ber, make a report to the governor of its doings for the preceding
 3 year, containing such facts, statements and explanations as will dis-
 4 close the working of such systems of railroad transportation in the
 5 state, and their relation to the general business and prosperity of the
 6 citizens thereof, with such suggestions and recommendations in
 7 respect thereto as may to the board seem appropriate. Said report
 8 shall also contain, as to every railroad corporation doing business in
 9 this state:

- 10 1. The amount of its capital.
- 11 2. The amount of its preferred stock, if any, and the condition of
 12 its preferment.
- 13 3. The amount of its funded debt and the rate of interest.
- 14 4. The amount of its floating debt.
- 15 5. The cost and actual present cash value of its road equipment,
 16 including permanent way, buildings and rolling stock, all real estate
 17 used exclusively in operating the road, and all fixtures and conven-
 18 iences for transacting its business.
- 19 6. The estimated value of all other property owned by it, with a
 20 schedule of the same, not including lands granted in aid of its con-
 21 struction.
- 22 7. The number of acres originally granted it by the United States
 23 or this state in aid of the construction of its road.
- 24 8. The number of acres of such land remaining unsold.
- 25 9. A list of its officers and directors, with their respective places
 26 of residence.

27 10. Such statistics of the road and of its transportation business
28 for the year as may, in the judgment of the commissioners, be neces-
29 sary and proper for the information of the general assembly or as
30 may be required by the governor.

31 11. The average amount of tonnage that can be carried over each
32 road in the state with an engine of given power.

33 Which report shall exhibit and refer to the condition of such
34 corporation on the first day of July of each year, and the details of
35 its transportation business transacted during the year ending June
36 thirtieth.

[C., '97, § 2114.]

SEC. 5018. Examinations.

1 The board shall have power, in the discharge of its duties, to
2 examine any of the books, papers or documents of any railway corpo-
3 ration, or to examine, under oath or otherwise, any officer, director,
4 agent or employee thereof; to issue subpoenas,—the cost thereof as
5 well as of the investigation to be first paid by the state, upon the
6 certificate of the board,—and to enforce obedience thereto in the per-
7 formance of its duties as courts of law may. Any person who shall
8 wilfully obstruct it or its members in the performance of their duties,
9 or who shall refuse to give any information within his possession that
10 may be required by them within the line of their duty, shall be guilty
11 of a misdemeanor, and upon conviction be fined not exceeding one
12 thousand dollars, in the discretion of the court.

[C., '97, § 2115.]

SEC. 5019. Duty of railroad to transport freight — passenger service.

1 Every railway corporation shall upon reasonable notice, and
2 within a reasonable time, furnish suitable cars to any and all per-
3 sons who may apply therefor, for the transportation of any and all
4 kinds of freight, and receive and transport such freight with all rea-
5 sonable dispatch, and provide and keep suitable facilities for the
6 receiving and handling thereof at any depot on the line of its road;
7 and shall also receive and transport in like manner the empty or
8 loaded cars furnished by any connecting road, to be delivered at any
9 station or stations on the line of its road, to be loaded or discharged or
10 reloaded and returned to the road so connecting; and for compensation
11 it shall not demand or receive any greater sum than is accepted by it
12 from any other connecting railroad for a similar service. In any suit
13 or action in court brought against a railroad corporation for the pur-
14 pose of enforcing rights arising under the provisions of this section,
15 the burden of proving that the provisions of this section have been
16 complied with by such railroad corporation shall be upon such railroad
17 corporation. Every railway corporation owning or operating lines of
18 railroads of more than twenty-five miles in length within the limits of
19 the state of Iowa shall maintain a service of not less than two pas-
20 senger trains each way every twenty-four hours, over the entire length
21 of each division of such line or lines, when so ordered by the board of
22 railroad commissioners. Passenger service of less than the number of
23 trains provided herein shall be presumed to be unreasonable within
24 the contemplation of section fifty hundred sixteen.

[C., '97, § 2116; S., '13, § 2116.]

SEC. 5020. Examination of rates.

1 The board shall, upon the application of the mayor and council of
2 any city or town, or the trustees of any township, make an examination
3 of the rate of passenger fare or freight tariff charged by any railroad
4 company, and of the condition or operation of any railroad, any part
5 of whose location lies within the limits of such city, town or township;
6 and if twenty-five or more voters in any city, town or township shall,
7 by written petition, request the mayor and council of such city or
8 town, or the trustees of such township, to make the said complaint and
9 application, and they refuse, they shall state the reason therefor in
10 writing upon the petition, and return the same to the petitioners, who
11 may thereupon, within ten days from the date of such refusal and
12 return, present the same to the board of commissioners, who shall, if
13 it thinks the public good demands the examination, proceed to make
14 it in the same manner as if called upon by the mayor and council of
15 any city or town, or the trustees of any township. Before proceeding
16 to make such examination, it shall give to the petitioners and the
17 corporation reasonable notice, in writing, of the time and place of
18 entering upon the same. If, upon such an examination, it shall appear
19 to the board that the complaint is well founded, it shall, within
20 ten days, inform the corporation operating such railroad of its finding,
21 and shall report its doings to the governor.

[C., '97, § 2117.]

SEC. 5021. Cumulative.

1 Nothing in this or chapter four shall be construed to estop or
2 hinder any persons or corporations from bringing action against any
3 railway company for any violation of the laws of the state for the
4 government of railroads.

[C., '97, § 2118.]

SEC. 5022. Orders of commissioners enforced—appeals—penalties, when remitted.

1 The district courts of this state shall have jurisdiction to enforce,
2 by proper decrees, injunctions and orders, the rulings, orders and
3 regulations affecting public rights, made or to be made by the board,
4 such as are now, or may hereafter be, authorized to be made by them
5 for the future direction and observance of railroads in this state.
6 The proceedings therefor shall be by equitable action in the name of
7 the state of Iowa, and shall be instituted by the attorney general,
8 whenever advised by the board that any railway corporation, or per-
9 son operating a line of road in this state, is violating and refusing
10 to comply with any rule, order or regulation made by the board, and
11 applicable to such railroad or person. It shall be the duty of the
12 court in which any such cause shall be pending to require the issue
13 to be made up at the first term of the court to which such cause is
14 brought, which shall be the trial term, and to give the same prece-
15 dence over other civil business. If the court shall find that such rule,
16 regulation or order is reasonable and just, and that in refusing com-
17 pliance therewith said railway company is failing and omitting the
18 performance of any public duty or obligation, the court shall decree
19 a mandatory and perpetual injunction, compelling obedience to and
20 compliance with such rule, order or regulation by said railroad com-
21 pany, or other person, its officers, agents, servants and employees,

22 and may grant such other relief as may be deemed just and proper.
 23 All violations of such decree shall render the company, persons, offi-
 24 cers, agents, servants and employees who are in any manner instru-
 25 mental in such violation, guilty of contempt of court, and the court
 26 may punish such contempt by a fine not exceeding one thousand dol-
 27 lars for each offense, and may imprison the person guilty of contempt
 28 until he shall sufficiently purge himself therefrom. And such decree
 29 shall continue and remain in effect and be enforced until the rule,
 30 order or regulation shall be modified or vacated by the board.

31 All rules, orders and regulations affecting public rights, made
 32 or to be made by the board of railroad commissioners, such as are
 33 now or may hereafter be authorized to be made by them for the future
 34 direction and observance of railroads in this state, shall be in full
 35 force and effect from and after the date fixed by the board for the
 36 taking effect of such rules, order and regulations. If any railroad
 37 fails, neglects or refuses to comply with any rule, order or regulation
 38 made by the board within the time specified, it shall pay a penalty of
 39 fifty dollars for each and every day it fails, neglects or refuses to
 40 obey any rule, order or regulation so made, to be recovered in any
 41 court having jurisdiction.

42 Any railroad aggrieved at any rule, order or regulation made by
 43 the board may institute proceedings in any court of proper jurisdic-
 44 tion to have the rule, order or regulation complained of vacated, if
 45 found by the court, after due trial, not to be reasonable, equitable or
 46 just, and if upon an appeal from any rule, order or regulation of the
 47 board the complaining railroad is successful in having such rule, order
 48 or regulation vacated, the aforesaid penalty shall be set aside; if un-
 49 successful, there shall be taxed as a part of the costs a reasonable
 50 attorney's fee for the attorney appearing in behalf of the state.

51 The time for the taking effect of any rule, order, or regulation
 52 affecting public rights, made by the board of railroad commissioners
 53 as provided herein, may, in its discretion, be extended, and said exten-
 54 sion of time may be granted for the purpose of testing the legality
 55 thereof, upon application by any such aggrieved railroad, showing
 56 reasonable grounds therefor, and that said application is made in good
 57 faith and not for the purpose of delay. When any railroad shall fail
 58 upon appeal to secure a vacation of the order from which it has ap-
 59 pealed, it may apply to the court in which said appeal is finally adjudi-
 60 cated for an order remitting the penalty which has accrued during
 61 the pendency of the appeal, and upon a satisfactory showing that the
 62 order appealed from was unreasonable or unjust, or that the power
 63 of the board to make the same was doubtful and that said appeal has
 64 been prosecuted in good faith and not for the purposes of delay, such
 65 court may remit the penalty that has accrued during the pendency
 66 of the appeal.

[C., '97, § 2119; S., '13, § 2119.]

SEC. 5023. Costs—attorney's fees.

1 When a decree shall be entered against a railroad company or
 2 person under the preceding section, the court shall render judgment
 3 for costs, and attorney's fees for counsel representing the state.

[C., '97, § 2120.]

SEC. 5024. Interstate freight rates—investigation.

1 It is hereby made the duty of the board of railroad commissioners
 2 to exercise constant diligence in informing themselves of the rates,

3 charges, rules, and practices of common carriers engaged in the trans-
4 portation of freight from points in this state to points beyond its
5 limits, and from points in other states to points in this state, also in
6 territory wholly outside this state; and whenever it shall come to the
7 knowledge of the board of railroad commissioners, either from their
8 own investigation or by complaint made to them in any manner what-
9 soever, that the rates charged by any common carrier on interstate
10 business are unjust or unreasonable, or that such rates, rules or prac-
11 tices discriminate unjustly against the citizens, industries or interests
12 of this state, or place any of the citizens, industries or interests of this
13 state at an unreasonable disadvantage as compared with those of
14 other states, or are levied or laid in violation of the act to regulate
15 commerce, or in conflict with the rulings, orders or regulations of the
16 interstate commerce commission, it shall be the duty of the board of
17 railroad commissioners to immediately call the attention of the offi-
18 cials of railroads operating in this state to the fact and to urge upon
19 them the propriety of changing such rate or rates, rules or practices.

[S., '13, § 2120-a.]

SEC. 5025. Appeal to interstate commerce commission—prosecutions.

1 When such rates, rules or practices are not changed or adjusted
2 so as to remove or remedy such discrimination within a reasonable
3 time, it shall be the duty of the board of railroad commissioners, when
4 it can legally be done, to present the facts involved in such discrimina-
5 tion to the interstate commerce commission and appeal to it for relief
6 and thereafter, if deemed necessary, by said board of railroad com-
7 missioners, they shall prosecute any charge or charges growing out
8 of any such discrimination at the expense of the state, before said
9 interstate commerce commission.

[S., '13, § 2120-b.]

SEC. 5026. Attorney general to assist.

1 In all work devolving upon the railroad commission they shall
2 receive, upon application, the services of the attorney general of this
3 state, and he shall also represent them, whenever called upon to do so,
4 before the interstate commerce commission.

[S., '13, § 2120-c.]

SEC. 5027. Wires over railroad tracks.

1 The railroad commissioners of this state shall have general super-
2 vision over any and all wires for transmitting electric current or any
3 other wire whatsoever crossing under or over any track of a railroad
4 in this state.

[S., '13, § 2120-d.]

SEC. 5028. Regulations.

1 The railroad commissioners shall make regulations prescribing
2 the manner in which such wires shall cross such railroad tracks in
3 this state.

[S., '13, § 2120-e.]

SEC. 5029. Wires must be strung in manner prescribed.

1 It shall hereafter be unlawful for any corporation or person to
2 place or string any such wire for transmitting electric current or any

3 wire whatsoever across any track of a railroad in this state except in
4 such manner as may be prescribed by the railroad commissioners as
5 provided by the two preceding sections.

[S., '13, § 2120-f.]

SEC. 5030. Examination of wires already strung.

1 The board of railroad commissioners shall, either by personal
2 examination or otherwise, obtain information where the tracks or
3 railroads are crossed by wires strung over said tracks, contrary to
4 or not in compliance with the rules prescribed by the railroad commis-
5 sioners as contemplated by sections fifty hundred twenty-seven to
6 fifty hundred thirty-three, inclusive, and shall order such change or
7 changes to be made by the persons or corporations owning or operat-
8 ing such wires as it may deem necessary to make the same comply
9 with said rules and within such reasonable time as it may prescribe.

[S., '13, § 2120-g.]

SEC. 5031. Minimum height.

1 In case such wires cross over said track, in no case shall said
2 board of railroad commissioners prescribe a less height than twenty-
3 two feet above the top of the rails of any railroad track for any wire.

[S., '13, § 2120-h.]

SEC. 5032. Wires across railroad right of way at highways.

1 The board of railroad commissioners are hereby authorized to
2 provide for and regulate the crossing of wires over and across railroad
3 right of ways at highways and other places within the state.

[S., '13, § 2120-i.]

SEC. 5033. Penalty—enforcement.

1 Any person or corporation who shall string or maintain any wire
2 across any railroad track in this state at a different height or in a
3 different manner from that prescribed by the said board of railroad
4 commissioners shall forfeit and pay to the state of Iowa the sum of
5 one hundred dollars for each separate period of ten days during which
6 such wire is so maintained, said forfeiture to be recovered in a civil
7 action brought in any court of competent jurisdiction in the name of
8 the state of Iowa, by the attorney general, or by the county attorney
9 of the county in which such wire is situated, at the request of the said
10 board of railroad commissioners, and it is hereby made the duty of
11 the said attorney general and county attorney to bring such action
12 forthwith upon being so requested.

[S., '13, § 2120-j.]

SEC. 5034. Accidents—investigation of—report.

1 Upon the occurrence of any serious accident upon any railroad
2 within this state, which shall result in personal injury, or loss of life,
3 the corporation operating the road upon which the accident occurred
4 shall give immediate notice thereof to the board of railroad commis-
5 sioners whose duty it shall be, if they deem it necessary, to investigate
6 the same, and promptly report to the governor the extent of the per-
7 sonal injuries, or loss of life, and whether the same was the result
8 of mismanagement or neglect of the corporation on whose line the

9 injury or loss of life occurred; but such report shall not be evidence
10 or referred to in any case in any court.

[S., '13, § 2120-k.]

SEC. 5035. Uniform gauge—inspection—order.

1 The railroad commissioners of Iowa are charged with the duty
2 to inspect and examine all railroad lines or branches that are of a
3 gauge less than four feet eight and one-half inches in width of track,
4 and if, considering the interest of the public and the railroad traffic
5 tributary to that line or branch road, and the physical or natural
6 difficulties to be encountered and the expense that would be involved
7 or incurred in changing the track to a gauge of four feet eight and
8 one-half inches in width, and making it practical to operate the said
9 line or branch road on that gauge, it appears to be reasonable and
10 just to require the railway company which is the owner to do so, then
11 said commissioners shall enter an order fixing a reasonable time with-
12 in which said railroad track is to be changed to a gauge of four feet
13 eight and one-half inches in width.

[S., '13, § 2120-l.]

SEC. 5036. Uniform gauge—inspection—order.

1 It shall be the duty of the railroad commissioners to examine all
2 the railroads in this state, now in existence, that are less than four
3 feet eight and one-half inches gauge, and if they find that it is feasi-
4 ble or in their judgment necessary and reasonable to change the gauge
5 of any such railroad to four feet eight and one-half inches, they shall
6 make their order in writing, fixing such reasonable time within which
7 such gauge shall be changed to that width. In making such order,
8 said commissioners shall take into consideration the amount and prob-
9 able life of the rolling stock of such narrow gauged road, and all other
10 facts bearing on the reasonableness of the time to be allowed to make
11 such change of gauge.

[S., '13, § 2120-m.]

SEC. 5037. Electric current transmission lines — franchise — hearing.

1 Upon petition to the railroad commission of the state of Iowa,
2 said railroad commission may grant to any individual or corporation
3 organized under the laws of Iowa, or corporation authorized to trans-
4 act business in Iowa under the general incorporation laws of the state,
5 engaged in the manufacture, sale, or distribution for sale of electric
6 current for light, power, or heating purposes, the right within the
7 state, except in cities and towns, to erect, use and maintain poles,
8 wires, guy wires, towers, fixtures and other necessary construction
9 for the purpose of conducting electricity for lighting, power and heat-
10 ing purposes over, along and across any public lands, highways or
11 streams or the lands of any person or persons, and to acquire the
12 necessary interests in real estate therefor. The said petition shall
13 set forth the manner, methods and specifications for the construction
14 of said line, together with a general description of the public lands,
15 highways, streams or private lands over which it is desired that said
16 transmission line be constructed, together with a map showing the
17 starting point, route and terminus of said proposed line. Upon the
18 filing of said petition, the commission shall cause publication in the
19 official newspapers of each county into or through which said pro-

20 posed line extends, of a notice addressed to the citizens of said county,
 21 which notice shall contain a statement as to the purpose of the peti-
 22 tion, a description of the lands to be traversed by the transmission
 23 line, and the date and place fixed by the commission for hearing upon
 24 said petition.

25 The date fixed shall be not less than ten days after the last publi-
 26 cation of said notice hereinbefore provided for, and at any time before
 27 final submission to the commission, objections in writing to the pro-
 28 posed line, either as to its establishment or location, may be filed with
 29 the commission and shall be given due consideration. The expense
 30 of said publication shall be paid by the applicant as a condition prece-
 31 dent to said hearing. The commission may personally examine the
 32 proposed route and upon said hearing may grant the application either
 33 as a whole or in part, or upon such conditions as to terms and location
 34 as to the commission may seem right and just. The privilege granted
 35 by the commission shall be and constitute a franchise to operate and
 36 maintain the proposed transmission line, but all rights granted by
 37 said franchise shall be subject to the provisions of this section and
 38 also to such regulations as the legislature may, from time to time,
 39 prescribe, either by direct legislative enactment or by and through the
 40 railroad commission, under the laws of Iowa now or hereafter in
 41 force.

[S., '13, § 2120-n.]

SEC. 5038. Additional rights—how granted.

1 Any person, or corporation organized under the laws of this
 2 state, or corporation authorized to transact business in Iowa under
 3 the general incorporation laws of the state, owning or operating a
 4 transmission line for the conducting of electricity, or who or which
 5 has obtained a right so to do, and desires to acquire additional rights
 6 for the purposes contemplated herein, may petition the railroad com-
 7 mission, as hereinbefore provided, for the original granting of such
 8 right, and the same proceedings shall be taken as hereinbefore pro-
 9 vided; but before the commission shall act upon such petition, the
 10 person or corporation filing same shall, with said petition, file its
 11 consent that the provisions of all laws relating to public utilities or
 12 to the regulation, supervision, or control thereof which are now in
 13 force or which may be hereafter enacted shall apply to its existing
 14 line or lines with the same force and effect as though said line or lines
 15 had been constructed under the permit provided for in the preceding
 16 section.

[S., '13, § 2120-o.]

SEC. 5039. Obtaining franchise deemed acceptance of provisions and regulations.

1 Any transmission line proceeding under the two preceding sec-
 2 tions and obtaining the franchise therein provided shall be conclusively
 3 held to an acceptance of said provisions and of all acts or laws relat-
 4 ing to public utilities or to the regulation, supervision or control
 5 thereof which are now in force or which may be hereafter enacted,
 6 and to have consented to such reasonable regulation as the commis-
 7 sion may, from time to time, prescribe.

[S., '13, § 2120-p.]

SEC. 5040. Eminent domain—extent—procedure.

1 Any person or corporation having secured the franchise provided
 2 for in the preceding sections shall thereupon be vested with the right
 3 of eminent domain to such extent as may be necessary and as pre-
 4 scribed and approved by the commission, not exceeding twenty-five
 5 feet in width, to carry out the purposes of said franchise, and in the
 6 event agreement with the private owner of lands as to damages caused
 7 by the construction of said transmission line can not be made, the
 8 same proceedings shall be taken as provided for taking private prop-
 9 erty for works of internal improvement.

[S., '13, § 2120-q.]

SEC. 5041. Supervision of construction—requirements—danger signals.

1 The railroad commission shall have power of supervision over
 2 the construction of said transmission line and over its future opera-
 3 tion and maintenance, and said transmission line shall be constructed
 4 near and parallel to the right of way of the railways of the state or
 5 along the division lines of the lands, according to the government
 6 survey thereof, wherever the same is practicable and reasonable, and
 7 so as not to interfere with the use by the public of the highways or
 8 streams of the state, nor unnecessarily interfere with the use of any
 9 lands by the occupant thereof, and shall be built of strong and proper
 10 wires attached to strong and sufficient supports properly insulated
 11 at all proper points of attachment; all wires, poles and other devices
 12 which by ordinary wear or other causes are no longer safe shall be
 13 removed and replaced by new wires, poles or other devices, as the
 14 case may be, and all abandoned wires, poles or other devices shall be
 15 at once removed. Where wires carrying current are carried across,
 16 either above or below wires used for other service, the said trans-
 17 mission line shall be constructed in such manner as to eliminate, so
 18 far as practicable, damages to persons or property by reason of said
 19 crossing; there shall also be installed sufficient devices to automati-
 20 cally shut off electric current through said transmission line when-
 21 ever connection is made whereby current is transmitted from the
 22 wires of said transmission line to the ground, and there shall also be
 23 provided a safe and modern improved device for the protection of said
 24 line against lightning. No transmission line shall be constructed, ex-
 25 cept by agreement, within one hundred feet of any dwelling house
 26 or other building, except where said line crosses or passes along a
 27 public highway or is located alongside or parallel with the right of
 28 way of any railway company. At any crossing of any highway by
 29 said transmission line, the poles or towers next to the highway shall
 30 be labeled with the following words: "Danger.....volts
 31 Electricity." The stroke of said letters and numbers shall be at least
 32 four inches in length and not less than five-eighths of an inch in width,
 33 and the color of the letters and numbers shall be in contrast with the
 34 color of the background. The said labels shall show the maximum
 35 number of volts of electricity transmitted over said line, and said label
 36 shall face toward the highway. Where said poles or towers are ex-
 37 tended along said highway and within the limits thereof or imme-
 38 diately adjacent thereto, the sign hereinbefore described shall be
 39 placed at least every quarter of a mile. The commission shall have
 40 full power and authority to add such further and additional rules and

41 regulations as regards location, construction, operation and main-
 42 tenance of said transmission line as may be reasonable.
 [S., '13, § 2120-r.]

SEC. 5042. Injury to person or property—burden of proof.

1 In case of injury to any person or property by any transmission
 2 line operating under the foregoing provisions, negligence will be pre-
 3 sumed on the part of the person or corporation operating said line in
 4 causing said injury, but this presumption may be rebutted by proof,
 5 but no change in the rule of the burden of proof shall exist in favor
 6 of employees of the person or corporation operating said transmission
 7 line who are charged with or engaged in the construction, reconstruc-
 8 tion, repair or maintenance thereof.

[S., '13, § 2120-s.]

SEC. 5043. Access to lines—damages to lands and crops.

1 Individuals or corporations operating transmission lines con-
 2 structed under the foregoing provisions, or operating by acceptance
 3 under said provisions, shall have reasonable access to said transmis-
 4 sion line for the purpose of constructing, reconstructing, enlarging,
 5 repairing or locating the poles, wires or construction and other devices
 6 used in or upon said transmission line, but shall pay to the owner of
 7 such lands and of crops thereon all damages to said lands or crops
 8 caused by entering, using and occupying said lands for said purposes.
 9 Said damages shall be payable annually at the end of each season, and
 10 shall be payable in the county where caused, but nothing herein con-
 11 tained shall be construed to prevent the execution of an agreement
 12 between said operating company and the owner of said land or crops
 13 with reference to the use thereof.

[S., '13, § 2120-t.]

SEC. 5044. Salaries.

1 The board shall keep an office in the capitol at the seat of govern-
 2 ment, and each commissioner shall receive a salary of three thousand
 3 dollars a year, and shall devote his whole time to the duties of his
 4 office.

5 The secretary of the board shall receive a salary of not to exceed
 6 twenty-two hundred dollars a year.

[C., '97, § 2121; S. S., '15, § 2121; 37 G. A., ch. 315, § 2.]

CHAPTER 2.

COMMERCE COUNSEL.

SECTION 5045. Appointment—term—removal—vacancy.

1 There is hereby created and established the office of commerce
 2 counsel, which shall be filled by an attorney of the state of Iowa, who
 3 shall be appointed by the board of railroad commissioners, subject to
 4 the approval of two-thirds of the members of the senate in executive
 5 session. Every four years an attorney shall be appointed as said
 6 commerce counsel, whose term of office shall be for a period of four
 7 years commencing on the first day of July in the year appointed, or

8 until his successor is appointed and qualified. The board of railroad
9 commissioners may, by and with the consent of the senate, during a
10 session of the general assembly, remove said counsel for malfeasance
11 or nonfeasance in office, or for any cause that renders him ineligible
12 for appointment, or incapable or unfit to discharge the duties of his
13 office; and his removal, when so made, shall be final. A vacancy in
14 said office occurring while the general assembly is in session, shall be
15 filled for the unexpired term, by an appointment made by the board
16 of railroad commissioners, with the approval of two-thirds of the mem-
17 bers of the senate in executive session. If the general assembly is
18 not in session, then the said vacancy shall be filled by an appointment
19 made by the board of railroad commissioners, which appointment shall
20 expire thirty days from the time the next general assembly convenes.

[S., '13, § 2121-h.]

SEC. 5046. Eligibility.

1 No person in the employ, or owning any bonds, stock or property
2 in, or who has, in any way or manner, pecuniary interest in any cor-
3 poration, or business subject to the jurisdiction of the state board of
4 railroad commissioners or interstate commerce commission, shall be
5 eligible to said office; and the entering into the employ of, or acquiring
6 of any stock or other interest in, any such corporation or business by
7 said attorney, after his election or appointment, shall disqualify him
8 from holding said office or performing the duties thereof. Said com-
9 merce counsel shall not engage in any other business, vocation or em-
10 ployment, than herein specified, nor shall he be a member of any
11 political committee, or contribute to any political campaign fund, or
12 take any part in political campaigns or be a candidate for any political
13 office, during his term as commerce counsel.

[S., '13, § 2121-i.]

SEC. 5047. Office—assistants—compensation—expenses.

1 Said commerce counsel shall have his office in the quarters as-
2 signed to the board of railroad commissioners and he shall have free
3 access to all the files, documents, reports and papers in said offices.
4 He shall have the power and authority to appoint and remove, subject
5 to the approval of the board of railroad commissioners, assistants,
6 stenographers and rate clerks to assist him in the performance of his
7 duties, the salaries and expenses of said employees to be paid out of
8 the funds at the disposal of the board of railroad commissioners and
9 subject to the order of said board. The annual salary of the said
10 commerce counsel shall be five thousand dollars. Compensation of all
11 assistants, stenographers and rate clerks shall be fixed by the board
12 of railroad commissioners. The commerce counsel and other neces-
13 sary agents and experts shall have reimbursed to them all the actual
14 and necessary traveling, and all other expenses and disbursements in-
15 curred or made by him in the discharge of his official duties, such
16 expenditures to be approved by the board of railroad commissioners,
17 and paid out of such funds as shall be appropriated for said purpose
18 by the general assembly.

[S., '13, § 2121-j.]

SEC. 5048. Appropriation.

1 There is hereby appropriated from any funds in the state treas-
2 ury, not otherwise appropriated, sufficient amount thereof to pay the
3 salary of said commerce counsel.

[S., '13, § 2121-k.]

SEC. 5049. Duties.

1 The commerce counsel shall be the legal adviser of the railroad
2 commissioners, and it shall be his duty to diligently investigate the
3 reasonableness of the rates charged or to be charged for services
4 rendered or to be rendered by the railroad companies, express com-
5 panies, or of other individuals, parties, or corporations, subject to the
6 jurisdiction of said board of railroad commissioners, and it shall also
7 be his duty to diligently investigate the reasonableness of the rates,
8 charges, rules and practices of common carriers on interstate trans-
9 portation, whenever directed by the board of railroad commissioners
10 or whenever in his judgment any of said rates, charges, rules, or prac-
11 tices are undue, unjust, unreasonable, unlawful, unduly prejudicial or
12 unduly discriminatory against any of the citizens or industries of the
13 state of Iowa. It shall be his duty, if they pertain to intrastate busi-
14 ness, to institute proceedings relative to such matters before said
15 board of railroad commissioners and to prosecute same to final deter-
16 mination before said board or to any court to which same may be
17 taken. If they concern interstate transportation, it shall be his duty
18 whenever in his judgment such action is necessary or whenever di-
19 rected by the railroad commission to institute proceedings before the
20 interstate commerce commission and prosecute the same to final deter-
21 mination before said commission or in any court to which same may
22 be taken. It shall also be his duty to act as attorney for and repre-
23 sent the board of railroad commissioners in all of the courts of this
24 state or of the United States in which the validity of any order of
25 said board is an issue. It shall be the duty of said commerce counsel
26 also in all cases before the railroad commissioners in which any per-
27 son or persons have filed complaint against any person, firm or cor-
28 poration over which the state board of railroad commissioners has
29 jurisdiction to appear for and in behalf of such person or persons
30 so filing such complaint. It shall also be his duty to institute and
31 prosecute in any of the courts any and all suits necessary to the proper
32 enforcement of any rule or order of said railroad commissioners or to
33 make defense therein when said rule or order may be called in ques-
34 tion, provided that the duty here enjoined upon the commerce counsel
35 shall not be construed to in anywise limit or abridge the authority or
36 jurisdiction of the attorney general.

[S., '13, § 2121-l.]

CHAPTER 3.**CONSTRUCTION AND OPERATION OF RAILWAYS.****SECTION 5050. Change of name.**

1 Any corporation organized under the laws of this state for the
2 purpose of constructing and operating a railway may, with the consent
3 of two-thirds of all the stockholders in interest, change the corporate

4 name thereof, but no such change shall be complete until the president
 5 and secretary shall file in the office of the secretary of state a state-
 6 ment under oath showing the consent of the stockholders thereto and
 7 the new name adopted, with a certified copy of the proceedings in
 8 relation thereto as appears in the records thereof, and from that time
 9 the corporation by its new name shall be entitled to all the rights,
 10 powers and franchises that it possessed under the old one, and by such
 11 new name shall be liable upon all contracts and obligations entered
 12 into by or binding upon such corporation under the old name to the
 13 same extent and in the same manner as if no change had been made.
 [C., '73, § 1273; C., '97, § 2034.]

SEC. 5051. Effect of change of name.

1 If any railway company is organized under a corporate name,
 2 and has made contracts for payments to it upon delivery of stock
 3 therein, and shall subsequently thereto change its corporate name,
 4 or if the real ownership in the property, rights, powers and franchises
 5 has passed legally or equitably into any other company, no such con-
 6 tracts shall be enforced until tender or delivery of stock in such last
 7 named corporation or company is made.
 [C., '73, § 1302; C., '97, § 2068.]

SEC. 5052. Record.

1 The secretary of state shall immediately record in the proper
 2 book in his office matter filed under section fifty hundred fifty, making
 3 references to the record of the articles of incorporation.
 [C., '73, § 1274; C., '97, § 2035.]

SEC. 5053. May join or consolidate.

1 Any such corporation may join, intersect and unite its railway
 2 with that of any other corporation at such point upon the boundary
 3 line of this state as may be agreed upon, and, with the consent of
 4 three-fourths in interest of all the stockholders, by purchase, sale or
 5 otherwise, may merge and consolidate the stock, property, franchises
 6 and liabilities of such corporations, making the same one corporation,
 7 upon such terms as may be agreed upon, not in conflict with law.
 [R., '60, § 1332; C., '73, § 1275; C., '97, § 2036.]

SEC. 5054. Connections.

1 Any such corporation which has constructed or may construct
 2 its railway so as to meet or connect with another railway in an ad-
 3 joining state at the boundary line of this state, may make such con-
 4 tracts and agreements therewith for the transportation of freight and
 5 passengers, or the use of its railway, as the board of directors may
 6 see proper, and not inconsistent with law.
 [R., '60, § 1334; C., '73, § 1276; C., '97, § 2037.]

SEC. 5055. Extension.

1 Any such corporation organized for the purpose of constructing
 2 a railway from a point within the state may construct or extend the
 3 same into or through any other state, under such regulations as may
 4 be prescribed by the laws of such state, and its rights and privileges
 5 over said extension in the construction and use thereof, and in con-

6 trolling and applying the assets, shall be the same as if its railway
7 was constructed wholly within the state.

[R., '60, § 1333; C., '73, § 1277; C., '97, § 2038.]

SEC. 5056. Powers in other states.

1 Any railroad corporation organized under and by virtue of the
2 laws of this state, and owning and operating a railroad therein, shall
3 be authorized and empowered to exercise in any other state or terri-
4 tory of the United States in which it may control or operate a con-
5 necting line or lines of railway the powers and privileges conferred
6 upon it by its articles of incorporation and all powers, privileges and
7 franchises conferred upon railroad corporations under and by virtue
8 of the laws of Iowa or of such other state or territory, for the purposes
9 set forth in the next section.

[S., '13, § 2038-a.]

SEC. 5057. May purchase, lease, control or operate extension in other states.

1 Any railroad corporation so organized under the laws of Iowa
2 and owning and operating a railroad therein may lease, purchase, or
3 otherwise acquire and own, control or operate any connecting exten-
4 sion of its said railroad not parallel or competing therewith, in any
5 other state or territory of the United States, and to that end may
6 purchase and control the stock, bonds or securities of any such exten-
7 sion if not contrary to the laws of such other state or territory.

[S., '13, § 2038-b.]

SEC. 5058. Duties and liabilities of lessees.

1 All the duties and liabilities imposed by law upon corporations
2 owning or operating railways shall apply to all lessees or other per-
3 sons owning or operating such railways as fully as if they were ex-
4 pressly named herein, and any action which might be brought or
5 penalty enforced against any such corporation by virtue of any pro-
6 visions of law may be brought or enforced against such lessees or
7 other persons.

[C., '73, § 1278; C., '97, § 2039.]

SEC. 5059. Offices.

1 The offices of secretary and treasurer or assistant treasurer and
2 general superintendent of railway corporations organized under the
3 laws of the state shall be where its principal place of business is or
4 is to be, in which the original record, stock and transfer books and
5 all the original papers and vouchers thereof shall be kept. Such
6 treasurer or assistant treasurer shall keep a record of the financial
7 condition of the corporation, which shall be open to inspection by any
8 stockholder, or any committee appointed by the general assembly, at
9 all reasonable times. It may keep a transfer office in any other state,
10 with a duplicate transfer book, but no transfer of shares of stock
11 shall be legal or binding until the same is entered in the one kept in
12 the state. The secretary and treasurer or assistant treasurer and
13 general superintendent shall reside in this state.

[C., '73, § 1279; C., '97, § 2040.]

SEC. 5060. Bonds—mortgages.

1 Any such corporation may issue its bonds for the construction
2 and equipment of its railway in sums of not less than fifty dollars,
3 payable to bearer or otherwise, with interest not exceeding eight per
4 cent per annum, and making them convertible into stock, and sell the
5 same at such prices as is thought proper. If such bonds are sold below
6 par they shall, nevertheless, be valid, and no plea of usury shall be
7 allowed in any action or proceeding brought to enforce the collection
8 thereof. Such corporation may also secure the payment of the bonds
9 by mortgages or deeds of trust upon the whole or any part of its prop-
10 erty and franchises.

[R., '60, § 1339; C., '73, § 1283; C., '97, § 2041.]

SEC. 5061. After-acquired property.

1 Such mortgages or deeds of trust may by their terms include and
2 cover not only the property of the corporation making them, owned
3 at the time of their date, but all property, real and personal, which
4 may thereafter be acquired, and they shall be as valid and effectual
5 for that purpose as if the property was in possession at the time of
6 their execution.

[R., '60, § 1340; C., '73, § 1284; C., '97, § 2042.]

SEC. 5062. Execution of mortgages.

1 They shall be executed in the manner the articles of incorpora-
2 tion or the by-laws of the corporation may provide, and be recorded
3 in each county through which the railway of the company may be
4 located, or in which any property mortgaged or conveyed may be sit-
5 uated, and when recorded shall be constructive notice of the rights of
6 all parties thereunder, and for this purpose the rolling stock and per-
7 sonal property of the company belonging to the road shall be deemed
8 a part thereof, and such mortgages and deeds so recorded shall pro-
9 tect the lien of the mortgagee or grantee upon the personal property
10 to the same extent that it does upon real estate thus mortgaged or
11 conveyed.

[R., '60, § 1341; C., '73, § 1285; C., '97, § 2043.]

SEC. 5063. Bonds secured by mortgage.

1 Any railway corporation organized under the laws of the state
2 may mortgage its property and franchises, in whole or in part, to
3 secure bonds issued by it to pay or refund its indebtedness, to improve
4 or develop its property, or for the purpose of effecting the object of
5 its incorporation, to be issued in such amounts, run for such length of
6 time, be payable within or without this state, and bear such rate of
7 interest, not to exceed the legal rate in the state at the time of issue,
8 as the company issuing the same shall determine.

[C., '97, § 2049.]

SEC. 5064. Mortgage to secure bonds of lessee.

1 Any railway corporation organized under the laws of the state
2 may mortgage its property and franchises, in whole or in part, to
3 secure bonds issued by any other railway corporation of this or any
4 other state, which, at the time, is operating the road of such mort-
5 gator under lease thereof, such bonds to be issued to refund or to
6 secure the means to pay the indebtedness of such lessor, or improve

7 or develop its property, for the purpose of effecting the object of its
8 incorporation. Such bonds may be issued in such amounts, run for
9 such length of time, be made payable within or without the state, and
10 bear such rate of interest, not exceeding the legal rate in this state
11 at the time they are issued, as may be determined by and be accept-
12 able to such lessee. The lessee may secure the bonds issued by it for
13 any of the purposes aforesaid by a mortgage of its leasehold interest
14 in the property and franchises of the lessor.

[C., '97, § 2050.]

SEC. 5065. Prior contracts.

1 Sections fifty hundred seventy-one and fifty hundred seventy-two
2 shall not be held to invalidate or affect in any way any contract of
3 the kind referred to in section fifty hundred seventy-two, made prior
4 to April twenty-fourth, eighteen hundred ninety-four, and any such
5 contract made before said date may, upon compliance with the pro-
6 visions of said sections, be recorded as therein provided.

[C., '97, § 2053.]

SEC. 5066. Preferred stock.

1 Any railway corporation may increase its capital stock by the
2 issuance of preferred stock in one or more classes entitled to such
3 rate or rates of preferred dividends not exceeding eight per centum
4 per annum, and to such other preferences including accumulation
5 thereon for future payment of any dividends not earned or paid in
6 any fiscal or corporate year, and with such other privileges and rights
7 as may be authorized by the stockholders pursuant hereto, and may
8 issue the same either in exchange for property upon compliance with
9 the provisions of section fifty-three hundred seventy-eight, or for sale
10 for cash at par or for the retirement of its indebtedness at the rate
11 of par for par; no such stock increase shall be made, and no such
12 preferred stock shall be issued, unless authorized by the vote of not
13 less than seventy-five per centum of the total amount of the capital
14 stock of such corporation at the time outstanding, expressed at a meet-
15 ing called for the purpose, upon not less than thirty days' notice in-
16 serted in a newspaper published in the city or town wherein such
17 corporation may have its principal place of business in this state, and
18 mailed to each stockholder of record at his address appearing upon
19 the stock books of such corporation, provided that the plan and pur-
20 pose for the issuance of any preferred stock under the provisions of
21 this section, shall first be submitted to and receive the approval of the
22 board of railroad commissioners.

[C., '73, § 1286; C., '97, § 2044; 37 G. A., ch. 82, § 2.]

SEC. 5067. Conversion into common stock.

1 Such preferred stock and any income or mortgage bond of the
2 corporation shall, at the option of the holder, be convertible into com-
3 mon stock on such terms as the board of directors may prescribe, but
4 the aggregate amount of the common and preferred stock shall not
5 exceed the total amount of stock which the corporation may be au-
6 thorized by law, or the articles of incorporation, to issue.

[C., '73, § 1287; C., '97, § 2045.]

SEC. 5068. Selection of directors by bondholders.

1 Any railway corporation organized under any law of the state,
 2 including consolidated corporations created pursuant to the laws of
 3 this and any adjoining state, may in such manner, under such regu-
 4 lations, and to such an extent as may be prescribed by its board of
 5 directors, and consented to by at least two-thirds of the capital stock
 6 then outstanding, confer upon the holders of its bonds or other evi-
 7 dences of indebtedness, or upon the holders of any particular class of
 8 such bonds or evidences of indebtedness, the right to vote for directors
 9 thereof, one or more of whom may be chosen from among such bond-
 10 holders.

[C., '97, § 2046.]

SEC. 5069. Corporation may own stock.

1 Any railway corporation organized under the law of the state,
 2 or operating a road therein under the authority of the laws thereof,
 3 may acquire, own and hold either the whole or any part of the stock,
 4 bonds or other securities of any other railroad company of this or any
 5 adjoining state.

[C., '97, § 2047.]

SEC. 5070. Foreign railway companies—privileges.

1 Any railway corporation organized or created by or under the
 2 laws of any other state, owning and operating a line or lines of rail-
 3 road in such state, may build its road or branches into this state, and
 4 shall possess all the powers and privileges, and be subject to the same
 5 liabilities, as like corporations organized and incorporated under the
 6 laws of this state, if it shall file with the secretary of state a copy of
 7 its articles of incorporation, if incorporated under a general law of
 8 such state, or a certified copy of the statute incorporating it where
 9 the charter thereof was granted by statute.

[C., '97, § 2048.]

SEC. 5071. Conditional sale or lease of equipment or rolling stock.

1 In any contract for the sale of railroad or street railway equip-
 2 ment or rolling stock or power house, electric or other equipment of
 3 street or interurban railways or of electric light and power companies
 4 or of steam heating companies, such equipment including engines,
 5 boilers, generators, switchboards, transformers, motors and other ma-
 6 chinery and appliances, it may be agreed that the title thereto, al-
 7 though possession thereof be delivered immediately or at any time
 8 or times subsequently, shall not vest in the purchaser until the pur-
 9 chase price shall be fully paid, or that the seller shall have and retain
 10 a lien thereon for the unpaid purchase money. In any contract for
 11 the leasing or hiring of such property, it may be stipulated for a con-
 12 ditional sale thereof at the termination of such contract, and that the
 13 rentals or amounts to be received under such contract may, as paid,
 14 be applied and treated as purchase money, and that the title to the
 15 property shall not vest in the lessee or bailee until the purchase price
 16 shall have been paid in full, and until the terms of the contract shall
 17 have been fully performed, notwithstanding delivery to and posses-
 18 sion by such lessee or bailee; but no such contract shall be valid as
 19 against any subsequent judgment creditor, or subsequent bona fide
 20 purchaser for value without notice, unless:

21 1. The same shall be evidenced by an instrument executed by the
22 parties and acknowledged by the vendee, or lessee, or bailee, as the
23 case may be, in the same manner as deeds are acknowledged or proved.

24 2. Such instrument shall be filed for record in the office of the
25 secretary of state.

26 3. Each locomotive engine, stationary engine, boiler, switch-
27 board, transformer, motor, other piece of machinery or appliance or
28 car sold, leased or hired as aforesaid shall have the name of the vendor,
29 lessor or bailor plainly marked on each side thereof, followed by the
30 word "owner," "lessor" or "bailor," as the case may be.

[C., '97, § 2051; S., '13, § 2051.]

SEC. 5072. Recording.

1 The contracts herein authorized shall be recorded by the secre-
2 tary of state in a book of records to be kept for that purpose, and, on
3 payment in full of the purchase money and the performance of the
4 terms and conditions stipulated in any such contract, a declaration in
5 writing to that effect may be made by the vendor, lessor or bailor, or
6 his or its assignee, which declaration may be made on the margin
7 of the record of the contract, duly attested, or it may be made by a
8 separate instrument, to be acknowledged by the vendor, lessor or
9 bailor, or his or its assignee, and recorded as aforesaid. For such
10 services the secretary of state shall be entitled to a fee of ten cents
11 per hundred words for recording each of the contracts and each of
12 said declarations, but in no case shall the fee be less than one dollar
13 and a fee of one dollar for noting such declaration on the margin of
14 the record.

[C., '97, § 2052; S., '13, § 2052.]

SEC. 5073. Cattle guards—crossings—signs.

1 Every corporation constructing or operating a railway shall make
2 proper cattle guards where the same enters or leaves any improved
3 or fenced land, and construct at all points where such railway crosses
4 any public road good, sufficient and safe crossings and cattle guards,
5 and erect at such points, at a sufficient elevation from such road as
6 to admit of free passage of vehicles of every kind, a sign with large
7 and distinct letters placed thereon, to give notice of the proximity of
8 the railway, and warn persons of the necessity of looking out for
9 trains. Any railway company neglecting or refusing to comply with
10 the provisions of this section shall be liable for all damages sustained
11 by reason of such refusal or neglect, and it shall only be necessary,
12 in order to recover, for the injured party to prove such neglect or
13 refusal.

[R., '60, § 1331; C., '73, § 1288; C., '97, § 2054.]

SEC. 5074. Fences required.

1 All railway corporations owning or operating a line of railway
2 within the state shall construct, maintain, and keep in repair a suit-
3 able fence of posts and barb wire, or woven wire, or both combined,
4 or posts and boards, or any other fence which the fence viewers shall
5 determine to be equivalent thereto, on each side of the track thereof,
6 so connected with cattle guards at all public road crossings as to pre-
7 vent cattle, horses, sheep, swine, and other live stock from getting
8 on the railroad tracks. Such tracks shall be fenced within six months
9 after the completion of the same or any part thereof. Such fence,

10 when of barb wire, shall be of five wires; when of barb wire and
 11 woven wire, it shall consist of three barb wires above and woven wire
 12 not less than twenty-four inches wide at the bottom, or it may consist
 13 entirely of woven wire, in which event the woven wire shall be not
 14 less than fifty inches wide; all of the above to be securely fastened to
 15 posts not more than twenty feet apart, the top of such fences to be
 16 not less than fifty-four inches high; or such fences may consist of
 17 five boards, securely nailed to posts set not more than eight feet apart,
 18 and to be not less than fifty-four inches high; but where such fences
 19 are constructed entirely of barb wire, in addition to the above, on the
 20 written request of any person owning land abutting such right of
 21 way who has constructed, and is maintaining around his said land,
 22 or any part thereof, a hog tight fence on all sides thereof except along
 23 such right of way, such railroad corporations shall reinforce such
 24 right of way fence with such additional barb or woven wire as is
 25 necessary to make it hog tight. Fences repaired or rebuilt shall con-
 26 form to the foregoing provisions. Nothing in this or the following
 27 sections shall be construed to compel a railway company operating a
 28 third-class line to fence its roads through the land of any farmer or
 29 other person who by written agreement with such company waives
 30 the fencing thereof.

[C., '97, § 2057; S., '13, § 2057.]

SEC. 5075. Failure to fence—liability for stock killed—speed at depots.

1 Any corporation operating a railway, and failing to fence the
 2 same against live stock running at large and maintain proper and
 3 sufficient cattle guards at all points where the right to fence or main-
 4 tain cattle guards exists, shall be liable to the owner of any stock
 5 killed or injured by reason of the want of such fence or cattle guards
 6 for the full amount of the damages sustained by the owner on account
 7 thereof, unless it was occasioned by his wilful act or that of his agent;
 8 and to recover the same it shall only be necessary for him to prove
 9 the loss of or injury to his property. If such corporation fails or
 10 neglects to pay such damages within thirty days after notice in writ-
 11 ing that a loss or injury has occurred, accompanied by an affidavit
 12 thereof, served upon any officer or station or ticket agent employed
 13 by said corporation in the county where such loss or injury occurred,
 14 such owner shall be entitled to recover from the corporation double
 15 the amount of damages actually sustained by him. No law of the
 16 state or any local or police regulations of any county, township, city
 17 or town, relating to the restraint of domestic animals, or in relation
 18 to the fences of farmers or landowners, shall be applicable to railway
 19 tracks, unless specifically so stated in such law and regulation. Upon
 20 depot grounds necessarily used by the public and the corporation, the
 21 operating of trains at a greater rate of speed than eight miles an
 22 hour where no fence is built shall be negligence, and shall render such
 23 corporation liable for all damages occasioned thereby, in the same
 24 manner and to the same extent, except as to double damages, as in
 25 cases where the right to fence exists.

[C., '73, § 1289; C., '97, § 2055.]

SEC. 5076. Penalty—killing of stock.

1 If the corporation, officer thereof or lessee owning or engaged in
 2 the operation of any railroad in the state refuses or neglects to com-

3 ply with any provision of this chapter relating to the fencing of the
 4 tracks, such corporation, officer or lessee shall be guilty of a misde-
 5 meanor, and upon conviction fined in a sum not exceeding five hundred
 6 dollars for each offense, and every thirty days' continuance of such
 7 refusal or neglect shall constitute a separate and distinct offense; but
 8 nothing herein contained shall be construed to relieve the corporation
 9 from liability arising from the killing or maiming of live stock on said
 10 track or right of way by its negligence or that of its employees, nor
 11 shall anything in this chapter interfere with the right of open or
 12 private crossings, or with the right of persons to such crossings, nor
 13 in any way limit or qualify the liability of any corporation or person
 14 owning or operating a railway that fails to fence the same against
 15 live stock running at large for any stock injured or killed by reason
 16 of the want of such fence.

[C., '97, § 2058.]

SEC. 5077. Damages by fire.

1 Any corporation operating a railway shall be liable for all dam-
 2 ages sustained by any person on account of loss of or injury to his
 3 property occasioned by fire set out or caused by the operation of such
 4 railway. Such damages may be recovered by the party injured in
 5 the manner set out in section fifty hundred seventy-five, and to the
 6 same extent, save as to double damages.

[C., '73, § 1289; C., '97, § 2056.]

SEC. 5078. Railway crossings near Mississippi river.

1 When, in the construction of a railway, it becomes necessary to
 2 cross another railway near the shore of the Mississippi river, each
 3 shall be so constructed and maintained at the point of crossing that
 4 the respective roadbeds thereof shall be above high water in such
 5 river, but where the crossing occurs within the limits of cities con-
 6 taining six thousand or more inhabitants, the council thereof may
 7 establish the crossing grade.

[C., '73, § 1290; C., '97, § 2059.]

SEC. 5079. Interlocking switches.

1 When in any case two or more railroads cross each other at a
 2 common grade, or a railroad crosses a stream by swing or draw bridge,
 3 they may be equipped thereat with an interlocking switch system, or
 4 other suitable safety device rendering it safe for engines or trains
 5 to pass thereover without stopping, and if such interlocking switch
 6 system or other safety device shall have been approved by the railroad
 7 commissioners, then the engines and trains of such railroad or rail-
 8 roads may pass over such crossings or bridge without stopping, the
 9 provisions of any other law to the contrary notwithstanding, and the
 10 provisions of the three following sections also are not applicable in
 11 such a case.

[C., '97, § 2060.]

SEC. 5080. Proceedings to establish.

1 In any case where the tracks of two or more railroads cross each
 2 other at a common grade, any company owning one of such tracks
 3 and desiring to unite with others in protecting the crossing with inter-
 4 locking or other safety device, and being unable to agree with such

5 others thereon, may file in the district court of the county in which
6 the crossing is located a petition, stating the facts and asking the court
7 to order such crossing to be protected by interlocking or other safety
8 device. Said petition shall be accompanied by a plat showing the
9 location of all tracks and switches, and upon the filing thereof notice
10 shall be given by the petitioner to every other company or person
11 owning or operating any track involved in such crossing. The court,
12 or a judge thereof if the petition is filed in vacation, shall thereupon
13 appoint a commissioner to examine into the necessity for such system,
14 and report the facts and his recommendation in such time as the court
15 or judge may direct, and, as soon as practicable thereafter, the court
16 or judge shall appoint a time and place for the hearing of such peti-
17 tion. The proceedings shall be in equity, and subject to all the rules
18 of equity practice, except that the court shall require the issues to
19 be made up at the first term after the petition is filed, and give the
20 proceeding precedence over other civil business and try the action
21 thereat, if possible.

[C., '97, § 2061.]

SEC. 5081. Decree.

1 After allowing all parties full opportunity to show cause why
2 such system should or should not be ordered thereat, the court shall,
3 if it is found the plaintiff should prevail, enter its decree ordering the
4 establishment of such system as it may prescribe, the time within
5 which it shall be begun and finished, and the proportion of the expense
6 thereof to be paid by each company or person interested in the cross-
7 ing, and make such division of the costs as may be equitable.

[C., '97, § 2062.]

SEC. 5082. Proposed crossing—procedure.

1 In case one railway company or interurban railway company de-
2 sires to cross with its tracks those of another railway or interurban
3 railway at grade, and such companies can not agree to the terms
4 thereof, the company desiring to cross shall, upon the application of
5 the company whose track it is desired to cross, in a proceeding insti-
6 tuted as provided in the two preceding sections, be compelled to join
7 in the interlocking of such crossing, and the court therein shall make
8 such orders and decree as may be required to secure public safety
9 and the preservation of the properties of the roads, and prescribe the
10 terms upon which such crossing shall be constructed and maintained
11 after being made. The provisions of this and the two preceding sec-
12 tions shall not apply to sidetracks.

[C., '97, § 2063; 37 G. A., ch. 353, § 1.]

SEC. 5083. Costs—apportionment.

1 If in any case contemplated in the preceding section the crossing
2 shall be of two such railways only, then the court shall not apportion
3 to either less than one-third of the cost of the construction, main-
4 tenance and operation of such interlocking plant, and, if more than
5 two roads are involved, the court shall not apportion to any one less
6 than two-thirds of an equal share of such cost.

[37 G. A., ch. 353, § 2.]

SEC. 5084. Apportionment of costs.

1 If in any case contemplated in the three preceding sections the
 2 crossings shall be of two railroads only, then the court shall not appor-
 3 tion to either less than one-third of the cost, and if more than two
 4 roads are involved, the court shall not apportion to any one less than
 5 two-thirds of an equal share of such cost.

[C., '97, § 2064.]

SEC. 5085. Modification of decree.

1 Any decree made pursuant to the five preceding sections shall
 2 be subject to changes or modifications at any subsequent term, on due
 3 cause shown therefor, upon a petition filed in the same proceedings,
 4 setting forth the reasons therefor and arising subsequent to entry of
 5 the decree therein.

[C., '97, § 2065.]

SEC. 5086. Sale or lease of railroad property—joint arrangement.

1 Any railway corporation may sell or lease its property and fran-
 2 chises to, or make joint running arrangements not in conflict with
 3 law with, any corporation owning or operating any connecting rail-
 4 way, and any corporation operating the railway of another shall be
 5 liable in the same manner and extent as though such railway belonged
 6 to it.

[C., '73, § 1300; C., '97, § 2066.]

SEC. 5087. Mortgage of contract or lease.

1 Any contract, lease or benefit derived under the authority given
 2 in the preceding section may be mortgaged for the purpose of securing
 3 construction bonds in the same manner as other property of the cor-
 4 poration.

[C., '73, § 1301; C., '97, § 2067.]

SEC. 5088. Report.

1 When any railway has been completed and opened for use, the
 2 corporation owning, operating or constructing it shall report under
 3 oath to the next general assembly the total cost thereof, specifying
 4 the amount expended for construction, engines, cars, depots and other
 5 buildings, and the amount of all other expenses, together with the
 6 length of the railway, the number of planes with their inclination to
 7 the mile, the greatest curvature, the average width of roadbed, and
 8 the number of ties per mile.

[C., '73, § 1303; C., '97, § 2069.]

SEC. 5089. Rights reserved.

1 All contracts, stipulations and conditions regarding the right of
 2 controlling and regulating the charges for freight and passengers upon
 3 railways, heretofore made in granting land and other property or
 4 voting taxes to aid in the construction of or franchises to railway cor-
 5 porations, are expressly reserved, continued and perpetuated in full
 6 force and effect, to be exercised by the general assembly whenever
 7 the public good or the public necessity requires such exercise thereof.

[C., '73, § 1306; C., '97, § 2070.]

SEC. 5090. Liability for negligence or wrongs of employees—personal injury—contributory negligence.

1 Every corporation operating a railway shall be liable for all dam-
 2 ages sustained by any person, including employees of such corpora-
 3 tion, in consequence of the neglect of the agents, or by any mismanage-
 4 ment of the engineers or other employees thereof, and in consequence
 5 of the wilful wrongs, whether of commission or omission, of such
 6 agents, engineers or other employees, when such wrongs are in any
 7 manner connected with the use and operation of any railway on or
 8 about which they shall be employed, and no contract which restricts
 9 such liability shall be legal or binding. Nor shall any contract of
 10 insurance, relief, benefit, or indemnity in case of injury or death,
 11 entered into prior to the injury, between the person so injured and
 12 such corporation, or any other person or association acting for such
 13 corporation, nor shall the acceptance of any such insurance, relief,
 14 benefit, or indemnity by the person injured, his widow, heirs, or legal
 15 representatives after the injury, from such corporation, person, or
 16 association, constitute any bar or defense to any cause of action
 17 brought under the provisions of this section, but nothing contained
 18 herein shall be construed to prevent or invalidate any settlement for
 19 damages between the parties subsequent to injuries received. In
 20 all actions hereafter brought against any such corporation to recover
 21 damages for the personal injury or death of any employee under or
 22 by virtue of any of the provisions of this section, the fact that the
 23 employee may have been guilty of contributory negligence shall not
 24 bar a recovery, but the damages shall be diminished by the jury in
 25 proportion to the amount of negligence attributable to such employee;
 26 provided that no such employee who may be injured or killed shall
 27 be held to have been guilty of contributory negligence in any case
 28 where the violation by such common carrier or corporation of any
 29 statute enacted for the safety of employees contributed to the injury
 30 or death of such employee; nor shall it be any defense to such action
 31 that the employee who was injured or killed assumed the risks of his
 32 employment.

[C., '73, § 1307; C., '97, § 2071; S., '13, § 2071.]

SEC. 5091. Signals at road crossings.

1 A bell and a steam whistle shall be placed on each locomotive
 2 engine operated on any railway, which whistle shall be twice sharply
 3 sounded at least sixty rods before a road crossing is reached, and
 4 after the sounding of the whistle the bell shall be rung continuously
 5 until the crossing is passed; but at street crossings within the limits
 6 of cities or towns the sounding of the whistle may be omitted, unless
 7 required by ordinance or resolution of the council thereof; and the
 8 company shall be liable for all damages which shall be sustained by
 9 any person by reason of such neglect. Any officer or employee of any
 10 railway company violating any of the provisions of this section shall
 11 be punished by fine not exceeding one hundred dollars for each offense.

[C., '97, § 2072.]

SEC. 5092. Stopping at railway crossings.

1 All trains run upon any railroad in this state which intersects or
 2 crosses any other railroad upon the same level shall be brought to a
 3 full stop at a distance of not less than two hundred nor more than
 4 eight hundred feet from the point of intersection or crossing, before

5 such intersection or crossing is passed, except as otherwise provided
 6 in this chapter. Any engineer violating the provisions of this section
 7 shall forfeit one hundred dollars for each offense, to be recovered in
 8 an action in the name of the state for the benefit of the school fund,
 9 and the corporation on whose road such offense is committed shall
 10 forfeit the sum of two hundred dollars for each offense, to be recov-
 11 ered in like manner.

[C., '97, § 2073.]

SEC. 5093. Contract or rule limiting liability.

1 No contract, receipt, rule or regulation shall exempt any railway
 2 corporation engaged in transporting persons or property from the
 3 liability of a common carrier, or carrier of passengers, which would
 4 exist had no contract, receipt, rule or regulation been made or entered
 5 into.

[C., '73, § 1308; C., '97, § 2074.]

SEC. 5094. Action against joint carriers.

1 In all cases where a railway company bills property to a point
 2 beyond the terminus of its own railway and provides by contract that
 3 it shall not be liable for the destruction of or damage to such property
 4 beyond the terminus of its own railway and the said property is dam-
 5 aged or destroyed between the place of shipment and place of destina-
 6 tion to which it was billed, the initial carrier and the connecting
 7 carrier or carriers if more than one, over whose line or lines of railway
 8 the property shall have been carried between the place of shipment
 9 and said place of destination, may be joined as defendants in one
 10 action, brought in any county from or into which shipment shall be
 11 made, or suit may be brought in any county through which shipment
 12 shall be made and service of original notice may be made on any of
 13 said carriers in any county of the state, where the carrier to be served
 14 has a station agent, by serving such notice on such station agent.

[S., '13, § 2074-a.]

SEC. 5095. Liability of joint carriers.

1 On proof being made by the owner of the property shipped, that
 2 the same has been destroyed or damaged in transit between the said
 3 place of shipment and the place of destination, the liability of a com-
 4 mon carrier shall attach to all the defendants and judgment shall be
 5 entered accordingly against them all unless one or more of the de-
 6 fendants shall prove that it was not or they were not liable, in which
 7 case judgment shall go only against the remaining defendant or de-
 8 fendants.

[S., '13, § 2074-b.]

SEC. 5096. Freight claims—damages — excessive charge — time limit for adjustment.

1 Every claim for loss of or damage to property while in the posses-
 2 sion of any common carrier, or for delay in delivering freight or
 3 baggage or express, or for a charge in excess of the legal and regular
 4 charge for the service rendered, shall be adjusted and paid within
 5 forty days in case of shipments wholly within this state, and within
 6 ninety days in case of shipments from without the state after the
 7 filing of such claim with the agent or agent's carrier at the point of
 8 origin or of destination of each shipment, but no such claim shall be

9 filed until after the arrival of the shipment or of some part thereof
 10 at the point of destination or until after the lapse of a reasonable
 11 time for the arrival thereof; and if such claim is not filed within sixty
 12 days from the time it accrues, the penalty provided in section fifty
 13 hundred ninety-seven shall not apply.

[S., '13, § 2074-c; 37 G. A., ch. 399, § 1.]

SEC. 5097. Failure to adjust—penalty.

1 Failure to adjust and pay such claim, within the period herein
 2 prescribed shall subject the common carrier, so failing, to the penalty
 3 of a sum which in amount shall be equal to the amount of the claim
 4 originally filed; but it shall in no case be less than twenty-five dollars
 5 or more than one hundred dollars for each and every failure, to be
 6 recovered by the party aggrieved, in any court of competent jurisdic-
 7 tion; and said claim shall be filed in proper form, including such in-
 8 formation possessed by the claimant, as will aid in establishing his
 9 claim. The penalty shall not apply unless the claimant shall recover
 10 the full amount claimed by him, nor when the claim exceeds five hun-
 11 dred dollars.

[S., '13, § 2074-d.]

SEC. 5098. No division of claims.

1 The claimant shall not be permitted under this chapter to divide
 2 his claims arising from loss, damage or injury to one shipment or
 3 consignment of goods, but only one claim within the meaning of this
 4 and the two preceding sections shall be filed for one shipment.

[S., '13, § 2074-e.]

**SEC. 5099. Common carriers—less than carload shipments—lia-
 bility—notice.**

1 All companies, corporations, or individuals that now, or here-
 2 after, may own or operate any railroads, in whole or in part, in the
 3 state of Iowa, and all persons, firms or companies, and all associations
 4 of persons, whether incorporated or not, that shall do business as a
 5 common carrier upon any of the lines of railway in this state, shall be
 6 and remain liable as a common carrier upon all less than carload ship-
 7 ments until the consignee shall be notified of the arrival of the ship-
 8 ment and has reasonable time and opportunity to receive same. A
 9 deposit in the United States postoffice or public mailing box of a writ-
 10 ten notice addressed to the consignee at the address given upon the
 11 bill of lading will constitute service of the notice required by this sec-
 12 tion, and forty-eight hours from the date of the mailing of such notice
 13 shall be a reasonable time in which to receive said shipment. The
 14 provisions of this section shall not apply to shipments to stations or
 15 platforms where no agent is regularly employed.

[S. S., '15, § 2074-f.]

SEC. 5100. Lien of judgment.

1 A judgment against any railway, interurban railway or street
 2 railway corporation or copartnership, for an injury to any person or
 3 property, and any claim for compensation under the Iowa workmen's
 4 compensation act for personal injuries sustained by their employees
 5 arising out of and in the course of their employment, shall be a lien
 6 upon the property of such corporation or copartnership within the

7 county where the judgment was recovered or in which occurred the
 8 injury for which compensation is due, and said lien shall be prior
 9 and superior to the lien of any mortgage or trust deed executed since
 10 the fourth day of July, eighteen hundred sixty-two, by any railway
 11 corporation or partnership, and prior and superior to the lien of any
 12 mortgage or trust deed executed after August ninth, eighteen hundred
 13 ninety-seven, by any interurban railway or street railway corporation
 14 or copartnership.

[C., '73, § 1309; C., '97, § 2075; 37 G. A., ch. 403, § 1.]

SEC. 5101. Classification of railroads.

1 All railroads of the state shall be classified in accordance with
 2 the gross amount of their several annual earnings within the state,
 3 per mile, for the preceding year, as follows: Class A shall include
 4 those whose gross annual earnings per mile shall be four thousand
 5 dollars or more; class B shall include those whose gross annual earn-
 6 ings per mile shall be three thousand dollars or any sum in excess
 7 thereof less than four thousand dollars; class C shall include those
 8 whose gross annual earnings per mile shall be less than three thou-
 9 sand dollars. In determining the classification of any railroad, the
 10 entire railroad property owned or operated by any company shall be
 11 considered as a single railroad, and the aggregate gross earnings of
 12 the entire railroad within the state shall be divided by the entire mile-
 13 age owned or operated within the state, to ascertain the gross earn-
 14 ings per mile of such railroad.

[C., '73, § 1305; C., '97, § 2076; S., '13, § 2076.]

SEC. 5102. Classification by executive council.

1 The executive council shall at its regular meeting on the second
 2 Monday in July in each year classify the different railways, as pro-
 3 vided by the preceding section, from information as to gross earnings
 4 obtained from the annual reports of railways made to the executive
 5 council for assessment and taxation, if it shall be satisfied of the cor-
 6 rectness of same, or from information obtained by said executive
 7 council from any other source, and, when there shall be any change
 8 in classification, shall issue a certificate to any corporation or cor-
 9 porations affected by such change, certifying the class to which they
 10 are respectively assigned; any change of rates by any corporation
 11 pursuant to any change of classification shall take effect and be in
 12 force from and after the date of such certificate.

[C., '97, § 2078; S., '13, § 2078.]

SEC. 5103. Passenger rates — expositions and fairs — railroad commission.

1 All railroad corporations according to their classifications as
 2 herein prescribed shall be limited to compensation per mile for the
 3 transportation of any person with ordinary baggage not exceeding
 4 one hundred fifty pounds in weight as follows: Class A, two cents;
 5 class B, two and one-half cents; class C, three cents; and for children
 6 twelve years of age or under, one-half the rate above prescribed;
 7 provided, however, that every railroad corporation shall be entitled
 8 to charge a fare of not to exceed ten cents for the transportation of
 9 each passenger with ordinary baggage for any distance not exceeding
 10 five miles. A charge of ten cents may be added to the fare of any
 11 passenger when the same is paid upon the cars, if a ticket might have

12 been procured within a reasonable time before the departure of the
 13 train, except in those cases where a minimum of ten cents is charged
 14 for a distance of less than five miles as above provided. All railroad
 15 corporations, according to their classification, as herein prescribed,
 16 shall be limited to compensation per mile for the transportation of
 17 any person, with ordinary baggage not exceeding one hundred fifty
 18 pounds in weight, who shall purchase a round trip ticket from any
 19 point within this state to any town or city within said state at which
 20 an annual fair or exposition is being held, said ticket being good for
 21 return trip of said purchaser to point of origin during said fair or
 22 exposition, and at least one day after the conclusion of the same, as
 23 follows: Class A, one and one-half cents; class B, two cents; class
 24 C, two and one-half cents, and for children twelve years of age or
 25 under, one-half of the rate above prescribed, all of the aforesaid rates
 26 to apply to each mile traveled; provided, however, that said maximum
 27 rates of charge shall only apply on transportation to such points at
 28 which an annual fair or exposition has been held during one or more
 29 preceding years, and where the attendance during the immediately
 30 preceding year for any week or part thereof was not less than seventy-
 31 five thousand bona fide paid admissions; and it is further provided
 32 that upon application being made by any interested party, the state
 33 board of railroad commissioners shall, after full hearing, determine
 34 whether or not any given fair or exposition comes within the pro-
 35 visions of this statute, and in case such commission shall find that
 36 any given fair or exposition comes within said provisions, then, and
 37 in that case, the said commission shall prescribe the time and place
 38 at which the carriers shall perform the services for the rates of charge,
 39 as hereinbefore stated; and said commission shall by order designate
 40 what reasonable notice shall be given by said railway companies to
 41 the public of the rates aforesaid; and the said orders of the board
 42 of railroad commissioners shall be enforced in the same manner as
 43 is provided by law for the enforcement of other orders of the said
 44 commission. All steam railroads operating wholly within this state,
 45 and not to exceed twenty-five miles in length, shall be included in and
 46 classified as class C railroads.

[C., '73, § 1305; C., '97, § 2077; S., '13, § 2077; 37 G. A.,
 ch. 327, § 1.]

SEC. 5104. Station telephones—bulletins posted.

1 It shall be the duty of all railway companies on all lines of railway
 2 operated by them to install a telephone in each passenger or freight
 3 depot in any city or town where a telephone exchange is maintained
 4 for public service, said telephone to be connected with and for the use
 5 of the patrons of said exchange; and it shall be the further duty of
 6 all railway companies on all lines operated by them to keep posted in
 7 the waiting room of each passenger station a bulletin plainly showing
 8 the time of arrival and departure at such station of all trains carrying
 9 passengers, and at all stations where a telegraph or telephone operator
 10 is maintained, such bulletin shall indicate whether said trains are late
 11 or on time, and if late, the approximate number of minutes late. If
 12 the train is less than ten minutes late, the same shall be considered
 13 on time for the purpose of this section.

[S., '13, § 2077-a.]

SEC. 5105. Violation—penalty.

1 Any agent, telephone or telegraph operator of such railroad cor-
 2 poration who shall violate the provisions of the preceding section shall
 3 be deemed guilty of a misdemeanor and upon conviction shall be pun-
 4 ished by a fine of not less than five dollars nor more than fifty dollars.
 [S., '13, § 2077-a1.]

SEC. 5106. Automatic couplers and brakes—on new or repaired cars—how constructed.

1 No corporation, company or person operating any line of rail-
 2 road within this state, or any car manufacturer or transportation
 3 company using or leasing cars therein, shall put in use any new car
 4 or any old one that has been to the shop for general repairs to one
 5 or both of its drawbars, that is not equipped with automatic couplers
 6 so constructed as to enable any person to couple or uncouple them
 7 without going between them.
 [C., '97, § 2079.]

SEC. 5107. On all cars.

1 No corporation, company or person, operating a railroad, or any
 2 transportation company using or leasing cars, shall have upon any
 3 railroad in this state any car that is not equipped with such safety
 4 automatic coupler.
 [C., '97, § 2080; S., '13, § 2080.]

SEC. 5108. Driver brake on engines.

1 No corporation, company or person operating any line of rail-
 2 road in the state shall use any locomotive engine upon any railroad
 3 or in any railroad yard in the state that is not equipped with a proper
 4 and efficient power brake, commonly called a driver brake.
 [C., '97, § 2081.]

SEC. 5109. Power brake on cars.

1 No corporation, company or person operating a line of railroad
 2 in the state shall run any train of cars that shall not have therein a
 3 sufficient number of cars with some kind of efficient automatic or
 4 power brake to enable the engineer to control the train without re-
 5 quiring brakemen to go between the ends or on the top of the cars
 6 to use the hand brake.
 [C., '97, § 2082.]

SEC. 5110. Penalty.

1 Any corporation, company or person operating a railroad in this
 2 state and using a locomotive engine, or running a train of cars, or
 3 using any freight, way or other car contrary to the provisions of the
 4 four preceding sections, shall be guilty of a misdemeanor, and shall
 5 be subject to a fine of not less than five hundred nor more than one
 6 thousand dollars for each and every offense; but such penalties shall
 7 not apply to companies hauling cars belonging to railroads other than
 8 those of this state which are engaged in interstate traffic. Any rail-
 9 way employee who may be injured by the running of such engine,
 10 train or car contrary to the provisions of said sections shall not be
 11 considered as waiving his right to recover damage by continuing in

12 the employ of the corporation, company or person operating such en-
13 gine, train or cars.

[C., '97, § 2083.]

**SEC. 5111. Equipment of locomotives—switching service—head-
lights—footboards—grab rails.**

1 It shall be unlawful for any railway or terminal transfer com-
2 pany, or any corporation operating locomotives in switching or yard
3 service, to operate, or permit the same to be operated, unless said
4 locomotives are equipped with headlight on both front and rear of
5 engine, when operated between sunset and sunrise, and all such en-
6 gines shall be equipped with a footboard of substantially uniform
7 height, width, and length, securely fastened and firmly braced to the
8 pilot beam in front of engine, and a similar footboard on rear of tank
9 or tender of engines, upon which employees may stand or ride when
10 their duties require them so to do, and that a substantial grab rail
11 or rod be securely fastened upon said pilot beam at each end and in
12 the center, at a convenient height for employees to reach and hold on
13 to with their hands, said rod to extend across the full length of the
14 said pilot beam, and also across the rear end beam of said tank or
15 tender; the provisions of this statute shall not apply to switching or
16 yard service at stations or places where regular switch engines are
17 not employed exclusively as switch engines, or during a period of not
18 exceeding twelve hours, when a switch engine is being cleaned or
19 washed out, and also switching by work trains; and where regular
20 switch engines are disabled by accident, or in need of repairs, or there
21 is an unusual or unexpected amount of work, switching, under such
22 conditions, with ordinary engines, for a period of not to exceed forty-
23 eight hours, shall not be considered a violation of this statute.

[S., '13, § 2083-c.]

**SEC. 5112. Switching service — headlights — footboards — grab
rails—violation—penalty.**

1 Any person, railway company, terminal transfer or other cor-
2 poration or company who violates any of the provisions of the preced-
3 ing section shall be deemed guilty of a misdemeanor and upon convic-
4 tion shall be punished by a fine of not less than fifty dollars or more
5 than five hundred dollars for any such violation, and each day that
6 every such engine is operated shall constitute a separate and distinct
7 violation of said section.

[S., '13, § 2083-d.]

SEC. 5113. Frost glass in cab windows—repair.

1 Every person, partnership, company or corporation owning or
2 operating a railway in the state of Iowa, between November first and
3 April first of each year, shall equip the cab of all locomotive engines
4 in use, with frost glass, of not less than eight inches in width and
5 eighteen inches in length on either side of the cab of said engine in
6 front of the seat of the engineer and fireman; but when a frost glass
7 is broken or becomes out of repair, a period of not to exceed seventy-
8 two hours is allowed to repair or replace the same.

[S., '13, § 2083-e.]

SEC. 5114. Frost glass in cab windows — repair — violation—penalty.

1 Any violation of the preceding section shall be punished by a
 2 fine of not less than fifty dollars nor more than one hundred dollars
 3 for each day any locomotive engine is operated in violation thereof.

[S., '13, § 2083-f.]

SEC. 5115. Power of headlights—time of compliance.

1 It shall be the duty of every person, firm or corporation owning
 2 or operating any line of railway within the state of Iowa, except lines
 3 under twenty miles in length operated wholly within this state, to
 4 equip all locomotives, power vehicles, power cars, or other equipment
 5 used as the equivalent of or in place of a locomotive, when used in the
 6 transportation of passengers or freight, with a headlight of sufficient
 7 candle power, measured with a reflector, to throw a light in clear
 8 weather that will enable the operator of same to plainly discern an
 9 object the size of a man lying prone on the track at a distance of
 10 eleven hundred feet from the headlight, and thereafter to maintain
 11 and use such headlights upon every such locomotive, vehicle, car or
 12 other equipment. This section shall not be construed to apply to power
 13 cars used by street railways and operated wholly within the corporate
 14 limits of any city or town, nor to engines or other equipment used
 15 exclusively for switching purposes, nor to engines or other equipment
 16 running after sunrise and before sunset.

[S., '13, § 2083-g.]

SEC. 5116. Power of headlights—time of compliance—violation of—penalty.

1 Any person, firm or corporation owning such line of railway or
 2 the equipment operated thereon, who shall cause or permit any loco-
 3 motive, power vehicle, power car, or other equipment used as the
 4 equivalent thereof, to be operated without being equipped with the
 5 headlight required by the provisions of the preceding section shall be
 6 deemed guilty of a misdemeanor and, upon conviction, shall be pun-
 7 ished by a fine of not less than one hundred dollars nor more than five
 8 hundred dollars for each offense; but no punishment shall be imposed
 9 for the operation of any such locomotive or the equivalent thereof
 10 without such headlight, when such locomotive was properly equipped
 11 with such headlight at the commencement of the trip, providing it is
 12 shown that such headlight was in good and sufficient working condi-
 13 tion when the trip was begun and became disabled during the trip.

[S., '13, § 2083-h.]

SEC. 5117. Standard caboose cars required on all railways except interurban.

1 The provisions of the next three sections shall apply to any cor-
 2 poration or to any person or persons while engaged as common carriers
 3 in the transportation by railroads of passengers or property within
 4 this state except interurban, to which the regulative power of this
 5 state extends.

[S., '13, § 2083-i.]

SEC. 5118. Minimum length—construction—equipment.

1 It shall be unlawful, except as otherwise provided in this chapter,
 2 for any such common carrier by railroad to use on its lines any caboose

3 car or other car used for like purposes, unless such caboose or other
 4 car shall be at least twenty-four feet in length, exclusive of the plat-
 5 form, and equipped with two four-wheel trucks, and shall be provided
 6 with a door in each end thereof and an outside platform across each
 7 end of said car; each platform shall not be less than eighteen inches
 8 in width and shall be equipped with proper guard rails, and with grab
 9 irons and hand brakes, and steps for the safety of persons getting on
 10 and off said car; said steps shall be equipped with a suitable rod,
 11 board, or other guard at each end and at the back thereof, properly
 12 designed to prevent slipping from said step. Said caboose shall be
 13 provided with cupola, and necessary closets and windows. Each ca-
 14 boose car shall be equipped with an emergency air valve, and air
 15 gauge, which shall be placed on inside of said car; but the provisions
 16 hereof shall not apply to work trains, transfer service or emergencies
 17 not exceeding thirty-six hours.

[S., '13, § 2083-j.]

SEC. 5119. Cars now in use—when equipped.

1 When any such caboose car or other car now in use by such com-
 2 mon carriers as provided by section fifty-one hundred seventeen, shall
 3 be brought into any shop for general repairs, it shall be unlawful to
 4 again put the same into service of such common carriers within this
 5 state, unless it be equipped as provided in the preceding section.

[S., '13, § 2083-k.]

SEC. 5120. Penalty.

1 Any common carrier as provided in section fifty-one hundred
 2 seventeen violating any of the provisions of the three preceding sec-
 3 tions shall be deemed guilty of a misdemeanor, and upon conviction
 4 thereof shall be fined not less than one hundred dollars nor more than
 5 five hundred dollars for each offense.

[S., '13, § 2083-m.]

SEC. 5121. Taxes in aid of railroads—may be voted.

1 Taxes not exceeding five per cent on the assessed value of any
 2 township, town or city may be voted to aid any railway company,
 3 trolley or electric railway which is or may become incorporated under
 4 the laws of the state, to aid in the construction of a projected railroad
 5 or any trolley or electric railway within the state, as hereinafter
 6 provided.

[C., '97, § 2084; S., '13, § 2084.]

**SEC. 5122. Petition — notice — submission — certificate — levy —
 collection—certain cities.**

1 When a petition is presented to the trustees of any township or
 2 the council of any town or city, signed by a majority of the resident
 3 freehold taxpayers of such township, town or city, asking that the
 4 question of aiding any railroad company incorporated under the laws
 5 of the state in the construction of a projected railroad within it be
 6 submitted to the voters thereof, it shall be the duty of the trustees or
 7 council, as the case may be, immediately to give notice of a special
 8 election, by publication in some newspaper printed in said township,
 9 town or city, if any there be, and, if not, then in some newspaper
 10 published in the county, and also by posting copies of said notice in

11 five public places in such township, town or city at least ten days
12 before such election, which shall state the time and place of holding
13 the same, the name of the company, and the line of the road proposed
14 to be aided, the rate per cent of the tax to be levied, whether one-half
15 thereof shall be collected the first year and one-half the following
16 year, or whether the whole is to be collected in one year, the amount
17 of work required to be done and when and where the same shall be
18 done, to what point said railroad shall be fully completed, and any
19 other conditions which shall be performed before such tax or any part
20 thereof shall become due; and in no case shall such tax become due
21 until such railroad is fully completed according to the conditions in
22 said notice. The trustees or council, as the case may be, shall cause
23 to be prepared the form of the proposition to be submitted. The
24 proposition shall be printed and placed upon the ballots and the elec-
25 tion shall be conducted in the same manner as provided with respect
26 to like or similar propositions in the chapter on elections; and if a
27 majority of the votes polled be for the adoption of the proposition,
28 then the clerk of the township, city or town, or the clerk of election,
29 shall forthwith certify to the county auditor the result thereof, the
30 rate per cent of tax voted, the year or years during which the same
31 is to be collected, the name of the company to which voted, and the
32 time, terms and conditions upon which the same, when collected, is to
33 be paid under the conditions and stipulations in said notice, together
34 with an exact copy of the notice under which the election was held,
35 which the county auditor shall at once cause to be recorded in the
36 office of the recorder of deeds; the expense thereof, and of publishing
37 the notice, and all the expenses of the election, shall be paid by the
38 railway company to which it is proposed to vote the tax. When such
39 certificate has been made and recorded, the board of supervisors of
40 the county shall, at the time of levying the ordinary tax next follow-
41 ing, levy such taxes as are voted under the provisions hereof, as shown
42 by said certificate, and cause the same to be placed on the tax lists of
43 the proper township, town or city, indicating in their order thereupon
44 when and in what proportion the same are to be collected, and upon
45 what conditions the same are to be paid to the railway company, a
46 certified copy of which order shall accompany the tax lists. The taxes
47 shall be collected at the same time or times specified in the order, and
48 in the same manner, and subject to the same laws after they are col-
49 lectible, as other taxes, or as may be stated in the petition and notices
50 for the election, except as otherwise provided; in cities acting under
51 special charter, and cities having a population of twenty-five thousand
52 or over, it shall only be necessary that the petition for the submission
53 of the question of aiding any railroad company, as herein provided,
54 shall be signed by two thousand or more resident freeholders thereof.

[C., '97, § 2085; S., '13, § 2085.]

SEC. 5123. Notice—conditions—limit of tax.

1 The stipulations and conditions in the notices prescribed in this
2 chapter must conform to those set forth in the petition asking for the
3 election; and the aggregate amount of tax voted in any city, town or
4 township shall not exceed five per cent of the assessed value of the
5 property therein, respectively. The right to vote taxes within the
6 limits herein provided shall exist after the expiration of ten years
7 from the exercise to the limit of the right herein granted. Nothing
8 herein shall authorize a tax of five per centum within such period

9 named to steam railroads and also five per centum within such period
10 to interurban railways.

[C., '97, § 2086; S., '13, § 2086.]

SEC. 5124. Money paid out—certificate.

1 The moneys collected under the provisions of this chapter shall
2 be paid out by the county treasurer to the treasurer of the railway
3 company for whom the same was voted, upon the orders of the presi-
4 dent or managing director thereof, at any time after the trustees of
5 such township or council of such town or city voting the same, or a
6 majority thereof, shall have certified to the county treasurer that the
7 conditions required of the railway company and set forth in the notice
8 for the special election have been complied with, which certificate said
9 township trustees or council of such town or city shall make when
10 conditions have been sufficiently complied with to entitle the railway
11 company thereto, or when the conditions are fully complied with on
12 the part of the railway company; but if the costs and expenses of
13 holding the election and of recording the certificates have not been
14 paid, then the treasurer shall first deduct from the moneys collected
15 the amount thereof, and pay same to the parties entitled thereto.

[C., '97, § 2087.]

**SEC. 5125. Certificates exchangeable for stock or bonds — inter-
urban railroads excepted.**

1 The county treasurer, when required, shall, in addition to a tax
2 receipt, issue to each taxpayer, on the payment of any taxes voted
3 under the provisions of this chapter, a certificate showing the amount
4 of tax paid, the name of the railway company entitled thereto, and
5 when the same was paid; and he may charge twenty-five cents for
6 each certificate issued. Said certificates shall be assignable, and, when
7 presented by any person holding the legal title thereto to the presi-
8 dent, managing director, treasurer or secretary of the railroad com-
9 pany receiving the taxes paid, as shown by such certificates, in sums
10 of one hundred dollars or more of taxes, it shall issue or cause to be
11 issued to said person the amount of stock of the company desiring
12 the benefit from said taxes, to the amount of said certificate or certi-
13 ficates, and if the taxes paid as shown by said certificate or certifi-
14 cates amount in the aggregate to more or less than any certain number
15 of shares of stock, then the holder thereof shall be entitled to receive
16 the full number of shares of stock covered by said certificates, and
17 may make up in money the balance of any share when the certificates
18 held by him are not equal to one full share of such stock, which stock
19 for such purpose shall be estimated at par. When it shall be proposed
20 in the petition and notice calling an election to issue first mortgage
21 bonds not exceeding the sum of eight thousand dollars per mile for a
22 railroad of three feet gauge, and not exceeding the sum of eighteen
23 thousand five hundred dollars per mile for the ordinary four feet eight
24 and one-half inch gauge in lieu of stock, it shall be lawful to issue
25 bonds of the denomination of one hundred dollars in the same manner
26 as is provided for the issue of stock, and in such case the petition and
27 notice shall state the amount of bonds per mile to be issued, the rate
28 of interest, and the time of payment of the interest and principal
29 thereof; but the provisions of this section shall not be applicable to

30 taxes that are voted and paid in aid of the construction of railroads
31 that are interurban in character.

[C., '97, § 2088; S., '13, § 2088.]

SEC. 5126. Liability of directors.

1 The board of directors of any railway company receiving taxes
2 voted in aid thereof under the provisions of this chapter, or any mem-
3 ber thereof, who shall vote to bond, mortgage or in any manner in-
4 cumber said road to an amount exceeding the sum of eight thousand
5 dollars per mile for a railroad of three feet gauge, or exceeding the
6 sum of eighteen thousand five hundred dollars per mile for the ordi-
7 nary four feet eight and one-half inch gauge, not including in either
8 case any debt for ordinary operating expenses, shall be liable to the
9 stockholders or either of them for double the amount, estimated at its
10 par value, of the stock by him held, if the same should be rendered
11 of less value or lost thereby.

[C., '97, § 2089.]

SEC. 5127. Forfeiture of tax.

1 Should the taxes voted in aid of any railroad under the provisions
2 of this chapter remain in the county treasury for more than one year
3 after the same have been collected, the right to them by the railroad
4 company shall be forfeited, and the persons who paid the same en-
5 titled to receive back from the county treasurer their pro rata shares
6 thereof remaining, and in all cases where any taxes have been voted
7 or levied upon the real or personal property in any township, town
8 or city to aid in the construction of any railroad, and the road in aid
9 of which they were voted or levied has not been built, completed or
10 operated into or through such township, town or city, it shall be the
11 duty of the board of supervisors of the county where said taxes have
12 been voted and levied and still remain on the tax books to give the
13 railway company in aid of which the tax was voted at least thirty
14 days' notice in writing, to be served like original notices, of their in-
15 tention to cancel such taxes, and thereupon to cause the same to be
16 canceled and stricken from the tax books of the county, which can-
17 cellation shall remove all liens created by the levy thereof. In all
18 cases where the railway company to whom taxes have been voted
19 neglects or refuses to receive such taxes, or to require or permit the
20 same to be collected and certificates therefor to be issued, for the
21 period of one year after they become due and collectible, and in all
22 cases where taxes have been voted in aid of any railroad, and the
23 conditions upon which the same were voted have not in fact been
24 complied with, and the time in which said conditions were to be ful-
25 filled has expired, the same shall be forfeited, and the county officers
26 of the county in which they have been levied and entered upon the
27 tax books shall enter cancellation thereof upon the proper records;
28 and in all cases where any taxes to aid in the construction of any rail-
29 road may be voted upon the inducement or promise offered on the part
30 of said railroad company, or any duly authorized agent thereof, for
31 any rebates or exemptions from said tax or any part thereof, or any
32 agreed price to be paid for the stock that may be issued in lieu of said
33 tax, or a division of said tax, or any portion or percentage thereof,
34 with any of the voters or taxpayers as an inducement to procure said
35 tax to be voted, all taxes so procured to be voted shall be void.

[C., '97, § 2090.]

SEC. 5128. Taxes paid in labor or supplies.

1 Nothing contained in this chapter shall preclude any taxpayer
 2 who may contract with a railroad company for which taxes may be
 3 voted to pay his tax, or any part thereof, in labor upon the line of said
 4 railroad, or in material for its construction, or supplies furnished or
 5 money paid for the construction thereof, in pursuance of the terms
 6 and conditions stipulated in the notices of election, in lieu of a pay-
 7 ment to the county treasurer. Upon presenting to the county treas-
 8 urer a receipt from such railroad company or its duly authorized
 9 agent, specifying the amount of such payment, the same shall be cred-
 10 ited by the treasurer on his tax, with the same effect as though paid
 11 to him in money, and when such receipts have been presented and
 12 credited they shall have the same validity in his settlement with the
 13 board of supervisors as the orders from the railroad company pro-
 14 vided for in this chapter. Laborers shall have a lien upon any tax
 15 voted in aid of a railroad company for the amount due them for labor
 16 performed in the construction of said railroad.

[C., '97, § 2091.]

SEC. 5129. Statutes applicable.

1 All of the provisions of this chapter relating to tax in aid of rail-
 2 ways are hereby made applicable to trolley or electric railways. And
 3 wherever the word "railroad" appears in any of said provisions the
 4 same shall be held to include trolley or electric railroad; and wherever
 5 the words "railroad company" or "railway company" appear in said
 6 provisions the same shall be held to include trolley railway company,
 7 and electric railway company; no stock shall be issued by any such
 8 company except upon payment therefor of the full par value thereof
 9 in cash or its equivalent.

[S., '13, § 2091-a.]

SEC. 5130. Electric railroads — construction — electrification of steam railroads.

1 Taxes not exceeding five per cent on the assessed value of the real
 2 property of any district or territory contiguous to any projected trol-
 3 ley or electric railroad, or to any steam railroad which it is proposed
 4 to electrify, may be levied to aid in the construction of such projected
 5 trolley or electric railroad, or in the electrification of such steam rail-
 6 road, within the state, as hereinafter provided.

[S., '13, § 2091-b.]

SEC. 5131. Petition — notice — election—certification—expense—levy—collection.

1 When it is proposed to construct any trolley or electric railroad,
 2 or to electrify any steam railroad, and a petition definitely describing
 3 any district or territory contiguous to and within five miles of the
 4 line of such railroad or proposed railroad, signed by a majority of
 5 the resident freehold taxpayers of such district or territory, asking
 6 that the question of aiding in the construction or electrification of
 7 such railroad or proposed railroad within such district or territory
 8 be submitted to the voters thereof, is presented to the board of super-
 9 visors of the county in which such district or territory is situated, it
 10 shall be the duty of such board of supervisors immediately to give
 11 notice of a special election by publication in some newspaper pub-

12 lished in such district or territory, if any there be, and if not, then
13 in some newspaper published in the county, and also by posting copies
14 of said notices in five public places in such district or territory at least
15 ten days before such election, which shall state the time and place of
16 holding the same; the name of the company and the line of the road
17 proposed to be aided; the rate per cent of the tax to be levied; whether
18 one-half thereof shall be collected the first year and one-half the fol-
19 lowing year; or whether the whole is to be collected in one year; the
20 amount of work required to be done, and when and where the same
21 shall be done; to what point said railroad shall be fully completed;
22 and any other conditions which shall be performed before such tax
23 or any part thereof shall become due; and in no case shall such tax
24 become due until such railroad is fully completed according to the
25 conditions of said notice. The board of supervisors shall cause to be
26 prepared the form of the proposition to be submitted, and the propo-
27 sition shall be printed and placed upon the ballots; and the board of
28 supervisors shall appoint the judges and clerks of election, and the
29 election shall be conducted in the same manner as provided with re-
30 spect to like or similar propositions in the title on elections; and the
31 judges of election shall canvass the vote and make return to the county
32 auditor; and if a majority of the votes polled be for the adoption of
33 the proposition, then the county auditor shall forthwith certify to the
34 result thereof, rate per cent of the tax voted, the year or years during
35 which the same is to be collected, the name of the company to which
36 voted, and the time, terms and conditions upon which the same when
37 collected is to be paid under the conditions and stipulations in said
38 notice, together with an exact copy of the notice under which the
39 election was held, which the county auditor shall at once cause to be
40 recorded in the office of the recorder of deeds. The expense thereof
41 and of publishing the notice and all the expenses of the election shall
42 be paid by the railway company to which it is proposed to vote the
43 tax. When such certificate has been made and recorded the board of
44 supervisors of the county shall, at the time of levying the ordinary
45 tax next following, levy such taxes as are voted under the provisions
46 hereof as shown by said certificate, and cause the same to be placed
47 on the tax lists of the proper township, town or city, indicating in their
48 order thereupon when and in what proportion the same are to be col-
49 lected, and upon what conditions the same are to be paid to the rail-
50 way company, a certified copy of which shall accompany the tax list.
51 The taxes shall be collected at the time or times specified in the order
52 and in the same manner and subject to the same laws after they are
53 collectible as other taxes, or as may be stated in the petition and notice
54 for the election, except as otherwise provided; but such tax shall only
55 be levied upon the real property within such district or territory. The
56 stipulations and conditions in the notice prescribed in this section
57 must conform to those set forth in the petition asking for the election,
58 and the aggregate amount of taxes voted in any such district or terri-
59 tory shall not exceed five per cent of the assessed value of the real
60 property therein.

[S., '13, § 2091-c.]

SEC. 5132. Statutes applicable.

1 The provisions of sections fifty-one hundred twenty-four, fifty-
2 one hundred twenty-seven and fifty-one hundred twenty-eight are

3 hereby made applicable to all taxes levied under the provisions of the
4 two preceding sections.

[S., '13, § 2091-d.]

SEC. 5133. Ownership—approval of railroad commission.

1 No tax shall be levied to aid in the electrification of any steam
2 railway for the benefit of any person, firm or individual, who is not
3 the owner in fee simple of said steam railway, unless with or prior
4 to the presentation of the petition to the board of supervisors asking
5 for said election the agreement between the person, firm or corpora-
6 tion proposing to electrify said steam railway and the owner of said
7 steam railway for its electrification and use, has been presented to
8 the board of railroad commissioners, and its duration, terms and con-
9 ditions found suitable by said board, and said approval made a matter
10 of record in the proceedings of said board of railroad commissioners,
11 and certified to such board of supervisors.

[S., '13, § 2091-e.]

SEC. 5134. Limitation of tax.

1 The real property upon which such tax shall have been levied
2 shall not be subjected to taxes in aid of railroads, including such tax,
3 to exceed five per centum of the assessed value of said real property,
4 for a period of ten years after said levy.

[S., '13, § 2091-f.]

SEC. 5135. Tax in aid of abandoned railways.

1 Taxes not exceeding five per cent on the assessed value of the
2 property within the district hereinafter provided may be voted to aid
3 in the reconstruction, improvement, repair or maintenance of any
4 railroad heretofore constructed, the operation of which has been
5 abandoned.

[38 G. A., ch. 328, § 1.]

SEC. 5136. Proceedings—election—limitations.

1 When a petition definitely describing any district contiguous with-
2 in two and one-half miles of the line of any railroad described in the
3 preceding section, signed by a majority of the resident freehold tax-
4 payers of such district or territory, asking that the question of aiding
5 in the reconstruction, improvement, repair or maintenance of any
6 such railroad be submitted to the voters of such district or territory,
7 is presented to the board of supervisors of the county having the larg-
8 est proportion of the area of said proposed district or territory, the
9 said board of supervisors shall immediately call a special election in
10 said district or territory. Notice of the time and place of the holding
11 of such election shall be published in the official papers of each county
12 in which any of said proposed district or territory is situated once
13 each week for three consecutive weeks preceding the election; such
14 notice shall contain the time and place of the election and the propo-
15 sition to be submitted to the voters of the proposed district or terri-
16 tory, which shall be described in such notice. The board of super-
17 visors shall cause to be prepared the form of the proposition to be
18 submitted, and the proposition shall be printed and placed upon the
19 ballots; and the board of supervisors shall appoint the judges and
20 clerks of election, and the election shall be conducted in the same

21 manner as provided with respect to like or similar propositions in the
 22 title on elections; and the judges of election shall canvass the vote
 23 and make return to the county auditor; and if a majority of the votes
 24 polled be for the adoption of the proposition, then the county auditor
 25 shall forthwith certify to the result thereof, together with an exact
 26 copy of the notice under which the election was held, which the county
 27 auditor shall at once cause to be recorded in the office of the recorder
 28 of deeds of each county wherein any of said district or territory is
 29 situated. The expense thereof, and of publishing the notice and all
 30 the expenses of the election, shall be paid by the railway company to
 31 which it is proposed to vote the tax. The taxes shall be collected in
 32 the same manner as other taxes, except as otherwise provided. The
 33 stipulations and conditions in the notice prescribed in this section
 34 must conform to those set forth in the petition asking for the election,
 35 and the aggregate amount of taxes voted in any such district or terri-
 36 tory shall not exceed five per cent of the assessed value of the real
 37 property therein. When such certificate has been made and recorded,
 38 the board of supervisors of each county shall annually thereafter, so
 39 long as said railway is operated, not exceeding five years, levy one-
 40 fifth of the tax so voted upon the real estate within the territory or
 41 district in said county voting such tax.

[38 G. A., ch. 328, § 2.]

SEC. 5137. Laws applicable.

1 The provisions of sections fifty-one hundred twenty-four, fifty-
 2 one hundred twenty-seven and fifty-one hundred twenty-eight are
 3 hereby made applicable to all taxes levied under the provisions of the
 4 two preceding sections.

[38 G. A., ch. 328, § 3.]

SEC. 5138. Limitation of amount.

1 The real property upon which such tax shall have been levied
 2 shall not be subjected to taxes in aid of railroads, including such tax,
 3 to exceed five per centum of the assessed value of said real property,
 4 for a period of ten years after said levy.

[38 G. A., ch. 328, § 4.]

SEC. 5139. Relocation of line—petition.

1 Any railroad desiring to change or remove the line of its road,
 2 after the same has been permanently located and constructed, may
 3 file a petition in the district court in any county wherein the change
 4 or removal is proposed to be made, describing with reasonable ac-
 5 curacy that portion of its line which it seeks to have changed or re-
 6 moved, and asking the court to grant authority to make such change
 7 or removal. All trustees, mortgagees and other lienholders, and all
 8 townships, cities and counties which have aided by taxation to build
 9 the road, must be made defendants and served with notice as in other
 10 actions.

[C., '97, § 2092.]

SEC. 5140. Notice.

1 A public notice to all whom it may concern of the time of filing
 2 such petition, the object thereof, and the term of court at which the
 3 application will be made for authority to make the change, and requir-

4 ing all persons desiring the repayment of money or return of prop-
5 erty, as in this chapter provided, to appear and present their claims
6 therefor, must be published in a newspaper printed in each county in
7 which the change is to be made, once each week, for a period of ten
8 successive weeks before the term of court at which the application is
9 to be heard. The court may order any additional notice or publica-
10 tion that it may think proper.

[C., '97, § 2093; S., '13, § 2093.]

SEC. 5141. Conditions.

1 No railway company shall be allowed to change or remove its line
2 of road, after a permanent location and construction, without repay-
3 ing all moneys, and restoring all property, or its value, which were
4 donated to the company building the same exclusively in consideration
5 of said railroads being located and constructed on such line, to the
6 parties donating the same, their heirs or assigns, nor without first
7 procuring the consent of all parties having liens upon the railroad,
8 and of any township, city or county that by taxation or by the issuing
9 of bonds has contributed money to aid in the construction thereof; but
10 the consent of such township, city or county shall be necessary only
11 with reference to the change to be made within its own territorial
12 limits.

[C., '97, § 2094.]

SEC. 5142. Order of court.

1 If the court finds that notice has been given, and the consent of
2 the proper parties has been obtained, it shall ascertain the amount
3 of money or property contributed to the company by any person or
4 party thereto or appearing therein that was so contributed exclusively
5 in consideration that the road should be located on the line from which
6 it is proposed to remove it, which shall be repaid in case of money,
7 and returned if property, or its value fixed, and in either case shall
8 render judgment therefor, and may also enter a decree authorizing,
9 if the public interest demands it, the removal of or change in the line
10 of said road upon condition that all judgments above provided for be
11 first paid or satisfied, and foreclosing all persons or parties not ap-
12 pearing in the action, and forever barring them from asserting any
13 claim against such company on account of the contributions or dona-
14 tions herein mentioned.

[C., '97, § 2095.]

SEC. 5143. Effect.

1 All mortgage liens or other incumbrances on the line of road
2 which the company is authorized by the court to change shall attach
3 to the line to which said road is removed, and have the same priority
4 over other liens that they held on the original line.

[C., '97, § 2096.]

SEC. 5144. Notice to township trustees—vested rights.

1 For the purpose of this chapter, the trustees of each township
2 shall be served with notice and shall represent and act for it. No
3 vested right of any person or persons living on and along the line of
4 any railroad thus removed shall be defeated or affected by the removal.

[C., '97, § 2097.]

SEC. 5145. Cuts and banks.

1 When any railway company shall take up its track and relocate
2 the same under the provisions of this chapter, it shall within two
3 years therefrom fill up the cuts and level down the banks, or cause
4 the same to be done; but the provisions of this section shall not apply
5 to any railroad which has its initial point in any town upon the Mis-
6 sissippi river, and which had in the year eighteen hundred fifty-nine
7 sixty-three miles and no more of completed track from such initial
8 point, and this exemption shall only apply to the sixty-three miles of
9 road from the initial point thereof.

[C., '97, § 2098.]

SEC. 5146. Union railway depots—corporations formed.

1 Any number of persons or railway corporations, or both persons
2 and railway corporations, may form a body corporate under the laws
3 of this state relating to corporations for pecuniary profit, for the pur-
4 pose of acquiring, establishing, constructing and maintaining at any
5 place in the state union station houses or depots for freight or passen-
6 gers, or both, with necessary offices for express, baggage or postal
7 rooms in the same or separate buildings, and railroad tracks and other
8 appurtenances of such depots. Any railroad company operating a
9 road in the state, or interested therein, whether organized under its
10 laws or elsewhere, may become a stockholder in such corporation. A
11 copy of the by-laws, if any are adopted, shall be posted in the passenger
12 or waiting rooms of the depot and in the office of the company.

[C., '97, § 2099.]

SEC. 5147. Powers.

1 Every corporation formed under the provisions of the preceding
2 section shall have power to take and hold, for the purposes therein
3 mentioned, such real estate as may be found necessary by the railroad
4 commissioners for the location of its depot and approaches, which it
5 may acquire by purchase or condemnation as provided for the taking
6 of private property for works of internal improvement.

[C., '97, § 2100.]

SEC. 5148. Connecting tracks.

1 Such corporations, with the consent of the council of any city or
2 town in which any such depot is located, shall have the right to lay
3 its tracks to make necessary connection with all railways desiring to
4 use such depot, upon the streets or alleys of such city or town, and,
5 by and with the consent of the council, may erect such depot upon or
6 across any street or alley; but no railway track can thus be located,
7 nor can any such depot be so erected, until after the injury to prop-
8 erty abutting upon the streets or alleys thus appropriated has been
9 ascertained and paid in the manner provided for taking private prop-
10 erty for works of internal improvement.

[C., '97, § 2101.]

SEC. 5149. Liability for damages.

1 Nothing in this chapter contained, or in the articles of incorpora-
2 tion or by-laws of such corporation, shall release the railroad com-
3 panies using such union depots, tracks or appurtenances from the
4 same liability for all damages on account of injuries to persons, stock,

5 baggage or freight, or for the loss of baggage or freight in or about
6 such union depot grounds, as they would be under if said depot tracks
7 and appurtenances belonged to and were operated by the railway com-
8 panies using the same.

[C., '97, § 2102.]

**SEC. 5150. Station houses at crossings—at joint expense—con-
necting tracks.**

1 All railway corporations shall, at all points of connection, cross-
2 ings or intersection with the roads of other corporations, unite there-
3 with in establishing and maintaining suitable platforms and station
4 houses for the convenience of passengers desiring to transfer from
5 one road to the other, and for the transfer of passengers, baggage or
6 freight, whenever the same shall be ordered by the railroad commis-
7 sion; and shall, when ordered by it, keep such depot or passenger
8 house warmed, lighted and opened a reasonable time before the arrival,
9 and until after the departure, of all trains carrying passengers; and
10 said railway companies shall stop all trains at said depots for the
11 transfer of passengers, baggage and freight when so ordered by the
12 commission. The expense of constructing and maintaining such sta-
13 tion houses and platforms shall be paid by such corporations in such
14 proportions as may be fixed by the commission. Such corporations
15 whose roads so connect or intersect shall, when ordered by the com-
16 mission, so unite and connect the tracks of the several roads as to per-
17 mit the transfer of cars from the track of one to that of the other.

[C., '73, §§ 1292-1296; C., '97, § 2103.]

SEC. 5151. Penalty.

1 Any railway corporation or company which, after having received
2 ninety days' notice from the commissioners, shall neglect or refuse to
3 comply with the provisions of the preceding section shall, for every
4 day it fails, neglects or refuses to comply therewith, forfeit and pay
5 the sum of twenty-five dollars, which may be recovered in the name of
6 the state for the use of the school fund of the county wherein such
7 crossing or intersection is situated, and the county attorney of such
8 county shall prosecute the same.

[C., '97, § 2104.]

SEC. 5152. Maintenance—sanitation.

1 At all railway stations in this state, where a depot and waiting
2 rooms for passengers are maintained, there shall be within the same,
3 or connected therewith, sanitary closets, including separate closets for
4 women, which in cities or towns having a system of sewerage, so
5 located that the same can be reasonably used by the railroad property,
6 shall be thoroughly drained, constructed and plumbed according to
7 approved sanitary principles and said depots and closets shall be kept
8 in a clean and sanitary condition, free from any offensive odors.
9 Depots in cities or towns not provided with a sewerage system, shall
10 be provided with privies or closets properly screened and separated
11 for the use of males and females, which shall be cleaned and disin-
12 fected as often as necessary to keep and maintain them in an approved
13 sanitary condition.

[S., '13, § 2514-y.]

SEC. 5153. Enforcement by hotel inspector.

1 It shall be the duty of the hotel inspector and his deputies to see
 2 that the provisions of the preceding section are fully complied with
 3 and on complaint being filed by an employee or patron of the railway
 4 company shall by himself or deputy personally inspect the same.

[S., '13, § 2514-y1.]

SEC. 5154. Delinquency—notice to station agent.

1 It shall be the duty of the inspector upon ascertaining by inspec-
 2 tion or otherwise that any railroad company has not complied with
 3 the provisions of the second preceding section at any of its depots, to
 4 notify the station agent of such depot, in writing, stating in what
 5 respect it is delinquent and requiring it in a reasonable time, to be
 6 fixed by the inspector, to do or cause to be done the things necessary
 7 to make it comply with the law.

[S., '13, § 2514-y2.]

SEC. 5155. Violation—penalty.

1 Any railroad company which after receiving said notice fails to
 2 comply, within the time fixed, with the provisions of the third preced-
 3 ing section, shall be guilty of a misdemeanor and upon conviction shall
 4 be fined not exceeding one hundred dollars for each offense and the
 5 inspector shall file information in such a case.

[S., '13, § 2514-y3.]

SEC. 5156. Fee—who liable for.

1 Such railroad companies shall pay a fee of five dollars to the per-
 2 son making the inspection. If there is no cause of complaint, the
 3 person complaining shall be liable for such fee. All fees shall forth-
 4 with be paid over to the state treasurer to be kept in the hotel inspec-
 5 tion fund.

[S., '13, § 2514-y4.]

SEC. 5157. Expenses.

1 The inspector shall be allowed his necessary expenses while
 2 engaged in the actual work of inspection, to be audited and paid out
 3 of the hotel inspection fund as provided in section ten hundred ninety.

[S., '13, § 2514-y5.]

SEC. 5158. Changing names of stations—by commissions.

1 In all cases where any railway company shall fail or refuse to
 2 make the name of the railway station conform to the name of the vil-
 3 lage, incorporated town or city within the limits of which it is situated,
 4 it shall be the duty of the railroad commissioners of the state to order
 5 a change of the name of said railway station to effect such uniformity,
 6 within sixty days after a petition in writing by the town council of
 7 said incorporated town or city, or, in the case if a village, by the town-
 8 ship trustees, asking for such order, is filed with said railroad com-
 9 missioners.

[C., '97, §2105.]

SEC. 5159. Notice.

1 When the commissioners shall order a change in the name of a
2 railway station, they shall give the company owning or operating the
3 same notice of such order, and if it is not complied with within thirty
4 days from the date of service of such notice, the commissioners shall
5 notify the attorney general thereof, who shall begin proceedings in
6 the proper court to compel the enforcement of said order.

[C., '97, § 2106.]

SEC. 5160. Penalty.

1 A failure to comply with the order of the commissioners within
2 thirty days from service of such notice shall also be a misdemeanor,
3 for which said company shall be subject to a fine of one thousand
4 dollars, and noncompliance for each thirty days thereafter shall con-
5 stitute a separate and distinct offense, subject to a fine of one thousand
6 dollars.

[C., '97, § 2107.]

SEC. 5161. Terminal offices—general offices.

1 All railroads terminating in the state shall establish and main-
2 tain at such terminus general freight and passenger offices, and express
3 or telegraph offices when operating an independent express or tele-
4 graph company, at localities accessible and convenient to the public,
5 and there keep for sale tickets over their respective roads, and, in ad-
6 vertising, correctly set forth their true connections, starting or termi-
7 nal points, time-tables, and freight tariffs.

[C., '97, § 2108.]

SEC. 5162. For sale of sleeper tickets.

1 All railroad and sleeping car companies, running or operating
2 sleepers or sleeping cars within the state upon railroads terminating
3 therein, shall establish, maintain and keep open to the public, at such
4 termini, ticket offices at accessible and convenient places, in which they
5 shall keep a diagram of the berths and staterooms in such sleepers or
6 sleeping cars, and shall at all times during the daytime keep them
7 open for the sale of tickets for such berths and staterooms.

[C., '97, § 2109.]

SEC. 5163. Penalty.

1 If any officer, agent or employee of any such company, or any
2 lessee, engaged in operating any sleeper or sleeping car line terminat-
3 ing or operated within the state, shall neglect or refuse to comply with
4 any of the provisions of the two preceding sections, he shall be guilty
5 of a misdemeanor, and, upon conviction thereof, fined in a sum not
6 exceeding five hundred dollars, and imprisoned not more than six
7 months.

[C., '97, § 2110.]

SEC. 5164. Employees' hours of service limited—exceptions.

1 It shall be unlawful for any railway company within the state of
2 Iowa, or any of its officers or agents to require or permit any employee
3 engaged in or connected with the movement of any rolling stock,
4 engine or train, to remain on duty more than sixteen consecutive

5 hours, or to require or permit any such employee who has been on
 6 duty sixteen consecutive hours to perform any further service without
 7 having at least ten hours for rest, or to require or permit any such
 8 employee to be on duty at any time to exceed sixteen hours in any
 9 consecutive twenty-four hours; but this section shall not apply to
 10 work performed in the protection of life or property in cases of acci-
 11 dent, wreck, or other unavoidable casualty, or prevent train crews from
 12 taking a passenger train, or freight train loaded exclusively with live
 13 stock or perishable freight, to the next nearest division point upon
 14 such railroad; and it shall not apply to that time necessary for the
 15 trainmen to reach a resting place when an accident, wreck, washout,
 16 snow blockade or other unavoidable cause has delayed their train;
 17 and provided further that this section shall not apply to employees of
 18 sleeping car companies.

[S., '13, § 2110-a.]

SEC. 5165. Penalty—investigation—prosecutions.

1 Any superintendent, train master, train dispatcher, yardmaster
 2 or other official of any railroad in the state of Iowa, violating any of
 3 the provisions of the preceding section, shall be deemed guilty of a
 4 misdemeanor, and upon conviction shall be punished by a fine of not
 5 less than one hundred dollars and not more than five hundred dollars
 6 for each offense. It shall be the duty of the board of railroad commis-
 7 sioners to receive written statements of violations of this and the
 8 preceding section, and when so requested to hold the same without
 9 disclosure of the name of the person making such statement, and to
 10 investigate each and every complaint filed alleging such violation. The
 11 board in making such investigation shall have the power to adminis-
 12 ter oaths, interrogate witnesses, take testimony, and require the pro-
 13 duction of books and papers, and must file a report of such investiga-
 14 tion in writing with a full statement of its finding to the governor. In
 15 all cases of violation of said provisions, the board of railroad commis-
 16 sioners, through the attorney general, must at once begin the prosecu-
 17 tion of all parties against whom evidence of violation is found; but said
 18 provisions shall not be construed to prevent any other person from
 19 beginning prosecution for violation thereof.

[S., '13, § 2110-b.]

**SEC. 5166. Semimonthly payment of wages—contracts in avoid-
 ance prohibited.**

1 Every railway corporation operating or doing business in the
 2 state of Iowa shall as often as semimonthly pay to every employee
 3 engaged in its business all wages or salaries earned by such employee
 4 to a day not more than eighteen days prior to the date of such pay-
 5 ment. Any employee who is absent at the time fixed for payment, or
 6 who for any other reason is not paid at that time, shall be paid there-
 7 after at any time upon six days' demand, and any employee leaving
 8 his or her employment or discharged therefrom shall be paid in full
 9 following his or her dismissal or voluntary leaving his or her employ-
 10 ment at any time upon six days' demand. No corporation coming
 11 within the meaning of this section shall by special contract with the
 12 employees or by any other means secure exemption from the provi-
 13 sions of this section. And each and every employee of any corpora-
 14 tion coming within the meaning hereof shall have his or her right of

15 action against any such corporation for the full amount of his or her
16 wages due on each regular pay day as herein provided in any court of
17 competent jurisdiction of this state.

[S. S., '15, § 2110-b1.]

SEC. 5167. Violation—penalty.

1 Any corporation, coming within the meaning of this and the pre-
2 ceding section violating the preceding section shall be deemed guilty
3 of a misdemeanor and fined in a sum not less than twenty-five dollars,
4 or more than one hundred dollars, for each separate offense, and each
5 and every failure or refusal to pay each employee the amount of wages
6 due him or her at the time, or under the conditions required in the
7 preceding section, shall constitute a separate offense.

[S. S., '15, § 2110-b2.]

SEC. 5168. Destruction of weeds—written notice.

1 It shall be the duty of every corporation owning or operating a
2 railroad in this state on written notice from the owner, lessee or occu-
3 pant of any land abutting upon its right of way to cut and burn, or
4 otherwise destroy once each year during the month of July, all cockle-
5 burs, burdock weeds, quack grass and thistles on its right of way adja-
6 cent to said land.

[S., '13, § 2110-i.]

SEC. 5169. Penalty.

1 Any failure to comply with the provisions of the preceding sec-
2 tion shall be deemed as a misdemeanor and shall be punished accord-
3 ingly.

[S., '13, § 2110-j.]

SEC. 5170. Enforcement.

1 It shall be the duty of the county attorneys in the respective
2 counties to enforce the provisions of the two preceding sections.

[S., '13, § 2110-k.]

**SEC. 5171. Elevators and other buildings on railroad lands—dis-
agreements adjusted by railroad commission.**

1 When a disagreement arises between the owner of an elevator or
2 grain warehouse, coal shed, ice house, buying station, flour mill, or any
3 other building used for receiving, storing or manufacturing any article
4 of commerce transported or to be transported, situated on a railroad
5 right of way, or on land owned or controlled by a railroad company,
6 and such railroad company, as to the terms and conditions on which
7 the same is to be continued thereon, or removed therefrom, or when-
8 ever application is made by any person, firm or corporation for the
9 right to a site for such elevator or grain warehouse, coal shed, ice
10 house, buying station, flour mill, or any other building used for receiv-
11 ing, storing or manufacturing any article of commerce transported or
12 to be transported, and such railway company and said applicant can
13 not agree as to whether said elevator or grain warehouse shall be so
14 placed on said right of way or on property owned or controlled by the
15 railroad company, or as to the character of the buildings to be erected
16 and placed thereon, or the place where the same is to be so erected and

17 maintained, or as to the terms and conditions under which the same
18 may be so placed or operated, then, and in every such event on written
19 application to the board of railroad commissioners by such railroad
20 company, person, firm or corporation the said board of railroad com-
21 missioners shall have authority, and it is hereby made their duty, as
22 speedily as possible after the filing of such application, to hear and
23 determine such controversy, and make such order in reference thereto
24 as shall be just and right between the parties under all the facts in the
25 case, which order shall be enforced as other orders of said commission.
[S., '13, § 2110-l.]

SEC. 5172. Destruction of buildings—liability of railroad for negligence.

1 In the event that any elevator, warehouse, coal shed, ice house,
2 buying station, flour mill or any other building used for receiving,
3 storing or manufacturing any article of commerce transported or to
4 be transported, situated on the right of way or other land of a rail-
5 road company shall be injured or destroyed by the negligence of any
6 railroad company, or the servants or agents of any railroad company
7 in the conduct of the business of such company, the railroad company
8 so causing such injury or destruction shall be liable therefor to the
9 same extent as if such elevator, warehouse, coal shed, ice house, buy-
10 ing station, flour mill or any other building used for receiving, storing
11 or manufacturing any article of commerce transported or to be trans-
12 ported was not situated on the right of way or other land of such
13 railroad company, any provision in any lease or contract to the con-
14 trary notwithstanding.
[S., '13, § 2110-m.]

CHAPTER 4.

REGULATION OF CARRIERS.

SECTION 5173. To what applicable.

1 The provisions of this chapter shall apply to the transportation
2 of passengers and property, and to the receiving, delivering, storing
3 and handling of property wholly within this state, and shall apply to
4 all railroad corporations, express companies, car companies, sleeping
5 car companies, freight or freight line companies, and to any common
6 carrier engaged in this state in the transportation of passengers or
7 property by railroad therein, and to shipments of property made from
8 any point within the state to any point within the state, whether the
9 transportation of the same shall be wholly within this state or partly
10 within this state and partly within an adjoining state. The term
11 "railroad" and "railway" as used in this chapter shall include all
12 bridges and ferries used or operated in connection with any railroad,
13 and also all the road in use by any corporation, receiver, trustee or
14 other person operating a railroad, whether owned or operated under
15 contract, agreement, lease or otherwise; and the term "transportation"
16 shall include all instrumentalities of shipment or carriage; and the
17 term "railway corporation" shall mean all corporations, companies or
18 individuals owning or operating any railroad in whole or in part in

19 this state; and the provisions of this chapter shall apply to all per-
20 sons, firms and companies, and to all associations of persons, whether
21 incorporated or otherwise, that shall do business as common carriers
22 upon any of the lines of railway in this state, street railways excepted,
23 the same as to railroad corporations herein mentioned.

[C., '97, § 2122.]

SEC. 5174. Charges to be reasonable.

1 All charges made for any service rendered or to be rendered in
2 the transportation of passengers or property in this state, or for the
3 receiving, delivering, storage or handling of such property, shall be
4 reasonable and just, and every unjust and unreasonable charge for
5 such service is prohibited and declared to be unlawful.

[C., '97, § 2123.]

SEC. 5175. Unjust discrimination.

1 If any common carrier subject to the provisions of this chapter
2 shall directly or indirectly, by any special rate, rebate, drawback or
3 other device, charge, demand, collect or receive from any person or
4 persons a greater or less compensation for any service rendered, or to
5 be rendered, in the transportation of passengers or property subject
6 to the provisions of this chapter, than it charges, demands, collects or
7 receives from any other person or persons for doing for him or them a
8 like and contemporaneous service in the transportation of a like kind
9 of traffic, such common carrier shall be guilty of unjust discrimina-
10 tion, which is hereby prohibited and declared to be unlawful; but this
11 section shall not be construed as prohibiting a less rate per one hun-
12 dred pounds in a carload lot than is charged, collected or received for
13 the same kind of freight in less than a carload lot.

[C., '97, § 2124.]

SEC. 5176. Undue preference — switching charges — switching service defined.

1 It shall be unlawful for any common carrier subject to the pro-
2 visions of this chapter to make or give any preference or advantage to
3 any particular person, company, firm, corporation or locality, or any
4 particular description of traffic, in any respect whatsoever, or sub-
5 ject any particular person, company, firm, corporation or locality, or
6 any particular description of traffic, to any prejudice or disadvantage
7 in any respect whatsoever; but this shall not be construed to prevent
8 any common carrier from giving preference as to time of shipment of
9 live stock, uncured meats, or other perishable property. All common
10 carriers subject to the provisions of this chapter shall, according to
11 their respective powers, afford all reasonable, proper and equal facili-
12 ties for the interchange of traffic between their respective lines, and
13 for the receiving, forwarding and switching of cars, and for the receiv-
14 ing, forwarding and delivery of passengers and property to and from
15 their several lines, and to and from other lines and places connected
16 therewith; and shall not discriminate in their accommodations, rates
17 and charges between such connecting lines. Any common carrier may
18 be required to switch and transfer cars for another, for the purpose of
19 being loaded or unloaded, upon such terms and conditions as may be
20 prescribed by the board of railroad commissioners.

21 The switching service of common carriers is hereby defined to
 22 be the shifting of a car, or of cars, between two points, both of which
 23 points are within the industrial vicinity of an industry, a group of
 24 industries, a station, a village or a city, as such industrial vicinity may
 25 be defined by the board of railroad commissioners.

[C., '97, § 2125; S. S., '15, § 2125.]

SEC. 5177. Long and short haul—fair rate.

1 It shall be unlawful for any common carrier subject to the pro-
 2 visions of this chapter to charge or receive any greater compensation
 3 in the aggregate for the transportation of passengers or a like kind of
 4 property for a shorter than for a longer distance over its railroad, all
 5 or any portion of the shorter haul being included within the longer,
 6 and shall charge no more for transporting freight to or from any point
 7 on its railroad than a fair and just rate, compared with the price it
 8 charges for the same kind of freight transportation to or from any
 9 other point.

[C., '97, § 2126.]

SEC. 5178. Pooling contracts.

1 It shall be unlawful for any common carrier subject to the pro-
 2 visions of this chapter to enter into any contract, agreement or com-
 3 bination with any other common carrier or carriers for the pooling of
 4 freight of different and competing railroads, or divide between them
 5 the aggregate or net proceeds of the earnings of such railroads, or
 6 any portion thereof; and in case of an agreement for the pooling of
 7 freights as aforesaid, each day of its continuance shall be a separate
 8 offense.

[C., '73, §§ 1297-1299; C., '97, § 2127.]

SEC. 5179. Schedules of rates and fares.

1 Every common carrier subject to the provisions of this chapter
 2 shall print and keep for public inspection schedules showing the rates,
 3 fares and charges for the transportation of passengers and property
 4 which it has established, and which are in force at the time upon its
 5 railroad. The schedules shall plainly state the places upon its roads
 6 between which property and passengers will be carried, and shall con-
 7 tain the classification of freight in force upon such road, stating sep-
 8 arately any terminal charges, and any rules and regulations which in
 9 anywise change, affect or determine any part of the aggregate of such
 10 rates, fares and charges. Such schedules shall be plainly printed in
 11 large type, of at least the size of ordinary pica, and a copy for the use
 12 of the public shall be kept in every freight office and passenger station
 13 on such road, where it can be conveniently inspected; and it shall keep
 14 a printed notice posted in every such freight office and passenger sta-
 15 tion indicating where therein the same can be found. No advance
 16 shall be made in the rates, fares and charges which have been estab-
 17 lished and published as aforesaid by any common carrier except after
 18 ten days' public notice, which shall plainly state the changes proposed
 19 to be made in the schedules then in force, and the time when the
 20 increased rates, fares or charges will go into effect; which proposed
 21 changes shall be shown by printing new schedules, or shall be plainly
 22 indicated upon the schedules in force at the time and kept for public
 23 inspection. Reduction in such published rates, fares or charges may

24 be made without previous public notice, but, when made, notice thereof
25 shall be immediately and publicly posted, and such changes made pub-
26 lic by printing new schedules, or be plainly indicated upon the sched-
27 ules at the time in force and kept for public inspection. When any
28 such common carrier shall have established and published its rates,
29 fares and charges, it shall not charge, demand, collect or receive from
30 any person or persons a greater or less compensation for the transpor-
31 tation of passengers or property, or for any services in connection
32 therewith, than is specified in such published schedule of rates, fares
33 and charges as may at the time be in force. Every common carrier
34 subject to the provisions of this chapter shall file with the board of
35 railroad commissioners copies of its schedules of rates, fares and
36 charges established and published, and shall promptly notify said
37 board of all changes made in the same. Every such common carrier
38 shall also file with the board copies of all contracts, agreements or
39 arrangements with other common carriers in relation to any traffic
40 affected by the provisions of this chapter to which it may be a party.
41 If passengers and freight pass over continuous lines or routes in this
42 state, operated by more than one common carrier, and the several
43 common carriers operating such lines or routes have established joint
44 tariffs of rates, fares or charges for such continuous lines or routes,
45 copies of such joint tariffs shall also be filed with the board. Such
46 joint rates, fares and charges on such continuous lines shall be made
47 public by such common carriers, when directed by said board, in so far
48 as in its judgment may be practicable, and it shall from time to time
49 prescribe the measures of publicity which shall be given to such rates,
50 fares and charges, or to such part thereof as it may think practicable
51 for such common carriers to publish, and the places in which they
52 shall be published; but no common carrier, party to any such joint
53 tariff, shall be liable for the failure of any other party thereto to
54 observe and adhere to the rates, fares or charges thus made and pub-
55 lished. If any such common carrier shall neglect or refuse to file or
56 publish its schedule or tariffs of rates, fares and charges, or any part
57 of the same, it shall, in addition to other penalties herein prescribed,
58 be subject to a writ of mandamus, to be issued by any district court
59 of this state in the judicial district wherein its principal office is sit-
60 uated, or wherein such offense may be committed. If such common
61 carrier be a foreign corporation, then such writ may be issued by any
62 district court in the judicial district where it accepts traffic and has an
63 agent to perform such service, to compel compliance with the provi-
64 sions of this section—such writ to issue in the name of the state, at
65 the relation or upon the petition of the board of railroad commis-
66 sioners; and the failure to comply with its requirement shall be pun-
67 ishable as for a contempt, and shall make said corporation liable to a
68 penalty of five hundred dollars for each day's failure to comply there-
69 with; and when any such writ of mandamus shall be applied for, no
70 bond shall be required.

[C., '73, § 1304; C., '97, § 2128.]

SEC. 5180. Passenger tickets—redemption—time limit.

1 It shall be the duty of every railroad company, corporation, per-
2 son or persons acting as common carriers of passengers in the state of
3 Iowa, to provide for the redemption, at the place of purchase and at
4 the general passenger agent's office of said carrier, of the whole or any
5 integral part of any passenger ticket or tickets that such carrier may

6 have sold, as the purchaser or owner has not used for passage or
 7 received transportation for which such ticket should have been sur-
 8 rendered; and said carrier shall there redeem the same at a rate which
 9 shall equal the difference between the price paid for the whole ticket
 10 and the cost of a ticket between the points for which said ticket has
 11 been actually used, and no carrier shall limit the time in which redemp-
 12 tion shall be made to less than ten days from date of sale at the place
 13 of purchase and six months from date of sale at general passenger
 14 agent's office.

[S., '13, § 2128-a.]

SEC. 5181. Notice posted as to limitation and transferability.

1 No railroad company, corporation, person or persons doing busi-
 2 ness in the state of Iowa, as common carrier of passengers, whose rate
 3 of fare is regulated by statute of this state, shall sell or issue to any
 4 person, at the maximum rate allowed by law, any ticket or tickets bear-
 5 ing any condition of limitation as to the time of use, or as to transfer-
 6 ability, without first providing for the redemption of said ticket, as
 7 directed by the preceding section hereof, and also having notice of
 8 such provision and privilege of redemption conspicuously posted at
 9 each place where sales of tickets are made by such common carriers
 10 in this state. A failure to provide for the redemption of such ticket or
 11 to give notice as above provided shall make all conditions and limita-
 12 tions as to time of use or transferability of no force or effect.

[S., '13, § 2128-b.]

SEC. 5182. Penalty.

1 Any railroad company, corporation, person or persons, who as
 2 common carriers shall sell or issue tickets as set forth in the preced-
 3 ing sections, and shall refuse or neglect to redeem the same, as by
 4 said sections provided, within ten days of date of demand, shall for-
 5 feit and pay to the owner of such ticket the purchase price of said
 6 ticket, and the further sum of one hundred dollars.

[S., '13, § 2128-c.]

SEC. 5183. Mileage books.

1 Nothing in this chapter shall prohibit the sale of mileage books
 2 or tickets, at less than the maximum rates allowed by law, bearing
 3 reasonable conditions of limitation, as to the right of use for passage.

[S., '13, § 2128-d.]

SEC. 5184. Continuous shipments.

1 It shall be unlawful for any common carrier subject to the pro-
 2 visions of this chapter to enter into any combination, contract or
 3 agreement, expressed or implied, to prevent, by change of time sched-
 4 ules, carriage in different cars, or, by other means or device, the car-
 5 riage of freights from being continuous from place of shipment to the
 6 place of destination in the state; and no break of bulk, stoppage or
 7 interruption made by such common carrier shall prevent the carriage
 8 of freights from being treated as one continuous carriage from the
 9 place of shipment to the place of destination, unless such break, stop-
 10 page or interruption was made in good faith for some necessary pur-

11 pose, and without any intent to avoid or unnecessarily interrupt such
12 continuous carriage, or to evade any of the provisions of this chapter.
[C., '97, § 2129.]

SEC. 5185. Penalty in treble damages.

1 In case any common carrier subject to the provisions of this chap-
2 ter shall do, cause, or permit to be done anything herein prohibited or
3 declared to be unlawful, or shall omit to do anything in this chapter
4 required to be done, it shall be liable to the person or persons injured
5 thereby for three times the amount of damages sustained in conse-
6 quence, together with costs of suit, and a reasonable attorney's fee to
7 be fixed by the court, on appeal or otherwise, which shall be taxed and
8 collected as part of the costs in the case; but in all cases demand in
9 writing shall be made for the money damages sustained before action
10 is brought for a recovery under this section, and no action shall be
11 brought until the expiration of fifteen days after such demand.

[C., '97, § 2130.]

SEC. 5186. Remedy—evidence.

1 Any person claiming to be damaged by any common carrier sub-
2 ject to the provisions of this chapter may either make complaint to
3 the board of railroad commissioners, or may bring action in his own
4 behalf for the recovery of damages for which any such common car-
5 rier may be liable under the provisions hereof; but he shall not have
6 the right to pursue both of said remedies at the same time. In any
7 such action, the court before whom the same shall be pending may
8 compel any director, officer, receiver, trustee or agent of the corpora-
9 tion or company defendant in such suit to attend as a witness and to
10 testify, and may compel the production of the books and papers of
11 such corporation or company; and the claim that any such testimony
12 or evidence may tend to criminate the person giving the same shall not
13 excuse him from testifying or producing said books and papers, but
14 no person shall be prosecuted or subjected to any penalty or forfeiture
15 for and on account of any transaction, matter or thing concerning
16 which he may testify or produce evidence, documentary or otherwise;
17 but no person so testifying shall be exempted from prosecution and
18 punishment for perjury committed in so testifying.

[C., '97, § 2131.]

SEC. 5187. Criminal liability.

1 Except as otherwise specially provided for in this chapter, and
2 unless relieved from the consequences of a violation of the law as
3 provided herein, any common carrier subject to the provisions hereof,
4 or, when such common carrier is a corporation, any director or officer
5 thereof, or any receiver, trustee, lessee, agent or person acting for or
6 employed by such corporation, who, alone or with any other corpora-
7 tion, company, person or party shall wilfully do or cause to be done, or
8 shall wilfully suffer or permit to be done any act, matter or thing in
9 this chapter prohibited or declared to be unlawful, or who shall aid or
10 abet therein, or shall wilfully omit or fail to do any act, matter or
11 thing in this chapter required to be done, or shall cause or willingly
12 suffer or permit any act, matter or thing, so directed or required by
13 the provisions of this chapter to be done, not to be so done, or shall aid
14 or abet any such omission or failure, or shall be guilty of any infrac-

15 tion of the provisions of this chapter, or shall aid or abet therein,
 16 shall be guilty of a misdemeanor, and shall, upon conviction thereof,
 17 be fined not more than five thousand nor less than five hundred dollars
 18 for each offense.

[C., '97, § 2132.]

SEC. 5188. Inquiry by commissioners.

1 The board of railroad commissioners shall inquire into the man-
 2 agement of the business of all common carriers subject to the pro-
 3 visions of this chapter, and keep itself informed as to the manner and
 4 method in which the same is conducted, and have the right to obtain
 5 from them full and complete information necessary to enable the board
 6 to perform its duties and carry out the object for which it was cre-
 7 ated; shall have power to require the attendance and testimony of
 8 witnesses, the production of all books, papers, tariffs, schedules, con-
 9 tracts, agreements and documents relating to any matter under inves-
 10 tigation; and may invoke the aid of any court of this state in requiring
 11 the attendance and testimony of witnesses and the production of
 12 books, papers and documents; and any court within the jurisdiction
 13 of which such inquiry is carried on shall, in case of refusal to obey a
 14 subpoena or other proper process issued to any common carrier or
 15 person subject to the provisions hereof, issue an order requiring such
 16 carrier or person to appear before said board and produce books and
 17 papers, if so ordered, and testify touching, or in relation to, the mat-
 18 ter in question; and a failure to obey such orders of the court shall
 19 be punished as for a contempt thereof. The claim that any such testi-
 20 mony or evidence may tend to criminate the person giving it shall not
 21 excuse him from testifying, but no person shall be prosecuted or sub-
 22 jected to any penalty or forfeiture for and on account of any matter
 23 or thing concerning which he may testify or produce evidence, docu-
 24 mentary or otherwise; provided that no person so testifying shall be
 25 exempted from prosecution and punishment for perjury committed in
 26 so testifying.

[C., '97, § 2133.]

SEC. 5189. Complaint.

1 Any person, firm, corporation or association, or any mercantile,
 2 agricultural or manufacturing society, or any body politic or municipal
 3 organization, complaining of anything done or omitted to be done by
 4 any common carrier subject to the provisions of this chapter in con-
 5 travention thereof, may apply to said board by petition, briefly stating
 6 the facts; whereupon a copy of the complaint with the damages, if any
 7 are claimed, shall be forwarded by the board to such carrier, who shall
 8 be requested to satisfy the complaint, or answer the same in writing
 9 within a reasonable time to be fixed by the board. If such carrier
 10 within the time specified shall make reparation for the injury alleged
 11 to have been done, or shall correct the wrong complained of, it shall be
 12 relieved of liability to the complainant for the particular violation com-
 13 plained of. If it shall not satisfy the complaint within the time fixed,
 14 or there shall appear to be any reasonable ground for investigating
 15 the complaint, the board shall inquire into the matters complained of
 16 in such manner and by such means as it shall think proper. When it
 17 has sufficient reason to believe that any carrier is violating any of the
 18 provisions of this chapter, it shall at once institute an inquiry, as

19 though complaint had been made. No complaint shall at any time be
20 dismissed because of the absence of direct damage to the complainant.
[C., '97, § 2134.]

SEC. 5190. Investigations—report.

1 When an investigation is made by the board after notice, it shall
2 make a report in writing, stating its conclusions, which shall include
3 the findings of fact upon which the conclusions are based, together
4 with its recommendations or orders as to what reparation, if any,
5 shall be made by the carrier to any party who may be found to have
6 been injured; and such finding shall thereafter in all judicial proceed-
7 ings be prima facie evidence of every fact found. All reports of inves-
8 tigation made by the board shall be entered of record, and a copy
9 furnished to the party who complained, and any other person directly
10 interested, and to any carrier that may have been complained of.

[C., '97, § 2135.]

SEC. 5191. Orders.

1 If in any case in which an investigation shall be made by the board
2 it shall be made to appear to the satisfaction of such board, either by
3 the testimony of witnesses or other competent evidence, that any-
4 thing has been done or omitted to be done, in violation of the provi-
5 sions of this chapter, or of any law cognizable by the board, by any
6 common carrier, or that any injury or damage has been sustained by
7 the party complaining, or by other parties, in consequence of any such
8 violation, it shall be the duty of the board forthwith to cause a copy
9 of its report in respect thereto to be delivered to such carrier, together
10 with a notice to it to cease from such violation, or to make reparation
11 for the injury found to have been done, or both, within a reasonable
12 time, to be fixed by the board. And if within the time fixed it shall
13 be made to appear to the board that such carrier has ceased from such
14 violation of law, and has made reparation for the injury found to have
15 been done, in compliance with the report and notice of the board, or
16 to the satisfaction of the party complaining, a statement to that effect
17 shall be entered of record by it, and the carrier shall thereupon be
18 relieved from further liability or penalty for such particular violation
19 of law.

[C., '97, § 2136.]

SEC. 5192. Enforcement of orders.

1 When any common carrier as defined in this chapter shall violate
2 or refuse or neglect to obey any lawful order or requirement of the
3 board, it shall be the duty of the board, and lawful for any company
4 or person interested in such order or requirement, to apply, in a sum-
5 mary way, by petition, to the district or superior court in any county
6 of this state in which the common carrier complained of has its prin-
7 cipal office, or in any county through which its line of road passes or is
8 operated, or in which the violation or disobedience of such order or
9 requirement shall happen, alleging such violation or disobedience, as
10 the case may be; and the said court shall have power to hear and
11 determine the matter, on such short notice to the common carrier com-
12 plained of as the court shall deem reasonable; and such notice may be
13 served on such common carrier, his or its officers, agents or servants,
14 as the court shall direct; and said court shall proceed to hear and

15 determine the matter speedily as a court of equity, and without the
16 formal pleadings and proceedings applicable to ordinary suits in equity,
17 but in such manner as to do justice in the premises; and, to this end,
18 such court shall have power, if it think fit, to direct and prosecute, in
19 such mode and by such persons as it may appoint, all such inquiries as
20 the court may think needful to enable it to form a just judgment in
21 the matter of such petition; and on such hearing the report of the
22 board shall be prima facie evidence of the matter therein, or in any
23 order made by them, stated; and if it be made to appear to such court
24 on such hearing, or on the report of any such person or persons, that
25 the order or requirement of the board drawn in question has been
26 violated or disobeyed, it shall be lawful for such court to issue a writ
27 of injunction, or other proper process, mandatory or otherwise, to
28 restrain such common carrier from further continuing such violation
29 or disobedience of such order or requirement of the board, and enjoin-
30 ing obedience to the same, and in case of any disobedience of any writ
31 of injunction or other proper process, mandatory or otherwise, it shall
32 be lawful for such court to issue a writ of attachment, or any other
33 process of said court incident or applicable to writs of injunction or
34 other proper process, mandatory or otherwise, against such common
35 carrier, and, if a corporation, against one or more of the directors,
36 officers or agents of the same, or against any owner, lessee, trustee,
37 receiver or other person failing to obey such writ of injunction or
38 other proper process, mandatory or otherwise; and said court may, if
39 it think fit, make an order directing such common carrier or other
40 person so disobeying such writ of injunction or other proper process,
41 mandatory or otherwise, to pay any sum of money, not exceeding for
42 each carrier or person in default the sum of one thousand dollars for
43 every day, after a day to be named in the order, that such carrier or
44 other person shall fail to obey such injunction or other proper process,
45 mandatory or otherwise; and such moneys shall, upon order of the
46 court, be paid into the treasury of the county in which the action was
47 commenced, and one-half thereof shall be transferred by the county
48 treasurer to the state treasury; and the payment thereof may, without
49 prejudice to any other mode of recovering the same, be enforced by
50 attachment or order, in the nature of a writ of execution, in like man-
51 ner as if the same had been recovered by a final decree in personam in
52 such court, saving to the board and any other party or person inter-
53 ested the right of appeal to the supreme court of the state, under the
54 same regulations now provided by law in relation to appeals to said
55 court as to security for such appeal, except that in no case shall
56 security for such appeal be required when the same is taken by the
57 board; but no appeal to said supreme court shall operate to stay or
58 supersede the order of the court, or the execution of any writ or proc-
59 ess thereon; and such court may in every such matter order the
60 payment of such costs and attorney and counsel fees as shall be deemed
61 reasonable. When any such petition shall be filed or presented, or be
62 prosecuted by the board, or by their direction, it shall be the duty of
63 the attorney general of the state to prosecute the same, and in such
64 prosecution he shall have the right to have the assistance of any
65 county attorney of the county in which any such proceedings are insti-
66 tuted, and it is hereby made the duty of any such county attorney to
67 render such assistance; and the costs and expenses, on the part of the
68 board, of any such prosecution shall be paid out of the appropriations
69 for the expenses of the board.

[C., '97, § 2137.]

SEC. 5193. Commissioners' schedules of rates—effect.

1 The schedules of reasonable maximum rates of charges for the
2 transportation of freight and cars, together with the classification
3 of such freights now in effect, shall remain in force until changed by
4 the board according to law, which, in all actions brought against rail-
5 way corporations, wherein there are involved the charges thereof for
6 the transportation of any freight or cars, or any unjust discrimination
7 in relation thereto, shall be taken as prima facie evidence in all courts
8 that the rates fixed therein are reasonable and just maximum rates of
9 charge for which said schedules have been prepared. The board shall
10 from time to time, and as often as circumstances may require, change
11 and revise such schedules, but the rates fixed shall not be higher than
12 established by law. The board shall give notice of its intention to
13 revise or change such schedules, by publishing a notice thereof in two
14 weekly newspapers published at the seat of government, for two con-
15 secutive weeks, and the last publication of such notice shall be at least
16 ten days before the time fixed for considering the matter, and such
17 notice shall contain, in general terms, a statement of the matters the
18 board proposes to consider, and the date when and the place where the
19 matter will be taken up, and shall be addressed to all persons inter-
20 ested therein. When any schedule is thus revised the board must
21 cause notice thereof to be published for two successive weeks in some
22 public newspaper printed at the seat of government, which shall state
23 the date of the taking effect thereof, and it shall take effect at the
24 time so stated. A printed copy of such revised schedule shall be con-
25 spicuously posted by said common carrier in each freight office and
26 passenger depot upon all lines affected thereby, and, when certified by
27 the board that the same is a true copy prepared by it for the railway
28 company or corporation therein named, and that notice thereof had
29 been published as required by law, shall be received in evidence in all
30 actions as prima facie the schedule of such board.

[C., '97, § 2138.]

SEC. 5194. Complaint of violation of schedule.

1 When any person in his own behalf, or in behalf of a class of
2 persons similarly situated, or a firm, corporation or association, or any
3 mercantile, agricultural or manufacturing society, or any body politic
4 or municipal organization, shall make complaint to the board of rail-
5 road commissioners that the rate charged or published by any railway
6 company, or the maximum rates fixed by the board in the sched-
7 ule of rates made by it, or the maximum rate fixed by law, is unreason-
8 ably high or discriminating, the board shall investigate the matter,
9 and, if the charge appears to be well founded, fix a day for hearing the
10 same, giving the railway company notice of the time and place thereof
11 by mail, directed to any division superintendent, general or assistant
12 superintendent, general manager, president or secretary of such com-
13 pany, which notice shall contain the substance of the complaint, also
14 the person or persons complaining.

[C., '97, § 2139.]

SEC. 5195. Hearing—evidence.

1 Upon the hearing the board shall receive any evidence and listen
2 to any arguments offered or presented by either party relevant to the
3 matter under investigation, and the burden of proof shall not be upon

4 the person or persons making the complaint; but it shall add to the
5 showing made at such hearing whatever information it may then have,
6 or can obtain from any source, including schedules of rates actually
7 charged by any railway company for substantially the same kind of
8 service, in this or any other state. The lowest rates published or
9 charged by any railway company for substantially the same kind of
10 service whether in this or another state, shall, at the instance of the
11 person or persons complaining, be accepted as prima facie evidence of
12 a reasonable rate for the services under investigation; and if the rail-
13 way company complained of is operating a line of railroad beyond the
14 state, or has a traffic arrangement with any such railway company,
15 the same shall be taken into consideration in determining what is a
16 reasonable rate; if it be operating a line of railway beyond the state,
17 the rate charged or established for substantially a similar or greater
18 service by it in another state shall also be considered.

[C., '97, § 2140.]

SEC. 5196. Determination.

1 After such hearing and investigation, the board shall fix and
2 determine the maximum charges to be thereafter made by the rail-
3 road company or common carrier complained of, which charge shall in
4 no event exceed the one now or hereafter fixed by law; and the board
5 shall render their decision in writing, and shall spread the same at
6 length in the record to be kept for that purpose; such decision shall
7 specifically set out the sums or rate which the railroad company or
8 common carrier so complained of may thereafter charge or receive for
9 the service therein named, and including a classification of such
10 freight; and the board shall not be limited in their said decision and
11 the schedule to be contained therein to the specific case or cases com-
12 plained of, but it shall be extended to all such rates between points in
13 this state, and whatever part of the line of railway of such company
14 or common carrier within this state may have been fairly within the
15 scope of such investigation; and any such decisions so made and
16 entered on record of the board, including any such schedules and
17 classifications, shall, when duly authenticated, be received and held in
18 all suits brought against any such railroad corporation or common car-
19 rier, wherein is in any way involved the charges of any such corpo-
20 ration or carrier mentioned in said decisions, in any of the courts of
21 this state, as prima facie evidence that the rates therein fixed are
22 reasonable maximum rates, the same as the schedule made by the
23 board as provided in section fifty-one hundred ninety-three; and the
24 rates and classifications so established, after such hearing and investi-
25 gation, shall, from time to time thereafter, upon complaint duly made,
26 be subject to revision by the board, the same as any other rates and
27 classifications.

[C., '97, § 2141.]

SEC. 5197. Proceedings of commissioners.

1 The board may in all cases conduct its proceedings, when not
2 otherwise prescribed by law, in such manner as will best conduce to
3 the proper dispatch of business and the attainment of justice. A
4 majority of the board shall constitute a quorum for the transaction of
5 business, but no commissioner shall participate in any hearing or pro-
6 ceeding in which he has any pecuniary interest. It may from time to

7 time make or amend such general rules or orders as may be necessary
8 for the preservation of order and the regulation of proceedings before
9 it, including forms of notice and the service thereof, which shall con-
10 form as nearly as may be to those in use in the courts of the state.
11 Any party may appear before it and be heard in person or by attor-
12 ney. Every vote and official action thereof shall be entered of record,
13 and, upon the request of either party or person interested, its pro-
14 ceedings shall be public. It shall have a seal, of which courts shall take
15 judicial notice.

[C., '97, § 2142.]

SEC. 5198. Annual reports from companies.

1 The board shall require annual reports from all common carriers
2 subject to the provisions of this chapter to be made at the same time
3 they make report to the executive council, to cover the same period,
4 and prescribe the manner in which specific answers to all questions
5 upon which it may need information shall be made. Such report shall
6 show in detail the amount of capital stock issued, the amounts paid
7 therefor, and manner of payment; the dividends paid; surplus fund,
8 if any; number of stockholders; the funded and floating debts and the
9 interest paid thereon; the cost and value of the carrier's property,
10 franchises and equipment; the number of locomotive engines and
11 cars used in the state, and the number supplied with automatic safety
12 couplers, and the kind and number of brakes used, and the number of
13 each; the number of employees and the salaries paid each class; the
14 amounts expended for improvements each year, how and where ex-
15 pended and the character of such improvements; the earnings and
16 receipts from each branch of business and from all sources; the operat-
17 ing and other expenses; the balance of profit and loss, and a complete
18 exhibit of the financial operations thereof each year, including an
19 annual balance sheet. Such reports shall also contain such informa-
20 tion in relation to rates or regulations concerning fares or freights, or
21 agreements, arrangements or contracts with other carriers, and other
22 statistics of the road and its transportation, as the board may require;
23 and it may prescribe uniformity and methods of keeping accounts, as
24 near as may be, and fix a time when such regulations shall take effect.
25 The board may also require of any and all common carriers subject
26 to the provisions of this chapter such other reports, and fix the time
27 for filing the same, as in its judgment shall be necessary and reason-
28 able, which reports shall be in such form, and concerning such sub-
29 jects, and be from such sources as it shall direct, except as otherwise
30 provided herein. Any corporation, company or individual owning or
31 operating a railway within the state, neglecting or refusing to make
32 the required reports by the date fixed, or fixed by the board, shall be
33 subject to a penalty of one hundred dollars for each and every day of
34 delay in making the same after the date thus fixed.

[C., '73, §§ 1280-1282; C., '97, § 2143.]

SEC. 5199. Extortion—penalty.

1 If any railway corporation or carrier subject to the provisions of
2 this chapter shall charge, collect, demand or receive more than a fair
3 and reasonable rate of toll or compensation for the transportation of
4 passengers or freight of any description, or for the use and transpor-
5 tation of any railway car upon its track or any of the branches thereof,

6 or upon any railroad within the state which it has the right, license or
7 permission to use, operate or control, or shall make any unjust and
8 unreasonable charge prohibited in this chapter, it shall be deemed
9 guilty of extortion, and be dealt with as hereinafter provided; and if
10 any such railroad corporation or common carrier shall be found guilty
11 of any unjust discrimination as defined in this chapter, it shall, upon
12 conviction thereof, be dealt with as hereinafter provided.

[C., '97, § 2144.]

SEC. 5200. Discrimination—punishment—schedule of switching charges.

1 If any such railway corporation shall charge, collect or receive for
2 the transportation of any passenger or freight of any description
3 upon its railroad, for any distance within the state, a greater amount
4 of toll or compensation than is at the same time charged, collected or
5 received for the transportation in the same direction of any passenger
6 or like quantity of freight of the same class, over a greater distance
7 of the same railway; or if it shall charge, collect or receive at any
8 point upon its road a higher rate of toll or compensation for receiving,
9 handling or delivering freight of the same class and quantity than it
10 shall at the same time charge, collect or receive at any other point
11 upon the same railway; or if it shall charge, collect or receive for the
12 transportation of any passenger or freight of any description over its
13 railway a greater amount as toll or compensation than shall at the
14 same time be charged, collected or received by it for the transportation
15 of any passenger or like quantity of freight of the same class being
16 transported in the same direction over any portion of the same rail-
17 way of equal distance; or if it shall charge, collect or receive from any
18 person a higher or greater amount of toll or compensation than it shall
19 at the same time charge, collect or receive from any other person for
20 receiving, handling or delivering freight of the same class and like
21 quantity at the same point upon its railway; or if it shall charge, col-
22 lect or receive from any person for the transportation of any freight
23 upon its railway a higher or greater rate of toll or compensation than
24 it shall at the same time charge, collect or receive from any other per-
25 son or persons for the transportation of the like quantity of freight of
26 the same class being transported from the same point in the same
27 direction over equal distances of the same railway; or if it shall charge,
28 collect or receive from any person for the use and transportation of
29 any railway car or cars upon its railroad for any distance, a greater
30 amount of toll or compensation than is at the same time charged, col-
31 lected or received from any other person for the use and transporta-
32 tion of any railway car of the same class or number, for a like pur-
33 pose, being transported in the same direction over a greater distance
34 of the same railway; or if it shall charge, collect or receive from any
35 person for the use and transportation of any railway car or cars upon
36 its railway a higher or greater compensation in the aggregate than it
37 shall, at the same time, charge, collect or receive from any other per-
38 son for the use and transportation of any railway car or cars of the
39 same class for a like purpose, being transported from the same original
40 point in the same direction, over an equal distance of the same rail-
41 way; all such discriminating rates, charges, collections or receipts,
42 whether made directly or by means of any rebate, drawback, or other
43 shift or evasion, shall be received as prima facie evidence of the unjust
44 discriminations prohibited by this chapter; and it shall not be a suffi-

45 cient excuse or justification thereof on the part of said railway cor-
 46 poration that the station or point at which it shall charge, collect or
 47 receive less compensation in the aggregate for the transportation of
 48 such passenger or freight, or for the use and transportation of such
 49 railway car the greater distance than for the shorter distance, is a
 50 station or point at which there exists competition with another rail-
 51 way or other transportation line. This section shall not be construed
 52 so as to exclude other evidence tending to show any unjust discrim-
 53 ination in freight or passenger rates. The provisions of this section
 54 shall apply to any railway, the branches thereof, and any road or roads
 55 which any railway corporation has the right, license or permission to
 56 use, operate or control, wholly or in part, within this state; but shall
 57 not be so construed as to prevent railway corporations from issuing
 58 commutation, excursion or thousand-mile tickets, if the same are
 59 issued alike to all applying therefor; nothing in this section shall be
 60 so construed as to prevent railroad companies or the board of rail-
 61 road commissioners from establishing schedules of reasonable charges
 62 applicable to switching services only, and which shall be independent
 63 of any schedule of charges which may be provided for the regular
 64 line haul freight service of common carriers.

[C., '97, § 2145; S., '13, § 2145.]

SEC. 5201. Discrimination as to quantity.

1 No such common carrier shall charge, collect, demand or receive
 2 more for transporting a car of freight than it at the same time
 3 charges, collects, demands or receives per car for several cars of a like
 4 class of freight over the same railway, for the same distance, in the
 5 same direction; nor charge, collect, demand or receive more for trans-
 6 porting a ton of freight than it charges, collects, demands or receives
 7 per ton for several tons of freight under a carload of a like class over
 8 the same railway, for the same distance, in the same direction; nor
 9 charge, collect, demand or receive more for transporting a hundred
 10 pounds of freight than it charges, collects, demands or receives per
 11 hundred for several hundred pounds of freight, under a ton, of a like
 12 class, over the same railway, for the same distance, in the same direc-
 13 tion; and all such discriminating rates, charges, collections or receipts,
 14 whether made directly or by means of any rebate, drawback, or other
 15 shift or evasion, shall be received as prima facie evidence of the unjust
 16 discrimination prohibited by this chapter; but for the protection and
 17 development of any new industry within the state, such railway com-
 18 pany may grant concessions or special rates for any agreed number of
 19 carloads, which rates shall first be approved by the board of commis-
 20 sioners, and a copy thereof filed in its office.

[C., '97, § 2146.]

SEC. 5202. Penalty for discrimination.

1 Any such corporation guilty of extortion, or of making any unjust
 2 discrimination as to passenger or freight rates, or the rates for the
 3 use and transportation of railway cars, or in receiving, handling or
 4 delivering freights, shall, upon conviction thereof, be fined in any sum
 5 not less than one thousand nor more than five thousand dollars for
 6 the first offense, and for each subsequent offense not less than five
 7 thousand nor more than ten thousand dollars,—such fine to be imposed
 8 in a criminal prosecution by indictment; or shall be subject to the lia-

9 bility prescribed in the next succeeding section, to be recovered as
10 therein provided.

[C., '97, § 2147.]

SEC. 5203. Forfeiture.

1 Any such railway corporation guilty of extortion, or of making
2 any unjust discrimination as to passenger or freight rates, or the rates
3 for the use and transportation of railway cars, or in receiving, han-
4 dling or delivering freights, shall forfeit and pay to the state not less
5 than one thousand nor more than five thousand dollars for the first
6 offense, and not less than five thousand nor more than ten thousand
7 dollars for each subsequent offense, to be recovered in a civil action
8 in the name of the state; and the release from liability or penalty
9 provided for in this chapter shall not apply to a criminal prosecution
10 under the last preceding section, or to a civil action under this section.

[C., '97, § 2148.]

SEC. 5204. Suits by commissioners.

1 When the board has reason to believe that any railway corpora-
2 tion or carrier subject to the provisions of this chapter has been
3 guilty of extortion or unjust discrimination, it shall immediately
4 cause actions to be commenced and prosecuted against such railway
5 corporation or carrier, which may be brought in any county of the
6 state through or into which the line of the corporation sued may
7 extend, and it may on behalf of the state employ counsel to assist the
8 attorney general in conducting such actions. No actions thus com-
9 menced shall be dismissed unless they and the attorney general con-
10 sent thereto. The court in its discretion may give preference to such
11 actions over all other business, except criminal cases.

[C., '97, § 2149.]

SEC. 5205. Free transportation or reduced rates.

1 Nothing in this chapter shall apply to the transportation, storage
2 or handling of property free or at reduced rates for the United States,
3 this state, or municipal governments, or for materials to be used by
4 public authorities in constructing or maintaining public highways out-
5 side of the corporate limits of cities and towns, by common carriers,
6 nor for charitable purposes, or to and from fairs and expositions for
7 exhibition thereat, nor for the employees thereof or their families, or
8 private property or goods for the family use of such employees, nor
9 from giving reduced rates to the quartermaster general of Iowa for
10 the transportation of officers or enlisted men of the Iowa national
11 guard, when traveling under the orders of the commander in chief, or
12 to ministers of religion, nor from giving free transportation to their
13 own officers and employees, and their families dependent upon them
14 for support, nor to persons in charge of live stock being shipped, from
15 point of shipment to destination and return, nor to prevent the officers
16 of any railway company from exchanging passes or tickets with other
17 railroad companies for their officers and employees; and nothing in
18 this chapter shall in any way abridge or alter the remedies now exist-
19 ing at common law or by statute, but the provisions thereof are in
20 addition to such remedies.

[C., '97, § 2150; 37 G. A., ch. 390, § 1.]

SEC. 5206. Commissioners transported free.

1 The commissioners and their secretary shall be carried free, while
2 performing their duties, on all railroads and trains in the state, and
3 may take with them experts or other agents, who shall be carried free.
[C., '97, § 2151.]

SEC. 5207. Joint rates.

1 The preceding sections of this chapter shall not be construed to
2 prohibit the making of rates by two or more railway companies for the
3 transportation of property over two or more of their respective lines
4 within the state; and a less charge by each of said companies for its
5 portion of such joint shipment than it charges for a shipment for the
6 same distance wholly over its own line within the state shall not be
7 considered a violation of said chapter, and shall not render such com-
8 pany liable to any of the penalties thereof; but the provisions of this
9 section shall not be construed to permit railway companies establish-
10 ing joint rates to make thereby any unjust discrimination between the
11 different shipping points or stations upon their respective lines
12 between which joint rates are established, and any such unjust dis-
13 crimination shall be punished in the manner and by the penalties pro-
14 vided by this chapter.
[C., '97, § 2152.]

SEC. 5208. Connecting lines.

1 Every owner or consignor of freight to be transported by railway
2 from any point within this state to any other point within this state
3 shall have the right to require that the same shall be transported over
4 two or more connecting lines of railway, to be transferred at the con-
5 necting point or points without change of car or cars if in carload lots,
6 and with or without change of car or cars if in less than carload lots,
7 whenever the distance from the place of shipment to destination, both
8 being within this state, is less over two or more connecting lines of
9 railway than it is over a single line of railway, or where the initial line
10 does not reach the place of destination; and it shall be the duty, upon
11 the request of any such owner or consignor of freight, made to the
12 initial company, of such railway companies whose lines so connect, to
13 transport the freight without change of car or cars if the shipment be
14 in a carload lot or lots, and with change of car or cars if it be in less
15 than carload lots, from the place of shipment to destination, whenever
16 the distance from the place of shipment to destination, both being
17 within this state, is less than the distance over a single line, or when
18 the initial line does not reach the point of destination, for a reasonable
19 joint through rate. This section shall apply to interurban railways
20 and their connection with ordinary steam railways.
[C., '97, § 2153; S., '13, § 2153.]

SEC. 5209. Reasonable through rates—no discrimination.

1 When shipments of freight to be transported between different
2 points within the state are required to be carried by two or more rail-
3 way companies operating connecting lines, such railway companies
4 shall transport the same at reasonable through rates, and shall at all
5 times give the same facilities and accommodations to local or state
6 traffic as they give to interstate traffic over their lines of road.
[C., '97, § 2154.]

SEC. 5210. Schedules of joint rates.

1 The board of railroad commissioners shall make and publish a
2 schedule of joint through railway rates for such traffic and on such
3 routes as in its judgment the fair and reasonable conduct of business
4 requires shall be done by carriage over two or more lines of railway,
5 and will promote the interests of the people of this state. In the making
6 thereof, and in changing, revising or adding to the same, the board
7 shall be governed as nearly as may be by the preceding sections of this
8 chapter, and shall take into consideration, among other things, the
9 rates established for shipments within this state for like distances
10 over single lines, the rates charged by the railway companies operat-
11 ing such connecting lines for joint interstate shipments, and the in-
12 creased cost, if any, of a joint through shipment as compared with a
13 shipment over a single line for like distances. In establishing such
14 rates for shipments in less than carload lots, in cases where at the
15 connecting point or points in the line of shipment the connecting rail-
16 ways have not and are not required to have a common station or stop-
17 ping place for loading or unloading freight, the board shall make such
18 lawful regulations as in its judgment will be fair and just respecting
19 the transportation of such freight from the usual unloading place of
20 one railway to the usual loading place of the other. The joint through
21 rates thus established shall be promulgated by mailing a printed copy
22 thereof to each railway company affected thereby, and shall go into
23 effect within ten days after they are so promulgated; and from and
24 after that time an official printed schedule thereof shall be prima facie
25 evidence, in all the courts of this state, that the rates therein fixed
26 are just and reasonable for the joint transportation of such freight
27 between the points and over the lines described therein. The said
28 board shall deliver a printed copy of said schedule to any person mak-
29 ing application therefor. The share of any railway company of any
30 joint through rate shall not be construed to fix the charge that it may
31 make for transportation for a similar distance over any part of its line
32 for any single rate shipment or the share of any other joint rate. The
33 board, upon such reasonable notice as it may prescribe, may, upon its
34 own motion or upon the application of any person, firm or corporation
35 interested therein, revise, change or add to any joint through rates
36 fixed or promulgated hereunder; and any such revised, changed or
37 added joint rates shall have the same force and effect as the rate or
38 rates originally established. The said board is empowered to author-
39 ize, upon proper hearing, any railway company whose line connects
40 the point of shipment with the point of destination but requires a
41 longer haul than the joint haul over which a joint rate has been estab-
42 lished, to charge the joint rate without affecting the charge upon any
43 other part of its line, except that the charge for a like kind of property
44 must not be greater for a shorter than for a longer distance over its
45 railroad, all of the shorter haul being included within the longer. This
46 section shall apply to interurban railways and their connection with
47 ordinary steam railways.

[C., '97, § 2155; S., '13, § 2155.]

SEC. 5211. Division of joint rates.

1 Before the promulgation of such rates, the board shall notify the
2 railroad companies interested of the schedule of joint rates fixed, and
3 give them a reasonable time thereafter to agree upon a division of the
4 charges provided for therein. If such companies fail to agree upon a

5 division, and to notify the board thereof, it shall, after a hearing of
6 the companies interested, decide the same, taking into consideration
7 the value of terminal facilities and all the circumstances of the haul,
8 and the division so determined by it shall, in all controversies or ac-
9 tions between the railway companies interested, be prima facie evi-
10 dence of a just and reasonable division thereof.

[C., '97, § 2156.]

SEC. 5212. Unreasonable charges—penalty.

1 Every unjust and unreasonable charge for the transportation
2 of freight and cars over two or more railroads in this state is pro-
3 hibited, and every company making such unreasonable and unlawful
4 charges, or otherwise violating the provisions of this chapter, shall
5 be punished as provided in this chapter for the making of unreason-
6 able charges for the transportation of freight and cars over a single
7 line of railroad by a single railway company.

[C., '97, § 2157.]

SEC. 5213. Adequate stockyards required.

1 Any person, firm or corporation operating a railroad within the
2 state of Iowa shall provide at each of its stations where live stock is
3 received for shipment, adequate stockyards, which shall be substan-
4 tially provided with good gates, suitable chutes for loading live stock,
5 suitable sheds for the protection of live stock from the inclemency of
6 the weather, suitable troughs from which live stock may be watered
7 and an ample water supply conveniently located and supplied by pipes
8 from wells or other water supply, the amount of such water supply
9 to be at all times sufficient for all live stock in said yards and also
10 for the wetting down of cars in hot weather.

[37 G. A., ch. 211, § 1.]

SEC. 5214. Duty of railroad commissioners.

1 It shall be the duty of the said board of railroad commissioners
2 to enforce the provisions of the preceding section, and, upon a com-
3 plaint signed by five or more shippers of live stock, it shall be their
4 duty to investigate the stockyards and loading facilities at any such
5 station and determine their adequacy and shall have power to make
6 such order for the improvement of said yards as shall, in their judg-
7 ment, seem necessary.

[37 G. A., ch. 211, § 2.]

SEC. 5215. Transportation of live stock — conditions — return transportation.

1 Common carriers of live stock, in carload lots, upon receiving, in
2 this state, for shipment one or more carloads of horses or mules or
3 two or more carloads of other live stock, shall upon demand of the
4 owner of such animals offered for shipment, issue to such owner, or
5 the actual agent or employee of such owner, without other considera-
6 tion, transportation from the place of receiving such shipment to the
7 place of destination, and return, such transportation to be limited to
8 one person for each shipment, as is above set out. When a single ship-
9 ment aggregates six cars or more, such owner shall be entitled, on de-
10 mand, as is above provided, to transportation for one additional per-
11 son, such additional person to be an actual agent or employee of such

12 owner, and such common carrier shall in like manner and under sim-
 13 ilar conditions issue transportation for one person to destination of
 14 shipment only to the shipper of one carload of cattle, hogs or sheep.
 15 The return transportation herein provided for is to be delivered, upon
 16 demand, at the office of the carrier at the place of destination, upon
 17 proper identification of the person so entitled to same, and shall be
 18 good for transportation if presented within forty-eight hours from
 19 the time of the delivery of such shipment at place of destination.

[S., '13, § 2157-a.]

SEC. 5216. Penalty.

1 Any common carrier violating the above provisions shall forfeit
 2 and pay to the owner of any shipment, as is above provided, three
 3 times the amount of the regular fare expended by such owner for him-
 4 self, or his agent, in going from point of shipment to point of des-
 5 tination, and return, of a shipment of stock as herein provided.

[S., '13, § 2157-b.]

SEC. 5217. Misuse of transportation—trespasser.

1 Any person other than the owner, his agent or employees, as is
 2 described in the two preceding sections, attempting to use, or using,
 3 the transportation therein provided for, shall be considered a tres-
 4 passer upon the trains or premises of such common carrier.

[S., '13, § 2157-c.]

SEC. 5218. Water-closets in cabooses.

1 The cabooses or cars attached to such stock trains, and in
 2 which the holders of such transportation are required to ride when
 3 accompanying such live stock to market, shall be provided with suit-
 4 able water-closets for the use of such persons while in transit.

[S., '13, § 2157-d.]

SEC. 5219. Penalty.

1 Any railroad in this state engaged in the transportation of live
 2 stock, and failing or refusing to comply with the requirements of the
 3 foregoing section, shall be deemed guilty of a misdemeanor, and upon
 4 conviction thereof, shall be fined not less than one hundred dollars
 5 for each day's negligence or refusal to comply therewith; and all
 6 moneys so collected as fines shall be paid into the public school funds
 7 of the state.

[S., '13, § 2157-e.]

SEC. 5220. Free passes—issuance or acceptance—what prohibited.

1 No common carrier of passengers shall, directly or indirectly, is-
 2 sue, furnish or give any free ticket, free pass or free transportation
 3 for the carriage or passage of any person within this state except as
 4 permitted in the next section. Nor shall any common carrier, in the
 5 sale of tickets for transportation at reduced rates, discriminate be-
 6 tween persons purchasing the same, except the persons described in
 7 the next section. Nor shall any person accept or use any free ticket,
 8 free pass or free transportation except the persons described in said
 9 section. The words "free ticket," "free pass," "free transportation,"
 10 as used in this act [32 G. A., ch. 112] shall include any ticket, pass,
 11 contract, permit or transportation issued, furnished or given to any

12 person, by any common carrier of passengers, for carriage or passage,
 13 for any other consideration than money paid in the usual way at the
 14 rate, fare or charge open to all who desire to purchase.

[S., '13, § 2157-f.]

SEC. 5221. Persons entitled to such transportation.

1 The persons to whom free tickets, free passes, free transporta-
 2 tion and discriminating reduced rates may be issued, furnished, or
 3 given are the following, to wit: (a) the officers, agents, employees, at-
 4 torneys, physicians, and surgeons, of such common carriers of pas-
 5 sengers whose chief and principal occupation is to render service to
 6 common carriers of passengers; (b) to the families of the persons in-
 7 cluded in subdivision "a" hereof; (c) the general officers of any such
 8 common carrier; (d) employees on sleeping cars, express cars, and
 9 linemen of telegraph and telephone companies, railway mail service
 10 employees, postoffice inspectors, customs inspectors and immigration
 11 inspectors, newsboys on trains, baggage agents; (e) persons injured in
 12 wrecks and physicians and nurses attending such persons; (f) passen-
 13 gers traveling with the object of providing relief in cases of railroad
 14 accident, general epidemic, pestilence, or other calamitous visitation;
 15 (g) necessary caretakers of live stock, vegetables and fruit, including
 16 return transportation to forwarding station; (h) the officers, agents or
 17 regularly accredited representatives of labor organizations, composed
 18 wholly of employees of railway companies; (i) inmates of homes for the
 19 reform or rescue of the vicious or unfortunate, including those about
 20 to enter and those returning home after discharge, and boards of man-
 21 agers, including officers, and superintendents of such homes; (j) super-
 22 annuated and pensioned employees and members of their families and
 23 widows of employees who die while in the service of such common
 24 carriers; (k) employees crippled and disabled in the service of a com-
 25 mon carrier of passengers; (l) all peace officers, except state agents,
 26 mail carriers and firemen of any city wearing the insignia of their of-
 27 fice within the limits of such city; (m) ministers of religion, traveling
 28 secretaries of Railroad Young Men's Christian Associations, inmates
 29 of hospitals and charitable and eleemosynary institutions, and persons
 30 exclusively engaged in charitable and eleemosynary work; (n) indi-
 31 gent, destitute and homeless persons, while being transported by chari-
 32 table societies or hospitals, and necessary agents, employees in such
 33 transportation; (o) school children to and from public or parochial
 34 schools; (p) the state fish and game warden, and his car and necessary
 35 assistants therewith, when engaged in the performance of official duties.

36 In any prosecution under this section if it is claimed that a free
 37 ticket, free pass or other transportation was wrongfully issued or
 38 given to physicians or surgeons, attorneys, agents, or employees, it
 39 shall be incumbent upon the defendant to prove the character of the
 40 service rendered, or to be rendered. The provisions of this section
 41 shall not be construed to prohibit the interchange of passes for the
 42 persons to whom free tickets, free passes, or free transportation may
 43 be furnished or given under the provisions of this section. Nothing
 44 in this section shall operate to repeal the provisions of section fifty-
 45 two hundred five so far as said section refers to the members of the
 46 national guard, nor shall it operate to repeal section fifty-two hundred
 47 six. Nothing in this section shall be construed to invalidate any exist-
 48 ing contract between a street railway company and a city where a
 49 condition of a franchise grant requires the furnishing of transporta-

50 tion to policemen, firemen, and city officers, while in the performance
51 of official duties.

[S., '13, § 2157-g; 38 G. A., ch. 174, § 1.]

SEC. 5222. Testimony—immunity from prosecution.

1 No person, within the purview of the two preceding sections shall
2 be privileged from testifying in relation to anything herein prohibited,
3 but no person having so testified shall be liable to any prosecution or
4 punishment for any offense concerning which he was required to give
5 his testimony.

[S., '13, § 2157-h.]

SEC. 5223. Penalty.

1 Any common carrier, its officer, agent or representative, violating
2 any of the provisions of the three preceding sections shall be fined in
3 a sum not less than one hundred dollars and not more than ten hun-
4 dred dollars for each offense, or in the discretion of the court shall be
5 imprisoned in the county jail for not less than thirty and not more
6 than ninety days; and any person other than the persons excepted in
7 the next to the last preceding section who accepts or uses any free
8 ticket, free pass or free transportation for carriage or passage within
9 this state shall be subject to a like penalty.

[S., '13, § 2157-i.]

SEC. 5224. Names of free pass beneficiaries reported.

1 Every common carrier of passengers within the provisions of
2 the four preceding sections shall on or before the first day of Febru-
3 ary of each year, file with the executive council of the state of Iowa, a
4 sworn statement showing the names of all persons within this state
5 to whom, during the preceding calendar year, it issued, furnished or
6 gave a free ticket, free pass, free transportation or a discriminating
7 reduced rate, except wage earners of common carriers in their ordi-
8 nary employment and families of such wage earners, and disclosing
9 such further information as will enable the council to determine
10 whether the person to whom it was issued was within the exception
11 of said provisions.

[S., '13, § 2157-j.]

**SEC. 5225. Weighing of coal in car lots—scales—weight certifi-
cates to be furnished on request.**

1 Every person, firm or corporation engaged in operating any
2 railroad within the state of Iowa shall equip the line of its track and
3 thereafter maintain thereon in good order, track scales of sufficient
4 capacity to weigh all carloads of coal that may be transported over the
5 said railroad, and shall weigh the same at the request of any owner,
6 consignor or consignee of such commodities, and furnish written cer-
7 tificates of such weights to such owner, consignor or consignee as
8 hereinafter provided. Such track scales shall be so installed and main-
9 tained at all division stations along the line of such railroads within
10 the state of Iowa, and at such other stations as the board of railroad
11 commissioners shall from time to time direct.

[S., '13, § 2157-l.]

SEC. 5226. At point where shipment originates.

1 Every person, firm or corporation engaged in operating any rail-
2 road within the state of Iowa over which coal in carload lots shall be
3 transported for hire, shall weigh such coal at point where such ship-
4 ment originates unless covered by weight agreement between con-
5 signor and railway company, provided such point is equipped with
6 track scales. If not so equipped, it shall be weighed at first practicable
7 point en route where track scales are provided. Said person, firm or
8 corporation shall furnish to said shipper a bill of lading showing date
9 and place weighed, also the gross, tare and net weight for each car-
10 load of coal so weighed. The tare weight shall be determined by using
11 actual weight of empty car at loading station, provided track scales
12 are maintained at such point.

[S., '13, § 2157-m.]

SEC. 5227. At destination upon request—fee.

1 Such coal shall be weighed at destination upon request of con-
2 signee when there are track scales at such point. If not equipped
3 with track scales at such point, then at nearest practicable point en
4 route where such scales are maintained, and certificate of weight,
5 showing actual gross, tare and net weights, shall be furnished to con-
6 signee and settlement of freight charges based on these weights. A
7 reasonable charge of not more than one dollar per car may be made
8 for such weighing on request.

[S., '13, § 2157-n.]

SEC. 5228. How weighed.

1 Cars when weighed on track scales shall be uncoupled, clear and
2 unhampered at both ends, carefully weighed by competent weighmen
3 and certificates issued upon request of consignees, showing gross, tare
4 and net weights.

[S., '13, § 2157-o.]

SEC. 5229. Prima facie evidence.

1 Certificates mentioned in the preceding sections shall be prima
2 facie evidence of the facts therein recited in any action arising be-
3 tween consignors and consignees and common carriers.

[S., '13, § 2157-p.]

SEC. 5230. Penalty.

1 Any common carrier operating in this state violating any of the
2 provisions of the five preceding sections by neglecting or refusing to
3 weigh cars or to furnish certificates of weights as therein provided
4 shall be guilty of a misdemeanor and shall be, upon conviction thereof,
5 fined in the sum of not more than one hundred twenty-five dollars for
6 each and every violation.

[S., '13, § 2157-q.]

SEC. 5231. Reconsignment without charge.

1 Upon request of the consignee it shall be the duty of any common
2 carrier of freight to reconsign, rebill and reship from any place of
3 destination within the state to any other place within the state any
4 property in carload lots, whether accompanied by any person or not,

5 brought to said place of destination over its own or other line and
 6 treat the same in all respects as an original shipment between such
 7 places, provided the charges to first place of destination are paid or
 8 secured to the satisfaction of such company.

[S., '13, § 2157-r.]

SEC. 5232. Movement of cars of live stock—burden of proof.

1 It is hereby made the duty of all common carriers of freight
 2 within this state to move cars of live stock at the highest practicable
 3 speed consistent with reasonable safety, and the reasonable movement
 4 of its general traffic. The burden of proof that cars of live stock are
 5 so moved shall be upon the carrier, and proof that such cars were
 6 moved according to schedule or time-table shall not be prima facie evi-
 7 dence that they were moved at the highest practicable speed consistent
 8 with reasonable safety.

[S., '13, § 2157-s.]

SEC. 5233. Railroad commissioners to prescribe speed.

1 In order to enforce the duty prescribed in the preceding section,
 2 the board of railroad commissioners shall immediately and from time
 3 to time investigate the practice of the common carriers with respect
 4 to the movement of live stock; and if it ascertains at any time that
 5 the common carriers or any of them are not moving cars of live stock
 6 with the proper speed, then upon notice to any such common carrier
 7 or carriers, the said board shall prescribe the speed at which and the
 8 conditions under which cars of live stock shall be moved within this
 9 state by any such carrier or carriers. The order shall specify the
 10 time at which it shall go into effect, which shall be as soon as, in the
 11 judgment of the board, the carrier or carriers affected can, with rea-
 12 sonable diligence, readjust its or their time-tables. The power to
 13 prescribe speed and determine conditions for the movement of cars
 14 of live stock within this state is hereby expressly conferred upon the
 15 said board of railroad commissioners.

[S., '13, § 2157-t.]

SEC. 5234. Enforcement.

1 Any order, ruling or regulation made by the board under the two
 2 preceding sections shall be enforceable as provided in section fifty
 3 hundred twenty-two.

[S., '13, § 2157-u.]

SEC. 5235. Cruelty to animals by railways, when transporting.

1 No railway company in this state, in the carrying or transporta-
 2 tion of cattle, sheep, swine or other animals, shall confine the same in
 3 cars for a longer period than twenty-eight consecutive hours, unless
 4 delayed by storm or other accidental cause, without unloading for
 5 rest, water and feeding for a period of at least five consecutive hours;
 6 provided that upon the written request of the owner or person in
 7 custody of that particular shipment, which written request shall be
 8 separate and apart from any printed bill of lading, or other railroad
 9 form, the time of confinement may be extended to thirty-six hours.
 10 In estimating such confinement, the time the animals have been con-
 11 fined without such rest on connecting railways from which they are
 12 received shall be computed, it being the intention of this section to

13 prevent their continuous confinement beyond twenty-eight hours, ex-
 14 cept upon the contingencies before stated; and animals unloaded for
 15 rest, water and feeding shall be properly fed, watered and sheltered
 16 during such rest by the owners or persons in custody thereof, or, in
 17 case of their default in so doing, then by the railway company trans-
 18 porting them, at the expense of said owners or persons in custody
 19 thereof, and said company shall have a lien upon such animals for
 20 food, care and custody furnished, and shall not be liable for any de-
 21 tention of such animals authorized by this section. But when such
 22 animals shall be carried in cars in which they shall and do have proper
 23 food, water, space and opportunity for rest, the foregoing provisions
 24 in regard to their being unloaded shall not apply. Any railway com-
 25 pany, owner or custodian of such animals, who shall fail to comply
 26 with the provisions of this section, shall, for each and every such
 27 offense, be liable for and forfeit and pay a penalty of not less than one
 28 hundred nor more than five hundred dollars.

[C., '73, § 4032; C., '97, § 4970; 38 G. A., ch. 108, § 1.]

CHAPTER 5.

INTERURBAN RAILWAYS.

SECTION 5236. Definition.

1 . Any railway operated upon the streets of a city or town by elec-
 2 tric or other power than steam, which extends beyond the corporate
 3 limits of such city or town to another city, town or village, or any
 4 railway operated by electric or other power than steam, extending
 5 from one city, town or village to another city, town or village, shall
 6 be known as an interurban railway, and shall be a work of internal
 7 improvement.

[S., '13, § 2033-a.]

SEC. 5237. When deemed a street railway.

1 Any interurban railway shall, within the corporate limits of any
 2 city or town, or of any city acting under a special charter, upon such
 3 streets as it shall use for transporting passengers, mail, baggage, and
 4 such parcels, packages, and freight as it may carry in its passenger
 5 or combination baggage cars only, be deemed a street railway, and be
 6 subject to the laws governing street railways.

[S., '13, § 2033-c.]

SEC. 5238. What statutes apply.

1 The words railway, railway company, railway corporation, rail-
 2 road, railroad company, and railroad corporation, as used in the code
 3 and acts of the general assembly, now in force or hereafter enacted,
 4 are hereby declared to apply to and include all interurban railways,
 5 and all companies or corporations constructing, owning or operating
 6 such interurban street railways, and all provisions of the code and acts
 7 of the general assembly, now in force or hereafter enacted, affecting
 8 railways, railway companies, railway corporations, railroads, railroad
 9 companies and railroad corporations, are hereby declared to affect
 10 and apply in full force and effect to all interurban railways, and to all

11 interurban railway companies or railway corporations constructing,
 12 owning or operating such interurban railways.
 [S., '13, § 2033-b.]

SEC. 5239. Interurban or street railway over highways.

1 Any interurban or street railway may, for the purpose of con-
 2 structing or extending its line, locate, build and operate its road by
 3 any power other than steam, over and along any portion of the public
 4 road, beyond the limits of any city or town, which is one hundred feet
 5 or more wide. It shall as soon as practicable put the road in as good
 6 repair as it was before its use for such railway. Boards of super-
 7 visors are authorized to accept for road purposes conveyances of land
 8 adjoining any such road or part thereof sufficient to increase the same
 9 to the width of one hundred feet; but in any county in which such
 10 company desires to operate its line of railway over a road not less
 11 than sixty feet in width, for a distance not over two miles, beyond the
 12 limits of a city or town, the board of supervisors may grant the right
 13 to it to operate its line over said road, not exceeding two miles, under
 14 such rules and regulations as said board may prescribe, and may also
 15 from time to time make such further reasonable regulations as may
 16 be necessary. Where an interurban railway desires to operate its
 17 lines along or upon a public highway beyond the limits of any city or
 18 town, and in the opinion of the board of supervisors of the county in
 19 which such highway is located, it is impracticable or inexpedient to
 20 increase the width thereof to one hundred feet, such board of super-
 21 visors may permit such interurban railway company to construct and
 22 operate its railway along and upon such highway, under such restric-
 23 tions and regulations as the board may deem advisable; but no such
 24 railway shall construct or operate its line along or upon such highway
 25 until a written statement of consent of two-thirds of the residents
 26 owning property abutting upon such highway shall have been obtained
 27 and filed with the auditor of the county in which the highway is
 28 located; but no such written consent signed by any abutting landowner
 29 shall be construed to waive any claim for damages he may have on
 30 account of the location and construction of such railway upon and
 31 along the highway in front of the premises unless expressly so stated
 32 therein, and no such written consent shall have the effect to deprive
 33 any other abutting landowner of his right to recover damages there-
 34 for. And in all cases the location, construction and operation of such
 35 interurban railway shall be subject to the provisions relating to
 36 eminent domain.

[C., '97, § 2026; S., '13, § 2026.]

SEC. 5240. Powers of cities and towns.

1 Cities and towns and cities acting under special charters shall
 2 have power to authorize or forbid the construction of such railways
 3 upon, or over, or along the streets, alleys and public grounds within
 4 their limits and to prescribe the conditions and regulations under
 5 which said railways shall be constructed and operated within said
 6 limits. But the right to operate as a street railway under section
 7 fifty-two hundred thirty-seven shall not be granted for a period ex-
 8 ceeding twenty-five years. Nothing herein shall impair the obliga-
 9 tion of contracts of such city or town heretofore made. This chapter
 10 shall not in any manner affect sections thirty-eight hundred twenty-

11 four and thirty-eight hundred twenty-five, which shall be applicable
12 to interurban railways.

[S., '13, § 2033-d.]

SEC. 5241. Grade crossings—duties of employees—penalty.

1 Wherever the tracks of an interurban railway cross the tracks
2 of any steam railway at grade the steam railway shall have the right
3 of way and not be compelled to stop its trains and the interurban rail-
4 way company operating said line shall cause its cars to come to a full
5 stop not nearer than ten feet nor farther than fifty feet from such
6 crossing, and before proceeding to cross said steam railway tracks
7 shall cause some person in its employ first to cross said track ahead
8 of said car or cars and ascertain if the way is clear and free from
9 danger for the passage of said interurban cars, and said interurban
10 cars shall not proceed to cross until signaled to do so by such person
11 employed as aforesaid, or said way is clear for such passage over said
12 tracks. Every person in charge of any interurban car or cars, who
13 wilfully fails to comply with the provisions hereof and fails to bring
14 the car or cars which he has in charge to a stop, or causes the same
15 to cross said steam railway tracks before the way is clear, or he is
16 signalled to do so, shall be subject to a fine of not less than one hun-
17 dred dollars nor more than two hundred dollars or imprisonment in
18 the county jail not to exceed twelve months, in the discretion of the
19 court. No steam railway shall obstruct the free passage of the cars
20 of an intersecting interurban railway at such crossing.

[S., '13, § 2033-e.]

**SEC. 5242. Street railways to furnish terminal facilities—com-
pensation—determination by railroad commission.**

1 All persons, firms or corporations now or hereafter owning or
2 operating electric street railways in any city, including cities organ-
3 ized under special charters, or town of this state, are hereby author-
4 ized and required to permit the use for interurban business only but
5 not for local street railway business, of such of their terminals, tracks,
6 poles and wires as are located in the streets, alleys and public places
7 of said cities and towns, and such portions of their tracks, poles and
8 wires as may cross property owned by said street railway companies
9 in such cities and towns, by the passenger and combination baggage
10 cars of interurban railway companies, for the transportation of pas-
11 sengers, mail, express and baggage; and said street railways shall
12 furnish to said interurban railways, electric power for the operation
13 of their cars and the transaction of their said business in said cities
14 and towns, as to said tracks so furnished; but said street railways
15 shall not be required to furnish electric power except during such
16 hours as their street railway cars may be in operation; nor shall they
17 be required to furnish such power where they have not power houses
18 and machinery sufficient therefor; and they shall have the preference
19 in the use of their own tracks and power so that their own cars shall
20 not be delayed in transit; nor shall they be required to furnish car
21 houses or car barns or access thereto. Said interurban railways shall
22 pay a reasonable compensation for the privileges and power that may
23 be furnished them as above mentioned under this section. If an
24 agreement for the use of the facilities so furnished and the compensa-
25 tion for the same can not be made between the interested parties the
26 question as to the amount of such compensation and the conditions

27 under which said facilities shall be furnished, used and operated,
 28 shall be heard and determined by the board of railroad commissioners
 29 of the state, on petition to the said board by either party to the con-
 30 troversy, ten days' notice in writing of such petition being served
 31 upon the opposite party; and any order entered by said board of rail-
 32 road commissioners or court, upon appeal, shall be subject to modi-
 33 fication or review from time to time, upon notice being given as herein
 34 provided.

[S., '13, § 2110-c.]

SEC. 5243. Appeal—commissioner—report—hearing—bonds.

1 Each party to the proceeding shall have the right to appeal to
 2 the district court of the county where the street railway in question
 3 is located from any order made by the board of railroad commis-
 4 sioners under sections fifty-two hundred forty-two to fifty-two hun-
 5 dred forty-five, inclusive, which appeal shall be taken within twenty
 6 days from the date of the order appealed from, and shall be perfected
 7 by serving a notice of appeal upon the other parties to such proceed-
 8 ing and filing the same with the secretary of the board of railroad
 9 commissioners, and by filing within twenty days from the date of
 10 such order, a petition in the said district court, stating the facts and
 11 asking the court to determine the matter in controversy. The board
 12 of railroad commissioners shall, when such notice of appeal is filed
 13 with its secretary, forthwith certify to said district court a transcript
 14 of the papers and proceedings before said board, and its order thereon.
 15 The court, or a judge thereof, if the petition is filed in vacation, shall
 16 thereupon appoint a commissioner to examine into the necessity of
 17 such proceeding, and report the facts and his recommendation in such
 18 time as the court or judge may direct, and as soon as possible there-
 19 after the court or judge shall appoint a time and place for the hear-
 20 ing of such petition. The proceedings shall be in equity and subject
 21 to all the rules of equity practice, except that the court shall require
 22 the issues to be made up at the first term after the petition is filed
 23 and give the proceedings precedence over all other civil business and
 24 try the same thereat if possible. The action shall be triable de novo
 25 upon said appeal, except that the question of compensation for the
 26 tracks, poles, wires, terminals and power to be furnished shall first
 27 be tried to a jury in the same manner and with the same effect as
 28 jury trials in ordinary proceedings, and the jury shall assess, sep-
 29 arately, compensation for power to be furnished, on such basis as the
 30 court shall direct. No such appeal shall suspend the order appealed
 31 from if the interurban railway company on whose behalf said order is
 32 made shall file such bond for the payment of damages and costs as
 33 the district court to which such appeal is taken, or a judge thereof,
 34 may order and require. In all cases payment of the compensation
 35 awarded shall be made or secured to be made as the board of railroad
 36 commissioners or court may order and require before the interurban
 37 company desiring the use of the same shall be entitled thereto.

[S., '13, § 2110-d.]

SEC. 5244. Power furnished outside of city or town.

1 Street railroad companies desiring so to do shall be authorized
 2 to furnish to interurban railway companies, power for the operation
 3 of the cars of interurban railway companies outside of cities and

4 towns, but no street railroad company shall be required to furnish
5 such power.

[S., '13, § 2110-e.]

SEC. 5245. Applicable to interurban railways operating street railways.

1 This shall not apply to those portions of the terminals, tracks,
2 poles and wires of interurban railway companies which are located in
3 the streets, alleys and public places of cities and towns and which are
4 used by such companies for the transaction of a local street railway
5 business; and where an interurban railway company has heretofore
6 built tracks in a city or town used for street railway purposes it may
7 acquire the use of such tracks, poles and wires as may be necessary
8 to complete a terminal loop for the cars operated on such tracks and
9 for the use of its interurban cars only, under the provisions of this
10 chapter.

[S., '13, § 2110-f.]

SEC. 5246. Interurban railways—access to water supply—condemnation—compensation—approval by railroad commission a condition precedent.

1 Any interurban railway corporation owning or operating or con-
2 structing an interurban railway, operated in whole or in part by
3 electric power, shall have the power to acquire by condemnation the
4 right of access to all necessary streams or other sources for the pur-
5 pose of supplying its power house with water, and of making the nec-
6 essary changes and improvements, and to repair or renew the same
7 from time to time, in such streams, or upon the lands from which it is
8 to obtain said water supply, in the same manner as is provided by law
9 for the taking of private property for works of internal improvement.
10 The owners of the lands affected shall be compensated in the award
11 for all damages resulting to their lands on account of the exercise by
12 such interurban railway of any of its rights hereunder, including
13 damages due to change of flow in, or the straightening of a stream.
14 The owner of the land affected shall not be deprived of access to the
15 water nor the use thereof in common with such interurban railway
16 on his own land, and the dwelling house, outhouse, orchard, and gar-
17 den of any such person shall not be overflowed or otherwise injuriously
18 affected by any proceedings under this section. Before any proceed-
19 ings shall be instituted therefor, such interurban railway shall make
20 written application, accompanied by proper drawings and specifica-
21 tions showing the improvements and proposed changes in detail, to
22 the railroad commissioners, who shall give notice to the owners of
23 lands to be affected, and examine into the matter, and report by cer-
24 tificate to the clerk of the district court in the county in which the
25 land affected is situated. If said railroad commissioners find that the
26 rights of the public are in any way affected by such changes or im-
27 provements, they shall give such notice as in their judgment will
28 properly advise the public of said proposed change, the expenses
29 thereof to be paid by the interurban railroad corporation. If the com-
30 missioners find that the exercise by the interurban railway of the
31 power of eminent domain is reasonable and proper in the circum-
32 stances, they shall accompany their report with plans and specifica-
33 tions approved by them and showing in reasonable detail the nature
34 of the changes, improvements and work and the extent thereof neces-

35 sary for the present and prospective uses of such interurban railway;
 36 whereupon the interurban railway shall have power to acquire, by
 37 condemnation, the rights to the water and to do the work and make
 38 the improvements and changes approved by the commissioners, and so
 39 certified by them to the clerk.

[S. S., '15, § 2033-l.]

SEC. 5247. Heating of passenger cars.

1 Every person, partnership, company or corporation owning or
 2 operating an interurban line or a street railway in a city of more
 3 than twenty thousand population in this state shall, from November
 4 fifteenth of each year to April first following, heat all cars, used for
 5 the transportation of passengers, while in service, to at least forty
 6 degrees Fahrenheit; provided that open cars may be operated during
 7 the month of November for special trips to transport heavy traffic.

[37 G. A., ch. 320, § 1.]

SEC. 5248. Penalty.

1 Every person, partnership, company or corporation owning or
 2 operating a street railway in this state who shall fail to comply with
 3 the provisions of the preceding section shall be deemed guilty of a
 4 misdemeanor and upon conviction shall be punished by a fine of not
 5 less than twenty-five dollars, nor more than one hundred dollars for
 6 each offense. Any failure to comply with the provisions of this and
 7 the preceding section, shall be deemed a separate offense.

[37 G. A., ch. 320, § 2.]

SEC. 5249. Statutes made applicable.

1 All provisions relating to eminent domain conferring upon rail-
 2 roads the right to condemn for reservoirs, and the laying of pipe lines,
 3 for the purpose of acquiring water for their engines, shall apply to
 4 interurban railways in respect to acquiring water supply for power-
 5 house purposes.

[S. S., '15, § 2033-m.]

SEC. 5250. Automobile railway—statutes applicable.

1 Any system of railway operating cars within the state of Iowa
 2 over or upon any track other than steel or iron shall be known as an
 3 automobile railway, and shall be a work of internal improvement.
 4 The words "railway," "railway company," "railway corporation,"
 5 "railroad," "railroad company" or "railroad corporation," as used in
 6 the code and acts of the general assembly now in force or hereafter
 7 enacted, are hereby declared to apply to, and include, automobile
 8 railways, and all companies or corporations owning or operating such
 9 automobile railways, and all provisions of the code and acts of the
 10 general assembly now in force or hereafter enacted affecting rail-
 11 ways, railway companies, railway corporations, railroads, railroad
 12 companies or railroad corporations, are hereby declared to affect and
 13 apply in full force and effect to all automobile railways and to all au-
 14 tomobile railway companies owning or operating such automobile
 15 railways.

[S., '13, § 2033-f.]

CHAPTER 6.

INTERURBAN RAILWAYS IN CERTAIN CITIES.

SECTION 5251. Interurban railways entitled to the use of other tracks—relocation—compensation.

1 When any corporation has heretofore, or hereafter shall be au-
 2 thorized by any city of this state having not less than thirty thousand
 3 nor more than thirty-five thousand inhabitants according to the fed-
 4 eral census of A. D. nineteen hundred ten, to construct and operate
 5 an interurban railway upon any of the streets of such city, and shall
 6 desire to extend, construct and operate its said interurban railway
 7 upon other streets of said city upon which railroad track or tracks are
 8 located, and shall be authorized by the city council of said city by
 9 resolution so to do, and such streets are so occupied by railroad tracks
 10 that it is not practicable to construct and operate said interurban rail-
 11 way thereon, the owners, lessees and operators of said railroad tracks
 12 are authorized and required, if practicable, to relocate such of their
 13 tracks on said streets as are necessary to permit of the construction
 14 and operation of said interurban railway, and if it is not practicable
 15 to relocate said railroad tracks, then the owners, lessees and operators
 16 are authorized and required to permit said interurban railway to use
 17 such of their said tracks as are necessary for the operation and carry-
 18 ing on of the business of said interurban railway, and to permit to
 19 be made such alterations in, attachments to and connections with said
 20 railroad tracks and to be installed and maintained such trolley system
 21 or other construction or equipment as will permit the use in common
 22 of said railroad tracks by said interurban railway for railway pur-
 23 poses and by the owners, lessees or other operators thereof for or-
 24 dinary steam railway purposes.

25 Where it is practicable to relocate said railroad tracks, and it is
 26 also practicable to operate said interurban railway over said tracks
 27 without relocating the same, the owners, lessees and operators of such
 28 railroad tracks may elect to grant the use thereof to said interurban
 29 railway and permit to be made such alterations in, attachments to
 30 and connections with the same and to the installation and maintenance
 31 of such trolley system or other construction or equipment as will per-
 32 mit the use in common of said railroad tracks by said interurban rail-
 33 way and the said owners, lessees and operators thereof, and signify
 34 such election in writing, filed in the proceeding before the commence-
 35 ment of the hearing of said proceeding on appeal in the district court
 36 as hereinafter provided, then said tracks may be so used in place of
 37 being relocated.

38 The owner of said interurban railway shall pay just compensa-
 39 tion to the owners, lessees or operators of any railroad tracks for the
 40 relocation or use and alteration of said railroad tracks, and for the
 41 exercise of such other privileges as are granted such interurban rail-
 42 way under the provisions of this chapter.

[S. S., '15, § 2033-g.]

SEC. 5252. Railroad commission—disputes—notice—hearing—procedure—modification of orders.

1 If an agreement can not be made between the said owner of said
 2 interurban railway and the owners, lessees and operators of such rail-
 3 road tracks for the relocation or use of such railroad tracks, or as to
 4 the alterations, attachments and connections that shall be made therein

5 or thereto, or as to the manner of the installation and maintenance
 6 of the trolley system or other construction or equipment such as will
 7 permit such common use of such tracks, or the terms and conditions
 8 of or the compensation to be paid for such relocation or use and the
 9 alterations or attachments to said railroad tracks and the exercise of
 10 such other privileges as are granted to such interurban railway under
 11 the provisions of this chapter, then all said matters shall be heard
 12 and determined by the board of railroad commissioners of the state
 13 of Iowa upon petition to said board by the owner of said interurban
 14 railway or other party to the controversy.

15 Upon filing of said petition said board shall fix a time for the
 16 hearing thereof, and twenty days' notice of the filing of said petition
 17 and of the time fixed for the hearing thereof shall be given by the
 18 petitioner to the opposite parties. Said notice shall be served in the
 19 manner provided by law for the service of notices of the commence-
 20 ment of a civil action in the district court.

21 The commission shall have the power and, upon the demand of
 22 any party appearing in said proceeding, shall appoint a shorthand re-
 23 porter, who shall take the evidence offered or introduced upon the
 24 hearing, and the commission shall have power to require any party
 25 to said hearing to produce books, records, papers or other documents
 26 material to said inquiry, and shall have the power to subpoena and
 27 require the attendance of witnesses.

28 All orders of the commission or revisions or modifications of said
 29 orders shall be subject to revision or modification by the commission
 30 upon application of any party to the original proceeding, made in the
 31 same manner and under the same procedure as is provided for ap-
 32 plications for original orders, provided that there shall be no revisions
 33 or modification of any order for the relocation of railroad tracks or of
 34 compensation, if the total compensation was fixed at one definite sum;
 35 provided, further, that in the event of additional cost of construction
 36 or additional cost of maintenance occasioned by viaducts, track eleva-
 37 tion or depression, crossing gates or other safety appliances or the
 38 installation of more expensive types of track construction, the com-
 39 pensation shall be subject to revision and modification in the manner
 40 and by the method as in this chapter provided.

[S. S., '15, § 2033-h.]

**SEC. 5253. Appeal—how taken—service—record certified—con-
 solidation of appeals—trial.**

1 Any party to said proceeding may appeal to the district court of
 2 the county where said city is located from any order made by the board
 3 of railroad commissioners under this chapter within twenty days from
 4 the date of the order appealed from.

5 Such appeal shall be taken and perfected by the party appealing
 6 by serving a notice in writing upon the other parties to said proceed-
 7 ing, specifying the order or part thereof appealed from, and by filing in
 8 the office of the clerk of the district court of the county to which said
 9 appeal is taken, a petition stating the general nature of the proceed-
 10 ing before said board of railroad commissioners and of the order or
 11 part thereof appealed from, and that an appeal has been taken and
 12 asking the court to determine the matter in controversy.

13 Such notice of appeal shall be served and proof of service thereof
 14 made in the same manner as an original notice in a civil action, and
 15 shall be filed with the secretary of the board of railroad commis-

16 sioners. Service of such notice of appeal may be made upon any at-
17 torney appearing for any party in the proceedings before the board
18 of railroad commissioners with the same force and effect as if served
19 upon such party.

20 Such petition filed in the office of the clerk of the district court to
21 which an appeal is taken shall be entitled in the name of the inter-
22 urban railway company as plaintiff and the other parties to the appeal
23 as defendants.

24 Immediately after twenty days from the date of any order ap-
25 pealed from said board of railroad commissioners shall certify to the
26 clerk of the district court to which an appeal or appeals have been
27 taken, a transcript of the papers and proceedings before said board
28 and its order thereon and all notices of appeal therefrom with proofs
29 of service thereof.

30 All appeals growing out of a single order of said board of rail-
31 road commissioners shall be consolidated and tried together, provided
32 that if the owners, lessees and operators of said railroad tracks have
33 filed their election to permit the use of said tracks by said interurban
34 railway after an appeal has been taken by any party to the proceed-
35 ings as herein provided, each and all of the matters and things heard
36 and determined by the board of railroad commissioners shall, subject
37 to such election, be heard and determined by the district court the
38 same as if each of the parties to said proceeding had appealed from
39 the entire order of said board.

40 The proceedings upon appeal shall be in equity and subject to all
41 of the rules of equity practice, except that the court shall require the
42 issues to be made up at the first term after the petition is filed and
43 give the proceedings precedence over other civil business and try the
44 same thereat, if possible. The action shall be triable de novo upon
45 said appeal; provided, however, that the question of the amount of
46 compensation for the relocation or use of any tracks and for the other
47 privileges granted shall be tried in the same manner and with the
48 same effect as trials upon appeal from assessments for the taking of
49 private property for works of internal improvement.

50 Upon trial to determine the amount of compensation, the court
51 shall first determine the basis, whether as rental or otherwise, upon
52 which compensation shall be paid, and the terms and conditions of
53 such payment, and all questions of the amount of compensation shall,
54 upon such appeal, be tried before the same jury, who shall return a
55 separate verdict fixing the amount of compensation to which each
56 party to the proceedings is entitled, and in the event of appeal to the
57 supreme court, the proceedings tried before a jury shall be heard and
58 determined the same as in a law action.

[S. S., '15, § 2033-i.]

SEC. 5254. Order not suspended by appeal—bond.

1 The appeal shall not suspend any order appealed from, if the
2 interurban railway company in whose behalf any order is made by
3 the board of railroad commissioners shall file in the office of the clerk
4 of the district court of the county to which such appeal is taken, a
5 bond in such amount and upon such conditions as the district court to
6 which such appeal is taken, or a judge thereof, may, upon application
7 of said interurban railway, require.

[S. S., '15, § 2033-j.]

SEC. 5255. Commission to inspect appliances—specifications for construction.

1 The railroad commission is hereby authorized, directed and em-
2 powered to inspect any and all wires and appliances authorized by this
3 section and to condemn and order removed, or placed in safe condi-
4 tion, all wires and appliances erected or maintained in violation of
5 the terms and conditions hereof.

6 1. No wire or cable used to conduct electricity for light and power
7 shall be erected or maintained on any pole or appliance attached to
8 such pole, within a less distance than thirteen inches from the center
9 line of such pole; nor shall any wire or cable be erected or maintained
10 in the vicinity of any pole, and unattached thereto, within the distance
11 of thirteen inches from the center line of such pole.

12 2. Nor shall any wire or cable carrying less than six hundred
13 volts of electricity be erected or maintained within a distance of forty
14 inches from any wire or cable which carries at any time more than
15 six hundred volts of electricity.

16 3. Nor shall any wire or cable which carries at any time more
17 than six hundred volts of electricity be erected or maintained within
18 a distance of forty inches from any wire or cable carrying less than
19 six hundred volts of electricity.

20 4. Nor shall any wire be erected or maintained running parallel,
21 crossing or attached to same pole at a less distance than seven feet
22 from any wire carrying thirteen thousand volts or more.

23 5. No wire or cable carrying more than thirteen thousand volts
24 of electricity shall be erected or maintained across or above any wire
25 or cable carrying less than thirteen thousand volts at point of cross-
26 ing without at all times maintaining approved methods of construc-
27 tion to prevent falling and coming in contact with wires of lesser
28 voltage.

29 6. No guy wire or guy cable attached to any pole or appliance to
30 which is attached any wire or cable used to conduct electricity for
31 light and power shall be erected or maintained without causing such
32 guy wire or guy cable to be kept effectively insulated by approved
33 insulators placed in such wire or cable not less than nine feet, nor
34 more than eleven feet, from each end thereof; provided, however, that
35 the lower insulator shall not be less than eight feet, perpendicularly,
36 from the ground.

37 7. No wire or cable shall be erected or maintained vertically on
38 any wooden pole, without causing such wire or cable to be at all times
39 incased in a casing of wooden material not less than three-quarters
40 of an inch in thickness, or of other insulating material approved by
41 the railroad commission; provided, however, that the provisions of
42 this section shall not apply to any vertical wire which is more than
43 thirteen inches from center line of pole.

44 8. Trolley span wires shall be insulated by not less than two ap-
45 proved insulators between such trolley wire and the pole or other
46 support; such insulators shall be placed not less than two or more
47 than four feet from point of attachment to wire or pole.

48 9. No pole or other structure used for the support of wires shall
49 be erected or maintained at a less distance than six feet from the near-
50 est rail of any steam, electric or other railway track over which freight
51 cars may be operated.

52 10. All poles must be distinctly and permanently marked with
53 owner's name, at a point not less than five nor more than seven feet

54 above the ground. All wooden poles of any lead must be as nearly as
55 practicable uniformly spaced, of uniform height, and not less than
56 forty poles to the mile.

57 11. Wires or cables carrying electric current for light and power
58 must not be erected or maintained on any bracket or knob attached
59 directly to any pole or cross arm.

60 12. No trolley wire authorized by sections fifty-two hundred fifty-
61 one to fifty-two hundred fifty-six, inclusive, shall be erected or main-
62 tained at a less distance than twenty-two feet above any track.

63 13. All devices and materials, insulators, and other methods of
64 insulation of wires shall conform to specifications approved by the
65 railroad commission. No wire shall be stretched within four feet of
66 any building without being attached to and insulated therefrom. No
67 wires shall hang within a less distance than twenty-two feet of the
68 ground at the lowest point of sag. In case of leads crossing each
69 other, each lead must pass above or below the other, and under no
70 circumstances shall any wire of one lead run through the other lead.

71 14. Primary or high potential wire must be provided with ap-
72 proved line cut-outs on all branches, and at all transformers; and
73 mains shall be divided into sections by approved cut-outs located as
74 directed by the railroad commission. All wires and cut-outs on same
75 crossarm must be at least fourteen inches apart, except pole wires,
76 which must be twenty-six inches apart.

[S. S., '15, § 2033-k.]

SEC. 5256. Commission to establish rules—enforcement of orders.

1 In any case where it is found impracticable to comply with the
2 foregoing requirements or when to the satisfaction of the railroad
3 commission it is found that in the advancement of the art or trade,
4 improved methods, appliances, fixtures and requirements will the bet-
5 ter conserve persons and property, including the operation of such
6 property, the railroad commission is hereby empowered, upon applica-
7 tion made in writing, to allow such reasonable deviation therefrom as
8 may be deemed reasonably safe and necessary.

9 It shall be unlawful for any person, firm, association or corpora-
10 tion including a municipal corporation to place, construct, keep or
11 maintain any fixture, appliance or other thing contrary to the terms
12 and provisions of this and the preceding section, and the railroad com-
13 mission is hereby empowered to enforce the provisions of this and the
14 preceding section with reference to such matter.

15 The railroad commission is hereby authorized and empowered to
16 make such other rules and regulations and fix standards of and for
17 appliances and fixtures as may be deemed reasonably necessary from
18 time to time for the purpose of protecting persons and property; and
19 such order made by the commission shall be deemed reasonable
20 and necessary and the burden of proof shall rest upon any complain-
21 ant to prove the contrary.

22 The railroad commission shall give reasonable notice of any order
23 or requirement within the contemplation of this and the five preceding
24 sections, and cause the same to be enforced by an action in equity.

25 The terms, conditions and provisions of this and the preceding
26 section shall only apply to such interurban railway construction and
27 conditions contemplated by section fifty-two hundred fifty-one.

[S. S., '15, § 2033-k.]

CHAPTER 7.

EXPRESS COMPANIES.

SECTION 5257. Subject to regulations.

1 All express companies operating and doing business in this state
2 are declared to be common carriers, and it shall be the duty of every
3 such express company or common carrier to transport all property,
4 parcels, money, merchandise, packages, and other things of value
5 which may be offered to them for transportation, at a reasonable
6 charge or rate therefor; and all laws so far as applicable, now in
7 force or hereafter enacted, regulating the transportation of property
8 by railroad companies, shall apply with equal force and effect to ex-
9 press companies.

[C., '97, § 2165; S., '13, § 2165-a.]

SEC. 5258. Supervision by railroad commissioners—schedule of joint rates.

1 The railroad commissioners of this state shall have general su-
2 pervision of all express companies operating and doing business in
3 this state; and shall inquire into any unjust discrimination, neglect
4 or violation of the laws of this state governing common carriers, by
5 any express company doing business therein, or by the officers, agents
6 or employees thereof; and they shall have power, and it shall be their
7 duty, to fix and establish reasonable, fair and just rates of charges
8 including a schedule of maximum joint rates for each kind or class of
9 property, money, parcels, merchandise, packages, and other things
10 to be charged for and received by each express company or carriers
11 by express, separately or conjointly, on all such property, money,
12 parcels, merchandise, packages and other things which by the contract
13 of carriage are to be transported separately or conjointly by such
14 express companies, or carriers by express, doing business over the line
15 of any railroad or other carrier between points wholly within the state
16 of Iowa, which rates or charges shall be made to apply to all such
17 express companies or express carriers, and may be changed or modi-
18 fied by said commissioners from time to time in such manner as may
19 become necessary.

[C., '97, § 2166; S., '13, § 2165-b.]

SEC. 5259. Schedule of rates for each company — prima facie evidence.

1 It shall be the duty of said railroad commissioners, and they are
2 hereby directed, to prepare and make for each express company doing
3 business in this state a schedule of reasonable maximum charges of
4 rates for transporting property, money, parcels, merchandise, pack-
5 ages, and other things carried by such express company or companies
6 between points wholly within the state of Iowa; and in all actions
7 brought against such common carriers wherein there are involved the
8 charges thereof for the transportation of any property, or any unjust
9 discrimination in relation thereto, the schedules or reasonable maxi-
10 mum rates of charges so made by the railroad commissioners shall be
11 taken as prima facie evidence in all courts that the rates fixed therein
12 are reasonable and just maximum rates of charges for which said
13 schedules have been prepared.

[C., '97, § 2166; S., '13, § 2165-c.]

SEC. 5260. Printed schedules posted and displayed.

1 It shall be the duty of every such company or common carrier en-
2 gaged in transporting property, money, parcels, merchandise, pack-
3 ages and other things, to print in clear and legible type the schedules
4 of rates for transportation of such property, money, parcels, merchan-
5 dise, packages, and other things, so made by such railroad commis-
6 sioners, and shall post in each of its offices or places of business where
7 patrons visit for the purpose of making and receiving shipments, and
8 keep displayed in each office or place of business within convenient
9 access, and for the inspection and use of the public during customary
10 business hours such printed schedule of rates of charges and any
11 amendments thereto, and shall also post and display in similar manner
12 any special rules and regulations which may be promulgated by them
13 or said railroad commissioners for the information of their patrons.

[S., '13, § 2165-d.]

SEC. 5261. Excessive charges—penalty.

1 It shall be unlawful for any express company or common carrier
2 to charge, demand, collect or receive a greater compensation for such
3 transportation of property, or for any service in connection there-
4 with, between the points named in such schedules than the rates and
5 charges which are specified in the schedules made by said railroad
6 commissioners and in effect at the time. Any such express company
7 or common carrier, any officer, representative, or agent or any ex-
8 press company, or carrier, who knowingly violates the provisions of
9 this chapter shall forfeit to the state of Iowa the sum of five hundred
10 dollars for each offense, to be recovered as by law provided.

[S., '13, § 2165-e.]

SEC. 5262. Refusal to transport—liable for damages—penalty.

1 Each and every express company or carrier by express, as herein
2 defined, doing business within the state of Iowa, shall at all convenient
3 times during the hours of business accept and receive for prompt
4 transportation and shipment destined to points on their own line, or
5 to points on the lines of other express companies operating within the
6 state, or for points beyond said state, all property, parcels, money,
7 merchandise, packages and other things of value which may be offered
8 to them, or either of them, for transportation by the public, and any
9 express company or other common carrier refusing to transport goods
10 as above provided taking the same in the order presented, shall be
11 liable to the party injured for damages sustained by reason of its
12 refusal, and in addition thereto shall be liable to a penalty of not less
13 than five nor more than five hundred dollars, to be recovered in each
14 case by the owner of the goods in any court having jurisdiction in the
15 county where the wrong is done, or where the common carrier resides
16 or has an agent, and each case of refusal shall be construed as a sep-
17 arate offense under this section.

[S., '13, § 2165-f.]

CHAPTER 8.

UNIFORM BILLS OF LADING.

SECTION 5263. Bills of lading.

1 Bills of lading issued by any common carrier shall be governed
2 by this chapter.

[S., '13, § 3138-b.]

SEC. 5264. Terms to be embodied in bill.

1 Every bill must embody within its written or printed terms—

- 2 1. The date of its issue,
- 3 2. The name of the person from whom the goods have been re-
4 ceived,
- 5 3. The place where the goods have been received,
- 6 4. The place to which the goods are to be transported,
- 7 5. A statement whether the goods received will be delivered to a
8 specified person, or to the order of a specified person,
- 9 6. A description of the goods or of the packages containing them
10 which may, however, be in such general terms as are referred to in
11 section fifty-two hundred eighty-five, and
- 12 7. The signature of the carrier.

13 A negotiable bill shall have the words "order of" printed thereon
14 immediately before the name of the person upon whose order the goods
15 received are deliverable.

16 A carrier shall be liable to any person injured thereby for the
17 damage caused by the omission from a negotiable bill of any of the
18 provisions required in this section.

[S., '13, § 3138-b1.]

SEC. 5265. Certain terms may be inserted.

1 A carrier may insert in a bill, issued by him, any other terms and
2 conditions, provided that such terms and conditions shall not—

- 3 1. Be contrary to law or public policy, or
- 4 2. In any wise impair his obligation to exercise at least that de-
5 gree of care in the transportation and safe-keeping of the goods in-
6 trusted to him which a reasonably careful man would exercise in re-
7 gard to similar goods of his own.

[S., '13, § 3138-b2.]

SEC. 5266. Nonnegotiable or straight bill.

1 A bill in which it is stated that the goods are consigned or des-
2 tined to a specified person, is a nonnegotiable or straight bill.

[S., '13, § 3138-b3.]

SEC. 5267. Negotiable or order bill.

1 A bill in which it is stated that the goods are consigned or des-
2 tined to the order of any person named in such bill, is a negotiable or
3 order bill. Any provision in such a bill that it is nonnegotiable shall
4 not affect its negotiability within the meaning of this chapter.

[S., '13, § 3138-b4.]

SEC. 5268. Negotiable bills not to be issued in parts or sets—liability for violation.

1 Negotiable bills issued in this state for the transportation of
2 goods to any place in the United States on the continent of North
3 America, except Alaska, shall not be issued in parts or sets. If so
4 issued the carrier issuing them shall be liable for failure to deliver
5 the goods described therein to anyone who purchases a part for value
6 in good faith, even though the purchase be after the delivery of the
7 goods by the carrier to a holder of one of the other parts.

[S., '13, § 3138-b5.]

SEC. 5269. Duplicate bills to be so marked—liability for violation.

1 When more than one negotiable bill is issued in this state for the
2 same goods to be transported to any place in the United States on
3 the continent of North America, except Alaska, the word "duplicate"
4 or some other word or words indicating that the document is not an
5 original bill shall be placed plainly upon the face of every such bill,
6 except the one first issued. A carrier shall be liable for the damage
7 caused by his failure so to do to anyone who has purchased the bill
8 for value in good faith as an original, even though the purchase be
9 after the delivery of the goods by the carrier to the holder of the
10 original bill.

[S., '13, § 3138-b6.]

SEC. 5270. Nonnegotiable bill to be so marked.

1 A nonnegotiable bill shall have placed plainly upon its face by
2 the carrier issuing it "nonnegotiable" or "not negotiable." This sec-
3 tion shall not apply, however, to memoranda or acknowledgments of
4 an informal character.

[S., '13, § 3138-b7.]

SEC. 5271. Insertion of name of person to be notified not to limit negotiability.

1 The insertion in a negotiable bill of the name of a person to be
2 notified of the arrival of goods shall not limit the negotiability of the
3 bill, or constitute notice to a purchaser thereof of any rights or equi-
4 ties of such person in the goods.

[S., '13, § 3138-b8.]

SEC. 5272. Waiver of objections to terms—estoppel.

1 Except as otherwise provided in this chapter, where a consignor
2 receives a bill and makes no objection to its terms or conditions at
3 the time he receives it, neither the consignor nor any person who ac-
4 cepts delivery of the goods, nor any person who seeks to enforce any
5 provision of the bill, shall be allowed to deny that he is bound by such
6 terms and conditions, so far as they are not contrary to law or public
7 policy.

[S., '13, § 3138-b9.]

SEC. 5273. Delivery of goods by carrier—refusal—burden of proof.

1 A carrier, in the absence of some lawful excuse, is bound to de-
2 liver goods upon a demand made either by the consignee named in the

3 bill for the goods, or if the bill is negotiable, by the holder thereof,
4 if such demand is accompanied by—

5 1. An offer in good faith to satisfy the carrier's lawful lien upon
6 the goods.

7 2. An offer in good faith to surrender, properly indorsed, the bill
8 which was issued for the goods, if the bill is negotiable, and

9 3. A readiness and willingness to sign, when the goods are de-
10 livered, an acknowledgment that they have been delivered, if such
11 signature is requested by the carrier.

12 In case the carrier refuses or fails to deliver the goods in com-
13 pliance with a demand by the consignee or holder so accompanied, the
14 burden shall be upon the carrier to establish the existence of a lawful
15 excuse for such refusal or failure.

[S., '13, § 3138-b10.]

SEC. 5274. Carrier justified in delivering goods to certain persons, conditionally.

1 A carrier is justified, subject to the provisions of the three fol-
2 lowing sections, in delivering goods to one who is—

3 1. A person lawfully entitled to the possession of the goods, or

4 2. The consignee named in a nonnegotiable bill for the goods, or

5 3. A person in possession of a negotiable bill for the goods by the
6 terms of which the goods are deliverable to his order, or which has
7 been indorsed to him or in blank by the consignee or by the mediate
8 or immediate indorsee of the consignee.

[S., '13, § 3138-b11.]

SEC. 5275. Liability of carrier in certain cases.

1 Where a carrier delivers goods to one who is not lawfully entitled
2 to the possession of them the carrier shall be liable to anyone having
3 a right of property or possession in the goods if he delivered the goods
4 otherwise than as authorized by subdivisions two and three of the
5 preceding section; and, though he delivered the goods as authorized
6 by either of said subdivisions, he shall be so liable if prior to such
7 delivery he—

8 1. Had been requested, by or on behalf of a person having a right
9 of property or possession in the goods, not to make such delivery, or

10 2. Had information at the time of the delivery that it was to a
11 person not lawfully entitled to the possession of the goods.

12 A request or information to be effective within the meaning of
13 this section must be given to an officer or agent of the carrier, the
14 actual or apparent scope of whose duties includes action upon such
15 a request or information, and must be given in time to enable the
16 officer or agent to whom it is given, acting with reasonable diligence,
17 to stop delivery of the goods.

[S., '13, § 3138-b12.]

SEC. 5276. Failure of carrier to cancel negotiable bill—liability.

1 Except as provided in section fifty-two hundred eighty-nine, and
2 except when compelled by legal process, if a carrier delivers goods
3 for which a negotiable bill had been issued, the negotiation of which
4 would transfer the right to the possession of the goods, and fails to
5 take up and cancel the bill, such carrier shall be liable for failure to
6 deliver the goods to anyone who for value and in good faith purchases

7 such bill, whether such purchaser acquired title to the bill before or
8 after the delivery of the goods by the carrier, and notwithstanding
9 delivery was made to the person entitled thereto.

[S., '13, § 3138-b13.]

SEC. 5277. Failure of carrier to cancel negotiable bill—delivery of part of goods.

1 Except as provided in section fifty-two hundred eighty-nine, and
2 except when compelled by legal process, if a carrier delivers part of
3 the goods for which a negotiable bill had been issued and fails either—

4 1. To take up and cancel the bill, or

5 2. To place plainly upon it a statement that a portion of the goods
6 has been delivered, with a description, which may be in general terms,
7 either of the goods or packages that have been so delivered or of the
8 goods or packages which still remain in the carrier's possession, he
9 shall be liable for failure to deliver all the goods specified in the bill,
10 to anyone who for value and in good faith purchases it, whether such
11 purchaser acquired title to it before or after the delivery of any por-
12 tion of the goods by the carrier, and notwithstanding such delivery
13 was made to the person entitled thereto.

[S., '13, § 3138-b14.]

SEC. 5278. Alterations without authority void.

1 Any alteration, addition or erasure in a bill after its issue without
2 authority from the carrier issuing the same either in writing or noted
3 on the bill shall be void, whatever be the nature and purpose of the
4 change, and the bill shall be enforceable according to its original tenor.

[S., '13, § 3138-b15.]

SEC. 5279. Lost or destroyed negotiable bill—court may order delivery—bond—liability.

1 Where a negotiable bill has been lost or destroyed, a court of com-
2 petent jurisdiction may order the delivery of the goods upon satisfac-
3 tory proof of such loss or destruction and upon the giving of a bond
4 with sufficient surety to be approved by the court to protect the carrier
5 or any person injured by such delivery from any liability or loss, in-
6 curred by reason of the original bill remaining outstanding. The
7 court may also in its discretion order the payment of the carrier's
8 reasonable costs and counsel fees. The delivery of the goods under
9 an order of the court as provided in this section, shall not relieve the
10 carrier from liability to a person to whom the negotiable bill has been
11 or shall be negotiated for value without notice of the proceedings or
12 of the delivery of the goods.

[S., '13, § 3138-b16.]

SEC. 5280. Liability on duplicate bills.

1 A bill upon the face of which the word "duplicate" or some other
2 word or words indicating that the document is not an original bill is
3 placed plainly shall impose upon the carrier issuing the same the lia-
4 bility of one who represents and warrants that such bill is an accurate
5 copy of an original bill properly issued, but no other liability.

[S., '13, § 3138-b17.]

SEC. 5281. Assertion of title by carrier—liability for refusal to deliver.

1 No title to goods or right to their possession, asserted by a carrier
2 for his own benefit, shall excuse him from liability for refusing to de-
3 liver the goods according to the terms of a bill issued for them, unless
4 such title or right is derived directly or indirectly from a transfer
5 made by the consignor or consignee after the shipment, or from the
6 carrier's lien.

[S., '13, § 3138-b18.]

SEC. 5282. Claimants required to interplead.

1 If more than one person claims the title or possession of goods,
2 the carrier may require all known claimants to interplead, either as a
3 defense to an action brought against him for nondelivery of the goods,
4 or as an original suit, whichever is appropriate.

-[S., '13, § 3138-b19.]

SEC. 5283. Disputed title or possession—delivery—liability for refusal to deliver excused—limitation.

1 If some one other than the consignee or person in possession of
2 the bill, has a claim to the title or possession of the goods, and the
3 carrier has information of such claim, the carrier shall be excused
4 from liability for refusing to deliver the goods either to the consignee
5 or person in possession of the bill, or to the adverse claimant, until
6 the carrier has had a reasonable time to ascertain the validity of the
7 adverse claim or to bring legal proceedings to compel all claimants to
8 interplead.

[S., '13, § 3138-b20.]

SEC. 5284. Right or title of third person no defense to failure to deliver—exceptions.

1 Except as provided in the two preceding sections and in section
2 fifty-two hundred seventy-four, no right or title of a third person
3 unless enforced by legal process shall be a defense to an action brought
4 by the consignee of a nonnegotiable bill or by the holder of a negotiable
5 bill against the carrier for failure to deliver the goods on demand.

[S., '13, § 3138-b21.]

SEC. 5285. General liability of carrier.

1 If a bill of lading has been issued by a carrier or on his behalf
2 by an agent or employee the scope of whose actual or apparent au-
3 thority includes the issuing of bills of lading, the carrier shall be
4 liable to—

- 5 1. The consignee named in a nonnegotiable bill, or
- 6 2. The holder of a negotiable bill, who has given value in good
7 faith relying upon the description therein of the goods, for damages
8 caused by the nonreceipt by the carrier or a connecting carrier of all
9 or part of the goods or their failure to correspond with the description
10 thereof in the bill at the time of its issue.

11 If, however, the goods are described in the bill merely by a state-
12 ment of marks or labels upon them or upon packages containing them,
13 or by a statement that the goods are said to be goods of a certain kind
14 or quantity, or in a certain condition, or it is stated in the bill that
15 packages are said to contain goods of a certain kind or quantity or in

16 a certain condition, or that the contents or the condition of contents
 17 of packages are unknown, or words of like purport are contained in
 18 the bill, such statements, if true, shall not make liable the carrier
 19 issuing the bill, although the goods are not of the kind or quantity or
 20 in the condition which the marks or labels upon them indicate, or of
 21 the kind or quantity or in the condition they were said to be by the
 22 consignor. The carrier may, also, by inserting in the bill the words
 23 "shipper's load and count" or other words of like purport, indicate
 24 that the goods were loaded by the shipper and the description of them
 25 made by him; and if such statement be true, the carrier shall not be
 26 liable for damages caused by the improper loading or by the non-
 27 receipt or by the misdescription of the goods described in the bill.

[S., '13, § 3138-b22.]

SEC. 5286. Attachment—surrender of bill—negotiation enjoined.

1 If goods are delivered to a carrier by the owner or by a person
 2 whose act in conveying the title to them to a purchaser for value in
 3 good faith would bind the owner and a negotiable bill is issued for
 4 them, they can not thereafter, while in the possession of the carrier,
 5 be attached by garnishment or otherwise, or be levied upon under an
 6 execution, unless the bill be first surrendered to the carrier or its ne-
 7 gotiation enjoined. The carrier shall in no such case be compelled to
 8 deliver the actual possession of the goods until the bill is surrendered
 9 to him or impounded by the court.

[S., '13, § 3138-b23.]

SEC. 5287. Rights of creditor.

1 A creditor whose debtor is the owner of a negotiable bill shall
 2 be entitled to such aid from courts of appropriate jurisdiction by in-
 3 junction and otherwise in attaching such bill, or in satisfying the
 4 claim by means thereof as is allowed at law or in equity in regard to
 5 property which can not readily be attached or levied upon by ordinary
 6 legal process.

[S., '13, § 3138-b24.]

SEC. 5288. Carrier's lien for certain charges.

1 If a negotiable bill is issued the carrier shall have no lien on the
 2 goods therein mentioned, except for charges on those goods for freight,
 3 storage, demurrage and terminal charges, and expenses necessary for
 4 the preservation of the goods or incident to their transportation sub-
 5 sequent to the date of the bill, unless the bill expressly enumerates
 6 other charges for which a lien is claimed. In such case there shall
 7 also be a lien for the charges enumerated so far as they are allowed
 8 by law and the contract between the consignor and the carrier.

[S., '13, § 3138-b25.]

SEC. 5289. Release from liability to deliver when goods are sold to satisfy lien—unclaimed, perishable or hazardous goods.

1 After goods have been lawfully sold to satisfy a carrier's lien, or
 2 because they have not been claimed, or because they are perishable
 3 or hazardous, the carrier shall not thereafter be liable for failure to
 4 deliver the goods to the consignee or owner of the goods, or to a holder

5 of the bill given for the goods when they were shipped, even if such
6 bill be negotiable.

[S., '13, § 3138-b26.]

SEC. 5290. Negotiation by delivery.

1 A negotiable bill may be negotiated by delivery where, by the
2 terms of the bill, the carrier undertakes to deliver the goods to the
3 order of a specified person, and such person or a subsequent indorsee
4 of the bill has indorsed it in blank.

[S., '13, § 3138-b27.]

SEC. 5291. Negotiation by indorsement.

1 A negotiable bill may be negotiated by the indorsement of the
2 person to whose order the goods are deliverable by the tenor of the
3 bill. Such indorsement may be in blank or to a specified person. If
4 indorsed to a specified person, it may be negotiated again by the in-
5 dorsement of such person in blank or to another specified person.
6 Subsequent negotiation may be made in like manner.

[S., '13, § 3138-b28.]

SEC. 5292. Transfer by delivery—indorsement of nonnegotiable bill.

1 A bill may be transferred by the holder by delivery, accompanied
2 with an agreement, express or implied, to transfer the title to the bill
3 or to the goods represented thereby. A nonnegotiable bill can not
4 be negotiated, and the indorsement of such a bill gives the transferee
5 no additional right.

[S., '13, § 3138-b29.]

SEC. 5293. Negotiation by person in possession of bill.

1 A negotiable bill may be negotiated by any person in possession
2 of the same, however such possession may have been acquired if, by
3 the terms of the bill, the carrier undertakes to deliver the goods to the
4 order of such person, or if at the time of negotiation the bill is in such
5 form that it may be negotiated by delivery.

[S., '13, § 3138-b30.]

SEC. 5294. Rights acquired by negotiation.

1 A person to whom a negotiable bill has been duly negotiated ac-
2 quires thereby—

3 1. Such title to the goods as the person negotiating the bill to
4 him had or had ability to convey to a purchaser in good faith for value,
5 and also such title to the goods as the consignee and consignor had
6 or had power to convey to a purchaser in good faith for value, and

7 2. The direct obligation of the carrier to hold possession of the
8 goods for him according to the terms of the bill as fully as if the car-
9 rier had contracted directly with him.

[S., '13, § 3138-b31.]

SEC. 5295. Rights acquired by transfer—garnishment, attachment or execution—notice.

1 A person to whom a bill has been transferred but not negotiated
2 acquires thereby as against the transferor, the title to the goods, sub-

3 ject to the terms of any agreement with the transferor. If the bill is
 4 nonnegotiable, such person also acquires the right to notify the carrier
 5 of the transfer to him of such bill, and thereby to become the direct
 6 obligee of whatever obligations the carrier owed to the transferor of
 7 the bill immediately before the notification. Prior to the notification
 8 of the carrier by the transferor or transferee of a nonnegotiable bill,
 9 the title of the transferee to the goods and the right to acquire the
 10 obligation of the carrier may be defeated by garnishment or by attach-
 11 ment or execution upon the goods by a creditor of the transferor, or
 12 by a notification to the carrier by the transferor or a subsequent pur-
 13 chaser from the transferor of a subsequent sale of the goods by the
 14 transferor. A carrier has not received notification within the mean-
 15 ing of this section unless an officer or agent of the carrier, the actual
 16 or apparent scope of whose duties includes action upon such notifica-
 17 tion, has been notified; and no notification shall be effective until the
 18 officer or agent to whom it is given has had time with the exercise of
 19 reasonable diligence to communicate with the agent or agents having
 20 actual possession or control of the goods.

[S., '13, § 3138-b32.]

SEC. 5296. Right of transferee to compel indorsement.

1 Where a negotiable bill is transferred for value by delivery, and
 2 the indorsement of the transferor is essential for negotiation, the
 3 transferee acquires a right against the transferor to compel him to
 4 indorse the bill, unless a contrary intention appears. The negotiation
 5 shall take effect as of the time when the indorsement is actually made.
 6 This obligation may be specifically enforced.

[S., '13, § 3138-b33.]

SEC. 5297. Warranties of transferor.

1 A person who negotiates or transfers for value a bill by indorse-
 2 ment or delivery, including one who assigns for value a claim secured
 3 by a bill, unless a contrary intention appears, warrants—
 4 1. That the bill is genuine,
 5 2. That he has a legal right to transfer it,
 6 3. That he has knowledge of no fact which would impair the
 7 validity or worth of the bill, and
 8 4. That he has a right to transfer the title to the goods, and that
 9 the goods are merchantable or fit for a particular purpose whenever
 10 such warranties would have been implied, if the contract of the parties
 11 had been to transfer without a bill the goods represented thereby.

12 In the case of an assignment of a claim secured by a bill, the lia-
 13 bility of the assignor shall not exceed the amount of the claim.

[S., '13, § 3138-b34.]

SEC. 5298. Liability of indorser limited.

1 The indorsement of a bill shall not make the indorser liable for
 2 any failure on the part of the carrier or previous indorsers of the bill
 3 to fulfill their respective obligations.

[S., '13, § 3138-b35.]

SEC. 5299. Holder of bill for security does not warrant genuineness, or quantity or quality of goods.

1 A mortgagee or pledgee, or other holder of a bill for security who
 2 in good faith demands or receives payment of the debt for which such

3 bill is security, whether from a party to a draft drawn for such debt
 4 or from any other person, shall not be deemed by so doing to represent
 5 or to warrant the genuineness of such bill or the quantity or quality
 6 of the goods therein described.

[S., '13, § 3138-b36.]

SEC. 5300. Validity of negotiation — not impaired by certain facts if holder acted in good faith.

1 The validity of the negotiation of a bill is not impaired by the
 2 fact that such negotiation was a breach of duty on the part of the
 3 person making the negotiation, or by the fact that the owner of the
 4 bill was deprived of the possession of the same by fraud, accident,
 5 mistake, duress or conversion, if the person to whom the bill was
 6 negotiated, or a person to whom the bill was subsequently negotiated,
 7 gave value therefor, in good faith, without notice of the breach of
 8 duty, or fraud, accident, mistake, duress or conversion.

[S., '13, § 3138-b37.]

SEC. 5301. Holder in good faith after subsequent negotiation.

1 Where a person having sold, mortgaged, or pledged goods which
 2 are in a carrier's possession and for which a negotiable bill has been
 3 issued, or having sold, mortgaged, or pledged the negotiable bill repre-
 4 senting such goods, continues in possession of the negotiable bill, the
 5 subsequent negotiation thereof by that person under any sale, pledge,
 6 or other disposition thereof to any person receiving the same in good
 7 faith, for value and without notice of the previous sale, shall have the
 8 same effect as if the first purchaser of the goods or bill had expressly
 9 authorized the subsequent negotiation.

[S., '13, § 3138-b38.]

SEC. 5302. Right to possession of goods—how indicated.

1 Where goods are shipped by the consignor in accordance with a
 2 contract or order for their purchase, the form in which the bill is
 3 taken by the consignor shall indicate the transfer or retention of the
 4 property or right to the possession of the goods as follows:

5 1. Where by the bill the goods are deliverable to the buyer or to
 6 his agent, or to the order of the buyer or of his agent, the consignor
 7 thereby transfers the property in the goods to the buyer.

8 2. Where by the bill the goods are deliverable to the seller or to
 9 his agent, or to the order of the seller or of his agent, the seller thereby
 10 reserves the property in the goods. But if, except for the form of the
 11 bill, the property would have passed to the buyer on shipment of the
 12 goods, the seller's property in the goods shall be deemed to be only for
 13 the purpose of securing performance by the buyer of his obligation
 14 under the contract.

15 3. Where by the bill the goods are deliverable to the order of the
 16 buyer or his agent, but possession of the bill is retained by the seller
 17 or his agent, the seller thereby reserves a right to the possession of
 18 the goods, as against the buyer.

19 4. Where the seller draws on the buyer for the price and trans-
 20 mits the draft and bill together to the buyer to secure acceptance or
 21 payment of the draft, the buyer is bound to return the bill if he does
 22 not honor the draft, and if he wrongfully retains the bill he acquires
 23 no added right thereby. If, however, the bill provides that the goods

24 are deliverable to the buyer, or to the order of the buyer, or is indorsed
 25 in blank or to the buyer by the consignee named therein, one who
 26 purchases in good faith, for value, the bill or goods from the buyer,
 27 shall obtain the title to the goods, although the draft has not been
 28 honored, if such purchaser has received delivery of the bill indorsed
 29 by the consignee named therein, or of the goods, without notice of
 30 the facts making the transfer wrongful.

[S., '13, § 3138-b39.]

SEC. 5303. Assumptions of buyer.

1 Where the seller of goods draws on the buyer for the price of the
 2 goods and transmits the draft and a bill of lading for the goods either
 3 directly to the buyer or through a bank or other agency, unless a
 4 different intention on the part of the seller appears, the buyer and
 5 all other parties interested shall be justified in assuming:

6 1. If the draft is by its terms or legal effect payable on demand
 7 or presentation or at sight, or not more than three days thereafter,
 8 whether such three days be termed days of grace or not, that the seller
 9 intended to require payment of the draft before the buyer should be
 10 entitled to receive or retain the bill.

11 2. If the draft is by its terms payable on time, extending beyond
 12 three days after demand, presentation or sight, whether such three
 13 days be termed days of grace or not, that the seller intended to require
 14 acceptance, but not payment of the draft before the buyer should be
 15 entitled to receive or retain the bill.

16 The provisions of this section are applicable whether by the terms
 17 of the bill the goods are consigned to the seller, or to his order, or to
 18 the buyer, or to his order, or to a third person, or to his order.

[S., '13, § 3138-b40.]

SEC. 5304. Rights of purchaser for value in good faith not to be defeated.

1 Where a negotiable bill has been issued for goods, no seller's lien
 2 or right of stoppage in transitu shall defeat the rights of any pur-
 3 chaser for value in good faith to whom such bill has been negotiated,
 4 whether such negotiation be prior or subsequent to the notification
 5 to the carrier who issued such bill of the seller's claim to a lien or
 6 right of stoppage in transitu. Nor shall the carrier be obliged to
 7 deliver or justified in delivering the goods to an unpaid seller unless
 8 such bill is first surrendered for cancellation.

[S., '13, § 3138-b41.]

SEC. 5305. Rights or remedies of mortgagee or lienholder.

1 Except as provided in the preceding section, nothing in this chap-
 2 ter shall limit the rights and remedies of a mortgagee or lienholder
 3 whose mortgage or lien on goods would be valid, apart from this chap-
 4 ter, as against one who for value and in good faith purchased from
 5 the owner, immediately prior to the time of their delivery to the car-
 6 rier, the goods which are subject to the mortgage or lien and obtained
 7 possession of them.

[S., '13, § 3138-b42.]

SEC. 5306. Issuance of bill when goods not received by carrier or agent—penalty.

1 Any officer, agent, or servant of a carrier, who with intent to
2 defraud issues or aids in issuing a bill knowing that all or any part
3 of the goods for which such bill is issued have not been received by
4 such carrier, or by an agent of such carrier or by a connecting carrier,
5 or are not under the carrier's control at the time of issuing such bill,
6 shall be guilty of a crime, and upon conviction shall be punished for
7 each offense by imprisonment not exceeding five years, or by a fine
8 not exceeding five thousand dollars, or by both.

[S., '13, § 3138-b43.]

SEC. 5307. False statement—penalty.

1 Any officer, agent, or servant of a carrier, who with intent to de-
2 fraud issues or aids in issuing a bill for goods knowing that it contains
3 any false statement, shall be guilty of a crime, and upon conviction
4 shall be punished for each offense by imprisonment not exceeding one
5 year, or by a fine not exceeding one thousand dollars, or by both.

[S., '13, § 3138-b44.]

SEC. 5308. Fraudulent duplicate negotiable bill—penalty.

1 Any officer, agent, or servant of a carrier, who with intent to
2 defraud issues or aids in issuing a duplicate or additional negotiable
3 bill for goods in violation of the provisions of section fifty-two hun-
4 dred sixty-nine knowing that a former negotiable bill for the same
5 goods or any part of them is outstanding and uncanceled, shall be
6 guilty of a crime, and upon conviction shall be punished for each
7 offense by imprisonment not exceeding five years, or by a fine not
8 exceeding five thousand dollars, or by both.

[S., '13, § 3138-b45.]

SEC. 5309. Shipping goods without title—penalty for negotiation of bill.

1 Any person who ships goods to which he has not a title, or upon
2 which there is a lien or mortgage, and who takes for such goods a
3 negotiable bill which he afterwards negotiates for value with intent
4 to deceive and without disclosing his want of title or the existence of
5 the lien or mortgage, shall be guilty of a crime, and upon conviction
6 shall be punished for each offense by imprisonment not exceeding one
7 year, or by a fine not exceeding one thousand dollars, or by both.

[S., '13, § 3138-b46.]

SEC. 5310. Negotiating bill with intent to deceive—penalty.

1 Any person who with intent to deceive negotiates or transfers
2 for value a bill knowing that any or all of the goods which by the terms
3 of such bill appear to have been received for transportation by the
4 carrier which issued the bill, are not in the possession or control of
5 such carrier, or of a connecting carrier, without disclosing this fact,
6 shall be guilty of a crime, and upon conviction shall be punished for
7 each offense by imprisonment not exceeding five years, or by a fine
8 not exceeding five thousand dollars, or by both.

[S., '13, § 3138-b47.]

SEC. 5311. Securing issuance of bill with intent to defraud—penalty.

1 Any person who with intent to defraud secures the issue by a
 2 carrier of a bill knowing that at the time of such issue, any or all of
 3 the goods described in such bill as received for transportation have
 4 not been received by such carrier, or an agent of such carrier or a
 5 connecting carrier, or are not under the carrier's control, by inducing
 6 an officer, agent, or servant of such carrier falsely to believe that such
 7 goods have been received by such carrier, or are under its control,
 8 shall be guilty of a crime, and upon conviction shall be punished for
 9 each offense by imprisonment not exceeding five years, or by a fine
 10 not exceeding five thousand dollars, or by both.

[S., '13, § 3138-b48.]

SEC. 5312. Issuing nonnegotiable bill not so marked—penalty.

1 Any person who with intent to defraud issues or aids in issuing
 2 a nonnegotiable bill without the words "not negotiable" placed plainly
 3 upon the face thereof, shall be guilty of a crime, and upon conviction
 4 shall be punished for each offense by imprisonment not exceeding five
 5 years or by a fine not exceeding five thousand dollars, or by both.

[S., '13, § 3138-b49.]

SEC. 5313. Rules of law and equity to govern in cases not provided for.

1 In any case not provided for in this chapter, the rules of law
 2 and equity including the law merchant, and in particular the rules
 3 relating to the law of principal and agent, executors, administrators
 4 and trustees, and to the effect of fraud, misrepresentation, duress or
 5 coercion, accident, mistake, bankruptcy, or other invalidating cause,
 6 shall govern.

[S., '13, § 3138-b50.]

SEC. 5314. Interpretation and construction.

1 This chapter shall be so interpreted and construed as to effectuate
 2 its general purpose to make uniform the law of those states which
 3 enact it.

[S., '13, § 3138-b51.]

SEC. 5315. Terms defined.

1 1. In this chapter, unless the context or subject matter otherwise
 2 requires—
 3 "Action" includes counterclaim, set-off, and suit in equity.
 4 "Bill" means bill of lading.
 5 "Consignee" means the person named in the bill as the person to
 6 whom delivery of the goods is to be made.
 7 "Consignor" means the person named in the bill as the person
 8 from whom the goods have been received for shipment.
 9 "Goods" means merchandise or chattels in course of transporta-
 10 tion, or which have been or are about to be transported.
 11 "Holder" of a bill means a person who has both actual possession
 12 of such bill and a right of property therein.
 13 "Order" means an order by indorsement on the bill.
 14 "Owner" does not include mortgagee or pledgee.

15 "Person" includes a corporation or partnership or two or more
16 persons having a joint or common interest.

17 To "purchase" includes to take as mortgagee and to take as
18 pledgee.

19 "Purchaser" includes mortgagee and pledgee.

20 "Value" is any consideration sufficient to support a simple con-
21 tract. An antecedent or preexisting obligation, whether for money
22 or not, constitutes value where a bill is taken either in satisfaction
23 thereof or as security therefor.

24 2. A thing is done "in good faith," within the meaning of this
25 chapter, when it is in fact done honestly, whether it be done negli-
26 gently or not.

[S., '13, § 3138-b52.]

SEC. 5316. When not applicable.

1 The provisions of this chapter do not apply to bills made and
2 delivered prior to the taking effect thereof.

[S., '13, § 3138-b53.]

SEC. 5317. How cited.

1 This chapter may be cited as the "Uniform Bills of Lading Law."

[S., '13, § 3138-b56.]

CHAPTER 9.

TELEGRAPH AND TELEPHONE LINES AND COMPANIES.

SECTION 5318. Right of way.

1 Any person or firm, and any corporation organized for such pur-
2 pose, within or without the state, may construct a telegraph or tele-
3 phone line along the public roads of the state, or across the rivers or
4 over any lands belonging to the state or any private individual, and
5 may erect the necessary fixtures therefor. When any road along
6 which said line has been constructed shall be changed, the person, firm
7 or corporation shall, upon ninety days' notice in writing, remove said
8 lines to said road as established. The notice may be served upon any
9 agent or operator in the employ of such person, firm or corporation.

[C., '51, § 780; R., '60, § 1348; C., '73, § 1324; C., '97, § 2158.]

SEC. 5319. How constructed.

1 Such fixtures shall not be so constructed as to inconvenience the
2 public in the use of any road or the navigation of any stream; nor
3 shall they be set up on the private grounds of any individual without
4 paying him a just equivalent for the damage he thereby sustains.

[C., '51, § 781; R., '60, § 1349; C., '73, § 1325; C., '97, § 2159.]

SEC. 5320. Damages assessed.

1 If the person over whose lands such telegraph or telephone line
2 passes claims more damages therefor than the proprietor of such line
3 is willing to pay, the amount thereof may be determined in the same
4 manner as provided for taking private property for works of internal
5 improvement.

[C., '51, § 782; R., '60, § 1350; C., '73, § 1326; C., '97, § 2160.]

SEC. 5321. Liability for refusing to transmit messages.

1 If the proprietor of any telegraph or telephone line within the
 2 state, or the person having the control and management thereof, re-
 3 fuses to furnish equal facilities to the public and to all connecting
 4 lines for the transmission of communications in accordance with the
 5 nature of the business which it undertakes to carry on, or to transmit
 6 the same with fidelity and without unreasonable delay, the law in rela-
 7 tion to limited partnerships, corporations, and to the taking of private
 8 property for works of internal improvement, shall not longer apply
 9 to them, and property taken for the use thereof without the consent
 10 of the owner may be recovered by him.

[C., '51, § 783; R., '60, § 1351; C., '73, § 1327; C., '97, § 2161.]

SEC. 5322. Penalty.

1 Any person employed in transmitting messages by telegraph or
 2 telephone must do so with fidelity and without unreasonable delay,
 3 and if anyone wilfully fails thus to transmit them, or intentionally
 4 transmits a message erroneously, or makes known the contents of any
 5 message sent or received to any person except him to whom it is ad-
 6 dressed, or his agent or attorney, or wilfully and wrongfully takes
 7 or receives any telegraph or telephone message, he is guilty of a mis-
 8 demeanor.

[C., '51, § 784; R., '60, § 1352; C., '73, § 1328; C., '97, § 2162.]

SEC. 5323. Liable for mistakes.

1 The proprietor of a telegraph or telephone line is liable for all
 2 mistakes in transmitting or receiving messages made by any person
 3 in his employment, or for any unreasonable delay in their transmis-
 4 sion or delivery, and for all damages resulting from failure to perform
 5 the foregoing or any other duty required by law, the provisions of
 6 any contract to the contrary notwithstanding.

[C., '51, § 785; R., '60, § 1353; C., '73, § 1329; C., '97, § 2163.]

SEC. 5324. Negligence presumed—notice of claim.

1 In any action against any telegraph or telephone company for
 2 damages caused by erroneous transmission of a message, or by un-
 3 reasonable delay in delivery of a message, negligence on the part of
 4 the telegraph or telephone company shall be presumed upon proof of
 5 erroneous transmission or of unreasonable delay in delivery, and the
 6 burden of proof that such error or delay was not due to negligence
 7 upon its part shall rest upon such company; but no action for the
 8 recovery of such damages shall be maintained unless a claim therefor
 9 is presented in writing to such company, officer or agent thereof with-
 10 in sixty days from time cause of action accrues.

[C., '97, § 2164.]

CHAPTER 10.
OMNIBUS AND TRANSFER COMPANIES.**SECTION 5325. Common carriers—liability for baggage.**

1 Omnibus and transfer companies or other common carriers, and
 2 their agents, shall be liable for damages occasioned to baggage or

3 other property belonging to travelers through careless or negligent
4 handling while in the possession of said companies or carriers, and,
5 in addition to the damages, the plaintiff shall be entitled to an allow-
6 ance of not less than five dollars for every day's detention caused
7 thereby, or by action brought to recover the same.

[C., '73, § 2183; C., '97, § 3135.]

SEC. 5326. Can not limit liability.

1 No contract, receipt, rule or regulation shall exempt any cor-
2 poration or person engaged in transporting persons for hire from the
3 liability of a common carrier, or carrier of passengers, which would
4 exist had no contract, receipt, rule or regulation been made.

[C., '73, § 2184; C., '97, § 3136.]

TITLE XVII.

CORPORATIONS.

CHAPTER 1.

CORPORATIONS FOR PECUNIARY PROFIT.

SECTION 5327. Who may incorporate.

1 Any number of persons may become incorporated for the transac-
2 tion of any lawful business, but such incorporation confers no power
3 or privilege not possessed by natural persons, except as hereinafter
4 provided.

[C., '51, § 673; R., '60, § 1150; C., '73, § 1058; C., '97, § 1607.]

SEC. 5328. Single person.

1 Except as otherwise provided by law, a single person may incor-
2 porate under the provisions of this chapter, thereby entitling himself
3 to all the privileges and immunities provided herein, but if he adopts
4 the name of an individual or individuals as that of the corporation, he
5 must add thereto the word "incorporated."

[C., '51, § 702; R., '60, § 1179; C., '73, § 1088; C., '97, § 1608.]

SEC. 5329. Powers.

1 Among the powers of such corporations are the following:

- 2 1. To have perpetual succession.
- 3 2. To sue and be sued by its corporate name.
- 4 3. To have a common seal, which it may alter at pleasure.
- 5 4. To render the interests of the stockholders transferable.
- 6 5. To exempt the private property of its members from liability
7 for corporate debts, except as otherwise declared.
- 8 6. To make contracts, acquire and transfer property,—possessing
9 the same powers in such respects as natural persons.
- 10 7. To establish by-laws, and make all rules and regulations neces-
11 sary for the management of its affairs.

[C., '51, § 674; R., '60, § 1151; C., '73, § 1059; C., '97, § 1609.]

SEC. 5330. Articles adopted and recorded—approval—fees—index book of county recorder.

1 Before commencing any business except their own organization,
2 they must adopt articles of incorporation, which must be signed and
3 acknowledged by the incorporators, recorded in the office of the
4 recorder of deeds of the county where the principal place of business
5 is to be, in a book kept therefor; and the recorder must, within five
6 days thereafter, indorse thereon the time when the same were filed
7 and the book and page where the record will be found. Said articles
8 thus indorsed shall then be forwarded to the secretary of state, and
9 be by him recorded in a book kept for that purpose.

10 The county recorder shall keep in his office an index book for
 11 articles of incorporation, which shall be ruled and headed substan-
 12 tially after the following form, and shall make entries therein in the
 13 order in which they are filed in his office.

14

INDEX TO ARTICLES OF INCORPORATION.

Name	Place of Business	Date of Filing			Date of Inst.			Where Recorded		Capital Stock	Remarks
		Mo.	Day	Yr.	Mo.	Day	Yr.	Bk.	Pg.		

15 Such corporation shall pay to the secretary of state, before a cer-
 16 tificate of incorporation is issued, a fee of twenty-five dollars, and, for
 17 all authorized stock in excess of ten thousand dollars, an additional fee
 18 of one dollar per thousand. Should any corporation increase its capital
 19 stock, it shall pay a fee to the secretary of state of one dollar for each
 20 one thousand dollars of such increase, and a recording fee of ten cents
 21 per one hundred words, no recording fee to be less than fifty cents.
 22 Farmers' mutual cooperative creamery associations, whose articles of
 23 incorporation provide that the business of the association be con-
 24 ducted on a purely mutual and cooperative plan, without capital stock,
 25 and whose patrons shall share equally in expense and profits, domestic
 26 and domestic local building and loan associations and incorporations
 27 organized for the manufacture of sugar from beets grown in the state
 28 of Iowa, shall be exempt from the payment of the incorporation filing
 29 fee provided herein in excess of twenty-five dollars. When articles of
 30 incorporation are presented to the secretary of state for the purpose
 31 of being filed, if he is satisfied that they are in proper form to meet
 32 the requirements of law, that their object is a lawful one and not
 33 against public policy, that their plan for doing business, if any be
 34 provided for, is honest and lawful, he shall file them; but if he is of
 35 the opinion that they are not in proper form to meet the requirements
 36 of the law, or that their object is an unlawful one, or against public
 37 policy, or that their plan for doing business is dishonest or unlawful,
 38 he shall refuse to file them. Should a question of doubt arise as to the
 39 legality of the articles, he shall submit them to the attorney general
 40 whose duty it shall be to forthwith examine and return them with an
 41 opinion in writing touching the point or points concerning which
 42 inquiry has been made of him. If such opinion is in favor of the
 43 legality of the articles, and no other objections are apparent, they shall
 44 then, upon payment of the proper fee, be filed and otherwise dealt with
 45 as the law provides. If, however, such opinion be against their legal-
 46 ity they shall not be filed. Upon the rejection of any articles of incor-
 47 poration by the secretary of state, except for the reason that they have
 48 been held by the attorney general to be illegal, they shall, if the person
 49 or persons presenting them so request, be submitted to the executive
 50 council, which shall, as soon as practicable, consider the said articles
 51 and if the council determines that the articles are in proper form, of

52 honest purpose, not against public policy, nor otherwise objectionable,
 53 it shall so advise the secretary of state in writing, whereupon he shall,
 54 upon the payment of the proper fees, file the same and proceed other-
 55 wise as the law directs; but if the council sustains the previous action
 56 of the secretary of state in rejecting said articles, such decision by
 57 the council shall be reported to the secretary of state in writing, and
 58 he shall then return said articles to the person or persons presenting
 59 them with such explanation as shall be proper in the case. Nothing in
 60 this section shall be construed as repealing or modifying any statute
 61 now in force in respect to the approval of articles of incorporation
 62 relating to insurance companies, building and loan associations or
 63 investment companies.

[C., '51, § 675; R., '60, § 1152; C., '73, § 1060; C., '97, § 1610;
 S., '13, § 1610.]

SEC. 5331. Limit of indebtedness.

1 Such articles must fix the highest amount of indebtedness or lia-
 2 bility to which the corporation is at any one time to be subject, which
 3 in no case, except risks of insurance companies, and liabilities of
 4 banks not in excess of their available assets, not including their cap-
 5 ital, shall exceed two-thirds of its capital stock. But the provisions of
 6 this section shall not apply to the bonds or other railway or street
 7 railway securities, issued or guaranteed by railway or street railway
 8 companies of the state, in aid of the location, construction and equip-
 9 ment of railways or street railways, to an amount not exceeding six-
 10 teen thousand dollars per mile of single track, standard gauge, or eight
 11 thousand dollars per mile of single track, narrow gauge, lines of road
 12 for each mile of railway or street railway actually constructed and
 13 equipped. Nor shall the provisions of this section apply to the debent-
 14 ures or bonds of any company incorporated under the provisions of
 15 this chapter, the payment of which shall be secured by an actual trans-
 16 fer of real estate securities for the benefit and protection of pur-
 17 chasers thereof; such securities to be at least equal in amount to the
 18 par value of such bonds or debentures, and to be first liens upon unin-
 19 cumbered real estate worth at least twice the amount loaned thereon;
 20 nor to debentures or bonds issued by any corporation organized under
 21 this chapter for the purpose of manufacturing or selling gas, heat,
 22 steam or electricity, or constructing or operating interurban or street
 23 railways, or for any one or more of said purposes, when such debent-
 24 ures or bonds are not issued in an amount exceeding twice the amount
 25 of the paid-up capital stock of such corporation.

[C., '51, § 676; R., '60, § 1153; C., '73, § 1061; C., '97, § 1611;
 S. S., '15, § 1611.]

SEC. 5332. Place of business—how changed—notice or process— upon whom and how served.

1 Any corporation organized under the laws of this state shall fix
 2 upon and designate in its articles of incorporation its principal place of
 3 business which must be in this state, and if outside the limits of a city
 4 or town then its postoffice address must be given. The place of busi-
 5 ness so designated shall not be changed except through an amendment
 6 to its articles of incorporation. Its place of business shall be in charge
 7 of an agent of the corporation and shall be the place where it shall
 8 hold its meetings, keep a record of its proceedings and its stock and

9 transfer books; provided that any corporation organized under the
 10 laws of this state that does not maintain an office in the county of its
 11 organization, or transact business in this state, shall file with the sec-
 12 retary of state a written instrument duly signed and sealed, author-
 13 izing the secretary of state to acknowledge service of notice or process
 14 for and in behalf of such corporation in this state, and consenting that
 15 service of notice or process may be made upon the secretary of state,
 16 and when so made shall be taken and held as valid as if served accord-
 17 ing to the laws of this state, and waiving all claim or right or error by
 18 reason of such acknowledgment of service. Such notice or process,
 19 with a copy thereof, may be mailed to the secretary of state at Des
 20 Moines, Iowa, in a registered letter addressed to him by his official
 21 title, and he shall immediately upon its receipt acknowledge service
 22 thereon in behalf of the defendant corporation by writing thereon, giv-
 23 ing the date thereof, and shall immediately return such notice or
 24 process in a registered letter to the clerk of the court in which the suit
 25 is pending, addressed by his official title, and shall also forthwith mail
 26 such copy, with a copy of his acknowledgment of service written
 27 thereon, in a registered letter addressed to the corporation or person
 28 who shall be named or designated by the corporation in such written
 29 instrument.

[C., '97, § 1612; S., '13, § 1612.]

SEC. 5333. Notice published—what to contain.

1 A notice must be published once each week for four weeks in
 2 succession in some newspaper as convenient as practicable to the
 3 principal place of business, which must contain:
 4 1. The name of the corporation and its principal place of business.
 5 2. The general nature of the business to be transacted.
 6 3. The amount of capital stock authorized, and the times and con-
 7 ditions on which it is to be paid in.
 8 4. The time of the commencement and termination of the corpo-
 9 ration.
 10 5. By what officers or persons its affairs are to be conducted, and
 11 the times when and manner in which they will be elected.
 12 6. The highest amount of indebtedness to which it is at any time
 13 to subject itself.
 14 7. Whether private property is to be exempt from corporate debts.
 15 Proof of such publication, by affidavit of the publisher of the
 16 newspaper in which it is made, shall be filed with the secretary of
 17 state, and shall be evidence of the fact.

[C., '51, §§ 677, 678; R., '60, §§ 1154, 1155; C., '73, §§ 1062,
 1063; C., '97, § 1613; S., '13, § 1613.]

SEC. 5334. May begin business.

1 The corporation may commence business as soon as the certificate
 2 is issued by the secretary of state, and its acts shall be valid if the
 3 publication in a newspaper is made within three months from the date
 4 of such certificate.

[C., '51, § 679; R., '60, § 1156; C., '73, § 1064; C., '97, § 1614.]

SEC. 5335. Change of articles—fees.

1 Amendments to articles of incorporation making changes in any
 2 of the provisions of the articles may be made at any annual meeting of

3 the stockholders or special meeting called for that purpose, and they
 4 shall be valid only when recorded, approved and published as the orig-
 5 inal articles are required to be. If no increase is made in the amount
 6 of capital stock, a certificate fee of one dollar and a recording fee of
 7 ten cents per one hundred words must be paid; no recording fee less
 8 than fifty cents. Where capital stock is increased the certificate fee
 9 shall be omitted but a filing fee of one dollar per thousand dollars of
 10 such increase together with a recording fee of ten cents per one hun-
 11 dred words shall be paid. Such amendments need only be signed and
 12 acknowledged by such officers of the corporation as may be designated
 13 by the stockholders to perform such act.

[C., '51, § 680; R., '60, § 1157; C., '73, § 1065; C., '97, § 1615; S., '13, § 1615.]

SEC. 5336. Annual report—what shown.

1 Any corporation, organized under the laws of this state or under
 2 the laws of any other state, territory or any foreign country, which
 3 has complied with the laws of this state relating to the organization of
 4 corporations and secured a certificate of incorporation or permit to
 5 transact business in this state, and any corporation that may here-
 6 after organize and become incorporated under the laws of this state,
 7 and shall secure a certificate of incorporation or permit to transact
 8 business in this state, and any foreign corporation that may hereafter
 9 comply with the laws of this state relating to foreign corporations and
 10 secure a permit to transact business within this state, shall, between
 11 the first day of July and the first day of August of each year, make
 12 an annual report to the secretary of state, said report to be in such
 13 form as he may prescribe, upon a blank to be prepared by him for
 14 that purpose, and such report shall contain the following information:
 15 1. Name and postoffice address of the corporation.
 16 2. The amount of capital stock authorized.
 17 3. The amount of capital stock actually issued and outstanding.
 18 4. Par value of such stock, designating whether preferred or com-
 19 mon stock, and amount of each kind.
 20 5. The names and postoffice addresses of its officers and directors
 21 and whether any change of place of business has been made during the
 22 year previous to making said report.

[S., '13, § 1614-c.]

SEC. 5337. Signature and oath—by whom—permit—exemption.

1 The report required by the preceding section shall be signed and
 2 sworn to by an officer of the corporation and when filed with the
 3 secretary of state shall be accompanied by the fee required in the
 4 following section and also by an application for a permit to be issued
 5 to said corporation under the provisions of this section; said permit
 6 to be in such form as the secretary of state may prescribe and which
 7 shall be in force and effect for one year from and after the first day of
 8 July of the year in which it is issued, except that where the term of a
 9 corporate existence shall expire in less than a year from the first day
 10 of July aforesaid, then said permit shall be issued for such unexpired
 11 term only, provided, however, that any corporation organized under
 12 the laws of this state, and any foreign corporation filing a certified
 13 copy of its articles of incorporation after the first day of April of any
 14 year, shall be exempt from the provisions of sections fifty-three hun-

15 dred thirty-six to fifty-three hundred thirty-eight, inclusive, for the
 16 period ending one year from the first day of July following, after which
 17 it shall be subject to all the provisions of said sections.

[S., '13, § 1614-d.]

SEC. 5338. Annual fee.

1 Every corporation whose corporate period has not expired, which
 2 has heretofore obtained, or may hereafter obtain, a certificate of incor-
 3 poration or permit under the provisions of this chapter to transact
 4 business in this state as a corporation, whether the same be a domes-
 5 tic or a foreign corporation, shall pay to the secretary of state an
 6 annual fee in the sum of one dollar.

[S., '13, § 1614-e.]

SEC. 5339. Failure to make report and pay fee—penalties—list of delinquents—action to collect.

1 Any corporation organized under the laws of this state, and any
 2 foreign corporation authorized to do business in this state, which shall
 3 fail to make the report and pay the annual fee provided for in the
 4 three preceding sections, and within the time required in section fifty-
 5 three hundred thirty-six, shall, in addition to the annual fee of one
 6 dollar required, incur the following penalties beginning with the
 7 month of September and dating from the first day thereof, to wit:
 8 For the month of September the sum of one dollar, for the month of
 9 October the sum of two dollars, for the month of November the sum of
 10 three dollars, for the month of December the sum of four dollars, and
 11 for each month thereafter the sum of five dollars. If on the first day
 12 of January following, such corporation shall not have filed the annual
 13 report and paid the annual fee, together with all monthly penalties due
 14 at the time of filing said report and paying said fee, the secretary of
 15 state shall furnish to the attorney general a list of delinquent domes-
 16 tic corporations and he may direct the county attorney of the county
 17 in which the corporation has its principal place of business to bring
 18 suit for the collection of the fee and penalties then due, or may bring
 19 such action himself. Any domestic corporation may, prior to the first
 20 day of February of any subsequent year, escape the payment of fee
 21 and penalties by dissolving the corporation in the manner provided by
 22 section fifty-three hundred forty-seven and filing with the secretary
 23 of state a proof of publication of notice of dissolution. Any foreign
 24 corporation that shall fail to make the annual report and pay the
 25 annual fee and penalties that may be due shall thereby forfeit its
 26 right to do business within this state.

[S., '13, § 1614-f; 38 G. A., ch. 205, § 1.]

SEC. 5340. Notice of delinquency.

1 During the month of August of each year the secretary of state
 2 shall prepare a list of all delinquent corporations and file the same
 3 in his office, and on or before the first day of September he shall send
 4 by registered mail to each delinquent a notice of such delinquency and
 5 of the penalties provided in the preceding section and if the annual
 6 report required is not filed and the annual fee paid, together with
 7 penalties due, on or before the last day of January, on the first day of
 8 February following, notice of such delinquency will be filed with the
 9 attorney general, who may cause action to be brought for the collec-

tion of the fee and penalties due the state; or, at his discretion, the attorney general may recommend that the secretary of state cancel the name of any delinquent corporation from the list of live corporations in his office, and enter such cancellation on the proper records, and when so canceled by the secretary of state the corporate rights of any such corporation shall be forfeited and its corporate period terminated on the date such cancellation shall have been entered on the records of his office; provided, however, that the secretary of state shall forward to such corporation, a written notice of the recommendations of the attorney general, such notice to state that unless said corporation shall within sixty days of the date of such notice fully comply with the provisions of this section by filing in the office of the secretary of state any report that may be due and pay all fees and penalties that have accrued, or, in lieu thereof file a proof of publication of notice of dissolution as required by section fifty-three hundred forty-seven, a declaration of forfeiture and cancellation will be entered on the records of his office. After such declaration and forfeiture shall have been entered by the secretary of state on the records of his office such corporation shall not be entitled to exercise the rights of a corporate body, except, it may be allowed a reasonable time to close up its business and wind up its affairs, but no new business shall be transacted. The notice herein provided for, when inclosed in a sealed envelope with legal postage affixed thereon, and addressed to the corporation, shall constitute a legal notice for the purpose of this section, provided, that any corporation whose corporate rights shall have been canceled and forfeited in the manner provided herein, or any stockholders or creditor of such corporation may, however, make an application to the executive council in the manner provided in section two hundred fifty-three for a compromise of the claim of the state for the fee and penalties that may have accrued under the provisions of this chapter, and upon payment to the secretary of state the fee or fees that may have accrued, and such amount in addition thereto as penalties as may be fixed by the executive council, and also, upon filing such annual reports as may be delinquent, the secretary of state shall reinstate said corporation and the decree of cancellation and forfeiture previously entered shall be annulled and the corporation shall be entitled to continue to act as a corporation for the unexpired portion of its corporate period, as fixed by its articles of incorporation and the limitations prescribed by law, with the right of renewal under section fifty-three hundred forty-nine; provided, however, that no corporation shall be permitted to waive any duty or obligation required of corporations or the payment of any just claim or claims by reason of such cancellation, forfeiture, and reinstatement as herein provided.

[S., '13, § 1614-g; 38 G. A., ch. 205, § 2.]

SEC. 5341. Forfeiture of permit—entry of cancellation.

On the first day of February following the date of the notice provided for in the preceding section, all foreign corporations that have not complied with the provisions of the five preceding sections shall forfeit the right to transact business in this state and a declaration of forfeiture and cancellation shall be entered upon the margin of the record of the certified copy of the articles of incorporation of such company in the office of the secretary of state or in such other record as the secretary of state may provide.

[S., '13, § 1614-h; 38 G. A., ch. 205, § 3.]

SEC. 5342. Fees and penalty a lien.

1 The fees and penalty provided for in section fifty-three hundred
 2 thirty-nine shall be a prior lien on any property of the corporation
 3 against all persons, whether said property is in the possession of
 4 said corporation or otherwise.

[38 G. A., ch. 205, § 5.]

SEC. 5343. Annual notice of requirements by secretary of state.

1 It shall be the duty of the secretary of state between the first
 2 day of May and the first day of July of each year to notify all corpo-
 3 rations whose corporate period has not expired, or that have not dis-
 4 solved according to law, that are subject to the provisions of the seven
 5 preceding sections, of the requirements therein made, inclosing there-
 6 with a blank form of report and application as provided; and the mail-
 7 ing of said notice at Des Moines, Iowa, addressed to the corporation
 8 at its postoffice address as shown by the records of his office shall be
 9 deemed a full, complete and legal notice for the purpose of said
 10 sections.

[S., '13, § 1614-k.]

SEC. 5344. Complying corporations listed with county recorder.

1 After the first day of November and not later than the first day
 2 of January of each year, the secretary of state shall compile an alpha-
 3 betical list of the domestic and foreign corporations that have com-
 4 plied with the provisions of said sections, together with postoffice
 5 address, and mail a copy thereof to each county recorder in this state,
 6 who shall file the same in his office.

[S., '13, § 1614-j.]

SEC. 5345. Certain corporations exempted.

1 Nothing in this chapter shall be construed as imposing an annual
 2 fee or requiring a report from any corporation organized for religious,
 3 educational, scientific or charitable purposes or other corporations
 4 organized under chapter six of title seventeen, or of any corporation
 5 engaged in the banking business, nor to insurance companies or asso-
 6 ciations who have paid the taxes provided in sections forty-five hun-
 7 dred seventeen and forty-five hundred twenty-one, and received a
 8 certificate of authority from the commissioner of insurance.

[S., '13, § 1614-i; 38 G. A., ch. 205, § 4.]

SEC. 5346. Individual property liable.

1 A failure to substantially comply with the foregoing requirements
 2 in relation to organization and publicity shall render the individual
 3 property of the stockholders liable for the corporate debts; but cor-
 4 porators and stockholders in railway and street railway companies
 5 shall be liable only for the amount of stock held by them therein.

[C., '51, § 689; R., '60, §§ 1166, 1338; C., '73, § 1068; C.,
 '97, § 1616.]

SEC. 5347. Dissolution—notice of.

1 A corporation may be dissolved prior to the period fixed in the
 2 articles of incorporation, by unanimous consent, or in accordance with
 3 the provisions of its articles, and notice thereof must be given in the

4 same manner and for the same time as is required for its organiza-
5 tion; provided, however, that only the officers of a corporation shall be
6 required to sign and acknowledge the articles of dissolution of such
7 corporation and the notice of such dissolution shall be deemed suffi-
8 cient if signed by the officers of such corporation and published as
9 required by law.

[C., '51, §§ 682, 683; R., '60, §§ 1159, 1160; C., '73, §§ 1066,
1067; C., '97, § 1617; 37 G. A., ch. 128, § 1.]

**SEC. 5348. Duration—renewal—certificate and articles to be re-
corded—fees—notice—proof filed—exemptions.**

1 Corporations for the construction and operation, or the operation
2 alone, of steam railways, interurban railways and street railways, for
3 the establishment and conduct of savings banks, or for the transac-
4 tion of the business of life insurance, may be formed to endure fifty
5 years; those for other purposes, not to exceed twenty years; but in
6 either case they may be renewed from time to time for the same or
7 shorter periods, within three months before or after the time for the
8 termination thereof, if a majority of the votes cast at any regular
9 election, or special election called for that purpose, be in favor of such
10 renewal, and if those voting for such renewal will purchase at its real
11 value the stock voted against such renewal. Such renewals shall date
12 from the expiration of the corporate period which it succeeds and
13 shall be limited in duration to a period not exceeding the time allowed
14 by law to the same class of corporations. Within five days after the
15 said action of the stockholders for the renewal of any corporation, a
16 certificate, showing the proceedings resulting in such renewal, sworn
17 to by the president and secretary of the corporation, or by such other
18 officers as may be designated by the stockholders, together with the
19 articles of incorporation, which may be the original articles of incorpo-
20 ration or amended and substituted articles, shall be filed for record in
21 the office of the recorder of the county in which the principal place of
22 business of said corporation is situated, and the same shall be recorded.
23 Upon filing with the secretary of state the said certificate and articles
24 of incorporation, within ten days after they are filed with the recorder,
25 and upon the payment to the secretary of state of a fee of twenty-five
26 dollars, together with a recording fee of ten cents per one hundred
27 words and an additional fee of one dollar per thousand for all author-
28 ized stock in excess of ten thousand dollars, the secretary of state shall
29 record the said certificate and the said articles of incorporation in a
30 book to be kept by him for that purpose, and shall issue a proper cer-
31 tificate for the renewal of the corporation. Within three months after
32 the filing of the certificate and articles of incorporation with the secre-
33 tary of state, the corporation so renewed shall publish a notice of
34 renewal. Said notice shall be published once each week for four weeks
35 in succession in a newspaper as convenient as practicable to the prin-
36 cipal place of business of the corporation, and proof of publication
37 filed in the office of the secretary of state, and shall contain the
38 matters and things required to be published by section fifty-three
39 hundred thirty-three, relating to original incorporations. Farmers'
40 mutual cooperative creamery associations, domestic and domestic local
41 building and loan associations, and corporations organized for the
42 manufacture of sugar from beets grown in the state of Iowa, shall be
43 exempt from the payment of the incorporation fee, provided herein.

[C., '51, § 681; R., '60, § 1158; C., '73, § 1069; C., '97,
§ 1618; S., '13, § 1618.]

SEC. 5349. Renewal of corporate existence.

1 The corporate existence of any state or savings bank may be
 2 renewed or extended, from time to time, for a period not longer than
 3 the time for which such banks may organize, by an affirmative vote
 4 of two-thirds of the shareholders thereof, at a stockholders' meeting
 5 held for that purpose, within three months before or after the time of
 6 the expiration of its charter as shown by its certificate of incorpora-
 7 tion issued by the secretary of state. Such meeting shall be called
 8 upon a notice signed by at least two of the officers of the bank and by
 9 a majority of its directors, specifying the object of the meeting, and
 10 the time and place thereof, published once a week for four consecutive
 11 weeks before the time at which the same is to be held, in some news-
 12 paper in the county wherein the bank is located. If at such meeting
 13 the required vote is given, a certificate of the proceedings showing
 14 compliance with the foregoing provisions and the time to which the
 15 corporate period is to be continued, shall be signed and verified by
 16 the affidavit of the chairman and secretary of the meeting, certified
 17 to by a majority of the board of directors, and together with the arti-
 18 cles of incorporation, as they exist at the date of the meeting, shall
 19 be recorded in the office of the recorder of deeds of the proper county
 20 and filed, recorded and fees paid, as provided in the preceding section,
 21 and shall be by the secretary of state certified to the auditor of state.
 22 When the meeting is held previous to the expiration of the charter
 23 of the bank, such amendments may be made to the articles of incor-
 24 poration, subject to the provisions thereof, as may be deemed neces-
 25 sary and whether held before or after the extension of the corporate
 26 period, such changes may be made in the articles as are necessary to
 27 show the time to which the corporate period is extended and the
 28 names of the officers and directors at the time of the renewal or exten-
 29 sion. When the above has been complied with, the auditor of state
 30 shall issue to such bank a certificate as provided in section fifty-seven
 31 hundred sixty-nine, notice of which shall be published as required by
 32 the provisions of said section.

[S., '13, § 1618-a.]

SEC. 5350. Legislative control.

1 The articles of incorporation, by-laws, rules and regulations of
 2 corporations hereafter organized under the provisions of this title, or
 3 whose organization may be adopted or amended hereunder, shall at
 4 all times be subject to legislative control, and may be at any time
 5 altered, abridged or set aside by law, and every franchise obtained,
 6 used or enjoyed by such corporation may be regulated, withheld, or be
 7 subject to conditions imposed upon the enjoyment thereof, whenever
 8 the general assembly shall deem necessary for the public good.

[C., '73, § 1090; C., '97, § 1619.]

SEC. 5351. Fraud—penalty for.

1 Intentional fraud in failing to comply substantially with the arti-
 2 cles of incorporation, or in deceiving the public or individuals in rela-
 3 tion to their means or their liabilities, shall be a misdemeanor, and
 4 shall subject those guilty thereof to fine and imprisonment, or both, at
 5 the discretion of the court. Any person who has sustained injury from
 6 such fraud may also recover damages therefor against those guilty of
 7 participating in such fraud.

[C., '51, § 686; R., '60, § 1163; C., '73, § 1071; C., '97, § 1620.]

SEC. 5352. Diversion of funds.

1 The diversion of the funds of the corporation to other objects
2 than those mentioned in its articles and in the notice published, if
3 any person be injured thereby, and the payment of dividends which
4 leaves insufficient funds to meet the liabilities thereof, shall be such
5 fraud as will subject those guilty thereof to the penalties of the pre-
6 ceding section; and such dividends, or their equivalent, in the hands
7 of stockholders, shall be subject to such liabilities. If the directors or
8 other officers or agents of any corporation shall declare and pay any
9 dividend when such corporation is known by them to be insolvent,
10 or any dividend the payment of which would render it insolvent, or
11 which would diminish the amount of its capital stock, all directors,
12 officers or agents knowingly consenting thereto shall be jointly and
13 severally liable for all the debts of such corporation then existing, but
14 dividends made in good faith before knowledge of the occurring of
15 losses shall not come within the provisions of this section.

[C., '51, §§ 687, 688; R., '60, §§ 1164, 1165; C., '73, §§ 1072,
1073; C., '97, § 1621.]

SEC. 5353. Forfeiture.

1 Any intentional violation by the board of directors or the man-
2 aging officers of the corporation of the provisions of the two preced-
3 ing sections shall work a forfeiture of the corporate privileges, to be
4 enforced as provided by law. If the indebtedness of any corporation
5 shall exceed the amount of indebtedness permitted by law, the direct-
6 ors and officers of such corporation knowingly consenting thereto
7 shall be personally and individually liable to the creditors of such
8 corporation for such excess.

[C., '51, § 690; R., '60, § 1167; C., '73, § 1074; C., '97,
§ 1622.]

SEC. 5354. Keeping false accounts.

1 The intentional keeping of false books or accounts shall be a mis-
2 demeanor on the part of any officer, agent or employee of the corpora-
3 tion guilty thereof, or of anyone whose duty it is to see that such
4 books or accounts are correctly kept.

[C., '51, § 691; R., '60, § 1168; C., '73, § 1075; C., '97,
§ 1623.]

SEC. 5355. By-laws posted.

1 A copy of the by-laws of the corporation, with the names of all
2 of its officers, must be posted in the principal places of business sub-
3 ject to public inspection.

[C., '51, § 684; R., '60, § 1161; C., '73, § 1076; C., '97,
§ 1624.]

SEC. 5356. Statement of stock and indebtedness.

1 A statement of the amount of capital stock subscribed, the
2 amount of capital actually paid in, and the amount of the indebted-
3 ness in a general way, must also be kept posted in like manner, which
4 shall be corrected as often as any material change takes place in
5 relation to any part of the subject matter thereof.

[C., '51, § 685; R., '60, § 1162; C., '73, § 1077; C., '97,
§ 1625.]

SEC. 5357. Transfer of shares.

1 The transfer of shares is not valid, except as between the parties
 2 thereto, until regularly entered upon the books of the company,
 3 showing the name of the person by and to whom transferred, the
 4 numbers or other designation of the shares, and the date of the
 5 transfer; but such transfer shall not exempt the person making it
 6 from any liability of said corporation created prior thereto. Its
 7 books must be so kept as to show the original stockholders, their
 8 interests, the amount paid on their shares, and all transfers thereof;
 9 which books, or a copy thereof, so far as the items mentioned in this
 10 section are concerned, shall be subject to the inspection of any person
 11 desiring the same. When any shares of stock shall be transferred
 12 to any person, firm or corporation as collateral security, such person,
 13 firm or corporation may notify in writing the secretary of the corpo-
 14 ration whose stock is transferred as aforesaid, and from the time
 15 of such notice, and until written notice that said stock shall have
 16 ceased to be held as collateral security, said stock so transferred and
 17 noticed as aforesaid shall be considered in law as transferred on the
 18 books of the corporation which issued said stock, without any actual
 19 transfer on the books of such corporation of such stock. In such case,
 20 it shall be the duty of the secretary or cashier of the corporation or
 21 of the person or firm to which such stock shall have been transferred
 22 as collateral security at once, upon its ceasing to be so held, to inform
 23 the secretary of the corporation issuing such stock of such fact. The
 24 secretary of the company whose stock is transferred as collateral
 25 shall keep a record showing such notice of transfer as collateral, and
 26 notice of discharge as collateral, subject to public inspection. No
 27 holder of stock as collateral security shall be liable for assessments
 28 on the same.

[C., '51, § 692; R., '60, § 1169; C., '73, § 1078; C., '97,
 § 1626.]

SEC. 5358. Right to vote stock—attachment.

1 Every executor, administrator, guardian or trustee shall repre-
 2 sent the stock in his hands at all corporate meetings, and may vote
 3 the same as a stockholder; and every person who shall pledge his
 4 stock, in the absence of a written agreement to the contrary, may
 5 represent the same at all such meetings and vote accordingly. The
 6 owner of corporate stock levied upon by attachment or other pro-
 7 ceeding shall have the right to vote the same at all corporate meet-
 8 ings, until such time as he shall have been divested of his title thereto
 9 by execution sale. But nothing contained in this section shall in any
 10 manner conflict with any provision in the articles of incorporation, or
 11 the by-laws of the corporation issuing the stock.

[S., '13, § 1641-a.]

SEC. 5359. Expiration.

1 Corporations whose charters expire by limitation or the volun-
 2 tary act of the stockholders may nevertheless continue to act for the
 3 purpose of winding up their affairs.

[C., '51, § 694; R., '60, § 1171; C., '73, § 1080; C., '97,
 § 1629.]

SEC. 5360. Sinking fund.

1 For the purpose of repairs, rebuilding, enlarging, or to meet con-
2 tingencies, or for the purpose of creating a sinking fund, the corpo-
3 ration may set apart a sum which it may loan, and take proper securi-
4 ties therefor.

[C., '51, § 699; R., '60, § 1176; C., '73, § 1081; C., '97,
§ 1630.]

SEC. 5361. Liability of stockholders.

1 Neither anything in this chapter contained, nor any provisions in
2 the articles of corporation, shall exempt the stockholders from indi-
3 vidual liability to the amount of the unpaid installments on the stock
4 owned by them, or transferred by them for the purpose of defrauding
5 creditors; and execution against the company may, to that extent,
6 be levied upon the private property of any such individual. In none
7 of the cases contemplated in this chapter can the private property
8 of the stockholders be levied upon for the payment of corporate debts
9 while corporate property can be found with which to satisfy the
10 same; but it will be sufficient proof that no property can be found, if
11 an execution has issued on a judgment against the corporation, and
12 a demand has been thereon made of some one of the last acting offi-
13 cers of the body for property on which to levy, and he neglects to
14 point out any such property. In suits by creditors to recover unpaid
15 installments upon shares of stock against any person who has in any
16 manner obtained such stock of the corporation, the stockholder shall
17 be liable for the difference between the amount paid by him to the
18 corporation for said stock and the face value thereof.

[C., '51, § 695; R., '60, § 1172; C., '73, § 1082; C., '97,
§ 1631.]

SEC. 5362. Corporate property exhausted.

1 Before any stockholder can be charged with the payment of a
2 judgment rendered for a corporate debt, an action shall be brought
3 against him, in any stage of which he may point out corporate prop-
4 erty subject to levy; and, upon his satisfying the court of the exist-
5 ence of such property, by affidavit or otherwise, the cause may be
6 continued, or execution against him stayed, until the property can be
7 levied upon and sold, and the court may subsequently render judg-
8 ment for any balance which there may be after disposing of the cor-
9 porate property; but if a demand of property has been made as con-
10 templated in the preceding section, the costs of said action shall, in
11 any event, be paid by the company or the defendant therein, but he
12 shall not be permitted to controvert the validity of the judgment
13 rendered against the corporation, unless it was rendered through
14 fraud and collusion.

[C., '51, §§ 696, 697; R., '60, §§ 1173, 1174; C., '73, §§ 1083,
1084; C., '97, § 1632.]

SEC. 5363. Indemnity—contribution.

1 When the property of a stockholder is taken for a corporate debt,
2 he may maintain an action against the corporation for indemnity, and
3 against any of the other stockholders for contribution.

[C., '51, § 698; R., '60, § 1175; C., '73, § 1085; C., '97,
§ 1633.]

SEC. 5364. Franchise sold on execution.

1 The franchise of a corporation may be levied upon under execu-
2 tion and sold, but the corporation shall not become thereby dissolved,
3 and no dissolution of the original corporation shall affect the fran-
4 chise, and the purchaser becomes vested with all the powers of the
5 corporation therefor. Such franchise shall be sold without appraise-
6 ment.

[C., '51, § 700; R., '60, § 1177; C., '73, § 1086; C., '97,
§ 1634.]

SEC. 5365. Production of books.

1 In proceedings by or against a corporation or a stockholder to
2 charge his private property, or the dividends received by him, the
3 court may, upon motion of either party, upon cause shown for that
4 purpose, compel the officers or agents of the corporation to produce
5 the books and records of the corporation.

[C., '51, § 701; R., '60, § 1178; C., '73, § 1087; C., '97,
§ 1635.]

SEC. 5366. Estoppel.

1 No person or persons acting as a corporation shall be permitted
2 to set up the want of a legal organization as a defense to an action
3 against them as a corporation, nor shall any person sued on a con-
4 tract made with such an acting corporation, or sued for an injury to
5 its property, or a wrong done to its interests, be permitted to set up
6 a want of such legal organization in his defense.

[C., '51, § 704; R., '60, § 1181; C., '73, § 1089; C., '97, § 1636.]

**SEC. 5367. Foreign corporation—filing articles—process—appli-
cation—increase of capital—fees.**

1 Any corporation for pecuniary profit, other than for carrying on
2 mercantile or manufacturing business as clearly defined and restricted
3 by its articles of incorporation, organized under the laws of another
4 state, or of any territory of the United States, or of any foreign coun-
5 try, which has transacted business in the state of Iowa since the first
6 day of September, eighteen hundred eighty-six, or desires hereafter
7 to transact business in this state, and which has not a permit to do
8 such business, shall file with the secretary of state a certified copy of
9 its articles of incorporation, duly attested by the secretary of state or
10 other state officer in whose office the original articles were filed, accom-
11 panied by a resolution of its board of directors or stockholders author-
12 izing the filing thereof, and also authorizing service of process to be
13 made upon any of its officers or agents in this state engaged in trans-
14 acting its business, and requesting the issuance to such corporation of
15 a permit to transact business in this state; said application to contain
16 a stipulation that such permit shall be subject to the provisions of this
17 chapter. Said application shall also contain a statement subscribed
18 and sworn to by at least two of the principal officers of the corporation,
19 setting forth the following facts, to wit:

- 20 1. The total authorized capital of the corporation.
- 21 2. The total paid-up capital of the corporation.
- 22 3. The total value of all assets of the corporation, including money
23 and property other than money, represented by capital, surplus, undi-
24 vided profits, bonds, promissory notes, certificates of indebtedness, or

25 other designation, whether carried as money on hand or in bank, real
26 estate or personal property of any description.

27 4. The total value of money and all other property the corpora-
28 tion has in use or held as investment in the state of Iowa, at the time
29 the statement is made (if any).

30 5. The total value of money and all other property the corporation
31 proposes or expects to make use of in the state of Iowa, during the
32 ensuing year.

33 The secretary of state can make such independent and further
34 investigation as to the property within this state owned by any such
35 corporation as he may desire, and upon the true facts determine the
36 value thereof, and fix the fee to be paid by such company. Before a
37 permit is issued authorizing such corporation to transact business in
38 the state of Iowa, said corporation shall pay to the secretary of state
39 a fee of ten cents per one hundred words for recording the certified
40 copy of the articles of incorporation, with resolution and statement
41 as previously set forth, and a filing fee of twenty-five dollars upon ten
42 thousand dollars or less of money and property of such company
43 actually within the state of Iowa, and of one dollar for each one thou-
44 sand dollars of such money or property within this state in excess of
45 ten thousand dollars. If from time to time the amount of money or
46 other property in use in the state of Iowa by said foreign corporation
47 is increased, said corporation shall at the time of said increase, or at
48 the time of making annual report to the secretary of state, in July of
49 each year, file with the secretary of state a sworn statement showing
50 the amount of such increase, and shall pay a filing fee thereon of one
51 dollar for each one thousand dollars or fraction thereof of such
52 increase, together with a recording fee of ten cents per one hundred
53 words, but not less than fifty cents. The secretary of state shall upon
54 request furnish a blank upon which to make report of such increase
55 of capital in use within the state. Any corporation transacting busi-
56 ness in this state prior to the first day of September, eighteen hundred
57 eighty-six, shall be exempt from the payment of the fees required
58 under the provisions of this section. The secretary of state shall
59 thereupon issue to such corporation a permit, in such form as he may
60 prescribe, for the transaction of the business of such corporation, and
61 upon the receipt of such permit said corporation shall be permitted
62 and authorized to conduct and carry on its business in this state.
63 Nothing in this section shall be construed to prevent any foreign cor-
64 poration from buying, selling and otherwise dealing in notes, bonds,
65 mortgages and other securities.

[C., '97, § 1637; S., '13, § 1637.]

SEC. 5368. Permit.

1 No foreign corporation which has not in good faith complied with
2 the provisions of this chapter and taken out a permit shall possess the
3 right to exercise the power of eminent domain, or exercise any of the
4 rights and privileges conferred upon corporations, until it has so com-
5 plied herewith and taken out such permit.

[C., '97, § 1638.]

SEC. 5369. Penalty.

1 Any foreign corporation that shall carry on its business in viola-
2 tion of the provisions of this chapter in the state of Iowa, by its officers,

3 agents or otherwise, without having complied with the two preceding
4 sections and taken out and having a valid permit, shall forfeit and pay
5 to the state, for each and every day in which such business is trans-
6 acted and carried on, the sum of one hundred dollars, to be recovered
7 by suit in any court having jurisdiction; and any agent, officer or em-
8 ployee who shall knowingly act or transact such business for such
9 corporation, when it has no valid permit as provided herein, shall be
10 guilty of a misdemeanor, and for such offense shall be fined not to
11 exceed one hundred dollars, or be imprisoned in the county jail not to
12 exceed thirty days, or by both such fine and imprisonment, and pay
13 all costs of prosecution. Nothing contained in this chapter shall re-
14 lieve any person, company, corporation, association or partnership
15 from the performance of any duty or obligation now enjoined upon or
16 required of it, or from the payment of any penalty or liability created
17 by the statutes heretofore in force, and all foreign corporations, and
18 the officers and agents thereof, doing business in this state shall be
19 subject to all the liabilities, restrictions and duties that are or may be
20 imposed upon corporations of like character organized under the
21 general laws of this state, and shall have no other or greater powers.

[C., '97, § 1639.]

SEC. 5370. Dissolution—receiver.

1 Courts of equity shall have full power, on good cause shown, to
2 dissolve or close up the business of any corporation, and to appoint a
3 receiver therefor, who shall be a resident of the state of Iowa. An
4 action therefor may be instituted by the attorney general in the name
5 of the state, reserving, however, to the stockholders and creditors all
6 rights now possessed by them.

[C., '97, § 1640.]

SEC. 5371. Ownership of property.

1 Corporations organized in any foreign country or corporations
2 organized in this country, the stock of which is owned in whole or in
3 part by nonresident aliens, shall have the same rights, powers and
4 privileges with regard to the purchase and ownership of real estate in
5 this state as are granted to nonresident aliens in section sixty-four hun-
6 dred fifty-eight.

[C., '97, § 1641; S., '13, § 1641.]

SEC. 5372. False statements—penalty.

1 Every director, officer or agent of any corporation or joint-stock
2 association, who knowingly concurs in making, publishing or posting,
3 either generally or privately to the stockholders or other persons, any
4 written report, exhibit, or statement of its affairs or pecuniary con-
5 dition, or book or notice containing any material statement which is
6 false, or any untrue or wilfully or fraudulently exaggerated report,
7 prospectus, account, statement of operations, values, business, profits,
8 expenditures, or prospects, or any other paper or document intended
9 to produce or give, or having a tendency to produce or give, the shares
10 of stock in such corporation a greater value or a less apparent or
11 market value than they really possess, is guilty of a felony, and upon
12 conviction thereof shall be punished by imprisonment in the peniten-
13 tiary not to exceed one year, or by imprisonment in the county jail
14 not to exceed six months or a fine not exceeding five hundred dollars.

[S., '13, § 1641-g.]

SEC. 5373. Political contributions prohibited.

1 It shall be unlawful for any corporation doing business within the
 2 state, or any officer, agent or representative thereof acting for such
 3 corporation, to give or contribute any money, property, labor or thing
 4 of value, directly or indirectly, to any member of any political com-
 5 mittee, political party, or employee or representative thereof, or to
 6 any candidate for any public office or candidate for nomination to any
 7 public office or to the representative of such candidate, for campaign
 8 expenses or for any political purpose whatsoever, or to any person,
 9 partnership or corporation for the purpose of influencing or causing
 10 such person, partnership or corporation to influence any elector of
 11 the state to vote for or against any candidate for public office or for
 12 nomination for public office or to any public officer for the purpose of
 13 influencing his official action, but nothing in this section shall be con-
 14 strued to restrain or abridge the liberty of the press or prohibit the
 15 consideration and discussion therein of candidacies, nominations, pub-
 16 lic officers or political questions.

[S., '13, § 1641-h.]

SEC. 5374. Solicitation from corporations prohibited.

1 It shall be unlawful for any member of any political committee,
 2 political party, or employee or representative thereof, or candidate
 3 for any office or the representative of such candidate, to solicit, re-
 4 quest or knowingly receive from any corporation or any officer, agent
 5 or representative thereof, any money, property or thing of value be-
 6 longing to such corporation, for campaign expenses or for any political
 7 purpose whatsoever.

[S., '13, § 1641-i.]

SEC. 5375. Testimony—immunity from prosecution.

1 No person, and no agent or officer of any corporation within the
 2 purview of the two preceding sections shall be privileged from testify-
 3 ing in relation to anything herein prohibited; and no person having
 4 so testified shall be liable to any prosecution or punishment for any
 5 offense concerning which he is required to give his testimony, provided
 6 that he shall not be exempted from prosecution and punishment for
 7 perjury committed in so testifying.

[S., '13, § 1641-j.]

SEC. 5376. Penalty.

1 Any person convicted of a violation of any of the provisions of
 2 sections fifty-three hundred seventy-three and fifty-three hundred
 3 seventy-four shall be punished by imprisonment in the county jail not
 4 less than six months or more than one year and in the discretion of
 5 the court, by fine not exceeding ten hundred dollars.

[S., '13, § 1641-k.]

CHAPTER 2.
CAPITAL STOCK.**SECTION 5377. Amount paid in.**

1 No certificate or shares of stock shall be issued, delivered or
 2 transferred by any corporation, officer or agent thereof, or by the

3 owner of such certificate or shares, without having indorsed on the
 4 face thereof what amount or portion of the par value has been paid
 5 to the corporation issuing the same, and whether such payment has
 6 been in money or property. Any person violating the provisions of
 7 this section, or knowingly making a false statement on such certificate,
 8 shall be fined not less than one hundred dollars nor more than five
 9 hundred dollars, and shall stand committed to the county jail until
 10 such fine and costs are paid. This section shall not apply to railway
 11 or quasi public corporations organized before the first day of October,
 12 eighteen hundred ninety-seven.

[C., '97, § 1627; S., '13, § 1627.]

SEC. 5378. Capital stock—how issued—executive council to fix value—certain elements of value considered.

1 No corporation organized under the laws of the state of Iowa,
 2 except building and loan associations as defined and provided for in
 3 title twenty, shall issue any capital stock or any certificate or certifi-
 4 cates of shares of capital stock, or any substitute therefor, until the
 5 corporation has received the par value thereof. If it is proposed to
 6 pay for said capital stock in property or in any other thing than
 7 money, the corporation proposing the same must, before issuing capi-
 8 tal stock in any form, apply to the executive council of the state of
 9 Iowa for leave so to do. Such application shall state the amount of
 10 capital stock proposed to be issued for a consideration other than
 11 money, and set forth specifically the property or other thing to be re-
 12 ceived in payment for such stock. Thereupon, it shall be the duty of
 13 the executive council to make investigation, under such rules as it
 14 may prescribe, and to ascertain the real value of the property or other
 15 thing which the corporation is to receive for the stock; and shall en-
 16 ter its finding, fixing the value at which the corporation may receive
 17 the same in payment for capital stock; and no corporation shall issue
 18 capital stock for the said property or thing in a greater amount than
 19 the value so fixed and determined by the executive council; provided
 20 that for the purpose of encouraging the construction of new steam or
 21 electric railways, and manufacturing industries within this state, the
 22 labor performed in effecting the organization and promotion of such
 23 corporation, and the reasonable discount allowed or reasonable com-
 24 mission paid in negotiating and effecting the sale of bonds for the
 25 construction and equipment of such railroad or manufacturing plant,
 26 shall be taken into consideration as elements of value in fixing the
 27 amount of capital stock that may be issued.

[S., '13, § 1641-b.]

SEC. 5379. Certificate filed with secretary of state.

1 It shall be the duty of every corporation to file a certificate un-
 2 der oath with the secretary of state, within ten days after the issu-
 3 ance of any capital stock, stating the date of issue, the amount issued,
 4 the sum received therefor, if payment be made in money, or the prop-
 5 erty or thing taken, if such be the method of payment.

[S., '13, § 1641-c.]

SEC. 5380. Cancellation of stock—reimbursement.

1 The capital stock of any corporation issued in violation of the
 2 terms and provisions of the two preceding sections shall be void, and

3 in a suit brought by the attorney general on behalf of the state of
 4 Iowa in any court having jurisdiction, a decree of cancellation shall
 5 be entered; and if the corporation has received any money or thing
 6 of value for the said stock, such money or thing of value shall be re-
 7 turned to the individual, firm, company or corporation from whom it
 8 was received, and if represented by labor or other service of intangible
 9 nature, the value thereof shall constitute a claim against the corpora-
 10 tion issuing stock in exchange therefor.

[S., '13, § 1641-d.]

SEC. 5381. Dissolution of corporation—distribution of assets.

1 Any corporation violating the provisions of said sections shall,
 2 upon the application of the attorney general, in behalf of the state,
 3 made to any court of competent jurisdiction, be dissolved, its affairs
 4 wound up, and its assets distributed among the stockholders other
 5 than those who have received the stock so unlawfully issued.

[S., '13, § 1641-e.]

SEC. 5382. Penalty.

1 Any officer, agent or representative of a corporation who violates
 2 any of the provisions of said sections shall, upon conviction, be fined
 3 not less than two hundred dollars nor more than ten hundred dollars,
 4 and be imprisoned in the county jail for not less than thirty days nor
 5 more than six months.

[S., '13, § 1641-f.]

**SEC. 5383. Capital stock of foreign public utility corporations—
 how issued—laws made applicable.**

1 Sections fifty-three hundred seventy-eight, fifty-three hundred
 2 seventy-nine and fifty-three hundred sixty-seven are hereby made ap-
 3 plicable to any foreign corporation which directly or indirectly owns,
 4 uses, operates, controls or is concerned in the operation of any public
 5 gasworks, electric light plant, heating plant, waterworks, interurban
 6 or street railway located within the state of Iowa or the carrying on
 7 of any gas, electric light, electric power, heating business, water-
 8 works, interurban or street railway business within the state of Iowa
 9 or that owns or controls, directly or indirectly, any of the capital stock
 10 of any corporation which owns, uses, operates or is concerned in the
 11 operation of any public gasworks, electric light plant, electric power
 12 plant, heating plant, waterworks, interurban or street railway lo-
 13 cated within the state of Iowa or any foreign corporation that exer-
 14 cises any control in any way or in any manner over any of said works,
 15 plants, interurban or street railways or the business carried on by
 16 said works, plants, interurban or street railways by or through the
 17 ownership of the capital stock of any corporation or corporations or
 18 in any other manner whatsoever, and the ownership, operation or con-
 19 trol of any such works, plants, interurban or street railways or the
 20 business carried on by any of such works or plants or the ownership
 21 or control of the capital stock in any corporation owning or operating
 22 any of such works, plants, interurban or street railways by any for-
 23 eign corporation in violation of the provisions of this chapter is hereby
 24 declared to be unlawful.

[S., '13, § 1641-l.]

SEC. 5384. Holding companies—provisions made applicable to.

1 The provisions of sections fifty-three hundred eighty-three to
2 fifty-three hundred eighty-eight, inclusive, are hereby made applicable
3 to all corporations, including so-called "holding companies" which by
4 or through the ownership of the capital stock in any other corpora-
5 tion or corporations or a series of corporations owning or controlling
6 the capital stock of each other can or may exercise control over the
7 capital stock of any corporation which owns, uses, operates or is con-
8 cerned in the operation of any public gasworks, electric light plant,
9 electric power plant, heating plant, waterworks, interurban or street
10 railway located in the state of Iowa, or the business carried on by
11 such works or plants.

[S., '13, § 1641-m.]

SEC. 5385. Annual report—fee.

1 All corporations subject to the provisions of sections fifty-three
2 hundred eighty-three to fifty-three hundred eighty-eight, inclusive,
3 are hereby required to pay the annual fee and to make the annual re-
4 port in the form and manner and at the time as specified in sections
5 fifty-three hundred thirty-six to fifty-three hundred thirty-eight, in-
6 clusive.

[S., '13, § 1641-n.]

SEC. 5386. Sale of capital stock—obligations.

1 The provisions of sections fifty-three hundred eighty-three to
2 fifty-three hundred eighty-eight, inclusive, are hereby made applicable
3 to the sale of its own capital stock by any corporation subject to the
4 provisions of said sections, whether said capital stock has been here-
5 tofore issued by said corporation or not, including the sale of so-called
6 "treasury stock" or stock of the corporation in the hands of a trustee
7 or where the corporation participates in any way or manner in the
8 benefits of said sales, and also to the sale of any of the obligations of
9 any corporation subject to the provisions of said sections, the payment
10 of which is secured by the deposit or pledge of any of the capital stock
11 of said corporation.

[S., '13, § 1641-o.]

SEC. 5387. Violations—stock void.

1 Shares of capital stock of any corporation owned or controlled in
2 violation of the provisions of said sections shall be void and the holder
3 thereof shall not be entitled to exercise the powers of a shareholder
4 of said corporation or permitted to participate in or be entitled to any
5 of the benefits accruing to shareholders of said corporation, and sec-
6 tion fifty-three hundred sixty-nine is hereby made applicable to viola-
7 tions of the provisions of said sections; and courts and juries shall
8 construe said sections so as to prevent evasion and to accomplish the
9 intents and purposes thereof.

[S., '13, § 1641-p.]

SEC. 5388. Dissolution—powers of courts of equity—receiver.

1 Courts of equity shall have full power to dissolve, close up or dis-
2 pose of any business or property owned, operated or controlled in
3 violation of the provisions of the five preceding sections; to dissolve
4 any corporation owning or controlling the capital stock of any other

5 corporation in violation of the provisions of said sections and to close
 6 up or dispose of the business or property of said corporation; and if
 7 the court finds that, in order to carry out the purposes of said sections
 8 it is necessary so to do, it may dissolve the corporation issuing the
 9 stock which is owned in violation of the provisions of said sections,
 10 close up the business of said corporation and dispose of its property,
 11 and the court may also appoint a receiver who shall be a resident of
 12 Iowa for any business or for any corporation which has violated the
 13 provisions thereof or of the corporation issuing the stock which is
 14 held in violation thereof. Any action to enforce the provisions of said
 15 sections may be instituted by the attorney general in the name of the
 16 state of Iowa or by a citizen in the name of the state of Iowa at his
 17 own proper cost and expense, reserving, however, to the stockholders
 18 owning capital stock not held in violation of said sections all rights
 19 possessed by them.

[S., '13, § 1641-q.]

CHAPTER 3.

COOPERATIVE ASSOCIATIONS.

SECTION 5389. Cooperative plan authorized.

1 Any number of persons, not less than five, may associate them-
 2 selves as a cooperative association, society, company or exchange, for
 3 the purpose of conducting any agricultural, dairy, mercantile, mining,
 4 manufacturing or mechanical business on the cooperative plan. For
 5 the purposes of this chapter, the words "association", "company",
 6 "corporation", "exchange", "society", or "union", shall be construed
 7 to mean the same.

[S. S., '15, § 1641-r1.]

SEC. 5390. Articles of incorporation—what to state.

1 They shall sign and acknowledge written articles which shall con-
 2 tain the name of said association and the names and residences of the
 3 persons forming the same. Such articles shall also contain a state-
 4 ment of the purposes of the association, and shall designate the city,
 5 town or village where its principal place of business shall be located.
 6 Such articles shall also state the amount of capital stock, the number
 7 of shares, and the par value of each.

[S. S., '15, § 1641-r2.]

SEC. 5391. Filing—certificate of incorporation.

1 The original articles of incorporation of associations organized
 2 under this chapter, or a true copy thereof, verified as such by the
 3 affidavits of two of the signers thereof, shall be filed with the secretary
 4 of state. A like verified copy of such articles and certificates of the
 5 secretary of state, showing the date when such articles were filed with
 6 and accepted by the secretary of state, shall, within thirty days of such
 7 filing and acceptance, be filed and recorded with the recorder of deeds
 8 of the county in which the principal place of business of the corpora-
 9 tion is to be located, and no corporation shall have legal existence until
 10 such articles be left for record. The recorder shall forthwith trans-

11 mit to the secretary of state a certificate stating the time when such
 12 copy was recorded. Upon receipt of such certificate, the secretary of
 13 state shall issue a certificate of incorporation.

[S. S., '15, § 1641-r3.]

SEC. 5392. Fee for recording.

1 For filing the articles of incorporation of associations organized
 2 under this chapter, there shall be paid to the secretary of state ten
 3 dollars, and for the filing of an amendment to such article, five dollars;
 4 provided that when the capital stock of such corporation shall be less
 5 than five hundred dollars, such fee for filing either the articles of in-
 6 corporation or amendments thereto shall be one dollar. For record-
 7 ing copy of such articles, the recorder of deeds shall receive the usual
 8 fee for recording.

[S. S., '15, § 1641-r4.]

SEC. 5393. Board of directors—election—removal—officers.

1 Every such association shall be managed by a board of not less
 2 than five directors, who shall be elected by and from the stockholders
 3 at such time and for such term of office as the by-laws may prescribe,
 4 and shall hold office for the time for which elected and until their suc-
 5 cessors are elected and qualify; but a majority of the stockholders
 6 shall have the power at any regular or special stockholders' meeting,
 7 legally called, to remove any director or officer for cause, and fill the
 8 vacancy, and thereupon the director or officer so removed, shall cease
 9 to be a director or officer of said corporation. The officers of every
 10 such association shall be a president, one or more vice presidents, a
 11 secretary and a treasurer, who shall be elected annually by the direc-
 12 tors, and each of said officers must be a director of the association.
 13 The offices of secretary and treasurer may be combined, and when so
 14 combined the person filling the office shall be secretary-treasurer.

[S. S., '15, § 1641-r5.]

SEC. 5394. Amending articles.

1 The association may amend its articles of incorporation by a
 2 majority vote of its stockholders at any regular stockholders' meet-
 3 ing, or at any special stockholders' meeting called for that purpose, on
 4 ten days' notice to all stockholders. Said power to amend shall include
 5 the power to increase or diminish the amount of capital stock and the
 6 number of shares; provided the amount of the capital stock shall not
 7 be diminished below the amount of paid-up capital at the time the
 8 amendment is adopted. Within thirty days after the adoption of an
 9 amendment to its articles of incorporation, an association shall cause
 10 a copy of such amendment adopted to be recorded in the office of the
 11 secretary of state and of the recorder of deeds of the county where its
 12 principal place of business is located.

[S. S., '15, § 1641-r6.]

SEC. 5395. Powers.

1 An association created under this chapter shall have power to
 2 conduct any agricultural, dairy, mercantile, mining, manufacturing
 3 or mechanical business, on the cooperative plan, and may buy, sell and
 4 deal in the products of any other cooperative company heretofore or
 5 hereafter organized under the provisions hereof.

[S. S., '15, § 1641-r7.]

SEC. 5396. Ownership of shares limited.

1 No stockholder in any such association shall own shares of a
 2 greater aggregate par value than one thousand dollars, except as
 3 hereinafter provided, nor shall he be entitled to more than one vote.
 [S. S., '15, § 1641-r8.]

SEC. 5397. Association may hold shares in other like associations.

1 At any regular meeting, or any regularly called special meeting,
 2 at which at least a majority of all its stockholders shall be present,
 3 or represented, an association organized under this chapter, may by
 4 a majority vote of the stockholders present or represented, subscribe
 5 for shares and invest its reserve fund, not to exceed twenty-five per
 6 cent of its capital, in the capital stock of any other cooperative as-
 7 sociation.
 [S. S., '15, § 1641-r9.]

SEC. 5398. May issue its own shares in payment.

1 Whenever an association created under this chapter shall pur-
 2 chase the business of another association, person or persons, it may
 3 pay for the same in whole or in part by issuing to the selling associa-
 4 tion or person shares of its capital stock to an amount, which at par
 5 value would equal the fair market value of the business so purchased,
 6 and in such case the transfer to the association of such business at
 7 such valuation shall be equivalent to payment in cash for the shares
 8 of stock so issued.
 [S. S., '15, § 1641-r10.]

SEC. 5399. May act as trustee—stock to be fully paid before certificate issued.

1 In case the cash value of such purchased business exceeds one
 2 thousand dollars, the directors of the association are authorized to
 3 hold the shares in excess of one thousand dollars in trust for the ven-
 4 dor, and dispose of the same to such persons, and within such times,
 5 as may be mutually satisfactory to the parties in interest, and to pay
 6 the proceeds thereof as currently received to the former owner of said
 7 business. Certificates of stock shall be issued to any subscriber until
 8 fully paid, but the by-laws of the association may allow subscribers to
 9 vote as stockholders; provided part of the stock subscribed for has
 10 been paid in cash.
 [S. S., '15, § 1641-r11.]

SEC. 5400. Voting by mail authorized.

1 At any regularly called general or special meeting of the stock-
 2 holders, a written vote received by mail from any absent stockholder,
 3 and signed by him, may be read in such meeting, and shall be equiv-
 4 alent to a vote of each of the stockholders so signing; provided he has
 5 been previously notified in writing by the secretary of the exact mo-
 6 tion or resolution upon which such vote is taken, and a copy of same
 7 is forwarded with and attached to the vote so mailed by him.
 [S. S., '15, § 1641-r12.]

SEC. 5401. Apportionment of earnings.

1 The directors, subject to revisions by the association at any gen-
2 eral or special meeting, shall apportion the earnings by first setting
3 aside not less than ten per cent of the net profits for a reserve fund,
4 until an amount has accumulated in said reserve fund equal to fifty
5 per cent of the paid-up capital stock, and five per cent thereof for an
6 educational fund to be used in teaching cooperation, and a dividend
7 upon the paid-up capital stock to be determined by the board of direc-
8 tors not exceeding ten per cent and the remainder of said net profits
9 by uniform dividend upon the amount of purchases of shareholders,
10 and upon the wages and salaries of employees; but in productive as-
11 sociations such as creameries, canneries, elevators, factories, and the
12 like, dividends shall be on raw material delivered instead of on goods
13 purchased. In case the association is both a selling and a productive
14 concern, the dividends may be on both raw material delivered and on
15 goods purchased by patrons.

[S. S., '15, § 1641-r13.]

SEC. 5402. Dividends—when distributed—dissolution for failure to declare dividend.

1 The profits or net earnings of such associations shall be distrib-
2 uted to those entitled thereto, at such times as the by-laws shall pre-
3 scribe, which shall be as often as once in twelve months. If such as-
4 sociations, for five consecutive years, shall fail to declare a dividend
5 upon the shares of its paid-up capital, five or more stockholders, by
6 petition, setting forth such fact, may apply to the district court of the
7 county wherein is situated its principal place of business in this
8 state, for its dissolution. If, upon hearing, the allegations, of the
9 petition are found to be true, the court may adjudge a dissolution of
10 the association.

[S. S., '15, § 1641-r14.]

SEC. 5403. Annual report—contents.

1 Every association organized under the terms of this chapter shall
2 annually, on or before the first day of March of each year, make a
3 report to the secretary of state; such report shall contain the name
4 of the company, its principal place of business in this state, and gen-
5 erally a statement as to its business, showing total amount of busi-
6 ness transacted, amount of capital stock subscribed for and paid in,
7 number of stockholders, total expense of operation, amount of indebt-
8 edness for liabilities, and its profits and losses.

[S. S., '15, § 1641-r15.]

SEC. 5404. Benefits of chapter extended to former cooperative companies.

1 All cooperative corporations, companies, or associations hereto-
2 fore organized and doing business under prior statutes, or which have
3 attempted to so organize and do business, shall have the benefit of all
4 the provisions of this chapter and be bound thereby, on filing with
5 the secretary of state a written declaration, signed and sworn to by
6 the president and secretary, to the effect that said cooperative com-
7 pany or association has by a majority vote of its stockholders decided
8 to accept the benefits of and to be bound by the provisions hereof.

[S. S., '15, § 1641-r16.]

SEC. 5405. Use of term "cooperative" restricted.

1 No corporation or association organized after July fourth, nine-
 2 teen hundred fifteen, shall be entitled to use the term "cooperative"
 3 as part of its corporate or other business name or title, unless it has
 4 complied with the provisions of this chapter, and any corporation
 5 or association violating the provisions of this section may be enjoined
 6 from doing business under such name at the instance of any stock-
 7 holder of any association legally organized under the provisions of
 8 this chapter.

[S. S., '15, § 1641-r17.]

SEC. 5406. Funds—use of restricted.

1 None of the funds of any association organized under the provi-
 2 sions of this chapter shall be used in the payment of any promotion,
 3 as commissions, salaries or expenses of any kind, character or nature
 4 whatsoever.

[S. S., '15, § 1641-r18.]

SEC. 5407. Private property exempt.

1 The private property of the stockholders shall be exempt from
 2 execution from the debts of the corporation.

[S. S., '15, § 1641-r19.]

SEC. 5408. Limit of indebtedness.

1 The highest amount of indebtedness the corporation may con-
 2 tract shall not exceed two-thirds of its capital stock.

[S. S., '15, § 1641-r20.]

CHAPTER 4.
**REGULATION OF CERTAIN PERSONS, FIRMS, COMPANIES, PARTNERSHIPS,
 ASSOCIATIONS, AND CORPORATIONS.**
SECTION 5409. Terms defined.

1 The term "association" when used in this chapter shall mean any
 2 person, firm, company, partnership, association or corporation, other
 3 than building and loan associations and insurance companies and asso-
 4 ciations, which issue stocks on the partial payment or installment
 5 plan. The term "issue" shall mean issue, sell, place, engage in or
 6 otherwise dispose of or handle. The term "stock" shall mean cer-
 7 tificates, memberships, shares, bonds, contracts, debentures, stocks,
 8 tontine contracts, or other investment securities or agreements of any
 9 kind or character issued upon the partial payment or installment plan.

[S., '13, § 1920-k.]

SEC. 5410. Certificate—how obtained.

1 No association contemplated by this chapter shall issue any stock
 2 until it shall have procured from the auditor of state a certificate of
 3 authority authorizing it to engage in such business. To procure such
 4 certificate of authority it shall be necessary for such association to file
 5 with the auditor of state a statement, under oath, showing the name

6 and location of such association, the name and postoffice address of
 7 its officers, the date of organization, and if incorporated a copy of
 8 its articles of incorporation, also, a copy of its by-laws or rules by
 9 which it is to be governed, the form of its certificates, stocks or con-
 10 tracts, all printed matter issued by it, together with a detailed state-
 11 ment of its financial condition and such other information concerning
 12 its affairs or plan of business as the auditor of state may require.
 13 The same shall be, by the auditor of state laid before the executive
 14 council for consideration.

[S., '13, § 1920-l.]

SEC. 5411. Executive council shall approve.

1 If the executive council is satisfied that the business is not in
 2 violation of law or of public policy, and is safe, reliable and entitled
 3 to public confidence, and if it shall approve the form of certificate of
 4 stock or contract, it shall direct the auditor of state to issue to such
 5 association a certificate of authority authorizing it to transact busi-
 6 ness within this state until the first day of March next succeeding the
 7 date of such authorization.

[S., '13, § 1920-m.]

SEC. 5412. Annual report.

1 During the month of January of each year, every association
 2 transacting the business contemplated by this chapter, shall file with
 3 the auditor of state a statement showing its condition on the thirty-
 4 first day of December preceding. Said statement shall be in such
 5 form as shall be prescribed by the auditor of state. If it appears
 6 from such statement that such association is doing a safe business
 7 and is solvent, the auditor of state may renew its certificate of au-
 8 thority authorizing it to transact business within the state until the
 9 first day of March of the following year. If at any time it shall appear
 10 that such association is doing an unsafe business or is insolvent the
 11 auditor of state may revoke its certificate of authority authorizing it
 12 to transact business within the state until the first day of March of
 13 the following year. If at any time it shall appear that such associa-
 14 tion is doing an unsafe business or is insolvent the auditor of state
 15 may revoke its certificate of authority to transact business and having
 16 revoked the certificate of authority of an association organized under
 17 the laws of this state, he shall report his action to the attorney general
 18 who shall at once apply to the district court or a judge thereof for
 19 the appointment of a receiver to close up the affairs of such associa-
 20 tion, and an injunction may issue in the same proceeding enjoining
 21 and restraining the association from transacting business in this state.

[S., '13, § 1920-o.]

SEC. 5413. Bonds or securities—how deposited.

1 Before any association shall be authorized to transact business
 2 contemplated by this chapter, it shall deposit with the auditor of state
 3 a bond approved by the executive council, guaranteeing the faithful
 4 performance of all contracts entered into by such association or securi-
 5 ties of the kind designated in subdivisions one, two, three, four and
 6 five of section fifty-five hundred thirty-two, or such other securities
 7 as shall be approved by the executive council in the amount of twenty-
 8 five thousand dollars, which amount shall remain in possession of the
 9 auditor of state until the end of the calendar year in which the asso-

10 ciation shall first be authorized to transact business. At the end of
11 such calendar year, such association shall deposit with the auditor of
12 state securities of the kind above provided in an amount equal to all
13 its liabilities to persons residing within this state and shall keep such
14 deposit at all times equal to such liability; provided that at no time
15 shall such deposit be reduced below twenty-five thousand dollars ex-
16 cept at such time as such association shall be by law closing out its
17 business and its liabilities shall have been reduced below twenty-five
18 thousand dollars.

[S., '13, § 1920-p.]

SEC. 5414. Unauthorized companies—penalty.

1 Any member or representative of any association who shall at-
2 tempt to issue or sell any stock as contemplated by this chapter or to
3 transact any business whatsoever in the name of or on behalf of such
4 association, not authorized to do business within this state, or which
5 has failed or refused to comply with the provisions of this chapter,
6 or has violated any of its provisions shall be deemed guilty of a mis-
7 demeanor and on conviction thereof shall be punished by imprison-
8 ment in the county jail not to exceed one year, or by a fine of not less
9 than one hundred nor more than ten hundred dollars or by both such
10 fine and imprisonment in the discretion of the court.

[S., '13, § 1920-q.]

SEC. 5415. Fee for annual certificate.

1 Such association shall pay to the auditor of state for its certificate
2 of authority to transact business, a fee of twenty-five dollars, and for
3 each annual renewal thereof at the time of filing the annual statement
4 ten dollars, which fee shall be by the auditor of state turned into the
5 state treasury as are other fees of his office.

[S., '13, § 1920-r.]

SEC. 5416. Examination.

1 Every such association doing business within this state, shall be
2 subject to examination in the same manner as is provided for the
3 examination of insurance companies and shall pay the same fees and
4 costs therefor, and shall so far as is consistent with the plan of busi-
5 ness, be subject to the same restrictions and regulations. Such exam-
6 inations shall be full and complete and in making the same the auditor
7 of state or examiner shall have full access to and may demand the
8 production of all books, securities, papers, moneys, etc., of the asso-
9 ciation under examination, and may administer oaths, summon and
10 compel the attendance and testimony of any persons connected with
11 such association. If upon such examination, it shall appear that such
12 association does not conduct its business in accordance with law, or
13 if it permits forfeiture of payments by persons holding its stock, after
14 three years from the issuance of said stock or provides for the pay-
15 ment of its expenses other than from earnings, or that any profits,
16 advantage or compensation of any form or description is given to
17 any member or investor over any other member or investor of the
18 same class, or if beneficiaries are selected or determined or advantages
19 given one over another by any form of chance, lottery or hazard, or
20 if certificates of stock are by their terms or by any other provision to
21 be redeemed in numerical order or by any arbitrary order or preced-
22 ence, without reference to the amount previously paid thereon by the

23 holder thereof, or that the affairs are in an unsound condition, or if
 24 such association refuses such examination to be made, the auditor of
 25 state may revoke its certificate of authority to do business in this state,
 26 and having revoked the certificate of authority of an association organ-
 27 ized under the laws of this state, he shall report the same to the attor-
 28 ney general, who shall proceed as provided in section fifty-four hun-
 29 dred twelve.

[S., '13, § 1920-s.]

CHAPTER 5.

INVESTMENT COMPANIES.

SECTION 5417. Permit to sell stock.

1 Every person, firm, association, company or corporation that
 2 shall either directly or through representatives or agents, sell, offer or
 3 negotiate for sale, within this state, any stocks, bonds or other securi-
 4 ties, shall be subject to the provisions of this chapter, except as herein
 5 otherwise provided; and shall, before doing or offering to do any such
 6 business in this state, be required to secure a permit of the secretary
 7 of state of the state of Iowa.

[S. S., '15, § 1920-u.]

SEC. 5418. Stocks, bonds and securities excepted from operation of chapter.

1 The provisions of this chapter shall not apply to—

2 1. Securities of this state, or of the United States, or of any state
 3 or territory thereof, or of any foreign government, or of any district,
 4 county, township, city, town or other public taxing subdivision of any
 5 state or territory of the United States, including all drainage, county,
 6 school or other municipal bonds of this state.

7 2. Securities of state, savings or national banks of any state or
 8 territory of the United States, or of trust companies or building and
 9 loan associations of this state, including the unsecured commercial
 10 paper of such institutions.

11 3. Securities of public or quasi public corporations, the issue of
 12 which securities is regulated by any public board or commission now
 13 or hereafter created by the laws of this state.

14 4. Promissory notes and the mortgages, contracts, collateral or
 15 other things, if any, securing the same, when said notes and securities
 16 have, in a bona fide way, been issued, given or acquired in the ordinary
 17 course of legitimate business, trade or commerce.

18 5. The stock of any corporation organized under the laws of this
 19 or any other state or territory of the United States, or of the federal
 20 government, provided that under the laws of such state or territory
 21 or federal government no capital stock of a corporation can be legally
 22 issued unless the par value of said stock is paid for in full in either
 23 cash or property at its actual value before the issuance of such stock
 24 and where all property and any other thing given in exchange for
 25 such stock other than cash must be valued at not more than its actual
 26 cash value by some duly appointed officer or commission of such state,
 27 territory or federal government under the laws of which such cor-

28 poration is organized and where such stock has been issued in accord-
29 ance with the provisions of such laws.

30 6. The sale of stocks, bonds or other securities at judicial sale or
31 by administrators or executors.

[S. S., '15, § 1920-u1.]

SEC. 5419. Permit—fee—papers and documents to be filed—verification.

1 Before any person, firm, association, company or corporation,
2 subject to the provisions of this chapter, shall secure a permit from
3 the secretary of state of the state of Iowa to sell, offer or negotiate
4 for sale any stocks, bonds or other securities, in this state, such per-
5 son, firm, association, company or corporation shall pay to the secre-
6 tary of state of the state of Iowa a filing fee of two dollars and an
7 annual inspection fee of twenty dollars and file in the office of said
8 secretary of state the following papers and documents, to wit:

9 1. A copy of its constitution and by-laws, or articles of copart-
10 nership or association.

11 2. An itemized statement of its actual financial condition and the
12 amount of its properties and liabilities.

13 3. A statement showing in full detail the plan upon which it pro-
14 poses to transact business.

15 4. A copy of all bonds or other securities which it proposes to
16 make with or sell to its contributors, including the price at which such
17 stocks, bonds or other securities are to be sold or offered for sale.

18 5. Sample copies of all literature or advertising matter used or
19 to be used by such person, firm, association, company or corporation.

20 6. A statement showing the name and location of its principal
21 office of business and the names and addresses of its officers and di-
22 rectors.

23 7. If said person, firm, association, company or corporation is
24 chartered to do business under the laws of any other state or territory
25 than the state of Iowa, it shall file a copy of its charter or other instru-
26 ment or documents authorizing it to do business in said state or terri-
27 tory, which copy shall bear the certificate of the secretary of state
28 or other officer of such state having custody of such records to the
29 effect that the same is a correct, true and complete copy of said charter
30 or other instrument, together with the seal of such officer attached
31 thereto, if such officer is possessed of a seal.

32 All of the above described papers shall be verified by the oath
33 of the person receiving the permit, if the business is carried on by
34 an individual, or by the oath of a member of a copartnership or asso-
35 ciation, or by the president and secretary of a corporation, if the con-
36 cern be incorporated; provided, however, that the secretary of state
37 may, if in his judgment it becomes necessary in order to prevent fraud
38 in the sale of any stocks, bonds or other securities in this state, require
39 of such person, firm, association or corporation, or any of the officers,
40 agents or representatives thereof, additional information in the form
41 of reports or otherwise, duly verified.

[S. S., '15, § 1920-u2.]

SEC. 5420. Payment of inspection fee in part.

1 If any person, firm, association, company or corporation, subject
2 to the provisions of this chapter, desires to transact business in this
3 state and does not desire to pay the annual inspection fee of twenty

4 dollars by reason of the limited amount of business to be transacted,
5 or otherwise, said person, firm, association, company or corporation
6 shall have the option of paying to the secretary of state the filing fee
7 of two dollars incident to the cost of filing and recording said papers
8 and documents and an inspection fee of one-tenth of one per cent upon
9 the face value of the securities for the sale of which application is
10 made to the secretary of state of the state of Iowa; provided further,
11 however, that any person, firm, association, company or corporation,
12 paying the inspection fee of one-tenth of one per cent upon the face
13 value of the securities which it is proposed to sell within the state of
14 Iowa, shall not be required to pay in the aggregate more than twenty
15 dollars inspection fees to the said secretary of state in any one year.

[S. S., '15, § 1920-u3.]

SEC. 5421. Annual report of fees and expenses—legislature to reduce if excessive.

1 The secretary of state shall keep an accurate account of all
2 moneys received from each person, firm, association, company or cor-
3 poration as filing and inspection fees under the provisions of this
4 chapter, and a record of all money expended in the enforcement of
5 the provisions thereof, and at the end of the biennial period a report
6 shall be made to the governor and legislature showing the amount of
7 fees received and the amount of the money expended in the adminis-
8 tration of this chapter, and if from said report it shall appear that
9 the inspection fees are in substantial excess of the cost of inspection
10 and all expenses incidental thereto, the succeeding legislature shall
11 then reduce the amount of said inspection fees in proportion to the
12 amount of such excess collected hereunder.

[S. S., '15, § 1920-u4.]

SEC. 5422. Service of process on secretary of state—consent.

1 Every nonresident person, firm, association, company or corpora-
2 tion subject to the provisions of this chapter shall, before receiving
3 a certificate as provided for in section fifty-four hundred seventeen,
4 file in the office of the secretary of state an agreement in writing
5 signed by the person receiving the permit, if the business is to be
6 carried on by an individual, and by the signature of a member of a
7 copartnership or company, if it be a copartnership or company, and
8 by the signatures of the president and secretary of the incorporated
9 or unincorporated company or association, if it be a company or asso-
10 ciation, authenticated by the seal of said company, if possessed of a
11 seal, and shall be accompanied by a duly certified copy of the order or
12 resolution of the board of directors, trustees or managers of the cor-
13 poration, authorizing the said president and secretary to execute the
14 same; that thereafter service of notice of any action or process of
15 any kind against such nonresident person, firm, association, company
16 or corporation, growing out of the transaction of any business of
17 said person, firm, association, company or corporation in this state
18 may be made on the secretary of state of the state of Iowa, and when
19 so made, such service of notice or process of any kind shall be valid,
20 binding and effective for all purposes as if served upon said nonresi-
21 dent person, firm, association, company or corporation according to
22 the laws of this or any other state, and waiving all claims or right
23 to claim error by reason of such acknowledgment of service. Such
24 notice or process, with a copy thereof, shall be mailed to the secretary

25 of state of the state of Iowa at Des Moines, Iowa, in a registered
 26 letter addressed to him by his official title, and he shall immediately
 27 upon its receipt acknowledge service thereon on behalf of the non-
 28 resident person, firm, association, company or corporation to which
 29 the same is directed by writing thereon, giving the date thereof, and
 30 shall immediately return such notice or process in a registered letter
 31 to the clerk of the court in which the suit is pending, addressed to
 32 him by his official title, and shall also forthwith mail such copy, with
 33 a copy of his acknowledgment of service written thereon, in a regis-
 34 tered letter addressed to each person, firm, association or corporation
 35 who shall be named or designated as defendant in such written in-
 36 strument.

[S. S., '15, § 1920-u5.]

SEC. 5423. Examination by secretary of state — refusing or granting permit.

1 It shall be the duty of the secretary of state to examine the state-
 2 ments and documents so filed in his office and secure such further
 3 information as he deems necessary, if any, and if from such examina-
 4 tion of all papers and documents submitted to him and from such
 5 other information as he may obtain, he finds that the sale within this
 6 state of stocks, bonds or other securities by any such person, firm,
 7 company, association or corporation would work a fraud upon the
 8 purchasers thereof, then and in that event he shall refuse to grant
 9 such permit; otherwise he shall grant such permit.

[S. S., '15, § 1920-u6.]

SEC. 5424. Business plan not to be changed without consent of secretary of state—cancellation of permit.

1 Every person, firm, association, company or corporation having
 2 submitted to said secretary of state a detailed plan of its business,
 3 together with such other information required by section fifty-four
 4 hundred nineteen, and thereafter desiring to change its articles of
 5 association or incorporation or its proposed plan of business, or its
 6 proposed contract, the character of its securities or method of adver-
 7 tisement, shall, before such change is made, submit the same to the
 8 secretary of state of the state of Iowa, in writing, showing in full
 9 detail the new plan of transacting business, together with all changes
 10 made either in articles of association or corporation, by-laws, plan
 11 of business, proposed contract, or in the character of securities, and
 12 if the secretary of state after examination shall find that the proposed
 13 change will not work a fraud upon the purchasers of its stocks, bonds
 14 or other securities in this state, then he shall approve the same; other-
 15 wise he shall refuse to approve such change or amendment and require
 16 such a modification thereof as may be necessary to protect the people
 17 of this state against fraud, and if and in the event such person, firm,
 18 association, company or corporation submitting such proposed change
 19 shall refuse to so modify the plan of his business, including the char-
 20 acter of securities sold, as to conform to the requirements of the sec-
 21 retary of state and to the end that no fraud may be perpetrated upon
 22 the purchasers of the stocks, bonds or other securities sold in this
 23 state, then said secretary of state shall be required and he is hereby
 24 directed to cancel the permit of said person, firm, association, com-
 25 pany or corporation, and said person, firm, association, company or
 26 corporation shall be denied the right to transact business in this state,

27 unless and until said person, firm, association, company or corporation
28 shall so modify and change its business that the transaction of busi-
29 ness in this state will not work a fraud upon the purchasers thereof.

[S. S., '15, § 1920-u7.]

SEC. 5425. Annual financial statement of condition—inspection fee—how paid.

1 Every person, firm, association, company or corporation doing
2 business within this state pursuant to the provisions of this chapter
3 shall, on or before December thirty-first of each year, or at such time
4 as they make their annual statement to their directors, but not less
5 than once each year, file with the secretary of state a statement prop-
6 erly verified by the officers of said company, if a company or corpora-
7 tion, or by a member of a partnership, if a firm or copartnership, or
8 by the owner of said business, if the same is transacted by an indi-
9 vidual, which statement shall set forth its financial condition, the
10 amount of its assets and liabilities and such other information concern-
11 ing its financial affairs or its plan of business, including the char-
12 acter of securities sold, as the secretary of state may require in order
13 to determine whether said person, firm, association, company or corpora-
14 tion is doing a legitimate and honest business within this state.
15 Said statement shall be for the information of the secretary of state,
16 the attorney general or any public officer who may be interested in
17 an official way in receiving said information and shall not be open
18 to public inspection, nor shall it be published or used for private pur-
19 poses, but may be used in an official, legitimate way if need be. Said
20 annual statement shall be accompanied by an annual inspection fee
21 of twenty dollars for the year next succeeding; provided, however,
22 that any person not desiring to pay the annual inspection fee of twenty
23 dollars may pay the inspection fee of one-tenth of one per cent on
24 the amount of securities proposed to be sold as provided under the
25 terms and conditions set forth in sections fifty-four hundred nineteen
26 and fifty-four hundred twenty.

[S. S., '15, § 1920-u8.]

SEC. 5426. Failure to file statement or pay fee—penalty.

1 Any person, firm, association, company or corporation failing to
2 file said statement for the preceding year, or failing to pay the inspec-
3 tion fee as provided by this chapter, shall, in addition to the criminal
4 punishment otherwise imposed in this chapter, be liable to a penalty
5 of ten dollars per day for each and every day which said person, firm,
6 association, company or corporation transacts business in this state
7 in violation of the provisions hereof. Said penalty may be collected
8 by a suit in the name of the state of Iowa upon the relation of the
9 attorney general, instituted in any court of competent jurisdiction,
10 and when collected shall be paid over to the secretary of state who
11 shall cover the same into the general revenues of the state.

[S. S., '15, § 1920-u9.]

SEC. 5427. Accounts—how kept—open to inspection and examination—fee.

1 The general accounts of every person, firm, association, company
2 or corporation doing business in this state pursuant to the provisions
3 of this chapter shall be kept in a businesslike and intelligent manner
4 and in sufficient detail that the secretary of state can ascertain at any

5 time upon inspection and examination its financial condition, and any
 6 person, firm, association, company or corporation engaged in the busi-
 7 ness of buying or selling stocks, bonds or other securities and subject
 8 to the provisions of this chapter, shall keep its books of account dur-
 9 ing business hours, except Sundays and legal holidays, open to its
 10 members, stockholders and investors and to the secretary of state or
 11 his duly authorized agents or representatives, and the said secretary
 12 of state shall have the right to make an examination and inspection
 13 of the books, accounts and financial condition of any such person,
 14 firm, association, company or corporation engaged in the business of
 15 dealing in stocks, bonds and other securities pursuant to the provisions
 16 of this chapter. The right, powers and privileges of the secretary of
 17 state in connection with such examination shall be the same as is now
 18 provided with reference to examination of state and savings banks,
 19 and such person, firm, association, company or corporation so exam-
 20 ined shall pay a fee to the secretary of state for each of such examina-
 21 tions not to exceed six dollars per day, or fraction thereof, spent by
 22 said secretary of state or his duly authorized representative while
 23 absent from the seat of government in making such examination, and
 24 shall further pay the actual traveling and hotel expenses of said exam-
 25 iner. Upon failure or refusal of any person, firm, association, com-
 26 pany or corporation to pay the fees herein required, upon the demand
 27 of the secretary of state or his duly authorized representative, the
 28 secretary of state may suspend its right to sell, offer or negotiate for
 29 sale any of its stocks, bonds or other securities in this state until such
 30 fee or fees are paid.

[S. S., '15, § 1920-u10.]

SEC. 5428. Fraud appearing—cancellation of permit.

1 If from such examination it shall appear that said person, firm,
 2 association, company or corporation is doing an illegitimate and
 3 fraudulent business in this state, that its plan of business is fraudu-
 4 lent or that the sale of its stocks, bonds, or other securities would work
 5 a fraud upon the purchasers in this state, said secretary of state shall
 6 have the right to cancel the certificate of such person, firm, association,
 7 company or corporation, and deny it the right to further transact busi-
 8 ness in this state until it changes its plan of business, including the
 9 character of its securities, so that the citizens and residents of this
 10 state or others dealing with it therein shall not be defrauded thereby.

[S. S., '15, § 1920-u11.]

**SEC. 5429. Fees—account kept—clerks appointed—salaries—ver-
 ification of claims.**

1 All fees herein provided for shall be collected by the secretary of
 2 state and by him covered into the state treasury on the first secular
 3 day of each month; and the secretary of state shall keep a record of
 4 the receipts and expenditures incurred in carrying out the provisions
 5 of this chapter. The secretary of state is hereby authorized to ap-
 6 point such clerks and deputies as the executive council deem actually
 7 necessary to carry this chapter into full force and effect. The com-
 8 pensation of such clerks and deputies shall be fixed by the executive
 9 council. Before the salary and expenses of any such clerk or deputy
 10 shall be paid, a detailed and itemized statement of account shall be
 11 prepared by such claimant and duly verified, which verification shall
 12 aver that such claim is just, reasonable and wholly unpaid and that

13 the amount therein stated is due such claimant. When said claim
 14 has been approved by the secretary of state and audited and allowed
 15 by the state board of audit, it shall be paid by warrant drawn by the
 16 auditor of state upon the state treasurer, and there is hereby appro-
 17 priated out of any money in the state treasury, not otherwise appro-
 18 priated, an amount sufficient to meet said salaries and expenses.

[S. S., '15, § 1920-u12.]

SEC. 5430. Stocks held by bona fide owners—authorization by secretary of state for sale of same—registration of securities—bond—inspection fee.

1 Nothing in this chapter shall be construed as to prohibit a bona
 2 fide owner of any stocks, bonds or other securities from selling, ex-
 3 changing or otherwise disposing of the same when not made in the
 4 course of continuing or repeated transactions of a similar nature, or
 5 when said securities, including negotiable promissory notes, have been
 6 issued or given for goods, wares or merchandise purchased or dealt
 7 in by the issuer in the ordinary course of his business, or when sold,
 8 exchanged or otherwise disposed of to a bank subject to governmental
 9 supervision, trust company, insurance company, building and loan
 10 association, or to a person who has duly received a permit to transact
 11 business within this state pursuant to the provisions of this chapter,
 12 provided that the same are sold by said owner in good faith and not
 13 for the purpose of evading the provisions of this chapter; and the
 14 secretary of state may authorize in writing any such bona fide owner
 15 of any stocks, bonds, or other securities to sell in this state any other
 16 securities not included in the provisions set forth in the preceding
 17 portion of this section; provided said securities were acquired and
 18 held by the owner in good faith and not for the purpose of evading
 19 the provisions of this chapter; but before such authorization shall
 20 issue for the sale of such additional securities, the owner of such se-
 21 curities shall register in a book kept for such purpose by the secretary
 22 of state a list of the stocks, bonds and other securities desired to be
 23 sold giving the character of the security, the par value thereof, the
 24 price at which such securities are to be sold, the date of issue and any
 25 other data concerning the same which the secretary of state may
 26 require in order to determine whether or not the sale thereof will
 27 work a fraud upon the purchaser; and provided further that the said
 28 secretary of state may, if he have reason to believe said securities
 29 will work a fraud upon the purchasers thereof, require the owner to
 30 file in his office a bond in the penal sum of not to exceed five thousand
 31 dollars running to the state of Iowa, conditioned that said owner
 32 thereof will not in the sale and disposition of said securities, know-
 33 ingly make any false or fraudulent representations concerning the
 34 nature and character of such securities. Such owner shall pay to the
 35 secretary of state an inspection fee as is provided for in section fifty-
 36 four hundred twenty.

[S. S., '15, § 1920-u13.]

SEC. 5431. Permit — form of — prominence given to statement that secretary does not recommend securities.

1 Each and every certificate granted by the secretary of state under
 2 the provisions of this chapter shall be in substantially the following
 3 form:

4 "This is to certify that the has
5 this date been given permission to sell \$..... of its
6 within the state of Iowa.

7 stocks, bonds or securities

8 THE SECRETARY OF STATE DOES NOT RECOMMEND THE
9 PURCHASE OF THIS OR ANY OTHER SECURITY.

10 Dated at Des Moines, Iowa, this day of
11

12 IN WITNESS WHEREOF, I have hereunto affixed the corporate
13 seal of the Secretary of State.

14
15 (SEAL)

.....
Secretary of State."

16 The words "THE SECRETARY OF STATE DOES NOT REC-
17 OMMEND THE PURCHASE OF THIS OR ANY OTHER SECU-
18 RITY" shall be printed in larger, bolder faced type than the other part
19 of the said certificate.

20 Any person, firm, association, company or corporation that makes
21 any reference in any statement, advertisement or printed matter to
22 the fact that a permit has been received from the secretary of state
23 to transact business in this state shall, with equal prominence, state
24 in the same circular, advertisement or printed matter that "THE SEC-
25 RETARY OF STATE DOES NOT RECOMMEND THE PURCHASE
26 OF THE SECURITY OF THIS OR ANY OTHER COMPANY."

[S. S., '15, § 1920-u14.]

**SEC. 5432. Agent to register and file appointment with secre-
tary—permit issued—fee—expiration of permit—cancellation.**

1 Every person, firm, association, company or corporation that has
2 received a permit to transact business in this state and desires to
3 appoint agents or representatives shall cause said agent or representa-
4 tive to register with the secretary of state and file with said officer
5 his written appointment and authority to represent said person, firm,
6 association, company or corporation as its agent in this state and
7 receive from said secretary a certificate showing that the principal
8 represented by said agent or representative has complied with the
9 provisions of this chapter and received a certificate to do business.
10 All such certificates shall be subject to revocation by the secretary of
11 state if upon examination or investigation the secretary finds that the
12 agent is misrepresenting the kind and character of securities, the na-
13 ture of the business or is thereby, or otherwise defrauding the people
14 of this state, in the sale of stocks, bonds or other securities. All such
15 certificates, unless sooner revoked, shall expire on the first day of July
16 of each year. A charge of one dollar shall be made by the secretary
17 of state for each certificate issued to such agent.

[S. S., '15, § 1920-u15.]

**SEC. 5433. Broker's annual permit—list of stocks filed—cancel-
lation of permit—investigation of securities—fee—bond—for-
feiture—amount of liability.**

1 The secretary of state may issue to any broker, or dealer in
2 stocks, bonds or other securities, an annual permit, which permit shall
3 entitle such stockbroker or dealer to sell, offer or negotiate for sale
4 any stocks, bonds or other securities within this state, except those
5 stocks, bonds or other securities, the sale of which would work a fraud
6 upon the purchaser; provided, however, that such stockbroker or

7 dealer shall file on the first and fifteenth day of each month a detailed
8 list of the stocks, bonds or other securities on hand for sale or listed
9 for sale by him, and also those sold by him during the preceding one-
10 half month and not previously reported; provided further, that the
11 secretary of state shall refuse to grant a permit, or shall cancel a per-
12 mit previously granted, to any such stockbroker or dealer when he
13 finds by investigation or otherwise that such stockbroker or dealer
14 is selling or offering for sale within this state any stocks, bonds or
15 other securities which would work a fraud upon the purchasers there-
16 of. In order that the secretary of state may determine the nature
17 and kind of securities to be sold and the character of the applicant,
18 he is authorized to make investigation as otherwise provided herein,
19 the expenses incurred thereby to be paid as provided in section fifty-
20 four hundred twenty-seven. The applicant shall also pay a fee of
21 fifty dollars to the secretary of state for each of said annual permits,
22 which permit, unless sooner revoked by the secretary of state, shall
23 expire on the first secular day of July of each year. If said permit
24 is issued after the first of January of any year, the fee shall be reduced
25 one-half. Before being granted such permit by the secretary of state
26 the stockbroker or dealer shall give a bond in the penal sum of five
27 thousand dollars to the state of Iowa, conditioned upon a strict com-
28 pliance with this chapter which bond shall be approved by the execu-
29 tive council and filed with the secretary of state. Said bond shall be
30 forfeited by a violation of the terms or conditions of this chapter, or
31 by a conviction for such violation, and the attorney general of this
32 state may institute suit in the name of the state of Iowa in any court
33 of competent jurisdiction for a forfeiture thereof at any time within
34 two years from the time the cause of action accrues; provided that
35 if it appears such violation was not intentional and no fraud was
36 shown then only so much of said bond shall be forfeited as shall be
37 equal to the amount of damages sustained.

[S. S., '15, § 1920-u16.]

SEC. 5434. Denial of permit—appeals allowed.

1 Any person, firm, association, company or corporation that is de-
2 nied a certificate to transact business in this state, or whose certificate
3 is canceled pursuant to the provisions of this chapter shall have the
4 right to appeal to the executive council of the state of Iowa from any
5 decision of the secretary of state affecting a substantial right under
6 the provisions of this chapter within twenty days from the entry or
7 the pronouncement of the decision of said secretary by serving notice
8 of such appeal upon the secretary of the executive council. Such
9 appeal shall be heard and determined by the executive council under
10 such rules and regulations as they may prescribe giving full notice
11 and opportunity to be heard by all persons interested therein.

12 Any person, firm, association, company or corporation perfecting
13 said appeal to said executive council, may upon receiving an adverse
14 decision by said executive council, appeal to the district court at the
15 seat of government, by the service of a written notice of appeal on the
16 attorney general, and thereupon the cause may be docketed and the
17 case may be tried in the district court as a special equitable action
18 by the filing of such transcript and such pleadings as the court may
19 prescribe in order that an intelligent hearing may be had and a just
20 decision rendered thereon free from any technical objections or irregu-
21 larities in the matter of procedure or the introduction of evidence.

[S. S., '15, § 1920-u17.]

SEC. 5435. Supersedeas allowed—bond—conditions.

1 A supersedeas may be had by any person denied a permit to do
2 business in this state and who has thereafter perfected an appeal by
3 the execution and filing of a penal bond to the state of Iowa for the
4 use and benefit of the state of Iowa for any costs or damages incurred
5 by reason of said appeal and for the use and benefit of any purchaser
6 of any stocks, bonds or other securities from the appellant during the
7 pendency of said appeal; said bond shall be in the sum fixed by
8 the judge of the district court to which said appeal is taken and ap-
9 proved by the clerk of said court, and shall provide that if the order
10 appealed from is affirmed, the party appealing shall pay to the state
11 all costs and damages by reason of said appeal, and shall pay to the
12 secretary of state for the use and benefit of any purchaser who has
13 suffered damage by reason of the purchase of any security during the
14 pendency of such appeal the amount fixed in said bond or so much
15 thereof as may be necessary. It shall be the duty of the clerk of the
16 district court to transmit a certified copy of said bond to the secre-
17 tary of state of the state of Iowa immediately upon the filing and
18 approval of said bond in the office of said clerk.

[S. S., '15, § 1920-u18.]

**SEC. 5436. False statements, entries and representations pro-
hibited—penalty.**

1 Any person, firm, association, company or corporation subject to
2 the provisions of this chapter that shall subscribe or cause to be made
3 any false statement or false entry in any book required to be kept or
4 relating to any business to be transacted in this state pursuant to the
5 provisions of this chapter, or make or subscribe to any false statement,
6 exhibit or paper filed with the secretary of state of the state of Iowa,
7 or shall make to the secretary of state, his deputy, agent or repre-
8 sentative any false or fraudulent statement concerning the proposed
9 plan of business to be transacted, or the nature, value or character
10 of securities to be sold in this state, or shall make to said secretary
11 of state, his deputy, agent or representative any false statement as to
12 the financial condition of such person, firm, association, company or
13 corporation shall be deemed guilty of a felony, and upon conviction
14 shall be fined in the sum of not more than five thousand dollars, or
15 imprisoned not to exceed five years in the penitentiary or reformatory,
16 or by both such fine and imprisonment in the discretion of the court.

[S. S., '15, § 1920-u19.]

**SEC. 5437. Sales without paying inspection fee—general viola-
tions—penalties.**

1 Any person, firm, association, company or corporation subject to
2 the provisions of this chapter that shall sell or negotiate for the sale
3 of any stocks, bonds or other securities within this state without first
4 paying the inspection fee and otherwise complying with the provisions
5 of this chapter, or that continues to sell, offers for sale, or negotiates
6 for the sale of stocks, bonds or other securities in this state after his
7 certificate or permit to do business has been canceled by the secretary
8 of state, unless a supersedeas bond has been filed as and according
9 to the provisions of section fifty-four hundred thirty-five, or that shall
10 otherwise neglect or refuse to comply with any of the provisions of
11 this chapter, shall be guilty of a misdemeanor and upon conviction
12 thereof shall be fined not to exceed five thousand dollars or by impris-

13 onment in the county jail not to exceed six months or by both such
14 fine and imprisonment.

[S. S., '15, § 1920-u20.]

SEC. 5438. False representations punished—penalty.

1 Any person, firm, association, company or corporation, or any
2 agent or representative thereof, whether subject to the provisions of
3 this chapter or otherwise, that sells, offers for sale or negotiates for
4 the sale of any stocks, bonds, or other securities within this state,
5 and knowingly makes any false representations or statement as to the
6 nature, character or value of such security, or the amount of the earn-
7 ing power of such security whether in the nature of interest, dividends
8 or otherwise, or knowingly makes any false or fraudulent representa-
9 tion concerning the financial condition, the assets or the property of
10 the company, firm or corporation issuing said security, or knowingly
11 makes any other false or fraudulent representation to any person for
12 the purpose of inducing said person to purchase said security, or con-
13 ceals any material fact in the advertisement or prospectus of such
14 security for the purpose of misleading or defrauding the purchaser,
15 shall be guilty of a misdemeanor and upon conviction be punished by
16 a fine of not more than two thousand dollars or by imprisonment of
17 not to exceed six months in the county jail, or by both such fine and
18 imprisonment.

[S. S., '15, § 1920-u21.]

SEC. 5439. If declared unconstitutional in part—effect.

1 Should any section of this chapter or any part thereof be held by
2 any court of competent jurisdiction to be unconstitutional, such de-
3 cision shall affect the specific provision only which it is held offends
4 against the constitution and said unconstitutional part shall not be
5 held to be an inducement to the passage of any other section or pro-
6 vision of this chapter.

[S. S., '15, § 1920-u22.]

CHAPTER 6.

CORPORATIONS NOT FOR PECUNIARY PROFIT.

SECTION 5440. Organization—purposes—name.

1 Any three or more persons of full age, a majority of whom shall
2 be citizens of the state, may incorporate themselves for the establish-
3 ment of churches, colleges, seminaries, lyceums, libraries, fraternal
4 lodges or societies, temperance societies, trades' unions or other labor
5 organizations, commercial clubs, associations of business men, agri-
6 cultural societies, farmers' granges, or organizations of a benevolent,
7 charitable, scientific, political, athletic, military or religious charac-
8 ter, by signing, acknowledging, and filing for record with the county
9 recorder of the county where the principal place of business is to be
10 located, articles of incorporation, stating the name by which the cor-
11 poration or association shall be known, which shall not be the same
12 as that of any such organization previously existing, its business or

13 objects, the number of trustees, directors, managers or other officers
14 to conduct the same, and the names thereof for the first year.

[C., '51, §§ 708, 709; R., '60, §§ 1187, 1188, 1190, 1191, 1193,
1197; C., '73, §§ 1091, 1092, 1095, 1100; C., '97, § 1642;
37 G. A., ch. 143, § 1.]

SEC. 5441. Foreign nonpecuniary corporations—permits—fee.

1 Any corporation organized under the laws of another state, or of
2 any territory of the United States, for any of the purposes mentioned
3 in the preceding section, desiring a permit to do business in the state
4 of Iowa, shall file with the secretary of state a certified copy of its
5 articles of incorporation duly attested by the secretary of state, or
6 other state officer in whose office the original articles were filed, ac-
7 companied by a resolution of its board of directors or stockholders
8 authorizing the filing thereof, and also authorizing service of process
9 to be made upon any of its officers or agents in this state engaged in
10 transacting its business, and requesting the issuance to such corpora-
11 tion of a permit to transact business in the state. If it appears that
12 said foreign corporation is, in fact, organized not for pecuniary profit,
13 the secretary of state shall, upon the payment of ten cents per hun-
14 dred words, record said articles of incorporation and issue a permit
15 to such corporation to do business in the state of Iowa, for which per-
16 mit the secretary of state shall charge, and receive, a fee of five dol-
17 lars. Upon the issuance of such permit the corporation shall be en-
18 titled to carry on its business in the state of Iowa.

[37 G. A., ch. 354, § 1.]

SEC. 5442. Annual reports.

1 Any corporation, organized as provided in the preceding sec-
2 tion shall, between the first day of July and the first day of August
3 of each year, make an annual report to the secretary of state, said re-
4 port to be in such form as he may prescribe and upon a blank to be
5 prepared by him for that purpose.

[37 G. A., ch. 354, § 3.]

SEC. 5443. Forfeiture.

1 Should any corporation referred to in section fifty-four hundred
2 forty-one fail to comply with the provisions of this chapter, notice of
3 such failure shall be called to its attention by the secretary of state by
4 registered letter and, if such delinquent corporation fails or neglects
5 to comply with this chapter within sixty days from the receipt of such
6 letter from the secretary of state, then and in such case said corpora-
7 tion shall forfeit its right to do business in this state.

[37 G. A., ch. 354, § 4.]

SEC. 5444. Change of name or amendments—how effected by corporations heretofore organized.

1 Any corporation heretofore organized under this chapter, for the
2 maintenance of a hospital or home for destitute or unfortunate women
3 or orphaned or abandoned children, and whose membership is made
4 to depend on the payment of dues and is indefinite or uncertain for
5 any reason, and which has not issued certificates of membership, may
6 at any time change the name of such corporation or amend its articles
7 of incorporation by a vote of at least three-fourths of its governing

8 board of directors or trustees at a meeting called and held for that
 9 purpose, after giving four weeks' notice thereof by publication, made
 10 in the same manner as original notices, of the time, place and purpose
 11 of such meeting.

[S., '13, § 1642-a.]

SEC. 5445. Powers—duration—property of extinct religious societies.

1 Upon filing such articles, the persons signing and acknowledging
 2 the same, and their associates and successors, shall become a body cor-
 3 porate, with the name therein stated, and may sue and be sued. It
 4 may have a corporate seal, alterable at its pleasure, and may take by
 5 gift, purchase, devise or bequest real and personal property for pur-
 6 poses appropriate to its creation, and may make by-laws. Corpora-
 7 tions so organized shall endure for fifty years, unless a shorter period
 8 is fixed in the articles, or they are sooner dissolved by three-fourths
 9 vote of all the members thereof, or by act of the general assembly, or
 10 by operation of law. State, diocesan or district religious organiza-
 11 tions incorporated under this chapter, or those existing by voluntary
 12 association and having permanent funds, shall have the power to adopt
 13 and enforce rules as to the property of extinct local societies which at
 14 any time have been or which may be connected therewith and defin-
 15 ing when such a local society shall be considered extinct, and to take
 16 charge of and to control the real and personal property of such ex-
 17 tinct society.

[R., '60, §§ 1185, 1194, 1198; C., '73, §§ 1070, 1096, 1101;
 C., '97, § 1643; S., '13, § 1643.]

SEC. 5446. For agricultural, horticultural, and cemetery purposes.

1 Corporations organized for agricultural or horticultural pur-
 2 poses, and cemetery associations, shall not own to exceed nine sections
 3 of land, and the improvements and necessary personal property for
 4 the proper management thereof; and the articles of incorporation shall
 5 provide a mode by which any member may at any time withdraw
 6 therefrom, and also the mode of determining the amount to be re-
 7 ceived by such member upon withdrawal, and for the payment thereof
 8 to him, subject to the right of creditors of the corporation; and their
 9 duration shall be without limit, unless terminated by act of the general
 10 assembly.

[R., '60, § 1185; C., '73, § 1070; C., '97, § 1644.]

SEC. 5447. Dividend—local religious societies—when deemed extinct.

1 No dividend nor distribution of property among the stockholders
 2 shall be made until the dissolution of the corporation. When a local
 3 religious society shall have ceased to support a minister or leader or
 4 regular services and work for two years or more, or as defined by the
 5 rules of any incorporated state, diocesan or district society with which
 6 it has been connected, it shall be deemed extinct, and its property may
 7 be taken charge of and controlled by such state or similar society of
 8 that denomination with which it had been connected.

[C., '51, § 710; R., '60, § 1188; C., '73, § 1093; C., '97, § 1645;
 S., '13, § 1645.]

SEC. 5448. Degrees conferred.

1 Corporations of an academical character may confer the degrees
2 usually conferred by such institutions.

[C., '51, § 711; R., '60, § 1189; C., '73, § 1094; C., '97, § 1646.]

SEC. 5449. Trustees or managers.

1 Such corporation may, annually or oftener, elect from its mem-
2 bers its trustees, directors or managers, at such time and place and
3 in such manner as may be specified in its by-laws, who shall have the
4 control and management of its affairs and funds, a majority of whom
5 shall constitute a quorum for the transaction of business. When a
6 vacancy occurs in its governing body, it shall be filled in such manner
7 as shall be provided by the by-laws. When the corporation consists
8 of the trustees, directors or managers of any benevolent, charitable,
9 scientific or religious institution which is or may be established in the
10 state, and which is or may be under the patronage, control, direction
11 or supervision of any synod, conference, association or other ecclesi-
12 astical body in any state established agreeably to the laws thereof,
13 such ecclesiastical body may nominate and appoint such trustees, di-
14 rectors or managers, according to the usages of the appointing body,
15 and may fill any vacancy which may occur among them; and when
16 any such institution may be under the patronage, control, direction
17 or supervision of two or more of such synods, conferences, associa-
18 tions or other ecclesiastical bodies, they may severally nominate and
19 appoint such proportion of such trustees, directors or managers as
20 shall be agreed upon by the bodies immediately concerned, and any
21 vacancy occurring among such appointees last named shall be filled by
22 the synod, conference, association or body having appointed the last
23 incumbent.

[R., '60, § 1195; C., '73, § 1097; C., '97, § 1647.]

SEC. 5450. Academical—meetings.

1 Any corporation of an academical character, the membership of
2 which shall consist of lay members and pastors of churches, delegates
3 to any synod, conference or council holding its annual meetings al-
4 ternately in this and one or more adjoining states, may hold its annual
5 meetings for the elections of officers and the transaction of business
6 in any adjoining state, at the place where such synod, conference or
7 council holds its annual meeting; and the election and business trans-
8 acted shall be of the same effect as if held and transacted at its place
9 of business in this state.

[C., '73, § 1098; C., '97, § 1648.]

SEC. 5451. Election of officers.

1 If an election of trustees, directors or managers shall not be
2 made on the day designated by the by-laws, the society for that cause
3 shall not be dissolved, but such election may take place on any other
4 day directed in the by-laws.

[R., '60, § 1196; C., '73, § 1099; C., '97, § 1649.]

SEC. 5452. Reincorporation—cemetery associations.

1 The trustees, directors, or members of any corporation organized
2 under this chapter may reincorporate the same, and all the property
3 and rights thereof shall vest in the corporation as reincorporated.

4 The trustees acting at the time of reincorporation of any cemetery
 5 association organized as a corporation under the laws of the state of
 6 Iowa, whose incorporation may have expired by operation of law or
 7 by the terms of its articles of incorporation, may reincorporate the
 8 same and all of the property and rights thereof shall vest in the cor-
 9 poration as reincorporated, for the use and benefit of all of the share-
 10 holders in the original corporation.

[R., '60, § 1199; C., '73, § 1102; C., '97, § 1650; S., '13,
 § 1650.]

SEC. 5453. Changing name.

1 Any corporation organized under this chapter may change its
 2 corporate name or amend its articles of incorporation by a vote of a
 3 majority of the members, in such manner as may be provided by its
 4 articles. If the trustees, directors or managers of such corporation
 5 are appointed by two or more synods, conferences, associations or
 6 other ecclesiastical bodies, such amendment or change shall not be
 7 made without the concurrence of a majority of those appointed by
 8 each such body.

[C., '97, § 1651.]

SEC. 5454. Record—effect.

1 The change or amendment provided for in the preceding section
 2 shall be recorded as the original articles are recorded. From the date
 3 of filing such change or amendment for record, the provisions of the
 4 previous section having been complied with, the change or amend-
 5 ment shall take effect as a part of the original articles, and the cor-
 6 poration thus constituted shall have the same rights, powers and fran-
 7 chises, be entitled to the same immunities, and liable upon all contracts
 8 to the same extent, as before such change or amendment.

[C., '97, § 1652.]

SEC. 5455. Endowment fund—representative bodies of religious societies may create board of trustees.

1 Any presbytery, synod, conference, state or diocesan convention,
 2 or other state or district representative body of any religious denom-
 3 ination in this state, now or hereafter incorporated under this chap-
 4 ter, or any assembly, synod, conference, convention or other general
 5 ecclesiastical body of any religious denomination in the United States
 6 having local societies in this state and wherever incorporated, may
 7 in its articles of incorporation or by amendment thereto create a
 8 board, committee or commission of three or more members for any
 9 endowment fund or other fund or property of the denomination repre-
 10 sented by such body, and at any regular meeting of such presbytery,
 11 synod, conference, state or diocesan convention or other representa-
 12 tive assembly of such denomination in this state, or of such assembly,
 13 synod, conference, convention or other general ecclesiastical body in
 14 the United States, may elect not less than three members of such de-
 15 nomination, one of whom shall be a resident freeholder in this state,
 16 to serve as trustees of such fund or property; and a copy of such ar-
 17 ticles of incorporation and amendment, duly certified to by the officer
 18 with whom the same have been filed for record, shall be evidence in
 19 the courts of this state of the existence of such trust and of the powers
 20 of such trustees.

[S., '13, § 1652-a.]

SEC. 5456. Powers of trustees.

1 Such trustees, if chosen to take charge of any endowment or other
2 like fund, may invest, manage and dispose of the same in accordance
3 with the purpose for which it was created, subject to such regulations
4 as the body by which they were elected may from time to time pre-
5 scribe; and shall have power to make contracts regarding, and to col-
6 lect and sue for, and in all ways to control and protect, any property
7 belonging or which should belong to any such funds.

[S., '13, § 1652-b.]

SEC. 5457. Property of extinct societies controlled by trustees.

1 When any local religious society shall have become extinct, such
2 trustees of the denomination with which it shall have been at any
3 time connected shall take charge of its property, whether real or per-
4 sonal, and control, dispose of and use the same in trust, as part of the
5 endowment or other like funds of such denomination within the ter-
6 ritorial limits represented by such trustees and the corporation by
7 which they were elected and especially for the work of such denomina-
8 tion at the place where such extinct local society shall have been situ-
9 ated. A transfer of such property by resolution or act of the remain-
10 ing member or members, representative or representatives, of such
11 extinct local society to such trustees shall operate to pass complete
12 title. If on demand therefor there is a failure or refusal to transfer
13 such property to such trustees, or if such trustees think proper so to
14 do, they may commence action in equity in the district court of the
15 county where such extinct local society was situated, making parties
16 defendant thereto all persons known to have any interest in or claim
17 upon such property; notice shall be given as in other equitable ac-
18 tions, and said court shall have jurisdiction to enter a decree whereby
19 the title to all the property of such extinct society shall be transferred
20 to such trustees, or for the sale thereof and transfer of the proceeds
21 of such sale to such trustees. Such decree or sale thereunder shall
22 pass good title to such property. Provisions shall be made for the
23 protection of all having claims against such local society or its
24 property.

[S., '13, § 1652-c.]

SEC. 5458. Property held in trust—use of principal.

1 The property of any such extinct religious society shall be held
2 and disposed of by such trustees in trust for the work of the denom-
3 ination in the territorial limits represented by such trustees, and
4 especially in trust for such work at the place where such extinct so-
5 ciety was situated or its immediate vicinity within the judgment of
6 the religious body by which such trustees were elected. Only income
7 therefrom shall be used for the general work of such denomination
8 in such territorial limits, but the principal shall be kept as a perma-
9 nent fund for not less than five years, except that it may be used in the
10 locality where such extinct local society was situated or its immediate
11 vicinity if thought best by such body. No local society of such de-
12 nomination at such place shall be allowed to demand the use of such
13 principal for its benefit until it has been recognized and approved by
14 and has complied with the reasonable requirements of the body so
15 electing such trustees. If the principal or income in the hands of such
16 trustees is not used in the locality where the extinct local society was
17 situated within the term of five years from the time of the sale or dis-

18 position of its property, then the said principal and income, if any,
19 may be used for building or improving other property of the denom-
20 ination within the territorial limits in which such extinct society
21 was located.

[S., '13, § 1652-d; 38 G. A., ch. 102, § 1.]

SEC. 5459. Existing contract and property rights not affected.

1 Existing contract and property rights arising under the organ-
2 ization, rules, laws or canons heretofore adopted by any corporation
3 or organization of a religious character, shall not be affected by the
4 provisions of sections fifty-four hundred forty-five, fifty-four hundred
5 forty-seven, fifty-four hundred fifty-five, fifty-four hundred fifty-six,
6 fifty-four hundred fifty-seven, fifty-four hundred fifty-eight, except
7 by consent of the interested parties.

[S., '13, § 1652-e.]

TITLE XVIII.

INSURANCE.

CHAPTER 1.

INSURANCE DEPARTMENT.

SECTION 5460. Appointment by governor—confirmation by senate—term—bond—compensation.

1 There is hereby created and established a department to be known
 2 as the insurance department of Iowa. The chief officer of said de-
 3 partment shall be styled "commissioner of insurance." On or before
 4 the first day of February, nineteen hundred fifteen, the governor shall
 5 nominate, and with the consent of two-thirds of the members of the
 6 senate in executive session, appoint a person for commissioner, who
 7 shall be selected solely with regard to his qualifications and fitness to
 8 discharge the duties of this position. No nomination shall be con-
 9 sidered by the senate until the same shall have been referred to a com-
 10 mittee of five, not more than three of whom shall belong to the same
 11 political party, to be appointed by the president of the senate without
 12 formality of a motion, which committee shall report to the senate in
 13 executive session, which report shall be made at any time when called
 14 for by the senate. The consideration of nominations by the senate
 15 shall not be had on the same legislative day that the nominations are
 16 so referred. Subsequent appointments shall be made as above pro-
 17 vided and, except to fill vacancies, shall be for a period of four years.
 18 He shall be subject to removal only under and according to the pro-
 19 visions of chapter twenty-one, title four. The governor shall fill as in
 20 the first instance any vacancy which may arise in this office. Before
 21 entering upon the discharge of the duties of his office, the commis-
 22 sioner of insurance shall give a bond in the penal sum of twenty-
 23 five thousand dollars, conditioned as provided for in section six hun-
 24 dred twelve, the same to be approved by the executive council and
 25 filed in the office of the secretary of state. He shall devote his entire
 26 time to the duties of his office and shall receive an annual salary of
 27 three thousand dollars.

[S., '13, § 1683-r.]

SEC. 5461. Office—equipment and supplies.

1 The executive council shall provide the insurance department of
 2 Iowa with suitable quarters at the seat of government and shall fur-
 3 nish said department with furniture, books, supplies, printing and
 4 stationery necessary to carry out the provisions of this chapter.

[S., '13, § 1683-r1.]

SEC. 5462. Deputy — bond — examiners — assistants — clerks — compensation.

1 The commissioner of insurance is hereby directed to appoint a
 2 deputy commissioner to assist him in his work, who shall serve dur-

3 ing the pleasure of the commissioner of insurance and receive an an-
 4 nual salary of eighteen hundred dollars. Before entering upon the
 5 duties of his office, the deputy commissioner shall give a bond in the
 6 penal sum of ten thousand dollars conditioned as provided in section
 7 six hundred twelve, the same to be approved by the executive council
 8 and filed with the secretary of state. The commissioner of insur-
 9 ance is also empowered and directed to appoint two insurance exam-
 10 iners and the necessary assistant examiners, all as referred to and
 11 provided for in section fifty-four hundred seventy; also a security
 12 clerk with an annual salary of sixteen hundred dollars; a fee clerk
 13 with an annual salary of fourteen hundred dollars; a general insur-
 14 ance clerk with an annual salary of twelve hundred dollars; two ste-
 15 nographers with an annual salary of nine hundred dollars each; and
 16 such other clerks and assistants as shall be needed in the performance
 17 of the duties of his office; and he may contract such expenses as may
 18 be necessary in the performance of his official duties, including all
 19 actual and necessary expenses incurred in attending meetings of the
 20 insurance commissioners and such other expense as shall be approved
 21 by the executive council; but the total amount to be so expended for
 22 such contingent expenses shall not exceed the sum of ten hundred
 23 dollars annually; and there is hereby appropriated out of any funds
 24 in the state treasury not otherwise appropriated two thousand dollars
 25 annually or so much thereof as may be necessary to meet the expenses
 26 thus incurred. All salaries herein provided for shall be paid in the
 27 same manner as are the salaries of other state officers out of the gen-
 28 eral revenues of the state and on the first day of each month all such
 29 salaries and other expenses as are indicated herein shall be paid by
 30 warrant drawn by the auditor of state upon the treasurer of state.

[S., '13, § 1683-r2.]

SEC. 5463. Powers and duties of commissioner.

1 The commissioner of insurance shall be the head of the insurance
 2 department of Iowa and shall have general control, supervision and
 3 direction of all insurance business transacted in the state of Iowa and
 4 shall be charged with the execution of the laws of this state relating
 5 to insurance.

[S., '13, § 1683-r3.]

SEC. 5464. Documents and records—auditor shall deliver.

1 All books, records, files, documents, reports, and securities and
 2 all papers of every kind and character relating to the business of in-
 3 surance shall be delivered to and filed or deposited with the said com-
 4 missioner of insurance.

[S., '13, § 1683-r4.]

SEC. 5465. Report of commissioner of insurance.

1 Before the first day of May the commissioner of insurance shall
 2 make an annual report to the governor of the general conduct and
 3 condition of the life insurance companies doing business in the state,
 4 and include therein an aggregate of the estimated value of all out-
 5 standing policies in each of the companies and in connection there-
 6 with prepare a separate abstract thereof as to each company, and of
 7 all the returns and statements made to him by them.

[C., '73, § 1176; C., '97, § 1781.]

SEC. 5466. Report of commissioner of insurance.

1 He shall cause the information contained in the statements re-
2 quired of the companies, other than life insurance, organized or doing
3 business in the state to be arranged in detail, and prepare the same
4 for printing, which report shall be made to the governor on or before
5 the first day of May of each year.

[C., '73, § 1158; C., '97, § 1720; S., '13, § 1720-a.]

SEC. 5467. Fees.

1 All fees and charges of every character whatsoever which are
2 now required by law to be paid to the auditor of state by insurance
3 companies and associations shall from and after July fourth, nineteen
4 hundred fourteen, be payable to the insurance commissioner whose
5 duty it shall be to account for and pay over the same to the treasurer
6 of state at the time and in the manner as now provided for by law for
7 the auditor of state.

[S., '13, § 1683-r5.]

SEC. 5468. Examination authorized—to be made biennially.

1 The commissioner of insurance may, at any time he may deem
2 it advisable, make an examination of or inquire into the affairs of any
3 insurance company authorized or seeking to be authorized to transact
4 business within this state, provided that such examination shall not
5 be less frequent than once during each biennial period.

[S., '13, § 1821-a.]

SEC. 5469. Companies to assist—administer oaths.

1 When any company is being examined, the officers, employees or
2 agents thereof shall produce for inspection all books, documents, pa-
3 pers or other information concerning the affairs of such company,
4 and shall otherwise assist in such examination so far as they can do.
5 The commissioner of insurance, or his legally authorized representa-
6 tive in charge of the examination, shall have authority to administer
7 oaths and take testimony bearing upon the affairs of any company
8 under examination.

[S., '13, § 1821-b.]

**SEC. 5470. Examiner — assistants — compensation—expenses —
how paid.**

1 The commissioner of insurance is hereby authorized to appoint
2 two insurance examiners, one of whom shall be an experienced actu-
3 ary who shall receive for his services a salary of three thousand dol-
4 lars per year, the other of whom shall be an experienced and compe-
5 tent fire insurance accountant, who shall receive for his services a
6 salary of two thousand dollars per year, and who, while conducting
7 examinations, shall possess all the powers conferred upon the commis-
8 sioner of insurance for such purposes. Said examiners shall give bond
9 to the state conditioned upon the faithful performance of their duties,
10 in the sum of five thousand dollars, which bond shall be filed with and
11 approved by said commissioner. The entire time of the examiners
12 shall be under the control of the said commissioner, and shall be em-
13 ployed as he may direct. The said commissioner may, when in his
14 judgment it is advisable, appoint assistants to aid in making examina-
15 tions. Such assistants shall receive as compensation for their services

16 not to exceed five dollars per day each. If in making any examination
17 a situation develops which, in the judgment of the commissioner, re-
18 quires the services of an expert examiner having special training and
19 knowledge not possessed by the regular examiners of the department,
20 he may also employ such an expert assistant examiner, who shall re-
21 ceive as full compensation for such services the sum of not to exceed
22 twenty-five dollars per day. Said examiners and assistants shall re-
23 ceive no other or further compensation than as above provided, except
24 that they and the said commissioner shall receive actual and neces-
25 sary traveling, hotel and other expenses while engaged in conducting
26 examinations away from their respective places of residence. Such
27 expenses, together with the compensation of the assistants, shall be
28 paid by the treasurer of state, upon warrants drawn by the auditor of
29 state, bills for the same having first been approved by the state board
30 of audit. Such bills shall be filed under oath of the party incurring the
31 expense and shall be approved by the person in charge of the examina-
32 tion. The salary of the examiners shall be paid as are the salaries of
33 other employees of the commissioner's office. All bills for expenses
34 of any examination, together with the compensation of the assistants,
35 shall be charged to and paid by the companies examined, and upon
36 failure or refusal of any company examined to pay such bill or bills,
37 the same may be recovered in an action brought in the name of the
38 state under the direction of the executive council, and the commis-
39 sioner may also revoke the certificate of authority of such company
40 to transact business within this state. All fees collected under the
41 provisions of this chapter shall be paid to the commissioner of insur-
42 ance and shall be by him turned into the state treasury as are other
43 fees of his office.

[S., '13, § 1821-c; 38 G. A., ch. 348, § 14.]

SEC. 5471. Revocation of certificate—publication of results of examination.

1 If upon investigation or examination, it shall appear that any
2 company is insolvent or in an unsound condition, or is doing an illegal
3 or unauthorized business, or that it has refused or neglected for more
4 than thirty days to pay final judgment rendered against it in the courts
5 of this state, the commissioner of insurance may suspend its authority
6 to transact business within this state until it shall have complied in all
7 respects with the laws applicable to such company or has paid such
8 judgment, or he may revoke its certificate of authority to transact
9 business within this state and having revoked the certificate of any
10 company organized under the laws of this state, he shall at once re-
11 port the same to the attorney general, who shall apply to the district
12 court or any judge thereof for the appointment of a receiver to close
13 up the affairs of said company; provided that in the case of companies
14 organized on the stock plan under the provisions of chapter seven of
15 this title, the above named officers shall proceed as provided in sections
16 fifty-six hundred forty-six and fifty-six hundred forty-seven; and in
17 case of companies organized under the provisions of chapter two of
18 this title, said officers shall proceed as provided in sections fifty-four
19 hundred eighty-six and fifty-four hundred eighty-seven, and no re-
20 ceiver shall be appointed for any company contemplated by this chap-
21 ter except upon application of the attorney general, unless five days'
22 notice shall have been served upon the commissioner and attorney gen-
23 eral, stating the time and place of the hearing of such application, at
24 which time and place said officers shall have the right to appear and

25 be heard as to such application and appointment. The results of any
 26 examination shall be published in one or more newspapers of the
 27 state or in pamphlet form, when in the opinion of the commissioner
 28 of insurance the interests of the public require it.

[S., '13, § 1821-d.]

SEC. 5472. Transfer of stock pending examination.

1 Any transfer of stock of any company, pending an investigation,
 2 shall not release the party making the transfer from any liability for
 3 losses that may have occurred previous to such transfer.

[S., '13, § 1821-e.]

**SEC. 5473. Soliciting business after revocation of authority—
 penalty.**

1 Any officer, manager, agent or representative of any insurance
 2 company contemplated by this chapter, who, with knowledge that its
 3 certificate of authority has been suspended or revoked, or that it is
 4 insolvent, or is doing an unlawful or unauthorized business, solicits
 5 insurance for said company, or receives applications therefor, or does
 6 any other act or thing toward receiving or procuring any new business
 7 for said company, shall be deemed guilty of a misdemeanor and shall
 8 be subject to the penalties provided in section fifty-five hundred forty,
 9 and the provisions of said section are hereby extended to all companies
 10 contemplated by this chapter.

[S., '13, § 1821-f.]

SEC. 5474. Refusing to be examined—penalty.

1 Should any company decline or refuse to submit to an examina-
 2 tion as in this chapter provided, the commissioner of insurance shall
 3 at once revoke its certificate of authority, and if such company is or-
 4 ganized under the laws of this state, he shall report his action to the
 5 attorney general, who shall at once apply to the district court or a
 6 judge thereof for the appointment of a receiver to wind up the affairs
 7 of the company.

[S., '13, § 1821-g.]

SEC. 5475. Nonresident companies.

1 Examination of insurance companies not located within this
 2 state shall only be made by order of the executive council, and at such
 3 time as it may direct.

[S., '13, § 1821-h.]

SEC. 5476. "Company" defined.

1 The word "company" as used in the eight preceding sections
 2 shall mean all companies or associations organized under the pro-
 3 visions of chapters two, four, five, seven and eight of title eighteen,
 4 except county mutuals, and all companies or associations admitted
 5 or seeking to be admitted to this state under the provisions of any of
 6 the chapters herein referred to.

[S., '13, § 1821-i.]

CHAPTER 2.

LIFE INSURANCE COMPANIES.

SECTION 5477. On level premium plan.

1 Every life insurance company upon the level premium or the
2 natural premium plan, created under the laws of this or any other
3 state or country, shall, before issuing policies in the state, comply
4 with the provisions of this chapter applicable to such companies. Be-
5 fore any such company shall be permitted to incorporate under the
6 laws of this state, it shall present its articles of incorporation to the
7 commissioner of insurance and the attorney general and have the
8 same by them approved. Such articles shall show the name, location
9 of principal place of business, object, amount of capital, if a stock
10 company, and shall contain such other provisions as may be necessary
11 to a full understanding of the nature of the business to be transacted
12 and the plan upon which the same is to be conducted. All amendments
13 to such articles and amendments hereafter made to the articles of
14 incorporation of companies already organized under the laws of this
15 state shall be approved in like manner.

[C., '73, § 1161; C., '97, § 1768; S., '13, § 1768.]

SEC. 5478. Stock companies—capital.

1 Stock companies organized under the laws of this state shall have
2 not less than one hundred thousand dollars of capital subscribed,
3 twenty-five per cent of which shall be paid up and invested in bonds
4 of the United States or this state, or in bonds and mortgages upon
5 unincumbered real estate in the state, worth, exclusive of improve-
6 ments, at least double the sum loaned thereon, which securities shall
7 be deposited with the commissioner of insurance, and upon such de-
8 posit, and evidence by affidavit or otherwise satisfactory to the com-
9 missioner of insurance that the capital is all subscribed in good faith,
10 and that the company is the actual and unqualified owner of the securi-
11 ties representing the paid-up capital, he shall issue to such company
12 the certificate hereinafter provided for, but no part of the twenty-
13 five per cent aforesaid shall be loaned to any stockholder or officer of
14 the company. The remainder of such capital shall be paid within
15 such time as the directors or trustees of the company may order, and
16 until paid it shall be secured by the notes of the stockholders of the
17 company.

[C., '73, § 1762; C., '97, § 1769.]

SEC. 5479. Mutual companies—conditions.

1 Level premium and natural premium life insurance companies
2 organized under the laws of this state upon the mutual plan shall, be-
3 fore issuing any policies, have actual applications on at least two
4 hundred and fifty lives for an average amount of one thousand dollars
5 each, a list of which, giving the name, age, residence, amount of insur-
6 ance, and annual premium of each applicant shall be filed with the
7 commissioner of insurance, and a deposit made with him of an amount
8 equal to three-fifths of the whole annual premium on said applica-
9 tions, in cash or the securities required by the foregoing section; and
10 on compliance with the provisions of this section, the commissioner
11 shall issue to such mutual company the certificate hereinafter pre-
12 scribed.

[C., '73, § 1163; C., '97, § 1770.]

SEC. 5480. Stock or premium notes.

1 No note shall be accepted as part of the capital of a stock com-
 2 pany, nor as a premium note for the purpose of organizing a mutual
 3 company, unless accompanied by a certificate of the clerk of the dis-
 4 trict court or other court of record, of the county in which the person
 5 executing it resides, to the effect that the person making it is in his
 6 opinion pecuniarily good and responsible therefor in property not
 7 exempt from execution. All notes heretofore or hereafter given as
 8 a part of the capital stock of a stock company, shall be deposited with
 9 the commissioner of insurance, and in the event any stockholder shall
 10 dispose of his or her stock in such company, he or she may withdraw
 11 the note or notes so given, upon depositing with the commissioner the
 12 note of the purchaser of such stock, accompanied by a certificate as
 13 provided for in this section.

[C., '97, § 1771; S., '13, § 1771.]

SEC. 5481. Foreign companies—capital or surplus—investments.

1 No company incorporated by or organized under the laws of any
 2 other state or government shall transact business in this state unless
 3 it is possessed of the actual amount of capital required of any com-
 4 pany organized by the laws of this state, or, if it be a mutual company,
 5 of surplus equal in amount thereto, and the same is invested in bonds
 6 of the United States or of this state, or in interest paying bonds, when
 7 they are at or above par, of the state in which the company is located,
 8 or of some other state, or in notes or bonds secured by mortgages on
 9 unincumbered real estate within this or the state where such company
 10 is located, worth double the amount loaned thereon, which securities
 11 shall, at the time, be on deposit with the superintendent of insurance,
 12 auditor, controller or chief financial officer of the state by whose laws
 13 the company is incorporated, or of some other state, and the commis-
 14 sioner of insurance is furnished with a certificate of such officer, under
 15 his official seal, that he as such officer holds in trust and on deposit
 16 for the benefit of all the policy holders of such company the securities
 17 above mentioned. This certificate shall embrace the items of securi-
 18 ty so held, and show that such officer is satisfied that such securities
 19 are worth one hundred thousand dollars. Nothing herein contained
 20 shall invalidate the agency of any company incorporated in another
 21 state by reason of its having exchanged the bonds or securities so
 22 deposited with such officer for other bonds or securities authorized
 23 by this chapter, or by reason of its having drawn its interest and divi-
 24 dends on the same.

[C., '73, § 1164; C., '97, § 1772.]

SEC. 5482. Annual statement.

1 The president or vice president and secretary or actuary or a ma-
 2 jority of the directors of each company organized under this chapter
 3 shall annually, by the first day of March, prepare under oath and file
 4 in the office of the commissioner of insurance a statement of its affairs
 5 for the year terminating on the thirty-first day of December preced-
 6 ing. Showing:

- 7 1. The name of the company and where located.
- 8 2. The names of officers.
- 9 3. The amount of capital, if a stock company.
- 10 4. The amount of capital paid in, if a stock company.
- 11 5. The value of real estate owned by the company.

- 12 6. The amount of cash on hand.
 13 7. The amount of cash deposited in banks, giving the name of
 14 the bank or banks.
 15 8. The amount of cash in the hands of agents, and in the course
 16 of transmission.
 17 9. The amount of bank stock, with the name of each bank, giving
 18 par and market value of the same.
 19 10. The amount of bonds of the United States, and all other bonds
 20 and securities, giving names and amounts, with the par and market
 21 value of each kind.
 22 11. The amount of loans secured by first mortgage on real estate,
 23 and where such real estate is situated.
 24 12. The amount of all other bonds, loans, how secured, and the
 25 rate of interest.
 26 13. The amount of premium notes and their value on policies in
 27 force, if a mutual company.
 28 14. The amount of notes given for unpaid stock, and their value
 29 in detail, if a stock company.
 30 15. The amount of assessments unpaid on stock or premium notes.
 31 16. The amount of interest due and unpaid.
 32 17. The amount of all other securities.
 33 18. The amount of losses due and unpaid.
 34 19. The amount of losses adjusted but not due.
 35 20. The amount of losses unadjusted.
 36 21. The amount of claims for losses resisted.
 37 22. The amount of money borrowed and evidences thereof.
 38 23. The amount of dividends unpaid on stock.
 39 24. The amount of dividends unpaid on policies.
 40 25. The amount required to safely reinsure all outstanding risks.
 41 26. The amount of all other claims against the company.
 42 27. The amount of net cash premiums received.
 43 28. The amount of notes received for premiums.
 44 29. The amount of interest received from all sources.
 45 30. The amount received from all other sources.
 46 31. The amount paid for losses.
 47 32. The amount of dividends paid to policy holders, and the
 48 amount to stockholders, if a stock company.
 49 33. The amount of commissions and salaries paid to agents.
 50 34. The amount paid to officers for salaries and other compen-
 51 sation.
 52 35. The amount paid for taxes.
 53 36. The amount of all other payments and expenditures.
 54 37. The greatest amount insured on any one life.
 55 38. The amount deposited in other states or territories as secur-
 56 ity for policy holders therein, stating the amount in each state or
 57 territory.
 58 39. The amount of premiums received in this state during the
 59 year.
 60 40. The amount paid for losses in this state during the year.
 61 41. The whole number of policies issued during the year, with
 62 the amount of insurance effected thereby, and total amount of risk.
 63 42. All other items of information necessary to enable the com-
 64 missioner of insurance to correctly estimate the cash value of policies,
 65 or to judge of the correctness of the valuation thereof.

[C., '73, § 1167; C., '97, § 1773.]

SEC. 5483. Valuation of policies.

1 As soon as practicable after the filing of such statement, the com-
2 missioner of insurance shall ascertain the net cash value of every
3 policy in force upon the basis of the American table of mortality and
4 four and one-half per cent interest, or actuaries' combined experience
5 table of mortality and four per cent interest, in all companies organ-
6 ized under the laws of this state. For the purpose of making such
7 valuation he may employ a competent actuary, who shall be paid by
8 the company for which the service is rendered; but the company may
9 make such valuation and it shall be received by the commissioner upon
10 satisfactory proof of its correctness. The net cash value of all pol-
11 icies in force in any such company being ascertained, the commissioner
12 shall notify it of the amount, and within thirty days thereafter the
13 officers thereof shall deposit with the commissioner the amount of the
14 ascertained valuation in the securities specified in section fifty-five
15 hundred thirty-two. No stock company organized under the laws of
16 this state shall be required to make such deposit until the cash value
17 of the policies in force, as ascertained by the commissioner, exceeds
18 the amount deposited by it as capital.

[C., '73, § 1169; C., '97, § 1774.]

SEC. 5484. Annual certificate.

1 On receipt of such deposit and statement, and the statement and
2 evidence of investment of foreign companies, all of which shall be
3 renewed annually, by the first day of March, the commissioner of in-
4 surance shall issue a certificate setting forth the corporate name of
5 the company, its home office, that it has fully complied with the laws
6 of the state and is authorized to transact the business of life insurance
7 for the ensuing year, which certificate shall expire on the first day of
8 April of the ensuing year, or sooner upon thirty days' notice given
9 by the commissioner of the next annual valuation of its policies. Such
10 certificate shall be renewed annually, upon the renewal of the deposit
11 and statement by a domestic company, or of the statement and evi-
12 dence of investment by a foreign company, and compliance with the
13 conditions above required, and be subject to revocation as the original
14 certificate.

[C., '73, § 1170; C., '97, § 1775.]

SEC. 5485. Penalty—dissolution.

1 Upon a failure of any company organized under the laws of this
2 state to make the deposit or file the statement in the time herein stated,
3 the commissioner of insurance shall notify the attorney general of the
4 default, who shall at once apply to the district court of the county
5 where the home office of such company is located, if the court is in
6 session, if not, to any judge thereof, for an order requiring the com-
7 pany to show cause upon reasonable notice, to be fixed by the court
8 or judge, as the case may be, why its business shall not be discontinued.
9 If, upon the hearing, no sufficient cause is shown, the court shall de-
10 crease its dissolution. Companies organized and chartered by the laws
11 of a foreign state or country, failing to file the evidence of deposit and
12 statement within the time fixed, shall forfeit and pay the sum of three
13 hundred dollars, to be collected in an action in the name of the state
14 for the use of the school fund, and their right to transact further new

15 business in this state shall immediately cease until the requirements
16 of this chapter have been fully complied with.

[C., '73, § 1171; C., '97, § 1776.]

SEC. 5486. Examination by commissioner of insurance—receiver.

1 The commissioner of insurance at any time may make a personal
2 examination of the books, papers, securities and business of any life
3 insurance company doing business in this state, or authorize any other
4 suitable person to make the same, and he or the person so authorized
5 may examine under oath any officer or agent of the company, or others,
6 relative to its business and management. If upon such examination
7 the commissioner is of the opinion that the company is insolvent, or
8 that its condition is such as to render its further continuance in busi-
9 ness hazardous to the public or holders of its policies, he shall advise
10 and communicate the facts to the attorney general, who shall at once
11 apply to the district court of the county or any judge thereof, where
12 the home office of a domestic company or an agency of a foreign com-
13 pany is located, for an injunction to restrain the company from trans-
14 acting further business except the payment of losses already ascer-
15 tained and due, until further hearing, and for the appointment of a
16 receiver, and, if a domestic company, for the dissolution of the cor-
17 poration. The judge of such court may grant a preliminary injunc-
18 tion with or without notice, as he may direct, and the court, on the
19 final hearing, may make decree subject to the provisions of the fol-
20 lowing section as to the appointment of a receiver, the disposition of
21 the deposits of the company in the hands of the commissioner, and its
22 dissolution, if a domestic company.

[C., '73, § 1172; C., '97, § 1777.]

SEC. 5487. Securities.

1 The securities of a defaulting or insolvent company, or a company
2 against which proceedings are pending under the preceding section,
3 on deposit shall vest in the state for the benefit of the policies on
4 which such deposits were made, and the proceeds of the same shall,
5 by the order of the court upon final hearing, be divided among the
6 holders thereof in the proportion of the last annual valuation of the
7 same, or at any time be applied to the purchase of reinsurance for
8 their benefit.

[C., '73, § 1173; C., '97, § 1778.]

SEC. 5488. Change of securities.

1 Companies shall have the right at any time to change the securi-
2 ties on deposit by substituting a like amount of the character required
3 in the first instance. If the annual valuation of the policies in force
4 shows them to be less than the amount of security deposited, then the
5 company may withdraw such excess, but twenty-five thousand dollars
6 must always remain on deposit.

[C., '73, § 1174; C., '97, § 1779.]

SEC. 5489. Interest collected.

1 Companies having on deposit with the commissioner of insurance
2 bonds or other securities may collect the dividends or interest thereon,
3 delivering to their authorized agents the coupons or other evidence
4 of interest as the same become due, but if any company fails to deposit

5 additional security when and as called for by the commissioner, or
6 pending any proceedings to close up or enjoin it, the commissioner
7 shall collect such dividends or interest and add the same to such se-
8 curities.

[C., '73, § 1175; C., '97, § 1780.]

SEC. 5490. Discriminations.

1 No life or casualty, health or accident insurance company or asso-
2 ciation shall make or permit any distinction or discrimination between
3 persons insured of the same class and equal expectancy of life in the
4 amount or payment of premiums or rates charged for policies of life
5 or endowment insurance, or in the dividends or other benefits payable
6 thereon, or in any other of the terms or conditions of the contract it
7 makes; nor shall any such company or association or agent thereof
8 make any contract of insurance agreement, other than as plainly ex-
9 pressed in the policy issued; nor shall any such company or associa-
10 tion or agent pay or allow, directly or indirectly, as an inducement
11 to insurance, any rebate of premium payable on the policy, or any
12 special favor or advantage in the dividends or other benefits to accrue
13 thereon, or any valuable consideration or inducement whatever, not
14 specified in the policy or contract of insurance.

[C., '97, § 1782; S., '13, § 1782.]

SEC. 5491. Penalty.

1 Every corporation, officer or agent thereof who shall knowingly
2 violate any of the provisions of the preceding section shall forfeit and
3 pay a sum not exceeding five hundred dollars, to be recovered by an
4 action in the name of the state for the benefit of the school fund, and
5 the license may be revoked for three years, in the discretion of the
6 court.

[C., '97, § 1783.]

SEC. 5492. Policy forms filed with commissioner of insurance for approval.

1 It shall be unlawful for any insurance company transacting busi-
2 ness within this state, under the provisions of this chapter, to write
3 or use any form of policy or contract of insurance, on the life of any
4 individual in this state, until a copy of such form of policy or contract
5 has been filed with and approved by the commissioner of insurance.

[S., '13, § 1783-a; 38 G. A., ch. 348, § 7.]

SEC. 5493. Medical examination.

1 The commissioner of insurance shall decline to approve any such
2 form of policy or contract of insurance unless the same shall, in all
3 respects, conform to the laws of this state applicable thereto, and
4 unless the issuance of the same is based upon a satisfactory medical
5 examination of the applicant by a physician duly authorized to prac-
6 tice medicine or by an osteopathic physician duly authorized to prac-
7 tice osteopathy in the state of Iowa, or the state where examined and
8 no policy or contract of insurance shall be issued by any insurance
9 company to any individual in this state until such examination shall
10 have been passed and duly approved by the medical examiner or med-
11 ical board of such company.

[S. S., '15, § 1783-b.]

SEC. 5494. Penalty.

1 Any company violating any of the provisions of the second pre-
 2 ceding section shall, upon conviction thereof, be fined in a sum not
 3 less than one hundred nor more than one thousand dollars for each
 4 such offense, and the court may also revoke its authority to do busi-
 5 ness within this state. Should any company decline to file a copy of
 6 its form of policies or contracts, the commissioner of insurance shall
 7 suspend its authority to transact business within the state until such
 8 form of policies or contracts have been so filed and approved.

[S., '13, § 1783-c.]

SEC. 5495. Life insurance companies may write other insurance.

1 Any life insurance company organized on the stock or mutual plan
 2 and authorized by its charter or articles of incorporation so to do,
 3 may in addition to such life insurance, insure the health of persons
 4 and against personal injuries, disablement or death, resulting from
 5 traveling or general accidents by land or water, and insure employers
 6 against loss in consequence of accidents or casualties of any kind to
 7 employees or other persons, or to property resulting from any act of
 8 the employee or any accident or casualty to persons or property, or
 9 both, occurring in or connected with the transaction of their business,
 10 or from the operation of any machinery connected therewith, but
 11 nothing herein contained shall be construed to authorize any life
 12 insurance company to insure against loss or injury to person, or
 13 property, or both, growing out of explosion or rupture of steam boilers.
 14 Every life insurance company issuing a separate policy, or maintain-
 15 ing a separate department, for the purpose of writing any of the
 16 classes of insurance authorized by this section shall also be subject
 17 to all of the provisions applicable to companies authorized to write
 18 a similar kind of insurance under the provisions of chapter seven of
 19 title eighteen.

[S., '13, § 1783-d; 38 G. A., ch. 348, § 8.]

SEC. 5496. Capital stock—minimum amount.

1 No insurance company shall be incorporated to transact business
 2 upon the stock plan, whether life insurance or insurance other than
 3 life, with less than one hundred thousand dollars capital, the entire
 4 amount of which shall be fully paid up in cash and invested as pro-
 5 vided by law. No part of the capital referred to, shall be loaned to
 6 any officer or stockholder of the company.

[S., '13, § 1783-e.]

SEC. 5497. Investments.

1 No insurance company or association organized under the stat-
 2 utes of Iowa to transact an insurance business, shall invest its capital,
 3 surplus funds or other assets in, or loan the same on, property owned
 4 by any officer or director of such company or by any of the immediate
 5 members of the family of any such officer or director; neither shall
 6 any such officer or director gain through the investment of funds of
 7 any such company.

[38 G. A., ch. 348, § 13.]

SEC. 5498. Companies heretofore organized.

1 The certificate of authority of any company organized and trans-
 2 acting business on the stock plan shall not be renewed after January

3 first, nineteen hundred ten, unless said company shall have, at said
4 time, at least one hundred thousand dollars of capital stock; at least
5 fifty thousand dollars of which shall be paid up in cash and invested
6 according to law. The remainder of said capital may be represented
7 by stock notes payable to the company on demand of its board of direc-
8 tors and said notes shall be deposited with the commissioner of insur-
9 ance subject to his approval. But no increase of the capital stock of
10 any company shall hereafter be made unless the amount of said in-
11 crease is paid up in cash.

[S., '13, § 1783-f.]

SEC. 5499. May not advertise authorized capital.

1 No insurance company shall be permitted to advertise or publish
2 an authorized capital, or to represent in any manner itself as pos-
3 sessed of any greater capital than that actually paid up and invested
4 as above provided.

[S., '13, § 1783-g.]

SEC. 5500. Penalties.

1 Any person, firm or corporation violating any of the provisions
2 of sections fifty-four hundred ninety-six, fifty-four hundred ninety-
3 eight and fifty-four hundred ninety-nine, or failing to comply with any
4 of its provisions, shall be subjected to the penalties provided in section
5 fifty-four hundred seventy-one.

[S., '13, § 1783-h.]

SEC. 5501. Proceeds of policy may be held in trust by company.

1 Any life insurance company organized under the provisions of
2 this chapter and doing business in this state, shall have the power to
3 hold in trust the proceeds of any life insurance policy issued by it,
4 upon such terms and subject to such limitations as to revocation by
5 the policy holder and control by the beneficiary thereunder, as shall
6 have been agreed to in writing by such company and the policy holder;
7 provided that the trust provisions herein contemplated shall in no
8 manner subject said corporation to any of the provisions of the laws
9 of Iowa relating to banks or trust companies; and provided further,
10 that the forms of such trust agreements shall be first submitted to and
11 approved by the commissioner of insurance of Iowa.

[38 G. A., ch. 304, § 1.]

CHAPTER 3.

GROUP LIFE INSURANCE.

SECTION 5502. Group life insurance.

1 Group life insurance is hereby declared to be that form of life
2 insurance covering not less than fifty employees, with or without med-
3 ical examination, written under a policy issued to the employer, the
4 premium on which is to be paid by the employer or by the employer
5 and employees jointly, and insuring only all of his employees, or all
6 of any class or classes thereof determined by conditions pertaining
7 to the employment, for amounts of insurance based upon some plan

8 which will preclude individual selection, for the benefit of persons
9 other than the employer; provided, however, that when the premium
10 is to be paid by the employer and employee jointly and the benefits
11 of the policy are offered to all eligible employees, not less than seventy-
12 five per centum of such employees may be so insured.

[38 G. A., ch. 197, § 1.]

SEC. 5503. What companies may issue.

1 Any level premium life insurance company, organized on the stock
2 or mutual plan and authorized to transact insurance business under
3 the provisions of chapter two of title eighteen, may, by complying
4 with the provisions of said chapter and of this chapter, issue con-
5 tracts providing for group life insurance as defined in the preceding
6 section.

[38 G. A., ch. 197, § 2.]

SEC. 5504. Copy of policy filed—provisions thereof.

1 No policy of group insurance shall be issued or delivered in this
2 state unless and until a copy of the form thereof has been filed with
3 the commissioner of insurance and approved by him; nor shall such
4 policy be so issued or delivered unless it contains in substance the
5 following provisions:

6 1. A provision that the policy shall be incontestable after two
7 years from its date of issue, except for nonpayment of premiums and
8 except for violation of the conditions of the policy relating to military
9 or naval service in time of war.

10 2. A provision that the policy, the application of the employer
11 and the individual applications, if any, of the employees insured, shall
12 constitute the entire contract between the parties, and that all state-
13 ments made by the employer or by the individual employees shall, in
14 the absence of fraud, be deemed representations and not warranties,
15 and that no such statement shall be used in defense to a claim under
16 the policy, unless it is contained in a written application.

17 3. A provision for the equitable adjustment of the premium or
18 the amount of insurance payable in the event of a misstatement of
19 the age of an employee.

20 4. A provision that the company will issue to the employer for
21 delivery to the employee, whose life is insured under such policy, an
22 individual certificate setting forth a statement as to the insurance
23 protection to which he is entitled, to whom payable, together with
24 provision to the effect that in case of the termination of the employ-
25 ment for any reason whatsoever the employee shall be entitled to
26 have issued to him by the company, without further evidence of in-
27 surability, and upon application made to the company within thirty-
28 one days after such termination and upon the payment of the premium
29 applicable to the class of risk to which he belongs and to the form and
30 amount of the policy at his then attained age, a policy of life insur-
31 ance in any one of the forms customarily issued by the company,
32 except term insurance, in an amount equal to the amount of his
33 protection under such group insurance policy at the time of such
34 termination.

35 5. A provision that to the group or class thereof originally in-
36 sured shall be added from time to time all new employees of the em-
37 ployer eligible to insurance in such group or class.

38 Policies of group insurance, when issued in this state by any
 39 company not organized under the laws of this state, may contain, when
 40 issued, any provision required by the law of the state, or territory,
 41 or district of the United States under which the company is organ-
 42 ized; and policies issued in other states or countries by companies
 43 organized in this state, may contain any provision required by the
 44 laws of the state, territory, district or country, in which the same
 45 are issued, anything in this section to the contrary notwithstanding.
 46 Any such policy may be issued or delivered in this state which in the
 47 opinion of the commissioner of insurance contains provisions on any
 48 one or more of the several foregoing requirements more favorable to
 49 the employer or to the employée than hereinbefore required.

[38 G. A., ch. 197, § 3.]

SEC. 5505. Employer deemed policy holder.

1 In every group policy issued by a domestic life insurance com-
 2 pany, the employer shall be deemed to be the policy holder for all
 3 purposes within the meaning of this chapter, and, if entitled to vote
 4 at meetings of the company, shall be entitled to one vote thereat.

[38 G. A., ch. 197, § 3.]

SEC. 5506. Proceeds of policy exempt from seizure for debt.

1 No policy of group insurance, nor the proceeds thereof, when
 2 paid to any employee or employees thereunder, shall be liable to attach-
 3 ment, garnishment, or other process, or to be seized, taken, appropri-
 4 ated or applied by any legal or equitable process or operation of law,
 5 to pay any debt or liability of such employee, or his beneficiary, or
 6 any other person who may have a right thereunder, either before or
 7 after payment; nor shall the proceeds thereof, when not made payable
 8 to a named beneficiary, constitute a part of the estate of the employee
 9 for the payment of his debts.

[38 G. A., ch. 197, § 4.]

SEC. 5507. Medical examination not required.

1 The provisions of section fifty-four hundred ninety-three, relat-
 2 ing to medical examination of applicants, shall not apply to insurance
 3 written under this chapter.

[38 G. A., ch. 197, § 5.]

CHAPTER 4.

ASSESSMENT LIFE INSURANCE.

SECTION 5508. Defined.

1 Every corporation organized upon the assessment plan, for the
 2 purpose of insuring the lives of individuals or furnishing benefits to
 3 the widows, heirs, orphans or legatees of deceased members, or insur-
 4 ing the health of persons or furnishing accident indemnity, shall be
 5 styled an association, and any corporation doing business under this
 6 chapter which provides for the payment of policy claims, accumula-
 7 tion of a reserve or emergency fund, the expense of management and
 8 prosecution of the business, by payment of assessments as provided

9 in its contracts, and wherein the liability of the insured to contribute
10 to the payment of policy claims is not limited to a fixed amount, shall
11 be deemed to be engaged in the business of life insurance upon the
12 assessment plan, and shall be subject to the provisions of this chapter,
13 and chapter five of this title.

[C., '97, § 1784; S., '13, § 1784.]

SEC. 5509. Articles of incorporation—certificates.

1 “Certificates of membership” or “certificate,” when used in this
2 chapter with respect to the insurance of the members, shall be taken
3 to mean and include policy of insurance. The articles of incorpora-
4 tion of any such association shall show its plan of business, and be
5 submitted to the commissioner of insurance and the attorney general,
6 and if they are found by those officers to comply with the provisions
7 of this title, chapter and of law, they shall approve the same. When
8 the articles are thus approved, they shall be recorded in the office of
9 the secretary of state, and a notice published within ninety days in
10 the manner and for the time provided in the general incorporation
11 laws.

[C., '97, § 1785.]

SEC. 5510. Name.

1 No such association shall take any name in use by another organ-
2 ization, or one so closely resembling it as to mislead the public as to
3 its identity.

[C., '97, § 1786.]

SEC. 5511. Conditions for commencing business — approval of policy forms.

1 Before issuing any policy or certificate of membership, if the asso-
2 ciation at the time has not a membership sufficient to pay the full
3 amount of its certificate or policy on an assessment, it shall cause all
4 applications for insurance to have printed in red ink, in a conspicuous
5 manner along the margin thereof, the words: “It is understood that
6 the amount of insurance to be paid under this application, and cer-
7 tificate or policy issued thereon, shall depend upon the amount col-
8 lected from an assessment therefor.” It must have actual applications
9 upon at least two hundred fifty lives for at least one thousand dollars
10 each; and it shall file with the commissioner of insurance satisfactory
11 proof that the president, secretary and treasurer have each given a
12 good and sufficient bond for five thousand dollars for the faithful dis-
13 charge of their duties as such officers, sworn copies of which shall be
14 filed with him. It shall also file with him a list, verified by the presi-
15 dent and secretary, of the applications, giving the name, age and
16 residence of each applicant, the amount of insurance applied for by
17 each, together with the annual dues and the proposed assessments
18 thereon. Its policy forms shall be approved, as provided by section
19 fifty-four hundred ninety-two.

[C., '97, § 1787; S., '13, § 1787.]

SEC. 5512. Assessments.

1 The articles and by-laws of each such association and its notices
2 of assessment shall state the objects to which the money to be col-
3 lected is to be devoted, and no part of the proceeds thereof shall be

4 applied to any other purpose than as stated, and the excess, if any,
5 beyond payment of the benefit, shall be set aside and applied only to
6 like purposes, except that all sums collected for expenses and not used
7 for that purpose may be transferred to the benefit, emergency or re-
8 serve fund.

[C., '97, § 1788; S., '13, § 1788.]

SEC. 5513. Insurable age—beneficiary—assignment of policy.

1 No association organized or operating under this chapter shall
2 issue a certificate of membership to any person under fifteen nor over
3 sixty-five years of age, nor unless the beneficiary named in the cer-
4 tificate is the husband, wife, relative, legal representative, heir, cred-
5 itor or legatee of the insured member, nor shall any such certificate
6 be assigned. Any certificate issued or assignment made in violation
7 of this section shall be void. The beneficiary named in the certificate
8 may be changed at any time at the pleasure of the assured, as may be
9 provided for in the articles or by-laws, but no certificate issued for
10 the benefit of a wife or children shall be thus changed so as to become
11 payable to the creditors.

[C., '97, § 1789.]

SEC. 5514. Report to commissioner of insurance—examination.

1 The annual business of such association organized under the laws
2 of this state shall close on the thirty-first day of December of each
3 year, and it shall within sixty days thereafter prepare and file in the
4 office of the commissioner of insurance a detailed statement, verified
5 by its president and secretary, giving its assets, liabilities, receipts
6 from each assessment and all other sources, expenditures, salaries of
7 officers, number of contributing members, death losses paid and
8 amount paid on each, death losses reported but not paid, and furnish
9 such other information as the commissioner, who shall provide blanks
10 for that purpose, may require, so that its true financial condition may
11 be shown, and shall pay, upon filing each annual statement, the sum
12 of three dollars, and such other fees as are required by the provisions
13 of section fifty-five hundred forty-four. He shall publish such annual
14 statement in detail in his report, and for the purpose of verifying it
15 he may make or cause to be made an examination of the affairs of any
16 such association at its expense, which shall be, if done by him or his
17 clerk, necessary hotel and traveling expenses only, if by a person not
18 regularly employed in his office, the actual cost thereof, not exceeding
19 ten dollars per day for the time required and actual expenses; but the
20 examination herein provided for shall be in addition to those author-
21 ized by the provisions of section fifty-four hundred sixty-eight. If
22 the commissioner regards it necessary for the safety of the funds of
23 the association, he may require the bonds of the officers to be increased
24 to an amount not exceeding double the sum for which they are ac-
25 countable, and he may also require supplemental reports from such
26 association at such time and in such form as he may direct, and it
27 shall be the duty of its officers to furnish the bonds and reports when
28 thus required.

[C., '97, § 1790; 38 G. A., ch. 348, §§ 9, 10.]

SEC. 5515. Investment of accumulations.

1 Any association accumulating any moneys to be held in trust for
2 the purpose of the fulfillment of its policy or certificate, contract, or

3 otherwise, shall invest such accumulations in the securities provided
4 in section fifty-five hundred thirty-two and deposit the same with the
5 commissioner of insurance, as therein provided. But such association
6 may invest in real estate in Iowa such a portion of said accumulation
7 as is necessary for its accommodation in the transaction of its busi-
8 ness to be owned by said association, and in the erection of any build-
9 ing for such purpose may add thereto rooms for rental.

[C., '97, § 1791.]

SEC. 5516. Change of securities.

1 Such association may at any time change its securities on deposit
2 by substituting a like amount in other securities of the same char-
3 acter, and the commissioner of insurance shall permit a withdrawal
4 of the same, upon satisfactory proof in writing filed with him that
5 they are to be used for the purpose for which they were originally
6 deposited.

[C., '97, § 1792.]

SEC. 5517. Collection of interest.

1 The commissioner of insurance shall permit the associations own-
2 ing the bonds or other securities to collect and retain the interest ac-
3 cruing thereon, delivering to them the evidences of interest as the
4 same become due; but on default of any association to make or en-
5 force such collection, he may collect the same and add it to the securi-
6 ties in his possession, less the expense thereof.

[C., '97, § 1793.]

SEC. 5518. Foreign companies.

1 Any association organized under the laws of any other state to
2 carry on the business of insuring the lives of persons, or of furnishing
3 benefits to the widows, orphans, heirs or legatees of deceased mem-
4 bers, or of paying accident indemnity, or surrender value of certifi-
5 cates of insurance, upon the stipulated premium plan or assessment
6 plan, may be permitted to do business in the state by complying with
7 the requirements hereinafter made, but not otherwise. It shall file
8 with the commissioner of insurance a copy of its charter or articles
9 of incorporation, duly certified by the proper officers of the state
10 wherein it was organized, together with a copy of its by-laws, appli-
11 cation and policy or certificate of membership. It shall also file with
12 the commissioner a statement, signed and verified by its president and
13 secretary, which shall show the name and location of the association,
14 its principal place of business, the names of its president, secretary
15 and other principal officers, the number of certificates or policies in
16 force, the aggregate amount insured thereby, the amount paid to bene-
17 ficiaries in the event of death or accident, the amount paid on the last
18 death loss and the date thereof, the amount of cash or other assets
19 owned by the association and how invested, and any other informa-
20 tion which the commissioner may require. The statement, papers and
21 proofs thus filed shall show that the death loss or surrender value of
22 the certificate of insurance or accident indemnity is in the main pro-
23 vided for by assessments upon or contributions by surviving members
24 of such association, and that it is legally organized, honestly managed,
25 and that an ordinary assessment upon its members or other regular
26 contributions to its mortuary fund are sufficient to pay its maximum

27 certificate to the full limit named therein. Upon its complying with
 28 the provisions of this section, and of section fifty-five hundred thirty-
 29 four, and the payment of twenty-five dollars, the commissioner shall
 30 issue to it a certificate of authority to do business in this state, pro-
 31 vided the same right is extended by the state in which said association
 32 is organized to associations of the same class in this state. When the
 33 commissioner doubts the solvency of any foreign association, and the
 34 failure to pay the full limit named in its certificate or policy shall be
 35 such evidence of its insolvency as to require the commissioner to in-
 36 vestigate it, he shall for this or other good cause, at the expense of
 37 such association, cause an examination of its books, papers and busi-
 38 ness to be made, and if upon such examination he finds that the asso-
 39 ciation is not financially sound, or is not paying its policies or certifi-
 40 cates in full, or is conducting its business fraudulently, or if it shall
 41 fail to make the statement required by law, he may revoke its authority
 42 and prohibit it from doing business until it shall again comply with
 43 the provisions of this chapter. If the commissioner appoints some
 44 one not receiving a regular salary in his office to make this examina-
 45 tion, such examiner shall receive five dollars per day for his services
 46 in addition to his actual traveling and hotel expenses, to be paid by
 47 the association examined, or by the state on the approval of the execu-
 48 tive council, if the association fails to pay the same. The provisions
 49 of this section shall apply to fraternal beneficiary associations doing
 50 exclusively an accident insurance business, and upon compliance with
 51 the provisions of this chapter, and the provisions of chapter five of
 52 title eighteen, so far as the same are applicable, such associations may
 53 be authorized to transact business within this state.

[C., '97, § 1794; S., '13, § 1794.]

SEC. 5519. Proceedings to control or wind up.

1 When any association organized under this title and chapter fails
 2 to make its annual statement on or before the first day of March, or
 3 is conducting its business fraudulently or not in compliance with law,
 4 or is not carrying out its contracts with its members in good faith,
 5 the commissioner of insurance shall promptly communicate the fact
 6 to the attorney general, who shall at once commence action before the
 7 district court of the county in which such association has its principal
 8 place of business, giving it reasonable notice thereof, and if upon a
 9 hearing it is found to be advantageous to the holders of certificates
 10 of membership therein, said court or judge may remove any officer
 11 or officers, and appoint others in their place until the next annual
 12 election. If it is advantageous to the holders of certificates that the
 13 affairs of said corporation be wound up, the court or judge shall so
 14 direct, and for that purpose may appoint a receiver who shall treat
 15 all legal claims for death benefits as preferred. The receiver may
 16 also, with the approval of the court or judge, transfer the members
 17 of such association who consent thereto to some like solvent associa-
 18 tion of the state, or divide the surplus accumulated in proportion to
 19 the share due each certificate at the time.

[C., '97, § 1795.]

SEC. 5520. Certificate of authority.

1 Upon compliance with the provisions thereof by an association,
 2 the commissioner of insurance shall issue to it a certificate, setting
 3 forth that it has fully complied with the provisions of this chapter,

4 and is authorized to transact business for a period of one year from
5 April first of the year of its issue.

[C., '97, § 1796; 37 G. A., ch. 227, § 1.]

SEC. 5521. Distribution of surplus—surrender value.

1 Any association which provides in the main for the payment of
2 death losses or accident indemnity by assessments upon its members,
3 or stipulated premium plan, may provide for the equitable distribu-
4 tion of any surplus or advance insurance fund accumulated in the
5 course of its business, which may be paid in cash or applied in the
6 reduction or payment of future premiums, paid-up or extended insur-
7 ance, as its rules or contracts may provide, and for an equitable sur-
8 render value upon the cancellation of a certificate or policy, provided
9 the terms and conditions thereof are set forth in such policy or cer-
10 tificate of membership, and such surrender value shall in the main be
11 accumulated during the term of such policy or certificate.

[C., '97, § 1797.]

SEC. 5522. Benevolent societies—process.

1 Nothing in this chapter shall be construed to apply to any asso-
2 ciation organized solely for benevolent purposes and composed wholly
3 of members of any one occupation, guild, profession or religious de-
4 nomination, but any such society may, by complying with the provi-
5 sions hereof, become entitled to all the privileges thereof, in which
6 event it shall be amenable to the provisions of this chapter so far as
7 they are applicable; provided that if organized under the laws of an-
8 other state or country, they shall file with the commissioner of insur-
9 ance an agreement in writing authorizing service or notice of process
10 to be made upon the said commissioner, and when so made shall be as
11 valid and binding as if served upon the association within this state.

[C., '97, § 1798; S., '13, § 1798.]

**SEC. 5523. Future organization or authorization prohibited—
valuation of policies of existing associations.**

1 No life, health or accident insurance company or association,
2 other than fraternal beneficiary associations, which issues contracts,
3 the performance of which is contingent upon the payment of assess-
4 ments of call made upon its members, shall do business within this
5 state except such companies or associations as are now [March 23,
6 1907] authorized to do business within this state and which, if a
7 life insurance company or association, shall value their assessment
8 policies or certificates of membership as yearly renewable term poli-
9 cies according to the standard of valuation of life insurance policies
10 prescribed by the laws of this state; provided, however, that the
11 insurance commissioner of this state may authorize any health or
12 accident insurance company or association organized under the laws
13 of any other state or territory, to do business in this state, if,
14 under the laws of such state or territory health and accident insurance
15 companies or associations organized under the laws of this state are
16 permitted to do business in such state. The provisions of this section
17 shall not apply to unincorporated assessment associations now existing
18 in this state, and having policy holders or certificates of membership
19 numbering not less than two hundred fifty, and which were organized
20 or in existence in this state as such unincorporated assessment asso-

21 ciations prior to March twenty-third, nineteen hundred seven; but
 22 any such unincorporated assessment association now existing in this
 23 state, having policy holders or certificates of membership numbering
 24 not less than two hundred fifty and which were organized or in exist-
 25 ence in this state prior to March twenty-third, nineteen hundred seven,
 26 may, by becoming hereafter incorporated in this state, and complying
 27 with the provisions of this chapter, become entitled to all of the privi-
 28 leges hereof, in which event it shall become amenable to the provisions
 29 of this chapter as far as they are applicable.

[S., '13, § 1798-a; 37 G. A., ch. 234, § 1; 37 G. A., ch. 413, § 1.]

SEC. 5524. Reincorporation as legal reserve company — stock company.

1 Any existing domestic assessment company or association or fra-
 2 ternal beneficiary society may, with the written consent of the com-
 3 missioner of insurance, upon a majority vote of its trustees or direc-
 4 tors, amend its articles of incorporation and by-laws in such manner
 5 as to transform itself into a legal reserve or level premium company,
 6 and upon so doing and upon procuring from the commissioner a cer-
 7 tificate of authority, as prescribed by law, to transact business in this
 8 state as a legal reserve or level premium company, shall incur the
 9 obligations and enjoy the benefits thereof, the same as though origi-
 10 nally thus incorporated, and such corporation, under its charter as thus
 11 amended, shall be a continuation of such original corporation, and the
 12 officers thereof shall serve through their respective terms as provided
 13 in the original charter, but their successors shall be elected and serve
 14 as in such amended articles provided; but such amendment or rein-
 15 corporation shall not affect existing suits, rights or contracts. Any
 16 assessment company or fraternal beneficiary society reincorporated
 17 to transact life insurance business, shall value its assessment policies
 18 or certificates or benefit certificates as yearly renewable term policies
 19 according to the standard of valuation of life insurance policies pre-
 20 scribed by the laws of this state; provided that accident or health
 21 associations may take advantage of all the provisions of this section,
 22 in so far as applicable, and may thereupon transform themselves into
 23 stock companies. But no such company or association shall reorganize
 24 under the provisions of this section unless it shall have accumulated
 25 sufficient surplus to constitute a reinsurance reserve equal to the un-
 26 earned premium on all outstanding policies or certificates, as pre-
 27 scribed by the statutes of this state relating thereto.

[S. S., '15, § 1798-b.]

CHAPTER 5.

PROVISIONS APPLYING TO LIFE INSURANCE COMPANIES AND ASSOCIATIONS.

SECTION 5525. Annual statement.

1 Every company or association organized under the laws of any
 2 other state or country and doing business in this state shall annually,
 3 by the first day of March, file with the commissioner of insurance a
 4 statement of its affairs for the year terminating on the thirty-first
 5 day of December preceding, in the same manner and form provided
 6 for similar companies or associations organized in this state. The

7 commissioner may amend the form of the annual statement required
8 to be made by companies or associations doing business in this state,
9 and propose and require such additional matter to be covered therein
10 as he may think necessary to elicit a full exhibit of the standing of
11 any such company or association.

[C., '73, §§ 1166, 1168; C., '97, § 1799.]

SEC. 5526. Agent's certificate.

1 No person shall, directly or indirectly, act within this state as
2 agent, or otherwise, in receiving or procuring applications for insur-
3 ance, or in doing or transacting any kind of life insurance business,
4 for any company or association contemplated in chapters two and
5 four of this title, except for the purpose of taking applications for
6 organizations, unless the company or association for which he is acting
7 has received a certificate from the commissioner of insurance author-
8 izing it to transact business therein, nor until he shall have received
9 from said commissioner a certificate showing that such company or
10 association has complied with the provisions of law, and that such
11 person is authorized to act for it.

[C., '73, § 1166; C., '97, § 1800.]

SEC. 5527. Penalty for acting without certificate.

1 Any such company or association that does or solicits new busi-
2 ness without the certificates required by the said chapters shall forfeit
3 five hundred dollars for every day's neglect to procure the same. Any
4 person knowingly soliciting applications or making insurance for any
5 company or association having no such certificate from the commis-
6 sioner of insurance as required, shall forfeit and pay the sum of three
7 hundred dollars, and any person acting for any company or associa-
8 tion authorized to transact business without having the agent's cer-
9 tificate prescribed in the preceding section in his possession, shall be
10 liable to pay twenty-five dollars for each day's neglect to procure the
11 same during the time he thus acts.

[C., '73, § 1177; C., '97, § 1801.]

SEC. 5528. Recovery of penalties.

1 Actions brought to recover any of the penalties provided for in
2 this chapter shall be instituted in the name of the state by the county
3 attorney of the county, under the direction and authority of the com-
4 missioner of insurance, and may be brought in the district court of
5 any county in which the company or association proceeded against
6 is engaged in the transaction of business, or in which the offending
7 person resides, if it is against him. The penalties, when recovered,
8 shall be paid into the state treasury for the use of the school fund.

[C., '73, § 1178; C., '97, § 1802.]

SEC. 5529. Real estate.

1 No such company or association organized under the laws of this
2 state shall purchase, hold or convey real estate, except for the purposes
3 and in the manner herein set forth:

- 4 1. Such as is required for its use in the transaction of its business.
- 5 2. Such as shall have been mortgaged to it in good faith by way
6 of security for loans previously contracted in the course of its dealings.

7 3. Such as shall have been conveyed to it in satisfaction of debts
8 previously contracted in the course of its dealings.

9 4. Such as shall have been purchased at sales under execution
10 issued upon judgments and decrees based upon debts due it, or ob-
11 tained by redemption as junior judgment creditor or mortgagee.

[C., '73, § 1180; C., '97, § 1803.]

SEC. 5530. When to be sold.

1 All real estate acquired which is not necessary for such company
2 or association in the convenient transaction of its business shall be
3 sold within five years after it acquired title thereto, unless it procures
4 a certificate from the commissioner of insurance that its interests will
5 suffer by a forced sale thereof, in which event the time may be ex-
6 tended as the commissioner shall direct in said certificate.

[C., '73, § 1181; C., '97, § 1804.]

SEC. 5531. Policy exempt from execution.

1 A policy of insurance on the life of an individual, in the absence
2 of an agreement or assignment to the contrary, shall inure to the
3 separate use of the husband or wife and children of said individual,
4 independently of his creditors. The proceeds of an endowment policy
5 payable to the assured on attaining a certain age shall be exempt from
6 liability for any of his debts. Any benefit or indemnity paid under
7 an accident policy shall be exempt to the assured, or in case of his
8 death to the husband or wife and children of the assured, from his
9 debts. The avails of all policies of life or accident insurance payable
10 to the surviving widow shall be exempt from liability for all debts of
11 such beneficiary contracted prior to the death of the assured, but the
12 amount thus exempted shall not exceed five thousand dollars.

[C., '51, § 1330; R., '60, § 2362; C., '73, §§ 1182, 2372; C.,
'97, § 1805.]

SEC. 5532. Investment of funds.

1 The funds required by law to be deposited with the commissioner
2 of insurance by any company or association contemplated in chapters
3 two and four of this title, and the funds or accumulations of any such
4 company or association organized under the laws of this state held
5 in trust for the purpose of fulfilling any contract in its policies or
6 certificates, shall be invested in the following described securities and
7 no other:

8 1. The bonds of the United States.

9 2. The bonds of this state or of any other state when such bonds
10 are at or above par.

11 3. Bonds or other evidences of indebtedness of any county, city,
12 town or school district within the state or any other state, drainage
13 district bonds of this state, improvement certificates issued by any
14 municipal corporation of this state such certificates being a first lien
15 upon real estate within the corporate limits of the municipality issuing
16 the same, where such bonds or other evidences of indebtedness are
17 issued by authority of and according to law and bearing interest, and
18 are approved by the commissioner of insurance.

19 4. Bonds and mortgages and other interest bearing securities
20 being first liens upon real estate within this state or any other state
21 worth at least double the amount loaned thereon and secured thereby

22 exclusive of improvements, or two and one-half times such amount
23 including the improvements thereon, if such improvements are con-
24 structed of brick or stone; but no such improvements shall be con-
25 sidered in estimating the value unless the owner shall contract to
26 keep the same insured in some reliable fire insurance company or
27 companies authorized to do business in the state, during the life of
28 the loan, in a sum at least equal to the excess of the loan above one-
29 half the value of the ground exclusive of the improvements, the insur-
30 ance to be made payable in case of loss to the company or association
31 investing its funds, as its interests may appear at the time of loss;
32 provided that before a company or association may invest any of its
33 funds in such securities as are specified in this subdivision of this
34 section in any state other than the state of Iowa it shall first obtain
35 consent of the commissioner of insurance so to do; any mortgage lien
36 upon real estate shall not, for the purposes of this section, be held or
37 construed to be other than a first lien by reason of the fact that drain-
38 age or other improvement assessments may have been levied against
39 the real estate covered by said mortgage, whether the installments
40 of said assessment be matured or not, provided that in determining
41 the value of said real estate for loan purposes, the amount of the drain-
42 age or other assessment tax unpaid, shall be deducted.

43 5. Loans upon its own policies, where the same have been in
44 force at least two full years, in an amount not exceeding the net ter-
45 minal reserve. If such loan is made, the company must describe in the
46 note or contract taken, the amount of the loan, the name of the bor-
47 rower, the number of the policy, and the terms of such note or con-
48 tract shall make the amount loaned a lien against such policy and such
49 note or contract shall be numbered, dated and signed, giving the post-
50 office address of the insured.

51 6. Any such real estate in this state as is necessary for its accom-
52 modation as a home office; and in the erection of any building for
53 such purposes, it may add thereto rooms for rent; provided that
54 before any company or association shall invest any of its funds, in
55 accordance with the provisions of this subdivision, it shall first obtain
56 the consent of the executive council. The maximum amount which
57 any such company or association shall be permitted to invest in ac-
58 cordance with the provisions of this subdivision shall not exceed ten
59 per cent of the lawful reserve on its policies or certificates of insur-
60 ance, provided, however, that a stock company may invest such por-
61 tion of its paid-up capital, in addition to said ten per cent of the lawful
62 reserve on its policies, as is not held to constitute a part of its legal
63 reserve deposit under section fifty-four hundred eighty-three; pro-
64 vided further that the total legal reserve of such company shall be
65 equal to or exceed the amount of its paid-up capital stock. Any com-
66 pany or association so investing its funds may use the value of any
67 such real estate and home office building as a part of the deposit of
68 legal reserve in which case it shall convey the same to the commis-
69 sioner of insurance by trust deed, such property to be held by him in
70 trust for the benefit of the policy holders or members of the company
71 or association. The commissioner of insurance shall execute and del-
72 iver to the company or association a quitclaim deed to the property
73 held by him in trust whenever the full legal reserve of said company
74 or association shall be invested in other securities provided in this
75 subdivision and deposited with the commissioner of insurance. The
76 value of said property whether deeded in trust or otherwise shall be
77 determined from time to time by the commissioner of insurance.

78 All such securities shall be deposited with the commissioner, sub-
 79 ject to his approval, and shall remain with him until withdrawn in
 80 accordance with law. Any company or association receiving pay-
 81 ments or partial payments on any securities deposited with the com-
 82 missioner shall notify him of such fact, giving the amount and date
 83 of payment, within thirty days after such payment shall have been
 84 made. The officers of any company or association which fails to re-
 85 port the receipt of payments or partial payments as above provided,
 86 shall be liable to a fine in double the amount collected and not reported
 87 within the time and in the manner above specified. It shall be the
 88 duty of the company or association and of the officers thereof to with-
 89 draw from deposit any loans made in accordance with the provisions
 90 of subdivision five of this section within fifteen days after the date of
 91 the lapsing or termination of any policy of insurance upon which any
 92 such loan is made. Any association making deposit with the commis-
 93 sioner as herein contemplated, shall at the time of making request for
 94 the withdrawal of any securities designate for what purpose the same
 95 are desired to be withdrawn. The commissioner shall have authority
 96 to suspend or revoke the certificate of authority of any company or
 97 association failing to comply with any of the provisions of this section
 98 or for violating the same.

[C., '73, § 1179; C., '97, § 1806; S. S., '15, § 1806; 37 G. A.,
 ch. 404, § 1.]

SEC. 5533. Investment in land and buildings.

1 Such organization may purchase such real estate in the state with
 2 a portion of its accumulations as may be necessary for its use in the
 3 transaction of its business, and in the erection of a building thereon
 4 for such purpose, to which rooms for rent may be added.

[C., '97, § 1807.]

SEC. 5534. Service of process.

1 Every life insurance company and association organized under
 2 the laws of another state or country shall, before receiving a certifi-
 3 cate to do business in this state or any renewal thereof, file in the
 4 office of the commissioner of insurance an agreement in writing that
 5 thereafter service of notice or process of any kind may be made on
 6 the commissioner, and when so made shall be as valid, binding and
 7 effective for all purposes as if served upon the company according to
 8 the laws of this or any other state, and waiving all claim or right of
 9 error by reason of such acknowledgment of service. Such notice or
 10 process, with a copy thereof, may be mailed to the commissioner at
 11 Des Moines, Iowa, in a registered letter addressed to him by his official
 12 title, and he shall immediately upon its receipt acknowledge service
 13 thereon on behalf of the defendant foreign insurance company by
 14 writing thereon, giving the date thereof, and shall immediately return
 15 such notice or process in a registered letter to the clerk of the court
 16 in which the suit is pending, addressed to him by his official title,
 17 and shall also forthwith mail such copy, with a copy of his acknowl-
 18 edgment of service written thereon, in a registered letter addressed
 19 to the person or corporation who shall be named or designated by such
 20 company in such written instrument.

[C., '73, § 1165; C., '97, § 1808.]

SEC. 5535. Provisions additional.

1 The provisions of the preceding section are merely additions to
 2 the general provisions of law on the subjects therein referred to, and
 3 are not to be construed to be exclusive.

[C., '97, § 1809.]

SEC. 5536. Laws of other states—reciprocity.

1 If by the laws of any state, or the rulings or decisions of the
 2 appropriate officers thereof, any burden, obligation, requirement, dis-
 3 qualification or disability is put upon any company or association of
 4 any class organized in this state affecting its freedom to do business
 5 in that state, then the same or like burden, obligations, requirement,
 6 disqualification or disability shall be put upon every such company
 7 or association of the same class from that state doing or seeking to
 8 do business in this state; and the commissioner of insurance shall
 9 enforce the provisions of this section, and in doing so may refuse or
 10 revoke the certificate of such company or association of such other
 11 state; and it shall be unlawful for the commissioner of insurance to
 12 impose upon companies or associations organized under chapter four
 13 of this title any rules or regulations, requirements or limitations, that
 14 shall not be imposed with equal force upon like companies or associa-
 15 tions from other states doing a like business in this state.

[C., '97, § 1810.]

SEC. 5537. Defenses to actions on policies—intoxication.

1 In any action pending in any court of the state on any policy or
 2 certificate of life insurance, wherein the defendant seeks to avoid lia-
 3 bility upon the alleged ground of the intemperate habits or habitual
 4 intoxication of the assured, it shall be a sufficient defense for the plain-
 5 tiff to show that such habits or habitual intoxication of the assured
 6 was generally known in the community or neighborhood where the
 7 agent of the defendant resided or did business, if thereafter the com-
 8 pany continued to receive the premiums falling due thereon.

[C., '97, § 1811.]

SEC. 5538. Physician's certificate.

1 In any case where the medical examiner, or physician acting as
 2 such, of any life insurance company or association doing business in
 3 the state shall issue a certificate of health or declare the applicant a
 4 fit subject for insurance, or so report to the company or association
 5 or its agent under the rules and regulations of such company or asso-
 6 ciation, it shall be thereby estopped from setting up in defense of the
 7 action on such policy or certificate that the assured was not in the con-
 8 dition of health required by the policy at the time of the issuance or
 9 delivery thereof, unless the same was procured by or through the
 10 fraud or deceit of the assured.

[C., '97, § 1812.]

SEC. 5539. Misrepresentation of age.

1 In all cases where it shall appear that the age of the person in-
 2 sured has been understated in the proposal, declaration or other instru-
 3 ment upon which a policy of life insurance has been founded or issued,
 4 then the amount payable under the policy shall be such as the premium
 5 paid would have purchased at the correct age; provided, however,

6 that one who, by misstating his age, obtains life insurance not other-
7 wise obtainable shall be entitled to recover from the insurer on account
8 of such policy only the aggregate premiums paid.

[C., '97, § 1813; 38 G. A., ch. 348, § 11.]

SEC. 5540. Illegal business.

1 Any officer, manager or agent of any life insurance company or
2 association who, with knowledge that it is doing business in an unlaw-
3 ful manner or is insolvent, solicits insurance with said company or
4 associations, or receives applications therefor, or does any other act
5 or thing towards procuring or receiving any new business for such
6 company or association, shall be guilty of a misdemeanor, and for
7 every such act, on conviction thereof, shall be adjudged to pay a fine
8 of not less than one hundred nor more than one thousand dollars, or
9 be imprisoned in the county jail not exceeding one year, or be punished
10 by both such fine and imprisonment. All contracts, promises and
11 agreements made by any person to or with any such company or
12 association concerning any premium, policy or certificate of new busi-
13 ness, after the revocation of its certificates or denial of authority to
14 do business, shall be null and void, and all payments of premium or
15 assessments advanced or made by any person on account of any such
16 policy, certificate of new business, or upon any arrangement therefor,
17 may be recovered from such company or association, or its agent to
18 whom payment was advanced or made, or from both of them, and in
19 addition thereto plaintiff may recover an equal amount as liquidated
20 damages, together with a reasonable fee to plaintiff's attorney for
21 services in the case.

[C., '97, § 1814.]

SEC. 5541. Advertisements—who deemed agent.

1 The provisions of sections fifty-six hundred sixty-five and fifty-
2 seven hundred thirty-five shall apply to life insurance companies and
3 associations.

[C., '97, § 1815.]

SEC. 5542. Penalty for fraud in procuring insurance.

1 Any agent, physician or other person who shall knowingly, by
2 means of concealment of facts or false statements, procure or assist
3 in procuring from any life insurance organization any policy or cer-
4 tificate of insurance, shall be punished by a fine of not to exceed one
5 thousand dollars or by imprisonment in the county jail not to exceed
6 one year, or by both, in the discretion of the court.

[C., '97, § 1816.]

SEC. 5543. Conspiracy to defraud.

1 If two or more persons conspire to defraud or obtain any money
2 from any life insurance company or association by means of false
3 statements as to the death of any person insured, or the false appear-
4 ance of the death of any such person, each shall be punished by im-
5 prisonment in the penitentiary not to exceed ten years. Any person
6 who by such means obtains any money or property on the policy or
7 certificate of the person so insured shall be punished by imprisonment
8 in the penitentiary not to exceed fifteen years. Any person who thus

9 attempts to obtain money from any such company or association shall
10 be punished by like imprisonment not to exceed seven years.

[C., '97, § 1817.]

SEC. 5544. Fees.

1 When not otherwise provided, each life insurance company doing
2 business in this state, except those organized under the laws thereof,
3 shall pay to the commissioner of insurance the following fees:

4 1. Upon filing declaration or certified copy of the charter or arti-
5 cles of incorporation, twenty-five dollars.

6 2. Upon filing the annual statement, twenty dollars.

7 3. For each certificate of authority and certified copy thereof, two
8 dollars.

9 4. For each agent's certificate, two dollars.

10 5. For every copy of any paper filed, the sum of twenty cents
11 per folio, and for certifying and affixing the official seal thereto, one
12 dollar.

13 6. For valuing policies, ten dollars for each million dollars of
14 insurance or fraction thereof.

15 Companies organized under the laws of the state shall pay the
16 following fees:

17 1. For filing an examination of the first application and the issu-
18 ance of certificate thereon, ten dollars.

19 2. For filing each annual statement and issuance of renewal cer-
20 tificate, three dollars.

21 3. For each agent's certificate, fifty cents.

22 The provisions of the chapter on insurance other than life shall
23 apply as to fees under this and chapters two and four of this title,
24 except as modified by this section.

[C., '73, § 1183; C., '97, § 1818.]

SEC. 5545. Copy of application.

1 All life insurance companies or associations organized or doing
2 business in this state under the provisions of the preceding chapters
3 shall, upon the issue of any policy, attach to such policy, or indorse
4 thereon, a true copy of any application or representation of the as-
5 sured which by the terms of such policy are made a part thereof, or
6 of the contract of insurance, or referred to therein, or which may in
7 any manner affect the validity of such policy, or, upon reinstatement
8 of a lapsed policy, shall attach to the renewal receipt a true copy of
9 all representations made by the assured upon which the renewal or
10 reinstatement is made. The omission so to do shall not render the
11 policy invalid, but if any company or association neglects to comply
12 with the requirements of this section, it shall forever be precluded
13 from pleading, alleging or proving such application or representations,
14 or any part thereof, or the falsity thereof, or any part thereof, in any
15 action upon such policy, and the plaintiff in any such action shall not
16 be required, in order to recover against such company or association,
17 either to plead or prove such application or representation, but may
18 do so at his option.

[C., '97, § 1819.]

SEC. 5546. Limitation of action.

1 No stipulation or condition in any policy or contract of insurance
2 or beneficiary certificate issued by any company or association men-

3 tioned or referred to in this chapter, limiting the time to a period of
4 less than one year after knowledge by the beneficiary within which
5 notice or proofs of death or the occurrence of other contingency
6 insured against must be given, shall be valid. In case of accident or
7 health insurance it shall be valid for any company or association to
8 limit by contract the time when notice or proofs of death, cause of
9 disability or other contingency insured against shall be given; but in
10 no case shall said notice be limited to a period of less than sixty days
11 after knowledge by the beneficiary within which such notice or proofs
12 must be given.

[C., '97, § 1820; S., '13, § 1820.]

SEC. 5547. Disbursements—vouchers—affidavit.

1 No domestic life insurance company shall make any disburse-
2 ment of one hundred dollars or more unless the same be evidenced
3 by a voucher signed by or on behalf of the person, firm, or corpora-
4 tion receiving the money and correctly describing the consideration for
5 the payment. If the expenditure be for both services and disburse-
6 ments the voucher shall set forth the services rendered and an item-
7 ized statement of the disbursements made. When such voucher can
8 not be obtained the expenditure shall be evidenced by an affidavit of
9 some officer or agent of said company describing the character and
10 object of the expenditure and stating the reason for not obtaining
11 such voucher.

[S., '13, § 1820-a.]

SEC. 5548. Misrepresentations prohibited.

1 No life insurance corporation doing business in this state and
2 no officer, director or agent thereof shall issue, circulate, or use, or
3 cause or permit to be issued, circulated, or used, any estimate, illus-
4 tration, circular or statement of any sort misrepresenting the terms
5 of any policy issued by it or the benefits or advantages promised
6 thereby, or the dividends or share of surplus to be received thereon,
7 or shall use any title of any policy or class of policies misrepresenting
8 the true nature thereof.

[S., '13, § 1820-b.]

SEC. 5549. Penalty.

1 Any person violating the provisions of the preceding section
2 shall be deemed guilty of a misdemeanor and shall be punished accord-
3 ingly.

[S., '13, § 1820-c.]

SEC. 5550. Reports—form—convention edition.

1 All reports contemplated under sections fifty-four hundred eighty-
2 two, fifty-five hundred fourteen, fifty-five hundred twenty-five, fifty-
3 five hundred sixty-two and fifty-six hundred thirty-two may be upon
4 forms furnished by the commissioner of insurance, and who may, at
5 his option upon authority of the executive council, purchase such
6 forms as are approved by the national convention of insurance com-
7 missioners, known as convention edition.

[S., '13, § 1820-d.]

SEC. 5551. Taxes, how paid.

1 In case this or any other state shall impose or levy any tax on
 2 any company or association, the same may be paid from any surplus
 3 or emergency fund of such company or association.

[C., '97, § 1821.]

CHAPTER 6.**FRATERNAL BENEFICIARY SOCIETIES, ORDERS OR ASSOCIATIONS.****SECTION 5552. Defined—general provisions.**

1 A fraternal beneficiary association is hereby declared to be a cor-
 2 poration, society or voluntary association, formed or organized and
 3 carried on for the sole benefit of its members and their beneficiaries,
 4 and not for profit, and having a lodge system, with ritualistic form of
 5 work and representative form of government. Such association shall
 6 make provision for the payment of benefits in case of death, and may
 7 make provision for the payment of benefits in case of sickness, tem-
 8 porary or permanent physical disability, either as a result of disease,
 9 accident or old age, provided the period of life at which payment of
 10 physical disability benefits on account of old age commences shall not
 11 be under seventy years, subject to the compliance by members with
 12 its constitution and laws. Provided that beneficiary societies or asso-
 13 ciations, whose membership is confined to the members of any one
 14 religious denomination, shall only be required to have a branch sys-
 15 tem and a representative form of government. Such beneficiary
 16 societies or associations shall be governed by the provisions of this
 17 chapter, and shall be exempt from the provisions of the statutes of
 18 this state, relating to life insurance companies, to the same extent as
 19 fraternal beneficiary associations. But the provisions of this chapter
 20 shall not be construed to include fraternal orders which only provide
 21 for sick and funeral benefits.

[C., '97, § 1822; S., '13, § 1822.]

SEC. 5553. Certain certificates may be issued—when—reserve.

1 Any fraternal beneficiary society issuing certificates, based upon
 2 rates not lower than those required by the mortality table set forth in
 3 section fifty-five hundred eighty-one, may issue certificates providing
 4 for death benefits upon the term, whole life or limited payment plan,
 5 in which event it shall maintain the required legal reserve on all such
 6 certificates, based on the standard adopted for the issuing of such
 7 certificates, which said reserve shall be set aside and held as a special
 8 reserve fund for the exclusive benefit of the members contributing
 9 thereto. Any such society may grant to its members extended and
 10 paid-up protection or such withdrawal equities as its constitution and
 11 laws may permit, provided that such grants shall in no case exceed in
 12 value the portion of the reserve to the credit of the members to whom
 13 they are made.

[38 G. A., ch. 343, § 1.]

SEC. 5554. Membership confined to one religious denomination—heretofore organized.

1 Any corporation heretofore organized under the laws of this or
2 any other state, whose membership is confined to the members of any
3 one religious denomination, and whose plan of business permits, may
4 take advantage of the two preceding sections by amendment to its
5 articles of incorporation, and by complying with the provisions of
6 section fifty-five hundred sixty-four; provided that such corporations
7 as on March fifteenth, nineteen hundred seven, were and have since
8 continuously been doing business under chapter four of this title, may
9 take advantage of said sections without raising their mortuary assess-
10 ment rates or showing that their said rates are such as are required
11 by section fifty-five hundred eighty-one.

[S. S., '15, § 1822-a.]

SEC. 5555. Assessments.

1 The fund from which the payment of such benefits shall be made
2 and the expenses of such association defrayed shall be derived from
3 beneficiary calls, assessments or dues collected from its members.

[C., '97, § 1823.]

SEC. 5556. Insurable age—beneficiary.

1 No fraternal association created or organized under the provi-
2 sions of this chapter shall issue any certificate of membership to any
3 person under the age of fifteen years, nor over the age of sixty-five
4 years, nor unless the beneficiary under said certificate shall be the
5 wife, husband, relative by blood to the fourth degree, father-in-law,
6 mother-in-law, son-in-law, daughter-in-law, step-father, step-mother,
7 step-children, children by legal adoption, legal representative or to a
8 person or persons dependent upon the member; provided that if after
9 the issuance of the original certificate the member shall become de-
10 pendent upon an incorporated charitable institution, he shall have the
11 privilege, with the consent of the governing body or board of the
12 society, to make such institution his beneficiary. Within the above
13 restrictions each member shall have the right to designate his bene-
14 ficiary and from time to time have the same changed in accordance
15 with the laws, rules or regulations of the society, and no beneficiary
16 shall have or obtain any vested interest in said benefit until the same
17 has become due and payable upon the death of said member, provided
18 that any society may, by its laws, limit the scope of beneficiaries
19 within the above classes.

[C., '97, § 1824; 38 G. A., ch. 240, § 1.]

SEC. 5557. Statutes applicable.

1 Such associations shall be governed by this chapter, and shall be
2 exempt from the provisions of the statutes of this state relating to
3 life insurance companies, except as hereinafter provided.

[C., '97, § 1825.]

SEC. 5558. Copy of application.

1 All such associations shall, upon the issue or renewal of any bene-
2 ficiary certificate, attach to such certificate or indorse thereon a true
3 copy of any application or representation of the member which by

4 the terms of such certificate are made a part thereof. The omission
 5 so to do shall not render the certificate invalid, but if any such asso-
 6 ciation neglects to comply with the requirements of this section it shall
 7 not plead or prove the falsity of any such certificate or representa-
 8 tion or any part thereof in any action upon such certificate, and the
 9 plaintiff in any such action, in order to recover against such associa-
 10 tion, shall not be required to either plead or prove such application or
 11 representation.

[C., '97, § 1826.]

SEC. 5559. Where suable.

1 Such associations may be sued in any county in which is kept
 2 their principal place of business, or in which the beneficiary contract
 3 was made, or in which the death of the member occurred; but actions
 4 to recover old age, sick or accident benefits may, at the option of
 5 the beneficiary, be brought in the county of his residence.

[C., '97, § 1827.]

SEC. 5560. Exemption of proceeds.

1 The proceeds of any beneficiary certificate issued by any such
 2 association, and of any claims for benefits, shall be exempt from
 3 execution and attachment, to the same extent as the proceeds of any
 4 policy of life or endowment insurance, as is now or may hereafter be
 5 provided by the laws of this state.

[C., '97, § 1828.]

SEC. 5561. Foreign companies.

1 Any such association organized under the laws of any other state
 2 shall be permitted to do business in this state, when it shall have
 3 filed with the commissioner of insurance a duly certified copy of its
 4 charter and articles of association, and a copy of its constitution or
 5 laws, certified to by its secretary or corresponding officer, together
 6 with an appointment of the commissioner as a person upon whom
 7 process may be served as hereinafter provided, if such association shall
 8 be shown to be authorized to do business in the state in which it is
 9 incorporated or organized. The commissioner may personally, or by
 10 some person to be designated by him, examine into the conditions,
 11 affairs, character and business methods, accounts, books and invest-
 12 ments of such association at its home office, which examination shall
 13 be at the expense of such association, and shall be made within thirty
 14 days after demand therefor; and the expense of such examination
 15 shall be limited to five dollars per day and the necessary expenses of
 16 travel and for hotel bills. If the commissioner, after such examina-
 17 tion, is of the opinion that no permit should be granted to such asso-
 18 ciation, he may refuse to issue the same.

[C., '97, § 1829.]

SEC. 5562. Report.

1 Every such association doing business in this state shall, on or
 2 before the first day of March of each year, make, and file with the
 3 commissioner of insurance, a report for the year ending on the thirty-
 4 first day of December immediately preceding. All reports shall be
 5 upon blank forms to be provided by the commissioner, or may be
 6 printed in pamphlet form, and shall be verified under oath by the

7 authorized officers of such association, and shall be published, or the
8 substance thereof, in the annual report of the commissioner under
9 the separate title "Fraternal Beneficiary Associations," and shall con-
10 tain answers to the following questions:

11 1. Number of certificates issued during the year, or members
12 admitted.

13 2. Amount of indemnity effected thereby.

14 3. Number of losses or benefit liabilities incurred.

15 4. Number of losses or benefit liabilities paid.

16 5. The amount received from each assessment for the year.

17 6. Total amount paid members, beneficiaries, legal representa-
18 tives or heirs.

19 7. Number and kind of claims for which assessments have been
20 made.

21 8. Number and kind of claims compromised or resisted, and brief
22 statement of reason.

23 9. Does association charge annual or other periodical dues or
24 admission fees.

25 10. How much on each one thousand dollars annually, or per
26 capita, as the case may be.

27 11. Total amount received, from what source, and the disposition
28 thereof.

29 12. Total amount of salaries, fees, per diem, mileage, expenses
30 paid to officers, showing amount paid to each.

31 13. Does the association guarantee, in its certificates, fixed
32 amounts to be paid regardless of amount realized from assessments,
33 dues, admission fees and donations.

34 14. If so, state amount guaranteed, and the security of such
35 guarantee.

36 15. Has the association a reserve or emergency fund.

37 16. If so, how is it created, and for what purpose, the amount
38 thereof, and how invested.

39 17. Has the association more than one class.

40 18. If so, how many, and amount of indemnity in each.

41 19. Number of members in each class.

42 20. If voluntary, so state, and give date of organization.

43 21. If organized under the laws of this state, under what law and
44 at what time, giving chapter and year and date of passage of the act.

45 22. If organized under the laws of any other state, territory or
46 province, state such fact and the date of organization, giving chapter
47 and year and date of passage of the act.

48 23. Number of certificates of beneficiary membership lapsed dur-
49 ing the year.

50 24. Number in force at beginning and end of year; if more than
51 one class, number in each class.

52 25. Names and addresses of its presidents, secretary and treas-
53 urer, or corresponding officers.

54 The commissioner is empowered to make any additional inquiries
55 of any such association relative to the business contemplated by this
56 chapter, and such officer of such association as the commissioner may
57 require shall promptly reply in writing, under oath, to all such
58 inquiries.

[C., '97, § 1830.]

SEC. 5563. Service of process.

1 Any such association permitted to do business within this state,
2 and not having its principal office within this state, and not organized
3 under the laws of this state, shall appoint, in writing, the commis-
4 sioner of insurance to be attorney in fact, on whom all process in any
5 action or proceeding against it shall be served, and in such writing
6 shall agree that any process against it which is served on said attorney
7 in fact shall be of the same validity as if served upon the associa-
8 tion, and that the authority shall continue in force so long as any
9 liability remains outstanding in this state. Copies of such certificate,
10 certified by said commissioner, shall be deemed sufficient evidence
11 thereof, and shall be admitted in evidence with the same force and
12 effect as the original. Service upon such attorney shall be deemed suf-
13 ficient service upon such association. When legal process against any
14 such association is served upon said commissioner, he shall immedi-
15 ately notify the association of such service by letter, postage prepaid,
16 directed and mailed to its secretary or corresponding officer, and shall
17 within two days after such service forward in the same manner a copy
18 of the process served on him to such officer. The commissioner shall
19 keep a record of all processes served upon him, which record shall
20 show the day and hour when such service was made.

[C., '97, § 1831.]

SEC. 5564. Annual certificate—amount of insurance required.

1 Before any beneficiary society, order or association shall be
2 authorized to commence business within this state, it shall submit to
3 the commissioner of insurance its by-laws or rules by which it is to be
4 governed, and also its articles of incorporation which shall include its
5 plan of business. The commissioner shall thereupon submit its arti-
6 cles of incorporation to the attorney general for examination, and if
7 found by him to be in harmony with this title, chapter and with law,
8 he shall so certify upon said articles and return them to the commis-
9 sioner. If the commissioner shall approve the articles and also the
10 by-laws or rules, he shall issue to the society, order or association a
11 permit in writing, authorizing it to transact business within this state
12 for a period of one year from the first day of April of the year of its
13 issue, for which certificate and all proceedings in connection therewith,
14 there shall be paid to the commissioner a fee of twenty-five dollars,
15 and for each annual renewal thereof a like fee shall be paid; provided,
16 however, that before such certificate shall be issued, the fraternal
17 society, order or association shall have actual bona fide applications
18 upon the lives of at least five hundred persons, residents of this state,
19 for at least one thousand dollars of insurance each, and the commis-
20 sioner may require the presentation of such applications, signed by the
21 applicants themselves. No renewal of certificate of authority shall be
22 made to any society, order, or association whose membership, in good
23 standing, or the amount of whose insurance in force shall be reduced
24 below the above requirements. Societies, orders or associations not
25 organized under the laws of this state, in addition to the requirements
26 of the provisions of section fifty-five hundred sixty-one must also
27 comply with all of the provisions of this chapter, except as to the resi-
28 dence of membership; provided that no such society, order or associa-
29 tion shall be authorized to transact business within this state unless

30 it shall be shown to have actual members, in good standing, of at least
 31 one thousand, and at least one million dollars of insurance in force.
 [C., '97, § 1832; S., '13, § 1832.]

SEC. 5565. Agents.

1 Such association shall not employ paid agents in soliciting or
 2 procuring members, except in the organization or building up of sub-
 3 ordinate bodies, or granting members inducements to procure new
 4 members.

[C., '97, § 1833.]

SEC. 5566. Changing beneficiary.

1 No contract between a member and his beneficiary that the bene-
 2 ficiary or any person for him shall pay such member's assessments
 3 and dues, or either of them, shall deprive the member of the right to
 4 change the name of the beneficiary.

[C., '97, § 1834.]

SEC. 5567. Meetings in other states.

1 Any such association organized under the laws of this state may
 2 provide for the meetings of its legislative or governing body in any
 3 other state, territory or province wherein such association shall have
 4 subordinate bodies, and all business transacted at such meetings shall
 5 be valid, in all respects, as if such meetings were held within this
 6 state; and where the laws of any such association provide for the
 7 election of its officers by votes to be cast in its subordinate bodies, the
 8 votes so cast in its subordinate bodies in any other state, territory or
 9 province shall be valid, as if cast within this state.

[C., '97, § 1835.]

SEC. 5568. Proceedings for violations of statute.

1 Any such association refusing or neglecting to make the report
 2 as provided in this chapter shall be excluded from doing business
 3 within this state. The commissioner of insurance must, within sixty
 4 days after failure to make such report, or in case any such associa-
 5 tion shall exceed its powers, or shall conduct its business fraudulently,
 6 or shall fail to comply with any of the provisions of this chapter, give
 7 notice in writing to the attorney general, who shall immediately com-
 8 mence an action against such association to enjoin the same from car-
 9 rying on any business. No association so enjoined shall have author-
 10 ity to continue business until such report shall be made, or overt act
 11 or violation complained of shall have been corrected, nor until the
 12 costs of such action be paid by it, provided the court shall find that
 13 such association was in default, as charged; whereupon the commis-
 14 sioner shall reinstate such association, and not until then shall such
 15 association be allowed to again do business in this state. Any officer,
 16 agent or person acting for any such association or subordinate body
 17 thereof within this state, while such association shall be so enjoined
 18 or prohibited from doing business pursuant to this chapter, shall be
 19 deemed guilty of a misdemeanor, and, on conviction thereof, shall be
 20 punished by a fine of not less than twenty-five dollars, nor more than
 21 two hundred dollars, or by imprisonment in the county jail not less

22 than thirty days nor more than one year, or by both such fine and
23 imprisonment, in the discretion of the court.

[C., '97, § 1836.]

SEC. 5569. Illegal business—agents.

1 Any person who shall act within this state as an officer, agent or
2 otherwise for any such association which has failed, neglected or
3 refused to comply with or which has violated any of the provisions
4 of this chapter, or shall have failed or neglected to procure from the
5 commissioner of insurance proper certificate of authority to transact
6 business as provided for by this chapter, shall be subject to the penalty
7 provided in the preceding section for the misdemeanor therein
8 specified.

[C., '97, § 1837.]

SEC. 5570. False representations by officers or agents.

1 Any officer, agent or member of such association, who shall obtain
2 any money or property belonging thereto by any false or fraudulent
3 representation, shall be fined not more than five hundred dollars and
4 costs, and stand committed until such fine and costs are paid, or may be
5 imprisoned in the county jail not more than six months.

[C., '97, § 1838.]

SEC. 5571. Physician's certificate.

1 Every applicant for membership in any association organized in
2 this state shall first be examined by a physician holding a certificate
3 from the state board of medical examiners.

[C., '97, § 1839.]

SEC. 5572. "Association" defined.

1 The term "association" when used in this chapter shall mean any
2 society, order or association organized or authorized under the pro-
3 visions of this chapter.

[S., '13, § 1839-a.]

SEC. 5573. Examination—assistants—compensation.

1 The commissioner of insurance may, at any time he may deem it
2 advisable, either in person or by his legally appointed representative,
3 make an examination of or inquire into the affairs of any fraternal
4 beneficiary association authorized or seeking to be authorized to trans-
5 act business within this state, provided the examination of associa-
6 tions organized under the laws of this state shall not be less frequent
7 than once during each biennial period. To aid in making such exam-
8 ination, the commissioner may appoint such assistants as may be
9 necessary, each of whom shall receive as compensation for his services
10 not to exceed ten dollars per day.

[S., '13, § 1839-b; 38 G. A., ch. 348, § 12.]

SEC. 5574. Officers to assist—examiner may administer oaths.

1 When an association is being examined, the officers, agents or em-
2 ployees thereof shall produce for inspection all books, papers, docu-
3 ments or other information concerning the affairs of the association
4 and shall otherwise assist in the examination. The commissioner of

5 insurance or examiner shall have authority to administer oaths, and
6 may summon and may examine under oath any officer, employee, rep-
7 resentative or agent of any association concerning its affairs or con-
8 dition.

[S., '13, § 1839-c.]

SEC. 5575. Revocation or suspension of authority.

1 If upon investigation or examination, it shall appear to the satis-
2 faction of the commissioner of insurance that any association is doing
3 an illegal or unauthorized business, or is failing to fulfill its contracts
4 with its members, or is conducting its business fraudulently, or if its
5 membership or the amount of its insurance in force has been reduced
6 below the legal requirement, or should any association decline or re-
7 fuse to submit to an examination, the commissioner may suspend or
8 revoke its certificate of authority to transact business within this
9 state, and having revoked the certificate of authority of any associa-
10 tion organized under the laws of this state, he shall at once report the
11 same to the attorney general who shall apply to the district court or
12 any judge thereof for the appointment of a receiver to wind up the
13 affairs of such association.

[S., '13, § 1839-d.]

SEC. 5576. Expenses—how paid.

1 In addition to the compensation of the assistants provided for in
2 section fifty-five hundred seventy-three, the commissioner of insurance
3 or examiner and assistants shall be entitled to actual and necessary
4 traveling, hotel and other expenses while conducting examinations
5 away from their respective places of residence, the same to be paid by
6 the treasurer of state upon warrants drawn by the auditor of state,
7 bills therefor having been filed under oath and approved by the state
8 board of audit. Such expense and compensation shall, by the com-
9 missioner, be charged to and collected from the associations examined
10 and should any association neglect or refuse to pay the same, the com-
11 missioner shall at once revoke its certificate of authority to transact
12 business within this state.

[S., '13, § 1839-e.]

SEC. 5577. Soliciting new business—penalty.

1 Any officer, manager, agent or representative of any association
2 who with knowledge that its certificate of authority has been sus-
3 pended or revoked or that it is doing an illegal, unauthorized or fraud-
4 ulent business solicits insurance for said association or receives appli-
5 cations therefor, or does any other act or thing toward receiving or
6 procuring any new business for said association, shall be deemed guilty
7 of a misdemeanor and for every such act, on conviction thereof, shall
8 pay a fine of not less than one hundred nor more than ten hundred
9 dollars, or be imprisoned in the county jail not more than one year, or
10 be punished by both such fine and imprisonment.

[S., '13, § 1839-f.]

SEC. 5578. Plan of consolidation or reinsurance—approval.

1 When any fraternal beneficiary association shall propose to con-
2 solidate or enter into any reinsurance contract with any other associa-
3 tion or organization, it shall present its proposed plan of consolidation

4 or reinsurance, together with a statement of the condition of its affairs
 5 to the commissioner of insurance for his approval. Should he approve
 6 the plan, the same shall be submitted by any association proposing to
 7 reinsure its risks or transfer its business, to its local lodges or organi-
 8 zations or to a regular or special meeting of its supreme lodge or gov-
 9 erning body to be voted upon, such notice being given as the commis-
 10 sioner may direct. If, in the judgment of the commissioner, it is
 11 deemed advisable he may also require the plan to be in like manner
 12 submitted to the association proposing to accept or reinsure the risks
 13 of any other association. In case two or more associations propose to
 14 consolidate, the proposed plan of consolidation shall be submitted, as
 15 above provided, to all of the associations interested in such consolida-
 16 tion. In any of the above cases, a two-thirds vote of all of the mem-
 17 bers of each association present and voting shall be necessary to an
 18 approval of any plan of consolidation or reinsurance, and in no case
 19 shall proxies be voted. On presenting to the commissioner satisfactory
 20 proof that the foregoing provisions have been complied with and that
 21 the required number of votes have been cast in favor of the proposed
 22 plan, he shall issue to the association an order to the effect that the
 23 plan has been approved, and the same shall be in force and effect from
 24 and after the date of such order, and the commissioner shall direct
 25 such distribution of the assets of any such association or associations
 26 as shall be just and equitable.

[S., '13, § 1839-g.]

SEC. 5579. Expenses—how paid.

1 All expenses or costs incident to proceedings under the provisions
 2 of the preceding section shall be paid by the associations interested.

[S., '13, § 1839-h.]

SEC. 5580. Penalty.

1 Any officer, director or manager of any association violating or
 2 consenting to the violation of any of the provisions of section fifty-five
 3 hundred seventy-eight, shall be punished by a fine of not less than ten
 4 hundred dollars, or by imprisonment in the county jail not less than
 5 one year, or by both such fine and imprisonment in the discretion of the
 6 court.

[S., '13, § 1839-i.]

SEC. 5581. Mortuary assessment rates.

1 No fraternal beneficiary society not admitted to transact business
 2 in this state prior to July fourth, nineteen hundred seven, shall be
 3 incorporated or given a permit or certificate of authority to transact
 4 business within this state, unless it shall first show that the mortuary
 5 assessment rates provided for in whatever plan of business it has
 6 adopted, including the issuance of term, whole life, or limited payment
 7 certificates with withdrawal options, are not lower than is indicated
 8 as necessary by the following mortality table:

NATIONAL FRATERNAL CONGRESS MORTALITY TABLE.

Age	Number Living	Number Dying	Probability of Dying	Age	Number Living	Number Dying	Probability of Dying
20.....	100,000	500	.0050000	60....	69,801	1,588	.0227504
21.....	99,500	501	.0050352	61....	68,213	1,681	.0246434
22.....	98,999	502	.0050708	62....	66,532	1,778	.0267240
23.....	98,497	503	.0051068	63....	64,754	1,880	.0290330
24.....	97,994	505	.0051535	64....	62,874	1,935	.0315701
25.....	97,489	507	.0052006	65....	60,889	2,094	.0343304
26.....	96,982	510	.0052587	66....	58,795	2,206	.0375202
27.....	96,472	513	.0053176	67....	56,589	2,308	.0409620
28.....	95,957	517	.0053877	68....	54,271	2,430	.0447753
29.....	95,442	522	.0054693	69....	51,841	2,539	.0489767
30.....	94,920	527	.0055520	70....	49,302	2,645	.0536489
31.....	94,393	533	.0056466	71....	46,657	2,744	.0588122
32.....	93,860	540	.0057532	72....	43,913	2,832	.0644912
33.....	93,320	548	.0058723	73....	41,081	2,909	.0708113
34.....	92,772	557	.0060040	74....	38,172	2,969	.0777795
35.....	92,215	567	.0061487	75....	35,203	3,009	.0854957
36.....	91,648	578	.0063067	76....	32,194	3,026	.0939927
37.....	91,070	591	.0064895	77....	29,168	3,016	.1031010
38.....	90,479	606	.0066977	78....	26,152	2,977	.1138345
39.....	89,873	622	.0069209	79....	23,175	2,905	.1253506
40.....	89,251	640	.0071708	80....	20,270	2,799	.1380858
41.....	88,611	660	.0074483	81....	17,471	2,659	.1521951
42.....	87,951	683	.0077657	82....	14,812	2,485	.1677694
43.....	87,268	708	.0081129	83....	12,327	2,280	.1849599
44.....	86,568	734	.0084797	84....	10,047	2,050	.2040410
45.....	85,826	761	.0088668	85....	7,997	1,800	.2250844
46.....	85,065	790	.0092870	86....	6,197	1,539	.2483460
47.....	84,275	822	.0097538	87....	4,658	1,277	.2741520
48.....	83,453	857	.0102693	88....	3,381	1,023	.3025732
49.....	82,596	894	.0108238	89....	2,358	788	.3341815
50.....	81,702	935	.0114440	90....	1,570	579	.3687898
51.....	80,767	981	.0121460	91....	991	404	.4076690
52.....	79,786	1,029	.0128970	92....	587	264	.4497445
53.....	78,757	1,083	.0137512	93....	323	161	.4984520
54.....	77,674	1,140	.0146767	94....	162	89	.5493827
55.....	76,534	1,202	.0157054	95....	73	44	.6027397
56.....	75,332	1,270	.0168587	96....	29	19	.6551724
57.....	74,062	1,342	.0181200	97....	10	7	.7000000
58.....	72,720	1,418	.0194994	98....	3	3	1.0000000
59.....	71,302	1,501	.0210513				

10 Provided, however, that this section shall not be construed so as
 11 to apply to or to affect any association organized solely for benevolent
 12 purposes and whose articles of incorporation, constitution, rules or by-
 13 laws provide, that, at the time of the admission to membership, each
 14 member, when joining, shall belong to one certain occupation or guild.

15 The certificate written by any domestic fraternal beneficiary asso-
 16 ciation operating under the provisions of the foregoing mortality table
 17 shall be valued in the same manner as provided in section fifty-four
 18 hundred eighty-three, except that such valuation shall be based upon
 19 the foregoing mortality table and four per cent interest.

20 If the society makes loans on its certificates, the valuation shall
 21 be based upon a mortality table not lower than the American table
 22 of mortality and four and one-half per cent interest.

[S., '13, § 1839-j; 37 G. A., ch. 113, § 1; 37 G. A., ch. 193, § 1;
 38 G. A., ch. 227, § 1.]

SEC. 5582. Acquisition of real estate—erection of building—conditions.

1 Any fraternal beneficiary society, order or association organized
 2 under the laws of this state, accumulating money to be held in trust
 3 for the purpose of the fulfillment of its certificates or contracts, shall
 4 be permitted to invest not to exceed ten per cent of the aggregate
 5 amount of such accumulation in such real estate in this state as is
 6 necessary for its accommodation as a home office, and in the purchase
 7 or erection of any building for such purpose it may add thereto rooms
 8 for rent; provided that before any association shall invest any of its
 9 funds in accordance with the provisions of this section it shall first
 10 obtain the consent of the executive council. Any company or associa-
 11 tion so investing its funds shall convey the real estate thus acquired
 12 to the commissioner of insurance by deed, such property to be held by
 13 him in trust for the benefit of the members of such association, the
 14 value thereof to be determined from time to time by the commissioner;
 15 provided that nothing in this section shall be construed to permit the
 16 officials or board of directors of such society, order or association to
 17 make such investment without authority specifically granted by the
 18 said society, order or association through its grand or supreme lodge
 19 or convention.

[S., '13, § 1839-k; 37 G. A., ch. 379, § 1.]

SEC. 5583. Investment of funds—securities deposited—auxiliary organizations.

1 Any fraternal beneficiary society, order or association organized
 2 under the laws of this state, accumulating money to be held in trust
 3 for the purpose of the fulfillment of its certificates or contracts, shall
 4 invest such accumulations in the following securities and no other:
 5 1. Bonds of the United States.
 6 2. Bonds of this or of any other state, when such bonds are at or
 7 above par.
 8 3. Bonds or other evidences of indebtedness of any county, city,
 9 town or school district within the state or any other state, or drainage
 10 bonds of any drainage district in the state of Iowa where such bonds
 11 or other evidences of indebtedness are issued by authority of and ac-
 12 cording to law and bearing interest, and are approved by the execu-
 13 tive council.
 14 4. Bonds, mortgages and other interest bearing securities being
 15 first liens upon real estate within this state or any other state, worth
 16 at least double the amount loaned thereon and secured thereby exclu-
 17 sive of improvements, or two and one-half times such amount including
 18 the improvements thereon, if such improvements are constructed of
 19 brick or stone; but no such improvements shall be considered in esti-
 20 mating the value unless the owner shall contract to keep the same
 21 insured in some reliable fire insurance company or companies author-
 22 ized to do business in the state, during the life of the loan, in a sum
 23 at least double the excess of the loan above one-half the value of the
 24 ground exclusive of the improvements, the insurance to be made pay-
 25 able in case of loss to the company or association investing its funds,
 26 as its interest may appear at the time of loss. Loans on certificates of
 27 members, provided that the valuation of the society shows a main-
 28 tenance of reserve not lower than the usual reserve computed upon
 29 the American table of mortality and four and one-half per cent inter-

30 est. All such securities shall be deposited with the commissioner of
 31 insurance subject to his approval, and shall remain with him until
 32 withdrawn in accordance with the provisions of this section. Any
 33 fraternal beneficiary society, order or association receiving payments,
 34 or partial payments on any securities deposited with the commissioner,
 35 shall notify him of such fact giving the amount and date of payment
 36 within fifteen days after such payment shall have been made. The
 37 officers of any society, order or association which fails to report the
 38 receipt of payments or partial payments as above provided shall be
 39 liable to a fine in double the amount collected and not reported within
 40 the time and in the manner above specified. Any society, order or
 41 association required to make a deposit with the commissioner as
 42 herein contemplated, shall at the time of making such deposit, desig-
 43 nate by what provisions of its articles of incorporation or laws such
 44 fund is accumulated and upon making request for withdrawal of any
 45 funds shall designate for what purpose such withdrawal is desired.
 46 Any society, order or association, may at any time change its securi-
 47 ties on deposit by depositing a like amount in other securities of the
 48 same character and the commissioner shall permit a withdrawal of
 49 the same upon satisfactory proof in writing filed with him that they
 50 are to be used for the purpose for which they were originally depos-
 51 ited. The commissioner shall have authority to suspend or revoke
 52 the certificate of authority of any society, order or association failing
 53 to comply with any of the provisions of this section or for violating
 54 the same. Nothing in this section shall be construed to apply to any
 55 association organized solely for benevolent purposes and whose arti-
 56 cles of incorporation, constitution, rules or by-laws provide that, at
 57 the time of the admission to membership, each member, when joining,
 58 shall belong to one certain occupation, guild, profession or religious
 59 denomination; nor shall the provisions of this chapter be construed
 60 to apply to organizations, societies, or associations, the membership of
 61 which consists of female members of the families of members of any
 62 one occupation, guild, profession or religious denomination, nor shall
 63 the provisions of this chapter be construed to apply to auxiliary socie-
 64 ties or associations, the membership of which consists of female mem-
 65 bers of the families of members of any one occupation, guild, profes-
 66 sion or religious denomination.

[S., '13, § 1839-l; 37 G. A., ch. 113, § 2; 37 G. A., ch. 193, § 2.]

SEC. 5584. Receiver on application of attorney general only.

1 No application for the appointment of a receiver for any fraternal
 2 beneficiary society, or branch thereof, shall be entertained by any
 3 court in this state, unless same is made by the attorney general.

[S. S., '15, § 1839-m.]

SEC. 5585. When proceedings may be commenced.

1 No such proceedings shall be commenced by the attorney general
 2 against any fraternal beneficiary society until the commissioner of
 3 insurance has first made an examination of such fraternal beneficiary
 4 society, and completed a report upon its affairs, and not until after
 5 notice has been duly served on the chief executive officers of the so-
 6 ciety, and a reasonable opportunity given to it, on a date to be named
 7 in said notice, to show cause why such proceedings should not be
 8 commenced.

[S. S., '15, § 1839-n.]

SEC. 5586. Examinations and statements not public.

1 Pending, during or after an examination or investigation of such
 2 fraternal beneficiary society, the commissioner of insurance shall make
 3 public no financial statement, report or finding, nor shall he permit to
 4 become public any financial statement, report or finding affecting the
 5 status, standing or rights of any such society until a copy of such
 6 examination and investigation shall have been served upon such so-
 7 ciety, at its home office, nor until such society shall have been afforded
 8 a reasonable opportunity to answer such financial statement, investiga-
 9 tion, report or finding, and to make such showing in connection there-
 10 with, as it may desire.

[S. S., '15, § 1839-o.]

SEC. 5587. Fraternal beneficiary society may become level premium company—how—plans submitted to commissioner—hearing.

1 Any existing fraternal beneficiary society may amend its articles
 2 of incorporation and by-laws in such a manner as to transform itself
 3 into a legal reserve level premium company doing business either as
 4 a mutual or stock company, but only after complying with the pro-
 5 visions of this and the three following sections.

6 Whenever any such society shall propose to transform itself into
 7 a legal reserve level premium company as herein provided, it shall file
 8 with the commissioner of insurance, its proposed articles and by-laws,
 9 its plan of transformation, setting forth in detail the terms and condi-
 10 tions of such transformation and also the method by which it proposes
 11 to protect the interests of its membership. The commissioner may
 12 proceed to hear and determine such petition without notice, or, if he
 13 deems it necessary that such notice should be given in order to con-
 14 serve the interests of the membership, he shall require the society to
 15 first notify, by mail, all of the members of such society of the pen-
 16 dency of such petition, the contents of such notice to be determined
 17 by the commissioner. When notice shall have been given, as above pro-
 18 vided, any member of said society shall have the right to appear before
 19 said commissioner and be heard with reference to said petition. The
 20 commissioner may also make such examination into the affairs and
 21 conditions of the society as he deems proper, and shall have power to
 22 summon and compel the attendance and testimony of witnesses, and
 23 the production of books and papers, and may administer oaths. If
 24 satisfied that the interests of the membership of said society are prop-
 25 erly protected and that no reasonable objection to said petition exists,
 26 the commissioner may authorize in writing, such transformation, or
 27 may first require such modification thereof as may seem to him neces-
 28 sary for the best interests of such membership; and the said commis-
 29 sioner shall make such order and disposition of the assets of any such
 30 society as in his judgment may be just and equitable.

[38 G. A., ch. 302, § 1.]

SEC. 5588. Plan submitted to supreme governing body society.

1 The commissioner shall require the plan of transformation to be
 2 submitted to the supreme governing body of such society, to be voted
 3 upon. When submitted, it shall be either at a regular meeting of said
 4 supreme governing body or at a special meeting of same called for that
 5 purpose. A notice of said special meeting, in the form approved by the

6 insurance commissioner, shall be given in accordance with the require-
 7 ment of the by-laws of such society. When so submitted, a majority
 8 vote of the said supreme governing body present and voting, as author-
 9 ized by its articles of incorporation and by-laws, shall be necessary to
 10 an approval of such plan of transformation; and no proxies shall in
 11 any case be voted.

[38 G. A., ch. 302, § 2.]

SEC. 5589. Referendum.

1 If the supreme governing body approves the plan of transforma-
 2 tion, the board of directors or other managing body of such society
 3 shall submit the plan to a referendum vote of the members of such
 4 society under such regulations as may be prescribed by the commis-
 5 sioner of insurance and if the result of such vote shall show that the
 6 majority of the members of such society has voted to repeal the action
 7 of the supreme governing body, then the same shall be considered as
 8 repealed by such society and shall be null and of no effect. Any such
 9 plan of transformation submitted to the supreme governing body as
 10 herein contemplated, must first have been approved by the commis-
 11 sioner of insurance; and the result of said vote must be filed with
 12 such commissioner and be by him determined before any transforma-
 13 tion shall be so effective. No such transformation shall take place
 14 until after its plan has been approved by the commissioner, either with
 15 or without a hearing as herein provided, nor until such approved plan
 16 has been adopted by a majority vote of the board of directors or board
 17 of trustees of such society; nor, if submitted to the supreme govern-
 18 ing body, until such approved plan has also been adopted by a majority
 19 vote of the said supreme governing body present and voting.

[38 G. A., ch. 302, § 2.]

SEC. 5590. Obligations and benefits—society—officers—stock.

1 Any such society so transformed, shall incur the obligations and
 2 enjoy the benefits thereof the same as though originally thus incor-
 3 porated, and such corporation, under its charter as thus amended, shall
 4 be continuation of such original corporation, and the officers thereof
 5 shall serve through their respective terms as provided in the original
 6 charter, but their successors shall be elected and serve as in such
 7 amended articles provided; but such amendment or reincorporation
 8 shall not affect existing suits, claim or contracts. Any such fraternal
 9 beneficiary society taking advantage of this section, to reorganize into
 10 a stock company shall offer to each member of said society the privi-
 11 lege of subscribing for and purchasing his or her proportionate amount
 12 of capital stock.

[38 G. A., ch. 302, § 3.]

SEC. 5591. Value existing certificates of membership.

1 The existing certificates of membership of any fraternal bene-
 2 ficiary society which shall have transformed itself into a legal reserve
 3 level premium life insurance company, in conformity with the provi-
 4 sions of section fifty-five hundred eighty-seven shall be valued as
 5 follows:

6 *a* Certificates on which rates of contribution are not on the basis
 7 of any table of mortality, valued as yearly renewable term policies

8 according to the standard of valuation of life insurance policies pre-
9 scribed by the laws of this state.

10 *b* Certificates on which the rates of contribution are based upon
11 a standard table of mortality and specified rate of interest, valued in
12 accordance with such standard.

13 The reserve so ascertained shall be held as a liability by the com-
14 pany in its annual statement rendered to the insurance department.

[38 G. A., ch. 302, § 4.]

**SEC. 5592. Death or annuity benefits on lives of children—
limitations.**

1 Any fraternal benefit society authorized to do business in this
2 state and operating on the lodge plan, may provide in its constitution
3 and by-laws, in addition to other benefits provided for therein, for the
4 payment of death or annuity benefits upon the lives of children be-
5 tween the ages of two and eighteen years at next birthday, for whose
6 support and maintenance a member of such society is responsible.
7 Any such society may at its option organize and operate branches for
8 such children, and membership in local lodges and initiation therein
9 shall not be required of such children, nor shall they have any voice
10 in the management of the society. The total benefits payable as above
11 provided shall in no case exceed the following amounts at ages at next
12 birthday at time of death, respectively, as follows: Two, thirty-four
13 dollars; three, forty dollars; four, forty-eight dollars; five, fifty-eight
14 dollars; six, one hundred forty dollars; seven, one hundred sixty-eight
15 dollars; eight, two hundred dollars; nine, two hundred forty dollars;
16 ten, three hundred dollars; eleven, three hundred eighty dollars;
17 twelve, four hundred sixty dollars; thirteen to fifteen, five hundred
18 twenty dollars, and sixteen to eighteen years, where not otherwise
19 authorized by law, six hundred dollars.

[37 G. A., ch. 431, § 1.]

SEC. 5593. Certificates—conditions.

1 No benefit certificate as to any child shall take effect until after
2 medical examination or inspection by a licensed medical practitioner,
3 in accordance with the laws of the society, nor shall the first benefit
4 certificate be so issued unless the society shall simultaneously put in
5 force at least five hundred such certificates, on each of which at least
6 one assessment has been paid, nor where the number of lives repre-
7 sented by such certificate falls below five hundred. The death benefit
8 contributions to be made upon such certificate shall be based upon the
9 standard mortality table of the English life table number six and a
10 rate of interest not greater than four per cent per annum, or upon a
11 higher standard; provided that contributions may be waived or returns
12 may be made from any surplus held in excess of reserve and other
13 liabilities, as provided in the by-laws, and provided further, that extra
14 contributions shall be made if the reserves hereafter provided for be-
15 come impaired.

[37 G. A., ch. 431, § 2.]

SEC. 5594. Reserves—nomination of beneficiary.

1 Any society entering into such insurance agreements shall main-
2 tain on all such contracts the reserve required by the standard of
3 mortality and interest adopted by the society for computing contribu-

4 tions, as provided in the preceding section, and the funds representing
 5 the benefit contributions and all accretions thereon shall be kept as
 6 separate and distinct funds, independent of the other funds of the
 7 society, and shall not be liable for nor used for the payment of the
 8 debts and obligations of the society other than the benefits herein
 9 authorized; provided that a society may provide that when a child
 10 reaches the minimum age for initiation into membership in such so-
 11 ciety, any benefit certificate issued under section fifty-five hundred
 12 ninety-two may be surrendered for cancellation and exchanged for
 13 any other form of certificate issued by the society, provided that such
 14 surrender will not reduce the number of lives insured in the branch
 15 below five hundred, and upon the issuance of such new certificate any
 16 reserve upon the original certificate herein provided for shall be trans-
 17 ferred to the credit of the new certificate. Neither the person who
 18 originally made application for benefits on account of such child, nor
 19 the beneficiary named in such original certificate, nor the person who
 20 paid the contributions, shall have any vested right in such new cer-
 21 tificate, the free nomination of a beneficiary under the new certificate
 22 being left to the child so admitted to benefit membership.

[37 G. A., ch. 431, § 3.]

SEC. 5595. Annual financial statement.

1 An entirely separate financial statement of the business transac-
 2 tions and of assets and liabilities arising therefrom shall be made in
 3 its annual report to the insurance commissioner by any society avail-
 4 ing itself of the provisions of section fifty-five hundred ninety-two.
 5 The separation of assets, funds and liabilities required hereby shall
 6 not be terminated, rescinded or modified nor shall the funds be diverted
 7 for any use other than as specified in the preceding section, as long as
 8 any certificates issued under section fifty-five hundred ninety-two re-
 9 main in force, and this requirement shall be recognized and enforced
 10 in any liquidation, reinsurance, merger, or other change in the con-
 11 dition of the status of the society.

[37 G. A., ch. 431, § 4.]

SEC. 5596. Specified payments.

1 Any society shall have the right to provide in its laws and the
 2 certificate issued under section fifty-five hundred ninety-two for spe-
 3 cified payments on account of the expense or general fund, which pay-
 4 ments shall or shall not be mingled with the general fund of the so-
 5 ciety as its constitution and by-laws may provide.

[37 G. A., ch. 431, § 5.]

**SEC. 5597. Lapse of membership of parent—continuing certifi-
 cate—for benefit of child.**

1 In the event of the termination of membership in the society by
 2 a person responsible for the support of any child, on whose account a
 3 certificate may have been issued, the certificate may be continued for
 4 the benefit of the estate of the child, provided the contributions are
 5 continued, or for the benefit of any other person responsible for the
 6 support and maintenance of such child, who shall assume the payment
 7 of the required contributions.

[37 G. A., ch. 431, § 6.]

CHAPTER 7.

INSURANCE OTHER THAN LIFE.

SECTION 5598. Proceedings for incorporation.

1 Corporations formed for the purpose of insurance, other than life
 2 insurance, shall be governed by the provisions of chapter one of title
 3 seventeen, except as modified by the provisions of this chapter.

[C., '73, § 1122; C., '97, § 1684.]

SEC. 5599. Articles—approval.

1 Each such organization shall present to the commissioner of insur-
 2 ance its articles of incorporation, which shall show its name, objects,
 3 location of its principal place of business and amount of its capital
 4 stock, who shall submit it to the attorney general for examination, and
 5 if found by him to be in accordance with the provisions of this title,
 6 the laws of the United States, and the constitution and laws of the
 7 state, he shall certify such fact thereon and return the same to said
 8 commissioner, and no articles shall be approved by him or recorded
 9 unless accompanied with such certificate.

[C., '73, § 1122; C., '97, § 1685.]

SEC. 5600. Certificate—recording.

1 If the commissioner of insurance approves them, he shall so cer-
 2 tify, and the articles with the certificates of approval shall be recorded
 3 in the office of the secretary of state as articles of other corporations
 4 are, who shall indorse thereon his certificate thereof, as is required in
 5 case of other corporations for pecuniary profit.

[C., '73, § 1123; C., '97, § 1686.]

SEC. 5601. Name.

1 If the commissioner of insurance finds the name of the company
 2 to be so similar to one already appropriated by a corporation of the
 3 same character as to be likely to mislead the public or to cause incon-
 4 venience, he shall refuse his certificate to its articles on that ground.

[C., '73, § 1122; C., '97, § 1687.]

SEC. 5602. Recording with commissioner of insurance.

1 The articles, when thus certified by the secretary of state as
 2 recorded in his office, or a copy thereof certified by him as such, shall
 3 be filed in the office of the commissioner of insurance and remain
 4 therein.

[C., '73, § 1123; C., '97, § 1688.]

SEC. 5603. Nature of organization.

1 Every domestic and foreign insurance company organized and do-
 2 ing business under this chapter shall indicate upon the first page of
 3 every policy and renewal receipt that the policy is issued by a mutual
 4 company in case of a mutual company, and by a stock company in case
 5 of a stock company.

[C., '73, § 1140; C., '97, § 1689; S., '13, § 1689; 37 G. A., ch.
 429, § 1.]

SEC. 5604. Stock or mutual.

1 No company shall be organized to do business upon both stock and
2 mutual plans; nor shall a company organized as a stock company do
3 business upon the plan of a mutual company; nor shall a company
4 organized upon the mutual plan do business or take risks upon the
5 stock plan.

[C., '73, § 1159; C., '97, § 1690.]

SEC. 5605. Capital required.

1 No stock company shall be incorporated under the provisions of
2 this chapter with a less capital than fifty thousand, nor larger than
3 one million dollars, as may be specified in the articles of incorporation,
4 which stock shall be divided into shares of one hundred dollars each,
5 of which capital not less than twenty-five per cent, and in no case less
6 than twenty-five thousand dollars, shall be paid up in cash. The bal-
7 ance of the capital may consist in the bonds or notes of solvent stock-
8 holders.

[C., '73, § 1124; C., '97, § 1691.]

SEC. 5606. Mutual companies—conditions.

1 No mutual company shall issue policies or transact any business of
2 insurance unless it shall hold a certificate of authority from the com-
3 missioner of insurance authorizing the transaction of such business,
4 which certificate of authority shall not be issued until and unless the
5 company shall comply with the following conditions:

6 1. It shall hold bona fide applications for insurance upon which
7 it shall issue simultaneously, or it shall have in force, at least two
8 hundred policies issued to at least two hundred members for the
9 same kind of insurance upon not less than two hundred separate risks,
10 each within the maximum single risk described herein; provided that
11 not more than one hundred members shall be required for employer's
12 liability and workmen's compensation insurance.

13 2. The maximum single risk shall not exceed twenty per cent of
14 the admitted assets, or three times the average risk, or one per cent of
15 the insurance in force, whichever is the greater, any reinsurance tak-
16 ing effect simultaneously with the policy being deducted in deter-
17 mining such maximum single risk.

18 3. It shall have collected a premium upon each application, which
19 premium shall be held in cash or securities in which insurance com-
20 panies are authorized to invest, which shall be equal, in case of fire
21 insurance, to not less than twice the maximum single risk assumed
22 subject to one fire nor less than ten thousand dollars; and in any other
23 kind of insurance, to not less than five times the maximum single
24 risk assumed; and, in case of employer's liability and workmen's com-
25 pensation insurance, to not less than fifty thousand dollars.

26 4. For the purpose of transacting employer's liability and work-
27 men's compensation insurance, the applications shall cover not less
28 than one thousand five hundred employees, each such employee being
29 considered a separate risk for determining the maximum single risk.

[C., '73, § 1124; C., '97, § 1692; 37 G. A., ch. 429, § 2.]

SEC. 5607. Membership in mutuals.

1 Any public or private corporation, board or association in this
2 state, or elsewhere, may make applications, enter into agreements for

3 and hold policies in any such mutual insurance company. Any officer,
 4 stockholder, trustee or local representative of any such corporation,
 5 board, association or estate may be recognized as acting for or on its
 6 behalf for the purpose of such membership, but shall not be personally
 7 liable upon such contract of insurance by reason of acting in such
 8 representative capacity. The right of any corporation organized under
 9 the laws of this state to participate as a member of any such mutual
 10 insurance company is hereby declared to be incidental to the purpose
 11 for which such corporation is organized and as much granted as the
 12 rights and powers expressly conferred.

[C., '73, § 1124; C., '97, § 1693; 37 G. A., ch., 429, § 3.]

SEC. 5608. Voting power.

1 Every policy holder of such mutual company shall be a member of
 2 the company and shall be entitled to one vote, and such members may
 3 vote in person or by proxy as may be provided in the by-laws.

[37 G. A., ch. 429, § 4.]

SEC. 5609. Maximum premium.

1 The maximum premium payable by any member of a mutual com-
 2 pany shall be expressed in the policy and in the application for the
 3 insurance. Such maximum may be a cash premium and an additional
 4 contingent premium not less than the cash premium, or may be solely
 5 a cash premium, which premium may be made payable in installments
 6 or regular assessments. No policy shall be issued for a cash premium
 7 without an additional contingent premium unless the company has a
 8 surplus which is not less in amount than the capital stock required of
 9 domestic stock insurance companies transacting the same kind of
 10 insurance.

[37 G. A., ch. 429, § 5.]

SEC. 5610. Unearned premiums.

1 Such mutual company shall maintain unearned premium and other
 2 reserves separately for each kind of insurance, upon the same basis
 3 as that required of domestic insurance companies transacting the same
 4 kind of insurance; provided that any reserve for losses or claims based
 5 upon the premium income shall be computed upon the net premium
 6 income, after deducting any so-called dividend or premium returned or
 7 credited to the member.

[37 G. A., ch. 429, § 6.]

SEC. 5611. Assessments.

1 Any such mutual company not possessed of assets at least equal
 2 to the unearned premium reserve and other liabilities shall make an
 3 assessment upon its members liable to assessment to provide for such
 4 deficiency, such assessment to be against each member in proportion
 5 to such liability as expressed in his policy; provided the commissioner
 6 may by written order, relieve the company from an assessment or
 7 other proceedings to restore such assets during the time fixed in such
 8 order.

[37 G. A., ch. 429, § 7.]

SEC. 5612. Advancement of funds—conditions.

1 Any director, officer or member of any such mutual company, or
2 any other person, may advance to such company, any sum or sums of
3 money necessary for the purpose of its business or to enable it to com-
4 ply with any of the requirements of the law, and such moneys and such
5 interest thereon as may have been agreed upon, not exceeding the
6 maximum statutory rate of interest, shall not be a liability or claim
7 against the company or any of its assets, except as herein provided,
8 and upon approval of the commissioner of insurance may be repaid,
9 but only out of the surplus earnings of such company. No commission
10 or promotion expenses shall be paid in connection with the advance of
11 any such money to the company. The amount of such advance shall be
12 reported in each annual statement.

[37 G. A., ch. 429, § 8.]

SEC. 5613. Additional policy provisions.

1 Such mutual company may insert in any form of policy prescribed
2 by the law of this state any additional provisions or conditions required
3 by its plan of insurance if not inconsistent or in conflict with any law
4 of this state.

[37 G. A., ch. 429, § 9.]

SEC. 5614. Countersigning policies.

1 Such mutual company shall comply with the provisions of any law
2 applicable to stock insurance companies effecting the same kind of
3 insurance requiring that policies be countersigned and delivered
4 through a resident agent, provided that this requirement shall not
5 apply to any policy of such mutual company on which no commission
6 shall be paid to any local agent.

[37 G. A., ch. 429, § 10.]

SEC. 5615. Existing companies.

1 The provisions of this chapter shall not apply to any company or
2 association of this state now doing business whether organized under
3 chapters seven or eight of this title, unless such company or associa-
4 tion shall so elect by resolution of its board of directors duly certified
5 to by the president and secretary and filed with and approved by the
6 commissioner, and shall further amend its articles, if necessary, to
7 permit full compliance with this chapter and to include such additional
8 kind or kinds of insurance as such company or association intends to
9 transact. On the filing and approval of such resolution and on making
10 such amendment if required, such company may be authorized to
11 transact such kinds of insurance under this chapter.

[37 G. A., ch. 429, § 11.]

SEC. 5616. Tax—computation.

1 For the purpose of determining the basis of any tax upon the
2 "gross amount of premiums", or "gross receipts from premiums,
3 assessments, fees and promissory obligations," now or hereafter im-
4 posed upon any mutual fire or casualty insurance company under any
5 law of this state, such gross amount or gross receipts shall consist of
6 the gross premiums or receipts for direct insurance, without including
7 or deducting any amounts received or paid for reinsurance, but with

8 such other deductions as provided by law, and in addition deducting
9 any so-called dividend or return of savings or gains to policy holders;
10 provided that as to any deposits or deposit premiums received by any
11 such company, the taxable premiums shall be the portion of such de-
12 posits or deposit premiums earned during the year with such deduc-
13 tions therefrom as provided by law.

[37 G. A., ch. 429, § 20.]

SEC. 5617. Subscriptions of stock—applications.

1 After approval of the articles of incorporation, as provided in sec-
2 tion fifty-five hundred ninety-nine, and upon completing the publica-
3 tions of the notice of incorporation required by chapter one of title
4 seventeen, and filing of the publisher's affidavit thereof with the secre-
5 tary of state, together with the articles of incorporation as required
6 in said chapter, which shall be certified to the commissioner of insur-
7 ance by the secretary of state, and upon issuance of his certificate,
8 the company shall have the legal existence as a corporation, and the
9 persons named in such articles as incorporators, or a majority of them,
10 are authorized to open books for subscriptions to stock company, or to
11 take applications and receive premiums for insurance, if a mutual
12 company, at such times and places as they may find convenient, and
13 to keep such books open until the full amount required is subscribed
14 or taken.

[C., '73, § 1125; C., '97, § 1694; 37 G. A., ch. 429, § 12.]

SEC. 5618. Directors.

1 The affairs of a company organized under this chapter shall be
2 managed by not less than five and not more than twenty-one directors,
3 all of whom, in case of a stock company, shall be stockholders, or, in
4 case of a mutual company, be policy holders, or before the company
5 shall effect insurance, be subscribers for stock or for insurance as the
6 case may be. When the subscriptions required by this chapter for
7 stock, if a stock company, or for insurance, if a mutual company,
8 shall have been obtained, the incorporators shall give at least ten days'
9 written notice by mail to such subscribers of a meeting of the sub-
10 scribers for the election of directors and such meeting shall be held
11 within thirty days after such subscriptions have been completed and
12 the directors then elected shall continue in office until their successors
13 have been elected and qualified.

[C., '73, § 1126; C., '97, § 1695; 37 G. A., ch. 429, § 13.]

SEC. 5619. Annual meetings.

1 The annual meetings for the election of directors shall be held
2 during the month of January, at such time as the by-laws of the com-
3 pany may direct; but if for any cause no election is held, or there is a
4 failure to elect at any annual meeting, then a special meeting for that
5 purpose shall be held on the call of a majority of the directors, or of
6 those persons holding a majority of the stock, or of a majority of pol-
7 icy holders if a mutual company, by giving thirty days' notice thereof
8 in some newspaper of general circulation in the county in which the
9 principal office of the company is located, and the directors chosen at
10 any such annual or special meeting shall continue in office until the
11 next annual meeting, and until their successors are elected and have
12 accepted.

[C., '73, § 1127; C., '97, § 1696.]

SEC. 5620. Powers of directors—president.

1 The directors shall elect by ballot from their own number a pres-
2 ident, and fill all vacancies occurring in the board or presidency
3 thereof; and the board of directors thus constituted, or a majority of
4 them, when convened at the office of the company, shall be competent
5 to exercise all the powers vested in them by this chapter.

[C., '73, § 1128; C., '97, § 1697.]

SEC. 5621. Secretary and other officers—by-laws—records.

1 The board of directors shall have power to appoint a secretary and
2 any other officers or agents necessary for transacting the business of
3 the company, paying such salaries and taking such security of them as
4 is reasonable; it may adopt such by-laws and regulations not incon-
5 sistent with law as shall appear to them necessary for the regulation
6 and conduct of the business, and shall keep full and correct entries of
7 their transactions, which shall at all times be open to the inspection of
8 the stockholders if a stock company, or policy holders if a mutual com-
9 pany, and to the inspection of persons invested by law with the right
10 thereof.

[C., '73, § 1129; C., '97, § 1698.]

SEC. 5622. Funds invested.

1 Any company organized under this chapter shall invest its capital
2 and funds in the following described securities and no other:

3 1. The bonds of the United States.
4 2. The bonds of this state or any other state when such bonds are
5 at or above par.

6 3. Bonds or other evidences of indebtedness of any county, city,
7 town or school district within the state or any other state, drainage
8 district bonds of this state, improvement certificates issued by any
9 municipal corporation of this state, such certificates being a first lien
10 upon real estate within the corporate limits of the municipality issuing
11 the same, where such bonds, or other evidences of indebtedness are
12 issued by authority of and according to law and bearing interest.

13 4. Bonds and mortgages and other interest bearing securities
14 being first liens upon real estate within this state or any other state
15 worth at least double the amount loaned thereon and secured thereby
16 exclusive of improvements, or two and one-half times such amount
17 including the improvements thereon, but no such improvement shall
18 be considered in estimating the value unless the owner shall contract
19 to keep the same insured during the life of the loan, in some reliable
20 fire insurance company or companies authorized to do business in the
21 state, other than the company making the investment, in a sum at
22 least double the excess of the loan above one-half the value of the
23 ground exclusive of the improvements, the insurance to be made pay-
24 able in case of loss to the company or association investing its funds,
25 as its interest may appear at the time of loss; except that the surplus
26 funds may be invested in stocks other than bank stock or in bonds or
27 other evidences of indebtedness of any solvent dividend paying cor-
28 poration organized under the laws of any of the states, or of the United
29 States, or may be loaned thereon upon pledge thereof, at not exceeding
30 eighty per cent of their current market value, but no investment shall
31 be made in the company's own stock.

[C., '73, § 1130; C., '97, § 1699; S., '13, § 1699.]

SEC. 5623. Financial statements—examinations—certificate of authority.

1 After complying with the requirements of the preceding sections,
 2 the company shall file with the commissioner of insurance a satisfac-
 3 tory detailed statement showing the financial condition of the com-
 4 pany, including all transactions had during its organization, together
 5 with a record of all moneys received and disbursed, a list of the stock-
 6 holders, the amount of stock purchased by each, and the price paid,
 7 and such commissioner may appoint in writing some disinterested
 8 person to make an examination and if it shall be found that the capital
 9 or assets herein required of the company named, according to the
 10 nature of the business proposed to be transacted by such company,
 11 have been paid in, and are now possessed by it in money or such stock,
 12 bonds and mortgages as are required by the preceding sections of this
 13 chapter, he shall so certify; but if the examination is made by another
 14 than the commissioner, the certificate shall be by him, and under his
 15 oath. The incorporators or officers of any such company, or proposed
 16 company, shall be required to state to the commissioner of insurance
 17 under oath that the capital or assets exhibited to the person making
 18 the examination are actually and in good faith the property of the
 19 company examined, and free and clear of any lien or claim on the part
 20 of any other person. The certificate of examination of a mutual com-
 21 pany shall be to the effect that it has received and has in its actual
 22 possession (a) the cash premiums, (b) actual contracts of insurance
 23 upon property, belonging to the signers thereof, and upon which the in-
 24 surance applied for can properly be issued, (c) other securities as the
 25 case may be, to the extent and value hereinbefore required. The incor-
 26 porators or officers of such mutual company shall file the statement
 27 under oath required of stock companies. The certificate and statements
 28 above contemplated shall be filed in the insurance department and the
 29 commissioner of insurance shall deliver to the company a copy of the
 30 report of the examination, in the event one is made, together with his
 31 written permission for it to commence the business proposed in its
 32 articles of incorporation, which permission shall be its authority to
 33 commence business and issue policies. Such certificate of authority
 34 shall expire on the first day of March next succeeding its issue, and
 35 shall be renewed annually so long as such company shall transact busi-
 36 ness in accordance with the requirements of law; a copy of which cer-
 37 tificate, when certified to by the commissioner of insurance, shall be
 38 admissible in evidence for or against a company with the same effect
 39 as the original.

[C., '73, § 1131; C., '97, § 1700; 37 G. A., ch. 429, § 14.]

SEC. 5624. Capital increased.

1 When the directors of a stock company with less than the maxi-
 2 mum capital allowed in this chapter desire to increase the amount,
 3 they shall, if authorized by the holders of a majority of the stock to do
 4 so, file with the commissioner of insurance an amendment of its arti-
 5 cles authorizing such increase, not exceeding the maximum authorized
 6 capital, and thereupon shall be entitled to have the increased amount
 7 of capital fixed by such amendment, and the examination of securities
 8 constituting the increased capital stock shall be made in the same
 9 manner as provided for the original capital stock.

[C., '73, § 1135; C., '97, § 1701.]

SEC. 5625. Dividends.

1 The directors or managers of a stock company incorporated under
 2 the laws of this state shall make no dividends, except from the profits
 3 arising from their business; and in estimating such profits there shall
 4 be reserved therefrom a sum equal to forty per cent of the amount
 5 received as premiums on unexpired risks and policies, which amount
 6 so reserved shall be unearned premiums; and there shall also be re-
 7 served all sums due the corporation on bonds and mortgages, bonds,
 8 stocks and book account, of which no part of the principal or interest
 9 thereon has been paid during the year preceding such estimate of
 10 profits, and upon which suit for foreclosure or collection has not been
 11 commenced, or which, after judgment has been obtained thereon, shall
 12 have remained more than two years unsatisfied, and on which interest
 13 has not been paid; and such judgment with the interest due or ac-
 14 crued thereon and remaining unpaid, shall also be reserved. Any divi-
 15 dend made contrary to these provisions shall subject the company
 16 making it to forfeiture of its franchise.

[C., '73, § 1136; C., '97, § 1702.]

SEC. 5626. May own real estate.

1 No company organized under this chapter shall purchase, hold or
 2 convey any real estate, save for the purpose and in the manner herein
 3 set forth:
 4 1. Such as shall be required for the transaction of its business.
 5 2. Such as shall have been mortgaged to it in good faith by way
 6 of security for loans previously contracted, or for money due.
 7 3. Such as shall have been conveyed to it in satisfaction of debts
 8 previously contracted in the legitimate business of the company, or
 9 for money due.
 10 4. Such as shall have been purchased at sales upon judgments,
 11 decrees or mortgages obtained or made for such debt, or obtained by
 12 redemption as junior judgment creditor or mortgagee; but it may
 13 convey real estate which shall be found in the course of its business
 14 not necessary therefor, and all such last mentioned real estate shall be
 15 sold and conveyed within three years after the same has been deter-
 16 mined, by the auditor of state, unnecessary, unless the company shall
 17 procure a certificate from him that the interest of the company will
 18 materially suffer by a forced sale, in which event the sale may be
 19 postponed for such a period as he may direct in such certificate.

[C., '73, § 1137; C., '97, § 1703.]

SEC. 5627. Kinds of insurance—limitation of risk.

1 Any company organized under this chapter or authorized to do
 2 business in this state may:
 3 1. Insure houses, buildings, and all other kinds of property against
 4 loss or damage by fire, lightning, sprinkler leakage, or other casualty
 5 incident to or connected with fire, lightning, cyclone, tornado, or wind-
 6 storm hazards and to insure growing crops against destruction by hail;
 7 and make all kinds of insurance on goods, merchandise, moneys and
 8 securities or other property in the course of transportation, whether
 9 on land or water or any vessel or boat wherever the same may be; and
 10 insure against loss of rents or use of buildings when such loss or use
 11 is caused by fire, lightning, windstorms, cyclone or tornadoes; and
 12 also insure glass against breakage.

13 2. Insure the fidelity of persons holding places of private or
14 public trust, or execute as surety any bond or other obligation required
15 or permitted by law to be made, given or filed, except bonds required
16 in criminal causes. None but stock companies shall engage in fidelity
17 and surety business; and insure the maker, drawer, drawee or indorser
18 of checks, drafts, bills of exchange or other commercial paper against
19 loss by reason of any alteration of such instruments.

20 3. Insure the safe-keeping of books, papers, moneys, stocks, bonds
21 and all kinds of personal property, and receive them on deposit.

22 4. Insure against loss or damage by theft, injury, sickness or
23 death of animals and to furnish veterinary service.

24 5. *a* Insure the health of persons and against personal injuries,
25 disablement or death resulting from traveling or general accidents by
26 land or water.

27 *b* Insure against liability for loss, damage or expense resulting
28 from personal injury or death caused by error or negligence of the
29 insured in the practice of medicine, surgery or dentistry, including the
30 performance of surgical operations, or in the prescribing or dispensing
31 of drugs or medicines, or for loss by reason of damages in other res-
32 pects, for which loss, damage or expense the insured is legally liable;
33 provided, however, that any policy issued by any such company shall
34 contain a provision so that said policy shall inure to the benefit of any
35 person obtaining a judgment against the insured to the extent of the
36 insurance carried and for the purpose for which the insurance was
37 issued.

38 *c* Insure against loss or damage to property caused by the acci-
39 dental discharge or leakage of water from automatic sprinkler system.

40 *d* Insure employers against loss in consequence of accidents or
41 casualties of any kind to employees, including workmen's compensa-
42 tion, or other persons, or to property resulting from any act of an em-
43 ployee, or any accident or casualty to persons or property, or both,
44 occurring in or connected with the transaction of their business, or
45 from the operation of any machinery connected therewith.

46 *e* Insure against liability for loss or expense arising or resulting
47 from accidents occurring by reason of the ownership, maintenance or
48 use of automobiles or other conveyances, resulting in personal injuries
49 or death, or damage to property belonging to others, or both, and for
50 damages to assured's own automobile when sustained through col-
51 lision with another object; provided that should an execution on a
52 judgment against the insured be returned unsatisfied in an action by
53 a person who is injured or whose property is damaged, when such
54 owner or operator has insured his liability for such personal injury
55 or damage, the judgment creditor shall have a right of action against
56 the insurer to the same extent that such owner or operator could have
57 enforced his claim against such insurer had such owner or operator
58 paid such judgment.

59 6. Insure against loss or injury to person or property, or both,
60 growing out of explosion or rupture of steam boilers.

61 7. Any insurance company organized and incorporated on the
62 stock or mutual plan may insure against loss or damage resulting
63 from burglary or robbery, or attempt thereof. A mutual company
64 organized under this subdivision shall not issue any policy to any per-
65 son, firm, or corporation other than banks, bankers, loan companies,
66 trust companies, and county treasurers.

67 8. Insure or guarantee and indemnify merchants, traders and
68 those engaged in business and giving credit from loss and damage by

69 reason of giving and extending credit to their customers and those
70 dealing with them, which business shall be known as credit insurance.

71 9. Insure vessels, freights, goods, merchandise, specie, bullion,
72 jewels, profits, commission, bank notes, bills of exchange and other
73 evidence of debt, bottomry and respondentia interests and every in-
74 surance appertaining to or connected with marine risks of trans-
75 portation and navigation, and make insurance upon automobiles,
76 whether stationary or being operated under their own power, which
77 shall include all or any of the hazards of fire, explosion, transporta-
78 tion, collision, loss by legal liability for damage to property resulting
79 from the maintenance and use of automobiles, and loss by burglary or
80 theft or both, but shall not include insurance against loss by reason
81 of bodily injury to the person.

[C., '73, § 1132; C., '97, § 1709; S., '13, § 1709; 37 G. A., ch.
428, §§ 1-4; 37 G. A., ch. 429, § 16; 38 G. A., ch. 330,
§§ 1, 2; 38 G. A., ch. 348, §§ 1, 2.]

SEC. 5628. Kinds of risks—limitation.

1 No company authorized to transact business in this state as pro-
2 vided in this chapter, shall issue policies of insurance for more than
3 one of the nine purposes or subdivisions enumerated in the preceding
4 section, except as herein provided, as follows:

5 *a* Any domestic or foreign insurance company authorized in this
6 state to do the business specified in subdivision one of the preceding
7 section, may in addition to the business specified in subdivision one,
8 insure against the casualties specified in subdivision nine of the pre-
9 ceding section.

10 *b* Any domestic or foreign insurance company authorized in this
11 state to do the business contemplated by either subdivisions two or
12 five, may in addition to such business insure against the casualties
13 specified in subdivision six of the preceding section, and also to insure
14 against theft, larceny, burglary and robbery, or attempt thereat.

15 *c* Any domestic or foreign company authorized in this state to
16 transact the business specified in subdivision five of the foregoing
17 section, if it is possessed of a paid-up capital of five hundred thousand
18 dollars, may, in addition to insuring against the casualties specified
19 in subdivision five, transact the business specified in subdivisions two
20 and six of the preceding section and insure glass against breakage.

21 *d* Any domestic insurance company authorized in this state to
22 transact the business specified in subdivision five of the preceding
23 section, and possessed of one hundred fifty thousand dollars paid-up
24 capital stock, may in addition to insuring against the casualties speci-
25 fied in subdivision five, insure against injury or loss to persons or
26 property, or both, contemplated by subdivision six, and may also in-
27 sure glass against breakage.

28 *e* Any foreign insurance company authorized in this state to
29 transact the business specified in subdivision five of the preceding
30 section, if possessed of a paid-up capital of three hundred thousand
31 dollars, may, in addition to insuring against the casualties specified
32 in said subdivision five, insure against the casualties specified in sub-
33 division six of the preceding section and also insure glass against
34 breakage.

35 Providing always, that the charter or articles of incorporation of
36 any such company authorizes the writing of such additional insurance.

37 No company shall expose itself to loss on any one risk or hazard,

38 to an amount exceeding ten per cent of its paid-up capital unless the
 39 excess shall be reinsured in some other good and reliable company
 40 licensed to do an insurance business in this state. But in no case shall
 41 such excess reinsurance exceed ten per cent of the capital of the rein-
 42 suring company, and that a certificate of such reinsurance shall be
 43 furnished to the insured.

44 But the restrictions as to the amount of risk a company may as-
 45 sume shall not be applicable to a company that receives on deposit and
 46 guarantees the safe-keeping of books, papers and moneys and other
 47 personal property.

[C., '73, § 1132; C., '97, § 1710; S., '13, § 1710; 37 G. A., ch.
 428, § 5; 38 G. A., ch. 348, § 3.]

SEC. 5629. Loans—reinsurance.

1 Such company may lend money on bottomry or respondentia, and
 2 cause itself to be insured in companies only authorized to do business
 3 in this state, against any loss or risk it may have incurred in the
 4 course of its business, and upon the interest which it may have in any
 5 property on account of any such loan, and generally to do and per-
 6 form all other matters and things proper to promote these objects.

[C., '73, § 1132; C., '97, § 1711; S., '13, § 1711.]

SEC. 5630. Policies.

1 All policies or contracts of insurance made or entered into by the
 2 company may be made either with or without the seal of said com-
 3 pany, but shall be subscribed by the president, or such other officer as
 4 may be designated by the directors for that purpose, and be attested
 5 by the secretary thereof.

[C., '73, § 1133; C., '97, § 1712.]

SEC. 5631. Transfer of stock.

1 Transfers of stock made by any stockholder or his legal repre-
 2 sentative shall be subject to the provisions of chapter two of title sev-
 3 enteen relative to transfer of shares, and to such restrictions as the
 4 directors shall establish in their by-laws, except as hereinafter pro-
 5 vided.

[C., '73, § 1134; C., '97, § 1713.]

SEC. 5632. Annual statement.

1 The president or the vice president and secretary of each com-
 2 pany organized or authorized to do business in the state shall annu-
 3 ally, on the first day of January of each year or within thirty days
 4 thereafter, prepare under oath and file with the commissioner of in-
 5 surance a full, true and complete statement of the condition of such
 6 company on the last day of the preceding month, which shall exhibit
 7 the following items and facts:

8 First—The amount of capital stock of the company.

9 Second—The names of the officers.

10 Third—The name of the company and where located.

11 Fourth—The amount of its capital stock paid up.

12 Fifth—The property or assets held by the company, specifying:

13 1. The value of real estate owned by the company.

14 2. The amount of cash on hand and deposited in banks to the
 15 credit of the company, and in what bank deposited.

- 16 3. The amount of cash in the hands of agents and in the course
17 of transmission.
- 18 4. The amount of loans secured by first mortgage on real estate,
19 with the rate of interest thereon.
- 20 5. The amount of all other bonds and loans and how secured,
21 with the rate of interest thereon.
- 22 6. The amount due the company on which judgment has been
23 obtained.
- 24 7. The amount of bonds of the state, of the United States, of any
25 county or municipal corporation of the state, and of any other bonds
26 owned by the company, specifying the amount and number thereof,
27 and par and market value of each kind.
- 28 8. The amount of bonds, stock and other evidences of indebted-
29 ness held by such company as collateral security for loans, with amount
30 loaned on each kind, and its par and market value.
- 31 9. The amount of assessments on stock and premium notes, paid
32 and unpaid.
- 33 10. The amount of interest actually due and unpaid.
- 34 11. All other securities and their value.
- 35 12. The amount for which premium notes have been given on
36 which policies have been issued.
- 37 Sixth—Liabilities of such company, specifying:
- 38 1. Losses adjusted and due.
- 39 2. Losses adjusted and not due.
- 40 3. Losses unadjusted.
- 41 4. Losses in suspense and the cause thereof.
- 42 5. Losses resisted and in litigation.
- 43 6. Dividends in scrip or cash, specifying the amount of each, de-
44 clared but not due.
- 45 7. Dividends declared and due.
- 46 8. The amount required to reinsure all outstanding risks on the
47 basis of forty per cent of the premium on all unexpired risks.
- 48 9. The amount due banks or other creditors.
- 49 10. The amount of money borrowed and the security therefor.
- 50 11. All other claims against the company.
- 51 Seventh—The income of the company during the previous year,
52 specifying:
- 53 1. The amount received for premiums, exclusive of premium
54 notes.
- 55 2. The amount of premium notes received.
- 56 3. The amount received for interest.
- 57 4. The amount received for assessments or calls on stock notes,
58 or premium notes.
- 59 5. The amount received from all other sources.
- 60 Eighth—The expenditures during the preceding year, specifying:
- 61 1. The amount of losses paid during said term, stating how
62 much of the same accrued prior, and how much subsequent, to the
63 date of the preceding statement, and the amount at which such losses
64 were estimated in such statement.
- 65 2. The amount paid for dividends.
- 66 3. The amount paid for commissions, salaries, expenses and other
67 charges of agents, clerks and other employees.
- 68 4. The amount paid for salaries, fees and other charges of offi-
69 cers and directors.
- 70 5. The amount paid for local, state, national and other taxes and
71 duties.

- 72 6. The amount paid for all other expenses, including printing,
 73 stationery, rents, furniture, or otherwise.
 74 Ninth—The largest amount insured in any one risk.
 75 Tenth—The amount of risks written during the year then ending.
 76 Eleventh—The amount of risks in force having less than one
 77 year to run.
 78 Twelfth—The amount of risks in force having more than one and
 79 not over three years to run.
 80 Thirteenth—The amount of risks having more than three years
 81 to run.
 82 Fourteenth—The dividends, if any, declared on premiums re-
 83 ceived for risks not terminated.
 84 Fifteenth—Each accident insurance company, or company insur-
 85 ing against accidents, shall keep a register of tickets sold or policies
 86 issued by its officers or agents, which register shall show the name
 87 and residence of the person insured, the amount of insurance, the
 88 date of issue of such ticket or policy, and the time the same will re-
 89 main in force; and the annual statement of each such company shall
 90 show the number of tickets sold and policies issued by it during the
 91 year, and the aggregate amount of insurance evidenced by such tick-
 92 ets and policies, classified as to the length of time for which such in-
 93 surance is given.

[C., '73, § 1141; C., '97, § 1714.]

SEC. 5633. Certificate refused.

- 1 The commissioner of insurance shall withhold his certificate or
 2 permission of authority to do business from any company neglecting
 3 or failing to comply with the provisions of this chapter.

[C., '97, § 1715.]

SEC. 5634. Annual statement of foreign company.

- 1 The annual statement of foreign companies doing business in
 2 this state shall also show, in addition to the foregoing matters, the
 3 amount of losses incurred and premiums received in the state during
 4 the preceding period, so long as such company continues to do busi-
 5 ness in this state.

[C., '73, § 1146; C., '97, § 1716.]

SEC. 5635. Inquiry by commissioner of insurance.

- 1 The commissioner of insurance shall address any inquiries to
 2 any insurance company in relation to its doings and condition, or any
 3 other matter connected with its transactions, which he may deem nec-
 4 essary for the public good, or for a proper discharge of his duties,
 5 and any company so addressed shall promptly reply in writing thereto.

[C., '73, § 1142; C., '97, § 1718.]

SEC. 5636. Statements published—printed forms.

- 1 He shall cause to be prepared and furnished to each company
 2 organized under the laws of this state, and to the attorney or agent
 3 of each company incorporated in other states and foreign govern-
 4 ments, who may apply therefor, printed forms of statements required
 5 by this chapter, and may from time to time make such changes in the
 6 forms as shall seem to him best adapted to elicit from the companies

7 a true exhibit of their condition in respect to the several points here-
8 inbefore enumerated.

[C., '73, § 1157; C., '97, § 1719.]

SEC. 5637. Foreign companies—capital required.

1 No stock insurance company organized under or by the laws of
2 any other state or foreign government for the purpose specified in
3 this chapter, shall, directly or indirectly, take risks or transact any
4 business of insurance in this state unless possessed of two hundred
5 thousand dollars of actual paid-up capital, exclusive of any assets de-
6 posited in any state, territory, district or country for the special bene-
7 fit or security of those insured therein, but companies organized to
8 insure plate glass, or live stock exclusively are not required to have
9 a greater capital than one hundred thousand dollars; and such com-
10 panies organized to insure the health of persons and against personal
11 injuries, disablement or death resulting from traveling or general ac-
12 cidents by land or water, having an actual paid-up capital of one hun-
13 dred thousand dollars and surplus in an amount to be approved by
14 the commissioner of insurance, exclusive of any assets deposited in
15 other states and territories for the special benefit or security of the
16 insured therein, shall be deemed sufficient within the meaning of
17 this section.

[C., '73, § 1144; C., '97, § 1721; S. S., '15, § 1721; 37 G. A.,
ch. 429, § 18; 38 G. A., ch. 346, § 1.]

SEC. 5638. Service of process—statement.

1 Any foreign company desiring to transact the business of insur-
2 ance under this chapter, by an agent or agents in the state, shall file
3 with the commissioner of insurance a written instrument, duly signed
4 and sealed, authorizing such commissioner to acknowledge service of
5 notice or process for and in behalf of such company in this state, and
6 consenting that service of notice or process may be made upon the
7 said commissioner, and when so made shall be taken and held as valid
8 as if served upon the company according to the laws of this or any
9 other state, and waiving all claim or right or error by reason of such
10 acknowledgment of service. Such notice or process with a copy thereof
11 may be mailed to the commissioner of insurance at Des Moines, Iowa,
12 in a registered letter addressed to him by his official title, and he shall
13 immediately upon its receipt acknowledge service thereon on behalf
14 of the defendant foreign insurance company by writing thereon, giv-
15 ing the date thereof, and shall immediately return such notice or
16 process in a registered letter to the clerk of the court in which the
17 suit is pending, addressed to him by his official title, and shall also
18 forthwith mail such copy, with a copy of his acknowledgment of
19 service written thereon, in a registered letter addressed to the person
20 or corporation who shall be named or designated by such company in
21 such written instrument. And such company shall also file with the
22 commissioner a certified copy of its charter or deed of settlement, to-
23 gether with a statement under oath of the president or vice president
24 or other chief officer and the secretary of the company for which they
25 may act, stating the name of the company, the place where located,
26 the amount of its capital, with a detailed statement of the facts and
27 items required from companies organized under the laws of this state,
28 and a copy of the last annual report, if any, made under any law of

29 the state by which such company was incorporated; and no agent shall
 30 be allowed to transact business for any company whose capital is im-
 31 paired by liabilities as specified in this chapter to the extent of twenty
 32 per cent thereof, while such deficiency shall continue.

[C., '73, § 1144; C., '97, § 1722.]

SEC. 5639. Foreign mutual companies—surplus.

1 Any mutual insurance company organized outside of this state
 2 and authorized to transact the business of insurance on the mutual
 3 plan in any other state of the United States or in the District of Co-
 4 lumbia, may be admitted to this state and authorized to transact herein
 5 any of the kinds of insurance authorized by its charter or articles of
 6 incorporation, when so permitted by the provisions of this chapter,
 7 with the powers and privileges and subject to the conditions and
 8 limitations specified in said chapter; provided, however, such com-
 9 pany has complied with all the statutory provisions which require
 10 stock companies to file papers and to furnish information and to sub-
 11 mit to examination, and is also solvent according to the requirements
 12 of this chapter and is possessed of a surplus safely invested as follows:

13 1. In case any such mutual company issuing policies for a cash
 14 premium without an additional contingent liability equal to or greater
 15 than the cash premium, the surplus shall be at least two hundred
 16 thousand dollars.

17 2. In case of any other such mutual company issuing policies for
 18 a cash premium or payment with an additional contingent liability
 19 equal to or greater than the cash premium or payment, the surplus
 20 shall be such an amount as the insurance commissioner of Iowa may
 21 require, but in no case less than fifty thousand dollars, provided that
 22 the provisions of this section fixing a minimum surplus of fifty thou-
 23 sand dollars shall not apply to companies now admitted to do business
 24 in Iowa; provided, further, that no such mutual company shall be
 25 authorized to transact compensation insurance without a surplus of
 26 at least two hundred thousand dollars unless all liability for each ad-
 27 justed claim in this state, the payment of any part of which is deferred
 28 for more than one year, shall be provided for by a special deposit, in
 29 a trust company of this state, which shall be a trust fund applicable
 30 solely and exclusively to the payment of the compensation benefits
 31 for which such deposit is made, or shall be reinsured in an authorized
 32 stock company, or in an authorized mutual company with a surplus
 33 of at least two hundred thousand dollars.

[C., '73, § 1144; C., '97, § 1723; 37 G. A., ch. 429, § 19.]

SEC. 5640. Certificate.

1 When any foreign company has fully complied with the require-
 2 ments of law and become entitled to do business, the commissioner of
 3 insurance shall issue to such company a certificate of that fact, which
 4 certificate shall be renewed annually on the first day of March, if the
 5 commissioner is satisfied that the capital, securities and investments
 6 of such company remain unimpaired, and the company has complied
 7 with the provisions of law applicable thereto.

[C., '73, § 1146; C., '97, § 1724.]

SEC. 5641. Insurance notes.

1 All notes taken for policies of insurance in any company doing
 2 business in the state shall state upon their face that they have been

3 taken for insurance, and shall not be collectible unless the company
4 and its agents have fully complied with the laws of the state relative
5 to insurance.

[C., '73, § 1146; C., '97, § 1726.]

SEC. 5642. Forfeiture of policies.

1 No policy or contract of insurance provided for in this chapter
2 shall be forfeited or suspended for nonpayment of any premium, as-
3 sessment or installment provided for in the policy, or in any note or
4 contract for the payment thereof, unless within thirty days prior to
5 or on or after the maturity thereof the company shall serve notice
6 in writing upon the insured that such premium, assessment or install-
7 ment is due or to become due, stating the amount, and the amount
8 necessary to pay the customary short rates, up to the time fixed in
9 the notice when the insurance will be suspended, forfeited or can-
10 celed, which shall not be less than thirty days after service of such
11 notice, which may be made in person, or by mailing in a registered
12 letter addressed to the insured at his postoffice as given in or upon
13 the policy, and no suspension, forfeiture or cancellation shall take
14 effect until the time thus fixed and except as herein provided, anything
15 in the policy, application or a separate agreement to the contrary not-
16 withstanding.

[C., '97, § 1727.]

SEC. 5643. Cancellation of policy.

1 At any time after the maturity of a premium, assessment or in-
2 stallment provided for in the policy, or any note or contract for the
3 payment thereof, or after the suspension, forfeiture or cancellation of
4 any policy or contract of insurance, the insured may pay to the com-
5 pany the customary short rates and costs of action, if one has been
6 commenced or judgment rendered thereon, and may then, if he so
7 elect, have his policy and all contracts or obligations connected there-
8 with, whether in judgment or otherwise, canceled, and they and each
9 of them thereafter shall be void; and in case of suspension, forfeiture
10 or cancellation of any policy or contract of insurance, the assured
11 shall not be liable for any greater amount than the short rates earned
12 at the date of such suspension, forfeiture or cancellation and the costs
13 herein provided. The policy may be canceled by the insurance com-
14 pany by giving five days' notice of such cancellation, in which event
15 it may retain only the pro rata premium.

[C., '97, § 1728; S., '13, § 1728.]

SEC. 5644. Short rates.

1 The commissioner of insurance shall prepare and publish a table
2 of the short rates provided for in the two preceding sections, which,
3 when published, shall be for the guidance of all companies covered in
4 this chapter, and the rate to be given in the notice therein provided,
5 and no greater sum than thus fixed shall be demanded or collected.
6 A copy of said short rates shall be printed on or attached to each
7 policy.

[C., '97, § 1729.]

SEC. 5645. Policy restored—contract not valid.

1 At any time before cancellation of the policy for nonpayment of
2 any premium, assessment or installment provided for therein, or in

3 any note or contract for the payment thereof, or after action com-
4 menced or judgment rendered thereon, the insured may pay to the
5 insurer the full amount due, including court costs if any, and from
6 the date of such payment, or the collection of the judgment, the policy
7 shall revive and be in full force and effect, provided such payment is
8 made during the term of the policy and before a loss occurs. No pro-
9 vision, stipulation or agreement to the contrary in or independent of
10 the policy or contract of insurance shall avoid or defeat the right of
11 any insured to pay short rates and costs of action, if any, and have
12 the policy and all contracts connected therewith, including judgments
13 rendered thereon, canceled.

[C., '97, § 1730.]

SEC. 5646. Examination—dissolution.

1 The commissioner of insurance shall, when he finds it expedient,
2 appoint one or more persons, not officers, agents or stockholders of
3 any insurance company doing business in the state, to examine into
4 the affairs and condition of any such company incorporated or doing
5 business therein, or make such examination himself, and the officers
6 or agents thereof shall produce their books for the inspection of the
7 examiners and otherwise assist therein, so far as they can do so; and
8 in conducting the investigation they may examine under oath the
9 officers or agents of any company, or others, relative to the business
10 and condition of the company, and the result thereof shall be pub-
11 lished in one or more papers in the state, when the commissioner
12 believes the public interest requires it. When it appears to the commis-
13 sioner from such examination that the assets and funds of any com-
14 pany incorporated in this state are reduced or impaired by its liabil-
15 ities, as defined under the head of liabilities in the statement required
16 by this chapter, more than twenty per cent below the paid-up capital
17 stock required, he shall direct the officers thereof to require the stock-
18 holders to pay in the amount of such deficiency within such a period
19 as he may designate in such requisition, or he shall communicate the
20 fact to the attorney general, who shall apply to the district court or
21 if in vacation to one of judges thereof, for an order requiring the
22 company to show cause why its business shall not be dissolved. The
23 court or judge, as the case may be, shall thereupon proceed to hear
24 the allegations and proofs of the respective parties; and in case it ap-
25 pears to its or his satisfaction that the assets and funds of said com-
26 pany are not sufficient, as aforesaid, or that the interest of the public
27 requires it, it or he shall decree a dissolution of said company and a
28 distribution of its effects, and appoint a receiver therefor. The appli-
29 cation of the attorney general may be by the court or judge sent to a
30 referee to inquire into and report upon the facts stated therein, which
31 report shall be made to the court or judge.

[C., '73, § 1149; C., '97, § 1731.]

SEC. 5647. Requisition on stockholders.

1 Any company receiving such a requisition from the commis-
2 sioner of insurance shall forthwith call upon its stockholders for such
3 amounts as will make its paid-up capital equal to the amount fixed
4 by this chapter or the articles of incorporation of said company; and
5 in case any stockholder shall refuse or neglect to pay the amount
6 called for after notice personally given, or by advertisement in such
7 time and manner as the commissioner shall approve, it shall be law-

8 ful for the company to require the return of the original certificate
9 of stock held by such stockholder, and in lieu thereof to issue new
10 certificates for such number of shares as the said stockholder may
11 be entitled to in the proportion that the ascertained value of the
12 funds of the said company may be found to bear to its original capital,
13 the value of such shares for which new certificates shall be issued to
14 be ascertained under the direction of the commissioner, the company
15 paying for the fractional parts of shares, and the directors of such
16 company may issue new stock and dispose of the same, and issue new
17 certificates therefor, to an amount sufficient to make up the original
18 capital of the company. In the event of additional losses accruing
19 upon new risks, taken after the expiration of the period limited by
20 the commissioner in the aforesaid requisition for the filling up of the
21 deficiency in the capital of such company, and before said deficiency
22 shall have been made up, the directors shall be individually liable to
23 the extent thereof.

[C., '73, § 1150; C., '97, § 1732.]

SEC. 5648. Mutual companies—dissolution.

1 If, upon such examination, it shall appear to the commissioner
2 of insurance that the assets of any company organized or operating
3 upon the plan of mutual insurance under this chapter are insufficient
4 to justify the continuance of such company in business, he shall pro-
5 ceed in relation to such company in the same manner as herein re-
6 quired in regard to stock companies; and the trustees or directors
7 of such company are made personally liable for any losses which may
8 be sustained upon risks taken after the expiration of the period lim-
9 ited by the auditor for filling up the deficiency in the assets or premium
10 notes, and before such deficiency shall have been made up.

[C., '73, § 1151; C., '97, § 1733.]

SEC. 5649. Transfers of stock pending investigation.

1 Any transfer of the stock of any company organized under this
2 chapter, made pending any investigation above required, shall not re-
3 lease the party making the transfer from any liability for losses which
4 may have accrued previous to such transfer.

[C., '73, § 1151; C., '97, § 1734.]

SEC. 5650. Revocation of certificate of foreign company.

1 The commissioner of insurance shall be authorized to examine
2 into the condition and affairs of any insurance company, as provided
3 for in this chapter, doing business in this state, not organized under
4 its laws, or cause such examination to be made by some person or
5 persons appointed by him having no interest in any insurance com-
6 pany; and when it shall appear to his satisfaction that the affairs of
7 any such company are in an unsound condition, he shall revoke the
8 certificates granted in its behalf, and cause a notification thereof to
9 be published in some newspaper of general circulation, published at
10 the seat of government, and no agent or agents of such company after
11 such notice shall issue policies or renew any previously issued.

[C., '73, § 1152; C., '97, § 1735.]

SEC. 5651. Laws of other states—reciprocity.

1 When, by the laws of any other state, any taxes, fines, penalties,
2 licenses, fees, deposits of money, securities or other obligations or

3 prohibitions are imposed, or would be imposed, on insurance com-
4 panies of this state doing or that might seek to do business in such
5 other state, or upon their agents therein, so long as such laws con-
6 tinue in force the same obligations and prohibitions of whatever kind
7 shall be imposed upon all insurance companies of such other state do-
8 ing business in this state or upon their agents here.

[C., '73, § 1154; C., '97, § 1736.]

SEC. 5652. Certificates of compliance—how published.

1 The commissioner of insurance shall annually, as soon as prac-
2 ticable after the first of March, publish in two newspapers of general
3 circulation, a statement made up from the annual report of every in-
4 surance company of the character provided for in this chapter and
5 doing business in this state whether organized under the laws of this
6 or any other state, which statements shall contain a synopsis of the
7 company's annual report and shall show that the company has in all
8 respects complied with the laws of the state relating to insurance and
9 is authorized to transact business in the state. One publication as
10 above contemplated, shall be made at the seat of government, and in
11 case of companies organized in this state and located elsewhere than
12 in the city of Des Moines, the other shall be made in the county in
13 which the home office of the company is located. The fee for each
14 publication shall be six dollars, which shall be paid to the commis-
15 sioner at the time and in the manner provided for in section fifty-six
16 hundred sixty-seven and shall be by him paid to the papers making
17 the publication upon receipt of a bill for same, together with an af-
18 fidavit by the publisher or foreman showing that such publication
19 has been properly made, the same to be filed within thirty days from
20 the date of such publication.

[C., '73, § 1155; C., '97, § 1737; S., '13, § 1737.]

SEC. 5653. False statement of assets.

1 No company transacting the business of fire insurance within the
2 state shall state or represent by advertisement in any newspaper,
3 magazine or periodical, or by any sign, circular, card, policy of in-
4 surance or renewal certificate thereof or otherwise, any funds or as-
5 sets to be in its possession and held available for the protection of
6 holders of its policies unless so held, except the policy of insurance or
7 certificate of renewal thereof may state as a single item the amount
8 of capital set forth in the charter or articles of incorporation or as-
9 sociation or deed of settlement under which it is authorized to trans-
10 act business.

[C., '97, § 1738.]

SEC. 5654. Statement of capital and surplus.

1 Every advertisement or public announcement, and every sign,
2 circular or card issued or published by any foreign company transact-
3 ing the business of fire insurance in the state, or by any officer, agent
4 or representative thereof, which shall purport to make known its
5 financial standing, shall exhibit the capital actually paid in in cash, and
6 the amount of net surplus of assets over all its liabilities actually held
7 and available for the payment of losses by fire and for the protection
8 of holders of fire policies, and shall also exhibit the amount of net
9 surplus of assets over all liabilities in the United States actually avail-

10 able for the payment of losses by fire and held in the United States
11 for the protection of holders of fire policies in the United States, in-
12 cluding in such liabilities the fund reserved for reinsurance of out-
13 standing risks, and the same shall correspond with the latest verified
14 statement made by the company or association to the commissioner of
15 insurance. No such company shall write, place or cause to be written
16 or placed any policy or contract for insurance upon property situated
17 or located in this state except through its resident agent or agents.

[C., '97, § 1739.]

SEC. 5655. Penalty.

1 Any violation of the provisions of the two preceding sections
2 shall for the first offense subject the company, association or individ-
3 ual guilty thereof to a penalty of five hundred dollars, to be recovered
4 in the name of the state, with costs, in an action instituted by the
5 county attorney, either in the county in which the company, associa-
6 tion or individual is located or transacts business, or in the county
7 where the offense is committed, and such penalty, when recovered,
8 shall be paid into the school fund of the county in which action is
9 brought. Every subsequent violation of said sections shall subject
10 the company, association or individual to a penalty of one thousand
11 dollars, to be sued for, recovered and disposed of in like manner.

[C., '97, § 1740.]

SEC. 5656. Copy of application.

1 All insurance companies or associations shall, upon the issue or
2 renewal of any policy, attach to such policy, or indorse thereon, a true
3 copy of any application or representation of the assured which, by the
4 terms of such policy, are made a part thereof, or of the contract of
5 insurance, or referred to therein; or which may in any manner affect
6 the validity of such policy. The omission so to do shall not render
7 the policy invalid, but if any company or association neglects to com-
8 ply with the requirements of this section it shall forever be precluded
9 from pleading, alleging or proving any such application or represen-
10 tations, or any part thereof, or falsity thereof, or any parts thereof,
11 in any action upon such policy, and the plaintiff in any such action
12 shall not be required, in order to recover against such company or as-
13 sociation, either to plead or prove such application or representation,
14 but may do so at his option.

[C., '97, § 1741.]

SEC. 5657. Evidence of value—proofs—action.

1 In any action brought in any court in this state on any policy
2 of insurance for the loss of any building so insured, the amount stated
3 in the policy shall be received as prima facie evidence of the insur-
4 able value of the property at the date of the policy; provided the
5 insurance company or association issuing such policy may show the
6 actual value of said property at date of policy, and any depreciation
7 in the value thereof before the loss occurred; but the said insurance
8 company or association shall be liable for the actual value of the prop-
9 erty insured at the date of the loss, unless such value exceeds the
10 amount stated in the policy. And in an action on such policy it shall
11 only be necessary for the assured to prove the loss of the building in-
12 sured, and that he has given the company or association notice in
13 writing of such loss, accompanied by an affidavit stating the facts as

14 to how the loss occurred, so far as they are within his knowledge, and
15 the extent of his loss.

[C., '97, § 1742.]

SEC. 5658. Proofs of loss.

1 In furnishing proofs of loss under any contract of insurance for
2 damages or loss of personal property it shall only be necessary for
3 the assured, within sixty days from the time the loss occurs, to give
4 notice in writing to the company issuing such contract of insurance
5 accompanied by an affidavit, stating the facts as to how the loss oc-
6 curred, so far as same are within his knowledge, and the extent of
7 the loss, any agreement or contract to the contrary notwithstanding.

[S., '13, § 1742-a.]

SEC. 5659. Conditions.

1 Any condition or stipulation in an application, policy or contract
2 of insurance, making the policy void before the loss occurs, shall not
3 prevent recovery thereon by the insured, if it shall be shown by the
4 plaintiff that the failure to observe such provision or the violation
5 thereof did not contribute to the loss; provided, however, that any
6 condition or stipulation referring to any other insurance, valid or
7 invalid, or to vacancy of the insured premises or the title or owner-
8 ship of the property insured, or to lien, or incumbrances thereon cre-
9 ated by voluntary act of the insured and within his control, or to the
10 suspension or forfeiture of the policy during default or failure to pay
11 any written obligation given to the insurance company for the pre-
12 mium, or to the assignment or transfer of such policy of insurance
13 before loss without the consent of the insurance company, or to the
14 removal of the property insured, or to a change in the occupancy or
15 use of the property insured, if such change or use makes the risk
16 more hazardous, or to the fraud of the insured in the procurement
17 of the contract of insurance, shall not be changed or affected by this
18 provision. No recovery on a policy or contract of insurance shall be
19 defeated for failure of the insured to comply, after a loss occurs, with
20 any arbitration or appraisal stipulation as to fixing value of prop-
21 erty. No arbitration shall take place except where the property was
22 situated at the time of loss. Any agreement, stipulation or condition
23 in any policy or contract of insurance by which any insurance com-
24 pany reserves or has the right to rebuild shall be void and of no effect
25 in case of total loss, or where the amount of loss, upon the request of
26 the insurance company, has been submitted to arbitration. Nothing
27 herein shall be construed to change the limitations or restrictions re-
28 specting the pleading or proving of any defense by any insurance com-
29 pany to which it is subject by law. The provisions of this section
30 shall apply to all contracts of insurance on real and personal property.

[C., '97, § 1743; S., '13, § 1743.]

**SEC. 5660. Notice and proof of loss—time of bringing action—
provisions not affected by contract.**

1 The notice of loss and proof thereof required in section fifty-six
2 hundred fifty-seven, and the notice and proof of loss under oath in
3 case of insurance on personal property, shall be given within sixty
4 days from the time loss occurred, and no action for such loss shall be
5 begun within forty days after such notice and proofs have been

6 given to the company, nor shall the time within which action shall be
 7 brought be limited to less than one year from the time when a cause
 8 of action for the loss accrues. No provisions of any policy or con-
 9 tract to the contrary shall affect the provisions of this and the three
 10 preceding sections; provided, however, that nothing contained in this
 11 section or in section fifty-six hundred fifty-eight shall be so construed
 12 as to prohibit any insurance company not required by the statutes of
 13 Iowa to issue a standard form of policy, from embodying, with the
 14 approval of the commissioner of insurance, in any insurance contract
 15 issued by it, provisions or conditions which are more favorable to the
 16 insured than those authorized in said statutes.

[C., '97, § 1744; S., '13, § 1744; 38 G. A., ch. 348, § 5.]

SEC. 5661. Forms of policies.

1 The form of all policies or permits issued or proposed to be
 2 issued by any insurance company doing business in this state under the
 3 provisions of this chapter, shall first be examined and approved by the
 4 commissioner of insurance. Such commissioner shall refuse to au-
 5 thorize it to do business or to renew its permission to do business
 6 when the form of policy issued or proposed to be issued does not pro-
 7 vide for the cancellation of the same at the request of the insured
 8 upon equitable terms, and the return to the insured of any premium
 9 paid in excess of the customary short rates for the insurance up to the
 10 time of cancellation, or the release of the insured from any liability
 11 beyond such short rates, or for losses after the cancellation of the
 12 policy if the insurance be in a mutual company; and in case any com-
 13 pany or association shall issue any policies not containing such pro-
 14 vision, it shall be the duty of the commissioner to revoke the authority
 15 of such company or association to do business.

[C., '97, § 1745; S., '13, § 1745; 38 G. A., ch. 348, § 6.]

SEC. 5662. Other insurance—coinsurance clause—prorating.

1 Any provision, contract or stipulation contained in any policy of
 2 insurance, issued by any insurance company doing business in the
 3 state under the provisions of this chapter, providing or stipulating
 4 that the insured shall maintain insurance on any property covered by
 5 such policy to any extent, or shall to any extent be an insurer of the
 6 property insured in such policy, or shall bear any portion of the loss
 7 on the property insured, shall be void; and the commissioner of in-
 8 surance shall refuse to authorize any such company to do business or
 9 to renew the authority or the certificate of any such company when
 10 the form of policy issued or proposed to be issued contains any such
 11 provision, contract or stipulation; provided that upon the written re-
 12 quest of any person desiring insurance, a rider providing for co-
 13 insurance may be attached to and become a part of the policy, but in
 14 no case shall such rider apply to dwellings or farm property. The
 15 request for the application of the coinsurance clause or rider to any
 16 policy of insurance shall be written or printed on a single sheet of
 17 paper which shall contain nothing but the request hereinafter set out,
 18 and said request must be signed by the insured and a copy thereof be
 19 left with him by the agent at the time the insurance is applied for.
 20 No form of request for coinsurance except the following shall be used
 21 by any company doing business within this state:

22 REQUEST FOR THE APPLICATION OF THE COINSURANCE CLAUSE.

23 In consideration of a reduction from the established rate of
 24 per cent to per cent in premiums to be paid to the
 25 insurance company for insurance upon the following described prop-
 26 erty

27
 28 I hereby request that a coinsurance rider be attached to the policy to
 29 be issued by said company and hereby agree, that during the life of
 30 the policy I will maintain insurance on said property to the extent of
 31 at least dollars, (or) per cent (whichever may be
 32 agreed upon) of the actual cash value thereof at the time of fire, and
 33 that failing to do so, I shall become a coinsurer to the extent of such
 34 deficit.

35 Before signing this request or the coinsurance rider to be at-
 36 tached to the policy to be issued I carefully read each of them and
 37 fully understand that in case I shall fail to maintain insurance on the
 38 previously described property to the extent above provided, then in
 39 the event of loss or damage this company shall not be liable for a
 40 greater per cent of the loss or damage to said property than:

41 1. The total amount of insurance maintained bears to
 42 dollars, or:

43 2. The total amount of insurance maintained bears to
 44 per cent of the actual cash value of the property insured at the time
 45 of fire.

46 Date Insured.

47 The coinsurance rider to be used shall be signed by both the
 48 agent and the insured and a copy thereof shall be left with the insured
 49 at the time the application is made for insurance. The rider shall be
 50 in form and restrictions as follows:

51 IOWA COINSURANCE AND REDUCED RATE CLAUSE.

52 (This clause must be signed by both the insured and the agent.)

53 In consideration of the acceptance by the insured of a reduction
 54 in premiums from the established rate of per cent to per cent,
 55 it is hereby agreed that the insured shall maintain insurance during
 56 the life of this policy upon the property insured:

57 1. To the extent of dollars, or

58 2. To the extent of at least per cent of the actual cash value
 59 thereof at the time of fire (whichever may be agreed upon) and, that
 60 failing to do so the insured shall be a coinsurer to the extent of such
 61 deficit.

62 This clause, at the request of the insured, is attached to and forms
 63 part of policy number of the
 64 insurance company of and shall in no case apply
 65 to dwellings or farm property, nor to any risk wherein the total value
 66 of the property shall be less than twenty-five thousand dollars, except
 67 grain elevators and grain warehouses, and the contents of the same.

68 Insured.
 69 Agent.

70 Date

71 No condition or stipulation in a policy of insurance fixing the
 72 amount of liability or recovery under such policy with reference to
 73 prorating with other insurance on property insured shall be valid ex-
 74 cept as to other valid and collectible insurance, any agreement to the
 75 contrary notwithstanding.

[C., '97, § 1746; S., '13, § 1746; 37 G. A., ch. 185, § 1.]

SEC. 5663. Doing business without compliance.

1 Every insurance company organized under the laws of or doing
 2 business in this state shall conform to all the provisions of this chap-
 3 ter and to other laws of this state, whether now existing or hereafter
 4 enacted, applicable thereto, and when necessary any existing company
 5 shall change its charter and by-laws so as to conform thereto, by a
 6 vote of a majority of its board of directors. Any officer, manager or
 7 agent of any insurance company or association who, with knowledge
 8 that it is doing business in an unlawful manner, or is insolvent, so-
 9 licits insurance with said company or association, or receives applica-
 10 tions therefor, or does any other act or thing towards procuring or
 11 receiving any new business for such company or association, shall be
 12 guilty of a misdemeanor, and for every such act, on conviction thereof,
 13 shall be adjudged to pay a fine of not less than one hundred nor
 14 more than one thousand dollars, or be imprisoned in the county jail
 15 not exceeding one year, or be punished by both such fine and im-
 16 prisonment.

[C., '73, § 1147; C., '97, § 1747.]

SEC. 5664. Officers punished.

1 Any president, secretary or other officer of any company organ-
 2 ized under the laws of this state, or any officer or person doing or
 3 attempting to do business in this state for any insurance company
 4 organized either within or without this state, failing to comply with
 5 any of the requirements of this chapter, or violating any of the pro-
 6 visions thereof, shall be guilty of a misdemeanor, and upon convic-
 7 tion thereof shall be fined in a sum not exceeding one thousand dol-
 8 lars, and be imprisoned in the county jail for a period not less than
 9 thirty days nor more than six months.

[C., '73, § 1147; C., '97, § 1748.]

SEC. 5665. Advertisements—soliciting agents.

1 Every agent of any insurance company shall, in all advertise-
 2 ments of such agency, publish the location of the company, giving the
 3 name of the city, town or village in which it is located, and the state
 4 or government under the laws of which it is organized. Any person
 5 who shall hereafter solicit insurance or procure application therefor
 6 shall be held to be the soliciting agent of the insurance company or
 7 association issuing a policy on such application or on a renewal
 8 thereof, anything in the application, policy or contract to the contrary
 9 notwithstanding.

[C., '73, § 1148; C., '97, § 1749.]

SEC. 5666. Provisions applicable to associations.

1 The provisions of the foregoing sections relative to insurance
 2 companies shall apply to all such companies, partnerships, associa-
 3 tions or individuals, whether incorporated or not.

[C., '73, § 1148; C., '97, § 1751.]

SEC. 5667. Fees.

1 There shall be paid to the commissioner of insurance for services
 2 required under the provisions of this chapter the following fees, which
 3 shall be accounted for by him in the same manner as other fees
 4 received in the discharge of the duties of his office:

- 5 1. For filing and examination of the first application of any com-
6 pany and accompanying articles of incorporation for organization in
7 this state, and the issuing of the permission to do business, ten dollars.
8 2. For filing application of any foreign company for certificate to
9 do business in this state, and the accompanying certified copy of char-
10 ter or article of incorporation, twenty-five dollars.
11 3. For permission to foreign company to do business in this state,
12 or certified copy thereof, two dollars.
13 4. For filing annual statement of a domestic company, and issuing
14 the renewal of the permission required by law to authorize continu-
15 ance in business, three dollars.
16 5. For filing annual statement of a foreign company, twenty dol-
17 lars, and issuing renewal of permission, two dollars.
18 6. For certificate of authority to agent of foreign company, two
19 dollars.
20 7. For each certificate of authority to agent of domestic com-
21 pany, fifty cents.
22 8. For every copy of any paper filed, the sum of twenty cents per
23 folio, and for affixing the official seal to such copy and certifying the
24 same, one dollar.
25 9. For each certificate for publication of foreign companies, two
26 dollars, and for each certificate for publication of Iowa companies,
27 fifty cents.

[C., '73, § 1153; C., '97, § 1752; S., '13, § 1752.]

SEC. 5668. Expenses of examination.

- 1 The necessary expenses of any examination of any insurance
2 company made or ordered to be made by the commissioner of insur-
3 ance under this chapter shall be certified to by him, and paid on his
4 requisition by the company so examined; and in case of failure of the
5 company to make such payment, the commissioner shall suspend such
6 company from doing business in this state until such expenses are
7 paid. If such expenses are not paid by the company, they shall be
8 audited by the state board of audit and paid out of the state treasury.
9 But in no case shall any foreign insurance company be examined ex-
10 cept by order of executive council.

[C., '73, § 1156; C., '97, § 1753.]

SEC. 5669. Combinations.

- 1 It shall be unlawful for two or more insurance companies doing
2 business in this state, or for the officers, agents or employees of such
3 companies, to make or enter into any combination or agreement re-
4 lating to the rates to be charged for insurance, the amount of com-
5 missions to be allowed agents for procuring the same, or the manner
6 of transacting the insurance business within this state; and any such
7 company, officer, agent or employee violating this provision shall be
8 guilty of a misdemeanor, and on conviction thereof shall pay a pen-
9 alty of not less than one hundred dollars nor more than five hundred
10 dollars for each offense, to be recovered in the name of the state for
11 the use of the permanent school fund.

[C., '97, § 1754; 38 G. A., ch. 318, § 1.]

SEC. 5670. Revocation of authority.

- 1 The commissioner of insurance is authorized to summon before
2 him, for examination under oath, any officer, agent or employee of any

3 such company suspected of violating any of the provisions of the pre-
4 ceding section, and, on complaint to him in writing by two or more
5 residents of this state charging such company under oath upon their
6 knowledge or belief with violating the provisions of the preceding
7 section, he shall summon any officer, agent or employee of said com-
8 pany before him for examination under oath; if upon such examina-
9 tion, and that of any other witness produced and examined, he shall
10 determine that such company is guilty of a violation of any of the pro-
11 visions of the preceding section, or if any such officer, agent or em-
12 ployee after being duly summoned shall fail to appear or submit to
13 examination, the commissioner shall forthwith issue an order revok-
14 ing the authority of such company to transact business within this
15 state, and it shall not thereafter be permitted to do the business of
16 fire insurance in this state at any time within one year therefrom.

[C., '97, § 1755.]

SEC. 5671. Appeal.

1 Either party may appeal from the decision of the commissioner
2 of insurance, made pursuant to the preceding section, to the district
3 court of the county where the same was made, within twenty days
4 from the time of the rendition of such decision, by serving a written
5 notice of such appeal on the opposite party and on the commissioner,
6 and filing with the clerk of said court a good and sufficient bond for
7 the payment of all costs on the appeal in case the decision shall be
8 affirmed. On such appeal said court shall try the case de novo, as
9 equitable causes are tried, and on such evidence as either party may
10 produce, and may reverse, modify or affirm the decision of the com-
11 missioner.

[C., '97, § 1756.]

SEC. 5672. Evidence.

1 The statements and declarations made or testimony given by any
2 such officer, agent or employee in the investigation before the com-
3 missioner of insurance, or upon the hearing and trial before the dis-
4 trict court, as provided in the two preceding sections, shall not be
5 used against the person making the same in any criminal prosecution
6 against him.

[C., '97, § 1757.]

SEC. 5673. Insurance in unauthorized companies.

1 No action shall be maintained in any court in the state upon
2 any policy or contract of fire insurance issued upon any property
3 situated in the state by any company, association, partnership, indi-
4 vidual or individuals that have not been authorized by the commis-
5 sioner of insurance to transact such insurance business, unless it
6 shall be shown that the insurer or insured, within six months after
7 the issuing of such policy or contract of insurance, has paid into the
8 state treasury two and one-half per cent of the gross premium paid
9 or agreed to be paid for such policy or contract of insurance.

[C., '97, § 1758.]

SEC. 5674. Additions, riders and clauses permitted.

1 It shall be unlawful for any insurance company to issue any pol-
2 icy of fire insurance upon any property in this state except upon auto-

3 mobiles and marine risks other or different from the standard form
4 of fire insurance policy herein set forth, except,

5 I. It may print in its policy its name, location, date of incorpora-
6 tion, amount of its paid-up capital stock (if a stock company), names
7 of its officers and agents, the number and date of the policy, the amount
8 (under dollar mark) for which it is issued, and if issued through an
9 agent the words: "The policy shall not be valid until countersigned
10 by the duly authorized agent of this company at....."

11 II. It may use in or upon its policy forms or slips of the descrip-
12 tion, location and specifications of the property insured, together with
13 permits upon such conditions not in conflict with the provisions of
14 law, as may be agreed upon, for the use or storage of electricity, gaso-
15 line, explosives, or other extra hazardous products or materials; for
16 repairs or improvements; for the operation or ceasing to operate; and
17 for the vacancy of the premises; and permits for hazards other than
18 those specifically mentioned above; also a mortgagee's or loss payable
19 clause, and other permits or riders, not in conflict with law.

20 III. It may also by written or printed clause upon such condi-
21 tions not in conflict with the provisions of law as may be agreed upon,
22 provide that a policy shall cover any loss or damage caused by light-
23 ning, tornadoes, cyclones, hail or windstorms not exceeding the sum
24 insured or the interest of the insured in the property; provided, if
25 there shall be other valid insurance on such property, whereby the
26 same is insured against loss by lightning, tornadoes, cyclones, hail or
27 windstorms, said company shall be liable only pro rate with such other
28 valid and collectible insurance for any such loss by lightning, tor-
29 nadoes, cyclones, hail or windstorms.

30 IV. Any company incorporated in this state, or authorized to do
31 business herein, shall print in its policy or attach thereto any pro-
32 vision which such company is required by law to insert in its policies
33 or attach thereto, not included in the provisions of this policy, but such
34 provisions shall be printed apart from the other conditions and agree-
35 ments of this policy and under a separate title as follows: "Pro-
36 visions required by law to be stated in the policy of insurance."

37 V. It shall print upon its policy issued in compliance with the
38 preceding provisions of this section, the words: IOWA STANDARD FIRE
39 INSURANCE POLICY.

[S., '13, § 1758-a.]

SEC. 5675. Standard fire insurance policy—form.

1 The policy shall be plainly printed, and no part thereof shall be
2 in type smaller than brevier; the conditions thereof shall be printed
3 in uniform numbered lines, as adopted and approved by the commis-
4 sioner of insurance, and such policy shall be in terms and conditions
5 as follows:

6 I. In consideration of the stipulations herein named and of.....
7 dollars, does insure for the term of from
8 the day of 19..... at noon (standard time), to the
9 day of 19..... at noon (standard time), against all direct
10 loss or damage by fire, except as hereinafter provided, to an amount
11 not exceeding dollars, to the following described prop-
12 erty, while located and contained as described herein, and not else-
13 where, to wit:

14
15

16 It is hereby agreed that the insured may obtain \$.....
17 additional insurance in companies authorized to do business in the
18 state of Iowa.

19 II. This company shall not be liable beyond the actual cash value
20 of the property covered by this policy at the time any loss or damage
21 occurs, and said liability shall in no event exceed what it would cost
22 the insured to repair or replace the property lost or damaged with
23 material of like kind and quality. The sum for which this company
24 is liable pursuant to this policy, shall be payable forty days after
25 due notice and proofs of loss have been received by this company in
26 accordance with law.

27 III. This policy shall be void if the insured has concealed or mis-
28 represented any material fact or circumstance concerning this insur-
29 ance or the subject thereof.

30 IV. Unless otherwise provided by agreement of this company this
31 policy shall be void:

32 *a* If the insured now has or shall hereafter procure any other
33 contract of insurance valid or invalid on the property covered in whole
34 or in part by this policy; or

35 *b* If the subject of insurance be a manufacturing establishment,
36 and it cease to be operated for more than ten consecutive days; or

37 *c* If the building herein described, whether intended for occu-
38 pancy by the owner or tenant be or become vacant or unoccupied and
39 so remain for ten consecutive days; or

40 *d* If the interest of the insured be other than unconditional and
41 sole ownership; or

42 *e* If the subject of insurance be a building on ground not owned
43 by the insured; or

44 *f* If any change other than by death of the insured whether by
45 legal proceedings, judgment, voluntary act of the insured or other-
46 wise, take place in the interest, title, possession or use of the subject
47 of insurance, if such change in the possession or use makes the risk
48 more hazardous; or

49 *g* If the subject of insurance or a part thereof (as to the part so
50 encumbered) be or become encumbered by lien, mortgage or other-
51 wise created by voluntary act of the insured or within his control; or

52 *h* If the property insured or any part thereof (as to the part so
53 removed) be removed to any other building or location than that speci-
54 fied in the policy; or

55 *i* If this policy be assigned before loss.

56 V. Unless otherwise provided by agreement of this company, this
57 policy shall be void:

58 *a* If the subject of insurance be a manufacturing establishment,
59 and it be operated in whole or in part at night later than 10 o'clock; or

60 *b* If the hazard be increased by any means within the knowledge
61 of the insured; or

62 *c* If mechanics be employed in building, altering or repairing the
63 within described premises for more than fifteen days at any one time;
64 or

65 *d* If illuminating gas or vapor be generated in any building cov-
66 ered hereby, or on any premises adjacent thereto for use upon the
67 insured premises; or

68 *e* If there be kept, used, or allowed on the within described prem-
69 ises benzine, benzole, dynamite, ether, fireworks, gasoline, Greek fire,
70 gunpowder exceeding twenty-five pounds in quantity, naphtha, nitro-
71 glycerine, or other explosives, phosphorus, calcium carbide, petroleum

72 or any of its products of greater inflammability than kerosene of law-
73 ful standard, which last named article may be used for lights and kept
74 for sale according to law, in quantities not exceeding five barrels; or
75 *f* If the insured permits the property which is the subject of
76 insurance, or any part thereof, to be used for any unlawful purpose.

77 Provided that nothing contained in paragraph five herein shall
78 operate to avoid this policy in any case, if the insured shall establish
79 that the failure to observe and comply with such provisions and con-
80 ditions did not contribute to the loss.

81 VI. This company shall not be liable for loss caused directly or
82 indirectly by invasion, insurrection, riot, civil war, or military or
83 usurped power, or by theft, or by neglect of the insured to use all
84 reasonable means to save and preserve the property during and after
85 a fire, or when the property is endangered by fire in neighboring
86 premises; or (unless fire ensues, and, in that event, for damage by fire
87 only) by explosion of any kind or by lightning; but liability for direct
88 damage by lightning may be assumed by specific agreement.

89 VII. This company shall not be liable for loss or damage to any
90 property covered by this policy if the insured shall fail to pay any
91 written obligation given to the company for the premium or any as-
92 sessment or installment of premium when due; provided the company
93 shall have given the insured notice as required by law. Upon pay-
94 ment and acceptance by the company of the delinquent premium,
95 assessment or installment of premium before loss occurs, or after
96 loss, if the company shall have had notice thereof and accepts such
97 payment, this policy shall be revived and in full force according to its
98 terms.

99 VIII. If a building or any part thereof fall, except as the result
100 of fire, all insurance by this policy on such building, or its contents,
101 shall immediately cease.

102 IX. This company shall not be liable for loss to accounts, bills,
103 currency, deeds, evidences of debt, money, notes or securities; nor,
104 unless liability is specifically assumed thereon, for loss to awnings,
105 bullion, casts, curiosities, drawings, dies, implements, jewels, manu-
106 scripts, medals, models, patterns, pictures, scientific apparatus, signs,
107 store or office furniture or fixtures, sculpture, plate glass, frescoes
108 or decorations; or property held in storage or for repairs; nor, be-
109 yond the actual value destroyed by fire for loss occasioned by ordi-
110 nance or law regulating construction or repairs of buildings, or by
111 interruption of business, manufacturing processes or otherwise.

112 X. Any application, survey, plan, or description of property
113 signed by the insured and referred to in this policy shall, when a
114 copy is attached hereto, be a part of this contract, and shall be held
115 to be a representation and not a warranty.

116 XI. This policy shall be canceled at any time at the request of
117 the insured; or by the company by giving five days' notice of such
118 cancellation either by registered letter directed to the insured at his
119 last known address, or by personal written notice. If this policy
120 shall be canceled as hereinbefore provided, or becomes void or cease,
121 the premium having been actually paid, the unearned portion shall
122 be returned on surrender of this policy or last renewal, this company
123 retaining the customary short rates; except that when this policy is
124 canceled by this company by giving notice it shall retain only the
125 pro rate premium.

126 XII. If, with the consent of this company, an interest under this
127 policy shall exist in favor of a mortgagee or of any person or cor-

128 poration having an interest in the subject of insurance other than
129 the interest of the insured as described herein, the provisions and
130 conditions hereinbefore contained shall apply in the manner ex-
131 pressed in such provisions and conditions of insurance relating to
132 such interest, as shall be agreed upon by the company.

133 XIII. If property covered by this insurance is so endangered by
134 fire as to require removal to a place of safety, and is so removed, that
135 part of this policy in excess of its proportion of any loss and of the
136 value of property remaining in the original location, shall, for the
137 ensuing five days only, cover the property so removed in the new
138 location; if removed to more than one location, such excess of this
139 policy shall cover therein for such five days in the proportion that
140 the value in any one new location bears to the value in all such new
141 locations; but this company shall not in any case of removal, whether
142 to one or more locations, be liable beyond the proportion that the
143 amount hereby insured shall bear to the total valid and collectible
144 insurance on the whole property at the time of fire, whether the same
145 cover in new location or not.

146 XIV. If loss occur the insured shall as soon as practicable after
147 he ascertains the fact of such loss, give notice in writing thereof to
148 the company, protect the property from further damage, forthwith
149 separate the damaged and undamaged personal property, and put it
150 in the best possible order, and shall, within sixty days from date of
151 loss, furnish this company with notice thereof in writing accom-
152 panied by affidavit stating the facts as to how the loss occurred and
153 the extent thereof, so far as such facts are within his knowledge.

154 XV. The insured, as often as reasonably required, shall exhibit
155 to any person designated by this company, all that remains of any
156 property herein described as to which a claim for loss or damage is
157 made, and submit to examination under oath by any person named
158 by this company, and subscribe the same, and, as often as reasonably
159 required, shall produce for examination all books of account, bills,
160 invoices, and other vouchers, or certified copies thereof, if originals
161 be lost, at such reasonable place as may be designated by this com-
162 pany or its representatives, and shall permit extracts and copies
163 thereof to be made; provided, however, that this company shall not
164 be held to have waived any of the provisions or conditions of this
165 policy or any forfeiture thereof by any examination or investigation
166 herein provided for.

167 XVI. This company shall not be liable under this policy for a
168 greater proportion of any loss on the described property, or for loss
169 by and expense of removal from premises endangered by fire, than
170 the amount hereby insured shall bear to the whole amount of valid
171 and collectible insurance covering such property.

172 XVII. No suit or action on this policy, for the recovery of any
173 claim thereon, shall be sustainable in any court of law or equity,
174 unless commenced within twelve months next after the right of action
175 for the loss accrues.

176 XVIII. Wherever in this policy the word "insured" occurs, it
177 shall be held to include the legal representative of the insured, and
178 wherever the word "loss" occurs, it shall be deemed the equivalent
179 of "loss or damage."

180 XIX. This policy is issued and accepted subject to the foregoing
181 stipulations and conditions, together with such other provisions,
182 agreements, or conditions now or hereafter specifically authorized
183 by law as may be indorsed hereon or added hereto.

184 In witness whereof, this company has executed and attested
 185 these presents.
 186 _____ Secretary.
 187 _____ President.
 188 Countersigned at _____ this _____ day of _____ 19_____
 189 _____ Agent.

[S., '13, § 1758-b.]

SEC. 5676. Violations—penalty.

1 Any insurance company, its officers or agents, or either of them,
 2 violating any of the provisions of the two preceding sections, by issu-
 3 ing, delivering or offering to issue or deliver any policy of fire insur-
 4 ance on property in this state other or different from the standard
 5 form, herein provided for, shall be guilty of a misdemeanor, and upon
 6 complaint made by the commissioner of insurance, or by any citizen
 7 of this state, shall, upon conviction thereof, be punished by a fine of
 8 not less than fifty dollars nor more than one hundred dollars for the
 9 first offense, and not less than one hundred dollars nor more than two
 10 hundred dollars for each subsequent offense, but any policy so issued
 11 or delivered shall, nevertheless, be binding upon the company issuing
 12 or delivering the same, and such company shall, until the payment of
 13 such fine, be disqualified from doing any insurance business in this
 14 state; but any policy so issued or delivered shall, nevertheless, be
 15 binding upon the company issuing or delivering the same.

[S., '13, § 1758-c.]

SEC. 5677. Existing statutes—waiver in interest of insured.

1 Nothing contained in the three preceding sections nor any pro-
 2 visions or conditions in the standard form of policy provided for in
 3 section fifty-six hundred seventy-five, shall be deemed to repeal or in
 4 any way modify any existing statutes nor to prevent any insurance
 5 company issuing such policy, from waiving any of the provisions or
 6 conditions contained therein, if the waiver of such provisions or con-
 7 ditions shall be in the interest of the insured.

[S., '13, § 1758-d.]

SEC. 5678. Policy must appear in name of issuing company only.

1 Every fire insurance company and association authorized to
 2 transact business in this state shall conduct its business in the name
 3 under which it is incorporated, and the policies issued by it shall be
 4 headed or entitled only by such name. There shall not appear on the
 5 face of the policy or on its filing back, anything that would indicate
 6 that it is the obligation of any other than the company responsible
 7 for the payment of losses under the policy, though it will be permissi-
 8 ble to stamp or print on the bottom of the filing back, the name or
 9 names of the department or general agency issuing the same.

[S. S., '15, § 1758-e.]

SEC. 5679. Misleading statements prohibited.

1 No insurance company or department or general agency of an
 2 insurance company, doing business in this state, or its officers or
 3 agents, shall issue any false or misleading advertisement through
 4 newspapers or other periodicals or any false or misleading representa-
 5 tions by signs, cards, letterheads, tending to conceal or misrepresent

6 the true identity of the insurer or insurance company, which is carry-
7 ing the liability under any policy issued in this state.

8 Nor shall any insurance company or department or general
9 agency of an insurance company, doing business in this state issue
10 any advertisement or representation of any character, giving the ap-
11 pearance of a separate or independent insuring organization on the
12 part of any department or general agency, and the type or lettering
13 used in any advertisement or representation shall set forth the name
14 of the company or organization assuming the risk more conspicuously
15 than that of any department or general agency.

[S. S., '15, § 1758-f.]

SEC. 5680. Penalty.

1 Any violation of the two preceding sections shall be punished by
2 a fine of not exceeding five hundred dollars.

[S. S., '15, § 1758-g.]

**SEC. 5681. Agent may advertise individual business without
mentioning company represented.**

1 Nothing contained in sections fifty-six hundred seventy-eight and
2 fifty-six hundred seventy-nine shall be construed to prevent any repre-
3 sentative of an insurance company from advertising his own indi-
4 vidual business without specific mention of the name of the company
5 or companies which he may represent.

[S. S., '15, § 1758-h.]

CHAPTER 8.

**MUTUAL FIRE, TORNADO AND HAILSTORM ASSESSMENT INSURANCE ASSOCIA-
TIONS.**

SECTION 5682. Organization—purposes.

1 Any number of persons may, without regard to the provisions of
2 the preceding chapter, enter into contracts with each other for the
3 insurance from loss or damage by fire, tornadoes, lightning, hail-
4 storms, cyclones, windstorms, or theft, and to insure plate glass
5 against breakage from accident, but such associations of persons shall
6 in no case insure any property not owned by one of their own number,
7 except such county, municipal, district and county fair, school and
8 church property as may be situated within the territory in which they
9 do business and the reinsurance of the risks of similar associations.
10 Associations organizing for the purpose of transacting business under
11 the provisions of this chapter shall incorporate under the provisions
12 of chapter one, title seventeen.

13 Risks or hazards above mentioned shall be classified as follows:

- 14 1. Fire, lightning and theft.
- 15 2. Tornadoes, cyclones and windstorms.
- 16 3. Hailstorms.
- 17 4. Plate glass.

[C., '73, § 1160; C., '97, § 1759; S., '13, § 1759-a; 37 G. A.,
ch. 42, § 1; 37 G. A., ch. 412, § 1.]

SEC. 5683. County and state associations.

1 Any association incorporated under the laws of this state for the
 2 purpose of furnishing insurance as provided for in this chapter, doing
 3 business only within the county in which is situated the town or city
 4 named in its articles of incorporation as its principal place of busi-
 5 ness, or the counties contiguous thereto, shall, for the purposes of
 6 this chapter, be deemed a county mutual assessment association; all
 7 other associations operating hereunder shall, for the purposes of this
 8 chapter, be deemed state mutual assessment associations and the two
 9 words "mutual" and "association" shall be incorporated into and be-
 10 come a part of their name.

[C., '97, § 1760; S., '13, § 1759-b.]

SEC. 5684. Conditions of authorization.

1 No state mutual assessment association shall issue any policies
 2 until at least one hundred twenty-five applications have been received
 3 in any class as shown by section fifty-six hundred eighty-two, repre-
 4 senting the following amount of insurance: Classes one, two and
 5 three, two hundred fifty thousand dollars; class four, one hundred
 6 thousand dollars, and no county mutual assessment association shall
 7 issue any policies until applications for insurance to the amount of
 8 fifty thousand dollars, representing at least fifty applicants, have been
 9 received. Neither shall any association issue any policies of insur-
 10 ance until its articles of incorporation and form of policy shall have
 11 been submitted to, and approved by, the commissioner of insurance,
 12 nor until he has satisfied himself that the association has, in good
 13 faith, applications representing the number of applicants and the
 14 amount of insurance above required and has issued to the association
 15 a certificate authorizing it to transact an insurance business.

[C., '97, § 1761; S., '13, § 1759-c.]

SEC. 5685. Annual report.

1 Each association doing business under the provisions of this chap-
 2 ter shall, annually, in the month of January, report to the commis-
 3 sioner of insurance, upon blanks furnished by him the following facts:
 4 1. The name, place of doing business, date of commencement
 5 and objects of the association.
 6 2. Names and postoffice addresses of president, secretary and
 7 treasurer.
 8 3. Amount of risks in force at beginning of year.
 9 4. Amount of risks written during the year.
 10 5. Amount of risks expired and canceled during the year.
 11 6. Amount of risks in force at the end of the year.
 12 7. The amount of receipts from assessments during the year.
 13 8. The receipts from other sources.
 14 9. Amount paid for losses during the year.
 15 10. Amount paid to agents for services during the year.
 16 11. Amount paid to officers during the year, specifying amount
 17 paid each.
 18 12. Amount paid to employees during the year.
 19 13. Amount of other expenses.
 20 14. Amount of losses adjusted and due.
 21 15. Amount of losses adjusted and not due.
 22 16. Amount and number of claims reported but not adjusted.
 23 17. Number and amount of claims resisted and in litigation.

- 24 18. Cost per thousand during the year.
 25 19. Average cost per thousand during the past five years; pro-
 26 vided that state mutual assessment insurance associations shall, in
 27 addition to the foregoing, report the following facts:
 28 20. The value of real estate owned by the association.
 29 21. The amount of cash on hand and deposited in bank to the
 30 credit of the association, and in what bank deposited.
 31 22. The amount of cash in hands of agents and in course of trans-
 32 mission.
 33 23. The amount of loans secured by first mortgage on real estate,
 34 with the rate of interest thereon.
 35 24. The amount of all other loans and bonds, and how secured,
 36 with the rate of interest thereon.
 37 25. The amount of interest on investments actually due and un-
 38 paid.
 39 26. The amount of all other securities and their value.
 40 27. The amount which the association is required by law to hold
 41 as a reinsurance reserve.
 42 28. The amount due officers and employees.
 43 29. The amount due agents.
 44 30. The amount due banks or other creditors and the security
 45 given therefor.
 46 31. All other claims against the association.
 47 32. The largest amount insured in any one risk.
 48 33. The amount reinsured and names of companies and associa-
 49 tions carrying such reinsurance, and such other information as the
 50 commissioner of insurance may deem necessary for the purpose of
 51 ascertaining the true condition of the association. The report herein
 52 contemplated shall be made as of December thirty-first of each year,
 53 and verified by the oath of the president or vice president and secre-
 54 tary of the association.

[C., '73, § 1160; C., '97, § 1762; S., '13, § 1759-d.]

SEC. 5686. Publication.

- 1 The report referred to in the preceding section shall be tabulated
 2 by the commissioner of insurance and published by him in the annual
 3 report on insurance, one copy of which shall be sent to each associa-
 4 tion. The county associations, the state associations and those doing
 5 an exclusive tornado and an exclusive hailstorm insurance business
 6 shall be separately classified.

[C., '97, § 1763; S., '13, § 1759-e.]

SEC. 5687. Fees—certificates.

- 1 Such associations shall pay the same fees for annual reports and
 2 annual certificates of authority as are required to be paid by domestic
 3 companies organized and doing business under the preceding chapter,
 4 which certificate shall expire March first following the date of its issue.

[C., '73, § 1160; C., '97, § 1764; S., '13, § 1759-f.]

SEC. 5688. Inquiries by commissioner of insurance.

- 1 The commissioner of insurance may address inquiries to any asso-
 2 ciation in relation to its doings and condition and any association so
 3 addressed shall promptly reply thereto in writing.

[C., '97, § 1766; S., '13, § 1759-g.]

SEC. 5689. Fees and assessments.

1 Such associations may collect a policy and survey fees and such
 2 assessments, provided for in their articles of incorporation and by-
 3 laws, as are required to pay losses and necessary expenses incurred
 4 in the conduct of their business. State mutual fire insurance associa-
 5 tions shall provide for and maintain a reinsurance reserve as herein-
 6 after designated. No state mutual association shall collect assess-
 7 ments for more than one year in advance where such assessments
 8 exceed three mills on each dollar of insurance in force.

[C., '73, § 1160; C., '97, § 1765; S., '13, § 1759-h.]

SEC. 5690. Reinsurance reserve—exceptions.

1 All state mutual fire insurance associations operating under the
 2 provisions of this chapter, except such associations as confine their
 3 business exclusively to farm, dwelling property, churches and school-
 4 houses, shall, annually, set aside and maintain as a reinsurance reserve
 5 an amount equal to ten per cent of the receipts from assessments
 6 during the year until the total amount thus accumulated shall equal
 7 forty per cent, but not to exceed fifty per cent of the amount of one
 8 annual assessment at the basis rate charged for such insurance on all
 9 policies in force. The reserve thus accumulated may be used for the
 10 payment of losses and expenses and when so used shall be restored
 11 and maintained by the collection of assessments as hereinafter pro-
 12 vided.

[S., '13, § 1759-i; 37 G. A., ch. 412, § 2; 38 G. A., ch. 348, § 4.]

SEC. 5691. Maximum liability of members.

1 Every association contemplated by the preceding section shall
 2 provide in its by-laws and specify in its policies the maximum liability
 3 of its members to the association. Such liability shall not be less than
 4 a sum equal to the basis rate charged by the association for insurance
 5 nor greater than a sum equal to three times such basis rate. The
 6 maximum liability of the member shall be plainly and legibly stated
 7 in each policy. Whenever reductions shall be made in the liability
 8 of members such reduction shall apply proportionately to all policies
 9 in force.

[S., '13, § 1759-j.]

SEC. 5692. Assessments when assets are insufficient.

1 Whenever the assets of any association required to maintain a
 2 reinsurance reserve are insufficient for the payment of losses and ex-
 3 penses, it shall make an assessment for the required amount ratably
 4 upon its members liable therefor, and whenever by reason of deprecia-
 5 tion, loss or otherwise, the net assets of any association required to
 6 maintain a reinsurance reserve, after providing for other debts, are
 7 less than the required reserve, the deficiency shall be restored by as-
 8 sessment as above provided.

[S., '13, § 1759-k.]

SEC. 5693. Assessments when association is insolvent.

1 Whenever the board of directors or the commissioner of insur-
 2 ance shall ascertain that any association is insolvent, such board, or
 3 upon its failure so to do, the commissioner of insurance may direct an
 4 assessment ratably upon all members liable therefor in such amount
 5 as may be necessary as follows:

6 1. It shall be determined what amount each policy holder should
7 pay or receive in case he desires to withdraw from the association.

8 2. What further sum each policy holder should pay to reinsure
9 his policy with some other solvent association.

10 The board of directors shall forthwith cause written notice and
11 demand of payment to be served personally or by mail upon each
12 policy holder liable therefor. The notice of assessment shall show
13 separately the amount required to be paid in case of withdrawal and
14 the amount required to be paid where withdrawal or cancellation is
15 not desired. The amount due under the assessment shall be payable
16 at the home office of the association within thirty days after date of
17 the notice, but the insured may elect whether to pay the amount called
18 for in case withdrawal is desired or the amount called for where it
19 is desired that the insurance shall be continued and his policy shall
20 be canceled or continued according to such payment. In case of state
21 mutual assessment associations if, within sixty days after the assess-
22 ment is made, it shall appear that the amount of insurance remaining
23 in force is less than the amounts required by section fifty-six hundred
24 eighty-four the reinsurance reserve of such policies as are in force
25 shall be used to reinsure such policies in some solvent association or
26 at the option of the policy holder contributing the same shall be re-
27 turned to him and the association shall continue only for the purpose
28 of adjusting its affairs and closing up its business.

[S., '13, § 1759-l.]

SEC. 5694. Cancellation of policies.

1 Any policy of insurance issued by any association operating under
2 the provisions of this chapter may be canceled by the association giv-
3 ing five days' written notice thereof to the insured, or if the insured
4 shall demand in writing or in person, of the association, the cancella-
5 tion of his policy, the association shall immediately advise him, by
6 letter to address named, the amount, if any, due, as his pro rata share
7 of losses and expenses incurred since date of his policy. Upon sur-
8 render of his policy and payment of all sums due, his membership
9 shall cease, provided that during the months of June, July and Au-
10 gust, hail insurance policies may be canceled only at the option of
11 the officers of the association carrying the risk. Upon the expiration
12 or cancellation of any policy of insurance issued under the provisions
13 of this chapter, all obligations to the association having been paid,
14 the members shall be entitled to and shall be paid by the association
15 a sum equal to at least seventy-five per cent of the unexpended portion
16 of the amount contributed by him to the reinsurance reserve.

[S., '13, § 1759-m.]

SEC. 5695. State associations—bonds of officers.

1 Any state mutual assessment association contemplated by this
2 chapter, before being authorized to do business in this state, shall
3 require its secretary and treasurer to give bond to the association in
4 such sum as the directors shall deem sufficient, not less, however, than
5 ten thousand dollars for each office, which bond after being approved
6 by the president of the association and by the commissioner of insur-
7 ance, shall be deposited with the commissioner of insurance as secur-
8 ity for the faithful performance of the duties of the secretary and
9 treasurer in handling the funds of the association. Should the com-
10 missioner consider the surety on said bonds, or the amount thereof,

11 insufficient he may require additional security, or an increase in the
 12 amount of the bond. If such additional security or increase be not
 13 furnished within thirty days after notice thereof, the commissioner
 14 may revoke the certificate of authority of the association.

[C., '97, § 1767; S., '13, § 1759-n.]

SEC. 5696. Annual meetings.

1 The annual meetings of the members of associations transacting
 2 business under the provisions of this chapter shall be held at the home
 3 office of the association, except as hereinafter provided. Such asso-
 4 ciations as confine their membership to persons of one occupation,
 5 which persons maintain a state organization and hold annual meetings
 6 thereof, may for the purpose of electing directors and changing or
 7 amending their articles of incorporation and by-laws, hold their an-
 8 nual meetings at the same time and place as the annual meeting of
 9 the members of the occupation to which the association confines its
 10 membership, provided that until such time as the articles of incor-
 11 poration of the association provide for the holding of meetings as
 12 above contemplated other than at the home office of the association,
 13 twenty days' notice of the time and place of the holding of said meet-
 14 ings shall be given to all members of the association.

[S., '13, § 1759-o.]

CHAPTER 9.

LIABILITY INSURANCE—CERTAIN PROFESSIONS.

SECTION 5697. Liability insurance—certain professions.

1 Any number of physicians, druggists, dentists and graduate
 2 nurses, licensed to practice their profession in the state of Iowa, may,
 3 by complying with the provisions of this chapter and without regard
 4 to other statutory provisions, enter into contracts with each other for
 5 the purpose of protecting themselves by insurance against loss by
 6 reason of actions at law on account of their alleged error, mistake,
 7 negligence or carelessness in the treatment and care of patients, in-
 8 cluding the performance of surgical operations, or in the prescribing
 9 and dispensing of drugs and medicines, or for loss by reason of dam-
 10 ages in other respects, and to reimburse any member in case of such
 11 loss.

[38 G. A., ch. 286, § 1.]

SEC. 5698. Mutual insurance.

1 All corporations, organized for the purpose of transacting such
 2 insurance business under the provisions of this chapter, shall incor-
 3 porate under the provisions of chapter one, title seventeen, and be
 4 known as mutual corporations; and are hereby empowered to collect
 5 such assessments, or premium payments, provided for in their articles
 6 of incorporation or by-laws, as are required to pay losses and expenses
 7 incurred in the conduct of their business. Such mutual insurance
 8 corporations may issue certificates of membership, or policies; and
 9 may provide that all assessments, or premium payments, payable
 10 thereunder, be made in cash, or on the installment, or assessment plan.

[38 G. A., ch. 286, § 1.]

SEC. 5699. Policy for benefit judgment holder.

1 Any policy issued by any such company shall contain a provision
2 so that said policy shall inure to the benefit of any person obtaining a
3 judgment against the insured to the extent of the insurance carried
4 and for the purpose for which the insurance was issued.

[38 G. A., ch. 286, § 1.]

SEC. 5700. Articles submitted—policy approved.

1 The articles of such mutual insurance corporations shall be sub-
2 mitted to, and approved by, the attorney general and the commissioner
3 of insurance before being filed with the secretary of state, and no such
4 mutual insurance corporation shall issue membership certificates, or
5 policies, until its form of certificate, or policy, shall have been sub-
6 mitted to, and approved by, the commissioner of insurance and until
7 it has secured from such commissioner of insurance a certificate au-
8 thorizing it to transact such an insurance business.

[38 G. A., ch. 286, § 2.]

SEC. 5701. Issuance certificate—limitations.

1 No such certificate shall be issued by the commissioner of insur-
2 ance until two hundred fifty applications have been received, repre-
3 senting, in the aggregate, one million dollars of insurance, nor until
4 the commissioner of insurance has satisfied himself that such mutual
5 insurance corporation has bona fide applications representing the
6 number of applicants and the amount of insurance herein required,
7 and that there is in the possession of such mutual insurance corpora-
8 tion cash assets amounting to not less than ten thousand dollars.

[38 G. A., ch. 286, § 2.]

SEC. 5702. Reports.

1 Such mutual insurance corporations doing business under the pro-
2 vision of this chapter shall, annually, in the month of January, report
3 to the commissioner of insurance, upon blanks furnished by him, the
4 same facts, so far as applicable, as are required to be furnished by
5 mutual insurance associations under the statute of Iowa, which report
6 shall be tabulated by the commissioner of insurance and published
7 by him in the annual report on insurance.

[38 G. A., ch. 286, § 3.]

SEC. 5703. Reinsurance reserve.

1 Such mutual insurance corporations shall, annually, set aside and
2 maintain as a reinsurance reserve, an amount equal to ten per cent
3 of the receipts from assessments, or premium payments, during the
4 year until the total amount thus accumulated shall equal forty per
5 cent, but not to exceed fifty per cent of the amount of the annual assess-
6 ment, or premium payment, at the rate charged for such insurance on
7 all policies in force. The reserve thus accumulated may be used for
8 the payment of losses and expenses, and when so used shall be restored
9 and maintained in like manner as originally accumulated.

[38 G. A., ch. 286, § 4.]

SEC. 5704. Cancellation of policy.

1 Any certificate of membership, or policy, issued by such a mutual
2 insurance corporation may be canceled by the corporation by giving

3 five days' written notice thereof to the insured; or such cancellation
4 may be upon demand of the insured; and such cancellation, when so
5 made, either by the corporation or by the insured, shall be upon a pro
6 rata basis, and the cancellation of such certificate or policy shall release
7 the member from all other future obligations to such corporation.

[38 G. A., ch. 286, § 5.]

SEC. 5705. Powers of commissioner of insurance.

1 Such a mutual insurance corporation shall pay the same fees for
2 admission into the state, for annual reports and for annual certificates
3 of authority as are required to be paid by domestic mutual companies
4 organized and doing business under chapter seven of title eighteen;
5 such certificate shall expire March first of the year following the date
6 of its issue. The commissioner of insurance shall have and exercise
7 the same control over such corporations as he now has over mutual
8 assessment insurance associations organized and doing business under
9 the provisions of chapter eight of title eighteen. The provisions as
10 to maximum liability of members to assessments when assets are
11 insufficient and to assessments when the corporation is insolvent, found
12 in sections fifty-six hundred ninety-one to fifty-six hundred ninety-
13 three, inclusive, shall apply to all mutual insurance corporations or-
14 ganized under the provisions of this chapter.

[38 G. A., ch. 286, § 6.]

**SEC. 5706. Foreign companies admitted to do business—condi-
tions.**

1 Any mutual insurance association organized under the laws of
2 any other state, for the purpose of transacting the kind of business
3 described in sections fifty-six hundred ninety-seven to fifty-six hun-
4 dred ninety-nine, inclusive, and which has been in business not less
5 than one year, and has on hand cash assets in an amount of not less
6 than ten thousand dollars, and has not less than three hundred mem-
7 bers, shall upon application, be admitted to do business in this state;
8 and shall thereafter make all reports and be subject to taxation, exam-
9 ination and supervision by the commissioner of insurance to the same
10 extent and in the same manner as are domestic corporations organ-
11 ized under the provisions of this chapter.

[38 G. A., ch. 286, § 7.]

SEC. 5707. Construction.

1 All laws, or parts of laws, in conflict herewith shall be so con-
2 strued as not to include corporations regulated by this chapter.

[38 G. A., ch. 286, § 8.]

CHAPTER 10.

RECIPROCAL OR INTERINSURANCE CONTRACTS.

SECTION 5708. Reciprocal insurance contracts.

1 Individuals, partnerships and corporations, including independent
2 school districts and municipal corporations, of this state, hereby desig-
3 nated subscribers, are hereby authorized to exchange reciprocal or

4 interinsurance contracts with each other, and with individuals, part-
 5 nerships and corporations of other states, territories, districts and
 6 countries, providing insurance among themselves from any loss which
 7 may be insured against under the law, except life insurance.

[37 G. A., ch. 180, § 1.]

SEC. 5709. Execution of contract—place of business of attorney.

1 Such contracts may be executed by an attorney, agent or other
 2 representative herein designated attorney, duly authorized and acting
 3 for such subscribers under powers of attorney, and such attorney may
 4 be a corporation. The principal office of such attorney shall be main-
 5 tained at such place as is designated by the subscribers in the power
 6 of attorney; provided that, where the principal office of such attorney
 7 is located in another state, the commissioner of insurance shall not
 8 issue a certificate of authority, or license, as provided in this chapter
 9 unless such attorney shall hold a license or certificate of authority
 10 from the insurance department of such other state.

[37 G. A., ch. 180, § 2.]

SEC. 5710. Preliminary showing.

1 Such subscribers so contracting among themselves, shall, through
 2 their attorney, file with the commissioner of insurance a declaration
 3 verified by the oath of such attorney, or, where such attorney is a
 4 corporation, by the oath of the duly authorized officers thereof, setting
 5 forth:

6 *a* The name of the attorney and the name or designation under
 7 which such contracts are issued, which name or designation shall not
 8 be so similar to any name or designation adopted by any attorney
 9 or by any insurance organization in the United States prior to the
 10 adoption of such name or designation by the attorney, as to confuse
 11 or deceive.

12 *b* The location of the principal office.

13 *c* The kind or kinds of insurance to be effected.

14 *d* A copy of each form of policy, contract or agreement under or
 15 by which insurance is to be effected.

16 *e* A copy of the form of power of attorney under which such
 17 insurance is to be effected.

18 *f* That applications have been made for indemnity or insurance
 19 upon at least one hundred separate risks aggregating not less than
 20 one and one-half million dollars represented by executed contracts or
 21 bona fide applications to become concurrently effective; or, in case of
 22 employers' liability or workmen's compensation insurance, covering
 23 a total pay roll of not less than two and one-half million dollars.

24 *g* That there is in the possession of such attorney and available
 25 for the payment of losses, assets amounting to not less than fifty
 26 thousand dollars, and, in case of employers' liability or workmen's
 27 compensation insurance, that such assets shall amount to not less than
 28 one hundred thousand dollars.

29 *h* A financial statement under oath in form prescribed for the
 30 annual statement.

31 *i* The instrument authorizing service of process as provided for
 32 in this chapter.

33 *j* Certificate showing deposit of funds.

[37 G. A., ch. 180, § 3.]

SEC. 5711. Actions—venue—service of process—judgment.

1 Concurrently with the filing of the declaration provided for by
2 the terms of the preceding section, the attorney shall file with the
3 commissioner of insurance an instrument in writing executed by him
4 for said subscribers, conditioned that, upon the issuance of certificate
5 of authority provided for in this chapter, action may be brought in
6 the county in which the property or person insured thereunder is
7 located, and that service of process may be had upon the commissioner
8 of insurance in all suits in this state arising out of such policies, con-
9 tracts or agreements, which service shall be valid and binding upon
10 all subscribers exchanging at any time reciprocal or interinsurance
11 contracts through such attorney. Three copies of such process shall
12 be served and the commissioner of insurance shall file one copy, for-
13 ward one copy to said attorney, and return one copy with his admission
14 of service. A judgment rendered in any such case where service of
15 process has been so had upon the commissioner of insurance, shall be
16 valid and binding against any and all such subscribers as their inter-
17 ests appear and such judgment may be satisfied out of the funds in
18 the possession of the attorney belonging to such subscribers.

[37 G. A., ch. 180, § 4.]

SEC. 5712. Reports—limitations on risks.

1 There shall be filed with the commissioner of insurance by such
2 attorney whenever the commissioner of insurance shall so require, a
3 statement under oath of such attorney showing the maximum amount
4 of indemnity upon a single risk, and, except as to workmen's compen-
5 sation insurance, no subscriber shall assume on any single risk an
6 amount greater than ten per cent of the net worth of such subscriber.

[37 G. A., ch. 180, § 5.]

SEC. 5713. Standard of solvency.

1 There shall at all times be maintained as assets a sum in cash,
2 or in securities of the kind designated by the laws of the state where
3 the principal office is located for the investment of funds of insurance
4 companies, equal to one hundred per cent of the net unearned pre-
5 miums or deposits collected and credited to the accounts of subscrib-
6 ers, or assets equal to fifty per cent of the net annual deposits collected
7 and credited to the accounts of subscribers on policies having one year
8 or less to run and pro rata on those for longer periods; in addition to
9 which there shall be maintained in cash, or in such securities, assets
10 sufficient to discharge all liabilities on all outstanding losses arising
11 under policies issued, the same to be calculated in accordance with the
12 laws of the state relating to similar reserves for companies insuring
13 similar risks; provided that where the assets on hand available for
14 the payment of losses other than determined losses, shall not equal
15 two hundred thousand dollars, all liability for each determined loss
16 or claim deferred for more than one year, shall be provided for by a
17 special deposit in a trust company of the state in which the principal
18 office is located, to be used in payment of compensation benefits for
19 disability; such deposit to be a trust fund and applicable only to the
20 purposes stated, or such liability may be reinsured in authorized com-
21 panies with a surplus of at least two hundred thousand dollars. For
22 the purpose of said reserves, net deposits shall be construed to mean
23 the advance payments of subscribers after deducting therefrom the
24 amount specifically provided in the subscribers' agreements for ex-

25 penses. If at any time the assets so held in cash or such securities
 26 shall be less than required above, or less than one hundred thousand
 27 dollars as to employers' liability or workmen's compensation insur-
 28 ance, or less than fifty thousand dollars as to other classes of insur-
 29 ance, the subscribers or their attorney for them shall make up the
 30 deficiency within thirty days after notice from the commissioner of
 31 insurance so to do. In computing the assets required by this section,
 32 the amount specified in subdivision *g*, section fifty-seven hundred ten,
 33 shall be included.

[37 G. A., ch. 180, § 6.]

SEC. 5714. Annual financial report — examination by commissioner.

1 Such attorney shall, within the time limited for filing the annual
 2 statement by insurance companies transacting the same kind of busi-
 3 ness, make a report, under oath, to the commissioner of insurance
 4 for each calendar year, showing the financial condition of affairs at
 5 the office where such contracts are issued and shall, at any and all
 6 times, furnish such additional information and reports as may be re-
 7 quired; provided, however, that the attorney shall not be required to
 8 furnish the name and addresses of any subscribers except in case of
 9 an unpaid final judgment. The business affairs, records and assets
 10 of any such organization shall be subject to examination by the com-
 11 missioner of insurance at any reasonable time, and such examination
 12 shall be at the expense of the organization examined.

[37 G. A., ch. 180, § 7.]

SEC. 5715. Powers extended to all corporations.

1 Any corporation now or hereafter organized under the laws of
 2 this state shall, in addition to the rights, powers and franchises speci-
 3 fied in its articles of incorporation, have full power and authority to
 4 exchange insurance contracts of the kind and character herein men-
 5 tioned. The right to exchange such contracts is hereby declared to
 6 be incidental to the purposes for which such corporations are organ-
 7 ized and as fully granted as the rights and powers expressly conferred.

[37 G. A., ch. 180, § 8.]

SEC. 5716. Certificate of authority.

1 Upon compliance with the requirements of this chapter, the com-
 2 missioner of insurance shall issue a certificate of authority or a license
 3 to the attorney, authorizing him to make such contracts of insurance,
 4 which license shall specify the kind or kinds of insurance and shall
 5 contain the name of the attorney, the location of the principal office
 6 and the name or designation under which such contracts of insurance
 7 are issued. Such license shall be renewed annually upon a showing
 8 that the standard of solvency required herein has been maintained and
 9 that all fees and taxes required have been paid.

[37 G. A., ch. 180, § 9.]

SEC. 5717. Violations—penalty.

1 Any attorney who shall exchange any contracts of insurance of
 2 the kind and character specified in this chapter, or any attorney or
 3 representative of such attorney, who shall solicit or negotiate any
 4 applications for the same without the attorney having first complied

5 with the foregoing provisions, shall be deemed guilty of a misde-
6 meanor and, upon conviction, shall be subject to a fine of not less than
7 one hundred dollars nor more than five hundred dollars. For the
8 purpose of organization and upon issuance of permit by the commis-
9 sioner of insurance, powers of attorney and applications for such con-
10 tracts may be solicited without compliance with the provisions of this
11 chapter, but no attorney, agent or other person shall make any such
12 contracts of indemnity until all of the provisions of this chapter shall
13 have been complied with.

[37 G. A., ch. 180, § 10.]

SEC. 5718. Refusal or revocation of certificate.

1 In addition to the foregoing penalties and where not otherwise
2 provided, the penalty for failure or refusal to comply with any of the
3 terms and provisions of this chapter, upon the part of the attorney,
4 shall be the refusal, suspension or revocation of certificate of authority
5 or license by the commissioner of insurance and the public announce-
6 ment of his act, after due notice and opportunity for hearing has been
7 given such attorney so that he may appear and show cause why such
8 action should not be taken.

[37 G. A., ch. 180, § 11.]

SEC. 5719. Attorney to give bond—amount.

1 Where the principal office of the attorney in fact is located in this
2 state, he shall give bond to the subscribers in such sum as the advisory
3 committee of the exchange shall deem sufficient, not less, however,
4 than in the sum of ten thousand dollars, which bond, after being ap-
5 proved by the advisory committee and by the commissioner of insur-
6 ance, shall be deposited with the commissioner of insurance as security
7 for the faithful performance of the duties of the attorney in handling
8 the funds of the subscribers. Should the commissioner of insurance
9 consider the surety on said bond, or the amount thereof, insufficient,
10 he may require additional security or an increase in the amount of the
11 bond. If such additional security or increase be not furnished within
12 thirty days after notice to furnish the same, the commissioner of insur-
13 ance may revoke the certificate of authority. Where the principal
14 office of the attorney is located in another state, there shall be filed
15 with the commissioner of insurance, in connection with the declara-
16 tion, provided for by section fifty-seven hundred ten, certified copies
17 of all such bonds given by such attorney as security for the funds of
18 subscribers.

[37 G. A., ch. 180, § 12.]

SEC. 5720. Fees in lieu of taxes.

1 In lieu of all other taxes, licenses, charges and fees whatsoever,
2 such attorney shall pay annually on account of the transaction of such
3 business in this state, the same fees as are paid by mutual companies
4 transacting the same kind of business, and an annual tax of two and
5 one-half per cent upon the gross premiums or deposits collected from
6 subscribers in this state during the preceding calendar year, after
7 deducting therefrom returns, or cancellations, considerations for re-
8 insurances, and all amounts returned to subscribers or credited to
9 their accounts as savings.

[37 G. A., ch. 180, § 13.]

SEC. 5721. Form of contract.

1 The attorney may insert in any form of policy prescribed by the
 2 laws of this state any provisions or conditions required by the plan
 3 of reciprocal or interinsurance, provided the same shall not be incon-
 4 sistent with or in conflict with any law of this state. Such policy, in
 5 lieu of conforming to the language and form prescribed by such law,
 6 shall be held to conform thereto in substance if such policy includes
 7 a provision or indorsement reciting that the policy shall be construed
 8 as if in the language and form prescribed by such law. Any such
 9 policy or indorsement shall first be filed with and approved by the
 10 commissioner of insurance.

[37 G. A., ch. 180, § 14.]

SEC. 5722. Reinsurance.

1 Such attorney shall not effect any reinsurance on risks in this
 2 state unless the insurance carrier granting such reinsurance shall be
 3 licensed in this state.

[37 G. A., ch. 180, § 15.]

SEC. 5723. Laws applicable.

1 Except as provided in this chapter, the making of contracts as
 2 herein provided for and such other matters as are properly incident
 3 thereto, shall not be subject to the laws of this state relating to insur-
 4 ance unless they are therein specifically mentioned.

[37 G. A., ch. 180, § 16.]

CHAPTER 11.
CONSOLIDATION, REINSURANCE, PROPORTIONATE REPRESENTATION.**SECTION 5724. "Company" defined.**

1 The word "company" or "companies" when used in this chapter
 2 shall mean any company or association organized under the provisions
 3 of chapters two, four, five, seven, or eight, except county mutuals.

[S., '13, § 1821-m.]

SEC. 5725. Life companies.

1 No company organized under the laws of this state to do the busi-
 2 ness of life insurance, either on the stock, mutual, stipulated premium
 3 or assessment plan, shall consolidate with any other company or re-
 4 insure its risks, or any part thereof, with any other company, or as-
 5 sume or reinsure the whole or any part of the risks of any other
 6 company, except as hereinafter provided; provided that nothing con-
 7 tained in this chapter shall prevent any company as defined in the
 8 preceding section from reinsuring a fractional part of any single risk.

[S., '13, § 1821-n.]

SEC. 5726. Submit plan to commissioner of insurance—statement as to condition.

1 When any such company shall propose to consolidate or enter into
 2 any reinsurance contract with any other company, it shall present its

3 plan to the commissioner of insurance, setting forth the terms of its
4 proposed contract of consolidation or reinsurance, asking for the ap-
5 proval or any modification thereof, which the commission hereinafter
6 provided for may approve. The company must also file a statement
7 of its assets and if a legal reserve company, of the reserve value of
8 its policies or contracts.

[S., '13, § 1821-o.]

SEC. 5727. Commission to proceed without notice—may require notice.

1 The commission shall proceed to hear and determine such peti-
2 tion, without notice. But if the commission shall deem it necessary
3 in order to conserve the interests of the policy holders that notice
4 shall be given, it shall require the company or companies to notify,
5 by mail, all of the members or policy holders of the said company or
6 companies of the pendency of such petition, and the time and place
7 at which the same will be heard, the length of time of such notice to
8 be determined by the commission.

[S., '13, § 1821-p.]

SEC. 5728. Commission to hear petition—procedure—submission to membership—approval.

1 For the purpose of hearing and determining such petition, a com-
2 mission consisting of the governor, commissioner of insurance and
3 attorney general is hereby created. In the inability of the governor
4 to act, the secretary of state may act in his stead. The commission
5 may make such examination into the affairs and condition of any
6 company or companies as it may deem proper, and shall have power
7 to summon and compel the attendance and testimony of witnesses,
8 and the production of books and papers before said commission and
9 may administer oaths. When notice shall have been given as above
10 provided, any policy holder or stockholder of said company or com-
11 panies shall have the right to appear before said commission and be
12 heard with reference to said petition. Said commission, if satisfied
13 that the interests of the policy holders of said company or companies
14 are properly protected and no reasonable objection of said petition
15 exists, may authorize the proposed consolidation or reinsurance or
16 may direct such modification thereof as may seem to it best for the
17 interests of the policy holders; and said commission may make such
18 order and disposition of the assets of any such company thereafter
19 remaining as shall be just and equitable. Such consolidation or re-
20 insurance shall only be approved by the consent of all of the members
21 of said commission, and it shall be the duty of said commission to
22 guard the interests of the policy holders of any such company or com-
23 panies proposing consolidation or reinsurance. In case of companies
24 organized on the assessment plan, the commission may require the
25 plan of consolidation or reinsurance to be submitted to the member-
26 ship of such company or companies to be voted upon. When sub-
27 mitted, it shall be at a meeting called for that purpose, thirty days'
28 notice being given, and a two-thirds vote of all the members present
29 and voting shall be necessary to an approval of any plan of consoli-
30 dation or reinsurance, and no proxies shall, in any case, be voted.
31 Any plan of consolidation or reinsurance submitted as herein contem-
32 plated, must first have been approved by the commission, and the
33 result of said vote must be filed with the commissioner of insurance

34 and be by him determined before any consolidation or reinsurance
35 shall be effected.

[S., '13, § 1821-q.]

SEC. 5729. Companies other than life—approval of plan.

1 When any company or companies not named in section fifty-seven
2 hundred twenty-five desire to consolidate or reinsure, it shall only be
3 necessary for such company or companies to submit the plan of con-
4 solidation or reinsurance with any other information that may be
5 required, to the commissioner of insurance and the attorney general
6 and have the same by them approved.

[S., '13, § 1821-r.]

**SEC. 5730. Consolidation with unauthorized companies prohib-
ited.**

1 No company or companies as defined by section fifty-seven hun-
2 dred twenty-four shall consolidate or reinsure with any other company
3 or companies not authorized to transact business in this state.

[S., '13, § 1821-s.]

SEC. 5731. Expenses—how paid.

1 All expenses and costs incident to proceedings under the pro-
2 visions of this chapter, shall be paid by the company or companies
3 bringing the petition.

[S., '13, § 1821-t.]

SEC. 5732. Penalty.

1 Any officer, director or stockholder of any company or companies,
2 as defined in section fifty-seven hundred twenty-four, violating or
3 consenting to the violation of any of the provisions of sections fifty-
4 seven hundred twenty-five to fifty-seven hundred thirty, inclusive,
5 shall be punished by a fine of not less than one thousand dollars, or
6 by imprisonment in the county jail for not less than one year, or by
7 both such fine and imprisonment in the discretion of the court.

[S., '13, § 1821-u.]

SEC. 5733. Proportionate representation.

1 The holder or holders, jointly or severally, of not less than one-
2 fifth but less than a majority of the shares of the capital stock of
3 corporations organized on the stock plan under the laws of this state
4 for transacting the business of life or fire insurance, shall be entitled
5 to nominate to be elected or appointed, as the case may be, directors
6 or other persons performing the functions of directors by whom, ac-
7 cording to the articles of incorporation of such corporations its affairs
8 are to be conducted. In the event such nomination shall be made,
9 there shall be elected or appointed to the extent that the total number
10 to be elected or appointed is divisible, such proportionate number from
11 the persons so nominated as the shares of stock held by persons mak-
12 ing such nominations bear to the whole number of shares issued; pro-
13 vided the holder or holders of the minority shares of stock shall only
14 be entitled to one-fifth (disregarding fractions) of the total number
15 of directors to be elected for each one-fifth of the entire capital stock
16 of such corporation so held by them; and provided, further, that this
17 section shall not be construed to prevent the holders of a majority of
18 the stock of any such corporation from electing the majority of its

19 directors. Vacancies occurring from time to time shall be filled so
20 as to preserve and secure to such minority and majority stockholders
21 proportionate representation as above provided.

[S., '13, § 1821-v.]

SEC. 5734. Articles of incorporation.

1 All such existing corporations shall by amendment to their arti-
2 cles of incorporation, approved by the commissioner of insurance, pro-
3 vide for the nomination, election or appointment, of the directors or
4 other persons by whom its affairs are to be conducted, in conformity
5 with the provisions of the preceding section, and the articles of incor-
6 poration of all such corporations hereafter organized shall contain like
7 provisions.

[S., '13, § 1821-w.]

CHAPTER 12.

INSURANCE AGENTS—VOTING BY PROXY.

SECTION 5735. Who deemed agent for certain insurance.

1 The term agent used in chapter seven of this title shall include
2 any other person who shall in any manner directly or indirectly trans-
3 act the insurance business for any insurance company complying with
4 the laws of this state. Any officer, agent or representative of an
5 insurance company doing business in this state who may solicit insur-
6 ance, procure applications, issue policies, adjust losses or transact the
7 business generally of such companies, shall be held to be the agent of
8 such insurance company with authority to transact all business within
9 the scope of his employment, anything in the application, policy, con-
10 tract, by-laws or articles of incorporation of such company to the con-
11 trary notwithstanding.

[C., '97, § 1750.]

SEC. 5736. Agent to have certificate of authority.

1 No agent shall directly or indirectly act for any insurance com-
2 pany referred to in chapter seven of this title, in taking risks or trans-
3 acting business of insurance in the state, without procuring from the
4 commissioner of insurance a certificate of authority to the effect that
5 such company has complied with all the requirements of said chapter.

[C., '73, § 1145; C., '97, § 1725.]

SEC. 5737. Agent must be licensed—commissioner of insurance may revoke.

1 No person shall directly or indirectly, act within this state as
2 agent or otherwise, in receiving or procuring applications for insur-
3 ance, or in doing or transacting any kind of insurance business for
4 any company or association, other than county mutuals or fraternal
5 beneficiary associations, until he has procured from the commissioner
6 of insurance a license authorizing him to act for such company or
7 association as agent which license shall terminate at the end of the
8 insurance year for which such company or association is authorized
9 to transact business. The commissioner may, for good cause, decline

10 to issue such license or may, for like cause, revoke the same. The fee
11 charged for such agent's license shall be, for domestic companies, fifty
12 cents, and for companies located outside the state, two dollars.

[S., '13, § 1821-k.]

SEC. 5738. Acting without license—penalty.

1 Any person acting as agent or otherwise representing any insur-
2 ance company or association, in violation of the provisions of the pre-
3 ceding section, shall be liable to a fine of twenty-five dollars for each
4 day he shall so act.

[S., '13, § 1821-l.]

SEC. 5739. Voting by proxies—conditions.

1 Any insurance company or association organized under the laws
2 of this state, may provide in its articles of incorporation, that its
3 members or stockholders may vote by proxies, voluntarily given, upon
4 all matters of business coming before the stated or called meetings of
5 the stockholders or members, including the election of directors. No
6 proxy shall be valid unless signed and executed within two months
7 prior to such meeting or election for which said proxy was given, and
8 such proxy shall be limited to thirty days subsequent to the date of
9 such meeting or election, and may be revoked at any time by the policy
10 holder or stockholder who executed the said proxy. All proxies shall
11 be filed with the company at least one day prior to an election at which
12 they are to be used.

[S., '13, § 1821-x.]

**SEC. 5740. Solicitation by agents — expenditure of funds —
penalty.**

1 Soliciting of proxies by an agent of the company either for per-
2 sonal use or for the use of officers of the company or association, or
3 for any other persons, is forbidden. Nor shall any of the funds of a
4 company or association be expended in procuring proxies. Any viola-
5 tion of this or the preceding section shall be deemed a misdemeanor
6 and punishable accordingly.

[S., '13, §§ 1821-y, 1821-z.]

TITLE XIX.

BANKS.

CHAPTER 1.

BANKING DEPARTMENT.

SECTION 5741. Department authorized.

1 There is hereby created and established a department to be known
2 as the "Banking department of Iowa." The chief officer of said de-
3 partment shall be styled "superintendent of banking."

[37 G. A., ch. 40, § 1.]

SEC. 5742. Superintendent—appointment—qualifications—confir- mation—tenure—vacancies.

1 The governor shall nominate, and, with the consent of two-thirds
2 of the members of the senate in executive session, appoint, a person
3 for superintendent of banking who shall be selected solely with regard
4 to his qualifications and fitness to discharge the duties of this posi-
5 tion, and no person shall be appointed who has not had at least five
6 years' executive experience in a state or savings bank in the state of
7 Iowa. No nomination shall be considered by the senate until the same
8 shall have been referred to a committee of five to be appointed by the
9 president of the senate without formality of a motion, which com-
10 mittee shall report to the senate in executive session, and which report
11 shall be made at any time when called for by the senate. The con-
12 sideration of the nomination by the senate shall not be had on the
13 same legislative day that the nomination is so referred. The first ap-
14 pointment shall be for a period to terminate on the first day of July,
15 nineteen hundred twenty-one. Subsequent appointments shall be
16 made, and approved by the senate of the general assembly next con-
17 vening, as above provided, and, except to fill vacancies, shall be for a
18 period of four years commencing July first, nineteen hundred twenty-
19 one, and for successive four-year periods. Any vacancies that may
20 occur by any cause other than by suspension, while the general assem-
21 bly is not in session, shall be filled by appointment by the governor,
22 which appointment shall expire at the end of thirty days from the time
23 the general assembly next convenes, and vacancies occurring during
24 the session of the general assembly shall be filled the same as a regular
25 appointment is made and before the end of said session. Any ap-
26 pointment to a vacancy shall in no case be for a period beyond the ter-
27 mination date of the current four-year period.

[37 G. A., ch. 40, § 2.]

SEC. 5743. Suspension or removal of superintendent.

1 The governor may, by and with the consent of a majority of the
2 senate during a session of the general assembly, remove the superin-
3 tendent of banking for malfeasance in office or for any cause that

4 renders him ineligible to appointment, or incapable or unfit to dis-
5 charge the duties of his office, and his removal, when so made, shall be
6 final. When the general assembly is not in session the governor may
7 suspend the superintendent of banking so disqualified, and shall ap-
8 point another to fill the vacancy thus created, subject, however, to the
9 approval or disapproval of a majority of the senate when next in ses-
10 sion; and if the senate shall concur therein he shall be removed from
11 the office. But if the senate shall at the same session fail to concur
12 or to act on the same, said suspension shall thereupon cease.

[37 G. A., ch. 40, § 3.]

SEC. 5744. Bond of superintendent—duties—salary.

1 Before entering upon the discharge of the duties of his office
2 the superintendent of banking shall give a corporate surety bond in
3 the penal sum of twenty thousand dollars, conditioned as provided for
4 in section six hundred twelve, same to be approved by the executive
5 council and filed in the office of the secretary of state. He shall devote
6 his entire time to the duties of his office and shall receive an annual
7 salary of four thousand dollars.

[37 G. A., ch. 40, § 4.]

SEC. 5745. Deputy superintendent—bank examiners—number of employees.

1 The superintendent of banking may appoint such examiners, to
2 hold office for a term of two years, but not to exceed one examiner for
3 each one hundred banks, or major fraction thereof, under his super-
4 vision; and may also appoint a deputy superintendent of banking, who
5 shall perform the duties attached to the office of the superintendent
6 of banking during the absence or the inability of the superintendent,
7 and as directed by him, and may also appoint such clerks, stenogra-
8 phers, and special assistants as he may need to discharge in a proper
9 manner the duties imposed on him by law; but the total in number,
10 including the deputy superintendent, shall not exceed one for each two
11 hundred banks and trust companies, or major fraction thereof, under
12 his supervision; all such appointees shall be removable at the pleasure
13 of the said superintendent.

[37 G. A., ch. 40, § 5; 38 G. A., ch. 335, § 1.]

SEC. 5746. Security required for bank examiners.

1 Each examiner shall give a corporate surety bond to the state,
2 conditioned for the faithful discharge of his duties, for the sum of
3 three thousand dollars, which shall be filed with said superintendent
4 and approved by him. Said examiners shall have had at least three
5 years' experience in practical bank work or as bank examiners.
6 The deputy superintendent and bank examiners shall receive a salary
7 to be fixed by the superintendent, commensurate with the work done
8 by said examiners, but in no case to exceed the sum of three thousand
9 dollars, per annum.

[37 G. A., ch. 40, § 5; 38 G. A., ch. 335, § 1.]

SEC. 5747. Salaries.

1 Said superintendent of banking shall fix the salaries of his clerks,
2 stenographers, special assistants and any other employees whom he
3 may engage and he shall be held responsible for all work done by his

4 department and salaries paid all of his employees based on a strictly
 5 business basis, namely, efficiency and economy as to time and expense
 6 accounts. The deputy superintendent and all such clerks, stenogra-
 7 phers, special assistants and other employees shall give bond to the
 8 state in such sum as shall be fixed by the executive council. The su-
 9 perintendent shall furnish to the auditor from time to time a list of
 10 salaries as fixed by him, and all salaries shall be paid monthly by the
 11 treasurer of state on warrants drawn by the auditor of state.

[37 G. A., ch. 40, § 5; 38 G. A., ch. 335, § 1.]

SEC. 5748. Expenses.

1 The superintendent of banking and examiners shall be entitled to
 2 actual and necessary expense incurred in the examination of banks and
 3 trust companies, and the actual and necessary expenses within the
 4 state of special assistants and other employees, who may be desig-
 5 nated by the superintendent to aid in the official work of this depart-
 6 ment, shall be allowed. The superintendent of banking shall also be
 7 entitled to actual and necessary expenses incurred in attending the
 8 district or group meetings and state convention of the Iowa bankers
 9 association; the annual convention of the American bankers associa-
 10 tion; any meetings that may be called by the federal reserve bank of
 11 Chicago, and the annual session, if any, or any conference of state
 12 supervisors of banking or banking commissioners, that may be called
 13 by said state supervisors of banking, or banking commissioners, or
 14 their organization, if any; not to exceed five hundred dollars in any
 15 one year, as shall be approved by the state board of audit, as provided
 16 in section two hundred seventy-seven, and such expenses shall be paid
 17 by the treasurer of state on warrants drawn by the auditor of state,
 18 but the total amount of expense and salaries shall not, in any one
 19 year, exceed the amount of fees collected from banks and trust com-
 20 panies.

[37 G. A., ch. 40, § 5; 38 G. A., ch. 335, § 1.]

SEC. 5749. Suitable quarters—supplies.

1 The executive council shall provide the banking department of
 2 Iowa with suitable quarters at the seat of government, and shall
 3 furnish said department with furniture, books, supplies, printing and
 4 stationery necessary to carry out the provisions of this chapter.

[37 G. A., ch. 40, § 6.]

SEC. 5750. Duties of superintendent.

1 The superintendent of banking shall be the head of the banking
 2 department of Iowa and shall have general control, supervision and
 3 direction of all banks and trust companies incorporated under the
 4 laws of Iowa, and shall be charged with the execution of the laws of
 5 this state relating to banking.

[37 G. A., ch. 40, § 7.]

SEC. 5751. Records in relation to banking—filed.

1 All books, records, files, documents, reports and securities, and
 2 all papers of every kind and character relating to the business of
 3 banking shall be delivered to and filed or deposited with the said
 4 superintendent of banking.

[37 G. A., ch. 40, § 8.]

SEC. 5752. Superintendent of banking to report.

1 It shall be the duty of the superintendent of banking to com-
2 municate to the governor in his biennial report a statement of the
3 condition of every bank from which reports have been received for
4 the preceding year, and to suggest any amendments in the law rela-
5 tive thereto which, in his judgment, may be necessary or proper to
6 increase the security of depositors.

[C., '97, § 1881.]

SEC. 5753. Fees—accounting.

1 All fees and charges of every character whatsoever which are
2 required by law to be paid by banks and trust companies shall be
3 payable to the superintendent of banking, whose duty it shall be to
4 account for and pay over the same to the treasurer of state at the
5 time and in the manner as now provided for by law.

[37 G. A., ch. 40, § 9.]

SEC. 5754. Fees for examination of banks.

1 Every bank and trust company shall pay to the superintendent of
2 banking within ten days after the date of each examination a fee as
3 based on the assets of said bank or trust company, as of the date for
4 the close of business for which such examination is made, as follows:
5 At the rate of one dollar per one thousand dollars of assets on the
6 first twenty-five thousand dollars of assets, and at the rate of two cents
7 per one thousand dollars of assets on all assets over and above twenty-
8 five thousand dollars of assets, provided that no examination shall be
9 made for less than twenty dollars.

[C., '97, §§ 1875, 1876; S. S., '15, § 1875; 38 G. A., ch. 335,
§ 2.]

SEC. 5755. Cost bill—penalty—when examiner may not act.

1 Upon the completion of each examination the bank examiner in
2 charge of said examination shall render a bill for such fee, in tripli-
3 cate, and shall deliver one copy thereof to the bank, and shall forward
4 one copy to the treasurer of state, and one copy to the superintendent
5 of banking at his office in Des Moines. Failure to place the amount of
6 said fee in the hands of the superintendent of banking within ten days,
7 as hereinbefore provided, shall subject the bank to an additional fee
8 equal to five per centum of the amount of such fee for each day same
9 shall be delinquent. The superintendent shall account for and pay
10 over said fees to the treasurer of state at the time and in the manner
11 as now provided for by law. No bank examiner shall be assigned by
12 the superintendent of banking to examine a bank or trust company in
13 a county in which he is interested in the business of a bank or trust
14 company.

[C., '97, §§ 1875, 1876; S. S., '15, § 1875; 38 G. A., ch. 335,
§ 2.]

SEC. 5756. Salaries and expenses—how paid.

1 No payments of any kind shall be made by the state treasurer to
2 cover expenses and salaries of the banking department or any part
3 thereof, unless there shall be on hand in the office of the treasurer of

4 state sufficient funds, received as income from said department, to
5 pay the same.

[38 G. A., ch. 335, § 3.]

SEC. 5757. Superintendent of banking may refuse certificate to new bank—when.

1 The superintendent of banking is hereby authorized to deny or
2 decline to issue a certificate of authority to commence business, if,
3 after he shall have made, or cause to have been made, an examina-
4 tion and investigation, it shall be his judgment that the town or city
5 or community in which the proposed new bank is to be located, is
6 amply served with banking facilities, and that the public necessity,
7 convenience and advantage will not be promoted by the opening of the
8 proposed new bank or trust company, or that the character and general
9 fitness of the persons named as officers and stockholders are such as
10 not to command the confidence of the community in which such bank
11 or trust company is proposed to be located.

[38 G. A., ch. 236, § 1.]

SEC. 5758. Examination—payment costs of.

1 If the superintendent of banking shall not be satisfied with the
2 result of said examination or said investigation, he shall inform the
3 applicants within sixty days after the certified articles of incorporation
4 and application have been presented to him. The expenses in making
5 said examination or investigation by the superintendent of banking,
6 or his department, shall be paid by the proposed bank or trust com-
7 pany, and payment shall be made in advance if required by the super-
8 intendent of banking.

[38 G. A., ch. 236, § 1.]

SEC. 5759. Appeal.

1 In the event the application for a certificate of authority shall
2 have been rejected by the superintendent of banking, the applicants
3 may, if they desire, appeal to the committee on retrenchment and re-
4 form within thirty days after service of notice of rejection of appli-
5 cation for said certificate of authority and the applicants so appealing
6 shall file a notice in writing with the superintendent of banking that
7 they appeal from his decision made on said application to the com-
8 mittee on retrenchment and reform. Upon filing of such notice the
9 superintendent of banking shall lay all the facts in writing, together
10 with his written decision thereon, and the notice of appeal, before the
11 chairman of the committee on retrenchment and reform.

[38 G. A., ch. 236, § 1.]

SEC. 5760. Procedure on appeal.

1 The chairman of the committee on retrenchment and reform shall
2 fix a time and place within ten days after receiving said communica-
3 tion from the superintendent, when and where the committee on re-
4 trenchment and reform shall hear the appeal, and shall notify the ap-
5 plicants and the superintendent of banking thereof, that they may be
6 present. The proceedings shall be reviewed by the committee on re-
7 trenchment and reform, which committee on retrenchment and reform
8 shall also hear other or additional evidence and the committee on re-
9 trenchment and reform, shall, within three days subsequent to said

10 meeting issue an order, either affirming or reversing the order of the
11 superintendent of banking, and shall immediately thereafter return to
12 the superintendent of banking all of the records and proceedings per-
13 taining to such case, together with a statement of its decision, and the
14 superintendent of banking shall thereupon transmit a copy of that
15 decision of the committee on retrenchment and reform relating to said
16 appeal to the said incorporators.

[38 G. A., ch. 236, § 1.]

SEC. 5761. Order of reversal—decision final.

1 Any order reversing the decision of the superintendent of bank-
2 ing must have the majority vote of said committee on retrenchment
3 and reform. The said decision of the said committee on retrenchment
4 and reform shall be final and conclusive, and the superintendent of
5 banking shall be so governed in said case; provided, however, that none
6 of the provisions of sections fifty-seven hundred fifty-seven to fifty-
7 seven hundred sixty-one, inclusive, shall be in force or effect after
8 December thirty-first, nineteen hundred twenty.

[38 G. A., ch. 236, § 1.]

SEC. 5762. New private banks—use of certain words prohibited.

1 It shall be unlawful for any individual, partnership, or unincor-
2 porated association, or corporation, other than national banking asso-
3 ciations, not subject to the supervision or examination of the banking
4 department, to make use of any office sign bearing thereon the word
5 "bank", "banking", "banker", or any derivative, plural or compound
6 of the word "banking", or word or words in a foreign language having
7 the same or similar meaning, or to make use of any exterior or interior
8 sign bearing thereon such word or words whatsoever to indicate to the
9 general public, or to any individual, that such place or office is the
10 place or office of a bank, nor shall such person or persons, partnership,
11 unincorporated association, or corporation, make any use of or circu-
12 late any letterheads, billheads, bank notes, bank receipts, certificates,
13 circulars, or any written or printed, or partly written or partly printed
14 papers whatever having thereon any other word or words indicating
15 that such business is the business of a bank.

[38 G. A., ch. 236, § 2.]

SEC. 5763. Penalty.

1 Any person or persons violating any of the provisions of the
2 preceding section, either individually or as an interested party in any
3 such copartnership or corporation, shall be guilty of a misdemeanor
4 and on conviction thereof shall be fined in a sum not less than three
5 hundred dollars nor more than one thousand dollars, or by imprison-
6 ment in the county jail not less than sixty days nor more than one
7 year, or by both such fine and imprisonment.

[38 G. A., ch. 236, § 2.]

SEC. 5764. Exceptions.

1 Nothing in the seven preceding sections shall be construed as
2 affecting or in any wise interfering with any private bank or private
3 banker that may be engaged in lawful business previous to April six-
4 teenth, nineteen hundred nineteen.

[38 G. A., ch. 236, § 3.]

SEC. 5765. Construction.

1 If any part of the eight preceding sections shall be declared un-
 2 constitutional it shall not affect any other part of said sections.

[38 G. A., ch. 236, § 4.]

CHAPTER 2.**SAVINGS BANKS.****SECTION 5766. How formed.**

1 Corporations designated savings banks may be formed by not
 2 less than five persons of lawful age, a majority of whom shall be citi-
 3 zens of the state, and must be organized as provided in this chapter.

[C., '97, § 1840.]

SEC. 5767. Business.

1 Savings banks may receive on deposit the savings and funds of
 2 others, preserve and invest the same, pay interest or dividends
 3 thereon, and transact the usual business of such institutions, but
 4 shall not have power to issue bank notes, bills or other evidences of
 5 debt for circulation as money.

[C., '97, § 1841.]

SEC. 5768. Articles of incorporation.

1 The articles of incorporation of a savings bank shall be signed
 2 and acknowledged by the incorporators before some officer authorized
 3 to take acknowledgment of deeds, and give the corporate name, the
 4 object for which it is formed, the amount of capital, the time of its
 5 existence, which shall not exceed fifty years, the number of its direc-
 6 tors, the name and postoffice address of each person or officer who
 7 shall manage its affairs until the first election, and the name of the
 8 city, town or village, and the county, in which the principal place of
 9 business is to be located. Such articles shall be filed and recorded
 10 in the office of the recorder of deeds of the county of the principal
 11 place of business, and in the office of the secretary of state. Notice
 12 of its incorporation shall be given by publication in some newspaper
 13 published in the county wherein the bank is located, once each week,
 14 for four consecutive weeks, which notice shall state, in substance, the
 15 matters required to be given in the articles of incorporation.

[C., '97, § 1842; S., '13, § 1842.]

SEC. 5769. Required paid-up capital.

1 The paid-up capital of any savings bank shall not be less than ten
 2 thousand dollars in towns or villages having a population of one thou-
 3 sand or less, nor less than fifteen thousand dollars in towns having a
 4 population of more than one thousand and less than two thousand, nor
 5 less than twenty-five thousand dollars in cities of more than two thou-
 6 sand and less than ten thousand population, nor less than fifty thou-
 7 sand dollars in cities having a greater population. The corporation
 8 may commence business when its first directors or officers named in its
 9 recorded articles of incorporation shall have furnished the superin-

10 tendent of banking proof, under oath, that the required capital has
 11 been paid in and is held in good faith by said bank, and he has satisfied
 12 himself of such fact, for which purpose he may make a personal exam-
 13 ination, or cause it to be made, at the expense of such bank, and he is
 14 also satisfied that the preceding sections of this chapter have been
 15 complied with, and has issued a certificate to that effect, naming
 16 therein its first board of directors, notice of which certificate shall be
 17 given by the publication thereof once each week for four consecutive
 18 weeks in some newspaper printed in the county where its articles are
 19 recorded, at the expense of such bank, and proof of such publication
 20 by the oath of the publisher or his foreman filed with said superin-
 21 tendent.

[C., '97, § 1843; S., '13, § 1843; 37 G. A., ch. 357, § 1.]

SEC. 5770. Powers.

1 The corporators and their successors shall be a body corporate
 2 with the right of succession for the period limited, and shall have
 3 power:

- 4 1. To sue and be sued.
- 5 2. To have a corporate seal and alter it at pleasure.
- 6 3. To purchase, hold, sell, convey, and release from trust or mort-
 7 gage such real and personal estate as provided for in this chapter.
- 8 4. To appoint such officers, agents, employees and servants as the
 9 business of the corporation shall require, to define their powers, pre-
 10 scribe their duties, fix their compensation, and to require of them such
 11 security as may be proper for the performance of their duties.
- 12 5. To loan and invest the funds of the corporation, to receive
 13 deposits of money, to loan and invest the same as provided in this
 14 chapter, and to repay such deposits without interest, or with such
 15 interest as the by-laws or articles may provide.
- 16 6. To make by-laws for the management and regulation of the
 17 corporation, its property and affairs, prescribing the condition on
 18 which the deposits will be received and interest paid thereon, and
 19 the time and manner of dividing the profits, and for carrying on all
 20 business within its power.

[C., '97, § 1844.]

SEC. 5771. Management—officers—meetings.

1 The business and property of such banks shall be managed by a
 2 board of directors of not less than five, all of whom shall be share-
 3 holders, and at least three-fourths of the directors must be citizens
 4 of the state. The articles of incorporation shall designate the maxi-
 5 mum number of directors, and the stockholders by a majority of all of
 6 the votes of the stockholders of such bank may change at any annual
 7 meeting by resolution, the number of its directors, as said stockhold-
 8 ers may decide, to any number not less than five nor more than the
 9 maximum designated in the articles of incorporation or certificate of
 10 authorization, provided that said resolution of the stockholders shall
 11 after being duly adopted as aforesaid be filed in the office of the super-
 12 intendent of banking within thirty days after such adoption. The
 13 maximum number of directors as fixed by the articles of incorporation
 14 may be changed in the manner prescribed by law for changing the
 15 said articles of incorporation. No person shall be eligible as director
 16 of any savings bank, nor can he qualify or serve as such, unless he
 17 owns in his own right shares of stock in such bank, as follows: In

18 those having a capital of less than twenty thousand dollars, one share;
19 in those having a capital of twenty thousand dollars or over, but less
20 than thirty thousand dollars, two shares; in those having a capital of
21 thirty thousand dollars or over, but less than forty thousand dollars,
22 three shares; in those having a capital of forty thousand dollars or
23 over, but less than fifty thousand dollars, four shares; in those having
24 a capital of fifty thousand dollars or over, five shares. Each director,
25 before acting as such, shall take an oath that he will diligently, faith-
26 fully and impartially perform the duties imposed upon him by law,
27 that he will not knowingly violate or willingly permit to be violated
28 any of its provisions, that he is the bona fide owner in his own right of
29 the number of shares of stock required to be owned by him as provided
30 in this chapter; that the same is not hypothecated nor in any manner
31 pledged as security for any loan obtained or debt owing by him,—
32 which oath shall be signed by each director and certified by the officer
33 before whom it is taken, and filed with and preserved in the office of
34 the superintendent of banking. The call for the first meeting of the
35 directors or trustees shall be signed by one or more persons named in
36 said superintendent's certificate, stating the time and place of meet-
37 ing, and be delivered personally to each director, or published at least
38 ten days in some newspaper in the county wherein the principal place
39 of business of the incorporation is located.

40 At their first meeting, and as often thereafter as the by-laws re-
41 quire, they shall elect from their number a president and one or more
42 vice presidents for the ensuing year, and appoint a treasurer or cash-
43 ier, and such other officers and employees as may be required, who
44 shall hold their office during the pleasure of the board, and give such
45 security for the faithful performance of their duties as may be re-
46 quired of them by the by-laws.

[C., '97, § 1845; 37 G. A., ch. 238, § 1; 38 G. A., ch. 60, § 1.]

SEC. 5772. Directors.

1 All vacancies in the board of directors shall be filled at its next
2 regular meeting after such vacancy shall arise from among the stock-
3 holders, and the person receiving a majority of the votes of the whole
4 number of directors shall be duly elected to fill such vacancy. The
5 directors to succeed those named in the certificate of the superinten-
6 dent of banking shall be elected at the first annual meeting thereafter,
7 at such time and place, in such manner and upon such notice as shall
8 be provided by the by-laws, and shall hold office until their successors
9 are elected and qualified, which shall be annually thereafter. All such
10 elections shall be by ballot, and the persons receiving the greater
11 number of votes cast shall be directors. If an election of directors
12 shall not be held on the day designated, it may be held on any other
13 day, after giving the notice required by the by-laws. A majority of
14 directors shall constitute a quorum for the transaction of business,
15 but in no case shall a measure be declared carried unless receiving
16 three affirmative votes.

[C., '97, § 1846.]

SEC. 5773. Stockholders' meetings.

1 At all stockholders' meetings, and all elections held thereat, each
2 share of stock shall be entitled to one vote. Any stockholder may vote
3 upon his shares in person, or by proxy in writing. Shares belonging

4 to an estate may in like manner be voted by the administrator thereof,
 5 and shares belonging to a corporation, association or society may be
 6 voted by any person authorized by its board of directors to do so, but
 7 no stockholder shall be entitled to vote who owes the bank any past
 8 due indebtedness.

[C., '97, § 1847.]

SEC. 5774. Deposits.

1 Any savings bank organized under this chapter may receive on
 2 deposit money equal to twenty times the aggregate amount of its
 3 paid-up capital and surplus, and no greater amount of deposits shall
 4 be received without a corresponding increase of the aggregate paid-up
 5 capital and surplus, which capital and surplus shall be a guaranty
 6 fund for the better security of depositors, and invested in safe and
 7 available securities. The deposits so received shall be paid to such
 8 depositor or his representative, when requested, with such interest
 9 and under such regulations as the board of directors shall, from time
 10 to time, prescribe, not inconsistent with the provisions of this chapter,
 11 which shall be printed and conspicuously exposed in the business office
 12 of the bank, in some place accessible and visible to all; and no altera-
 13 tion which may at any time be made in such rules and regulations
 14 shall affect the rights of depositors acquired previously thereto in
 15 respect to deposits or interest thereon. Savings banks may require
 16 sixty days' written notice of the withdrawal of savings deposits, but
 17 when there are sufficient funds on hand the officers thereof may, in
 18 their discretion, waive this requirement. They may close any account,
 19 upon such written notice as may be provided for in the by-laws, direct-
 20 ing a depositor to withdraw his deposits, after which it shall cease to
 21 draw interest. But nothing in this chapter shall prevent such banks,
 22 in their discretion, issuing certificates of deposit payable upon demand.

[C., '97, § 1848; S., '13, § 1848.]

SEC. 5775. Limitation as to interest.

1 All accounts upon which no deposit or drafts shall be made for a
 2 period of ten years in succession shall be so far closed that neither the
 3 sum deposited, nor the interest that shall have accrued thereon, shall
 4 be entitled to any interest after the expiration of the ten years from
 5 the date of the last deposit or draft. This provision, however, shall
 6 not apply to endowments for children, to trust estates, nor to other
 7 cases where special provision is made therefor at the time of the de-
 8 posit thereof.

[C., '97, § 1849.]

SEC. 5776. Investment of funds.

1 Each savings bank shall invest its funds or capital, all moneys
 2 deposited therein and all its gains and profits, only as follows:

- 3 1. In bonds or interest bearing notes or certificates of the United
 4 States.
- 5 2. In bonds or evidences of debt of this state, bearing interest.
- 6 3. In bonds or warrants of any city, town, county, school district,
 7 or drainage district of this state, issued pursuant to the authority of
 8 law; but not exceeding twenty-five per cent of the assets of the bank
 9 shall consist of such bonds or warrants.

10 4. In notes or bonds secured by mortgage or deed of trust upon
 11 unincumbered real estate located in Iowa or upon unincumbered farm
 12 land in adjoining states, worth at least twice the amount loaned
 13 thereon; provided, however, that no such loan shall be made upon
 14 any real estate located west of the one-hundredth meridian line.

15 5. It may discount, purchase, sell and make loans upon commercial
 16 paper, notes, bills of exchange, drafts, or any other personal or public
 17 security, but shall not purchase, hold or make loans upon the shares
 18 of its capital stock.

19 6. In all cases of loans upon real estate, all the expenses of
 20 searches, examination and certificates of title, or the inspection of
 21 property, appraisals of value, and of drawing, perfecting and record-
 22 ing papers, shall be paid by such borrowers; if buildings are included
 23 in the valuation of real estate upon which a loan shall be made, they
 24 shall be insured by the mortgagor for at least two-thirds of their
 25 value, in some solvent company, and the loss, if any, under the policy
 26 of insurance shall be made payable to the bank or its assigns, as its
 27 interests may appear. When the mortgagor neglects to procure the
 28 insurance as above provided, the mortgagee may procure the same in
 29 the mortgagor's name for its benefit, and the premium so paid therefor
 30 shall be added to the mortgage debt.

[C., '97, § 1850; S., '13, § 1850; 37 G. A., ch. 364, § 1.]

SEC. 5777. Surplus fund—how invested.

1 The directors of any savings bank may set apart from its earn-
 2 ings, over and above expenses, any desired sum as a surplus fund, to
 3 be maintained as such, separate and apart from earnings usually car-
 4 ried and designated as undivided profits, and which surplus fund shall
 5 not be drawn upon for the payment of expenses or dividends, except
 6 that it may be made use of as a stock dividend for increasing the
 7 capital of the bank. Such surplus shall be invested in the same man-
 8 ner as the capital of the bank, as provided in section fifty-seven hun-
 9 dred seventy-four. The directors may transfer said surplus fund, or
 10 any part of the same, back to the undivided profits account, and make
 11 use of the same, when so transferred, for the payment of expenses and
 12 dividends when the deposits of the bank shall be less than ten times
 13 the capital, or capital and remaining surplus, and not otherwise.

[S., '13, § 1850-a.]

SEC. 5778. Real estate.

1 A savings bank may purchase, hold and convey real estate only
 2 as follows:

- 3 1. The lot and building in which its business is carried on.
- 4 2. Such as shall have been purchased at sales upon foreclosure of
 5 mortgages owned by it, or upon judgments or decrees obtained or
 6 rendered for debts due it, or such as shall be conveyed to it in satis-
 7 faction of debts previously contracted in the course of its dealings, or
 8 such as it may obtain by redemption as junior mortgagee or judg-
 9 ment creditor, and which shall be sold by said bank within ten years
 10 after the title shall be vested in it.

[C., '97, § 1851.]

SEC. 5779. Interest—dividends.

1 No dividend shall be declared or paid to stockholders, save out of
 2 the undivided profits on hand after paying or setting apart sums

3 sufficient for the payment of all expenses in operating the bank, and
 4 of interest to depositors according to the rate fixed therefor by the
 5 board of directors from time to time. The bank shall pay interest to
 6 the depositors, when due, upon presentation of deposit book or cer-
 7 tificate.

[C., '97, § 1852; S., '13, § 1852.]

SEC. 5780. Shares.

1 The capital of savings banks shall be divided into shares of one
 2 hundred dollars each, issued or acquired only upon full payment of
 3 the sums represented by them, transferable on the books of the cor-
 4 poration in such manner as shall be prescribed by law and in its by-
 5 laws. Stock owned by any corporation, association or society may be
 6 transferred by any person authorized to do so by its board of directors
 7 or trustees.

[C., '97, § 1853.]

SEC. 5781. Deposits by persons in official capacity.

1 Deposits made by a person as executor, administrator, or in any
 2 other official capacity, shall be payable to him as such official; if per-
 3 sonally made by a minor, to him, although he have no guardian, or his
 4 guardian shall not have authorized such payment, and the check,
 5 receipt or acquittance of the minor therefor shall be valid and binding.
 6 If a deposit be made in her own name by a woman, then or afterwards
 7 married, payment shall be made to her upon her check or receipt; if
 8 made by any corporation, association or society, to any person author-
 9 ized by its board of directors or trustees to receive the same.

[C., '97, § 1854.]

SEC. 5782. Indebtedness.

1 State and savings banks may contract indebtedness or liability
 2 for the following purposes only: for necessary expenses in managing
 3 and transacting their business, for deposits, and to pay depositors;
 4 provided that in pursuance to an order of the board of directors pre-
 5 viously adopted, other liabilities not in excess of amount equal to the
 6 capital stock may be incurred.

[C., '97, § 1855; S., '13, § 1855-a.]

SEC. 5783. Increasing capital stock.

1 The capital of savings banks may be increased by an affirmative
 2 vote of two-thirds of the shares thereof, at a stockholders' meeting,
 3 called upon a notice signed by the officers of the bank and a majority of
 4 its directors, specifying the object of the meeting, its time and place,
 5 and the amount of the proposed increase, published once a week for
 6 four consecutive weeks before the time fixed in some newspaper of
 7 the county where the bank is located. If at such meeting the re-
 8 quired vote is given, a certificate of the proceedings showing com-
 9 pliance with the foregoing provisions, the amount of capital paid in,
 10 the amount to which it is to be increased, and the manner thereof,
 11 shall be signed and verified by the affidavit of the chairman and secre-
 12 tary of the meeting, certified to by a majority of the board of direct-
 13 ors, and filed and recorded in the office of the recorder of deeds of the
 14 proper county, and with the secretary of state, and a certificate shall
 15 thereupon be issued by him in the manner required in the original or-

16 ganization of the bank. When this is done, the stock shall be
17 increased to the amount stated in the certificate.

[C., '97, § 1856.]

SEC. 5784. Dissolution.

1 State or savings banks may be dissolved prior to the period fixed
2 in the certificate of incorporation, by the affirmative votes of the stock-
3 holders holding three-fourths of the capital, at a meeting of stock-
4 holders to be called for this purpose in the manner and after publica-
5 tion of notice as required in case of the increase of its capital. In
6 case of dissolution of the bank or proceedings to close the same as
7 authorized in this chapter, no receiver appointed thereunder shall be
8 allowed to sell the assets thereof at forced sale, but he shall collect
9 the same with all diligence, and make distribution of the proceeds
10 from time to time to those entitled thereto.

[C., '97, § 1857; S., '13, § 1857.]

SEC. 5785. Reorganization.

1 Any bank existing under any law of the state may be reorganized
2 under the provisions of this chapter, by filing with the recorder of
3 deeds of the county in which the business is to be conducted articles
4 of incorporation as required for the organization of savings banks, or
5 such amendment of its articles as will comply with the provisions of
6 this chapter; but such articles or amendment shall be signed by a
7 majority of the directors of such bank, acknowledged before some
8 officer authorized to take the acknowledgment of deeds, and recorded
9 in the office of the proper recorder of deeds and secretary of state, as
10 if the original articles, whereupon the superintendent of banking shall
11 issue his certificate, as in case of the original organization of savings
12 banks, which, when received and published as in such cases required,
13 shall authorize it to transact business, and all the provisions relating
14 to savings banks shall apply to banks thus reorganized, and all its
15 securities, real estate, or property may be then transferred to such
16 new organization; but such reorganization shall not discharge the
17 original bank, its directors or stockholders from any liability to its
18 depositors or any other person; and such new savings bank shall be
19 liable for every claim or demand existing against such former or-
20 ganization.

[C., '97, § 1858.]

SEC. 5786. Unauthorized use of name.

1 Any bank, banking association, private banker or person, not
2 incorporated under the provisions of this chapter, or any officer, agent,
3 servant or employee thereof, who shall advertise, issue or circulate
4 any card or other paper, or exhibit any sign as a savings bank or sav-
5 ings institution, and any savings bank advertising in any way a
6 greater amount of capital than it has actually paid in, shall forfeit and
7 pay one hundred dollars for each day the offense is continued, to be
8 recovered in a suit brought in the name of the state, by the county
9 attorney, of and for the use of the school fund of the county where
10 such bank is located, and, in addition thereto, shall be guilty of a mis-
11 demeanor for each day the same is done or continued.

[C., '97, § 1859.]

SEC. 5787. Reserve.

1 Savings banks doing a commercial business, located in towns hav-
2 ing a population of less than three thousand inhabitants, shall at all
3 times keep a cash reserve fund equal to fifteen per cent of their sight
4 and demand deposits, and eight per cent of their savings deposits and
5 time certificates having a fixed and definite time of maturity, and all
6 such banks located in cities and towns having a population of three
7 thousand or over shall at all times keep a cash reserve fund equal to
8 twenty per cent of their sight and demand deposits, and eight per
9 cent of their savings deposits and time certificates having a fixed and
10 definite time of maturity. Savings banks doing an exclusive savings
11 bank business shall at all times keep a cash fund equal to eight per
12 cent of their deposits. Eighty-five per cent of such reserve fund pro-
13 vided for in this section may be kept on deposit, subject to call, with
14 other banks organized under state or national laws.

[C., '97, § 1860; S. S., '15, § 1860; 37 G. A., ch. 189, § 1.]

SEC. 5788. Reserve funds of members federal reserve bank system.

1 Any state bank, savings bank or trust company incorporated
2 under the laws of this state, which is or hereafter may become a mem-
3 ber of the federal reserve bank system of the United States of Amer-
4 ica, shall be required to carry during the period of such membership
5 only such cash reserve funds as may be required from time to time to
6 be maintained by national bank members of said federal reserve bank
7 system.

[38 G. A., ch. 319, § 1.]

CHAPTER 3.**STATE BANKS.****SECTION 5789. Name.**

1 Associations organized under the general incorporation laws of
2 this state for transacting a banking business, buying or selling ex-
3 change, receiving deposits, discounting notes and bills, other than
4 savings banks, shall be designated state banks, and shall have the
5 word "state" incorporated in and made a part of the name of such
6 corporation; and no such corporation shall be authorized to transact
7 business unless the provisions of this code have been complied with.

[C., '97, § 1861.]

SEC. 5790. Others not to use.

1 No partnership, individual or unincorporated association engaged
2 in buying or selling exchange, receiving deposits, discounting notes
3 and bills, or other banking business, shall incorporate or embrace the
4 word "state" in its name, but this section shall not apply to associa-
5 tions organized under the laws of the United States.

[C., '97, § 1862.]

SEC. 5791. Articles.

1 State banks may be hereafter organized by not less than five per-
2 sons of lawful age, who shall, prior to the commencement of business,

3 sign and acknowledge articles of incorporation before some officer
 4 authorized to take acknowledgments of deeds. Such articles of incor-
 5 poration shall state:

- 6 1. The object of the incorporation and the name by which it shall
 7 be known.
- 8 2. The principal place of business.
- 9 3. The time of the commencement and termination of the corpo-
 10 ration, which shall in no case exceed twenty years.
- 11 4. The amount of capital stock authorized, and the times and con-
 12 ditions in which it shall be paid in.
- 13 5. By what officers and persons the affairs of the corporation are
 14 to be conducted, and the times at which they will be elected.
- 15 6. The highest amount of indebtedness to which the corporation
 16 may at any time subject itself.
- 17 7. Whether private property, in addition to the liability fixed by
 18 law, shall be liable for corporate debts.
- 19 8. The name and postoffice address of each officer or person who
 20 shall manage the affairs of the corporation until the first election.
- 21 9. Such other provisions, not contrary to law, which the corpora-
 22 tion may adopt for the conduct of the business of the corporation.
- 23 10. Such articles shall be filed and recorded, and notice of incorpo-
 24 ration given, as provided in section fifty-seven hundred sixty-eight, in
 25 reference to savings banks.

[C., '97, § 1863.]

SEC. 5792. Capital—certificate.

1 No state bank shall be organized under the provisions of this
 2 chapter with a less amount of paid-up capital than fifty thousand
 3 dollars, except in cities or towns having a population not exceeding
 4 three thousand, where such association may be organized with a paid-
 5 up capital of not less than twenty-five thousand dollars. But no such
 6 association shall have the right to commence business until its officers
 7 or its stockholders shall have furnished to the superintendent of bank-
 8 ing a sworn statement of the paid-up capital, and, when the said super-
 9 intendent is satisfied as to that fact, he shall issue to such association
 10 a certificate authorizing it to commence business, and it shall cause
 11 said certificate to be published in some newspaper printed in the city
 12 or town where the association is located, once each week, for at least
 13 four weeks, or, if no newspaper is published in such city or town, then
 14 in a newspaper published nearest thereto in the county.

[C., '97, § 1864; S., '13, § 1864.]

SEC. 5793. Shares.

1 The capital of state banks hereafter organized shall be divided
 2 into shares of one hundred dollars each, issued or acquired only upon
 3 full payment of the sum represented by them.

[C., '97, § 1865.]

SEC. 5794. Directors.

1 The business and property of each state bank shall be managed
 2 by a board of directors of not less than five, all of whom shall be share-
 3 holders. No person shall be eligible as director of any state bank, nor
 4 shall he qualify or serve as such, unless he owns in his own right
 5 shares of stock in such bank, as follows: In those having a capital of

6 twenty-five thousand dollars or over, but less than thirty thousand
7 dollars, two shares; in those having a capital of thirty thousand dol-
8 lars or over, but less than forty thousand dollars, three shares; in
9 those having a capital of forty thousand dollars or over, but less than
10 fifty thousand dollars, four shares; in those having a capital of fifty
11 thousand dollars or over, five shares. Each director, before acting as
12 such, shall take an oath that he is the bona fide owner in his own right
13 of the number of shares of stock required in this chapter; that the
14 same is not hypothecated nor in any manner pledged as security for
15 any loan or debt; which oath shall be signed by each director and
16 certified by the officer before whom it is taken, and filed with and
17 preserved in the office of the superintendent of banking.

[C., '97, § 1866.]

SEC. 5795. Reserve.

1 All of the provisions of section fifty-seven hundred eighty-seven
2 shall apply with equal force and effect to all state banks heretofore or
3 hereafter incorporated under the provisions of this chapter.

[C., '97, § 1867; 37 G. A., ch. 189, § 2; 38 G. A., ch. 67, § 1.]

CHAPTER 4.

BANKS.

SECTION 5796. Misnomer.

1 The misnomer of any savings or state bank in any instrument
2 shall not vitiate or impair the same, if such bank be sufficiently de-
3 scribed to ascertain the intention of the parties.

[C., '97, § 1868.]

SEC. 5797. Pay of and loan to officers.

1 Officers of savings and state banks may receive for their services
2 a reasonable compensation to be fixed from time to time in the by-laws,
3 or by vote of the board of directors; provided, however, directors as
4 such shall receive only such reasonable compensation as shall be fixed
5 from year to year by the stockholders at their annual meeting and
6 when approved by the superintendent of banking, and a director of
7 such bank who is paid a salary as an active officer thereof shall not
8 draw any added compensation for attendance upon board meetings.
9 No officer or employee of the bank shall in any manner directly or indi-
10 rectly use its funds or deposits or any part thereof, except for the reg-
11 ular business transactions of the bank, and no loans shall be made by
12 it to any of them except upon express order of the board of directors,
13 made in the absence of the applicant, duly entered in the records of the
14 board proceedings and only upon the same security as required of
15 others; but the board of directors may by resolution, duly entered in
16 the records of the board proceedings, authorize loans to directors not
17 holding any other office nor being an employee, not exceeding a maxi-
18 mum sum at any one time, which resolution shall be voted upon in the
19 absence of such director. Any such officer, director or employee of the
20 bank violating any of the provisions of this section shall be guilty of
21 embezzlement and shall be imprisoned in the penitentiary not exceed-

22 ing ten years, or fined in a sum not less than the amount embezzled, or
 23 by both fine and imprisonment, but nothing in this section shall pre-
 24 vent or defeat the right to recover upon any note or notes given in vio-
 25 lation of this provision.

[C., '97, § 1869; S., '13, § 1869.]

SEC. 5798. Limit of liabilities.

1 The total liabilities to any savings or state bank of any person,
 2 corporation, company or firm, for money borrowed, including in the
 3 liabilities of a company or firm the liabilities of the several members
 4 thereof, shall at no time exceed twenty per cent of the actually paid-up
 5 capital and surplus of such bank; provided that they may loan not to
 6 exceed one-half of their capital stock to any person, corporation, com-
 7 pany or firm on notes or bonds secured by mortgage or deed of trust
 8 upon unincumbered farm land in this state, worth at least twice the
 9 amount loaned thereon; but the discount of bona fide bills of exchange
 10 drawn against actually existing value, and the discount of commercial
 11 or business paper actually owned by the person or persons, corporation,
 12 company or firm negotiating the same, shall not be considered money
 13 so borrowed.

[C., '97, § 1870; S. S., '15, § 1870.]

SEC. 5799. Examinations.

1 The board of directors of each savings and state bank shall, at
 2 its annual meeting, appoint from its members an examining commit-
 3 tee of not less than two, which shall examine the condition of the bank,
 4 at least every quarter, and report the same in writing duly signed to
 5 the board, who shall cause said report to be recorded in the directors'
 6 minute book of the bank. One of these examinations shall be made
 7 during the month of June, and another one during the month of
 8 December, in each year, and these two examinations, besides being re-
 9 corded in the minute book of the bank, shall be reported to the super-
 10 intendent of banking on blanks to be supplied by him. And in case
 11 any bank refuses or neglects to so forward such report, said superin-
 12 tendent shall be authorized to have such examination made by one of
 13 his regular examiners, and the bank shall be charged with and re-
 14 quired to pay the reasonable expense of such examination. Members
 15 of such examining committee shall receive for their services a reason-
 16 able compensation, to be fixed by the board at its annual meeting, but
 17 in no case shall such compensation exceed five dollars per day for each
 18 day's actual service to each member.

[C., '97, § 1871; S., '13, § 1871.]

SEC. 5800. Quarterly statements.

1 All savings and state banks shall make a full, clear and accurate
 2 statement of the condition of the bank, verified by the oath of the
 3 president, vice president, cashier, or assistant cashier, and attested by
 4 the signatures of at least three of the directors, or verified by the
 5 oath of two of its officers and attested by two of the directors, which
 6 statement shall contain:
 7 1. The amount of capital actually paid in.
 8 2. The amount of debts of every kind due to banks, bankers, or
 9 persons other than regular depositors.
 10 3. The amount due depositors, including sight and time deposits.

11 4. The amount subject to be drawn at sight then remaining on
12 deposit with solvent banks or bankers of the country, specifying each
13 city and town and the amount deposited in each and belonging to such
14 bank.

15 5. The amount of gold and silver coin and bullion belonging to
16 such bank at the time of making such statement.

17 6. The amount then on hand of legal tender and national bank
18 notes and subsidiary coin.

19 7. The amount of drafts and checks on other solvent banks, and
20 other cash items not dishonored, then on hand and belonging to such
21 bank.

22 8. The amount of bills, bonds and other evidences of debt dis-
23 counted or purchased by such bank, and then belonging to the same.

24 9. The value of real or personal property owned by such bank,
25 specifying the amount of each.

26 10. The amount of undivided profits, if any, then on hand.

27 11. The total amount of liabilities to such association on the part of
28 the directors thereof.

29 Which statement shall be transmitted to the superintendent of
30 banking within ten days after the receipt of a request or requisition
31 therefor from him, and by him filed in his office.

[R., '60, § 1636; C., '73, § 1570; C., '97, § 1872.]

**SEC. 5801. Examination by superintendent of banking—publica-
tion of statement.**

1 The superintendent of banking may, at any time he may see
2 proper, make or cause to be made an examination of any savings or
3 state bank, or he shall call upon it for a report of its condition upon
4 any given day which has passed, as often as five times each year,
5 which report shall contain the information under the preceding sec-
6 tion, and the said superintendent shall cause it to be published, except
7 as hereinafter provided, in one regular issue in some daily, semi-
8 weekly or weekly newspaper in the city or town where such bank is
9 located, or if there be none in such city or town, then, in one regular
10 issue of some daily, semiweekly, triweekly or weekly newspaper printed
11 in said county, and the expense of such publication shall be paid by the
12 bank. The statement published in the newspaper shall not contain
13 the name of the bank or banks in which the bank making the state-
14 ment, has on deposit, funds subject to be drawn at sight, nor shall
15 said statement show the amount of liabilities due such bank on the
16 part of the directors thereof.

[R., '60, § 1637; C., '73, § 1571; C., '97, § 1873; S., '13,
§ 1873.]

SEC. 5802. Special reports.

1 The superintendent of banking shall also have power to call for
2 special reports from savings and state banks whenever in his judg-
3 ment the same are necessary in order to obtain a full and complete
4 knowledge of their condition, which reports shall be verified and at-
5 tested in the same manner as required in this chapter.

[C., '97, § 1874.]

SEC. 5803. Proceedings against by state—receivers.

1 When it shall appear to the superintendent of banking that any
2 savings or state bank has refused to pay its deposits in accordance

3 with the terms on which such deposits were received, or has become
4 insolvent, or that its capital has become impaired, or has violated the
5 law, or is conducting its business in an unsafe manner, he shall, by
6 an order addressed to such bank, direct a discontinuance of such
7 illegal or unsafe practices, and require conformity with the law. The
8 said superintendent may appoint an examiner to investigate the affairs
9 of any savings or state bank, who shall have power to administer oaths
10 to any person whose testimony may be required on such examina-
11 tion, and to compel his attendance for the purpose thereof, by sub-
12 poena or attachment, in the manner now authorized in respect to wit-
13 nesses in the courts of the state, and all books and papers which it
14 may be found necessary to inspect on the examination so ordered shall
15 be produced, and their production may be compelled in like manner;
16 all expenses thereof shall be paid by the banks examined, in such
17 amount as the said superintendent shall certify to be just and reason-
18 able, but costs taxed as such shall not exceed those allowed for like
19 services in the district court. If any such bank shall fail or refuse to
20 comply with the demands made by the said superintendent, or if the
21 said superintendent shall become satisfied that any such bank is in an
22 insolvent or unsafe condition, or that the interests of creditors require
23 the closing of any such bank, he may authorize a bank examiner ap-
24 pointed by him to take possession of any such bank, whereupon the
25 right of levy, of execution, or attachment against such bank or its
26 assets shall be suspended, and the said superintendent may, forth-
27 with, with the assent of the attorney general, apply to the district
28 court or judge thereof for the appointment of a receiver for such
29 bank, and its affairs shall be wound up under the direction of the court,
30 and the assets thereof ratably distributed among the creditors thereof,
31 giving preference in payment to depositors. The said superintendent,
32 with the assent of the attorney general, shall have authority to apply
33 for the appointment of receivers of savings and state banks, who shall
34 be residents of the county where the bank is located; and no general
35 assignment for the benefit of creditors shall be of any validity.

[C., '73, § 1572; C., '97, § 1877.]

SEC. 5804. Assessments.

1 Should the capital stock of any state or savings bank become
2 impaired by losses or otherwise, the superintendent of banking may
3 require an assessment upon the stockholders, and shall address an
4 order to the several members of the board of directors of such bank,
5 fixing the amount of assessment required, and the board of directors
6 shall, within thirty days after the receipt of such order, cause such
7 deficiency to be made good by a ratable assessment upon the stock-
8 holders for the amount of stock held by them, by giving such stock-
9 holders notice in writing, signed by the president or vice president,
10 attested by the cashier or secretary of the bank, under its seal, if it
11 have one, and deposited in the postoffice, addressed to the last known
12 residence of the stockholders, proof thereof to be made by the affidavit
13 of the person so making the deposit, which notice shall state the
14 entire sum to be raised, and the amount due from the addressed stock-
15 holder.

[C., '97, § 1878.]

SEC. 5805. How enforced.

1 Should any stockholder neglect or refuse to pay his assessment
2 within ninety days from the date of mailing notice thereof, the board

3 of directors shall cause a sufficient amount of the capital stock held by
4 such stockholder to be sold at public auction to make good the de-
5 ficiency, after giving thirty days' notice thereof by posting the same
6 in the bank, and publishing it in some newspaper of the county in
7 which the bank is located, which notice shall recite the assessment
8 made, the amount due thereunder from the stockholder, and the time
9 and place of sale; proof of all which may be made in the manner pro-
10 vided in the preceding section. After such deficiency is made good,
11 the balance of the proceeds of said sale, if any, shall be paid to the
12 delinquent stockholder.

[C., '97, § 1879.]

SEC. 5806. Directors liable.

1 Should the board of directors of such bank having an impaired
2 capital neglect or refuse to proceed as above provided for a period of
3 thirty days after receipt of such order from the superintendent of
4 banking, they shall become severally liable for any deficiency, which
5 liability may be enforced at law by any creditor of or stockholder in
6 the bank, or receiver appointed to wind up its affairs.

[C., '97, § 1880.]

SEC. 5807. Liability of shareholders.

1 All stockholders of savings and state banks shall be individually
2 liable to the creditors of such corporation of which they are stock-
3 holders over and above the amount of stock by them held therein and
4 any amount paid thereon, to an amount equal to their respective
5 shares, for all its liabilities accruing while they remained such stock-
6 holders; and should any such association or corporation become insol-
7 vent, its stockholders may be severally compelled to pay such deficiency
8 in proportion to the amount of stock owned by each, not to exceed the
9 extent of the additional liability hereby created. The assignee or
10 receiver of any such corporation, or in case there is none, or of his
11 failure or refusal to act, any creditor thereof, may maintain an action
12 in equity to determine the liability of the stockholders, and the amount
13 to which each creditor shall be entitled; and all parties interested shall
14 be brought into court.

[C., '97, § 1882.]

SEC. 5808. Distribution of proceeds.

1 Should the whole amount for which the stockholders are made
2 individually responsible, as provided by the preceding section, be found
3 in any case to be inadequate to the payment of all the debts of any
4 such association or corporation, after the application of its assets to
5 the payment of such debts, then the amount due from such stock-
6 holders, on account of their individual liability created by said section,
7 as such, shall be distributed equally among all the creditors of such
8 corporation in proportion to the several sums due them.

[C., '97, § 1883.]

SEC. 5809. Deposits not to be received by insolvent bank.

1 No bank, banking house, exchange broker, deposit office, firm,
2 company, corporation, or person engaged in the banking, brokerage,
3 exchange or deposit business, shall, when insolvent, accept or receive
4 on deposit, with or without interest, any money, bank bills or notes,

5 United States treasury notes or currency, or other notes, bills, checks
6 or drafts, or renew any certificate of deposit.

[C., '97, § 1884.]

SEC. 5810. Penalty.

1 If any such bank, banking house, exchange broker, deposit office,
2 firm, company, corporation or person shall receive or accept on deposit
3 any such deposits, as aforesaid, when insolvent, any owner, officer,
4 director, cashier, manager, member or person knowing of such insol-
5 vency, who shall knowingly receive or accept, be accessory, or permit,
6 or connive at receiving or accepting on deposit therein, or thereby, any
7 such deposits, or renew any certificate of deposit, as aforesaid, shall
8 be guilty of a felony, and, upon conviction, shall be punished by a fine
9 not exceeding ten thousand dollars, or by imprisonment in the peni-
10 tentiary for a term of not more than ten years, or by imprisonment in
11 the county jail not more than one year, or by both fine and impris-
12 onment.

[C., '97, § 1885.]

SEC. 5811. Neglect of officers.

1 Any officer or officers whose duty it is to make statement of the
2 condition of its bank, and make publication of same, who shall wilfully
3 neglect or refuse to perform such duties imposed upon them or either
4 of them, shall be deemed guilty of a misdemeanor, and, on conviction
5 thereof, shall be punished by a fine of not less than one hundred dollars
6 nor more than one thousand dollars, or by imprisonment not less than
7 three months nor more than three years in the penitentiary.

[C., '97, § 1886.]

SEC. 5812. Penalty for false statements.

1 Any owner, director, officer, agent, employee or clerk of any bank,
2 who shall knowingly subscribe or make any false statements or false
3 entries in the books thereof, or knowingly subscribe or exhibit false
4 papers with intent to deceive any person authorized to examine its
5 condition, or shall knowingly subscribe and make false reports, or
6 shall knowingly divert the funds of the bank to other objects than
7 those authorized by law, shall be punished by a fine not exceeding ten
8 thousand dollars, and be imprisoned in the penitentiary not less than
9 two nor more than five years, and be forever after barred from holding
10 any office created by this chapter.

[C., '97, § 1887.]

SEC. 5813. Intentional fraud.

1 Any owner, director, officer, agent, employee or clerk of any
2 bank, who is guilty of intentional fraud, or of deceiving the public or
3 individuals in relation to the means or liabilities of such bank, or who
4 aids, assists or consents to the payment of dividends which leave insuf-
5 ficient funds with which to meet the liabilities of the bank, shall be
6 punished by a fine of not less than five hundred dollars, or imprison-
7 ment of not less than one year, or both such fine and imprisonment, at
8 the discretion of the court; and such act shall cause a forfeiture of all
9 the privileges of said bank, and the court may proceed to close the
10 same in the manner prescribed by law.

[C., '97, § 1888.]

SEC. 5814. Statement—doing business—loan and trust companies may become state banks.

1 The president and cashier of every savings and state bank shall
2 cause to be kept at all times a full and correct list of the names and
3 residences of the officers, directors, examining committee, and of all
4 the stockholders in the bank, and the number of shares held by each,
5 in the office where its business is transacted. Said list shall be sub-
6 ject to the inspection of all the stockholders and creditors of the bank
7 during business hours of each day in which business may be legally
8 transacted. A copy of such list, verified by the oath of the president
9 or cashier, shall be transmitted to the superintendent of banking
10 within ten days after each annual meeting. No corporation shall en-
11 gage in the banking business, receive deposits, and transact the busi-
12 ness generally done by banks, unless it is subject to and organized
13 under the provisions of this title, or of the banking laws of the state
14 heretofore existing, except that loan and trust companies may receive
15 time deposits subject to the same limitations as are now or may here-
16 after be prescribed for the receiving of deposits by state banks and
17 issue drafts on their depositaries.

18 All such companies and all corporations organized under the pro-
19 visions of chapters one, two and three, title seventeen, whose articles
20 of incorporation authorize the acceptance and execution of trusts, and
21 all corporations in whose name the word "trust" is incorporated and
22 forms a part, shall have a full paid capital of not less than the amount
23 of capital of savings banks, as provided in section fifty-seven hundred
24 sixty-nine and shall be subject to examination, regulation and control
25 by the superintendent of banking, like savings and state banks, and
26 their stockholders shall be liable to the creditors of such companies as
27 provided in section fifty-eight hundred seven for stockholders in sav-
28 ings and state banks. Any corporation violating this section shall for-
29 feit its charter at the suit of the attorney general, and said corpora-
30 tion, its officers, directors and agents, shall be punished by a fine of not
31 less than five hundred dollars, or imprisonment of not less than two
32 years in the penitentiary, or by both such fine and imprisonment, at
33 the discretion of the court; provided that loan and trust companies
34 organized under the general incorporation laws of the state, which
35 were engaged in the banking business prior to the first day of Janu-
36 ary, eighteen hundred eighty-six, and have continued therein since
37 said date, may, by the proper additions to their articles of incorpora-
38 tion, become state banks within the provisions of this title, without
39 incorporating the word "state" in the names of such corporations.

[C., '97, § 1889; S., '13, § 1889.]

SEC. 5815. Capital stock—reduction—dividends.

1 No corporation organized under the banking laws of the state of
2 Iowa shall withdraw, or permit to be withdrawn, either in the form of
3 dividends or otherwise, any part of its capital stock, except as here-
4 inafter provided. If losses have at any time been sustained, equal to
5 or exceeding undivided profits on hand, no dividends shall be made;
6 and no dividends shall be made by any association formed under the
7 banking laws of the state to an amount greater than the net profits
8 on hand, less the losses and bad debts; providing, however, that the
9 capital stock may be reduced by the affirmative vote of the stock-
10 holders holding two-thirds of the shares of the capital stock, at a

11 meeting of the stockholders to be called for this purpose in the man-
 12 ner and after the publication of notice as required in case of the
 13 increase of the capital stock. But no reduction shall be to any amount
 14 less than the capital required to authorize the confirmation of such
 15 association, and there shall be no reduction of capital or cancellation of
 16 stock, until said reduction or cancellation shall first be approved by the
 17 superintendent of banking.

[37 G. A., ch. 218, § 1.]

SEC. 5816. Forged or raised checks—notification.

1 No bank shall be liable to a depositor for the payment by it of a
 2 forged or raised check unless within six months after the return to
 3 the depositor of the voucher of such payment, such depositor shall
 4 notify the bank that the check so paid is forged or raised.

[S., '13, § 1889-a.]

SEC. 5817. Deposit in names of two persons—how paid.

1 When a deposit shall hereafter be made in any bank or trust
 2 company in the names of two persons, payable to either, or payable to
 3 either or the survivor, such deposit, or any part thereof, or interest
 4 or dividend thereon may be paid to either of said persons whether the
 5 other be living or not, and the receipt or acquittance of the person so
 6 paid shall be a valid and sufficient release and discharge to the bank,
 7 banker, or trust company for any payment so made.

[S., '13, § 1889-b.]

SEC. 5818. Postal savings funds—securities for.

1 All state and savings banks existing under and by virtue of the
 2 laws of the state of Iowa are authorized and permitted to deposit with
 3 the treasurer of the United States such of the securities of the depos-
 4 iting bank as may be required to secure the postal savings funds de-
 5 posited therein.

[S., '13, § 1889-c.]

SEC. 5819. Acceptance of drafts—state or savings banks or trust companies.

1 Any state bank, savings bank or trust company may accept drafts
 2 or bills of exchange drawn upon it having not more than six months'
 3 sight to run, exclusive of days of grace, which grow out of transac-
 4 tions involving the importation or exportation of goods; or which grow
 5 out of transactions involving the domestic shipment of goods pro-
 6 vided shipping documents conveying or securing title are attached at
 7 the time of acceptance; or which are secured at the time of acceptance
 8 by a warehouse receipt or other such document conveying or securing
 9 title covering readily marketable staples.

[38 G. A., ch. 66, § 1.]

SEC. 5820. Amount acceptances for individuals.

1 No state bank, savings bank or trust company shall accept,
 2 whether in a foreign or domestic transaction, for any one person, com-
 3 pany, firm or corporation to an amount equal at any time in the
 4 aggregate to more than ten per centum of its paid-up and unimpaired
 5 capital stock and surplus, unless the bank is secured either by attached

6 documents or by some other actual security growing out of the same
 7 transaction as the acceptance; nor shall the total of bills accepted for
 8 and money borrowed by any one person, company, firm or corpora-
 9 tion exceed in the aggregate more than twenty per centum of its paid-
 10 up capital and surplus; and no bank shall accept such bills to an
 11 amount equal at any time in the aggregate to more than one-half of its
 12 paid-up and unimpaired capital stock and surplus.

[38 G. A., ch. 66, § 1.]

SEC. 5821. Power of superintendent of banking—limitation.

1 The superintendent of banking under such general regulations
 2 as he may prescribe, which shall apply to all banks alike regardless of
 3 the amount of capital stock and surplus, may authorize any state
 4 bank, savings bank or trust company to accept such bills to an amount
 5 not exceeding at any time in the aggregate one hundred per centum
 6 of its paid-up and unimpaired capital stock and surplus; but the aggre-
 7 gate of acceptances growing out of domestic transactions shall in no
 8 event exceed fifty per centum of such capital stock and surplus.

[38 G. A., ch. 66, § 1.]

SEC. 5822. No commissions paid for organizing banks.

1 No individual, partnership or corporation, shall, directly or indi-
 2 rectly, receive or contract to receive any commission or bonus of any
 3 kind for organizing any bank or trust company in this state, or for
 4 securing a subscription, to the original capital stock or surplus of any
 5 bank or trust company in this state, or to any increase thereof; pro-
 6 vided that this section shall not be construed as prohibiting an attor-
 7 ney at law from receiving reasonable compensation for legal service in
 8 connection therewith. Each and every individual, partnership or cor-
 9 poration violating the provisions of this section shall forfeit to the
 10 state one hundred dollars, for each and every such violation, and in
 11 addition thereto forfeit double the amount of such commission, com-
 12 pensation or bonus.

[38 G. A., ch. 144, § 1.]

CHAPTER 5.

BANKS AND TRUST COMPANIES AS FIDUCIARIES.

SECTION 5823. To act in fiduciary capacity—notes, bonds and mortgages—safe deposits.

1 Trust companies, state and savings banks existing under the pro-
 2 visions of this title, in addition to the powers already granted to such
 3 corporations, shall have power, when so authorized by their articles of
 4 incorporation:

5 1. To be appointed assignee or trustee by deed, and guardian,
 6 executor or trustee by will, and such appointment, upon qualification
 7 as herein required, shall be of like force as in case of appointment of
 8 a natural person.

9 2. To be appointed receiver, assignee, guardian, administrator, or
 10 other trustee by any court of record in this state, and it shall be lawful
 11 for such court to appoint such corporation as such receiver, assignee,

12 guardian, administrator, or other trustee, in the manner provided by
13 law for the appointment of any natural person to such trust; provided
14 any such appointment as guardian shall apply to the estate and not
15 the person.

16 3. To act as fiscal or transfer agents, or registrar for estates,
17 municipalities, companies and corporations.

18 4. To take, accept and execute any and all such trusts and powers
19 of whatsoever character and description, not in conflict with the laws
20 of the United States or of the state of Iowa, as may be conferred upon
21 or intrusted or committed to them by any person or persons or any
22 body politic, corporation or other authority, by grant, assignment,
23 transfer, devise, bequest or otherwise, or which may be intrusted or
24 committed or transferred to them or vested in them by order of any
25 court of record, and to receive and take and hold any property or es-
26 tate, real or personal, which may be the subject of any such trust, and
27 to manage and dispose of such property or estate in accordance with
28 the terms of such trust or power.

29 5. Any court having appointed, and having jurisdiction of any
30 receiver, executor, administrator, guardian, assignee or other trustee,
31 upon the application of such officer or trustee, after such notice to the
32 other parties in interest as the court may direct, and after a hearing
33 upon such application, may order such officer or trustee to deposit any
34 moneys then in his hands, or which may come into his hands there-
35 after, and until the further order of said court, with any such trust
36 company, state or savings bank, and upon deposit of such money, and
37 its receipt and acceptance by such corporation, the said officer or
38 trustee shall be discharged from further care or responsibility there-
39 for. Such deposit shall be paid out only upon the orders of said court.

40 6. Whenever, in the judgment of any court having jurisdiction of
41 any estate in process of administration by any assignee, receiver,
42 executor, administrator, guardian or other trustee, the bond required
43 by law of such officer shall seem burdensome or excessive, upon appli-
44 cation of such officer or trustee, and after such notice to the parties in
45 interest as the court shall direct, and after a hearing on such applica-
46 tion, the said court may order the said officer or trustee to deposit with
47 any such corporation for safe-keeping, such portions or all of the per-
48 sonal assets of said estate as it shall deem proper, and thereupon said
49 court shall, by an order of record, reduce the bond to be given, or
50 theretofore given by such officer or trustee, and the property as depos-
51 ited shall thereupon be held by the corporation under the orders and
52 directions of said court. When any deposit shall be made by any per-
53 son in trust for another, and no other or further notice of the exist-
54 ence and terms of a legal and valid trust shall have been given to the
55 corporation in the event of the death of the trustee, the same or any
56 part thereof, together with the dividends or interest thereon, may be
57 paid to the person for whom the said deposit was made, or to his or
58 her legal representatives; provided that the person for whom the de-
59 posit was made, if a minor, shall not draw the same during his or
60 her minority without the consent of the legal representatives of said
61 trustee.

62 7. To issue drafts upon depositories, and to purchase, invest in,
63 and sell promissory notes, bills of exchange, bonds and mortgages and
64 other securities.

65 8. To exercise the powers conferred on and to carry on the busi-
66 ness of a safe deposit company.

67 9. When so authorized by any law of the United States now in
68 force or hereafter enacted, national banks may exercise the same
69 powers and perform the same duties as are by this section conferred
70 upon trust companies, state and savings banks.

[S. S., '15, § 1889-d.]

SEC. 5824. Stock—how voted.

1 In case any corporation shall hold any of its own shares of stock
2 in any of the trust capacities herein authorized, then such shares shall
3 be voted at stockholders' meetings by any person so authorized by the
4 board of directors of said corporation.

[S., '13, § 1889-e.]

SEC. 5825. Separate funds—not liable for debts of corporation.

1 All property, real or personal, received in trust by any such cor-
2 poration exercising the powers granted by this chapter, shall be kept
3 separate from such funds or property which may be in the posses-
4 sion of such corporation, and shall not be liable for the debts or obli-
5 gations of such corporation.

[S., '13, § 1889-f.]

**SEC. 5826. Powers and duties same as individuals—compensa-
tion—bond.**

1 Every state or savings bank, or trust company, acting as guard-
2 ian, administrator, executor, trustee, assignee, receiver or custodian
3 shall have the same rights, powers and privileges as individuals so
4 acting, and receive the same compensation as is or may be allowed
5 individuals for exercising similar offices or trusts, so far as the same
6 are fixed by statutes and shall execute a bond for the faithful per-
7 formance of the trust confided to it in like sum and with like penalties
8 as is required by individuals.

[S., '13, § 1889-g.]

**SEC. 5827. Retirement or dissolution—successor—how appoint-
ed—return of securities.**

1 In case any corporation desires to retire from business under this
2 chapter, or in case of the dissolution of any such corporation the court
3 having jurisdiction of each of the several trusts and appointments held
4 by such corporation shall, upon application of such corporation or its
5 receiver, after such notice to the other parties in interest as the court
6 may direct, and after a hearing upon such application, appoint another
7 corporation as successor trustee or appointee, and upon the acceptance
8 of such office by the successor trustee and due qualification therefor,
9 and the transfer of the property in such case held, to the successor
10 trustee then the dissolving corporation shall be discharged from any
11 further responsibility in such trust capacity or appointment. And the
12 superintendent of banking, upon being furnished with satisfactory
13 evidence of said corporation release and discharge from all of the obli-
14 gations and trusts assumed by virtue of this chapter, shall thereupon
15 return to such corporation the securities deposited by it with him.

[S., '13, § 1889-h.]

SEC. 5828. Use of words "trust," "state" or "savings" in name.

1 Any trust company, state or savings bank, which under this chap-
 2 ter and by its original or amended articles of incorporation shall be
 3 authorized to exercise any of the powers herein granted, shall have
 4 the word "trust", "state" or "savings" incorporated in the name
 5 thereof; and no corporation hereinafter organized without complying
 6 with the terms of this chapter, and no partnership, individual or unin-
 7 corporated association, shall incorporate or embrace the word "trust"
 8 in its name.

[S., '13, § 1889-i.]

SEC. 5829. Indebtedness or liability—maximum.

1 Trust companies, state or savings banks, may contract indebted-
 2 ness or liability for the following purposes: For necessary expenses
 3 in managing and transacting their business, for deposits, and to pay
 4 depositors, provided that in pursuance of an order of the board of
 5 directors previously adopted, other liabilities not in excess of an
 6 amount equal to the capital stock may be incurred: But nothing
 7 herein contained shall limit the issuance, by trust companies, of de-
 8 bentures or bonds, the actual payment of which shall be secured by
 9 an actual transfer of real estate securities.

[S., '13, § 1889-j.]

SEC. 5830. Attorney—appointment of—fee.

1 The beneficiaries of any trust held by any such corporation, may
 2 appoint, by and with the approval of the court having jurisdiction
 3 thereof, a practicing attorney in good standing to look after the legal
 4 interests of said beneficiaries; and said attorney shall be allowed by
 5 the court a reasonable fee for such legal services, to be paid out of said
 6 trust estate.

[S., '13, § 1889-k.]

SEC. 5831. Dividends—surplus fund.

1 After providing for all expenses, interest and taxes accrued or
 2 due from any corporations exercising the powers herein conferred and
 3 deducting all losses and bad debts, the board of directors of said cor-
 4 poration may declare a dividend of so much of the profits of the cor-
 5 poration as they shall judge expedient; all debts past due to any
 6 corporation on which interest is past due and unpaid for a period of
 7 twelve months, unless the same are well secured and in process of col-
 8 lection, shall be considered bad debts within the meaning of this sec-
 9 tion; before any such dividend is declared, not less than one-tenth of
 10 the net profits of the corporation for the preceding half year, or for
 11 such period as is covered by the dividend, shall be carried to a fund
 12 to be designated the surplus fund, until such surplus fund shall amount
 13 to twenty per cent of its capital stock, and thereafter such surplus
 14 fund shall always be equal to at least twenty per cent of the capital
 15 stock of such corporation unless impaired by losses, and whenever the
 16 same becomes so impaired it shall be reimbursed in the manner pro-
 17 vided for its accumulation. Said surplus shall be invested the same as
 18 the original capital.

[S., '13, § 1889-l.]

SEC. 5832. Certain provisions applicable—statement of condition.

1 All of the provisions of section fifty-three hundred forty-nine,
2 relating to the renewal of corporate existence of state and savings
3 banks, and all of the provisions of sections fifty-seven hundred sixty-
4 six, fifty-seven hundred sixty-eight and fifty-seven hundred sixty-
5 nine, so far as same relate to time and manner of commencing
6 business, fifty-seven hundred seventy-one to fifty-seven hundred
7 seventy-five, inclusive, fifty-seven hundred eighty, fifty-seven hundred
8 eighty-one, fifty-seven hundred eighty-three, fifty-seven hundred
9 eighty-four, fifty-seven hundred eighty-five and fifty-seven hundred
10 eighty-seven, and all the provisions of sections fifty-seven hundred
11 ninety-six to fifty-eight hundred eighteen, inclusive, shall apply with
12 equal force and effect to all trust companies organized or reorganized
13 under this chapter; provided that any corporation exercising any of
14 the powers herein granted, in addition to matters required by section
15 fifty-eight hundred to be given in the statement of conditions, shall
16 give:

17 A list and brief description of the trusts held by such company,
18 the source of the appointment thereto, and the amount of real and
19 personal estate held by such company by virtue thereof, except that
20 mere mortgage trusts wherein no action has been taken by such com-
21 pany, shall not be included in such statement; said list to be trans-
22 mitted to the superintendent of banking within thirty days after the
23 receipt of requisition therefor, but such list shall not be published.

[S., '13, § 1889-m.]

SEC. 5833. May become member of federal reserve banking system.

1 Any state bank, savings bank or trust company organized under
2 the laws of this state is authorized and empowered, upon a vote of
3 the shareholders thereof owning not less than fifty-one per cent of the
4 capital stock of such state bank, savings bank or trust company, to
5 become a member of the federal reserve bank system and to invest
6 their funds in the stock of the federal reserve bank in the federal
7 reserve district in which such banks or trust companies are located,
8 and to incur liability therefor.

[S. S., '15, § 1889-o.]

TITLE XX.

BUILDING AND LOAN ASSOCIATIONS.

CHAPTER 1.

BUILDING AND LOAN ASSOCIATIONS.

SECTION 5834. Defined.

1 Corporations organized for the purpose of furnishing money to
2 their members upon sufficient security shall be known as building and
3 loan or savings and loan associations. Domestic local building and
4 loan or savings and loan associations shall include corporations, socie-
5 ties, organizations or associations incorporated under the laws of this
6 state for the purpose of and doing business only within the county
7 in which is situated the town or city named in its articles of incor-
8 poration as its principal place of business; provided that, where the
9 town or city named in its articles of incorporation as the principal
10 place of business is situated in more than one county, and the busi-
11 ness of the association is restricted to the town or city and to the
12 county within which is located its principal office, said association shall
13 be deemed a domestic local building and loan or savings and loan asso-
14 ciation within the meaning of this chapter. Domestic building and
15 loan or savings and loan associations shall include corporations, socie-
16 ties, organizations or associations incorporated under the laws of this
17 state for the purposes herein provided, the business of which is not
18 restricted to the county in which is situated the town or city named
19 in its articles of incorporation as its principal place of business. For-
20 eign building and loan or savings and loan associations shall include
21 corporations, societies, organizations or associations incorporated
22 under the laws of another state, territory, country or nation for the
23 purposes specified herein.

[C., '73, § 1184; C., '97, § 1890.]

SEC. 5835. Organization.

1 Any number of persons not less than five, residents of the state
2 of Iowa, may become incorporated as building and loan or savings and
3 loan associations under the general incorporation laws of this state,
4 except as otherwise herein provided, and upon complying with the
5 provisions of this chapter.

[C., '73, § 1184; C., '97, § 1891.]

SEC. 5836. Capital.

1 The capital named in the articles of incorporation shall be taken
2 to mean the authorized capital, and the association may commence
3 business when one hundred shares thereof have been subscribed and
4 the other provisions of this chapter in relation thereto have been com-
5 plied with. Such associations shall be governed by a board of direc-
6 tors who shall be elected annually by the stockholders, and who shall
7 hold their office for not less than one nor more than five years, and, if

8 for a longer period than one year, it shall be so arranged that the
9 terms of an equal number thereof, as nearly as may be, shall expire
10 each year.

[C., '97, § 1892.]

SEC. 5837. Articles.

1 The articles of incorporation shall show:
2 1. The names and residences of the incorporators.
3 2. The name of the association and its principal place of busi-
4 ness.
5 3. The purpose for which such association is formed.
6 4. The terms and plan of becoming and continuing a member.
7 5. The plan of making loans.
8 6. The plan of distributing profits.
9 7. The plan of equalizing losses.
10 8. The plan and terms of withdrawal of members.
11 9. The plan of providing for payment of expenses.
12 10. The number of shares into which capital stock is to be divided.
13 11. The classes into which its capital stock is to be divided, and
14 the terms of paying for the same by subscribers.
15 12. The term of corporate existence.
16 13. The manner of electing officers and filling vacancies.

[C., '97, § 1893.]

SEC. 5838. Articles amended—maximum rate.

1 No such associations shall be authorized or empowered to collect
2 or receive premiums and interest from a borrower at a greater rate
3 than eight per cent and in case of an amendment to the articles of
4 incorporation so that a lower rate of interest or charge for the use
5 of money loaned to the borrowing member is authorized than the rate
6 of interest charged upon loans, to members who have theretofore bor-
7 rowed, shall in like manner be reduced to the same rate as that per-
8 mitted to borrowers after such amendments to the articles of incor-
9 poration, so that the interest charged under whatever name, whether
10 charged as premium or interest to all members of the same associa-
11 tion, shall be the same, all reductions of the rate of interest or pre-
12 mium charged to new borrowers shall be made and apply equally to
13 those who have theretofore borrowed.

[S., '13, § 1893-a.]

SEC. 5839. Certificate of executive council — amendment of articles.

1 Such articles of incorporation with the by-laws of the association
2 shall be presented to the executive council, and if it finds they are in
3 conformity with the law, and based upon a plan equitable in all re-
4 spects to its members, it shall attach thereto its certificate of approval,
5 and thereupon such articles and by-laws shall be filed in the office of
6 the auditor of state, who shall issue a certificate authorizing the asso-
7 ciation to transact business. Amendments to such articles may be
8 made from time to time at any regular or special meeting of the stock-
9 holders, and shall in like manner be submitted to the executive council
10 and approved by it. The council shall keep a record of its proceedings
11 with reference to such associations.

[C., '97, § 1894.]

SEC. 5840. Revocation of certificates.

1 The executive council shall have the power, and it shall be its
 2 duty, to revoke any certificate of authority given to any building and
 3 loan or savings and loan association whenever it appears to said coun-
 4 cil that said association is transacting business illegally, or is unjust
 5 and oppressive to its members or the public.

[S., '13, § 1894-a.]

SEC. 5841. Bonds of officers—liability of directors.

1 The officers of any domestic building and loan or savings and loan
 2 association who sign or indorse checks or handle any funds or securi-
 3 ties of such association shall give such bonds or fidelity insurance for
 4 the faithful performance of their duties in such sum as the board of
 5 directors may require, and no such officer shall be deemed qualified
 6 to enter upon the duties of his office until his bond is approved by the
 7 board of directors and by the state auditor. Said bond shall be depos-
 8 ited and filed with the auditor of state. All such bonds shall be in-
 9 creased or additional securities required by the board of directors or
 10 the auditor of state when it becomes necessary to protect the interests
 11 of the association or its members, and no director shall be accepted as
 12 surety on such bonds, and no person shall be accepted as surety on the
 13 bond of more than one officer of said association. The directors shall
 14 be individually liable for loss to the association or its members caused
 15 by their failure to require a compliance with the provisions of this
 16 section.

[C., '97, § 1895.]

SEC. 5842. Bonds of officers—liability of directors.

1 The officers of any domestic local building and loan or savings and
 2 loan association who sign or indorse checks or handle any funds or securi-
 3 ties of said association shall give such bonds or fidelity insurance
 4 for the faithful performance of their duties in such sum as the board
 5 of directors may require, and no such officer shall be deemed qualified
 6 to enter upon the duties of his office until his bond is approved by the
 7 board of directors and the clerk of the district court of the county of
 8 the principal place of business of said association. Said bonds shall be
 9 deposited with the said clerk, and it is hereby made the duty of the said
 10 clerk to approve said bonds and to receive the same as herein provided.
 11 No person shall be accepted as surety on the bond of more than one
 12 officer of said association. All such bonds shall be increased or addi-
 13 tional securities required by the board of directors or by the clerk of
 14 said district court when it shall be deemed necessary to protect the in-
 15 terests of the association or its members. The directors shall be in-
 16 dividually liable for loss to the association or to its members caused by
 17 their failure to require a compliance with the provisions of this section.

[C., '97, § 1896.]

SEC. 5843. Banking prohibited.

1 It shall be unlawful for any building and loan or savings and loan
 2 association to receive deposits of money without issuing shares of stock
 3 for the same, or to transact a banking business.

[C., '97, § 1897.]

SEC. 5844. Nature of business—statement.

1 All building and loan or savings and loan associations, upon re-
2 ceiving the certificate from the auditor, shall have power, subject to
3 the terms and conditions contained in their articles of incorporation
4 and by-laws, to issue stock to members to be paid for in single, stated,
5 or monthly payments, but not more than ten thousand dollars of stock,
6 computed at par value, of any kind shall be issued to one person; to
7 assess and collect from members such dues, membership fees, fines,
8 premiums, and interest on loans as may in the articles of incorpora-
9 tion and by-laws have been provided, and the same shall not be held
10 to be usurious; to permit members, other than holders of guarantee
11 stock, to withdraw all or a part of their stock deposits upon such
12 terms and at such times as the articles of incorporation and by-laws
13 may provide; to acquire, hold, incumber and convey such real estate
14 and personal property as may be necessary for the transaction of
15 their business; to make loans to members on such terms, conditions
16 and securities as the articles of incorporation and by-laws provide;
17 said loans to be made only on real estate security, or on the security
18 of their own shares of stock, not to exceed ninety per cent of the with-
19 drawal value thereof. It shall be the duty of the secretary of every
20 such association doing business in this state to prepare, on or before
21 February fifteenth of each year, a duly verified statement, showing
22 the book value and withdrawal value of a share of each class of stock
23 in said association, for each monthly period up to January first pre-
24 ceding, and file the same with the auditor of state, which shall be pre-
25 served in his office. And the said association shall, on or before Feb-
26 ruary fifteenth of each year, mail to each shareholder a written or
27 printed copy of the same. In case of foreclosure, the borrower shall
28 be charged with the full amount of the loan made to him, together
29 with the dues, interest, premium and fines for which he is delinquent,
30 and he shall be credited with the same value of his pledged shares as
31 if he had voluntarily withdrawn the same. In event that judgment is
32 obtained against a borrower from a building and loan association, no
33 greater recovery shall be had than the net amount of principal actu-
34 ally received, with interest thereon at a rate not greater than twelve
35 per centum per annum on the net amount of loan actually received by
36 and paid to borrower, with statutory attorney fees; no evasion of this
37 provision shall be had by means of any dues, membership fees, pre-
38 miums, fines, forfeitures or other charges, any agreement to the con-
39 trary, notwithstanding.

[C., '73, §§ 1185, 1186; C., '97, § 1898; S., '13, § 1898.]

SEC. 5845. Forbidden stocks—rate of dividend.

1 No building and loan or savings and loan associations shall issue
2 guaranty stock, fully paid stock, or single payment stock, or any stock
3 of any other kind or name which shall receive fixed dividends, or is
4 not subject to all the liabilities of all other classes of stock of said
5 associations, except that it shall be lawful for such associations to
6 issue fully paid stock upon the payment by the holder thereof of the
7 par value of such stock upon which the dividends to be declared shall
8 not exceed the sum named in said certificate of stock, but in no event
9 shall the dividend exceed eight per cent per annum nor the rate of
10 dividend declared upon the other stock of said association, which said
11 stock shall be subject to be called in and redeemed by the said associa-

12 tion by giving the holder thirty days' notice thereof; but such stock
13 shall not be entitled to vote at any stockholders' meeting.

[S., '13, § 1898-c.]

SEC. 5846. Foreclosure of mortgage—costs.

1 In case of foreclosure of any mortgage given by a shareholder
2 of any such association, the mortgagor shall be charged with the rate
3 of interest agreed upon, not however to exceed eight per cent per an-
4 num, and shall be entitled to be credited, as of any anniversary of
5 said mortgage, with the total amount of all payments made on the
6 stock to the said association during the preceding year, and such pay-
7 ment on the stock shall be treated as a payment upon the mortgage,
8 anything in the articles of incorporation or the by-laws of such asso-
9 ciation to the contrary notwithstanding. If such association shows
10 affirmatively that losses have occurred during the period of the mem-
11 bership of such shareholder in excess of the amount of any fund ac-
12 cumulated from which to pay such losses, to such an extent that the
13 value of the shares of stock have been impaired, then such associa-
14 tions shall be entitled to have entered as a part of the judgment of
15 foreclosure the equitable contribution of said shareholder toward such
16 losses. If, by the articles of incorporation, the withdrawal value of
17 the stock of such mortgagor is greater than the amount paid thereon,
18 together with eight per cent interest then such withdrawal value shall
19 be credited on the mortgages of the date to which such value is com-
20 puted, in lieu of the credits of payment on stock as aforesaid, and
21 judgment and decree shall be rendered for only the balance found due.
22 In any suit in which the recovery upon the mortgage shall be for a
23 less amount than the amount demanded in the plaintiff's petition, all
24 costs of suit, including attorneys' fees, may in the discretion of the
25 court be taxed to the plaintiff; provided, further, that in case of fore-
26 closure judgment and decree shall be entered for as much as would
27 be due the association under the provisions of this chapter if suit had
28 not been brought.

[S., '13, § 1898-d.]

SEC. 5847. Investment of funds.

1 All funds, except those necessary to defray the expenses of the
2 association, shall be invested for the benefit of the shareholders. For
3 every loan made a nonnegotiable note or bond secured by first mort-
4 gage on real estate shall be given, unless the prior mortgage is to the
5 same association; then a second mortgage may be taken to secure said
6 note, except when such loan is on the withdrawal value of stock only.
7 Said note or bond shall be accompanied by the transfer of the shares
8 of stock of the borrower to the association, to be held as collateral
9 security.

[C., '97, § 1899.]

SEC. 5848. Loans—premium and interest.

1 Such associations shall have power to loan money to their mem-
2 bers at such rate as may be agreed upon, and may collect premiums
3 and interest thereon, but in no case shall the amount of premium and
4 interest paid exceed eight per cent per annum, but nothing herein
5 shall be construed as prohibiting the payment of such interest and
6 premium monthly, or at such time as may be provided for in the ar-
7 ticles of incorporation.

[S., '13, § 1899-a.]

SEC. 5849. Voting shares of stock.

1 Each member shall have one vote for each one hundred dollars
 2 of stock par value owned and held by him at any election, and may
 3 vote the same by proxy, but no person shall vote more than ten per
 4 cent of the outstanding shares at the time of said election. Anyone
 5 depositing or transferring stock to the association as collateral se-
 6 curity shall be deemed the owner of such stock within the meaning of
 7 this section.

[C., '97, § 1900.]

SEC. 5850. Guardians—executors—trustees.

1 Any guardian, executor, administrator or trustee shall have the
 2 right to vote, manage and control the shares held by him in his rep-
 3 resentative capacity.

[C., '97, § 1901.]

SEC. 5851. Expenses—dividends.

1 The expenses of every such association shall be paid from the
 2 earnings, or from a fixed charge provided for in the by-laws, and said
 3 expenses shall not exceed eight dollars for the maturing of every one
 4 hundred dollars of installment stock, said sum to be equitably dis-
 5 tributed over the maturity period; and two dollars per year for every
 6 one hundred dollars for full paid or prepaid stock. The net earnings
 7 of such association shall be apportioned as a dividend, annually, semi-
 8 annually or quarterly, to members, in such manner as the articles of
 9 incorporation and by-laws may provide. Membership fees and ex-
 10 penses incurred in making loans shall not be deemed a part of the ex-
 11 penses of the association.

[C., '73, § 1187; C., '97, § 1902.]

SEC. 5852. Expenditures and expenses—compensation of officers and agents.

1 All expenditures and expenses for management and conducting
 2 the affairs of said associations, not including membership fees and
 3 charges for closing loans, shall be paid from the receipts of interest,
 4 premiums, and other sources of profit. Said associations may thus
 5 use for expenses in any one year a sum not in excess of the following
 6 percentages on their assets, as shown by the last annual report, to
 7 wit: Associations with assets not in excess of one hundred thousand
 8 dollars, three per centum per annum; associations with assets in ex-
 9 cess of one hundred thousand dollars, but less than three hundred
 10 thousand dollars, two and one-half per cent; associations in excess of
 11 three hundred thousand dollars, and less than five hundred thousand
 12 dollars, two and a quarter per cent; and associations with assets in
 13 excess of five hundred thousand dollars, two per cent; but in no event
 14 shall the expenses of any association exceed twelve thousand dollars
 15 in any one year. No officer, employee, or agent of any association
 16 shall receive directly or indirectly any salary or other compensation,
 17 except for services actually rendered; and any compensation hereafter
 18 paid in violation of this section may be recovered by any shareholder
 19 or borrower within three years from the receipt of such illegal com-
 20 pensation from the person accepting the same, or from any officer
 21 knowingly consenting to the allowance thereof, in a suit which may

22 be brought in the name of the association, or in the name of such
23 shareholder or borrower.

[S., '13, § 1902-a.]

SEC. 5853. Dues—premiums—losses.

1 Dues, fines, premiums, and interest less current expenses, shall
2 accrue to the shareholders, and any net loss shall be deducted before
3 declaring any dividend.

[C., '97, § 1903.]

SEC. 5854. Fines for delinquency—terms of withdrawal.

1 Any stockholder in arrears in payments may be fined in a sum
2 not in excess of three cents per share of one hundred dollars each for
3 the first month's delinquency and five cents per share of one hundred
4 dollars each for each succeeding month's delinquency; but said pen-
5 alty shall only be due and payable from the profits belonging to said
6 delinquent. The terms of withdrawal of a member from such associa-
7 tion shall be such that any withdrawing member shall receive a
8 sum not less than he has paid into said association, unless losses have
9 occurred to said association, during the time that said withdrawing
10 member was a member, which exceed the amount of the profits, or
11 any fund created with which to pay such losses, and in that case such
12 withdrawing member shall be charged with his proportionate share
13 of the excess of the losses over the profits, and no more.

[S., '13, § 1903-a.]

SEC. 5855. Nonborrowing members—withdrawal of.

1 The articles of incorporation of any building and loan or build-
2 ing and savings association may, by a three-fourths vote of the board
3 of directors, provide that nonborrowing members shall withdraw
4 their stock at book value in the order of its issue, beginning with the
5 stock first issued, by giving the stockholders thereof thirty days' notice.

[S., '13, § 1903-b.]

SEC. 5856. Examination.

1 At least once in each year the auditor of state shall, by himself
2 or some competent person appointed by him, make an examination of
3 all domestic and foreign building and loan and savings and loan as-
4 sociations doing business in this state, and may examine under oath
5 any officer, agent or employee of the association, or other person,
6 and may compel the production of its books and papers, and for this
7 purpose such examiner shall have the same power as the district court
8 to secure the attendance of witnesses and the production of such books
9 and papers, and to punish as for contempt. If the examination is
10 made by the auditor in person, he shall receive his actual expenses.
11 If by another, his actual expenses and five dollars per day, which in
12 either case shall be paid by the association examined; provided the
13 expense charged for such examination to any one association shall not
14 exceed two hundred dollars for any one year. A record of such exam-
15 ination shall be kept in the auditor's office, showing in detail as to
16 each association all matters connected with the conduct of the busi-
17 ness, its financial standing and everything touching its solvency, plan
18 of business, and integrity. If the report is made by another than the
19 auditor, it shall be under oath. Examinations may be made at such

20 other times as the auditor may order. If any such association refuse
21 to submit to such examination, the auditor shall revoke its certificate
22 of authority.

[C., '97, § 1904.]

SEC. 5857. At request of shareholders.

1 When twenty shareholders of any domestic local building and loan
2 or savings and loan association shall in writing request the auditor
3 of state, he shall have the same authority and shall proceed to make an
4 examination of the affairs of such association in the manner provided
5 in this chapter for the examination of domestic associations, and the
6 costs and penalties shall be the same.

[C., '97, § 1905.]

SEC. 5858. Auditor's report.

1 The auditor shall, in his biennial report to the governor, state
2 the general conduct and condition of the building and loan or savings
3 and loan associations doing business in the state, with such sugges-
4 tions as he may deem expedient. Such report shall also include the
5 information contained in the statements of the associations, arranged
6 in tabulated form, with the names and compensations of the clerks
7 employed by him, the entire income, the source whence derived, and
8 the expense during the year ending on the thirty-first day of Decem-
9 ber, in detail.

[C., '97, § 1906.]

SEC. 5859. Detailed statement of salaries published.

1 The auditor of state shall publish, in his report of building and
2 loan and savings and loan associations, a detailed statement of the
3 salaries and compensation paid, and to whom, giving the names of
4 the officers and agents respectively receiving such salaries.

[S., '13, § 1906-a.]

SEC. 5860. Proceedings against, by state.

1 When any building and loan or savings and loan association is
2 conducting its business illegally, or in violation of its articles of in-
3 corporation or by-laws, or is practicing deception upon its members
4 or the public, or is pursuing a plan of business that is injurious to
5 the interests of its members, or its affairs are in an unsafe condition,
6 the auditor of state shall notify the directors thereof, and, if they
7 shall fail to put its affairs upon a safe basis, he shall advise the attor-
8 ney general thereof, who shall take the necessary steps to wind up its
9 affairs in the manner provided by law.

[C., '97, § 1907.]

SEC. 5861. Voluntary liquidation.

1 Building and loan or savings and loan associations, by a vote of
2 three-fourths of the shareholders of such associations, represented in
3 person or by proxy, may go into voluntary liquidation upon such plan
4 as shall be determined upon by the shareholders at their meeting. In
5 case any such association resolves to go into voluntary liquidation, it
6 shall have power, after crediting the mortgages given by the borrow-
7 ing member with the full book value of the stock, to sell and assign
8 such mortgage to a similar building and loan association, or to any

9 other parties who will hold the same upon the terms under which such
10 mortgage was given to the association. In that event the said mort-
11 gage shall be held to become due, if no other time can be agreed upon
12 between the mortgagor and the association, within three years after
13 the assignment thereof. In case the shareholders are unable to agree
14 upon other plan and terms upon which the said association may wind
15 up its affairs, the following plan shall be adopted. Interest shall be
16 computed on the respective amounts paid in by the several share-
17 holders from the date of such payments until the date that said as-
18 sociation resolves to go into liquidation, and amount so found shall be
19 the basis for distribution of the assets of the association. In the case
20 of a borrowing member the amount thus found due him on stock, if
21 there have been no losses so as to impair the capital, shall be credited
22 on his mortgage and the balance of such mortgage shall be paid within
23 one year together with interest at the rate therein agreed upon not to
24 exceed eight per cent, and upon the payments of the outstanding mort-
25 gages and the conversion of the assets into money the same shall be
26 distributed pro rata among the stockholders according to the amount
27 found due each as aforesaid. And any balance due the borrowing
28 member, over and above the amount actually received as a credit on
29 the mortgage, shall be paid to such members. In case, however, of
30 an impairment of the capital by loss, the amount of such loss shall be
31 estimated and apportioned to each member pro rata according to the
32 amount found due such members in the manner aforesaid, and the
33 borrowing members shall be entitled to receive a credit on their mort-
34 gages for the balance after the stock is charged with its pro rata share
35 of the loss, and the balance due on such mortgages shall be paid within
36 twelve months, and upon the final distribution any balance due such
37 borrowing member shall be paid to him. But in the final distribution,
38 before the final dividend is made, interest shall be allowed on the
39 amount found due the nonborrowing member not to exceed six per
40 cent so as to equalize between the borrowing member who has re-
41 ceived a credit on his mortgage and the nonborrowing member. Any
42 plan other than that herein specified shall be submitted to the execu-
43 tive council for approval before the same is adopted.

[S., '13, § 1907-a.]

SEC. 5862. Consolidation with other companies.

1 Any building and loan or savings and loan association organized
2 under the laws of this state shall have authority to consolidate its
3 business and membership with one or more building and loan or sav-
4 ings and loan associations of the same class organized under the laws
5 of this state and to transfer to such association or associations its
6 entire assets subject to its existing liabilities, and upon the consolida-
7 tion of such associations, if any one or more of said companies shall
8 have heretofore issued guaranty stock, they may provide for the with-
9 drawal and retirement of said guaranty stock, and the same may be
10 withdrawn in accordance with the plan therein adopted. The plan of
11 such consolidation, when approved by the board of directors of each
12 of the associations, shall be reduced to writing and submitted to the
13 executive council, and if they find that the plan is in conformity with
14 the law, and equitable in all respects to the members of both associa-
15 tions, they shall attach thereto their certificate of approval. Such
16 plan shall then be submitted to the members of both associations,
17 either at the regular meetings or at special meetings called for that
18 purpose, and, if approved by a vote of three-fourths of the shares of

19 stock of each association, the same shall then be filed in the office of
 20 the auditor of state, who shall issue a certificate authorizing the con-
 21 solidation. At such meetings the members may vote in person or by
 22 proxy or by written ballot mailed or otherwise delivered to the secre-
 23 tary at or before the time of meeting.

[S., '13, § 1907-b.]

SEC. 5863. Consolidation when in hands of receiver.

1 In any case where a receiver has been appointed for any such
 2 association, its membership and business may in like manner be con-
 3 solidated with, and its assets transferred to, another such association
 4 of the same class, but in such case the receiver shall act in place of
 5 the board of directors, and the plan must also be approved by the
 6 court by which the receiver was appointed.

[S., '13, § 1907-c.]

SEC. 5864. Foreign companies.

1 If any foreign building and loan or savings and loan association,
 2 as in this chapter defined, desires to transact business within this
 3 state, it shall furnish to the executive council a certified copy of its
 4 articles of incorporation, or charter and by-laws, and a certified copy
 5 of the state laws under which it is organized, together with a report
 6 for the year next preceding, verified by its president, vice president,
 7 secretary, and at least three directors, which report shall show:

- 8 1. The amount of its authorized capital stock and the par value
 - 9 of each share.
 - 10 2. The number of shares sold during the year.
 - 11 3. The number of shares canceled or withdrawn during the year.
 - 12 4. The number of shares in force at the end of the year.
 - 13 5. A detailed statement of all funds received during the year and
 - 14 all disbursements.
 - 15 6. The salaries paid each of its officers.
 - 16 7. A detailed statement of its assets and liabilities at the end of
 - 17 such year and the nature thereof.
 - 18 8. Any other matters of fact which the council may require.
- 19 Upon receipt of such report the council, if it finds therefrom that the
 20 association is properly managed, that its financial condition is satis-
 21 factory, and that its business is conducted upon a safe and reliable
 22 plan and one equitable to its members, shall so certify upon such copy
 23 and statement, and, the same being filed with the auditor, he shall is-
 24 sue a like certificate as in the case of domestic associations.

[C., '97, § 1908.]

SEC. 5865. Foreign companies.

1 No building and loan or savings and loan association, incorpo-
 2 rated under the laws of any other state or country, shall be authorized
 3 to do business in this state, whose articles of incorporation are not
 4 found by the executive council to be in substantial compliance with
 5 the laws of this state, and affording equal security and protection to
 6 the members thereof.

[S., '13, § 1908-a.]

SEC. 5866. Securities deposited.

1 Every such foreign building and loan or savings and loan asso-
 2 ciation, before the state auditor shall issue to it a certificate, shall
 3 comply with the following provisions:

4 1. It shall deposit with the auditor of state one hundred thousand
5 dollars, either in cash, or bonds of the United States or of the state
6 of Iowa, or of any county or municipal corporation of the state of
7 Iowa, or notes secured by first mortgage, on real estate, or a like
8 amount in such other security as shall be satisfactory to said auditor.
9 2. Such foreign association may collect and use the interest on
10 any securities so deposited as long as it fulfills its obligations and
11 complies with the provisions of this chapter. It may also exchange
12 them for other securities of equal value and satisfactory to said
13 auditor.

[C., '97, § 1909.]

SEC. 5867. Liability for claims.

1 The deposit made with the auditor shall be held as security for
2 all claims of resident shareholders of the state of Iowa against said
3 association, and shall be liable for all judgments or decrees thereon,
4 and subject to the payment of the same.

[C., '97, § 1910.]

SEC. 5868. Service of process.

1 Such foreign association shall also file with the auditor of this
2 state a duly authenticated copy of a resolution adopted by the board
3 of directors of such association, stipulating and agreeing that, if any
4 legal process or notice affecting such association be served on the said
5 state auditor, and a copy thereof be mailed, postage prepaid, by the
6 party procuring and issuing the same, or his attorney, to said associa-
7 tion, addressed to its home office, then such service and mailing of
8 such process or notice shall have the same effect as personal service
9 on said association within this state. When proceedings have been
10 commenced against or affecting any foreign building and loan or sav-
11 ings and loan association, as contemplated herein, and notice has been
12 served upon the auditor of the state, the same shall be by duplicate
13 copies, one of which shall be filed in his office, and the other mailed by
14 him, postage prepaid, to the home office of such association.

[C., '97, § 1911.]

SEC. 5869. Filing amendments to articles.

1 All foreign building and loan or savings and loan associations
2 shall file with the auditor of state, within ten days after their adop-
3 tion, a duly certified copy of any amendment or amendments to their
4 articles of incorporation or by-laws that may have been adopted.

[C., '97, § 1912.]

SEC. 5870. Fees.

1 Foreign building and loan or savings and loan associations shall
2 pay to the auditor of state the following fees, which shall be paid by
3 him into the state treasury: For each application to do business in
4 this state, one hundred dollars; for each certificate of authority and
5 each annual renewal thereof, fifty dollars; for filing each annual
6 statement of the assets of the association, as shown by the statement
7 filed, amounts to fifty thousand dollars or less, three dollars; if more
8 than fifty thousand dollars and less than one hundred thousand dol-
9 lars, five dollars; if more than one hundred thousand dollars and less
10 than two hundred and fifty thousand dollars, ten dollars; if more than

11 two hundred and fifty thousand dollars, and less than five hundred
 12 thousand dollars, twenty dollars; if more than five hundred thousand
 13 dollars and less than one million dollars, thirty dollars; and if more
 14 than one million dollars, fifty dollars. Domestic building and loan or
 15 savings and loan associations shall pay to the auditor of state the sum
 16 of twenty-five dollars for each certificate of authority and each re-
 17 newal thereof, and for filing each annual statement, ten dollars.
 18 Domestic local building and loan or savings and loan associations shall
 19 pay to the auditor of state for filing each annual statement the sum
 20 of five dollars.

[C., '97, § 1913.]

SEC. 5871. Annual statement.

1 All building and loan or savings and loan associations doing busi-
 2 ness in this state shall, on or before the first day of February of each
 3 year, file with the auditor of state a detailed report and financial
 4 statement of their business for the year ending the thirty-first day of
 5 December next preceding, and such report shall be verified by the
 6 president and secretary or by three directors of the association, and
 7 such report shall show:

- 8 1. The date when the association was incorporated and the par
 9 value of each share of stock.
- 10 2. The number of shares sold during the year.
- 11 3. The number of shares canceled or withdrawn during the year.
- 12 4. The number of shares in force at the end of the year.
- 13 5. A detailed statement of receipts and disbursements, showing
 14 specifically from what source received and in what manner applied.
- 15 6. A statement of the assets and liabilities at the end of the year.
- 16 7. The salary paid to each of its officers during the year.
- 17 8. All foreign building and loan or savings and loan associations
 18 shall, in addition to the above, report the name of each shareholder
 19 of such association residing within the state of Iowa, together with
 20 the postoffice address of each, and the number of shares owned by
 21 each of said persons on the first day of January preceding, and the
 22 cash value of each of said shares on said date.

[C., '97, § 1914.]

SEC. 5872. Penalty.

1 If an association shall fail or refuse to furnish to the auditor of
 2 state the report above required, it shall forfeit the sum of twenty-five
 3 dollars for every day such report shall be withheld, and the auditor
 4 of state may maintain an action in the name of the state to recover
 5 such penalty, and the same shall be paid into the treasury of the state.

[C., '97, § 1915.]

SEC. 5873. Sale or soliciting sale of stock in unauthorized foreign company—penalty.

1 It shall be unlawful for any agent, solicitor, or other person to
 2 sell stock or solicit persons to subscribe for stock in any such associa-
 3 tion named in section fifty-eight hundred sixty-five, which has not
 4 been authorized to do business in this state, and any person convicted
 5 of so doing shall be punished by a fine of not less than fifty nor more
 6 than two hundred dollars, and shall be committed to the county jail
 7 until the fine and costs are paid.

[S., '13, § 1915-a.]

SEC. 5874. Laws of other states—reciprocity.

1 When by the laws of any other state, territory, country or nation,
2 or by the decision or rulings of the appropriate and proper officers
3 thereof, any greater taxes, fines, penalties, licenses, fees, deposits
4 of money or other securities, or other obligations or prohibitions, are
5 demanded of building and loan or savings and loan associations of
6 this state, as a condition to be complied with before doing business
7 in such other state, territory, country or nation, or their agents
8 therein, than are imposed upon foreign associations doing business
9 in this state, so long as such laws continue in force, the same requirements,
10 obligations and prohibitions of whatever kind shall be imposed
11 on all building and loan or savings and loan associations of such other
12 state, territory, country or nation doing business in this state, and
13 upon their agents. It is hereby made the duty of the auditor of state
14 to enforce the provisions of this section.

[C., '97, § 1916.]

SEC. 5875. Revocation of certificate.

1 If a certificate of authority to do business shall have been issued
2 to any association, and it shall violate any of the provisions of this
3 chapter, the auditor of state shall revoke the same.

[C., '97, § 1917.]

SEC. 5876. False statements.

1 If any officer, director or agent of any building and loan or savings
2 and loan association shall knowingly and wilfully swear falsely
3 to any statement in regard to any matter in this chapter required to
4 be made under oath, he shall be guilty of perjury. If any director
5 of any such association shall vote to declare a dividend greater than
6 has been earned; or if any officer or director or any agent or employee
7 of any such association shall issue, utter, or offer to utter, any warrant,
8 check, order or promise to pay of such association, or shall sign,
9 transfer, cancel or surrender any note, bond, draft, mortgage, or other
10 evidence of indebtedness belonging to such association, or shall demand,
11 collect or receive any money from any member or other person in the name
12 of such association without being authorized to do so by the board of directors
13 in pursuance of its lawful power; or if any such officer, director, agent or
14 employee shall embezzle or convert to his own use, or shall use or pledge
15 for his own benefit or purpose, any moneys, securities, credits, or other
16 property belonging to the association, or shall knowingly do or attempt to
17 do any business for such association that has not procured and does not
18 hold the certificate of authority therefor as in this chapter provided, or shall
19 knowingly make or cause to be made any false entries in the books of the
20 association, or shall, with the intent to deceive any person making an
21 examination in this chapter required to be made, exhibit to the person
22 making the examination any false entry, paper or statement, or shall
23 knowingly do or solicit business for any building and loan or savings
24 and loan association which has not procured the required certificate
25 therefor, he shall be fined in any sum not exceeding ten thousand dollars,
26 or imprisoned in the penitentiary not exceeding ten years, or
27 punished by both such fine and imprisonment.

[C., '97, § 1918.]

SEC. 5877. Associations in existence.

1 All building and loan or savings and loan associations having
2 heretofore [July 4, 1896] transacted business in this state, which shall
3 not have complied with the provisions of this chapter, shall have the
4 right to close up their business and fulfill their contracts heretofore
5 entered into with the residents of this state, without being subject to
6 the penalties prescribed in this chapter.

[C., '97, § 1919.]

SEC. 5878. Unincorporated building and loan associations—extending provisions of other sections—what included.

1 All unincorporated organizations, associations, societies, partner-
2 ships or individuals conducting and carrying on a business, the pur-
3 pose of which is to create a fund derived from periodical payments by
4 members of such organizations, associations, societies, or other per-
5 sons, upon contracts or otherwise, as well as from fines, forfeitures,
6 incidental fees and payment of premiums and interest, which fund
7 is to be loaned or advanced to members of the organization, associa-
8 tion, society or to the persons making such periodical payments, for the
9 purpose of enabling them to acquire the ownership or free possession of
10 real estate, or personal property or to construct buildings, or any or
11 all of such purposes, shall be deemed building and loan associations;
12 and the provisions of this chapter shall apply to all such building and
13 loan associations so far as the same can be made applicable to unin-
14 corporated organizations, associations, societies, partnerships or in-
15 dividuals.

[S., '13, § 1920-a.]

SEC. 5879. Sworn statements—deposit of securities.

1 Every such unincorporated organization, association, society,
2 partnership or individual, conducting and carrying on the business
3 defined in the preceding section shall, before transacting any busi-
4 ness in this state, submit to the executive council a full and complete
5 sworn statement of the resources and liabilities of such organization,
6 association, society, partnership or individual, and of the proposed
7 plan or method of doing business; and no such unincorporated build-
8 ing and loan association shall be permitted to carry on its business
9 within this state unless it shall first deposit with the auditor of state
10 at least fifty thousand dollars of first mortgages and negotiable notes
11 in the same amount secured thereby upon real estate in the state of
12 Iowa, bearing interest at a rate not less than five per cent per annum,
13 which said mortgages shall in no case exceed one-half the actual value
14 of the real estate upon which they are taken; and the auditor of state
15 shall have power and authority to require that such further amount
16 of such securities shall be deposited with him as in his judgment may
17 thereafter be necessary to protect the members of such building and
18 loan association, or the persons making periodical payments thereto.
19 The notes, mortgages and securities so deposited with the auditor of
20 state shall, with all interest and accumulations thereon, be held in
21 trust by him for the purpose of fulfilling and carrying out all con-
22 tracts made by such building and loan association with the members
23 thereof, and with the persons making periodical payments thereto.

[S., '13, § 1920-b.]

SEC. 5880. Approval—certificate.

1 If the executive council approves the plan or method of business
 2 of any such building and loan association, it shall indorse its approval
 3 upon the statement of the resources and liabilities and plan of busi-
 4 ness presented to it, and such statement shall thereupon be filed in the
 5 office of the auditor of state, who shall issue a certificate to such build-
 6 ing and loan association to transact business within the state of Iowa,
 7 if such association has deposited with him the mortgages and securi-
 8 ties required by the provisions of the preceding section.

[S., '13, § 1920-c.]

SEC. 5881. Officers to give bonds—approval.

1 Every officer of such building and loan association who signs or
 2 indorses checks or handles any of the funds or securities thereof,
 3 shall give such bond or fidelity insurance for the faithful performance
 4 of his duty in such sum as the auditor of state may require, and no
 5 such officer shall be deemed qualified to enter upon the duties of his
 6 office until his bond is approved by, and deposited with, the auditor
 7 of state. And any such bond may be increased or additional sureties
 8 required by the auditor of state whenever in his judgment it becomes
 9 necessary to protect the interest of the association or its members, or
 10 persons making periodical payments of money thereto.

[S., '13, § 1920-d.]

SEC. 5882. Examination.

1 The auditor of state may at any time he may see proper make,
 2 or cause to be made, an examination of any such building and loan as-
 3 sociation, or he may call upon it for a report of its condition upon any
 4 given day which has passed, as often as four times each year, which
 5 report shall contain the information hereinafter required.

[S., '13, § 1920-e.]

SEC. 5883. Expense of examination.

1 The expense of making such examination shall be paid by the
 2 building and loan association, and if made by the auditor in person he
 3 shall be paid his necessary expenses only; if made by an examiner
 4 designated by the auditor, he shall receive ten dollars a day for the
 5 time employed by him and his necessary expenses.

[S., '13, § 1920-f.]

SEC. 5884. Annual reports.

1 On or before the first day of February of each year every such
 2 building and loan association shall file with the auditor of state its
 3 annual report in writing for the year ending on the thirty-first day
 4 of December preceding, giving a complete statement in detail of all of
 5 its receipts from all sources, and all disbursements made, during such
 6 year, arranged and itemized as may be required by the auditor of
 7 state. Such report shall also show the number of members or per-
 8 sons making periodical payments to such association, the number and
 9 amount of loans made to such persons, the interest received there-
 10 from, the number and amounts of mortgages, contracts or other se-
 11 curities held by the association, the actual cash value of the real es-
 12 tate securing such mortgages or contracts, the salary paid to each of
 13 its officers during the preceding year, the assets and liabilities of the

14 association at the end of the year, and any other matters which in the
15 judgment of the auditor of state may be required to give him full in-
16 formation as to the business transacted by such building and loan
17 association.

[S., '13, § 1920-g.]

SEC. 5885. Failure or refusal to furnish reports.

1 If any such building and loan association shall fail or refuse to
2 furnish to the auditor of state the report required in the preceding
3 section, the officers or persons conducting the business of such build-
4 ing and loan association shall forfeit the sum of twenty-five dollars
5 for each day that such report is withheld, and the auditor of state may
6 maintain an action, jointly or severally, against them in the name of
7 the state to recover such penalty, and the same shall be paid into the
8 state treasury when recovered by him.

[S., '13, § 1920-h.]

SEC. 5886. Penalties.

1 If any officer or agent of any such building and loan association,
2 or any person conducting the business thereof, shall knowingly and
3 wilfully swear falsely to any statement in regard to any matter in
4 this chapter required to be made under oath, he shall be guilty of
5 perjury and punished accordingly. And if any officer, agent or em-
6 ployee of any such association, or any person transacting the busi-
7 ness thereof, shall issue, utter or offer to utter, any warrant, check,
8 order, or promise to pay of such association, or shall sign, transfer,
9 cancel or surrender any note, bond, draft, mortgage, or other evidence
10 of indebtedness belonging to such association, or shall demand, col-
11 lect or receive any money from any member or other person in the
12 name of such association without being authorized so to do; or if any
13 such officer, agent or employee of such association, or any person
14 transacting the business thereof, shall embezzle, convert to his own
15 use, or shall use or pledge for his own benefit or purpose, any moneys,
16 securities, credits or other property belonging to the association, or
17 shall knowingly solicit, transact, or attempt to transact any business
18 for any such association which has not procured and does not hold
19 the certificate of authority from the auditor of state to transact busi-
20 ness in this state as provided herein; or shall knowingly make, or
21 cause to be made, any false entries in the books of the association, or
22 shall, with intent to deceive any person making an examination of
23 such association, as herein provided, exhibit to the person making the
24 examination any false entry, paper or statement, he shall be fined in
25 a sum not exceeding ten thousand dollars, or imprisoned in the peni-
26 tentiary not exceeding ten years, or punished by both such fine and
27 imprisonment.

[S., '13, § 1920-i.]

SEC. 5887. Revocation of certificate—receiver.

1 If any such building and loan association, holding a certificate
2 of authority to transact business within this state issued by the audi-
3 tor as herein provided, shall violate any of the provisions of this chap-
4 ter, or shall fail to deposit with the auditor of state such further
5 amount of mortgages or securities as he may require under section
6 fifty-eight hundred seventy-nine, the auditor of state shall at once
7 revoke such certificate and notify the executive council of the revoca-

8 tion thereof; and under the direction of the executive council, applica-
9 tion shall be made by the attorney general to the proper court for the
10 appointment of a receiver to wind up the affairs of the association;
11 and in such proceedings the amount due from the borrowing members
12 or persons making periodical payments upon contracts or mortgages
13 given by them, shall be ascertained in the manner provided in sec-
14 tion fifty-eight hundred sixty-one; and the amounts owing upon such
15 mortgages or contracts from members of the association or persons
16 making periodical payments thereto, shall be treated and considered
17 as due and payable within a reasonable time, to be fixed by the court
18 after the appointment of a receiver.

[S., '13, § 1920-j.]

TITLE XXI.

TRADE AND COMMERCE.

CHAPTER 1.

MONEY AND INTEREST.

SECTION 5888. How expressed.

1 The money of account of this state is the dollar, cent and mill, and
 2 all public accounts, and the proceedings of all courts in relation to
 3 money, shall be kept and expressed in the above denominations. De-
 4 mands expressed in money of another denomination shall not be
 5 affected by the provisions of this section, but in any action or proceed-
 6 ing based thereon it shall be reduced to and computed by the denom-
 7 inations given.

[C., '51, §§ 943, 944; R., '60, §§ 1785, 1786; C., '73, §§ 2075,
 2076; C., '97, § 3037.]

SEC. 5889. Rate of interest.

1 The rate of interest shall be six cents on the one hundred by the
 2 year in the following cases, unless the parties shall agree in writing
 3 for the payment of interest not exceeding eight cents on the hundred
 4 by the year:
 5 1. Money due by express contract.
 6 2. Money after the same becomes due.
 7 3. Money loaned.
 8 4. Money received to the use of another and retained beyond a
 9 reasonable time, without the owner's consent, express or implied.
 10 5. Money due on the settlement of accounts from the day the bal-
 11 ance is ascertained.
 12 6. Money due upon open accounts after six months from the date
 13 of the last item.
 14 7. Money due, or to become due, where there is a contract to pay
 15 interest, and no rate is stipulated.

[C., '51, § 945; R., '60, § 1787; C., '73, § 2077; C., '97, § 3038.]

SEC. 5890. On judgments and decrees.

1 Interest shall be allowed on all money due on judgments and de-
 2 crees of courts at the rate of six cents on the hundred by the year, un-
 3 less a different rate is fixed by the contract on which the judgment or
 4 decree is rendered, in which case the judgment or decree shall draw
 5 interest at the rate expressed in the contract, not exceeding eight
 6 cents on the hundred by the year, which rate must be expressed in
 7 the judgment or decree.

[C., '51, § 946; R., '60, § 1789; C., '73, § 2078; C., '97, § 3039.]

SEC. 5891. Illegal rate prohibited.

1 No person shall, directly or indirectly, receive in money or in any
 2 other thing, or in any manner, any greater sum or value for the loan

3 of money, or upon contract founded upon any sale or loan of real or
4 personal property, than is in this chapter prescribed.

[R., '60, § 1790; C., '73, § 2079; C., '97, § 3040.]

SEC. 5892. Usury—penalty.

1 If it shall be ascertained in any action brought on any contract
2 that a rate of interest has been contracted for, directly or indirectly,
3 in money or in property, greater than is authorized by this chapter,
4 the same shall work a forfeiture of eight cents on the hundred by the
5 year upon the amount of the principal remaining unpaid upon such
6 contract at the time judgment is rendered thereon, and the court
7 shall enter final judgment in favor of the plaintiff and against the
8 defendant for the principal sum so remaining unpaid without costs,
9 and also against the defendant and in favor of the state, for the use
10 of the school fund of the county in which the action is brought, for the
11 amount of the forfeiture; and in no case where unlawful interest is
12 contracted for shall the plaintiff have judgment for more than the
13 principal sum, whether the unlawful interest be incorporated with
14 the principal or not.

[R., '60, § 1791; C., '73, § 2080; C., '97, § 3041.]

SEC. 5893. Interest in excess of two per cent per month criminal—penalty—inspection charge—recording fee.

1 Every person or persons, company, corporation or firm, and every
2 agent of any person, persons, company, corporation or firm, who
3 shall take or receive, or agree to take or receive directly or indirectly,
4 by means of commissions or brokerage charges, or otherwise, for the
5 forbearance or use of money a rate greater than two per cent per
6 month, shall be deemed guilty of a misdemeanor, and, on conviction
7 thereof, shall be punished by a fine of not less than twenty-five dollars,
8 nor more than five hundred dollars, or by imprisonment in the county
9 jail for a period of not less than thirty days nor more than ninety
10 days. Nothing herein contained shall be construed as authorizing
11 a higher rate of interest than is now provided by law.

12 But the person or corporation making the loan shall be permitted
13 to charge and include within the loan, a reasonable amount for the in-
14 spection or investigation of the security, and also the cost of drawing
15 the papers, not exceeding one dollar, and cost of recording the same,
16 which cost of inspection or investigation shall not exceed ten per cent
17 of the amount loaned when the loan is under fifty dollars nor more
18 than five dollars in any event, and no recording fee shall be included
19 unless an instrument is actually recorded.

[S. S., '15, § 3041-a.]

SEC. 5894. Assignee.

1 Any assignee of a usurious contract, becoming such in good faith
2 in the usual course of business and without notice of such fact, may
3 recover of the usurer the full amount of the consideration paid by him
4 therefor, less any sum that may have been realized on the contract,
5 anything in this chapter contained to the contrary notwithstanding.

[R., '60, § 1792; C., '73, § 2081; C., '97, § 3042.]

CHAPTER 2.

CONTRACTS.

SECTION 5895. Abolished—use of seal adopted by corporation.

1 The use of private seals in written contracts, or other instru-
 2 ments in writing, by individuals, firms, or corporations that have not
 3 adopted a corporate seal, is hereby abolished; and the addition of a
 4 seal to any such instrument shall not affect its character or validity in
 5 any respect.

[C., '51, § 974; R., '60, § 1823; C., '73, § 2112; C., '97, § 3068;
 S., '13, § 3068.]

SEC. 5896. Consideration implied.

1 All contracts in writing, signed by the party to be bound or by
 2 his authorized agent or attorney, shall import a consideration.

[C., '51, § 975; R., '60, § 1824; C., '73, § 2113; C., '97, § 3069.]

SEC. 5897. Failure of—fraud.

1 The want or failure, in whole or in part, of the consideration of
 2 a written contract may be shown as a defense, total or partial, except
 3 to negotiable paper transferred in good faith and for a valuable con-
 4 sideration before maturity, but if such paper has been procured by
 5 fraud upon the maker, no holder thereof shall recover thereon of the
 6 maker a greater sum than he paid therefor, with interest and costs.

[C., '51, § 976; R., '60, § 1825; C., '73, § 2114; C., '97, § 3070.]

SEC. 5898. Gaming contracts void.

1 All promises, agreements, notes, bills, bonds or other contracts,
 2 mortgages or other securities, when the whole or any part of the con-
 3 sideration thereof is for money or other valuable thing won or lost,
 4 laid, staked or bet, at or upon any game of any kind or on any wager,
 5 are absolutely void and of no effect.

[C., '51, § 2724; R., '60, § 4366; C., '73, § 4029; C., '97,
 § 4965.]

CHAPTER 3.

TENDER OF PAYMENT AND PERFORMANCE.

SECTION 5899. When demand necessary.

1 No cause of action shall accrue upon a contract for labor or the
 2 payment or delivery of property other than money, where the time of
 3 performance is not fixed, until a demand of performance has been
 4 made upon the maker and refused, or a reasonable time for perform-
 5 ance thereafter allowed.

[C., '51, § 959; R., '60, § 1806; C., '73, § 2097; C., '97, § 3056.]

SEC. 5900. Tender of labor or property.

1 When a contract for labor, or for the payment or delivery of
 2 property other than money, does not fix a place of payment, the maker
 3 may tender the labor or property at the place where the payee re-

4 sided at the time of making the contract, or at the residence of the
 5 payee at the time of performance of the contract, or where any as-
 6 signee of the contract resides when it becomes due, but if the prop-
 7 erty in such case is too ponderous to be conveniently transported, or
 8 if the payee had no known place of residence within the state at the
 9 time of making the contract, or if the assignee of a written contract
 10 has no known place of residence within the state at the time of per-
 11 formance, the maker may tender the property at the place where he
 12 resided at the time of making the contract.

[C., '51, §§ 960, 961; R., '60, §§ 1807, 1808; C., '73, §§ 2098,
 2099; C., '97, § 3057.]

SEC. 5901. When contract assigned.

1 When the contract is contained in a written instrument which is
 2 assigned before due, and the maker has notice thereof, he shall make
 3 the tender at the residence of the holder if he resides in the state, and
 4 no farther from the maker than the payee did at the making thereof.

[C., '51, § 962; R., '60, § 1809; C., '73, § 2100; C., '97, § 3058.]

SEC. 5902. Effect of tender.

1 A tender of the property, as above provided, discharges the
 2 maker from the contract, and the property becomes vested in the
 3 payee or his assignee, and he may maintain an action therefor as in
 4 other cases. But if the property tendered be perishable, or requires
 5 feeding, or other care, and no person is found to receive it when ten-
 6 dered, the person making the tender shall preserve, feed or otherwise
 7 take care of the same, and shall have a lien thereon for his reason-
 8 able expenses and trouble in so doing.

[C., '51, §§ 963, 964; R., '60, §§ 1810, 1811; C., '73, §§ 2101,
 2102; C., '97, § 3059.]

SEC. 5903. When holder absent from state.

1 When the holder of an instrument for the payment of money is
 2 absent from the state when it becomes due, and the indorsee or as-
 3 signee of such an instrument has not notified the maker of such in-
 4 dorsement or assignment, the maker may tender payment at the last
 5 residence or place of business of the payee before the instrument be-
 6 comes due, and if there be no person there authorized to receive pay-
 7 ment and give proper credit therefor, the maker may deposit the
 8 amount due with the clerk of the district court in the county where
 9 the payee resided at the time it became due, and the maker shall not
 10 be liable for interest from that date.

[C., '51, § 958; R., '60, § 1805; C., '73, § 2103; C., '97, § 3060.]

SEC. 5904. Offer in writing.

1 An offer in writing to pay a particular sum of money, or to de-
 2 liver a written instrument or specific personal property, if not ac-
 3 cepted, is equivalent to the actual tender of the money, instrument or
 4 property, subject, however, to the condition contained in the following
 5 section; but if the party to whom the tender is made desires an inspec-
 6 tion of the instrument or property tendered, other than money, before
 7 making his determination, it shall be allowed him on request.

[C., '51, § 967; R., '60, § 1816; C., '73, § 2105; C., '97, § 3061.]

SEC. 5905. When not accepted.

1 When a tender of money or property is not accepted by the party
 2 to whom it is made, the party making it may, if he sees fit, retain it
 3 in his possession; but if afterwards the party to whom the tender
 4 was made concludes to accept it and gives notice thereof to the other
 5 party, and the subject of the tender is not delivered to him within a
 6 reasonable time, the tender shall be of no effect.

[C., '51, § 966; R., '60, § 1815; C., '73, § 2104; C., '97, § 3062.]

SEC. 5906. Receipt—objection.

1 The person making a tender may demand a receipt in writing
 2 for the money or article tendered, as a condition precedent to the de-
 3 livery thereof. The person to whom a tender is made must, at the
 4 time, make any objection which he may have to the money, instru-
 5 ment or property tendered, or he will be deemed to have waived it.

[C., '51, §§ 968, 969; R., '60, §§ 1817, 1818; C., '73, §§ 2106,
 2107; C., '97, § 3063.]

CHAPTER 4.
ASSIGNMENT OF ACCOUNTS AND NONNEGOTIABLE INSTRUMENTS.**SECTION 5907. Assignment of nonnegotiable instruments.**

1 Bonds, duebills, and all instruments by which the maker prom-
 2 ises to pay another, without words of negotiability, a sum of money,
 3 or by which he promises to pay a sum of money in property or labor,
 4 or to pay or deliver any property or labor, or acknowledges any money,
 5 labor or property to be due, are assignable by indorsement thereon,
 6 or by other writing, and the assignee shall have a right of action
 7 thereon in his own name, subject to any defense or counterclaim
 8 which the maker or debtor had against any assignor thereof before
 9 notice of such assignment.

[C., '51, § 949; R., '60, § 1796; C., '73, § 2084; C., '97, § 3044.]

SEC. 5908. When assignment prohibited.

1 When by the terms of an instrument its assignment is prohibited,
 2 an assignment thereof shall nevertheless be valid, but the maker may
 3 avail himself of any defense or counterclaim against the assignee
 4 which he may have against any assignor thereof before notice of such
 5 assignment is given to him in writing.

[C., '51, § 951; R., '60, § 1798; C., '73, § 2086; C., '97, § 3046.]

SEC. 5909. Open account assignable.

1 An open account of sums of money due on contract may be as-
 2 signed, and the assignee will have a right of action thereon in his own
 3 name, subject to such defenses and counterclaims as are allowed
 4 against the instruments mentioned in the preceding section, before
 5 notice of such assignment is given to the debtor in writing by the as-
 6 signee. But no sale or assignment, by the head of a family, of wages,
 7 whether the same be exempt from execution or not, shall be of any
 8 validity whatever unless the same be evidenced by a written instru-
 9 ment, and if married, unless the husband and wife sign and acknowl-

10 edge the same joint instrument before an officer authorized to take
 11 acknowledgments; and assignments of wages shall have priority and
 12 precedence in the order in which notice in writing of such assign-
 13 ments shall be given to the employer, and not otherwise.

[C., '51, § 952; R., '60, § 1799; C., '73, § 2087; C., '97, § 3047;
 S., '13, § 3047.]

SEC. 5910. Assignor liable.

1 The assignor of any of the above instruments not negotiable shall
 2 be liable to the action of his assignee without notice.

[C., '51, § 956; R., '60, 1803; C., '73, § 2088; C., '97, § 3048.]

CHAPTER 5.

SURETIES.

SECTION 5911. May require creditor to sue.

1 When any person bound as surety for another for the payment
 2 of money, or the performance of any other contract in writing, appre-
 3 hends that his principal is about to become insolvent or remove per-
 4 manently from the state without discharging the contract, he may, if
 5 a cause of action has accrued thereon, by writing, require the cred-
 6 itor to sue upon the same, or permit the surety to commence an action
 7 in such creditor's name and at the surety's cost.

[C., '51, § 970; R., '60, § 1819; C., '73, § 2108; C., '97,
 § 3064.]

SEC. 5912. Refusal or neglect.

1 If the creditor refuses or neglects to bring an action for ten days
 2 after request, and does not permit the surety to do so, and furnish
 3 him with a true copy of the contract or other writing therefor, and
 4 enable him to have the use of the original when requisite in such
 5 action, the surety shall be discharged.

[C., '51, § 971; R., '60, § 1820; C., '73, § 2109; C., '97,
 § 3065.]

SEC. 5913. Surety may sue.

1 When the surety commences such action, he shall give a bond
 2 to pay such costs as may be adjudged against the creditor, and the
 3 action shall be brought against all the obligors, but those joining in
 4 the request to the creditor shall make no defense thereto, but may
 5 be heard on the assessment of the damages.

[C., '51, § 972; R., '60, § 1821; C., '73, § 2110; C., '97,
 § 3066.]

SEC. 5914. Executor—official bonds.

1 The provisions of this chapter extend to the executor of a de-
 2 ceased surety and holder of the contract, but not to the official bonds
 3 of public officers, executors or guardians.

[C., '51, § 973; R., '60, § 1822; C., '73, § 2111; C., '97,
 § 3067.]

CHAPTER 6.

NEGOTIABLE INSTRUMENTS.

FORM AND INTERPRETATION.

SECTION 5915. Form of negotiable instrument.

- 1 An instrument to be negotiable must conform to the following
2 requirements:
- 3 1. It must be in writing and signed by the maker or drawer.
 - 4 2. Must contain an unconditional promise or order to pay a sum
5 certain in money.
 - 6 3. Must be payable on demand or at a fixed or determinable
7 future time.
 - 8 4. Must be payable to the order of a specified person or to bearer;
9 and,
 - 10 5. Where the instrument is addressed to a drawee, he must be
11 named or otherwise indicated therein with reasonable certainty.
- [S., '13, § 3060-a1.]

SEC. 5916. Certainty as to sum—what constitutes.

- 1 The sum payable is a sum certain within the meaning of this
2 chapter although it is to be paid:
- 3 1. With interest; or
 - 4 2. By stated installments; or
 - 5 3. By stated installments, with a provision that upon default in
6 payment of any installment, the whole shall become due; or
 - 7 4. With exchange, whether at a fixed rate or at the current rate;
8 or
 - 9 5. With costs of collection or an attorney's fee, in case payment
10 shall not be made at maturity.
- [S., '13, § 3060-a2.]

SEC. 5917. When promise is unconditional.

- 1 An unqualified order or promise to pay is unconditional within
2 the meaning of this chapter, though coupled with:
- 3 1. An indication of a particular fund out of which reimburse-
4 ment is to be made, or a particular account to be debited with the
5 amount; or
 - 6 2. A statement of the transaction which gives rise to the instru-
7 ment. But an order or promise to pay out of a particular fund is
8 not unconditional.
- [S., '13, § 3060-a3.]

SEC. 5918. Determinable future time—what constitutes.

- 1 An instrument is payable at a determinable future time, within
2 the meaning of this chapter, which is expressed to be payable:
- 3 1. At a fixed period after date or sight; or
 - 4 2. On or before a fixed or determinable future time specified
5 therein; or
 - 6 3. On or at a fixed period after the occurrence of a specified
7 event, which is certain to happen, though the time of happening be
8 uncertain.
- 9 An instrument payable upon a contingency is not negotiable, and
10 the happening of the event does not cure the defect.
- [S., '13, § 3060-a4.]

SEC. 5919. Additional provisions not affecting negotiability.

- 1 An instrument which contains an order or promise to do an act
 2 in addition to the payment of money is not negotiable. But the ne-
 3 gotiable character of an instrument otherwise negotiable is not af-
 4 fected by a provision which:
- 5 1. Authorizes the sale of collateral securities in case the instru-
 6 ment be not paid at maturity; or
 - 7 2. Authorizes a confession of judgment if the instrument be not
 8 paid at maturity; or
 - 9 3. Waives the benefit of any law intended for the advantage or
 10 protection of the obligor; or
 - 11 4. Gives the holder an election to require something to be done
 12 in lieu of payment of money.
- 13 But nothing in this section shall validate any provision or stipu-
 14 lation otherwise illegal.

[S., '13, § 3060-a5.]

SEC. 5920. Omissions—seal—particular money.

- 1 The validity and negotiable character of an instrument are not
 2 affected by the fact that:
- 3 1. It is not dated; or
 - 4 2. Does not specify the value given, or that any value has been
 5 given therefor; or
 - 6 3. Does not specify the place where it is drawn or the place
 7 where it is payable; or
 - 8 4. Bears a seal; or
 - 9 5. Designates a particular kind of current money in which pay-
 10 ment is to be made.
- 11 But nothing in this section shall alter or repeal any statute re-
 12 quiring in certain cases the nature of the consideration to be stated
 13 in the instrument.

[S., '13, § 3060-a6.]

SEC. 5921. When payable on demand.

- 1 An instrument is payable on demand:
- 2 1. Where it is expressed to be payable on demand, or at sight,
 3 or on presentation; or
 - 4 2. In which no time for payment is expressed.
- 5 Where an instrument is issued, accepted or indorsed when over-
 6 due, it is, as regards the person so issuing, accepting or indorsing
 7 it, payable on demand.

[S., '13, § 3060-a7.]

SEC. 5922. When payable to order.

- 1 The instrument is payable to order where it is drawn payable
 2 to the order of a specified person or to him or his order. It may be
 3 drawn payable to the order of:
- 4 1. A payee who is not maker, drawer or drawee; or
 - 5 2. The drawer or maker; or
 - 6 3. The drawee; or
 - 7 4. Two or more payees jointly; or
 - 8 5. One or some of several payees; or
 - 9 6. The holder of an office for the time being.

10 Where the instrument is payable to order, the payee must be
11 named or otherwise indicated therein with reasonable certainty.

[S., '13, § 3060-a8.]

SEC. 5923. When payable to bearer.

1 The instrument is payable to bearer:

2 1. When it is expressed to be so payable; or

3 2. When it is payable to a person named therein or bearer; or

4 3. When it is payable to the order of a fictitious or nonexisting
5 person, and such fact was known to the person making it so pay-
6 able; or

7 4. When the name of the payee does not purport to be the name
8 of any person; or

9 5. When the only or last indorsement is an indorsement in blank.

[S., '13, § 3060-a9.]

SEC. 5924. Terms—when sufficient.

1 The negotiable instrument need not follow the language of this
2 chapter, but any terms are sufficient which clearly indicate an inten-
3 tion to conform to the requirements thereof.

[S., '13, § 3060-a10.]

SEC. 5925. Date—presumption as to.

1 When the instrument or an acceptance or any indorsement there-
2 on is dated, such date is deemed prima facie to be the true date of
3 the making, drawing, acceptance or indorsement, as the case may be.

[S., '13, § 3060-a11.]

SEC. 5926. Antedated and postdated.

1 The instrument is not invalid for the reason only that it is ante-
2 dated or postdated, provided this is not done for an illegal or fraudu-
3 lent purpose. The person to whom an instrument so dated is delivered
4 acquires the title thereto as of the date of delivery.

[S., '13, § 3060-a12.]

SEC. 5927. When date may be inserted.

1 When an instrument expressed to be payable at a fixed period
2 after date is issued undated, or where the acceptance of an instru-
3 ment payable at a fixed period after sight is undated, any holder may
4 insert therein the true date of issue or acceptance, and the instru-
5 ment shall be payable accordingly. The insertion of a wrong date
6 does not avoid the instrument in the hands of a subsequent holder
7 in due course; but as to him, the date so inserted is to be regarded
8 as the true date.

[S., '13, § 3060-a13.]

SEC. 5928. Blanks—when may be filled.

1 Where the instrument is wanting in any material particular, the
2 person in possession thereof has a prima facie authority to complete
3 it by filling up the blanks therein. And a signature on a blank paper
4 delivered by the person making the signature in order that the paper
5 may be converted into a negotiable instrument operates as a prima
6 facie authority to fill it up as such for any amount. In order, how-

7 ever, that any such instrument when completed may be enforced
 8 against any person who became a party thereto prior to its comple-
 9 tion, it must be filled up strictly in accordance with the authority given
 10 and within a reasonable time. But if any such instrument, after
 11 completion, is negotiated to a holder in due course it is valid and effec-
 12 tual for all purposes in his hands, and he may enforce it as if it had
 13 been filled up strictly in accordance with the authority given and
 14 within a reasonable time.

[S., '13, § 3060-a14.]

SEC. 5929. Incomplete instrument not delivered.

1 Where an incomplete instrument has not been delivered it will
 2 not, if completed and negotiated, without authority, be a valid con-
 3 tract in the hands of any holder, as against any person whose signa-
 4 ture was placed thereon before delivery.

[S., '13, § 3060-a15.]

SEC. 5930. Delivery—when effectual—when presumed.

1 Every contract on a negotiable instrument is incomplete and re-
 2 vocable until delivery of the instrument for the purpose of giving
 3 effect thereto. As between immediate parties, and as regards a re-
 4 mote party other than a holder in due course, the delivery, in order
 5 to be effectual, must be made either by or under the authority of the
 6 party making, drawing, accepting or indorsing, as the case may be;
 7 and in such case the delivery may be shown to have been conditional
 8 or for a special purpose only, and not for the purpose of transferring
 9 the property in the instrument. But where the instrument is in the
 10 hands of a holder in due course, a valid delivery thereof by all parties
 11 prior to him so as to make them liable to him, is conclusively presumed.
 12 And where the instrument is no longer in the possession of a party
 13 whose signature appears thereon, a valid and intentional delivery by
 14 him is presumed until the contrary is proved.

[S., '13, § 3060-a16.]

SEC. 5931. Construction where instrument is ambiguous.

1 Where the language of the instrument is ambiguous, or there are
 2 omissions therein, the following rules of construction apply:
 3 1. Where the sum payable is expressed in words and also in fig-
 4 ures and there is a discrepancy between the two, the sum denoted by
 5 the words is the sum payable; but if the words are ambiguous or un-
 6 certain, references may be had to the figures to fix the amount.
 7 2. Where the instrument provides for the payment of interest,
 8 without specifying the date from which interest is to run, the interest
 9 runs from the date of the instrument, and if the instrument is un-
 10 dated, from the issue thereof.
 11 3. Where the instrument is not dated, it will be considered to be
 12 dated as of the time it was issued.
 13 4. Where there is conflict between the written and printed pro-
 14 visions of the instrument, the written provisions prevail.
 15 5. Where the instrument is so ambiguous that there is doubt
 16 whether it is a bill or a note, the holder may treat it as either, at his
 17 election.
 18 6. Where a signature is so placed upon the instrument that it is
 19 not clear in what capacity the person making the same intended to
 20 sign, he is to be deemed an indorser.

21 7. Where an instrument containing the words "I promise to pay,"
22 is signed by two or more persons, they are deemed to be jointly and
23 severally liable thereon.

[S., '13, § 3060-a17.]

SEC. 5932. Liability of person signing in trade or assumed name.

1 No person is liable on the instrument whose signature does not
2 appear thereon, except as herein otherwise expressly provided. But
3 one who signs in a trade or assumed name will be liable to the same
4 extent as if he had signed in his own name.

[S., '13, § 3060-a18.]

SEC. 5933. Signature by agent—authority—how shown.

1 The signature of any party may be made by a duly authorized
2 agent. No particular form of appointment is necessary for this pur-
3 pose; and the authority of the agent may be established as in other
4 cases of agency.

[S., '13, § 3060-a19.]

SEC. 5934. Liability of person signing as agent.

1 Where the instrument contains, or a person adds to his signature,
2 words indicating that he signs for or on behalf of the principal, or in
3 a representative capacity, he is not liable on the instrument if he
4 was duly authorized; but the mere addition of words describing him
5 as an agent, or as filling a representative character without disclos-
6 ing his principal, does not exempt him from personal liability.

[S., '13, § 3060-a20.]

SEC. 5935. Signature by procuration—effect of.

1 A signature by "procuration" operates as notice that the agent
2 has but a limited authority to sign, and the principal is bound only
3 in case the agent in so signing acted within the actual limits of his
4 authority.

[S., '13, § 3060-a21.]

SEC. 5936. Effect of indorsement by infant or corporation.

1 The indorsement or assignment of the instrument by a corpora-
2 tion or by an infant passes the property therein, notwithstanding that
3 from want of capacity the corporation or infant may incur no liabil-
4 ity thereon.

[S., '13, § 3060-a22.]

SEC. 5937. Forged signature—effect of.

1 Where a signature is forged or made without the authority of the
2 person whose signature it purports to be, it is wholly inoperative, and
3 no right to retain the instrument, or to give a discharge therefor, or
4 to enforce payment thereof against any party thereto, can be acquired
5 through or under such signature, unless the party against whom it
6 is sought to enforce such right is precluded from setting up the forgery
7 or want of authority.

[S., '13, § 3060-a23.]

CONSIDERATION OF NEGOTIABLE INSTRUMENTS.

SEC. 5938. Presumption of consideration.

1 Every negotiable instrument is deemed prima facie to have been
 2 issued for a valuable consideration, and every person whose signature
 3 appears thereon to have become a party thereto for value.
 [S., '13, § 3060-a24.]

SEC. 5939. Consideration—what constitutes.

1 Value is any consideration sufficient to support a simple contract.
 2 An antecedent or preexisting debt constitutes value, and is deemed
 3 such, whether the instrument is payable on demand or at a future time.
 [S., '13, § 3060-a25.]

SEC. 5940. What constitutes holder for value.

1 Where value has at any time been given for the instrument, the
 2 holder is deemed a holder for value in respect to all parties who be-
 3 came such prior to that time.
 [S., '13, § 3060-a26.]

SEC. 5941. When lien on instrument constitutes holder for value.

1 Where the holder has a lien on the instrument, arising either
 2 from contract or by implication of law, he is deemed a holder for
 3 value to the extent of his lien.
 [S., '13, § 3060-a27.]

SEC. 5942. Effect of want of consideration.

1 Absence or failure of consideration is matter of defense as against
 2 any person not a holder in due course, and partial failure of considera-
 3 tion is a defense pro tanto, whether the failure is an ascertained and
 4 liquidated amount or otherwise.
 [S., '13, § 3060-a28.]

SEC. 5943. Liability of accommodation party.

1 An accommodation party is one who has signed the instrument
 2 as maker, drawer, acceptor, or indorser, without receiving value there-
 3 for, and for the purpose of lending his name to some other person.
 4 Such a person is liable on the instrument to a holder for value, not-
 5 withstanding such holder at the time of taking the instrument knew
 6 him to be only an accommodation party.
 [S., '13, § 3060-a29.]

NEGOTIATION.

SEC. 5944. What constitutes negotiation.

1 An instrument is negotiated when it is transferred from one per-
 2 son to another in such manner as to constitute the transferee the
 3 holder thereof. If payable to bearer, it is negotiated by delivery; if
 4 payable to order, it is negotiated by the indorsement of the holder,
 5 completed by delivery.
 [S., '13, § 3060-a30.]

SEC. 5945. Indorsement—how made.

1 The indorsement must be written on the instrument itself or
 2 upon a paper attached thereto. The signature of the indorser, with-
 3 out additional words, is a sufficient indorsement.

[S., '13, § 3060-a31.]

SEC. 5946. Indorsement must be of entire instrument.

1 The indorsement must be an indorsement of the entire instru-
 2 ment. An indorsement which purports to transfer to the indorsee
 3 a part only of the amount payable, or which purports to transfer the
 4 instrument to two or more indorsees severally, does not operate as a
 5 negotiation of the instrument. But where the instrument has been
 6 paid in part, it may be indorsed as to the residue.

[S., '13, § 3060-a32.]

SEC. 5947. Kinds of indorsement.

1 An indorsement may be either in blank or special; and it may
 2 also be either restrictive or qualified, or conditional.

[S., '13, § 3060-a33.]

SEC. 5948. Special indorsement—indorsement in blank.

1 A special indorsement specifies the person to whom or to whose
 2 order the instrument is to be payable; and the indorsement of such
 3 indorsee is necessary to the further negotiation of the instrument.
 4 An indorsement in blank specifies no indorsee, and an instrument so
 5 indorsed is payable to bearer, and may be negotiated by delivery.

[S., '13, § 3060-a34.]

SEC. 5949. Blank indorsement—how changed to special indorsement.

1 The holder may convert a blank indorsement into a special in-
 2 dorsement by writing over the signature of the indorser in blank any
 3 contract consistent with the character of the indorsement.

[S., '13, § 3060-a35.]

SEC. 5950. When indorsement restrictive.

1 An indorsement is restrictive which either:
 2 1. Prohibits the further negotiation of the instrument; or
 3 2. Constitutes the indorsee the agent of the indorser; or
 4 3. Vests the title in the indorsee in trust for or to the use of some
 5 other person. But the mere absence of words implying power to
 6 negotiate does not make an indorsement restrictive.

[S., '13, § 3060-a36.]

SEC. 5951. Effect of restrictive indorsement—rights of indorsee.

1 A restrictive indorsement confers upon the indorsee the right:
 2 1. To receive payment of the instrument.
 3 2. To bring any action thereon that the indorser could bring.
 4 3. To transfer his rights as such indorsee, where the form of the
 5 indorsement authorizes him to do so.

6 But all subsequent indorsees acquire only the title of the first
 7 indorsee under the restrictive indorsement.

[S., '13, § 3060-a37.]

SEC. 5952. Qualified indorsement.

1 A qualified indorsement constitutes the indorser a mere assignor
2 of the title to the instrument. It may be made by adding to the in-
3 dorser's signature the words "without recourse" or any words of
4 similar import. Such an indorsement does not impair the negotiable
5 character of the instrument.

[S., '13, § 3060-a38.]

SEC. 5953. Conditional indorsement.

1 Where an indorsement is conditional, a party required to pay the
2 instrument may disregard the condition, and make payment to the
3 indorsee or his transferee, whether the conditions have been fulfilled
4 or not. But any person to whom an instrument so indorsed is ne-
5 gotiated, will hold the same, or the proceeds thereof, subject to the
6 rights of the person indorsing conditionally.

[S., '13, § 3060-a39.]

SEC. 5954. Indorsement of instrument payable to bearer.

1 Where an instrument, payable to bearer, is indorsed specially, it
2 may nevertheless be further negotiated by delivery; but the person
3 indorsing specially is liable as indorser to only such holders as make
4 title through his indorsement.

[S., '13, § 3060-a40.]

SEC. 5955. Indorsement where payable to two or more persons.

1 Where an instrument is payable to the order of two or more pay-
2 ees or indorsees who are not partners, all must indorse unless the one
3 indorsing has authority to indorse for the others.

[S., '13, § 3060-a41.]

SEC. 5956. Effect of instrument drawn or indorsed to a person as cashier.

1 Where an instrument is drawn or indorsed to a person, as "cash-
2 ier" or other fiscal officer of a bank or corporation, it is deemed prima
3 facie to be payable to the bank or corporation of which he is such
4 officer; and may be negotiated by either the indorsement of the bank
5 or corporation, or the indorsement of the officer.

[S., '13, § 3060-a42.]

SEC. 5957. Indorsement where name is misspelled.

1 Where the name of a payee or indorsee is wrongly designated or
2 misspelled, he may indorse the instrument as therein described add-
3 ing, if he thinks fit, his proper signature.

[S., '13, § 3060-a43.]

SEC. 5958. Indorsement in representative capacity.

1 Where any person is under obligation to indorse in a representa-
2 tive capacity, he may indorse in such terms as to negative personal
3 liability.

[S., '13, § 3060-a44.]

SEC. 5959. Time of indorsement—presumption.

1 Except where an indorsement bears date after the maturity of
2 the instrument, every negotiation is deemed prima facie to have been
3 effected before the instrument was overdue.

[S., '13, § 3060-a45.]

SEC. 5960. Place of indorsement—presumption.

1 Except where the contrary appears every indorsement is pre-
2 sumed prima facie to have been made at the place where the instru-
3 ment is dated.

[S., '13, § 3060-a46.]

SEC. 5961. Continuation of negotiable character.

1 An instrument negotiable in its origin continues to be negotiable
2 until it has been restrictively indorsed or discharged by payment or
3 otherwise.

[S., '13, § 3060-a47.]

SEC. 5962. Striking out indorsement.

1 The owner may at any time strike out any indorsement which
2 is not necessary to his title. The indorser whose indorsement is
3 struck out, and all indorsers subsequent to him, are thereby relieved
4 from liability on the instrument.

[S., '13, § 3060-a48.]

SEC. 5963. Transfer without indorsement—effect of.

1 Where the holder of an instrument payable to his order transfers
2 it for value without indorsing it, the transfer vests in the transferee
3 such title as the transferor had therein, and the transferee acquires,
4 in addition, the right to have the indorsement of the transferor. But
5 for the purpose of determining whether the transferee is a holder in
6 due course, the negotiation takes effect as of the time when the in-
7 dorsement is actually made.

[S., '13, § 3060-a49.]

SEC. 5964. When prior party may negotiate instrument.

1 Where an instrument is negotiated back to a prior party, such
2 party may, subject to the provisions of this chapter, reissue and fur-
3 ther negotiate the same, but he is not entitled to enforce payment
4 thereof against any intervening party to whom he was personally
5 liable.

[S., '13, § 3060-a50.]

RIGHTS OF HOLDER.**SEC. 5965. Right of holder to sue—payment.**

1 The holder of a negotiable instrument may sue thereon in his
2 own name and payment to him in due course discharges the instru-
3 ment.

[S., '13, § 3060-a51.]

SEC. 5966. What constitutes a holder in due course.

1 A holder in due course is a holder who has taken the instrument
2 under the following conditions:

- 3 1. That the instrument is complete and regular upon its face.
4 2. That he became the holder of it before it was overdue, and
5 without notice that it had been previously dishonored, if such was the
6 fact.
7 3. That he took it in good faith and for value.
8 4. That at the time it was negotiated to him he had no notice of
9 any infirmity in the instrument or defect in the title of the person
10 negotiating it.

[S., '13, § 3060-a52.]

SEC. 5967. When person not deemed holder in due course.

- 1 Where an instrument payable on demand is negotiated an un-
2 reasonable length of time after its issue, the holder is not deemed a
3 holder in due course.

[S., '13, § 3060-a53.]

SEC. 5968. Notice before full amount paid.

- 1 Where the transferee receives notice of any infirmity in the in-
2 strument or defect in the title of the person negotiating the same
3 before he has paid the full amount agreed to be paid therefor, he
4 will be deemed a holder in due course only to the extent of the amount
5 theretofore paid by him.

[S., '13, § 3060-a54.]

SEC. 5969. When title defective.

- 1 The title of a person who negotiates an instrument is defective
2 within the meaning of this chapter when he obtained the instrument,
3 or any signature thereto, by fraud, duress, or force and fear, or other
4 unlawful means, or for an illegal consideration, or when he negotiates
5 it in breach of faith, or under such circumstances as amount to a fraud.

[S., '13, § 3060-a55.]

SEC. 5970. What constitutes notice of defect.

- 1 To constitute notice of an infirmity in the instrument or defect
2 in the title of the person negotiating the same, the person to whom
3 it is negotiated must have had actual knowledge of the infirmity or
4 defect, or knowledge of such facts that his action in taking the instru-
5 ment amounted to bad faith.

[S., '13, § 3060-a56.]

SEC. 5971. Rights of holder in due course.

- 1 A holder in due course holds the instrument free from any defect
2 of title of prior parties, and free from defenses available to prior
3 parties among themselves, and may enforce payment of the instru-
4 ment for the full amount thereof against all parties liable thereon.

[S., '13, § 3060-a57.]

SEC. 5972. When subject to original defenses.

- 1 In the hands of any holder other than a holder in due course, a
2 negotiable instrument is subject to the same defenses as if it were
3 nonnegotiable. But a holder who derives his title through a holder
4 in due course, and who is not himself a party to any fraud or illegality

5 affecting the instrument, has all the rights of such former holder in
6 respect of all parties prior to the latter.

[S., '13, § 3060-a58.]

SEC. 5973. Who deemed holder in due course.

1 Every holder is deemed prima facie to be a holder in due course;
2 but when it is shown that the title of any person who has negotiated
3 the instrument was defective, the burden is on the holder to prove
4 that he or some person under whom he claims acquired the title as a
5 holder in due course. But the last mentioned rule does not apply in
6 favor of a party who became bound on the instrument prior to the
7 acquisition of such defective title.

[S., '13, § 3060-a59.]

LIABILITIES OF PARTIES.

SEC. 5974. Liability of maker.

1 The maker of a negotiable instrument by making it engages that
2 he will pay it according to its tenor, and admits the existence of the
3 payee and his then capacity to endorse.

[S., '13, § 3060-a60.]

SEC. 5975. Liability of drawer.

1 The drawer by drawing the instrument admits the existence of
2 the payee and his then capacity to indorse, and engages that on due
3 presentment the instrument will be accepted or paid, or both, accord-
4 ing to its tenor, and that if it be dishonored, and the necessary pro-
5 ceedings on dishonor be duly taken, he will pay the amount thereof to
6 the holder, or to any subsequent indorser who may be compelled to
7 pay it. But the drawer may insert in the instrument an express
8 stipulation negating or limiting his own liability to the holder.

[S., '13, § 3060-a61.]

SEC. 5976. Liability of acceptor.

1 The acceptor by accepting the instrument engages that he will
2 pay it according to the tenor of his acceptance, and admits:
3 1. The existence of the drawer, the genuineness of his signature,
4 and his capacity and authority to draw the instrument; and
5 2. The existence of the payee and his then capacity to indorse.

[S., '13, § 3060-a62.]

SEC. 5977. When person deemed indorser.

1 A person placing his signature upon an instrument otherwise
2 than as maker, drawer or acceptor is deemed to be an indorser, unless
3 he clearly indicates by appropriate words his intention to be bound
4 in some other capacity.

[S., '13, § 3060-a63.]

SEC. 5978. Liability of irregular indorser.

1 Where a person, not otherwise a party to an instrument, places
2 thereon his signature in blank before delivery, he is liable as indorser
3 in accordance with the following rules:

4 1. If the instrument is payable to the order of a third person,
5 he is liable to the payee and to all subsequent parties.

6 2. If the instrument is payable to the order of the maker or
7 drawer, or is payable to bearer, he is liable to all parties subsequent
8 to the maker or drawer.

9 3. If he signs for the accommodation of the payee, he is liable
10 to all parties subsequent to the payee.

[S., '13, § 3060-a64.]

SEC. 5979. Warranty where negotiation by delivery.

1 Every person negotiating an instrument by delivery or by a quali-
2 fied indorsement, warrants:

3 1. That the instrument is genuine and in all respects what it pur-
4 ports to be.

5 2. That he has a good title to it.

6 3. That all prior parties had capacity to contract.

7 4. That he has no knowledge of any fact which would impair the
8 validity of the instrument or render it valueless.

9 But when the negotiation is by delivery only, the warranty ex-
10 tends in favor of no holder other than the immediate transferee. The
11 provisions of subdivision three of this section do not apply to persons
12 negotiating public or corporate securities, other than bills and notes.

[S., '13, § 3060-a65.]

SEC. 5980. Liability of general indorser.

1 Every indorser who indorses without qualification, warrants to
2 all subsequent holders in due course:

3 1. The matters and things mentioned in subdivisions one, two and
4 three of the next preceding section; and

5 2. That the instrument is at the time of his indorsement valid
6 and subsisting. And, in addition, he engages that on due present-
7 ment, it shall be accepted or paid, or both, as the case may be, accord-
8 ing to its tenor, and that if it be dishonored, and the necessary pro-
9 ceedings on dishonor be duly taken, he will pay the amount thereof
10 to the holder, or to any subsequent indorser who may be compelled to
11 pay it.

[S., '13, § 3060-a66.]

**SEC. 5981. Liability of indorser where paper negotiable by de-
livery.**

1 Where a person places his indorsement on an instrument nego-
2 tiable by delivery he incurs all the liabilities of an indorser.

[S., '13, § 3060-a67.]

SEC. 5982. Order in which indorsers are liable.

1 As respects one another, indorsers are liable prima facie in the
2 order in which they indorse; but evidence is admissible to show that
3 as between or among themselves they have agreed otherwise. Joint
4 payees or joint indorsees who indorse are deemed to indorse jointly
5 and severally.

[S., '13, § 3060-a68.]

SEC. 5983. Liability of agent or broker.

1 Where a broker or other agent negotiates an instrument without
2 indorsement, he incurs all the liabilities prescribed by section fifty-

3 nine hundred seventy-nine, unless he discloses the name of his prin-
4 cipal, and the fact that he is acting only as agent.

[S., '13, § 3060-a69.]

PRESENTMENT FOR PAYMENT.

SEC. 5984. Effect of want of demand on principal debtor.

1 Presentment for payment is not necessary in order to charge the
2 person primarily on the instrument; but if the instrument is, by its
3 terms, payable at a special place, and he is able and willing to pay it
4 there at maturity, such ability and willingness are equivalent to a
5 tender of payment upon his part. But, except as herein otherwise
6 provided, presentment for payment is necessary in order to charge
7 the drawer and indorsers.

[S., '13, § 3060-a70.]

SEC. 5985. Presentment where instrument is not payable on demand.

1 Where the instrument is not payable on demand, presentment
2 must be made on the day it falls due. Where it is payable on demand,
3 presentment must be made within a reasonable time after its issue,
4 except that in the case of a bill of exchange, presentment for payment
5 will be sufficient if made within a reasonable time after the last ne-
6 gotiation thereof.

[S., '13, § 3060-a71.]

SEC. 5986. What constitutes a sufficient presentment.

1 Presentment for payment, to be sufficient, must be made:
2 1. By the holder, or by some person authorized to receive pay-
3 ment on his behalf.
4 2. At a reasonable hour on a business day.
5 3. At a proper place as herein defined.
6 4. To the person primarily liable on the instrument, or if he is
7 absent or inaccessible, to any person found at the place where the
8 presentment is made.

[S., '13, § 3060-a72.]

SEC. 5987. Place of presentment.

1 Presentment for payment is made at the proper place:
2 1. Where a place of payment is specified in the instrument and it
3 is there presented.
4 2. Where no place of payment is specified and the address of the
5 person to make payment is given in the instrument and it is there
6 presented.
7 3. Where no place of payment is specified and no address is given
8 and the instrument is presented at the usual place of business or resi-
9 dence of the person to make payment.
10 4. In any other case if presented to the person to make payment
11 wherever he can be found, or if presented at his last known place of
12 business or residence.

[S., '13, § 3060-a73.]

SEC. 5988. Instrument must be exhibited.

1 The instrument must be exhibited to the person from whom pay-
2 ment is demanded, and when it is paid must be delivered up to the
3 party paying it.

[S., '13, § 3060-a74.]

SEC. 5989. Presentment where instrument payable at bank.

1 Where the instrument is payable at a bank, presentment for pay-
2 ment must be made during banking hours, unless the person to make
3 payment has no funds there to meet it at any time during the day, in
4 which case presentment at any hour before the bank is closed on that
5 day is sufficient.

[S., '13, § 3060-a75.]

SEC. 5990. Presentment where principal debtor is dead.

1 Where the person primarily liable on the instrument is dead, and
2 no place of payment is specified, presentment for payment must be
3 made to his personal representative, if such there be, and if with the
4 exercise of reasonable diligence he can be found.

[S., '13, § 3060-a76.]

SEC. 5991. Presentment to persons liable as partners.

1 Where the persons primarily liable on the instrument are liable
2 as partners, and no place of payment is specified, presentment for pay-
3 ment may be made to any one of them, even though there has been a
4 dissolution of the firm.

[S., '13, § 3060-a77.]

SEC. 5992. Presentment to joint debtors.

1 Where there are several persons, not partners, primarily liable on
2 the instrument, and no place of payment is specified, presentment must
3 be made to them all.

[S., '13, § 3060-a78.]

SEC. 5993. When presentment not required to charge the drawer.

1 Presentment for payment is not required in order to charge the
2 drawer where he has no right to expect or require that the drawee
3 or acceptor will pay the instrument.

[S., '13, § 3060-a79.]

**SEC. 5994. When presentment not required to charge the in-
dorser.**

1 Presentment for payment is not required in order to charge an
2 indorser where the instrument was made or accepted for his accommo-
3 dation, and he has no reason to expect that the instrument will be
4 paid if presented.

[S., '13, § 3060-a80.]

SEC. 5995. When delay in making the presentment is excused.

1 Delay in making presentment for payment is excused when the
2 delay is caused by circumstances beyond the control of the holder, and
3 not imputable to his default, misconduct or negligence. When the

4 cause of delay ceases to operate, presentment must be made with rea-
5 sonable diligence.

[S., '13, § 3060-a81.]

SEC. 5996. When presentment may be dispensed with.

1 Presentment for payment is dispensed with:
2 1. Where after the exercise of reasonable diligence presentment
3 as required by this chapter can not be made.

4 2. Where the drawee is a fictitious person.

5 3. By waiver of presentment, express or implied.

[S., '13, § 3060-a82.]

SEC. 5997. When instrument is dishonored by nonpayment.

1 The instrument is dishonored by nonpayment when:

2 1. It is duly presented for payment and payment is refused or
3 can not be obtained; or

4 2. Presentment is excused and the instrument is overdue and
5 unpaid.

[S., '13, § 3060-a83.]

**SEC. 5998. Liability of person secondarily liable, when instru-
ment is dishonored.**

1 Subject to the provisions of this chapter, when the instrument is
2 dishonored by nonpayment, an immediate right of recourse to all
3 parties secondarily liable thereon, accrues to the holder.

[S., '13, § 3060-a84.]

SEC. 5999. Holidays affecting presentation.

1 The first day of the week, called Sunday, the first day of January,
2 the twelfth day of February, the twenty-second day of February, the
3 thirtieth day of May, the fourth day of July, the first Monday in
4 September, the twenty-fifth day of December, the day of general elec-
5 tion, and any day appointed or recommended by the governor of this
6 state or by the president of the United States as a day of fasting or
7 thanksgiving, shall be regarded as holidays for all purposes relating
8 to the presentation for payment or acceptance, and for the protesting
9 and giving notice of the dishonor of bills of exchange, drafts, bank
10 checks, orders and promissory notes, and any blank or mercantile
11 paper falling due on any of the days above named shall be considered
12 as falling due on the succeeding business day.

[C., '73, § 2094; C., '97, § 3053; S., '13, § 3053.]

SEC. 6000. Time of maturity.

1 Every negotiable instrument is payable at the time fixed therein
2 without grace. When the day of maturity falls upon Sunday, or a
3 holiday, the instrument is payable on the next succeeding business
4 day. Instruments falling due on Saturday are to be presented for
5 payment on the next succeeding business day, except that instruments
6 payable on demand may, at the option of the holder, be presented for
7 payment before twelve o'clock noon on Saturday, when that entire
8 day is not a holiday.

[S., '13, § 3060-a85.]

SEC. 6001. Time—how computed.

1 Where the instrument is payable at a fixed period after date,
 2 after sight, or after the happening of a specified event, the time of
 3 payment is determined by excluding the day from which the time is
 4 to begin to run, and by including the date of payment.

[S., '13, § 3060-a86.]

SEC. 6002. Rule where instrument payable at bank.

1 Where the instrument is made payable at a bank it is equivalent
 2 to an order to the bank to pay the same for the account of the principal
 3 debtor thereon.

[S., '13, § 3060-a87.]

SEC. 6003. What constitutes payment in due course.

1 Payment is made in due course when it is made at or after ma-
 2 turity of the instrument to the holder thereof in good faith and with-
 3 out notice that his title is defective.

[S., '13, § 3060-a88.]

NOTICE OF DISHONOR.

SEC. 6004. To whom notice of dishonor must be given.

1 Except as herein otherwise provided, when a negotiable instru-
 2 ment has been dishonored by nonacceptance or nonpayment, notice of
 3 dishonor must be given to the drawer and to each indorser, and any
 4 drawer or indorser to whom such notice is not given is discharged.

[S., '13, § 3060-a89.]

SEC. 6005. By whom given.

1 The notice may be given by or on behalf of the holder, or by or
 2 on behalf of any party to the instrument who might be compelled to
 3 pay it to the holder, and who, upon taking it up, would have a right
 4 to reimbursement from the party to whom the notice is given.

[S., '13, § 3060-a90.]

SEC. 6006. Notice given by agent.

1 Notice of dishonor may be given by an agent either in his own
 2 name or in the name of any party entitled to give notice, whether that
 3 party be his principal or not.

[S., '13, § 3060-a91.]

SEC. 6007. Effect of notice given on behalf of holder.

1 Where notice is given by or on behalf of the holder, it inures for
 2 the benefit of all subsequent holders and all prior parties who have a
 3 right of recourse against the party to whom it is given.

[S., '13, § 3060-a92.]

SEC. 6008. Effect where notice is given by party entitled thereto.

1 Where notice is given by or on behalf of a party entitled to give
 2 notice, it inures for the benefit of the holder and all parties subse-
 3 quent to the party to whom the notice is given.

[S., '13, § 3060-a93.]

SEC. 6009. When agent may give notice.

1 Where the instrument has been dishonored in the hands of an
2 agent, he may either himself give notice to the parties liable thereon,
3 or he may give notice to his principal. If he gives notice to his prin-
4 cipal, he must do so within the same time as if he were the holder, and
5 the principal, upon receipt of such notice, has himself the same time
6 for giving notice as if the agent had been an independent holder.

[S., '13, § 3060-a94.]

SEC. 6010. When notice is sufficient.

1 A written notice need not be signed, and an insufficient written
2 notice may be supplemented and validated by verbal communication.
3 A misdescription of the instrument does not vitiate unless the party
4 to whom the notice is given is in fact misled thereby.

[S., '13, § 3060-a95.]

SEC. 6011. Form of notice.

1 The notice may be in writing or merely oral and may be given in
2 any terms which sufficiently identify the instrument and indicate that
3 it has been dishonored by nonacceptance or nonpayment. It may in
4 all cases be given by delivering it personally or through the mails.

[S., '13, § 3060-a96.]

SEC. 6012. To whom notice may be given.

1 Notice of dishonor may be given either to the party himself or
2 to his agent in that behalf.

[S., '13, § 3060-a97.]

SEC. 6013. Notice where party is dead.

1 Where any party is dead, and his death is known to the party
2 giving notice, the notice must be given to a personal representative, if
3 there be one, and if with reasonable diligence, he can be found. If
4 there be no personal representative, notice may be sent to the last resi-
5 dence or last place of business of the deceased.

[S., '13, § 3060-a98.]

SEC. 6014. Notice to partners.

1 Where the parties to be notified are partners, notice to any one
2 partner is notice to the firm, even though there has been a dissolution.

[S., '13, § 3060-a99.]

SEC. 6015. Notice to persons jointly liable.

1 Notice to joint parties who are not partners must be given to
2 each of them, unless one of them has authority to receive such notice
3 for the others.

[S., '13, § 3060-a100.]

SEC. 6016. Notice to bankrupt.

1 Where a party has been adjudged a bankrupt or an insolvent, or
2 has made an assignment for the benefit of creditors, notice may be
3 given either to the party himself or to his trustee or assignee.

[S., '13, § 3060-a101.]

SEC. 6017. Time within which notice must be given.

1 Notice may be given as soon as the instrument is dishonored, and
 2 unless delay is excused as hereinafter provided, must be given within
 3 the times fixed by this chapter.

[S., '13, § 3060-a102.]

SEC. 6018. Where parties reside in same place.

1 Where the person giving and the person to receive notice reside
 2 in same place, notice must be given within the following times:

3 1. If given at the place of business of the person to receive notice,
 4 it must be given before the close of business hours on the day fol-
 5 lowing.

6 2. If given at his residence, it must be given before the usual
 7 hours of rest on the day following.

8 3. If sent by mail, it must be deposited in the postoffice in time to
 9 reach him in the usual course on the day following.

[S., '13, § 3060-a103.]

SEC. 6019. Where parties reside in different places.

1 Where the person giving and the person to receive notice reside
 2 in different places, the notice must be given within the following times:

3 1. If sent by mail, it must be deposited in the postoffice in time to
 4 go by mail the day following the day of dishonor, or if there be no mail
 5 at a convenient hour on that day, by the next mail thereafter.

6 2. If given otherwise than through the postoffice, then within the
 7 time that notice would have been received in due course of mail, if it
 8 had been deposited in the postoffice within the time specified in the
 9 last subdivision.

[S., '13, § 3060-a104.]

SEC. 6020. When sender deemed to have given due notice.

1 Where notice of dishonor is duly addressed and deposited in the
 2 postoffice, the sender is deemed to have given due notice, notwith-
 3 standing any miscarriage in the mails.

[S., '13, § 3060-a105.]

SEC. 6021. Deposit in postoffice—what constitutes.

1 Notice is deemed to have been deposited in the postoffice when
 2 deposited in any branch postoffice or in any letter box under the con-
 3 trol of the postoffice department.

[S., '13, § 3060-a106.]

SEC. 6022. Notice to antecedent party—time of.

1 Where a party receives notice of dishonor, he has, after the receipt
 2 of such notice, the same time for giving notice to antecedent parties
 3 that the holder has after the dishonor.

[S., '13, § 3060-a107.]

SEC. 6023. Where notice must be sent.

1 Where a party has added an address to his signature, notice of
 2 dishonor must be sent to that address; but if he has not given such
 3 address, then the notice must be sent as follows:

- 4 1. Either to the postoffice nearest to his place of residence, or to
5 the postoffice where he is accustomed to receive his letters; or
6 2. If he lives in one place, and have his place of business in an-
7 other, notice may be sent to either place; or
8 3. If he is sojourning in another place, notice may be sent to the
9 place where he is sojourning. But where the notice is actually re-
10 ceived by the party within the time specified in this chapter, it will
11 be sufficient, though not sent in accordance with the requirements of
12 this section.

[S., '13, § 3060-a108.]

SEC. 6024. Waiver of notice.

- 1 Notice of dishonor may be waived, either before the time of giv-
2 ing notice has arrived, or after the omission to give due notice, and
3 the waiver may be express or implied.

[S., '13, § 3060-a109.]

SEC. 6025. Whom affected by waiver.

- 1 Where the waiver is embodied in the instrument itself, it is bind-
2 ing upon all parties; but where it is written above the signature of an
3 indorser, it binds him only.

[S., '13, § 3060-a110.]

SEC. 6026. Waiver of protest.

- 1 A waiver of protest, whether in the case of a foreign bill of ex-
2 change or other negotiable instrument, is deemed to be a waiver not
3 only of a formal protest, but also of a presentment and notice of dis-
4 honor.

[S., '13, § 3060-a111.]

SEC. 6027. When notice is dispensed with.

- 1 Notice of dishonor is dispensed with when, after the exercise of
2 reasonable diligence, it can not be given to or does not reach the
3 parties sought to be charged.

[S., '13, § 3060-a112.]

SEC. 6028. Delay in giving notice—how excused.

- 1 Delay in giving notice of dishonor is excused when the delay is
2 caused by circumstances beyond the control of the holder and not
3 imputable to his default, misconduct or negligence. When the cause
4 of delay ceases to operate, notice must be given with reasonable dili-
5 gence.

[S., '13, § 3060-a113.]

SEC. 6029. When notice need not be given to drawer.

- 1 Notice of dishonor is not required to be given to the drawer in
2 either of the following cases:
3 1. Where the drawer and drawee are the same person.
4 2. Where the drawee is a fictitious person or a person not having
5 capacity to contract.
6 3. Where the drawer is the person to whom the instrument is pre-
7 sented for payment.

- 8 4. Where the drawer has no right to expect or require that the
 9 drawee or acceptor will honor the instrument.
 10 5. Where the drawer has countermanded payment.
 [S., '13, § 3060-a114.]

SEC. 6030. When notice need not be given to indorser.

- 1 Notice of dishonor is not required to be given to an indorser in
 2 either of the following cases:
 3 1. Where the drawee is a fictitious person or a person not having
 4 capacity to contract and the indorser was aware of the fact at the
 5 time he indorsed the instrument.
 6 2. Where the indorser is the person to whom the instrument is
 7 presented for payment.
 8 3. Where the instrument was made or accepted for his accom-
 9 modation.

[S., '13, § 3060-a115.]

SEC. 6031. Notice of nonpayment where acceptance refused.

- 1 Where due notice of dishonor by nonacceptance has been given,
 2 notice of a subsequent dishonor by nonpayment is not necessary,
 3 unless in the meantime the instrument has been accepted.

[S., '13, § 3060-a116.]

SEC. 6032. Effect of omission to give notice of nonacceptance.

- 1 An omission to give notice of dishonor by nonacceptance does
 2 not prejudice the rights of a holder in due course subsequent to the
 3 omission.

[S., '13, § 3060-a117.]

SEC. 6033. When protest need not be made—when must be made.

- 1 Where any negotiable instrument has been dishonored it may
 2 be protested for nonacceptance or nonpayment as the case may be;
 3 but protest is not required, except in the case of foreign bills of
 4 exchange.

[S., '13, § 3060-a118.]

DISCHARGE OF NEGOTIABLE INSTRUMENTS.

SEC. 6034. How instrument discharged.

- 1 A negotiable instrument is discharged:
 2 1. By payment in due course by or on behalf of the principal
 3 debtor.
 4 2. By payment in due course by the party accommodated, where
 5 the instrument is made or accepted for accommodation.
 6 3. By the intentional cancellation thereof by the holder.
 7 4. By any other act which will discharge a simple contract for
 8 the payment of money.
 9 5. When the principal debtor becomes the holder of the instru-
 10 ment at or after maturity in his own right.

[S., '13, § 3060-a119.]

SEC. 6035. When persons secondarily liable on—discharged.

- 1 A person secondarily liable on the instrument is discharged:
 2 1. By an act which discharges the instrument.
 3 2. By the intentional cancellation of his signature by the holder.

- 4 3. By the discharge of a prior party.
 5 4. By the valid tender of payment made by a prior party.
 6 5. By a release of the principal debtor, unless the holder's right
 7 of recourse against the party secondarily liable is expressly reserved.
 8 6. By an agreement binding upon the holder to extend the time of
 9 payment, or to postpone the holder's right to enforce the instrument,
 10 unless made with the assent of the party secondarily liable, or unless
 11 the right of recourse against such party is expressly reserved.
 [S. S., '15, § 3060-a120.]

SEC. 6036. Right of party who discharges instrument.

- 1 Where the instrument is paid by a party secondarily liable
 2 thereon, it is not discharged; but the party so paying it is remitted to
 3 his former rights as regards all prior parties, and he may strike out
 4 his own and all subsequent indorsements, and again negotiate the
 5 instrument, except:
 6 1. Where it is payable to the order of a third person, and has been
 7 paid by the drawer; and
 8 2. Where it was made or accepted for accommodation, and has
 9 been paid by the party accommodated.
 [S., '13, § 3060-a121.]

SEC. 6037. Renunciation by holder.

- 1 The holder may expressly renounce his rights against any party
 2 to the instrument before, at or after its maturity. An absolute and
 3 unconditional renunciation of his rights against the principal debtor
 4 made at or after the maturity of the instrument discharges the instru-
 5 ment. But a renunciation does not affect the rights of a holder in
 6 due course without notice. A renunciation must be in writing, unless
 7 the instrument is delivered up to the person primarily liable thereon.
 [S., '13, § 3060-a122.]

SEC. 6038. Cancellation—unintentional—burden of proof.

- 1 A cancellation made unintentionally, or under a mistake, or with-
 2 out the authority of the holder, is inoperative; but where an instru-
 3 ment or any signature thereon appears to have been canceled, the
 4 burden of proof lies on the party who alleges that the cancellation was
 5 made unintentionally, or under a mistake or without authority.
 [S., '13, § 3060-a123.]

SEC. 6039. Alteration of instrument—effect of.

- 1 Where a negotiable instrument is materially altered without the
 2 assent of all parties liable thereon, it is avoided, except as against a
 3 party who has himself made, authorized or assented to the alteration
 4 and subsequent indorsers. But when an instrument has been mate-
 5 rially altered and is in the hands of a holder in due course, not a
 6 party to the alteration, he may enforce payment thereof according to
 7 its original tenor.
 [S., '13, § 3060-a124.]

SEC. 6040. What constitutes a material alteration.

- 1 Any alteration which changes:
 2 1. The date;

- 3 2. The sum payable, either for principal or interest;
 4 3. The time or place of payment;
 5 4. The number or the relations of the parties;
 6 5. The medium or currency in which payment is to be made;
 7 Or which adds a place of payment where no place of payment is
 8 specified, or any other change or addition which alters the effect of
 9 the instrument in any respect, is a material alteration.
 [S., '13, § 3060-a125.]

BILLS OF EXCHANGE—FORM AND INTERPRETATION.

SEC. 6041. Bill of exchange defined.

- 1 A bill of exchange is an unconditional order in writing addressed
 2 by one person to another, signed by the person giving it, requiring the
 3 person to whom it is addressed to pay on demand, or at a fixed or
 4 determinable future time, a sum certain in money to order or to bearer.
 [S., '13, § 3060-a126.]

SEC. 6042. Bill not an assignment of funds in hands of drawee.

- 1 A bill of itself does not operate as an assignment of the funds in
 2 the hands of the drawee available for the payment thereof, and the
 3 drawee is not liable on the bill unless and until he accepts the same.
 [S., '13, § 3060-a127.]

SEC. 6043. Bill addressed to more than one drawee.

- 1 A bill may be addressed to two or more drawees jointly, whether
 2 they are partners or not; but not to two or more drawees in the alter-
 3 native or in succession.
 [S., '13, § 3060-a128.]

SEC. 6044. Inland and foreign bills of exchange.

- 1 An inland bill of exchange is a bill which is, or on its face pur-
 2 ports to be, both drawn and payable within this state. Any other bill
 3 is a foreign bill. Unless the contrary appears on the face of the bill,
 4 the holder may treat it as an inland bill.
 [S., '13, § 3060-a129.]

SEC. 6045. When bill may be treated as promissory note.

- 1 Where in a bill the drawer and drawee are the same person, or
 2 where the drawee is a fictitious person, or a person not having capacity
 3 to contract the holder may treat the instrument, at his option, either
 4 as a bill of exchange or a promissory note.
 [S., '13, § 3060-a130.]

SEC. 6046. Referee in case of need.

- 1 The drawer of a bill and any indorser may insert thereon the
 2 name of a person to whom the holder may resort in case of need, that
 3 is to say, in case the bill is dishonored by nonacceptance or non-
 4 payment. Such person is called the referee in case of need. It is in
 5 the option of the holder to resort to the referee in case of need or not,
 6 as he may see fit.
 [S., '13, § 3060-a131.]

ACCEPTANCE OF BILLS OF EXCHANGE.

SEC. 6047. Acceptance—how made.

1 The acceptance of a bill is the signification by the drawee of his
 2 assent to the order of the drawer. The acceptance must be in writing
 3 and signed by the drawee. It must not express that the drawee will
 4 perform his promise by any other means than the payment of money.
 [S., '13, § 3060-a132.]

SEC. 6048. Holder entitled to acceptance on face of bill.

1 The holder of a bill presenting the same for acceptance may
 2 require that the acceptance be written on the bill, and if such request
 3 is refused, may treat the bill as dishonored.
 [S., '13, § 3060-a133.]

SEC. 6049. Acceptance by separate instrument.

1 Where an acceptance is written on a paper other than the bill
 2 itself, it does not bind the acceptor except in favor of a person to
 3 whom it is shown and who, on the faith thereof, receives the bill for
 4 value.
 [S., '13, § 3060-a134.]

SEC. 6050. Promise to accept—when equivalent to acceptance.

1 An unconditional promise in writing to accept a bill before it is
 2 drawn is deemed an actual acceptance in favor of every person who,
 3 upon the faith thereof, receives the bill for value.
 [S., '13, § 3060-a135.]

SEC. 6051. Time allowed drawee to accept.

1 The drawee is allowed twenty-four hours after presentment in
 2 which to decide whether or not he will accept the bill; but the accept-
 3 ance, if given, dates as of the day of presentation.
 [S., '13, § 3060-a136.]

SEC. 6052. Liability of drawee retaining or destroying bill.

1 Where a drawee to whom a bill is delivered for acceptance de-
 2 stroys the same, or refuses within twenty-four hours after such deliv-
 3 ery, or within such other period as the holder may allow, to return the
 4 bill accepted or nonaccepted to the holder, he will be deemed to have
 5 accepted the same.
 [S., '13, § 3060-a137.]

SEC. 6053. Acceptance of incomplete bill.

1 A bill may be accepted before it has been signed by the drawer, or
 2 while otherwise incomplete, or when it is overdue, or after it has been
 3 dishonored by a previous refusal to accept, or by nonpayment. But
 4 when a bill payable after sight is dishonored by nonacceptance and the
 5 drawee subsequently accepts it, the holder, in the absence of any
 6 different agreement, is entitled to have the bill accepted as of the date
 7 of the first presentment.
 [S., '13, § 3060-a138.]

SEC. 6054. Kinds of acceptance.

1 An acceptance is either general or qualified. A general acceptance
 2 assents without qualification to the order of the drawer. A qualified
 3 acceptance in express terms varies the effect of the bill as drawn.
 [S., '13, § 3060-a139.]

SEC. 6055. What constitutes a general acceptance.

1 An acceptance to pay at a particular place is a general acceptance
 2 unless it expressly states that the bill is to be paid there only and not
 3 elsewhere.
 [S., '13, § 3060-a140.]

SEC. 6056. Qualified acceptance.

1 An acceptance is qualified, which is:
 2 1. Conditional, that is to say, which makes payment by the ac-
 3 ceptor dependent on the fulfillment of a condition therein stated.
 4 2. Partial, that is to say, an acceptance to pay part only of the
 5 amount for which the bill is drawn.
 6 3. Local, that is to say, an acceptance to pay only at a particular
 7 place.
 8 4. Qualified as to time.
 9 5. The acceptance of some one or more of the drawees, but not
 10 of all.
 [S., '13, § 3060-a141.]

SEC. 6057. Rights of parties to qualified acceptance.

1 The holder may refuse to take a qualified acceptance, and if he
 2 does not obtain an unqualified acceptance, he may treat the bill as dis-
 3 honored by nonacceptance. Where a qualified acceptance is taken, the
 4 drawer and indorsers are discharged from liability on the bill, unless
 5 they have expressly or impliedly authorized the holder to take a quali-
 6 fied acceptance, or subsequently assent thereto. When the drawer or
 7 an indorser receives notices of a qualified acceptance, he must within a
 8 reasonable time express his dissent to the holder, or he will be deemed
 9 to have assented thereto.
 [S., '13, § 3060-a142.]

PRESENTMENT OF BILLS OF EXCHANGE FOR ACCEPTANCE.

SEC. 6058. When presentment for acceptance must be made.

1 Presentment for acceptance must be made:
 2 1. When the bill is payable after sight, or in any other case where
 3 presentment for acceptance is necessary in order to fix the maturity
 4 of the instrument; or
 5 2. Where the bill expressly stipulates that it shall be presented
 6 for acceptance; or
 7 3. Where the bill is drawn payable elsewhere than at the resi-
 8 dence or place of business of the drawee.
 9 In no other case is presentment for acceptance necessary in order
 10 to render any party to the bill liable.
 [S., '13, § 3060-a143.]

SEC. 6059. When failure to present releases drawer and indorser.

1 Except as herein otherwise provided, the holder of a bill which is
 2 required by the next preceding section to be presented for acceptance

3 must either present it for acceptance or negotiate it within a reason-
4 able time. If he fail to do so, the drawer and all indorsers are dis-
5 charged.

[S., '13, § 3060-a144.]

SEC. 6060. Presentment—how made.

1 Presentment for acceptance must be made by or on behalf of the
2 holder at a reasonable hour, on a business day and before the bill is
3 overdue, to the drawee or some person authorized to accept or refuse
4 acceptance on his behalf; and:

5 1. Where a bill is addressed to two or more drawees who are not
6 partners, presentment must be made to them all, unless one has
7 authority to accept or refuse acceptance for all, in which case present-
8 ment may be made to him only.

9 2. Where the drawee is dead, presentment may be made to his
10 personal representative.

11 3. Where the drawee has been adjudged a bankrupt or an insol-
12 vent or has made an assignment for the benefit of creditors, present-
13 ment may be made to him or to his trustee or assignee.

[S., '13, § 3060-a145.]

SEC. 6061. On what days presentment may be made.

1 A bill may be presented for acceptance on any day on which negoti-
2 able instruments may be presented for payment under the provisions
3 of sections fifty-nine hundred eighty-six and sixty hundred. When
4 Saturday is not otherwise a holiday, presentment for acceptance may
5 be made before twelve o'clock noon on that day.

[S., '13, § 3060-a146.]

SEC. 6062. Presentment where time is insufficient.

1 Where the holder of a bill drawn payable elsewhere than at the
2 place of business or the residence of the drawee has not time with the
3 exercise of reasonable diligence to present the bill for acceptance
4 before presenting it for payment on the day that it falls due, the delay
5 caused by presenting the bill for acceptance before presenting it for
6 payment is excused and does not discharge the drawers and indorsers.

[S., '13, § 3060-a147.]

SEC. 6063. Where presentment is excused.

1 Presentment for acceptance is excused and a bill may be treated
2 as dishonored by nonacceptance, in either of the following cases:

3 1. Where the drawee is dead, or has absconded, or is a fictitious
4 person or a person not having capacity to contract by bill.

5 2. Where after the exercise of reasonable diligence, presentment
6 can not be made.

7 3. Where although presentment has been irregular, acceptance
8 has been refused on some ground.

[S., '13, § 3060-a148.]

SEC. 6064. When dishonored by nonacceptance.

1 A bill is dishonored by nonacceptance:

2 1. When it is duly presented for acceptance and such an ac-
3 ceptance as is prescribed by this chapter is refused or can not be
4 obtained; or

5 2. When a presentment for acceptance is excused and the bill is
6 not accepted.

[S., '13, § 3060-a149.]

SEC. 6065. Duty of holder where bill is not accepted.

1 Where a bill is duly presented for acceptance and is not accepted
2 within the prescribed time, the person presenting it must treat the
3 bill as dishonored by nonacceptance or he loses the right of recourse
4 against the drawer and indorsers.

[S., '13, § 3060-a150.]

SEC. 6066. Rights of holders where bill is not accepted.

1 When a bill is dishonored by nonacceptance, an immediate right
2 of recourse against the drawers and indorsers accrues to the holder
3 and no presentment for payment is necessary.

[S., '13, § 3060-a151.]

PROTEST OF BILLS OF EXCHANGE.

SEC. 6067. In what cases protest necessary.

1 Where a foreign bill appearing on its face to be such is dishon-
2 ored by nonacceptance, it must be duly protested for nonacceptance,
3 and where such a bill which has not previously been dishonored by
4 nonacceptance is dishonored by nonpayment, it must be duly protested
5 for nonpayment. If it is not so protested, the drawer and indorsers
6 are discharged. Where a bill does not appear on its face to be a for-
7 eign bill, protest thereof in case of dishonor is unnecessary.

[S., '13, § 3060-a152.]

SEC. 6068. Protest—how made.

1 The protest must be annexed to the bill, or must contain a copy
2 thereof, and must be under the hand and seal of the notary making it,
3 and must specify:
4 1. The time and place of presentment.
5 2. The fact that presentment was made and the manner thereof.
6 3. The cause or reason for protesting the bill.
7 4. The demand made and the answer given, if any, or the fact
8 that the drawee or acceptor could not be found.

[S., '13, § 3060-a153.]

SEC. 6069. Protest—by whom made.

1 Protest may be made by:
2 1. A notary public; or
3 2. By any reputable resident of the place where the bill is dis-
4 honored, in the presence of two or more credible witnesses.

[S., '13, § 3060-a154.]

SEC. 6070. Protest—when to be made.

1 When a bill is protested, such protest must be made on the day of
2 its dishonor, unless delay is excused as herein provided. When a bill
3 has been duly noted, the protest may be subsequently extended as of
4 the date of the noting.

[S., '13, § 3060-a155.]

SEC. 6071. Protest—where made.

1 A bill must be protested at the place where it is dishonored, except
 2 that when a bill drawn payable at the place of business or residence of
 3 some person other than the drawee, has been dishonored by non-
 4 acceptance, it must be protested for nonpayment at the place where
 5 it is expressed to be payable; and no other presentment for payment
 6 to, or demand on, the drawee is necessary.

[S., '13, § 3060-a156.]

SEC. 6072. Protest both for nonacceptance and nonpayment.

1 A bill which has been protested for nonacceptance may be subse-
 2 quently protested for nonpayment.

[S., '13, § 3060-a157.]

SEC. 6073. Protest before maturity where acceptor insolvent.

1 Where the acceptor has been adjudged a bankrupt or an insolvent
 2 or has made an assignment for the benefit of creditors, before the bill
 3 matures, the holder may cause the bill to be protested for better
 4 security against the drawer and indorsers.

[S., '13, § 3060-a158.]

SEC. 6074. Where protest dispensed with.

1 Protest is dispensed with by any circumstances which would dis-
 2 pense with notice of dishonor. Delay in noting or protesting is ex-
 3 cused when delay is caused by circumstances beyond the control of
 4 the holder and not imputable to his default, misconduct or negli-
 5 gence. When the cause of delay ceases to operate, the bill must be
 6 noted or protested with reasonable diligence.

[S., '13, § 3060-a159.]

SEC. 6075. Protest where bill is lost.

1 Where a bill is lost or destroyed, or is wrongfully detained from
 2 the person entitled to hold it, protest may be made on a copy or written
 3 particulars thereof.

[S., '13, § 3060-a160.]

ACCEPTANCE OF BILLS OF EXCHANGE FOR HONOR.**SEC. 6076. When bill may be accepted for honor.**

1 Where a bill of exchange has been protested for dishonor by non-
 2 acceptance, or protested for better security, and is not overdue, any
 3 person not being a party already liable thereon, may, with the consent
 4 of the holder, intervene and accept the bill supra protest for the honor
 5 of any party liable thereon or for the honor of the person for whose
 6 account the bill is drawn. The acceptance for honor may be for part
 7 only of the sum for which the bill is drawn, and where there has been
 8 an acceptance for honor for one party, there may be a further accept-
 9 ance by a different person for the honor of another party.

[S., '13, § 3060-a161.]

SEC. 6077. Acceptance for honor—how made.

1 An acceptance for honor supra protest must be in writing and
 2 indicate that it is an acceptance for honor, and must be signed by the
 3 acceptor for honor.

[S., '13, § 3060-a162.]

SEC. 6078. When deemed to be an acceptance for honor of the drawer.

1 Where an acceptance for honor does not expressly state for whose
2 honor it is made, it is deemed to be an acceptance for the honor of the
3 drawer.

[S., '13, § 3060-a163.]

SEC. 6079. Liability of acceptor for honor.

1 The acceptor for honor is liable to the holder and to all parties to
2 the bill subsequent to the party for whose honor he has accepted.

[S., '13, § 3060-a164.]

SEC. 6080. Agreement of acceptor for honor.

1 The acceptor for honor by such acceptance engages that he will
2 on due presentment pay the bill according to the terms of his accept-
3 ance, provided it shall not have been paid by the drawee, and pro-
4 vided also that it shall have been duly presented for payment and pro-
5 tested for nonpayment and notice of dishonor given to him.

[S., '13, § 3060-a165.]

SEC. 6081. Maturity of bill payable after sight—accepted for honor.

1 When a bill payable after sight is accepted for honor its maturity
2 is calculated from the date of the noting for nonacceptance and not
3 from the date of the acceptance for honor.

[S., '13, § 3060-a166.]

SEC. 6082. Protest of bill accepted for honor.

1 Where a dishonored bill has been accepted for honor supra pro-
2 test or contains a reference in case of need, it must be protested for
3 nonpayment before it is presented for payment to the acceptor for
4 honor or referee in case of need.

[S., '13, § 3060-a167.]

SEC. 6083. Presentment for payment to acceptor for honor—how made.

1 Presentment for payment to the acceptor for honor must be made
2 as follows:

3 1. If it is to be presented in the place where the protest for non-
4 payment was made, it must be presented not later than the day fol-
5 lowing its maturity.

6 2. If it is to be presented in some other place than the place
7 where it was protested, then it must be forwarded within the time
8 specified in section sixty hundred nineteen.

[S., '13, § 3060-a168.]

SEC. 6084. When delay in making presentment is excused.

1 The provisions of section fifty-nine hundred ninety-five apply
2 where there is delay in making presentment to the acceptor for honor
3 or referee in case of need.

[S., '13, § 3060-a169.]

SEC. 6085. Dishonor of bill by acceptor for honor.

1 When the bill is dishonored by the acceptor for honor it must be
2 protested for nonpayment by him.

[S., '13, § 3060-a170.]

PAYMENT OF BILLS OF EXCHANGE FOR HONOR.

SEC. 6086. Who may make payment for honor.

1 Where a bill has been protested for nonpayment, any person may
2 intervene and pay it supra protest for the honor of any person liable
3 thereon or for the honor of the person for whose account it was drawn.

[S., '13, § 3060-a171.]

SEC. 6087. Payment for honor—how made.

1 The payment for honor supra protest in order to operate as such
2 and not as a mere voluntary payment must be attested by a notarial
3 act of honor which may be appended to the protest or form an exten-
4 sion to it.

[S., '13, § 3060-a172.]

SEC. 6088. Declaration before payment for honor.

1 The notarial act of honor must be founded on a declaration made
2 by the payer for honor or by his agent in that behalf declaring his
3 intention to pay the bill for honor and for whose honor he pays.

[S., '13, § 3060-a173.]

SEC. 6089. Preference of parties offering to pay for honor.

1 Where two or more persons offer to pay a bill for the honor of
2 different parties, the person whose payment will discharge most
3 parties to the bill is to be given the preference.

[S., '13, § 3060-a174.]

SEC. 6090. Effect on subsequent parties where bill is paid for honor.

1 Where a bill has been paid for honor all parties subsequent to the
2 party for whose honor it is paid are discharged, but the payer for
3 honor is subrogated for, and succeeds to, both the rights and duties of
4 the holder as regards the party for whose honor he pays and all
5 parties liable to the latter.

[S., '13, § 3060-a175.]

SEC. 6091. Where holder refuses to receive payment supra protest.

1 Where the holder of a bill refuses to receive payment supra pro-
2 test, he loses his right of recourse against any party who would have
3 been discharged by such payment.

[S., '13, § 3060-a176.]

SEC. 6092. Rights of payer for honor.

1 The payer for honor on paying to the holder the amount of the
2 bill and the notarial expenses incidental to its dishonor, is entitled to
3 receive both the bill itself and the protest.

[S., '13, § 3060-a177.]

BILLS IN A SET.

SEC. 6093. Bills in sets constitute one bill.

1 Where a bill is drawn in a set, each part of the set being numbered
2 and containing a reference to the other parts, the whole of the parts
3 constitute one bill.

[S., '13, § 3060-a178.]

SEC. 6094. Rights of holders where different parts are negotiated.

1 Where two or more parts of a set are negotiated to different hold-
2 ers in due course, the holder whose title first accrues is as between
3 such holders the true owner of the bill. But nothing in this section
4 affects the rights of a person who in due course accepts or pays the
5 part first presented to him.

[S., '13, § 3060-a179.]

SEC. 6095. Liability of holder who indorses two or more parts of a set to different persons.

1 Where the holder of a set indorses two or more parts to different
2 persons he is liable on every such part, and every indorser subsequent
3 to him is liable on the part he has himself indorsed, as if such parts
4 were separate bills.

[S., '13, § 3060-a180.]

SEC. 6096. Acceptance of bills drawn in sets.

1 The acceptance may be written on any part and it must be writ-
2 ten on one part only. If the drawee accepts more than one part, and
3 such accepted parts are negotiated to different holders in due course,
4 he is liable on every such part as if it were a separate bill.

[S., '13, § 3060-a181.]

SEC. 6097. Payment by acceptor of bills drawn in sets.

1 When the acceptor of a bill drawn in a set pays it without requir-
2 ing the part bearing his acceptance to be delivered up to him, and that
3 part at maturity is outstanding in the hands of a holder in due course,
4 he is liable to the holder thereon.

[S., '13, § 3060-a182.]

SEC. 6098. Effect of discharging one of a set.

1 Except as herein otherwise provided where any one part of a bill
2 drawn in a set is discharged by payment or otherwise, the whole bill
3 is discharged.

[S., '13, § 3060-a183.]

PROMISSORY NOTES AND CHECKS.

SEC. 6099. Promissory note defined.

1 A negotiable promissory note within the meaning of this chapter
2 is an unconditional promise in writing made by one person to another,
3 signed by the maker engaging to pay on demand or at a fixed or deter-
4 minable future time, a sum certain in money to order or to bearer.
5 Where a note is drawn to the maker's own order, it is not complete.
6 until indorsed by him.

[S., '13, § 3060-a184.]

SEC. 6100. Check defined.

- 1 A check is a bill of exchange drawn on a bank payable on demand.
 2 Except as herein otherwise provided, the provisions of this chapter ap-
 3 plicable to a bill of exchange payable on demand apply to a check.
 [S., '13, § 3060-a185.]

SEC. 6101. Within what time a check must be presented.

- 1 A check must be presented for payment within a reasonable time
 2 after its issue, or the drawer will be discharged from liability thereon
 3 to the extent of the loss caused by the delay.
 [S., '13, § 3060-a186.]

SEC. 6102. Certification of check—effect of.

- 1 Where a check is certified by the bank on which it is drawn, the
 2 certification is equivalent to an acceptance.
 [S., '13, § 3060-a187.]

SEC. 6103. Effect where the holder of check procures it to be certified.

- 1 Where the holder of a check procures it to be accepted or certi-
 2 fied, the drawer and all indorsers are discharged from liability thereon.
 [S., '13, § 3060-a188.]

SEC. 6104. Check not an assignment—when bank liable.

- 1 A check of itself does not operate as an assignment of any part
 2 of the funds to the credit of the drawer with the bank, and the bank is
 3 not liable to the holder, unless and until it accepts or certifies the check.
 [S., '13, § 3060-a189.]

GENERAL PROVISIONS.

SEC. 6105. Short title.

- 1 This chapter shall be known as the "negotiable instruments law."
 [S., '13, § 3060-a190.]

SEC. 6106. Definitions and meaning of terms.

- 1 In this chapter, unless the context otherwise requires:
 2 "Acceptance" means an acceptance completed by delivery or noti-
 3 fication.
 4 "Action" includes counterclaim and set-off.
 5 "Bank" includes any person or association of persons carrying on
 6 the business of banking, whether incorporated or not.
 7 "Bearer" means the person in possession of a bill or note which is
 8 payable to bearer.
 9 "Bill" means bill of exchange, and "note" means negotiable prom-
 10 issory note.
 11 "Delivery" means transfer of possession, actual or constructive,
 12 from one person to another.
 13 "Holder" means the payee or indorsee of a bill or note, who is in
 14 possession of it, or the bearer thereof.
 15 "Indorsement" means an indorsement completed by delivery.
 16 "Instrument" means negotiable instrument.
 17 "Issue" means the first delivery of the instrument, complete in
 18 form, to a person who takes it as a holder.

- 19 "Person" includes a body of persons, whether incorporated or not.
 20 "Value" means valuable consideration.
 21 "Written" includes printed, and "writing" includes print.

[S., '13, § 3060-a191.]

SEC. 6107. Person primarily liable on instrument.

- 1 The person "primarily" liable on an instrument is the person who
 2 by the terms of the instrument is absolutely required to pay the same.
 3 All other parties are "secondarily" liable.

[S., '13, § 3060-a192.]

SEC. 6108. Reasonable time—what constitutes.

- 1 In determining what is a "reasonable time" or an "unreasonable
 2 time" regard is to be had to the nature of the instrument, the usage
 3 of trade or business (if any) with respect to such instruments, and
 4 the facts of the particular case.

[S., '13, § 3060-a193.]

SEC. 6109. Time—how computed—when last day falls on holiday.

- 1 When the day, or last day, for doing an act herein required or
 2 permitted to be done falls on Sunday or on a holiday, the act may be
 3 done on the next succeeding secular or business day.

[S., '13, § 3060-a194.]

SEC. 6110. Application of chapter.

- 1 The provisions of this chapter do not apply to negotiable instru-
 2 ments made and delivered prior to the passage hereof.

[S., '13, § 3060-a195.]

SEC. 6111. Law merchant—when governs.

- 1 In any case not provided for in this chapter, the rules of the law
 2 merchant shall govern.

[S., '13, § 3060-a196.]

SEC. 6112. Days of grace—demand made on.

- 1 A demand made on any one of the three days following the day
 2 of maturity of the instrument, except on Sunday or a holiday, shall be
 3 as effectual as though made on the day on which demand may be made
 4 under the provisions of this chapter, and the provisions of this chap-
 5 ter as to notice of nonpayment, nonacceptance, and as to protest shall
 6 be applicable with reference to such demand as though the demand
 7 were made in accordance with the terms of this chapter; but the pro-
 8 visions of this section shall not be construed as authorizing demand
 9 on any day after the third day from that on which the instrument falls
 10 due according to its face.

[S., '13, § 3060-a198.]

SEC. 6113. Indemnifying bond to protect payer.

- 1 Whenever a note, bond, bill of exchange, certificate of deposit,
 2 check or other evidence of indebtedness shall have been lost, stolen
 3 or destroyed, and the owner thereof desires payment to be made by
 4 the person, firm or corporation issuing the same, he shall execute and
 5 deliver if demanded to such person, firm or corporation, a good and

6 sufficient bond agreeing to indemnify and save harmless the payer
7 thereof.

[S., '13, § 3060-a199.]

SEC. 6114. Indemnifying bond to protect defendants.

1 When an action is brought on a lost note, bond, bill of exchange,
2 draft, certificate of deposit, or other evidence of indebtedness, upon
3 demand of any defendant therein, a good and sufficient bond shall be
4 given to indemnify and save harmless the defendants in said cause.

[S., '13, § 3060-a200.]

CHAPTER 7.

WAREHOUSEMEN AND WAREHOUSE CERTIFICATES.

SECTION 6115. Elevator or warehouse certificates.

1 All persons, firms or corporations engaged in owning or dealing in
2 grains, seeds or other farm products; the slaughtering of cattle, sheep
3 and hogs, and dealing in the various products therefrom; the buying or
4 selling of butter, eggs, cheese, dressed poultry or other commodities;
5 who own or control the buildings wherein any such business is con-
6 ducted, or such commodities stored, may issue elevator or warehouse
7 certificates for any of such commodities actually on hand and in store,
8 the property of the person, firm or corporation issuing such certificate,
9 and may by such method sell, assign, transfer, pledge or incumber such
10 commodity to the amount described in such certificate. Such certifi-
11 cates shall contain the name and address of the person, firm or corpo-
12 ration issuing them, and the name and address of the party to whom
13 issued, the location of the elevator, warehouse, building or other place
14 where the commodity therein described is stored, the date of the issu-
15 ance of such certificate, the quantity of each commodity therein men-
16 tioned, the brands or marks of identification thereon, if any, and be
17 signed by the person or firm issuing the same, unless issued by a corpo-
18 ration, in which case they shall be signed by such corporation by its
19 secretary or business manager, if it has such manager other than its
20 secretary.

[C., '97, § 3122.]

SEC. 6116. Declaration.

1 Before any such person, firm or corporation is authorized to issue
2 such elevator or warehouse certificates, he or it must file in the office
3 of the recorder of deeds, in the county where any such elevator, ware-
4 house or other building is situated, a written declaration, giving the
5 name and place of residence or location of such person, firm or corpo-
6 ration, that he or it designs keeping or controlling an elevator, ware-
7 house, crib or other place for the sale and storage of commodities
8 mentioned in the preceding section, an accurate description of the
9 elevator, warehouse, crib or other building to be kept or controlled, and
10 where the same is or is to be located, the name or names of any person,
11 other than the one making such declaration, who has any interest in
12 such elevator, warehouse or other building, or in the land on which it
13 is situated, such declaration to be signed and acknowledged by the

14 party making the same before some officer authorized to take acknowl-
15 edgments of instruments, and recorded in the chattel mortgage rec-
16 ord, the party making such declaration to be treated as the vendor in
17 indexing such declaration, and the public as vendee.

[C., '97, § 3123.]

SEC. 6117. Effect of certificate—assignment.

1 Each certificate issued by any person, firm or corporation shall
2 have printed on the back thereof a statement that the party issuing it
3 has complied with the requirements of the preceding section, giving
4 the book, page and name of the county where the record of such
5 declaration may be found; and, when such certificate is so issued and
6 delivered, it shall have the effect of transferring to the holder thereof
7 the title to the commodities therein described or enumerated, and shall
8 be assignable by written indorsement thereon, signed by the lawful
9 holder thereof, which shall transfer the title of commodities therein
10 enumerated, and be presumptive evidence of ownership in such holder.
11 No record or other notice shall be necessary to protect the rights of
12 the holder of the certificate as against subsequent purchasers of the
13 property.

[C., '97, § 3124.]

SEC. 6118. Registration of certificates and transfers.

1 All certificates given under the provisions of this chapter shall be
2 registered by the party issuing them in a book kept for that purpose,
3 showing the date thereof, the number of each, the name of the party
4 to whom issued, the quantities and kinds of commodities enumerated
5 therein, and the brands or other distinguishing marks thereon, if any,
6 which book shall be open to the inspection of any person holding any
7 of the certificates that may be outstanding and in force, or his agent
8 or attorney; and when any commodity enumerated in any such certifi-
9 cate is delivered to the holder thereof, or it in any other manner be-
10 comes inoperative, the fact and date of such delivery or other termina-
11 tion of such liability shall be entered in such register, in connection
12 with the original entry of the issuance thereof.

[C., '97, § 3125.]

SEC. 6119. Property subject to certificate.

1 No person, firm or corporation shall issue any elevator or ware-
2 house certificate for any of the commodities enumerated in this chap-
3 ter unless such property is actually in the elevator or warehouse or
4 other building mentioned therein as being the place where such com-
5 modity is stored, and it shall remain there until otherwise ordered by
6 the lawful holder of such certificate, subject to the conditions of the
7 contract between the warehouseman and the person to whom such
8 certificate was issued, or his assignee, as to the time of its remaining
9 in store; and no second certificate shall be issued for the same prop-
10 erty or any part thereof while the first is outstanding and in force,
11 nor shall any such commodities be by the warehouseman sold, incum-
12 bered, shipped, transferred or removed from the elevator, warehouse
13 or other building where the same was stored at the time such certifi-
14 cate was issued, without the written consent of the holder thereof.

[C., '73, §§ 2172-2174; C., '97, § 3126.]

SEC. 6120. Damages.

1 Anyone injured by the violation of any of the provisions of this
 2 chapter may recover his actual damages sustained on account thereof,
 3 and if wilfully done, in addition thereto, exemplary damages in any
 4 sum not exceeding double the actual damages, which actual damages
 5 shall be found and returned by special verdict.

[C., '73, § 2176; C., '97, § 3127.]

SEC. 6121. Penalties.

1 Any person who shall wilfully alter or destroy any register of cer-
 2 tificates provided for in this chapter, or issue any receipt or certifi-
 3 cate without entering and preserving in such book the registered
 4 memorandum; or who shall knowingly issue any certificate herein pro-
 5 vided for when the commodity or commodities therein enumerated are
 6 not in fact in the building or buildings it is certified they are in; or
 7 shall, with intent to defraud, issue a second or other certificate for any
 8 such commodity, for which, or for any part of which, a former valid
 9 certificate is outstanding and in force; or shall, while any valid certifi-
 10 cate for any part of the commodities mentioned in this chapter is out-
 11 standing and in force, sell, incumber, ship, transfer, or remove from
 12 the elevator, warehouse or building where the same is stored, any
 13 such certified property, or knowingly permit the same to be done,
 14 without the written consent of the holder of such certificate; or if any
 15 person knowingly receives any such property or helps to remove the
 16 same,—he shall, upon conviction, be punished by fine not exceeding
 17 ten thousand dollars, or by imprisonment in the penitentiary not ex-
 18 ceeding five years.

[C., '73, § 2175; C., '97, § 3128.]

CHAPTER 8.**WAREHOUSE RECEIPTS, DUTIES AND LIABILITIES OF WAREHOUSEMEN.****SECTION 6122. Who may issue receipts.**

1 Warehouse receipts may be issued by any warehouseman.
 [S., '13, § 3138-a.1.]

SEC. 6123. Form of receipts—essential terms.

1 Warehouse receipts need not be in any particular form, but every
 2 such receipt must embody within its written or printed terms—
 3 1. The location of the warehouse where the goods are stored.
 4 2. The date of issue of the receipt.
 5 3. The consecutive number of the receipt.
 6 4. A statement whether the goods received will be delivered to the
 7 bearer, to a specified person, or to a specified person or his order.
 8 5. The rate of storage charges.
 9 6. A description of the goods or of the packages containing them.
 10 7. The signature of the warehouseman, which may be made by
 11 his authorized agent.
 12 8. If the receipt is issued for goods of which the warehouseman is
 13 owner, either solely or jointly or in common with others, the fact of
 14 such ownership; and

15 9. A statement of the amount of advances made and of liabilities
16 incurred for which the warehouseman claims a lien. If the precise
17 amount of such advances made or of such liabilities incurred is, at
18 the time of the issue of the receipt, unknown to the warehouseman or
19 to his agent who issues it, a statement of the fact that advances have
20 been made or liabilities incurred and the purpose thereof is sufficient.
21 A warehouseman shall be liable to any person injured thereby,
22 for all damages caused by the omission from a negotiable receipt of
23 any of the terms herein required.

[S., '13, § 3138-a2.]

SEC. 6124. What terms may be inserted.

1 A warehouseman may insert in a receipt, issued by him, any other
2 terms and conditions, provided that such terms and conditions shall
3 not—

4 1. Be contrary to the provisions of this chapter.

5 2. In anywise impair his obligation to exercise that degree of
6 care in the safe-keeping of the goods intrusted to him which a reason-
7 ably careful man would exercise in regard to similar goods of his own.

[S., '13, § 3138-a3.]

SEC. 6125. Nonnegotiable receipt defined.

1 A receipt in which it is stated that the goods received will be
2 delivered to the depositor, or to any other specified person, is a non-
3 negotiable receipt.

[S., '13, § 3138-a4.]

SEC. 6126. Negotiable receipt defined.

1 A receipt in which it is stated that the goods received will be de-
2 livered to the bearer, or to the order of any person named in such
3 receipt, is a negotiable receipt. No provision shall be inserted in a
4 negotiable receipt that it is nonnegotiable. Such provisions, if in-
5 serted, shall be void.

[S., '13, § 3138-a5.]

SEC. 6127. Duplicate receipts must be so marked.

1 When more than one negotiable receipt is issued for the same
2 goods, the word "duplicate" shall be plainly placed upon the face of
3 every such receipt, except the one first issued. A warehouseman shall
4 be liable for all damage caused by his failure so to do to anyone who
5 purchased the subsequent receipt for value supposing it to be an orig-
6 inal, even though the purchase be after the delivery of the goods by
7 the warehouseman to the holder of the original receipt.

[S., '13, § 3138-a6.]

SEC. 6128. Failure to mark "not negotiable."

1 A nonnegotiable receipt shall have plainly placed upon its face by
2 the warehouseman issuing it "nonnegotiable," or "not negotiable."
3 In case of the warehouseman's failure so to do, a holder of the receipt
4 who purchased it for value supposing it to be negotiable, may, at his
5 option, treat such receipt as imposing upon the warehouseman the
6 same liabilities he would have incurred had the receipt been nego-

7 liable. This section shall not apply, however, to letters, memoranda
8 or written acknowledgments of an informal character.

[S., '13, § 3138-a7.]

SEC. 6129. Obligation of warehouseman to deliver.

1 A warehouseman, in the absence of some lawful excuse provided
2 by this chapter, is bound to deliver the goods upon a demand made
3 either by the holder of a receipt for the goods or by the depositor, if
4 such demand is accompanied with—

5 1. An offer to satisfy the warehouseman's lien.

6 2. An offer to surrender the receipt if negotiable, with such
7 indorsements as would be necessary for the negotiation of the re-
8 ceipt; and

9 3. A readiness and willingness to sign, when the goods are de-
10 livered, an acknowledgment that they have been delivered, if such
11 signature is requested by the warehouseman.

12 In case the warehouseman refuses or fails to deliver the goods in
13 compliance with a demand by the holder or depositor so accompanied,
14 the burden shall be upon the warehouseman to establish the existence
15 of a lawful excuse for such refusal.

[S., '13, § 3138-a8.]

SEC. 6130. Justification of warehouseman delivering.

1 A warehouseman is justified in delivering the goods, subject to
2 the provisions of the three following sections, to one who is—

3 1. The person lawfully entitled to the possession of the goods, or
4 his agent.

5 2. A person who is either himself entitled to delivery by the
6 terms of a nonnegotiable receipt issued for the goods, or who has
7 written authority from the person so entitled either indorsed upon
8 the receipt or written upon another paper; or

9 3. A person in possession of a negotiable receipt by the terms
10 of which the goods are deliverable to him or order or to bearer, or
11 which has been indorsed to him or in blank by the person to whom
12 delivery was promised by the terms of the receipt or by his mediate
13 or immediate indorsee.

[S., '13, § 3138-a9.]

SEC. 6131. Warehouseman's liability for misdelivery.

1 Where a warehouseman delivers the goods to one who is not in
2 fact lawfully entitled to the possession of them, the warehouseman
3 shall be liable as for conversion to all having a right of property or
4 possession in the goods if he delivered the goods otherwise than as
5 authorized by subdivisions two and three of the preceding section and
6 though he delivered the goods as authorized by said subdivisions he
7 shall be so liable, if prior to such delivery he had either—

8 1. Been requested, by or on behalf of the person lawfully entitled
9 to a right of property or possession in the goods, not to make such
10 delivery; or

11 2. Had information that the delivery about to be made was to one
12 not lawfully entitled to the possession of the goods.

[S., '13, § 3138-a10.]

SEC. 6132. Negotiable receipt must be canceled when goods delivered.

1 Except as provided in section sixty-one hundred fifty-seven,
 2 where a warehouseman delivers goods for which he had issued a nego-
 3 tiable receipt, the negotiation of which would transfer the right to the
 4 possession of the goods, and fails to take up and cancel the receipt, he
 5 shall be liable to anyone who purchases for value in good faith such
 6 receipt, for failure to deliver goods to him, whether such purchaser
 7 acquired title to the receipt before or after the delivery of the goods by
 8 the warehouseman.

[S., '13, § 3138-a11.]

SEC. 6133. Negotiable receipt must be canceled or marked when part of goods delivered.

1 Except as provided in section sixty-one hundred fifty-seven, where
 2 a warehouseman delivers part of the goods for which he had issued a
 3 negotiable receipt and fails either to take up and cancel such receipt,
 4 or to place plainly upon it a statement of what goods or packages have
 5 been delivered, he shall be liable, to anyone who purchases for value in
 6 good faith such receipt, for failure to deliver all the goods specified
 7 in the receipt, whether such purchaser acquired title to the receipt
 8 before or after the delivery of any portion of the goods by the ware-
 9 houseman.

[S., '13, § 3138-a12.]

SEC. 6134. Altered receipts.

1 The alteration of a receipt shall not excuse the warehouseman
 2 who issued it from any liability if such alteration was—

- 3 1. Immaterial,
- 4 2. Authorized, or
- 5 3. Made without fraudulent intent.

6 If the alteration was authorized, the warehouseman shall be liable
 7 according to the terms of the receipt as altered. If the alteration was
 8 unauthorized, but made without fraudulent intent, the warehouseman
 9 shall be liable according to the terms of the receipt, as they were
 10 before alteration. Material and fraudulent alteration of a receipt shall
 11 not excuse the warehouseman who issued it from liability to deliver,
 12 according to the terms of the receipt as originally issued, the goods
 13 for which it was issued, but shall excuse him from any other liability
 14 to the person who made the alteration and to any person who took
 15 with notice of the alteration. Any purchaser of the receipt for value
 16 without notice of the alteration shall acquire the same rights against
 17 the warehouseman which such purchaser would have acquired if the
 18 receipt had not been altered at the time of the purchase.

[S., '13, § 3138-a13.]

SEC. 6135. Lost or destroyed receipts.

1 Where a negotiable receipt has been lost or destroyed, a court of
 2 competent jurisdiction may order the delivery of the goods upon satis-
 3 factory proof of such loss or destruction and upon the giving of a
 4 bond with sufficient sureties to be approved by the court to protect the
 5 warehouseman from any liability or expense, which he or any person
 6 injured by such delivery may incur by reason of the original receipt

7 remaining outstanding. The court may also in its discretion order
8 the payment of the warehouseman's reasonable costs and counsel fees.
9 The delivery of the goods under an order of the court as provided in
10 this section, shall not relieve the warehouseman from liability to a
11 person to whom the negotiable receipt has been or shall be negotiated
12 for value without notice of the proceedings or of the delivery of the
13 goods.

[S., '13, § 3138-a14.]

SEC. 6136. Effect of duplicate receipt.

1 A receipt upon the face of which the word "duplicate" is plainly
2 placed is a representation and warranty by the warehouseman that
3 such receipt is an accurate copy of an original receipt properly issued
4 and uncanceled at the date of the issue of the duplicate, but shall
5 impose upon him no other liability.

[S., '13, § 3138-a15.]

SEC. 6137. Warehouseman can not set up title in himself.

1 No title or right to the possession of the goods, on the part of the
2 warehouseman, unless such title or right is derived directly or indi-
3 rectly from a transfer made by the depositor at the time of or subse-
4 quent to the deposit for storage, or from the warehouseman's lien,
5 shall excuse the warehouseman from liability for refusing to deliver
6 the goods according to the terms of the receipt.

[S., '13, § 3138-a16.]

SEC. 6138. Interpleader of adverse claimants.

1 If more than one person claims the title or possession of the goods,
2 the warehouseman may, either as a defense to an action brought
3 against him for nondelivery of the goods, or as an original suit, which-
4 ever is appropriate, require all known claimants to interplead.

[S., '13, § 3138-a17.]

SEC. 6139. Warehouseman has reasonable time to determine validity of claims.

1 If some one other than the depositor or person claiming under him
2 has a claim to the title or possession of the goods, and the warehouse-
3 man has information of such claim, the warehouseman shall be ex-
4 cused from liability for refusing to deliver the goods, either to the
5 depositor or person claiming under him or to adverse claimant, until
6 the warehouseman has had a reasonable time to ascertain the validity
7 of the adverse claim or to bring legal proceedings to compel all claim-
8 ants to interplead.

[S., '13, § 3138-a18.]

SEC. 6140. Adverse title no defense—exceptions.

1 Except as provided in the two preceding sections and in sections
2 sixty-one hundred thirty and sixty-one hundred fifty-seven, no right
3 or title of a third person shall be a defense to an action brought by the
4 depositor or person claiming under him against the warehouseman for
5 failure to deliver the goods according to the terms of the receipt.

[S., '13, § 3138-a19.]

SEC. 6141. Liability for nonexistence or misdescription of goods.

1 A warehouseman shall be liable to the holder of a receipt for
 2 damages caused by the nonexistence of the goods or by the failure of
 3 the goods to correspond with the description thereof in the receipt at
 4 the time of its issue. If, however, the goods are described in a receipt
 5 merely by a statement of marks or labels upon them, or upon packages
 6 containing them, or by a statement that the goods are said to be
 7 goods of a certain kind, or that packages containing the goods are said
 8 to contain goods of a certain kind, or by words of like purport, such
 9 statements, if true, shall not make liable the warehouseman issuing
 10 the receipt, although the goods are not of the kind which the marks
 11 or labels upon them indicate or of the kind they were said to be by
 12 the depositor.

[S., '13, § 3138-a20.]

SEC. 6142. Liability for care of goods.

1 A warehouseman shall be liable for any loss or injury to the goods
 2 caused by his failure to exercise such care in regard to them as a rea-
 3 sonably careful owner of similar goods would exercise, but he shall not
 4 be liable, in the absence of an agreement to the contrary, for any loss
 5 or injury to the goods which could not have been avoided by the exer-
 6 cise of such care.

[S., '13, § 3138-a21.]

SEC. 6143. Goods must be kept separate.

1 Except as provided in the following section, a warehouseman
 2 shall keep the goods so far separate from goods of other depositors,
 3 and from other goods of the same depositor for which a separate
 4 receipt has been issued, as to permit at all times the identification and
 5 redelivery of the goods deposited.

[S., '13, § 3138-a22.]

SEC. 6144. Fungible goods may be commingled, if warehouseman authorized.

1 If authorized by agreement or by custom, a warehouseman may
 2 mingle fungible goods with other goods of the same kind and grade.
 3 In such case the various depositors of the mingled goods shall own
 4 the entire mass in common, and each depositor shall be entitled to such
 5 portion thereof as the amount deposited by him bears to the whole.

[S., '13, § 3138-a23.]

SEC. 6145. Liability of warehouseman to depositors of commingled goods.

1 The warehouseman shall be severally liable to each depositor for
 2 the care and redelivery of his share of such mass to the same extent
 3 and under the same circumstances as if the goods had been kept
 4 separate.

[S., '13, § 3138-a24.]

SEC. 6146. Attachment or levy upon goods for which a negotiable receipt has been issued.

1 If goods are delivered to a warehouseman by the owner or by a
 2 person whose act in conveying the title to them to a purchaser in good

3 faith for value would bind the owner, and a negotiable receipt is issued
 4 for them, they can not thereafter, while in the possession of the ware-
 5 houseman, be attached by garnishing or otherwise, or be levied upon
 6 under an execution, unless the receipt be first surrendered to the ware-
 7 houseman, or its negotiation enjoined. The warehouseman shall in
 8 no case be compelled to deliver up the actual possession of the goods
 9 until the receipt is surrendered to him or impounded by the court.

[S., '13, § 3138-a25.]

SEC. 6147. Creditors' remedies to reach negotiable receipts.

1 A creditor whose debtor is the owner of a negotiable receipt shall
 2 be entitled to such aid from courts of appropriate jurisdiction, by
 3 injunction and otherwise, in attaching such receipt or in satisfying
 4 the claim by means thereof as is allowed at law or in equity, in regard
 5 to property which can not readily be attached or levied upon by ordi-
 6 nary legal process.

[S., '13, § 3138-a26.]

SEC. 6148. What claims included in warehouseman's lien.

1 Subject to the provisions of section sixty-one hundred fifty-one,
 2 a warehouseman shall have a lien on goods deposited or on the pro-
 3 ceeds thereof in his hands, for all lawful charges for storage and
 4 preservation of the goods; also for all lawful claims for money ad-
 5 vanced, interest, insurance, transportation, labor, weighing, coopering
 6 and other charges and expenses in relation to such goods; also for all
 7 reasonable charges and expenses for notice, and advertisements of
 8 sale, and for sale of the goods where default has been made in satis-
 9 fying the warehouseman's lien.

[S., '13, § 3138-a27.]

SEC. 6149. Against what property lien may be enforced.

1 Subject to the provisions of section sixty-one hundred fifty-one,
 2 a warehouseman's lien may be enforced—

3 1. Against all goods, whenever deposited, belonging to the person
 4 who is liable as debtor for the claims in regard to which the lien is
 5 asserted; and

6 2. Against all goods belonging to others which have been depos-
 7 ited at any time by the person who is liable as debtor for the claims
 8 in regard to which the lien is asserted, if such person has been so
 9 intrusted with the possession of the goods that a pledge of the same
 10 by him at the time of the deposit to one who took the goods in good
 11 faith for value would have been valid.

[S., '13, § 3138-a28.]

SEC. 6150. How lien may be lost.

1 A warehouseman loses his lien upon goods—

2 1. By surrendering possession thereof; or

3 2. By refusing to deliver the goods when a demand is made with
 4 which he is bound to comply under the provisions of this chapter.

[S., '13, § 3138-a29.]

SEC. 6151. Negotiable receipt must state charges for which lien is claimed.

1 If a negotiable receipt is issued for goods, the warehouseman shall
 2 have no lien thereon, except for charges for storage of those goods
 3 subsequent to the date of the receipt, unless the receipt expressly enu-
 4 merates other charges for which a lien is claimed. In such case there
 5 shall be a lien for the charges enumerated so far as they are within
 6 the terms of section sixty-one hundred forty-eight, although the
 7 amount of the charges so enumerated is not stated in the receipt.

[S., '13, § 3138-a30.]

SEC. 6152. Warehouseman need not deliver until lien is satisfied.

1 A warehouseman having a lien valid against the person demand-
 2 ing the goods may refuse to deliver the goods to him until the lien is
 3 satisfied.

[S., '13, § 3138-a31.]

SEC. 6153. Warehouseman's lien does not preclude other remedies.

1 Whether a warehouseman has or has not a lien upon the goods,
 2 he is entitled to all remedies allowed by law to a creditor against his
 3 debtor, for the collection from the depositor of all charges and ad-
 4 vances which the depositor has expressly or impliedly contracted with
 5 the warehouseman to pay.

[S., '13, § 3138-a32.]

SEC. 6154. Satisfaction of lien by sale.

1 A warehouseman's lien for a claim which has become due may be
 2 satisfied as follows:

3 The warehouseman shall give a written notice to the person on
 4 whose account the goods are held, and to any other person known by
 5 the warehouseman to claim an interest in the goods. Such notice shall
 6 be given by delivery in person or by registered letter addressed to the
 7 last known place of business or abode of the person to be notified. The
 8 notice shall contain—

9 1. An itemized statement of the warehouseman's claim, showing
 10 the sum due at the time of the notice and the date or dates when it
 11 became due.

12 2. A brief description of the goods against which the lien exists.

13 3. A demand that the amount of the claim as stated in the notice,
 14 and of such further claim as shall accrue, shall be paid on or before a
 15 day mentioned, not less than ten days from the delivery of the notice
 16 if it is personally delivered, or from the time when the notice should
 17 reach its destination, according to the due course of post, if the notice
 18 is sent by mail; and

19 4. A statement that unless the claim is paid within the time speci-
 20 fied the goods will be advertised for sale and sold by auction at a
 21 specified time and place.

22 In accordance with the terms of a notice so given, a sale of the
 23 goods by auction may be had to satisfy any valid claim of the ware-
 24 houseman for which he has a lien on the goods. The sale shall be had
 25 in the place where the lien was acquired, or, if such place is manifestly
 26 unsuitable for the purpose, at the nearest suitable place. After the

27 time for the payment of the claim specified in the notice to the de-
 28 positor has elapsed, an advertisement of the sale, describing the goods
 29 to be sold, and stating the name of the owner or person on whose ac-
 30 count the goods are held, and the time and place of the sale, shall be
 31 published once a week for two consecutive weeks in a newspaper pub-
 32 lished in the place where such sale is to be held. The sale shall not be
 33 held less than fifteen days from the time of the first publication. If
 34 there is no newspaper published in such place, the advertisement shall
 35 be posted at least ten days before such sale in not less than six con-
 36 spicuous places therein. From the proceeds of such sale the ware-
 37 houseman shall satisfy his lien, including the reasonable charges of
 38 notice, advertisement, and sale. The balance, if any, of such proceeds
 39 shall be held by the warehouseman, and delivered on demand to the
 40 person to whom he would have been bound to deliver or justified in
 41 delivering the goods. At any time before the goods are so sold any
 42 person claiming a right of property or possession therein may pay the
 43 warehouseman the amount necessary to satisfy his lien and to pay
 44 the reasonable expenses and liabilities incurred in serving notices and
 45 advertising and preparing for the sale up to the time of such pay-
 46 ment. The warehouseman shall deliver the goods to the person mak-
 47 ing such payment if he is a person entitled, under the provisions of
 48 this chapter, to the possession of the goods on payment of charges
 49 thereon. Otherwise the warehouseman shall retain possession of the
 50 goods according to the terms of the original contract of deposit.

[S., '13, § 3138-a33.]

SEC. 6155. Perishable and hazardous goods.

1 If goods are of a perishable nature, or by keeping will deteriorate
 2 greatly in value, or by their odor, leakage, inflammability, or ex-
 3 plosive nature, will be liable to injure other property, the warehou-
 4 se-man may give such notice to the owner, or to the person in whose name
 5 the goods are stored, as is reasonable and possible under the circum-
 6 stances, to satisfy the lien upon such goods and to remove them from
 7 the warehouse, and in the event of the failure of such person to sat-
 8 isfy the lien and to remove the goods within the time so specified, the
 9 warehouseman may sell the goods at public or private sale without
 10 advertising. If the warehouseman, after a reasonable effort, is un-
 11 able to sell such goods, he may dispose of them in a lawful manner,
 12 and shall incur no liability by reason thereof. The proceeds of any
 13 sale made under the terms of this section shall be disposed of in the
 14 same way as the proceeds of sales made under the terms of the pre-
 15 ceding section.

[S., '13, § 3138-a34.]

SEC. 6156. Other methods of enforcing liens.

1 The remedy for enforcing a lien herein provided does not pre-
 2 clude any other remedies allowed by law for the enforcement of a
 3 lien against personal property nor bar the right to recover so much of
 4 the warehouseman's claim as shall not be paid by the proceeds of the
 5 sale of the property.

[S., '13, § 3138-a35.]

SEC. 6157. Effect of sale.

1 After the goods have been lawfully sold to satisfy a warehou-
 2 se-man's lien, or have been lawfully sold or disposed of because of their

3 perishable or hazardous nature, the warehouseman shall not there-
 4 after be liable for failure to deliver the goods to the depositor, or
 5 owner of the goods, or to a holder of the receipt given for the goods
 6 when they were deposited, even if such receipt be negotiable.

[S., '13, § 3138-a36.]

SEC. 6158. Negotiation of negotiable receipts by delivery.

1 A negotiable receipt may be negotiated by delivery—
 2 1. Where, by the terms of the receipt, the warehouseman under-
 3 takes to deliver the goods to the bearer; or

4 2. Where, by the terms of the receipt, the warehouseman under-
 5 takes to deliver the goods to the order of a specified person, and such
 6 person or a subsequent indorsee of the receipt has indorsed it in blank
 7 or to bearer.

8 Where, by the terms of a negotiable receipt, the goods are deliv-
 9 erable to bearer or where a negotiable receipt has been indorsed in
 10 blank or to bearer, any holder may indorse the same to himself or to
 11 any other specified person, and in such case the receipt shall thereafter
 12 be negotiated only by the indorsement of such indorsee.

[S., '13, § 3138-a37.]

SEC. 6159. Negotiation of negotiable receipts by indorsement.

1 A negotiable receipt may be negotiated by the indorsement of the
 2 person to whose order the goods are, by the terms of the receipt, deliv-
 3 erable. Such indorsement may be in blank; to bearer or to a specified
 4 person. If indorsed to a specified person, it may be again negotiated
 5 by the indorsement of such person in blank, to bearer or to another
 6 specified person. Subsequent negotiation may be made in like manner.

[S., '13, § 3138-a38.]

SEC. 6160. Transfer of receipts.

1 A receipt which is not in such form that it can be negotiated by
 2 delivery may be transferred by the holder by delivery to a purchaser
 3 or donee. A nonnegotiable receipt can not be negotiated, and the in-
 4 dorsement of such a receipt gives the transferee no additional right.

[S., '13, § 3138-a39.]

SEC. 6161. Who may negotiate a receipt.

1 A negotiable receipt may be negotiated—

2 1. By the owner thereof; or

3 2. By any person to whom the possession or custody of the receipt
 4 has been intrusted by the owner, if, by the terms of the receipt, the
 5 warehouseman undertakes to deliver the goods to the order of the
 6 person to whom the possession or custody of the receipt has been in-
 7 trusted, or if, at the time of such intrusting, the receipt is in such
 8 form that it may be negotiated by delivery.

[S., '13, § 3138-a40.]

**SEC. 6162. Rights of persons to whom receipt has been nego-
 tiated.**

1 A person to whom a negotiable receipt has been duly negotiated
 2 acquires thereby—

3 1. Such title to the goods as the person negotiating the receipt to
 4 him had or had ability to convey to a purchaser in good faith for value,

5 and also such title to the goods as the depositor or person to whose
6 order the goods were to be delivered by the terms of the receipt had
7 or had ability to convey to a purchaser in good faith for value; and
8 2. The direct obligation of the warehouseman to hold possession
9 of the goods for him according to the terms of the receipt as fully as
10 if the warehouseman had contracted directly with him.

[S., '13, § 3138-a41.]

SEC. 6163. Rights of persons to whom receipt has been transferred.

1 A person to whom a receipt has been transferred but not nego-
2 tiated, acquires thereby, as against the transferor, the title to the
3 goods, subject to the terms of any agreement with the transferor. If
4 the receipt is nonnegotiable such person also acquires the right to
5 notify the warehouseman of the transfer to him of such receipt, and
6 thereby to acquire the direct obligation of the warehouseman to hold
7 possession of the goods for him according to the terms of the receipt.
8 Prior to the notification of the warehouseman by the transferor or
9 transferee of a nonnegotiable receipt, the title of the transferee to the
10 goods and the right to acquire the obligation of the warehouseman
11 may be defeated by the levy of an attachment or execution upon the
12 goods by a creditor of the transferor, or by a notification to the ware-
13 houseman by the transferor or by a subsequent purchaser from the
14 transferor of a subsequent sale of the goods by the transferor.

[S., '13, § 3138-a42.]

SEC. 6164. Transfer of negotiable receipt without indorsement.

1 Where a negotiable receipt is transferred for value by delivery,
2 and the indorsement of the transferor is essential for negotiation, the
3 transferee acquires a right against the transferor to compel him to
4 indorse the receipt, unless a contrary intention appears. The negotia-
5 tion shall take effect as of the time when the indorsement is actually
6 made.

[S., '13, § 3138-a43.]

SEC. 6165. Warranties on sale of receipt.

1 A person who for value negotiates or transfers a receipt by in-
2 dorsement or delivery, including one who assigns for value a claim
3 secured by a receipt, unless a contrary intention appears, warrants—
4 1. That the receipt is genuine.
5 2. That he has a legal right to negotiate or transfer it.
6 3. That he has knowledge of no fact which would impair the
7 validity or worth of the receipt; and
8 4. That he has a right to transfer the title to the goods, and that
9 the goods are merchantable or fit for a particular purpose whenever
10 such warranties would have been implied, if the contract of the parties
11 had been to transfer without a receipt the goods represented thereby.

[S., '13, § 3138-a44.]

SEC. 6166. Indorser not a guarantor.

1 The indorsement of a receipt shall not make the indorser liable
2 for any failure on the part of the warehouseman or previous indorsers
3 of the receipt to fulfill their respective obligations.

[S., '13, § 3138-a45.]

SEC. 6167. No warranty implied from accepting payment of debt.

1 A mortgagee, pledgee or holder for security of a receipt who, in
 2 good faith, demands or receives payment of the debt for which such
 3 receipt is security, whether from a party to a draft drawn for such
 4 debt or from any other person, shall not by so doing be deemed to
 5 represent or to warrant the genuineness of such receipt or the quality
 6 or quantity of the goods therein described.

[S., '13, § 3138-a46.]

SEC. 6168. When negotiation not impaired by fraud, mistake or duress.

1 The validity of the negotiation of a receipt is not impaired by
 2 the fact that such negotiation was a breach of duty on the part of the
 3 person making the negotiation, or by the fact that the owner of the
 4 receipt was induced by fraud, mistake, or duress to intrust the pos-
 5 session or custody of the receipt to such person, if the person to whom
 6 the receipt was negotiated, or a person to whom the receipt was sub-
 7 sequently negotiated, paid value therefor, without notice of the breach
 8 of duty, or fraud, mistake, or duress.

[S., '13, § 3138-a47.]

SEC. 6169. Subsequent negotiation.

1 Where a person having sold, mortgaged, or pledged goods which
 2 are in a warehouse and for which a negotiable receipt has been issued,
 3 or having sold, mortgaged, or pledged the negotiable receipt repre-
 4 senting such goods, continues in possession of the negotiable receipt,
 5 the subsequent negotiation thereof by that person under any sale, or
 6 other disposition thereof to any person receiving the same in good
 7 faith, for value and without notice of the previous sale, mortgage or
 8 pledge, shall have the same effect as if the first purchaser of the
 9 goods or receipt had expressly authorized the subsequent negotiation.

[S., '13, § 3138-a48.]

SEC. 6170. Negotiation defeats vendor's lien.

1 Where a negotiable receipt has been issued for goods, no seller's
 2 lien or right of stoppage in transitu shall defeat the rights of any
 3 purchaser for value in good faith to whom such receipt has been ne-
 4 gotiated, whether such negotiation be prior or subsequent to the no-
 5 tification to the warehouseman who issued such receipt of the seller's
 6 claim to a lien or right of stoppage in transitu. Nor shall the ware-
 7 houseman be obliged to deliver or justified in delivering the goods to
 8 an unpaid seller unless the receipt is first surrendered for cancellation.

[S., '13, § 3138-a49.]

SEC. 6171. Issue of receipt for goods not received.

1 A warehouseman or any officer, agent, or servant of a warehouse-
 2 man, who issues or aids in issuing a receipt knowing that the goods
 3 for which such receipt is issued have not been actually received by
 4 such warehouseman, or are not under his actual control at the time
 5 of issuing such receipt, shall be guilty of felony, and upon conviction
 6 shall be punished for each offense by imprisonment in the penitentiary
 7 not exceeding five years, or by a fine not exceeding five thousand dol-
 8 lars, or by both.

[S., '13, § 3138-a50.]

SEC. 6172. Issue of receipt containing false statement.

1 A warehouseman, or any officer, agent or servant of a warehouse-
 2 man, who fraudulently issues or aids in fraudulently issuing a receipt
 3 for goods, knowing that it contains any false statement, shall be
 4 guilty of a misdemeanor, and upon conviction shall be punished for
 5 each offense by imprisonment in the county jail not exceeding one
 6 year, or by a fine not exceeding one thousand dollars, or by both.

[S., '13, § 3138-a51.]

SEC. 6173. Issue of duplicate receipts not so marked.

1 A warehouseman, or any officer, agent or servant of a warehouse-
 2 man, who issues or aids in issuing a duplicate or additional negotiable
 3 receipt for goods, knowing that a former negotiable receipt for the
 4 same goods or any part of them is outstanding and uncanceled, with-
 5 out plainly placing upon the face thereof the word "duplicate," ex-
 6 cept in the case of a lost or destroyed receipt after proceedings as
 7 provided for in section sixty-one hundred thirty-five, shall be guilty of
 8 a felony, and upon conviction shall be punished for each offense by
 9 imprisonment in the penitentiary not exceeding five years, or by a fine
 10 not exceeding five thousand dollars, or by both.

[S., '13, § 3138-a52.]

SEC. 6174. Issue for warehouseman's goods of receipts which do not state that fact.

1 Where there are deposited with or held by a warehouseman goods
 2 of which he is owner, either solely or jointly or in common with oth-
 3 ers, such warehouseman, or any of his officers, agents, or servants
 4 who, knowing this ownership, issues or aids in issuing a negotiable
 5 receipt for such goods which does not state such ownership, shall be
 6 guilty of a misdemeanor, and upon conviction shall be punished for
 7 each offense by imprisonment in the county jail not exceeding one
 8 year, or by a fine not exceeding one thousand dollars, or by both.

[S., '13, § 3138-a53.]

SEC. 6175. Delivery of goods without obtaining negotiable receipt.

1 A warehouseman, or any officer, agent, or servant of a ware-
 2 houseman who delivers goods out of the possession of such warehouse-
 3 man, knowing that a negotiable receipt, the negotiating of which
 4 would transfer the right to the possession of such goods, is outstand-
 5 ing and uncanceled, without obtaining the possession of such receipt
 6 at or before the time of such delivery, shall, except in the cases pro-
 7 vided for in section sixty-one hundred thirty-five and sixty-one hun-
 8 dred fifty-seven, be found guilty of a misdemeanor and on conviction
 9 shall be punished for each offense by imprisonment in the county jail
 10 not exceeding one year, or by a fine not exceeding one thousand dol-
 11 lars, or by both.

[S., '13, § 3138-a54.]

SEC. 6176. Negotiation of receipt for mortgaged goods.

1 Any person who deposits goods to which he has no title, or upon
 2 which there is a lien or mortgage, and who takes for such goods a ne-
 3 gotiable receipt which he afterwards negotiates for value with intent

4 to deceive and without disclosing his want of title or the existence of
 5 the lien or mortgage, shall be guilty of a misdemeanor, and upon con-
 6 viction shall be punished for each offense by imprisonment in the
 7 county jail not exceeding one year, or by a fine not exceeding one
 8 thousand dollars, or by both.

[S., '13, § 3138-a55.]

SEC. 6177. When rules of common law still applicable.

1 In any case not provided for in this chapter, the rules of law and
 2 equity, including the law merchant, and in particular the rules relat-
 3 ing to the law of principal and agent and to the effect of fraud, mis-
 4 representation, duress or coercion, mistake, bankruptcy, or other in-
 5 validating cause, shall govern.

[S., '13, § 3138-a56.]

**SEC. 6178. Interpretation shall give effect to purpose of uni-
 formity.**

1 This chapter shall be so interpreted and construed as to effectuate
 2 its general purpose to make uniform the law of those states which
 3 enact it.

[S., '13, § 3138-a57.]

SEC. 6179. Definitions.

1 In this chapter, unless the context or subject matter otherwise
 2 requires—

3 “Action” includes the counterclaim, set-off, and suit in equity.

4 “Delivery” means voluntary transfer of possession from one per-
 5 son to another.

6 “Fungible goods” means goods of which any receipt is, from its
 7 nature or by mercantile custom, treated as the equivalent of any other
 8 unit.

9 “Goods” means chattels or merchandise in storage, or which has
 10 been or is about to be stored.

11 “Holder of a receipt” means a person who has both actual posses-
 12 sion of such receipt and a right of property therein.

13 “Order” means an order by indorsement on the receipt.

14 “Owner” does not include mortgagee or pledgee.

15 “Person” includes a corporation or partnership or two or more
 16 persons having a joint or common interest.

17 To “purchase” includes to take as mortgagee or as pledgee.

18 “Purchaser” includes mortgagee and pledgee.

19 “Receipt” means a warehouse receipt.

20 “Value” is any consideration sufficient to support a simple con-
 21 tract. An antecedent or preexisting obligation, whether for money
 22 or not, constitutes value where a receipt is taken either in satisfaction
 23 thereof or as security therefor.

24 “Warehouseman” means a person lawfully engaged in the busi-
 25 ness of storing goods for profit.

26 A thing is done “in good faith” within the meaning of this chap-
 27 ter when it is in fact done honestly whether it be done negligently
 28 or not.

[S., '13, § 3138-a58.]

CHAPTER 9.

LIMITED PARTNERSHIP.

SECTION 6180. Authorized.

1 A limited partnership may be formed by two or more persons for
 2 the transaction of business in the state. It may consist of one or more
 3 persons to be known as the general partners, and a like number as
 4 special partners, which latter shall contribute a specific sum as capi-
 5 tal, and shall not be liable for the debts of the firm beyond the amount
 6 so contributed; the former alone to transact its business, have power
 7 to bind it by contract, and be liable for its debts.

[R., '60, §§ 1874-1876; C., '73, §§ 2147-2149; C., '97, § 3106.]

SEC. 6181. Certificate.

1 The persons forming such partnership shall make and sign a
 2 certificate, which shall contain:

3 1. The firm name under which such partnership is to be con-
 4 ducted.

5 2. The general nature of the business to be transacted.

6 3. The names of the general and special partners interested
 7 therein, specifically stating which are general and which special, with
 8 the residence of each.

9 4. The amount of capital which each special partner has con-
 10 tributed.

11 5. The time at which the partnership is to commence and when
 12 it will terminate.

[R., '60, § 1877; C., '73, § 2150; C., '97, § 3107.]

SEC. 6182. Recording.

1 It shall be acknowledged by the several partners before some
 2 officer authorized to take acknowledgments of deeds, and filed in the
 3 office of the clerk of the district court of the county in which its prin-
 4 cipal place of business is situated, who shall record the same in a book
 5 kept for that purpose. If the partnership has places of business in
 6 different counties, a transcript of the certificate and acknowledgment
 7 thereof, certified by the clerk in whose office it is filed, shall be filed
 8 and recorded in the office of the clerk of the district court of every
 9 such county. At the time of filing the certificate, an affidavit of one
 10 or more of the general partners shall be attached thereto, showing
 11 that the sum specified in the certificate as having been contributed
 12 by each of the special partners has been actually paid in cash, and if
 13 any false statement be made in such certificate or affidavit, all the
 14 persons interested therein shall be liable for all the contracts thereof.

[R., '60, §§ 1878-1881; C., '73, §§ 2151-2154; C., '97, § 3108.]

SEC. 6183. Publication.

1 Upon filing the certificate and affidavit, a notice containing all the
 2 facts set out in the certificate shall be published, once each week, for
 3 six weeks in two newspapers in the senatorial district in which the
 4 business is to be conducted, to be designated by the clerk of the court
 5 of the county in which such certificate is filed, proof of which publica-
 6 tion may be made by the publishers in the same manner as original
 7 notices in ordinary actions, and filed with said clerk, which, when

8 thus made, shall be presumptive evidence of the facts therein con-
 9 tained. If the required publication is not made, the partnership shall
 10 be general.

[R., '60, §§ 1882, 1883; C., '73, §§ 2155, 2156; C., '97, § 3109;
 S., '13, § 3109.]

SEC. 6184. Renewals.

1 Every renewal of such partnership beyond the time originally
 2 fixed shall be certified, acknowledged and recorded, and an affidavit of
 3 a general partner be made and filed, and notice be given, in the man-
 4 ner herein required for its original formation, and every such partner-
 5 ship which shall be otherwise renewed or continued shall be a gen-
 6 eral one.

[R., '60, § 1884; C., '73, § 2157; C., '97, § 3110.]

SEC. 6185. Alterations.

1 Any alteration made in the name of the partners, the nature of
 2 the business, the capital, shares, or any other matter specified in the
 3 certificate, shall work a dissolution of the partnership, and if the busi-
 4 ness shall thereafter be carried on it shall be a general partnership,
 5 according to the provisions of the last preceding section.

[R., '60, § 1885; C., '73, § 2158; C., '97, § 3111.]

SEC. 6186. Firm name.

1 The business of the partnership shall be conducted under a firm
 2 name, in which the names of the general partners only shall appear,
 3 without the addition of the word "company" or other general term,
 4 and if the name of any special partner is used therein with his privity,
 5 he shall be a general partner.

[R., '60, § 1886; C., '73, § 2159; C., '97, § 3112.]

SEC. 6187. Actions.

1 Actions in relation to the business of the partnership may be
 2 brought and conducted by and against the general partners in the
 3 same manner as if there were no special partners.

[R., '60, § 1887; C., '73, § 2160; C., '97, § 3113.]

SEC. 6188. Capital not withdrawn.

1 No part of the sum which any special partner shall have con-
 2 tributed to the capital shall be withdrawn by him, or paid or trans-
 3 ferred to him in the shape of dividends, profits or otherwise, during
 4 the continuance of the partnership, but he may take lawful interest
 5 thereon if the payment thereof shall not reduce the original amount
 6 of such capital, and if, after the payment of such interest, any profits
 7 shall remain to be divided, he may also receive his portion thereof.
 8 If, after the payment of interest or profits, it is found that the capital
 9 has been reduced, the partner receiving the same shall immediately
 10 restore the amount necessary to make good his share of the capital,
 11 with interest.

[R., '60, §§ 1888, 1889; C., '73, §§ 2161, 2162; C., '97, § 3114.]

SEC. 6189. Special partners—powers.

1 A special partner may, from time to time, examine into the state
 2 of the partnership concerns, and advise as to its management, but

3 shall not transact any business on account of the partnership, nor be
4 employed for that purpose in any capacity. If he shall interfere, con-
5 trary to these provisions, he shall be a general partner.

[R., '60, § 1890; C., '73, § 2163; C., '97, § 3115.]

SEC. 6190. Accounting—penalty.

1 The general partners shall be liable to account to each other and
2 to the special partners, and, if guilty of fraud in the affairs of a part-
3 nership, shall be liable to the party injured, and be guilty of a
4 misdemeanor.

[R., '60, §§ 1891, 1892; C., '73, §§ 2164, 2165; C., '97, § 3116.]

SEC. 6191. Assignment.

1 Every sale, assignment or transfer of any of the property or
2 effects of such partnership, made when insolvent or in contemplation
3 of insolvency, or after or in contemplation of the insolvency of any
4 partner, with the intent of giving a preference to any creditor of such
5 partnership or insolvent partner over other creditors of such partner-
6 ship, and every judgment confessed, lien created or security given by
7 such partnership under like circumstances and with like intent, shall
8 be void as against the creditors of such partnership.

[R., '60, § 1893; C., '73, § 2166; C., '97, § 3117.]

SEC. 6192. Preferences void.

1 Every such sale, assignment or transfer of any of the property
2 or effects of a general or special partner, when insolvent or in con-
3 templation of insolvency, or after, or in contemplation of, the insolv-
4 ency of the partnership, with the intent of giving to any creditor of
5 his own or of the partnership a preference over creditors of the part-
6 nership, and every judgment confessed, lien created or security given
7 by any such partner, under like circumstances and with like intent,
8 shall be void as against the creditors of the partnership.

[R., '60, § 1894; C., '73, § 2167; C., '97, § 3118.]

SEC. 6193. Liability of special partners.

1 Every special partner who shall violate any provision of the two
2 preceding sections, or who shall concur in or assent to any such viola-
3 tion by the partnership, or by an individual partner, shall be liable as
4 a general partner.

[R., '60, § 1895; C., '73, § 2168; C., '97, § 3119.]

SEC. 6194. Insolvency.

1 In case of the insolvency of the partnership, no special partner
2 shall, under any circumstances, be allowed to claim as a creditor until
3 the debts of all the other creditors of the partnership shall be satisfied.

[R., '60, § 1896; C., '73, § 2169; C., '97, § 3120.]

SEC. 6195. Dissolution.

1 No dissolution of such partnership by the acts of the parties
2 shall take place previous to the time specified in the certificate of its
3 formation, or in the certificate of its renewal, until a notice thereof
4 shall have been filed and recorded in the office of the clerk of the dis-
5 trict court in which the original certificate was recorded, and pub-

6 lished once in every week for four weeks in a newspaper printed in
7 each of the counties where the partnership has places of business.
[R., '60, § 1897; C., '73, § 2170; C., '97, § 3121.]

CHAPTER 10.

AUCTIONEERS.

SECTION 6196. Nonresident auctioneers.

1 It shall be unlawful for any nonresident of the state of Iowa to
2 cry any sale of property as an auctioneer within the state of Iowa,
3 unless by the law of the state of which such person is a resident, resi-
4 dents of this state would be permitted to cry any and all sales of prop-
5 erty within such state as an auctioneer without a license.

[38 G. A., ch. 47, § 1.]

SEC. 6197. Penalty.

1 If any person shall sell or attempt to sell any property as an auc-
2 tioneer in violation of the provisions of the preceding section, he or
3 she shall be guilty of a misdemeanor, and punished by a fine not ex-
4 ceeding one hundred dollars, or imprisonment in the county jail not
5 exceeding thirty days.

[38 G. A., ch. 47, § 3.]

SEC. 6198. Exceptions.

1 The provisions of the two preceding sections shall not be ap-
2 plicable to sales of property under direction or authority of any chat-
3 tel mortgage, court or process thereof.

[38 G. A., ch. 47, § 2.]

CHAPTER 11.

TRADEMARKS FOR ARTICLES MANUFACTURED IN IOWA.

SECTION 6199. Iowa state manufacturers' association—conditions of recognition.

1 When the organization now existing in the state of Iowa, and
2 known as the Iowa state manufacturers' association shall have filed
3 with the secretary of state of Iowa verified proofs of its organization
4 and the name of its president, vice president, secretary and treasurer,
5 and that it has one hundred bona fide members, such association shall
6 be recognized as the Iowa state manufacturers' association, and be en-
7 titled to the benefits of this chapter.

[S., '13, § 3138-c.]

SEC. 6200. Trademark "Made in Iowa"—registration.

1 For the purpose of aiding in the promotion and development of
2 manufacturing in Iowa, such association may adopt a label or trade-
3 mark bearing the words "Made in Iowa," together with any other

4 appropriate design or inscription, and this label or trademark shall
 5 be registered in the office of the secretary of state of Iowa. Said
 6 association shall have the right to register or file such label or trade-
 7 mark under the laws of the United States or any foreign country
 8 which permits such registration, making such registration as an asso-
 9 ciation or through an individual for the use and benefit of the associa-
 10 tion.

[S., '13, § 3138-c1.]

SEC. 6201. Board of awards—uniform regulations—powers.

1 The said association shall by its articles of association provide
 2 for the election or appointment of a board of not less than fifteen
 3 manufacturers, who are residents of Iowa, which board shall be
 4 known as a board of awards. The said board of awards shall then
 5 establish uniform regulations and shall then grant to any manufac-
 6 turer in the state of Iowa, who conforms to such regulations, the right
 7 to use said label or trademark. In making such regulations the said
 8 board of awards may make requirements as to good quality of such
 9 products, both as to materials and workmanship, and it may also fix
 10 a charge to be paid by such manufacturer for the use of such label.
 11 Upon failure to comply with any requirements established by the board
 12 of awards such privilege may be by them revoked, it being the purpose
 13 of this chapter to make the said label or trademark stand for Iowa-
 14 made goods, and also for goods of quality and merit.

[S., '13, § 3138-c2.]

SEC. 6202. Use of trademark without permission—penalty.

1 No person, firm or corporation shall use the said label or trade-
 2 mark or advertise the same, or attach, or stamp the same upon any
 3 article or product except under permission obtained in accordance
 4 with the provisions of this chapter. Any person or persons who shall
 5 use the said label or trademark except as herein authorized shall be
 6 guilty of a misdemeanor.

[S., '13, § 3138-c3.]

SEC. 6203. Moneys collected—how expended.

1 All moneys collected by the said association under the provisions
 2 of this chapter shall be expended by the said association in advertis-
 3 ing and promoting the sale of Iowa-made goods bearing the said label
 4 or trademark in the state of Iowa.

[S., '13, § 3138-c4.]

SEC. 6204. "Manufacturer" defined.

1 Where the word "manufacturer" is used in this chapter it shall
 2 be construed to mean any person, firm, or corporation engaged in
 3 manufacturing in the state of Iowa.

[S., '13, § 3138-c5.]

CHAPTER 12.

UNFAIR DISCRIMINATION.

SECTION 6205. Unfair discrimination in purchases and sales.

1 Any person, firm, company, association or corporation, foreign or
 2 domestic, doing business in the state of Iowa, and engaged in the
 3 production, manufacture, sale or distribution of any commodity of
 4 commerce, that shall, for the purpose of destroying the business of a
 5 competitor in any locality or creating a monopoly, discriminate be-
 6 tween different sections, localities, communities, cities or towns of
 7 this state, by selling such commodity at a lower price or rate in one
 8 section, locality, community, city or town than such commodity is sold
 9 for by said person, firm, association, company, or corporation, in
 10 another section, locality, community, city or town, after making due
 11 allowance for the difference, if any, in the grade or quality, and in
 12 the actual cost of transportation from the point of production or pur-
 13 chase, if a raw product, or from the point of manufacture, if a manu-
 14 factured product, to a place of sale, storage or distribution, shall be
 15 deemed guilty of unfair discrimination, which is hereby prohibited
 16 and declared to be unlawful; provided, however, that prices made to
 17 meet competition in such section, locality, community, city or town
 18 shall not be in violation of this section.

19 Any person, firm, association, company or corporation, foreign
 20 or domestic, doing business in the state of Iowa, and engaged in the
 21 business of purchasing for manufacture, storage, sale or distribution,
 22 any commodity of commerce that shall, for the purpose of destroying
 23 the business of a competitor or creating a monopoly, discriminate be-
 24 tween different sections, localities, communities, cities or towns, in
 25 this state, by purchasing such commodity at a higher rate or price in
 26 one section, locality, community, city or town, than is paid for such
 27 commodity by such party in another section, locality, community, city
 28 or town, after making due allowance for the difference, if any, in the
 29 grade or quality, and in the actual cost of transportation from the
 30 point of purchase, to the point of manufacture, sale, distribution or
 31 storage, shall be deemed guilty of unfair discrimination, which is
 32 hereby prohibited and declared to be unlawful; provided, however,
 33 that prices made to meet competition in such section, locality, com-
 34 munity, city or town shall not be in violation of this section.

35 Any person, firm, association, company or corporation, or any
 36 officer, agent or member of any such firm, company, association or
 37 corporation, found guilty of unfair discrimination as herein defined,
 38 shall be punished as provided in the following section.

[S., '13, § 5028-b.]

SEC. 6206. Penalty.

1 Any person, firm, company, association or corporation violating
 2 any of the provisions of the preceding section, and any officer, agent
 3 or receiver of any firm, company, association or corporation, or any
 4 member of the same, or any individual, found guilty of a violation
 5 thereof, shall be fined not less than five hundred dollars nor more
 6 than five thousand dollars, or be imprisoned in the county jail not to
 7 exceed one year, or suffer both penalties.

[S., '13, § 5028-c.]

SEC. 6207. Contracts or agreements.

1 All contracts or agreements made in violation of any of the pro-
2 visions of the two preceding sections shall be void.

[S., '13, § 5028-d.]

SEC. 6208. Enforcement.

1 It shall be the duty of the county attorneys, in their counties, and
2 the attorney general, to enforce the provisions of the three preceding
3 sections by appropriate actions in courts of competent jurisdiction.

[S., '13, § 5028-e.]

SEC. 6209. Complaint—to whom made.

1 If complaint shall be made to the secretary of state that any cor-
2 poration authorized to do business in this state is guilty of unfair
3 discrimination, within the terms of section sixty-two hundred five, it
4 shall be the duty of the secretary of state to refer the matter to the
5 attorney general who may, if the facts justify it in his judgment, insti-
6 tute proceedings in the courts against such corporation.

[S., '13, § 5028-f.]

SEC. 6210. Revocation of permit.

1 If any corporation, foreign or domestic, authorized to do busi-
2 ness in this state, is found guilty of unfair discrimination, within the
3 terms of section sixty-two hundred five, it shall be the duty of the
4 secretary of state to immediately revoke the permit of such corpora-
5 tion to do business in this state.

[S., '13, § 5028-g.]

SEC. 6211. Corporation to be enjoined.

1 If after revocation of its permit such corporation, or any other
2 corporation not having a permit and found guilty of having violated
3 any of the provisions of section sixty-two hundred five, shall continue
4 or attempt to do business in this state, it shall be the duty of the attor-
5 ney general, by a proper suit in the name of the state of Iowa, to enjoin
6 such corporation from transacting all business of every kind and char-
7 acter in said state of Iowa.

[S., '13, § 5028-h.]

SEC. 6212. Cumulative remedies.

1 Nothing in the seven preceding sections shall be construed as re-
2 pealing any other act, or part of act, but the remedies herein provided
3 shall be cumulative to all other remedies provided by law.

[S., '13, § 5028-i.]

CHAPTER 13.**OPTIONS AND BUCKET SHOPS.****SECTION 6213. Dealing in options—bucket shops.**

1 It shall be unlawful for any person, corporation, association or
2 society to keep within the state any store, office or other place for the

3 pretended buying or selling of grain, pork, lard, or any mercantile,
4 mining or agricultural products or corporation stocks, on margins,
5 without any intention of future delivery, whether such pretended con-
6 tracts are to be performed within or without the state; and no person,
7 corporation, association or society within the state shall make or enter
8 into any contract or pretended contract, such as is above stated and
9 referred to; the intention of this section being to prevent and prohibit
10 within the state the business now engaged in and conducted in places
11 commonly known and designated as bucket shops. But this section
12 shall not apply or in any way affect any contract for the actual buying
13 or selling of any commodity whatever for present or future delivery,
14 where the actual delivery or receipt of the thing sold is contemplated
15 and in good faith intended by either of the parties to the contract.

[C., '97, § 4967.]

SEC. 6214. Penalty.

1 Any person, whether acting individually, or as a member of any
2 copartnership, corporation, association or society, guilty of violating
3 any of the provisions of the preceding section, shall be fined not less
4 than one hundred nor more than five hundred dollars, or be impris-
5 oned in the county jail not less than thirty days nor more than one
6 year, or both.

[C., '97, § 4968.]

SEC. 6215. Bucket shop and bucket shopping defined.

1 A bucket shop, within the meaning of this and the three follow-
2 ing sections, is defined to be an office, store or other place wherein
3 the proprietor or keeper thereof, or other person or agent, either in
4 his or its own behalf, or as the agent or correspondent of any other
5 person, corporation, association or copartnership within or without
6 the state, conducts the business of making, or offering to make, con-
7 tracts, agreements, trades or transactions respecting the purchase or
8 sale, or purchase and sale, of any stocks, grain, provisions, cotton, or
9 other commodity, or personal property, wherein both parties thereto,
10 or said proprietor or keeper, contemplate or intend that such con-
11 tracts, agreements, trades or transactions shall be, or may be closed,
12 adjusted or settled according to, or upon the basis of, the public mar-
13 ket quotations of prices made on any board of trade or exchange, upon
14 which the commodities or securities referred to in such contracts,
15 agreements, trades or transactions are dealt in by competitive buying
16 and selling, and without a bona fide transaction on such board of trade
17 or exchange; or wherein both parties, or such keeper or proprietor
18 shall contemplate or intend that such contracts, agreements, trades
19 or transactions shall be, or may be, deemed closed or terminated when
20 the public market quotations of prices made on such board of trade,
21 or exchange, for the articles or securities named in such contracts,
22 agreements, trades or transactions, shall reach a certain figure; and
23 also any office, store or other place where the keeper, person or agent,
24 or proprietor thereof, either in his or its own behalf, or as an agent,
25 as aforesaid, therein makes or offers to make, with others, contracts,
26 trades or transactions for the purchase or sale of any such commodity,
27 wherein the parties thereto do not contemplate or intend the actual
28 or bona fide receipt or delivery of such property, but do contemplate
29 or intend a settlement thereof based upon differences in the price at
30 which said property is, or is claimed to be, bought and sold.

31 The said crime shall be complete against any proprietor, person,
 32 agent, or keeper thus offering to make any such contracts, trades or
 33 transactions, whether such offer is accepted or not. It is the inten-
 34 tion of this and the three following sections to prevent, punish and
 35 prohibit, within this state, the business now engaged in and conducted
 36 in places commonly known and designated as "bucket shops," and also
 37 to include the practice now commonly known as "bucket shopping" by
 38 any person or persons, agent, corporations, associations or copartner-
 39 ships, who or which ostensibly carry on the business or occupation of
 40 commission merchants or brokers in grain, provisions, cotton, coffee,
 41 petroleum, stocks, bonds or other commodities whatsoever.

[S., '13, § 4975-d.]

SEC. 6216. Keeping or maintaining bucket shop.

1 It shall be unlawful, and the same is hereby made a felony, for
 2 any corporation, association, copartnership, person, or persons, or
 3 agent to keep or cause to be kept, within this state, any such bucket
 4 shop; and any corporation, person or persons, or agents whether act-
 5 ing individually or as a member, or as an officer, agent or employee
 6 of any corporation, association or copartnership, who shall keep, main-
 7 tain, or assist in the keeping and maintaining of any such bucket shop
 8 within this state, shall, upon conviction thereof, be fined in a sum not
 9 to exceed one thousand dollars or be imprisoned in the penitentiary
 10 not exceeding two years; and any person or persons who shall be
 11 guilty of a second offense under this statute, in addition to the penalty
 12 above prescribed, may, upon conviction, be both fined and imprisoned
 13 in the discretion of the court, and if a corporation, it shall be liable
 14 to forfeiture of all its rights and privileges as such; and the continu-
 15 ance of such establishment after the first conviction shall be deemed
 16 a second offense.

[S., '13, § 4975-e.]

SEC. 6217. Accessory defined.

1 Any corporation, association, copartnership, person or persons or
 2 agents who shall communicate, receive, exhibit, or display in any man-
 3 ner any statements or quotations of the prices of any property men-
 4 tioned in section sixty-two hundred fifteen, with a view to any trans-
 5 actions in sections sixty-two hundred fifteen to sixty-two hundred
 6 eighteen, inclusive, prohibited, shall be deemed an accessory, and upon
 7 conviction thereof, shall be fined and punished the same as the prin-
 8 cipal, and as provided in the preceding section.

[S., '13, § 4975-f.]

SEC. 6218. Statement of purchases or sales furnished on demand.

1 It shall be the duty of every commission merchant, copartner-
 2 ship, association, corporation, person or persons, or agent or broker
 3 in this state engaged in the business of buying or selling, or of buying
 4 and selling, stocks, bonds, grain, provisions, cotton, or other commodi-
 5 ties or personal property for any person, principal, customer or pur-
 6 chaser, to furnish to any customer or principal for whom such com-
 7 mission merchant, broker, copartnership, corporation, association,
 8 person or persons, or agent has executed any order for the actual
 9 purchase or sale of the commodities hereinbefore mentioned, either

10 for immediate or future delivery, a written statement containing the
 11 names of the parties from whom such property was bought, or to
 12 whom it shall have been sold, as the case may be, the time when, the
 13 place where, and the price at which, the same was either bought or
 14 sold; and in case such commission merchant, broker, person or per-
 15 sons, or agent, copartnership, corporation or association shall fail to
 16 furnish the said statement, the fact of such failure shall be prima facie
 17 evidence that such property was not sold or bought in a legitimate
 18 manner, but was bought in violation of the three preceding sections
 19 hereof.

[S., '13, § 4975-g.]

CHAPTER 14.

COMBINATIONS, POOLS AND TRUSTS.

SECTION 6219. Pools and trusts.

1 Any corporation organized under the laws of this or any other
 2 state or country for transacting or conducting any kind of business in
 3 this state, or any partnership, association or individual, creating, en-
 4 tering into or becoming a member of or a party to any pool, trust,
 5 agreement, contract, combination, confederation or understanding with
 6 any other corporation, partnership, association or individual, to regu-
 7 late or fix the price of any article of merchandise or commodity, or to
 8 fix or limit the amount or quantity of any article, commodity or mer-
 9 chandise to be manufactured, mined, produced or sold in this state,
 10 shall be guilty of a conspiracy.

[C., '97, § 5060.]

SEC. 6220. Corporation not to enter.

1 No corporation shall issue or own trust certificates, and no corpo-
 2 ration, nor any agent, officer, employee, director or stockholder of any
 3 corporation, shall enter into any combination, contract or agreement
 4 with any person or corporation, or with any stockholder or director
 5 thereof, for the purpose of placing the management or control of such
 6 combination or combinations, or the manufactured product thereof, in
 7 the hands of any trustee or trustees, with intent to limit or fix the price
 8 or lessen the production or sale of any article of commerce, use or con-
 9 sumption, or to prevent, restrict or diminish the manufacture or out-
 10 put of any such article.

[C., '97, § 5061.]

SEC. 6221. Penalty.

1 Any corporation, company, firm or association violating any of
 2 the provisions of the two preceding sections shall be fined not less than
 3 five hundred nor more than five thousand dollars, and any president,
 4 manager, director, officer, agent or receiver of any corporation, com-
 5 pany, firm or association, or any member of any corporation, company,
 6 firm or association, or any individual, found guilty of a violation
 7 thereof, shall be fined not less than five hundred nor more than five
 8 thousand dollars, or be imprisoned in the county jail not to exceed
 9 one year, or both.

[C., '97, § 5062; S., '13, § 5062.]

SEC. 6222. Contracts void.

1 All contracts or agreements in violation of any provisions of the
2 three preceding sections shall be void.

[C., '97, § 5063.]

SEC. 6223. Defense.

1 Any purchaser of any article or commodity from any individual,
2 company or corporation transacting business contrary to any provi-
3 sions of the four preceding sections shall not be liable for the price
4 or payment thereof, and may plead such provisions as a defense to any
5 action for such price or payment.

[C., '97, § 5064.]

SEC. 6224. Forfeiture of charter.

1 Any corporation created or organized by or under the law of this
2 state, which shall violate any provision of the five preceding sections,
3 shall thereby forfeit its corporate right and franchise, as provided in
4 the next section.

[C., '97, § 5065.]

SEC. 6225. Notice by secretary of state.

1 The secretary of state, upon satisfactory evidence that any com-
2 pany or association of persons incorporated under the laws of this
3 state have entered into any trust, combination or association in viola-
4 tion of the provisions of the six preceding sections, shall give notice to
5 such corporation that, unless it withdraws from and severs all busi-
6 ness connection with said trust, combination or association, its articles
7 of incorporation will be revoked at the expiration of thirty days from
8 date of such notice.

[C., '97, § 5066.]

SEC. 6226. Proceedings—inquiry by grand jury.

1 County attorneys, in their counties, and the attorney general shall
2 enforce the provisions of a public nature in the seven preceding sec-
3 tions, and any county attorney or the attorney general securing a con-
4 viction under the provisions thereof shall be entitled, in addition to
5 such fee or salary as by law he is allowed for such prosecution, to one-
6 fifth of the fine recovered. When the attorney general and county at-
7 torney act in conjunction in the prosecution of any action under such
8 provisions, they shall be entitled to one-fourth of the fine recovered,
9 which they shall divide equally between them, where there is no agree-
10 ment to the contrary. It shall be the duty of the grand jury to inquire
11 into and ascertain if there exists any pool, trust or combination within
12 their respective counties.

[C., '97, § 5067.]

SEC. 6227. Combinations, pools and trusts—fixing prices.

1 It shall be unlawful for any person, company, partnership, asso-
2 ciation or corporation owning or operating any business of buying,
3 selling, handling, consigning or transporting any commodity or any
4 article of commerce, to enter into any agreement, contract or combina-
5 tion with any other dealer, or dealers, partnership, company, corpora-
6 tion or association of dealers, whether within or without the state, en-

7 gaged in like business, for the fixing of the price or prices at which any
 8 commodity or any article of commerce should be sold by different deal-
 9 ers or sellers; or to divide between said dealers the aggregate or net
 10 proceeds of the earnings of such dealers and sellers, or any portion
 11 thereof; or to form, enter into, maintain, or contribute money or any-
 12 thing of value to any trust, pool, combination or association of persons
 13 of whatsoever character or name, which has for any of its objects
 14 the prevention of full and free competition among buyers, sellers,
 15 or dealers in any commodity or any article of commerce; or to do or
 16 permit to be done by his or their authority any act or thing whereby
 17 the free action of competition in the buying or selling of any com-
 18 modity or any article of commerce is restrained or prevented; pro-
 19 vided, however, that the labor of a human being either mental or
 20 physical is not a commodity or article of commerce and it shall not be
 21 unlawful for men and women to organize themselves into or carry on
 22 unions for the purpose, by lawful means of lessening the hours of
 23 labor or increasing the wages, or bettering the condition of the mem-
 24 bers of such organizations; or lawfully carrying out their legitimate
 25 purposes.

[S., '13, § 5067-a; 38 G. A., ch. 213, § 1.]

SEC. 6228. Liability.

1 In case any person, company, partnership, corporation or asso-
 2 ciation, trust, pool or combination of whatsoever name shall do, cause
 3 to be done, or permit to be done, any act, matter or thing in the pre-
 4 ceding section prohibited or declared to be unlawful, such person, part-
 5 nership, company, association, corporation, trust, pool or combination
 6 shall be liable to the person, partnership, company, association or cor-
 7 poration injured thereby for the full amount of damages sustained
 8 in consequence of any such violation of the provisions of the preced-
 9 ing section.

[S., '13, § 5067-b.]

SEC. 6229. Violation—penalty.

1 Any person, partnership, company, association or corporation sub-
 2 ject to the provisions of the two preceding sections, or any person,
 3 trust, combination, pool or association, or any director, officer, lessee,
 4 receiver, trustee, employee, clerk, agent or any person acting for or em-
 5 ployed by them, who shall violate any of the provisions of section
 6 sixty-two hundred twenty-seven, or who shall aid and abet in such
 7 violation, shall be deemed guilty of a misdemeanor, and shall upon
 8 conviction thereof be fined any sum not less than five hundred dollars
 9 and not exceeding two thousand dollars or imprisoned in the county
 10 jail for a period not exceeding six months, or both, at the discretion
 11 of the court. It shall be the duty of the grand jury to inquire into
 12 and ascertain if there exists any pool, trust, combination or violation
 13 of any provision in the two preceding sections, in their respective
 14 counties.

[S., '13, § 5067-c.]

SEC. 6230. Gift enterprises.

1 All gift enterprises, as hereinafter defined, and all trade practices
 2 carried on in connection therewith are hereby prohibited and declared
 3 to be unlawful.

[S., '13, § 5067-d.]

SEC. 6231. Gift enterprise defined.

1 Whenever two or more persons enter into any contract arrange-
2 ment or scheme, whereby for the purpose of inducing the public to
3 purchase merchandise or other property of one of the parties to said
4 scheme, any other party thereto, for a valuable consideration and as
5 a part of such scheme, advertises and induces or attempts to induce
6 the public to believe that he will give gifts, premiums or prizes to
7 persons purchasing such merchandise or other property of such party
8 to said scheme, and that stamps or tickets will be given by the seller
9 in connection with such sales entitling the purchaser of such property
10 to receive such prizes or gifts from any other party to such scheme,
11 the parties so undertaking and carrying out such scheme shall be
12 deemed to be engaged in a "gift enterprise," unless the articles or
13 things so promised to be given as gifts or premiums with or on ac-
14 count of such purchases, shall be definitely described on such stamp
15 or ticket and the character and value of such promised prize or gift
16 fully made known to the purchaser of such merchandise or other prop-
17 erty at the time of the sale thereof, and unless the right of the holder
18 of such stamp or ticket to the gift or premium so promised becomes
19 absolute upon the completion upon the delivery thereof without the
20 holder being required to collect any specified number of other similar
21 stamps or tickets and to present them for redemption together, and
22 the right of the holder of such stamp or ticket to the prize or gift so
23 offered is absolute, and does not depend on any chance, uncertainty
24 or contingency whatever.

[S., '13, § 5067-e.]

SEC. 6232. Violation.

1 Any person who engages in a gift enterprise such as is defined
2 in the preceding section or who advertises the same in any manner
3 or who in furtherance of such scheme, as an inducement to purchas-
4 ers, issues in connection with the sale of any merchandise or other
5 property any such ticket or stamp purporting to be redeemable in
6 some indefinite article not described thereon, only when presented
7 with a collection of other stamps or tickets of like kind by some other
8 party to such scheme, and which unless presented in the manner
9 aforesaid is not redeemable at all, shall each and all be guilty of a
10 misdemeanor.

[S., '13, § 5067-f.]

SEC. 6233. "Person" defined.

1 The word "person" as used in the two preceding sections may in
2 proper cases, in order to make the intent and meaning of the law ef-
3 fective, be construed to mean firm or corporation.

[S., '13, § 5067-g.]

SEC. 6234. Grain combinations prohibited.

1 It shall be unlawful for any person, company, partnership, as-
2 sociation, or corporation owning or operating any grain elevator or
3 engaged in the business of buying, selling, handling, consigning, or
4 transporting grain, to enter into any agreement, contract, or com-
5 bination with any other grain dealer, or grain dealers, partnership,
6 company, corporation, or association of grain dealers, whether within
7 or without the state, engaged in like business, for the fixing of prices

8 to be paid for grain by different dealers or buyers; or to divide be-
 9 tween said dealers the aggregate or net proceeds of the earnings of
 10 such dealers and buyers, or any portion thereof; or to form, enter
 11 into, maintain, or contribute money or anything of value to any trust,
 12 pool, combination, or association of persons of whatsoever character
 13 or name, which has for any of its objects the prevention of full and
 14 free competition among buyers, sellers, or dealers in grain; or to do
 15 or permit to be done by his or their authority any act or thing whereby
 16 the free action of competition in the buying or selling of grain is re-
 17 strained or prevented.

[S., '13, § 5077-a3.]

SEC. 6235. Liability for damages.

1 In case any person, company, partnership, corporation or asso-
 2 ciation, trust, pool or combination of whatsoever name shall do, cause
 3 to be done, or permit to be done, any act, matter or thing in the pre-
 4 ceding section prohibited or declared to be unlawful, such person,
 5 partnership, company, association, corporation, trust, pool or com-
 6 bination shall be liable to the person, partnership, company, associa-
 7 tion or corporation injured thereby for the full amount of damages
 8 sustained in consequence of any such violation of the provisions of
 9 said section, together with a reasonable attorney's fee to be fixed by
 10 the court in every case of recovery and to be taxed as part of the costs
 11 in the case, and the property of any person who may be a member of
 12 any such trust, pool, combination, corporation or association, violating
 13 the provisions of said section, shall be liable for the full amount of
 14 such judgment.

[S., '13, § 5077-a4.]

SEC. 6236. Duty of grand jury—penalty.

1 Any person, partnership, company, association or corporation
 2 subject to the provisions of the two preceding sections, or any person,
 3 trust, combination, pool or association, or any director, officer, lessee,
 4 receiver, trustee, employee, clerk, agent or any person acting for or
 5 employed by them or either of them, who shall violate any of the pro-
 6 visions of section sixty-two hundred thirty-four, or who shall aid and
 7 abet in such violation, shall be deemed guilty of a misdemeanor, and
 8 shall upon conviction thereof be fined any sum not less than five hun-
 9 dred dollars and not exceeding two thousand dollars, or imprisoned
 10 in the county jail for a period not exceeding six months, or both, at
 11 the discretion of the court. It shall be the duty of the grand jury to
 12 inquire into and ascertain if there exists any pool, trust, combination
 13 or violation of any provision in the two preceding sections in their
 14 respective counties.

[S., '13, § 5077-a5.]

**SEC. 6237. Provision deemed to be a part of every contract—
 forfeit.**

1 The following provision shall be deemed and held to be a part of
 2 every contract hereafter entered into by any person, firm or private
 3 corporation with the state of Iowa, or with any county, city, town,
 4 city acting under special charter, cities acting under commission form
 5 of government, school corporation or with any municipal corporation,
 6 now or hereafter created, whether said provision be inserted in such
 7 contract or not, to wit:

8 The party to whom this contract has been awarded, hereby rep-
9 resents and guarantees that he has not, nor has any other person for
10 or in his behalf, directly or indirectly, entered into any arrangement
11 or agreement with any other bidder, or with any public officer, whereby
12 he has paid or is to pay to any other bidder or public officer any sum
13 of money or anything of value whatever in order to obtain this con-
14 tract; and that he has not, nor has another person, for or in his be-
15 half, directly or indirectly, entered into any agreement or arrange-
16 ment with any other person, firm, corporation or association which
17 tends to or does lessen or destroy free competition in the letting of
18 this contract and agrees that the establishment of the falsity of these
19 representations and guaranties, or any of them, and he hereby agrees
20 that in case it hereafter be established that such representations or
21 guaranties, or any of them, are false, he will forfeit and pay not less
22 than five per cent of the contract price but in no event be less than
23 three hundred dollars, as liquidated damages to the other contract-
24 ing party.

[S., '13, § 1279-c.]

SEC. 6238. Witnesses not privileged from testifying—immunity.

1 In any action in any court wherein the falsity of such representa-
2 tions and guaranties are at issue, no witness shall be privileged from
3 testifying to any matter or from producing any books, papers, or
4 letters, on the ground that the same might or would tend to render
5 such witness criminally liable, but such witness shall not be prosecuted
6 for any offense whatever growing out of or connected with the matters
7 and things so testified to or produced by him, provided such witness
8 shall not be exempt from prosecution for perjury committed in so
9 testifying.

[S., '13, § 1279-d.]

TITLE XXII.

PERSONAL PROPERTY.

CHAPTER 1.

SALES OF PERSONAL PROPERTY.

SECTION 6239. Contracts to sell and sales.

- 1 1. A contract to sell goods is a contract whereby the seller agrees
- 2 to transfer the property in goods to the buyer for a consideration
- 3 called price.
- 4 2. A sale of goods is an agreement whereby the seller transfers
- 5 the property in goods to the buyer for a consideration called the price.
- 6 3. A contract to sell or a sale may be absolute or conditional.
- 7 4. There may be a contract to sell or a sale between one part
- 8 owner and another.

[38 G. A., ch. 396, § 1.]

SEC. 6240. Capacity—liabilities for necessities.

- 1 Capacity to buy and sell is regulated by the general law concern-
- 2 ing capacity to contract and to transfer and acquire property.
- 3 Where necessities are sold and delivered to an infant, or to a per-
- 4 son who by reason of mental incapacity or drunkenness is incompetent
- 5 to contract, he must pay a reasonable price therefor.
- 6 Necessaries in this section mean goods suitable to the condition
- 7 in life of such infant or other person and to his actual requirements
- 8 at the time of delivery.

[38 G. A., ch. 396, § 2.]

SEC. 6241. Form of contract or sale.

- 1 Subject to the provisions of this chapter and of any statute in
- 2 that behalf, a contract to sell or a sale may be made in writing (either
- 3 with or without seal), or by word of mouth, or partly in writing and
- 4 partly by word of mouth, or may be inferred from the conduct of
- 5 the parties.

[38 G. A., ch. 396, § 3.]

SEC. 6242. Statute of frauds.

- 1 1. A contract to sell or a sale of any goods or choses in action
- 2 shall not be enforceable by action unless the buyer shall accept part
- 3 of the goods or choses in action so contracted to be sold or sold and
- 4 actually receive the same or give something in earnest to bind the
- 5 contract, or in part payment, or unless some note or memorandum in
- 6 writing of the contract or sale be signed by the party to be charged
- 7 or his agent in that behalf.
- 8 2. The provisions of this section apply to every such contract or
- 9 sale, notwithstanding that the goods may be intended to be delivered

10 at some future time or may not at the time of such contract or sale be
 11 actually made, procured, or provided, or fit or ready for delivery, or
 12 some act may be requisite for the making or completing thereof, or
 13 rendering the same fit for delivery; but if the goods are to be manu-
 14 factured by the seller especially for the buyer and are not suitable for
 15 sale to others in the ordinary course of the seller's business, the pro-
 16 visions of this section shall not apply.

17 3. There is an acceptance of goods within the meaning of this
 18 section when the buyer, either before or after delivery of the goods,
 19 expresses by words or conduct his assent to becoming the owner of
 20 those specific goods.

[38 G. A., ch. 396, § 4.]

SEC. 6243. Existing and future goods.

1 1. The goods which form the subject of a contract to sell may be
 2 either existing goods, owned or possessed by the seller, or goods to
 3 be manufactured or acquired by the seller after the making of the
 4 contract to sell, in this chapter called "future goods".

5 2. There may be a contract to sell goods, the acquisition of which
 6 by the seller depends upon a contingency which may or may not
 7 happen.

8 3. Where the parties purport to effect a present sale of future
 9 goods, the agreement operates as a contract to sell the goods.

[38 G. A., ch. 396, § 5.]

SEC. 6244. Undivided shares.

1 1. There may be a contract to sell or a sale of an undivided share
 2 of goods. If the parties intend to affect a present sale, the buyer by
 3 force of the agreement becomes an owner in common with the owner
 4 or owners of the remaining shares.

5 2. In the case of fungible goods, there may be a sale of an un-
 6 divided share of a specific mass, though the seller purports to sell and
 7 the buyer to buy a definite number, weight, or measure of the goods
 8 in the mass and though the number, weight, or measure of the goods
 9 in the mass is undetermined. By such a sale the buyer becomes owner
 10 in common of such a share of the mass as the number, weight, or
 11 measure bought bears to the number, weight, or measure of the mass.
 12 If the mass contains less than the number, weight, or measure bought,
 13 the buyer becomes the owner of the whole mass and the seller is bound
 14 to make good the deficiency from similar goods unless a contrary in-
 15 tent appears.

[38 G. A., ch. 396, § 6.]

SEC. 6245. Destruction of goods sold.

1 1. Where the parties purport to sell specific goods, and the goods
 2 without the knowledge of the seller have wholly perished at the time
 3 when the agreement is made, the agreement is void.

4 2. Where the parties purport to sell specific goods, and the goods
 5 without the knowledge of the seller have perished in part or have
 6 wholly or in a material part so deteriorated in quality as to be sub-
 7 stantially changed in character, the buyer may at his option treat the
 8 sale:

9 a As avoided, or

10 b As transferring the property in all of the existing goods or in
 11 so much thereof as have not deteriorated, and as binding the buyer to

12 pay the full agreed price if the sale was indivisible, or to pay the
 13 agreed price for the goods in which the property passes if the sale
 14 was divisible.

[38 G. A., ch. 396, § 7.]

SEC. 6246. Destruction of goods contracted to be sold.

1 1. Where there is a contract to sell specific goods, and subse-
 2 quently, but before the risk passes the buyer, without any fault on the
 3 part of the seller or the buyer, the goods wholly perish, the contract
 4 is thereby avoided.

5 2. Where there is a contract to sell specific goods, and conse-
 6 quently, but before the risk passes to the buyer, without any fault of
 7 the seller or the buyer, part of the goods perish or the whole or a ma-
 8 terial part of the goods so deteriorate in quality as to be substantially
 9 changed in character, the buyer may, at his option treat the contract:

10 a As avoided; or

11 b As binding the seller to transfer the property in all of the ex-
 12 isting goods or in so much thereof as have not deteriorated, and as
 13 binding the buyer to pay the full agreed price if the contract was
 14 indivisible, or to pay the agreed price for so much of the goods as the
 15 seller, by the buyer's option, is bound to transfer if the contract
 16 was divisible.

[38 G. A., ch. 396, § 8.]

SEC. 6247. Definition and ascertainment of price.

1 1. The price may be fixed by the contract, or may be left to be
 2 fixed in such manner as may be agreed, or it may be determined by
 3 the course of dealing between the parties.

4 2. The price may be made payable in any personal property.

5 3. Where transferring or promising to transfer any interest in
 6 real estate constitutes the whole or part of the consideration for trans-
 7 ferring or for promising to transfer the property in goods, this chap-
 8 ter shall not apply.

9 4. Where the price is not determined in accordance with the fore-
 10 going provisions the buyer must pay a reasonable price. What is a
 11 reasonable price is a question of fact dependent on the circumstances
 12 of each particular case.

[38 G. A., ch. 396, § 9.]

SEC. 6248. Sale at a valuation.

1 1. Where there is a contract to sell or a sale of goods at a price
 2 or on terms to be fixed by a third person, and such third person, with-
 3 out fault of the seller or the buyer, can not or does not fix the price
 4 or terms, the contract or the sale is thereby avoided; but if the goods
 5 or any part thereof have been delivered to and appropriated by the
 6 buyer he must pay a reasonable price therefor.

7 2. Where such third person is prevented from fixing the price or
 8 terms by fault of the seller or the buyer, the party not in fault may
 9 have such remedies against the party in fault as are hereinafter
 10 provided.

[38 G. A., ch. 396, § 10.]

SEC. 6249. Effect of conditions.

1 1. Where the obligation of either party to a contract to sell or a
 2 sale is subject to any condition which is not performed, such party

3 may refuse to proceed with the contract or sale or he may waive per-
4 formance of the condition. If the other party has promised that the
5 condition should happen or be performed, such first mentioned party
6 may also treat the nonperformance of the condition as a breach of
7 warranty.

8 2. Where the property in the goods has not passed, the buyer may
9 treat the fulfillment by the seller of his obligation to furnish goods as
10 described and as warranted expressly or by implication in the con-
11 tract to sell as a condition of the obligation of the buyer to perform
12 his promise to accept and pay for the goods.

[38 G. A., ch. 396, § 11.]

SEC. 6250. Definition of express warranty.

1 Any affirmation of fact or any promise by the seller relating to
2 the goods is an express warranty if the natural tendency of such
3 affirmation or promise is to induce the buyer to purchase the goods,
4 and if the buyer purchases the goods relying thereon. No affirma-
5 tion of the value of the goods nor any statement purporting to be a
6 statement of the seller's opinion only shall be construed as a warranty.

[38 G. A., ch. 396, § 12.]

SEC. 6251. Implied warranties of title.

1 In a contract to sell or a sale, unless contrary intention appears,
2 there is—

3 1. An implied warranty on the part of the seller that in case of a
4 sale he has a right to sell the goods, and that in case of a contract to
5 sell he will have a right to sell the goods at the time when the prop-
6 erty is to pass.

7 2. An implied warranty that the buyer shall have and enjoy
8 quiet possession of the goods as against any lawful claims existing at
9 the time of the sale.

10 3. An implied warranty that the goods shall be free at the time
11 of the sale from any charge or incumbrance in favor of any third per-
12 son not declared or known to the buyer before or at the time when the
13 contract or sale is made.

14 4. This section shall not, however, be held to render liable a
15 sheriff, auctioneer, mortgagee, or other person professing to sell by
16 virtue of authority in fact or law goods in which a third person has a
17 legal or equitable interest.

[38 G. A., ch. 396, § 13.]

SEC. 6252. Implied warranty in sale by description.

1 Where there is a contract to sell or a sale of goods by description,
2 there is an implied warranty that the goods shall correspond with the
3 description, and if the contract or sale be by sample, as well as by de-
4 scription, it is not sufficient that the bulk of the goods corresponds
5 with the sample if the goods do not also correspond with the de-
6 scription.

[38 G. A., ch. 396, § 14.]

SEC. 6253. Implied warranties of quality.

1 Subject to the provisions of this chapter and of any statute in
2 that behalf, there is no implied warranty or condition as to the qual-

3 ity or fitness for any particular purpose of goods supplied under a
4 contract to sell or a sale, except as follows:

- 5 1. Where the buyer, expressly or by implication, makes known
6 to the seller the particular purpose for which the goods are required,
7 and it appears that the buyer relies on the seller's skill or judgment,
8 whether he be the grower or manufacturer or not, there is an implied
9 warranty that the goods shall be reasonably fit for such purpose.
- 10 2. Where the goods are bought by description from a seller who
11 deals in goods of that description, whether he be the grower or manu-
12 facturer or not, there is an implied warranty that the goods shall be
13 of merchantable quality.
- 14 3. If the buyer has examined the goods, there is no implied war-
15 ranty as regards defects which such examination ought to have re-
16 vealed.
- 17 4. In the case of a contract to sell or a sale of a specified article
18 under its patent or other trade name there is no implied warranty
19 as to its fitness for any particular purpose.
- 20 5. An implied warranty or condition as to quality or fitness for
21 a particular purpose may be annexed by the usage of trade.
- 22 6. An express warranty or condition does not negative a war-
23 ranty or condition implied under this chapter unless inconsistent
24 therewith.

[38 G. A., ch. 396, § 15.]

SEC. 6254. Implied warranties in sale by sample.

- 1 In the case of a contract to sell or a sale by sample:
- 2 1. There is an implied warranty that the bulk shall correspond
3 with the sample in quality.
- 4 2. There is an implied warranty that the buyer shall have a rea-
5 sonable opportunity of comparing the bulk with the sample, except so
6 far as otherwise provided in section sixty-two hundred eighty-five,
7 subdivision three.
- 8 3. If the seller is a dealer in goods of that kind there is an im-
9 plied warranty that the goods shall be free from any defect rendering
10 them unmerchantable which would not be apparent on reasonable ex-
11 amination of the sample.

[38 G. A., ch. 396, § 16.]

SEC. 6255. No property passes until goods are ascertained.

- 1 Where there is a contract to sell unascertained goods no property
2 in the goods is transferred to the buyer unless and until the goods are
3 ascertained, but property in an undivided share of ascertained goods
4 may be transferred as provided in section sixty-two hundred forty-
5 four.

[38 G. A., ch. 396, § 17.]

SEC. 6256. Property in specific goods passes when parties so intend.

- 1 1. Where there is a contract to sell specific or ascertained goods,
2 the property in them is transferred to the buyer at such time as the
3 parties to the contract intend it to be transferred.

4 2. For the purpose of ascertaining the intention of the parties
5 regard shall be had to the terms of the contract, the conduct of the
6 parties, usages of trade, and the circumstances of the case.

[38 G. A., ch. 396, § 18.]

SEC. 6257. Rules for ascertaining intention.

1 Unless a different intention appears, the following are rules for
2 ascertaining the intention of the parties as to the time at which the
3 property in the goods is to pass to the buyer.

4 **RULE 1.**

5 Where there is an unconditional contract to sell specific goods in
6 a deliverable state the property in the goods passes to the buyer when
7 the contract is made, and it is immaterial whether the time of pay-
8 ment, or the time of delivery, or both, be postponed.

9 **RULE 2.**

10 Where there is a contract to sell specific goods and the seller is
11 bound to do something to the goods, for the purpose of putting them
12 into a deliverable state, the property does not pass until such things
13 be done.

14 **RULE 3.**

15 1. When goods are delivered to the buyer "on sale or return",
16 or on other terms indicating an intention to make a present sale, but
17 to give the buyer an option to return the goods instead of paying the
18 price, the property passes to the buyer on delivery, but he may revest
19 the property in the seller by returning or tendering the goods within
20 the time fixed in the contract, or, if no time has been fixed, within a
21 reasonable time.

22 2. When goods are delivered to the buyer on approval or on trial
23 or on satisfaction, or other similar terms, the property therein passes
24 to the buyer—

25 *a* When he signifies his approval or acceptance to the seller or
26 does any other act adopting the transaction.

27 *b* If he does not signify his approval or acceptance to the seller,
28 but retains the goods without giving notice or [of] rejection, then if a
29 time has been fixed for the return of the goods, on the expiration of
30 such time, and if no time has been fixed, on the expiration of a reason-
31 able time. What is a reasonable time is a question of fact.

32 **RULE 4.**

33 1. Where there is a contract to sell unascertained or future goods
34 by description, and goods of that description and in a deliverable
35 state are unconditionally appropriated to the contract, either by the
36 seller with the assent of the buyer, or by the buyer with the assent
37 of the seller, the property in the goods thereupon passes to the buyer.
38 Such assent may be expressed or implied, and may be given either
39 before or after the appropriation is made.

40 2. Where, in pursuance of a contract to sell, the seller delivers
41 the goods to the buyer, or to a carrier or other bailee, whether named
42 by the buyer or not, for the purpose of transmission to or holding for
43 the buyer, he is presumed to have unconditionally appropriated the
44 goods to the contract, except in the cases provided for in the next
45 rule and in section sixty-two hundred fifty-eight. This presumption
46 is applicable, although by the terms of the contract the buyer is to pay
47 the price before receiving delivery of the goods, and the goods are
48 marked with the words "collect on delivery" or their equivalents.

49

RULE 5.

50 If the contract to sell requires the seller to deliver the goods to
 51 the buyer, or at a particular place or to pay the freight or cost of
 52 transportation to the buyer, or to a particular place, the property
 53 does not pass until the goods have been delivered to the buyer or
 54 reached the place agreed upon.

[38 G. A., ch. 396, § 19.]

SEC. 6258. Reservation of right of possession or property when goods are shipped.

1 1. Where there is a contract to sell specific goods, or where goods
 2 are subsequently appropriated to the contract, the seller may, by the
 3 terms of the contract or appropriation, reserve the right of possession
 4 or property in the goods until certain conditions have been fulfilled.
 5 The right of possession or property may be thus reserved
 6 notwithstanding the delivery of the goods to the buyer or to a carrier
 7 or other bailee for the purpose of transmission to the buyer.

8 2. Where goods are shipped, and by the bill of lading the goods
 9 are deliverable to the seller or his agent, or to the order of the seller
 10 or of his agent, the seller thereby reserves the property in the goods.
 11 But if, except for the form of the bill of lading, the property would
 12 have passed to the buyer on shipment of the goods, the seller's property
 13 in the goods shall be deemed to be only for the purpose of securing
 14 performance by the buyer of his obligations under the contract.

15 3. Where goods are shipped, and by the bill of lading the goods
 16 are deliverable to the order of the buyer or of his agent, but possession
 17 of the bill of lading is retained by the seller or his agent, the
 18 seller thereby reserves a right to the possession of the goods as against
 19 the buyer.

20 4. Where the seller of goods draws on the buyer for the price and
 21 transmits the bill of exchange and bill of lading together to the buyer
 22 to secure acceptance or payment of the bill of exchange the buyer is
 23 bound to return the bill of lading if he does not honor the bill of exchange,
 24 and if he wrongfully retains the bill of lading he acquires no
 25 added right thereby. If, however, the bill of lading provides that the
 26 goods are deliverable to the buyer or to the order of the buyer, or is
 27 indorsed in blank or to the buyer by the consignee named therein, one
 28 who purchases in good faith for value the bill of lading or goods from
 29 the buyer will obtain the property in the goods, although the bill of
 30 exchange has not been honored, provided that such purchaser has received
 31 delivery of the bill of lading indorsed by the consignee named
 32 therein, or the goods, without notice of the facts making the transfer
 33 wrongful.

[38 G. A., ch. 396, § 20.]

SEC. 6259. Sale by auction.

1 In the case of sale by auction—

2 1. Where goods are put up for sale by auction in lots each lot is
 3 the subject of a separate contract of sale.

4 2. A sale by auction is complete when the auctioneer announces
 5 its completion by the fall of the hammer, or in other customary manner.
 6 Until such announcement is made any bidder may retract his
 7 bid, and the auctioneer may withdraw the goods from the sale unless
 8 the auction has been announced to be without reserve.

9 3. A right to bid may be reserved expressly by or on behalf of
10 the seller.

11 4. Where notice has not been given that a sale by auction is sub-
12 ject to a right to bid on behalf of the seller it shall not be lawful for
13 the seller to bid himself or to employ or induce any person to bid at
14 such sale on his behalf, or for the auctioneer to employ or induce any
15 person to bid at such sale on behalf of the seller or knowingly to take
16 any bid from the seller or any person employed by him. Any sale con-
17 travening this rule may be treated as fraudulent by the buyer.

[38 G. A., ch. 396, § 21.]

SEC. 6260. Risk of loss.

1 Unless otherwise agreed, the goods remain at the seller's risk
2 until the property therein is transferred to the buyer, but when the
3 property therein is transferred to the buyer the goods are at the
4 buyer's risk whether delivery has been made or not, except that—

5 1. Where delivery of the goods has been made to the buyer, or to
6 a bailee for the buyer, in pursuance of the contract and the property
7 in the goods has been retained by the seller merely to secure perform-
8 ance by the buyer of his obligations under the contract, the goods
9 are at the buyer's risk from the time of such delivery.

10 2. Where delivery has been delayed through the fault of either
11 buyer or seller the goods are at the risk of the party in fault as regards
12 any loss which might not have occurred but for such fault.

[38 G. A., ch. 396, § 22.]

SEC. 6261. Sale by a person not the owner.

1 1. Subject to the provisions of this chapter, where goods are sold
2 by a person who is not the owner thereof, and who does not sell them
3 under the authority or with the consent of the owner, the buyer ac-
4 quires no better title to the goods than the seller had, unless the owner
5 of the goods is by his conduct precluded from denying the seller's au-
6 thority to sell.

7 2. Nothing in this chapter, however, shall affect:

8 a The provisions of any factors' acts, recording acts, or any en-
9 actment enabling the apparent owner of goods to dispose of them as
10 if he were the true owner thereof.

11 b The validity of any contract to sell or sale under any common
12 law or statutory power of sale or under the order of a court of com-
13 petent jurisdiction.

[38 G. A., ch. 396, § 23.]

SEC. 6262. Sale by one having a voidable title.

1 Where the seller of goods has a voidable title thereto, but his title
2 has not been avoided at the time of sale, the buyer acquires a good
3 title to the goods, provided he buys them in good faith, for value, and
4 without notice of the seller's defect of title.

[38 G. A., ch. 396, § 24.]

SEC. 6263. Sale by seller in possession of goods already sold.

1 Where a person having sold goods continues in possession of the
2 goods, or of negotiable documents of title to the goods, the delivery
3 or transfer by that person, or by an agent acting for him, of the goods
4 or documents of title under any sale, pledge, or other disposition

5 thereof, to any person receiving and paying value for the same in good
6 faith and without notice of the previous sale, shall have the same effect
7 as if the person making the delivery or transfer were expressly au-
8 thorized by the owner of the goods to make the same.

[38 G. A., ch. 396, § 25.]

SEC. 6264. Creditors' rights against sold goods in seller's possession.

1 Where a person having sold goods continues in possession of the
2 goods, or of negotiable documents of title to the goods and such reten-
3 tion of possession is fraudulent in fact or is deemed fraudulent under
4 any rule of law, a creditor or creditors of the seller may treat the
5 sale as void.

[38 G. A., ch. 396, § 26.]

SEC. 6265. Definition of negotiable documents of title.

1 A document of title in which it is stated that the goods referred
2 to therein will be delivered to the bearer, or to the order of any person
3 named in such document is a negotiable document of title.

[38 G. A., ch. 396, § 27.]

SEC. 6266. Negotiation of negotiable documents by delivery.

1 A negotiable document of title may be negotiated by delivery—

2 1. Where by the terms of the document the carrier, warehouse-
3 man, or other bailee issuing the same undertakes to deliver the goods
4 to the bearer, or

5 2. Where by the terms of the document the carrier, warehouse-
6 man, or other bailee issuing the same undertakes to deliver the goods
7 to the order of a specified person, and such person or a subsequent
8 indorsee of the document has indorsed it in blank or to bearer.

9 Where by the terms of a negotiable document of title the goods
10 are deliverable to bearer or where a negotiable document of title has
11 been indorsed in blank or to bearer, any holder may indorse the same
12 to himself or to any other specified person, and in such case the docu-
13 ment shall thereafter be negotiated only by the indorsement of such
14 indorsee.

[38 G. A., ch. 396, § 28.]

SEC. 6267. Negotiation of negotiable documents by indorsement.

1 A negotiable document of title may be negotiated by the indorse-
2 ment of the person to whose order the goods are by the terms of the
3 document deliverable. Such indorsement may be in blank, to bearer,
4 or to a specified person. If indorsed to a specified person, it may be
5 again negotiated by the indorsement of such person in blank, to bearer,
6 or to another specified person. Subsequent negotiation may be made
7 in like manner.

[38 G. A., ch. 396, § 29.]

**SEC. 6268. Negotiable documents of title marked "not nego-
tiable."**

1 If a document of title which contains an undertaking by a carrier,
2 warehouseman, or other bailee to deliver the goods to the bearer, to
3 a specified person or order, or to the order of specified person, or
4 which contains words of like import, has placed upon it the words

5 "not negotiable," "nonnegotiable," or the like, such a document may,
6 nevertheless, be negotiated by the holder and is a negotiable document
7 of title within the meaning of this chapter. But nothing in this chap-
8 ter contained shall be construed as limiting or defining the effect upon
9 the obligations of the carrier, warehouseman, or other bailee issuing
10 a document of title of [by] placing thereon the words "not negoti-
11 able," "nonnegotiable," or the like.

[38 G. A., ch. 396, § 30.]

SEC. 6269. Transfer of nonnegotiable documents.

1 A document of title which is not in such form that it can be ne-
2 gotiated by delivery may be transferred by the holder by delivery to
3 a purchaser or donee. A nonnegotiable document can not be negoti-
4 ated, and the indorsement of such a document gives the transferee
5 no additional right.

[38 G. A., ch. 396, § 31.]

SEC. 6270. Who may negotiate a document.

1 A negotiable document may be negotiated by any person in pos-
2 session of the same, however such possession may have been acquired,
3 if by the terms of the document the bailee issuing it undertakes to
4 deliver the goods to the order of such person, or if at the time of ne-
5 gotiation the document is in such form that it may be negotiated by
6 delivery.

[38 G. A., ch. 396, § 32.]

**SEC. 6271. Rights of person to whom document has been nego-
tiated.**

1 A person to whom a negotiable document of title has been duly
2 negotiated acquires thereby:

- 3 1. Such title to the goods as the person negotiating the document
4 to him had or had ability to convey to a purchaser in good faith for
5 value and also such title to the goods as the person to whose order
6 the goods were to be delivered by the terms of the document had or
7 had ability to convey to a purchaser in good faith for value, and
- 8 2. The direct obligation of the bailee issuing the document to
9 hold possession of the goods for him according to the terms of the
10 document as fully as if such bailee had contracted directly with him.

[38 G. A., ch. 396, § 33.]

**SEC. 6272. Rights of person to whom document has been trans-
ferred.**

1 A person to whom a document of title has been transferred, but
2 not negotiated, acquires thereby, as against the transferor, the title
3 to the goods, subject to the terms of any agreement with the trans-
4 feror.

5 If the document is nonnegotiable, such person also acquires the
6 right to notify the bailee who issued the document of the transfer
7 thereof, and thereby to acquire the direct obligation of such bailee to
8 hold possession of the goods for him according to the terms of the
9 document.

10 Prior to the notification of such bailee by the transferor or trans-
11 feree of a nonnegotiable document of title, the title of the transferee
12 to the goods and the right to acquire the obligation of such bailee may

13 be defeated by the levy of an attachment or execution upon the goods
 14 by a creditor of the transferor, or by notification to such bailee by the
 15 transferor or a subsequent purchaser from the transferor of a subse-
 16 quent sale of the goods by the transferor.

[38 G. A., ch. 396, § 34.]

SEC. 6273. Transfer of negotiable document without indorsement.

1 Where a negotiable document of title is transferred for value by
 2 delivery, and the indorsement of the transferor is essential for negoti-
 3 ation, the transferee acquires a right against the transferor to compel
 4 him to indorse the document unless a contrary intention appears. The
 5 negotiation shall take effect as of the time when the indorsement is
 6 actually made.

[38 G. A., ch. 396, § 35.]

SEC. 6274. Warranties on sale of document.

1 A person who for value negotiates or transfers a document of
 2 title by indorsement or delivery, including one who assigns for value
 3 a claim secured by a document of title unless a contrary intention
 4 appears, warrants:

- 5 1. That the document is genuine.
- 6 2. That he has a legal right to negotiate or transfer it.
- 7 3. That he has knowledge of no fact which would impair the
 8 validity or worth of the document; and
- 9 4. That he has a right to transfer the title to the goods and that
 10 the goods are merchantable or fit for a particular purpose, whenever
 11 such warranties would have been implied if the contract of the parties
 12 had been to transfer without a document of title the goods represented
 13 thereby.

[38 G. A., ch. 396, § 36.]

SEC. 6275. Indorser not a guarantor.

1 The indorsement of a document of title shall not make the in-
 2 dorser liable for any failure on the part of the bailee who issued the
 3 document or previous indorsers thereof to fulfill their respective obli-
 4 gations.

[38 G. A., ch. 396, § 37.]

SEC. 6276. When negotiation not impaired by fraud, mistake, or duress.

1 The validity of the negotiation of a negotiable document of title
 2 is not impaired by the fact that the negotiation was a breach of duty
 3 on the part of the person making the negotiation, or by the fact that
 4 the owner of the document was induced by fraud, mistake, or duress
 5 to intrust the possession or custody thereof to such person, if the
 6 person to whom the document was negotiated or a person to whom
 7 the document was subsequently negotiated paid value therefor, with-
 8 out notice of the breach of duty, or fraud, mistake, or duress.

[38 G. A., ch. 396, § 38.]

SEC. 6277. Attachment or levy upon goods for which a negotiable document has been issued.

1 If goods are delivered to a bailee by the owner or by a person
 2 whose act in conveying the title to them to a purchaser in good faith

3 for value would bind the owner and a negotiable document of title
 4 is issued for them they can not thereafter, while in the possession of
 5 such bailee, be attached by garnishment or otherwise or be levied
 6 upon under an execution unless the document be first surrendered to
 7 the bailee or its negotiation enjoined. The bailee shall in no case be
 8 compelled to deliver up the actual possession of the goods until the
 9 document is surrendered to him or impounded by the court.

[38 G. A., ch. 396, § 39.]

SEC. 6278. Creditors' remedies to reach negotiable documents.

1 A creditor whose debtor is the owner of a negotiable document
 2 of title shall be entitled to such aid from courts of appropriate juris-
 3 diction by injunction and otherwise in attaching such document or
 4 in satisfying the claim by means thereof as is allowed at law or in
 5 equity in regard to property which can not readily be attached or
 6 levied upon by ordinary legal process.

[38 G. A., ch. 396, § 40.]

SEC. 6279. Seller must deliver and buyer accept goods.

1 It is the duty of the seller to deliver the goods and of the buyer
 2 to accept and pay for them, in accordance with the terms of the con-
 3 tract to sell or sale.

[38 G. A., ch. 396, § 41.]

SEC. 6280. Delivery and payment are concurrent conditions.

1 Unless otherwise agreed, delivery of the goods and payment of
 2 the price are concurrent conditions; that is to say, the seller must be
 3 ready and willing to give possession of the goods to the buyer in ex-
 4 change for the price and the buyer must be ready and willing to pay
 5 the price in exchange for possession of the goods.

[38 G. A., ch. 396, § 42.]

SEC. 6281. Place, time, and manner of delivery.

1 1. Whether it is for the buyer to take possession of the goods or
 2 for the seller to send them to the buyer is a question depending in
 3 each case on the contract, express or implied, between the parties.
 4 Apart from any such contract, express or implied, or usage of trade
 5 to the contrary, the place of delivery is the seller's place of business
 6 if he have one, and if not his residence; but in case of a contract to
 7 sell or a sale of specific goods, which to the knowledge of the parties
 8 when the contract or the sale was made were in some other place, then
 9 that place is the place of delivery.

10 2. Where by a contract to sell or a sale the seller is bound to send
 11 the goods to the buyer, but no time for sending them is fixed, the seller
 12 is bound to send them within a reasonable time.

13 3. Where the goods at the time of sale are in the possession of a
 14 third person, the seller has not fulfilled his obligation to deliver to
 15 the buyer unless and until such third person acknowledges to the buyer
 16 that he holds the goods on the buyer's behalf; but as against all others
 17 than the seller the buyer shall be regarded as having received delivery
 18 from the time when such third person first has notice of the sale.
 19 Nothing in this section, however, shall affect the operation of the issue
 20 or transfer of any document of title to goods.

21 4. Demand or tender of delivery may be treated as ineffectual
22 unless made at a reasonable hour. What is a reasonable hour is a
23 question of fact.

24 5. Unless otherwise agreed, the expenses of and incidental to put-
25 ting the goods into a deliverable state must be borne by the seller.

[38 G. A., ch. 396, § 43.]

SEC. 6282. Delivery of wrong quantity.

1 1. Where the seller delivers to the buyer a quantity of goods less
2 than he contracted to sell, the buyer may reject them, but if the buyer
3 accepts or retains the goods so delivered, knowing that the seller is
4 not going to perform the contract in full, he must pay for them at the
5 contract rate. If, however, the buyer has used or disposed of the
6 goods delivered before he knows that the seller is not going to perform
7 his contract in full, the buyer shall not be liable for more than the
8 fair value to him of the goods so received.

9 2. Where the seller delivers to the buyer a quantity of goods
10 larger than he contracted to sell, the buyer may accept the goods in-
11 cluded in the contract and reject the rest, or he may reject the whole.
12 If the buyer accepts the whole of the goods so delivered, he must pay
13 for them at the contract rate.

14 3. Where the seller delivers to the buyer the goods he [he] con-
15 tracted to sell mixed with goods of a different description not included
16 in the contract, the buyer may accept the goods which are in accord-
17 ance with the contract and reject the rest, or he may reject the whole.

18 4. The provisions of this section are subject to any usage of trade,
19 special agreement, or course of dealing between the parties.

[38 G. A., ch. 396, § 44.]

SEC. 6283. Delivery in installments.

1 1. Unless otherwise agreed, the buyer of goods is not bound to
2 accept delivery thereof by installments.

3 2. Where there is a contract to sell goods to be delivered by stated
4 installments, which are to be separately paid for, and the seller makes
5 defective deliveries in respect of one or more installments, or the buyer
6 neglects or refuses to take delivery of or pay for one or more install-
7 ments, it depends in each case on the terms of the contract and the
8 circumstances of the case whether the breach of contract is so material
9 as to justify the injured party in refusing to proceed further and
10 suing for damages for breach of the entire contract, or whether the
11 breach is severable, giving rise to a claim for compensation but not
12 to a right to treat the whole contract as broken.

[38 G. A., ch. 396, § 45.]

SEC. 6284. Delivery to a carrier on behalf of the buyer.

1 1. Where, in pursuance of a contract to sell or a sale, the seller
2 is authorized or required to send the goods to the buyer, delivery of
3 the goods to a carrier, whether named by the buyer or not, for the
4 purpose of transmission to the buyer is deemed to be a delivery of
5 the goods to the buyer, except in the cases provided for in section
6 sixty-two hundred fifty-seven, rule five, or unless a contrary intent
7 appears.

8 2. Unless otherwise authorized by the buyer, the seller must
9 make such contract with the carrier on behalf of the buyer as may

10 be reasonable, having regard to the nature of the goods and the other
 11 circumstances of the case. If the seller omit so to do, and the goods
 12 are lost or damaged in course of transit, the buyer may decline to treat
 13 the delivery to the carrier as a delivery to himself, or may hold the
 14 seller responsible in damages.

15 3. Unless otherwise agreed, where goods are sent by the seller to
 16 the buyer under circumstances in which the seller knows, or ought to
 17 know, that it is usual to insure, the seller must give such notice to
 18 the buyer as may enable him to insure them during their transit, and,
 19 if the seller fails to do so, the goods shall be deemed to be at his risk
 20 during such transit.

[38 G. A., ch. 396, § 46.]

SEC. 6285. Right to examine the goods.

1 1. Where goods are delivered to the buyer, which he has not pre-
 2 viously examined, he is not deemed to have accepted them unless and
 3 until he has had a reasonable opportunity of examining them for the
 4 purpose of ascertaining whether they are in conformity with the con-
 5 tract.

6 2. Unless otherwise agreed, when the seller tenders delivery of
 7 goods to the buyer, he is bound, on request, to afford the buyer a rea-
 8 sonable opportunity of examining the goods for the purpose of ascer-
 9 taining whether they are in conformity with the contract.

10 3. Where goods are delivered to a carrier by the seller, in accord-
 11 ance with an order from or agreement with the buyer, upon the terms
 12 that the goods shall not be delivered by the carrier to the buyer until
 13 he has paid the price, whether such terms are indicated by marking
 14 the goods with the words "collect on delivery," or otherwise, the buyer
 15 is not entitled to examine the goods before payment of the price in
 16 the absence of agreement permitting such examination.

[38 G. A., ch. 396, § 47.]

SEC. 6286. What constitutes acceptance.

1 The buyer is deemed to have accepted the goods when he inti-
 2 mates to the seller that he has accepted them, or when the goods have
 3 been delivered to him, and he does any act in relation to them which
 4 is inconsistent with the ownership of the seller, or when, after the
 5 lapse of a reasonable time, he retains the goods without intimating
 6 to the seller that he has rejected them.

[38 G. A., ch. 396, § 48.]

SEC. 6287. Acceptance does not bar action for damages.

1 In the absence of express or implied agreement of the parties,
 2 acceptance of the goods by the buyer shall not discharge the seller
 3 from liability in damages or other legal remedy for breach of any
 4 promise or warranty in the contract to sell or the sale. But if, after
 5 acceptance of the goods, the buyer fails to give notice to the seller of
 6 the breach of any promise or warranty within a reasonable time after
 7 the buyer knows, or ought to know, of such breach the seller shall not
 8 be liable therefor.

[38 G. A., ch. 396, § 49.]

SEC. 6288. Buyer is not bound to return goods wrongly delivered.

1 Unless otherwise agreed, where goods are delivered to the buyer,
 2 and he refuses to accept them, having the right so to do, he is not

3 bound to return them to the seller, but it is sufficient if he notifies
4 the seller that he refuses to accept them.

[38 G. A., ch. 396, § 50.]

SEC. 6289. Buyer's liability for failing to accept delivery.

1 When the seller is ready and willing to deliver the goods and
2 requests the buyer to take delivery, and the buyer does not within a
3 reasonable time after such request take delivery of the goods, he is
4 liable to the seller for any loss occasioned by his neglect or refusal to
5 take delivery, and also for a reasonable charge for the care and cus-
6 tody of the goods. If the neglect or refusal of the buyer to take de-
7 livery amounts to a repudiation or breach of the entire contract, the
8 seller shall have the right against the goods and on the contract here-
9 inafter provided in favor of the seller when the buyer is in default.

[38 G. A., ch. 396, § 51.]

SEC. 6290. Definition of unpaid seller.

1 1. The seller of goods is deemed to be an unpaid seller within the
2 meaning of this chapter—

3 *a* When the whole of the price has not been paid or tendered.
4 *b* When a bill of exchange or other negotiable instrument has
5 been received as conditional payment, and the condition on which it
6 was received has been broken by reason of the dishonor of the instru-
7 ment, the insolvency of the buyer, or otherwise.

8 2. In this part of this chapter the term "seller" includes an agent
9 of the seller to whom the bill of lading has been indorsed, or a con-
10 signor or agent who has himself paid, or is directly responsible for
11 the price, or any other person who is in the position of a seller.

[38 G. A., ch. 396, § 52.]

SEC. 6291. Remedies of an unpaid seller.

1 1. Subject to the provisions hereof, notwithstanding that the
2 property in the goods may have passed to the buyer, the unpaid seller
3 of goods, as such, has—

4 *a* A lien on the goods or right to retain them for the price while
5 he is in possession of them.

6 *b* In case of the insolvency of the buyer, a right of stopping the
7 goods in transit after he has parted with the possession of them.

8 *c* A right of resale as limited by this chapter.

9 *d* A right to rescind the sale as limited by this chapter.

10 2. Where the property in goods has not passed to the buyer the
11 unpaid seller has, in addition to his other remedies, a right of with-
12 holding delivery similar to any coextensive with his rights of lien and
13 stoppage in transit where the property has passed to the buyer.

[38 G. A., ch. 396, § 53.]

SEC. 6292. When right of lien may be exercised.

1 1. Subject to the provisions of this chapter, the unpaid seller of
2 goods who is in possession of them is entitled to retain possession
3 of them until payment or tender of the price in the following cases,
4 namely:

5 *a* Where the goods have been sold without any stipulation as to
6 credit.

- 7 *b* Where the goods have been sold on credit, but the term of credit
8 has expired.
9 *c* Where the buyer becomes insolvent.
10 2. The seller may exercise his right of lien notwithstanding that
11 he is in possession of the goods as agent or bailee for the buyer.
 [38 G. A., ch. 396, § 54.]

SEC. 6293. Lien after part delivery.

- 1 Where an unpaid seller has made part delivery of the goods, he
2 may exercise his right of lien on the remainder unless such part de-
3 livery has been made under such circumstances as to show an intent
4 to waive the lien or right of retention.
 [38 G. A., ch. 396, § 55.]

SEC. 6294. When lien is lost.

- 1 1. The unpaid seller of goods loses his lien thereon—
2 *a* When he delivers the goods to a carrier or other bailee for the
3 purpose of transmission to the buyer without reserving the property
4 in the goods or the right to the possession thereof.
5 *b* When the buyer or his agent lawfully obtains possession of the
6 goods.
7 *c* By waiver thereof.
8 2. The unpaid seller of goods, having a lien thereon, does not
9 lose his lien by reason only that he has obtained judgment or decree
10 for the price of the goods.
 [38 G. A., ch. 396, § 56.]

SEC. 6295. Seller may stop goods on buyer's insolvency.

- 1 Subject to the provisions of this chapter, when the buyer of goods
2 is or becomes insolvent, the unpaid seller who has parted with the
3 possession of the goods has the right of stopping them in transitu;
4 that is to say, he may resume possession of the goods at any time
5 while they are in transit and he will then become entitled to the same
6 rights in regard to the goods as he would have had if he had never
7 parted with the possession.
 [38 G. A., ch. 396, § 57.]

SEC. 6296. When goods are in transit.

- 1 1. Goods are in transit within the meaning of the preceding
2 section—
3 *a* From the time when they are delivered to a carrier by land or
4 water, or other bailee, for the purpose of transmission to the buyer,
5 until the buyer, or his agent in that behalf, takes delivery of them
6 from such carrier or other bailee.
7 *b* If the goods are rejected by the buyer and the carrier or other
8 bailee continues in possession of them, even if the seller has refused
9 to receive them back.
10 2. Goods are no longer in transit within the meaning of the pre-
11 ceding section—
12 *a* If the buyer, or his agent in that behalf, obtains delivery of
13 the goods before their arrival at the appointed destination.
14 *b* If, after the arrival of the goods at the appointed destination,
15 the carrier or other bailee acknowledges to the buyer or his agent
16 that he holds the goods on his behalf and continues in possession of

17 them as bailee for the buyer or his agent; and it is immaterial that a
18 further destination for the goods may have been indicated by the
19 buyer.

20 *c* If the carrier or other bailee wrongfully refuses to deliver the
21 goods to the buyer or his agent in that behalf.

22 3. If goods are delivered to a ship chartered by the buyer, it is
23 a question depending on the circumstances of the particular case
24 whether they are in the possession of the master as a carrier or as
25 agent of the buyer.

26 4. If part delivery of the goods has been made to the buyer, or
27 his agent in that behalf, the remainder of the goods may be stopped
28 in transitu, unless such part delivery has been made under such cir-
29 cumstances as to show an agreement with the buyer to give up posses-
30 sion of the whole of the goods.

[38 G. A., ch. 396, § 58.]

SEC. 6297. Ways of exercising the right to stop.

1 1. The unpaid seller may exercise his right of stoppage in transitu
2 either by obtaining actual possession of the goods or by giving notice
3 of his claim to the carrier or other bailee in whose possession the
4 goods are. Such notice may be given either to the person in actual
5 possession of the goods or to his principal. In the latter case the
6 notice, to be effectual, must be given at such time and under such
7 circumstances that the principal by the exercise of reasonable dili-
8 gence, may prevent a delivery to the buyer.

9 2. When notice of stoppage in transitu is given by the seller to
10 the carrier, or other bailee in possession of the goods, he must redeliver
11 the goods to, or according to the directions, of the seller. The ex-
12 penses of such delivery must be borne by the seller. If, however, a
13 negotiable document of title representing the goods has been issued
14 by the carrier or other bailee, he shall not be obliged to deliver or
15 justified in delivering the goods to the seller unless such document is
16 first surrendered for cancellation.

[38 G. A., ch. 396, § 59.]

SEC. 6298. When and how resale may be made.

1 1. Where the goods are of a perishable nature, or where the seller
2 expressly reserves the right of resale in case the buyer should make
3 default, or where the buyer has been in default in the payment of the
4 price an unreasonable time, an unpaid seller having a right of lien or
5 having stopped the goods in transitu may resell the goods. He shall
6 not thereafter be liable to the original buyer upon the contract to sell
7 or the sale or for any profit made by such resale, but may recover
8 from the buyer damages for any loss occasioned by the breach of the
9 contract or the sale.

10 2. Where a resale is made, as authorized in this section, the buyer
11 acquires a good title as against the original buyer.

12 3. It is not essential to the validity of a resale that notice of an
13 intention to resell the goods be given by the seller to the original
14 buyer. But where the right to resell is not based on the perishable
15 nature of the goods, or upon an express provision of the contract or
16 the sale, the giving or failure to give such notice shall be relevant in
17 any issue involving the question whether the buyer had been in de-
18 fault an unreasonable time before the resale was made.

19 4. It is not essential to the validity of a resale that notice of the
20 time and place of such resale should be given by the seller to the orig-
21 inal buyer.

22 5. The seller is bound to exercise reasonable care and judgment
23 in making a resale, and subject to this requirement may make a resale
24 either by public or private sale.

[38 G. A., ch. 396, § 60.]

SEC. 6299. When and how the seller may rescind the sale.

1 1. An unpaid seller having a right of lien or having stopped the
2 goods in transitu, may rescind the transfer of title and resume the
3 property in the goods, where he expressly reserved the right to do
4 so in case the buyer should make default, or where the buyer has been
5 in default in the payment of the price an unreasonable time. The
6 seller shall not thereafter be liable to the buyer upon the contract to
7 sell or the sale, but may recover from the buyer damages for any loss
8 occasioned by the breach of the contract or the sale.

9 2. The transfer of title shall not be held to have been rescinded
10 by an unpaid seller until he has manifested by notice to the buyer or
11 by some other overt act an intention to rescind. It is not necessary
12 that such overt act should be communicated to the buyer, but the
13 giving or failure to give notice to the buyer of the intention to rescind
14 shall be relevant in any issue involving the question whether the
15 buyer had been in default an unreasonable time before the right of
16 rescission was asserted.

[38 G. A., ch. 396, § 61.]

SEC. 6300. Effect of sale of goods subject to lien or stoppage in transitu.

1 Subject to the provisions of this chapter, the unpaid seller's right
2 of lien or stoppage in transitu is not affected by any sale or other
3 disposition of the goods which the buyer may have made, unless the
4 seller has assented thereto.

5 If, however, a negotiable document of title has been issued for
6 goods, no seller's lien or right of stoppage in transitu shall defeat the
7 right of any purchaser for value in good faith to whom such document
8 has been negotiated, whether such negotiation be prior or subsequent
9 to the notification to the carrier, or other bailee who issued such docu-
10 ment of the seller's claim to a lien or right of stoppage in transitu.

[38 G. A., ch. 396, § 62.]

SEC. 6301. Action for the price.

1 1. Where, under a contract to sell or a sale, the property in the
2 goods has passed to the buyer, and the buyer wrongfully neglects or
3 refuses to pay for the goods according to the terms of the contract or
4 the sale, the seller may maintain an action against him for the price of
5 the goods.

6 2. Where, under a contract to sell or a sale, the price is payable
7 on a day certain, irrespective of delivery or of transfer of title, and
8 the buyer wrongfully neglects or refuses to pay such price, the seller
9 may maintain an action for the price, although the property in the
10 goods has not passed and the goods have not been appropriated to
11 the contract. But it shall be a defense to such an action that the
12 seller at any time before judgment in such action has manifested an

13 inability to perform the contract or the sale on his part or an inten-
14 tion not to perform it.

15 3. Although the property in the goods has not passed, if they can
16 not readily be resold for a reasonable price, and if the provisions of the
17 next section are not applicable, the seller may offer to deliver the
18 goods to the buyer, and, if the buyer refuses to receive them, may
19 notify the buyer that the goods are thereafter held by the seller as
20 bailee for the buyer. Thereafter the seller may treat the goods as the
21 buyer's and may maintain an action for the price.

[38 G. A., ch. 396, § 63.]

SEC. 6302. Action for damages for nonacceptance of the goods.

1 1. Where the buyer wrongfully neglects or refuses to accept and
2 pay for the goods, the seller may maintain an action against him for
3 damages for nonacceptance.

4 2. The measure of damages is estimated loss directly and natur-
5 ally resulting, in the ordinary course of events, from the buyer's
6 breach of contract.

7 3. Where there is an available market for the goods in question,
8 the measure of damages is in the absence of special circumstances,
9 showing proximate damage of a greater amount, the difference be-
10 tween the contract price and the market or current price at the time
11 or times when the goods ought to have been accepted, or, if no time
12 was fixed for acceptance, then at the time of the refusal to accept.

13 4. If, while labor or expense of material amount are necessary on
14 the part of the seller to enable him to fulfill his obligations under the
15 contract to sell or the sale, the buyer repudiates the contract or the
16 sale, or notifies the seller to proceed no further therewith, the buyer
17 shall be liable to the seller for no greater damages than the seller
18 would have suffered if he did nothing toward carrying out the contract
19 or the sale after receiving notice of the buyer's repudiation or counter-
20 mand. The profit the seller would have made if the contract or the
21 sale had been fully performed shall be considered in estimating such
22 damages.

[38 G. A., ch. 396, § 64.]

SEC. 6303. When seller may rescind contract or sale.

1 Where the goods have not been delivered to the buyer, and the
2 buyer has repudiated the contract to sell or sale, or has manifested his
3 inability to perform his obligations thereunder, or has committed a
4 material breach thereof, the seller may totally rescind the contract or
5 the sale by giving notice of his election so to do to the buyer.

[38 G. A., ch. 396, § 65.]

SEC. 6304. Action for converting or detaining goods.

1 Where the property in the goods has passed to the buyer and the
2 seller wrongfully neglects or refuses to deliver the goods, the buyer
3 may maintain any action allowed by law to the owner of goods of
4 similar kind when wrongfully converted or withheld.

[38 G. A., ch. 396, § 66.]

SEC. 6305. Action for failing to deliver goods.

1 1. Where the property in the goods has not passed to the buyer,
2 and the seller wrongfully neglects or refuses to deliver the goods, the

3 buyer may maintain an action against the seller for damages for
4 nondelivery.

5 2. The measure of damages is the loss directly and naturally
6 resulting in the ordinary course of events from the seller's breach of
7 contract.

8 3. Where there is an available market for the goods in question,
9 the measure of damages, in the absence of special circumstances show-
10 ing proximate damages of a greater amount, is the difference between
11 the contract price and the market or current price of the goods at
12 the time or times when they ought to have been delivered, or, if no
13 time was fixed, then at the time of the refusal to deliver.

[38 G. A., ch. 396, § 67.]

SEC. 6306. Specific performance.

1 Where the seller has broken a contract to deliver specific or ascer-
2 tained goods, a court having the powers of a court of equity may, if
3 it thinks fit, on the application of the buyer, by its judgment or decree
4 direct that the contract shall be performed specifically, without giving
5 the seller the option of retaining the goods on payment of damages.
6 The judgment or decree may be unconditional, or upon such terms and
7 conditions as to damages, payment of the price and otherwise, as to
8 the court may seem just.

[38 G. A., ch. 396, § 68.]

SEC. 6307. Remedies for breach of warranty.

1 Where there is a breach of warranty by the seller, the buyer
2 may, at his election—

3 *a* Accept or keep the goods and set up against the seller the
4 breach of warranty by way of recoupment in diminution or extinction
5 of the price.

6 *b* Accept or keep the goods and maintain an action against the
7 seller for damages for the breach of warranty.

8 *c* Refuse to accept the goods, if the property therein has not
9 passed, and maintain an action against the seller for damages for the
10 breach of warranty.

11 *d* Rescind the contract to sell or the sale and refuse to receive
12 the goods, or, if the goods have already been received, return them or
13 offer to return them to the seller and recover the price or any part
14 thereof which has been paid.

15 2. When the buyer has claimed and been granted a remedy in any
16 one of these ways, no other remedy can thereafter be granted.

17 3. Where the goods have been delivered to the buyer, he can
18 not rescind the sale if he knew of the breach of warranty when he
19 accepted the goods, or if he fails to notify the seller within a reason-
20 able time of the election to rescind, or if he fails to return or to offer
21 to return the goods to the seller in substantially as good condition as
22 they were in at the time the property was transferred to the buyer.
23 But if deterioration or injury of the goods is due to the breach of
24 warranty, such deterioration or injury shall not prevent the buyer
25 from returning or offering to return the goods to the seller and
26 rescinding the sale.

27 4. Where the buyer is entitled to rescind the sale and elects to
28 do so, the buyer shall cease to be liable for the price upon returning
29 or offering to return the goods. If the price or any part thereof has
30 already been paid, the seller shall be liable to repay so much thereof

31 as has been paid, concurrently with the return of the goods or imme-
 32 diately after an offer to return the goods in exchange for repayment
 33 of the price.

34 5. Where the buyer is entitled to rescind the sale and elects to do
 35 so, if the seller refuses to accept an offer of the buyer to return the
 36 goods, the buyer shall thereafter be deemed to hold the goods as bailee
 37 for the seller, but subject to a lien to secure the repayment of any
 38 portion of the price which has been paid, and with the remedies for
 39 the enforcement of such lien allowed to an unpaid seller by section
 40 sixty-two hundred ninety-one.

41 6. The measure of damages for breach of warranty is the loss
 42 directly and naturally resulting, in the ordinary course of events, from
 43 the breach of warranty.

44 7. In the case of breach of warranty of quality, such loss, in the
 45 absence of special circumstances showing proximate damage of a
 46 greater amount, is the difference between the value of the goods at
 47 the time of delivery to the buyer and the value they would have had if
 48 they had answered to the warranty.

[38 G. A., ch. 396, § 69.]

SEC. 6308. Interest and special damages.

1 Nothing in this chapter shall affect the right of the buyer or the
 2 seller to recover interest or special damages in any case where by law
 3 interest or special damages may be recoverable, or to recover money
 4 paid where the consideration for the payment of it has failed.

[38 G. A., ch. 396, § 70.]

SEC. 6309. Variation of implied obligations.

1 Where any right, duty, or liability would arise under a contract
 2 to sell or a sale by implication of law, it may be negatived or varied by
 3 express agreement or by the course of dealing between the parties, or
 4 by custom, if the custom be such as to bind both parties to the con-
 5 tract or the sale.

[38 G. A., ch. 396, § 71.]

SEC. 6310. Rights may be enforced by action.

1 Where any right, duty, or liability is declared by this chapter, it
 2 may, unless otherwise by this chapter provided, be enforced by action.

[38 G. A., ch. 396, § 72.]

SEC. 6311. Rule for cases not provided herein.

1 In any case not provided for in this chapter the rules of law and
 2 equity, including the law merchant, and in particular the rules relating
 3 to the law of principal and agent and to the effect of fraud, misrepresen-
 4 tation, duress or coercion, mistake, bankruptcy, or other invalidat-
 5 ing cause, shall continue to apply to contracts to sell and to sales
 6 of goods.

[38 G. A., ch. 396, § 73.]

SEC. 6312. Interpretation shall give effect to purpose of uniformity.

1 This chapter shall be so interpreted and construed as to effectuate
 2 its general purpose to make uniform the laws of those states which
 3 enact it.

[38 G. A., ch. 396, § 74.]

SEC. 6313. Provisions not applicable to mortgages.

1 The provisions of this chapter relating to contracts to sell and to
 2 sales do not apply, unless so stated, to any transaction in the form of
 3 a contract to sell or a sale which is intended to operate by way of
 4 mortgage, pledge, charge, or other security.

[38 G. A., ch. 396, § 75.]

SEC. 6314. Definitions.

1 1. In this chapter, unless the context or subject matter otherwise
 2 requires—

3 "Action" includes counterclaim, set-off, and suit in equity.

4 "Buyer" means a person who buys or agrees to buy goods or
 5 any legal successor in interest of such person.

6 "Defendant" includes a plaintiff against whom a right of set-off or
 7 counterclaim is asserted.

8 "Delivery" means voluntary transfer of possession from one per-
 9 son to another.

10 "Divisible contract to sell or sale" means a contract to sell or a
 11 sale in which by its terms the price for a portion or portions of the
 12 goods less than the whole is fixed or ascertainable by computation.

13 "Document of title to goods" includes any bill of lading, dock
 14 warrant, warehouse receipt or order for the delivery of goods or any
 15 other document used in the ordinary course of business in the sale
 16 or transfer of goods as proof of the possession or control of the goods
 17 or authorizing or purporting to authorize the possessor of the docu-
 18 ment to transfer or receive, either by indorsement or by delivery,
 19 goods represented by such document.

20 "Fault" means wrongful act or default.

21 "Fungible goods" means goods of which any unit is from its
 22 nature or by mercantile usage treated as the equivalent of any other
 23 unit.

24 "Future goods" means goods to be manufactured or acquired by
 25 the seller after the making of the contract of sale.

26 "Goods" include all chattels personal other than things in action
 27 and money. The term includes emblements, industrial growing crops,
 28 and things attached to or forming part of the land which are agreed
 29 to be severed before sale or under the contract of sale.

30 "Order" in sections of this chapter relating to documents of title
 31 means an order by indorsement on the document.

32 "Person" includes a corporation or partnership or two or more
 33 persons having a joint or common interest.

34 "Plaintiff" includes defendant asserting a right of set-off or
 35 counterclaim.

36 "Property" means the general property in goods, and not merely a
 37 special property.

38 "Purchaser" includes mortgagee and pledgee.

39 "Purchases" includes taking as a mortgagee or as a pledgee.

40 "Quality of goods" includes their state or condition.

41 "Sale" includes a bargain and sale, as well as a sale and delivery.

42 "Seller" means a person who sells or agrees to sell goods or any
 43 legal successor in the interest of such person.

44 "Specific goods" means goods identified and agreed upon at the
 45 time a contract to sell or a sale is made.

46 "Value" is any consideration sufficient to support a simple con-
 47 tract. An antecedent or preexisting claim, whether for money or not,

48 constitutes value where goods or documents of titles are taken either
49 in satisfaction thereof or as to security therefor.

50 2. A thing is done "in good faith" within the meaning of this
51 chapter when it is in fact done honestly, whether it be done negligently
52 or not.

53 3. A person is insolvent within the meaning of this chapter who
54 either has ceased to pay his debts in the ordinary course of business
55 or can not pay his debts as they become due, whether he has com-
56 mitted an act of bankruptcy or not, and whether he is insolvent within
57 the meaning of the federal bankruptcy law or not.

58 4. Goods are in a "deliverable state" within the meaning of this
59 chapter when they are in such a state that the buyer would, under the
60 contract, be bound to take delivery of them.

[38 G. A., ch. 396, § 76.]

SEC. 6315. Chapter does not apply to existing sales or contracts to sell.

1 None of the provisions of this chapter shall apply to any sale, or
2 to any contract to sell, made prior to the taking effect of this chapter.

[38 G. A., ch. 396, § 76-a.]

SEC. 6316. No repeal of uniform warehouse receipt act or uniform bills of lading act.

1 Nothing in this chapter or in any repealing clause thereof shall
2 be construed to repeal or limit any of the provisions of the chapter to
3 make uniform the law of warehouse receipts, or of the chapter to
4 make uniform the law of bills of lading, or of the bulk sales law.

[38 G. A., ch. 396, § 76-b.]

CHAPTER 2.

CONDITIONAL SALES AND CHATTEL MORTGAGES.

SECTION 6317. Conditional sales.

1 No sale, contract or lease, wherein the transfer of title or owner-
2 ship of personal property is made to depend upon any condition, shall
3 be valid against any creditor or purchaser of the vendee or lessee in
4 actual possession obtained in pursuance thereof, without notice, unless
5 the same be in writing, executed by the vendor and vendee, or by the
6 lessor and lessee, acknowledged by the vendor or vendee, or by the
7 lessor or lessee, and recorded or filed and deposited the same as chattel
8 mortgages.

[C., '73, § 1922; C., '97, § 2905; 37 G. A., ch. 154, § 1; 38 G. A., ch. 352, § 12.]

SEC. 6318. Sales or mortgages—recording.

1 No sale or mortgage of personal property, where the vendor or
2 mortgagor retains actual possession thereof, is valid against existing
3 creditors or subsequent purchasers, without notice, unless a written
4 instrument conveying the same is executed, acknowledged like con-
5 veyances of real estate, and such instrument, or a true copy thereof, is
6 duly recorded or filed and deposited with the recorder of the county

7 where the property shall then be situated, or if the mortgagor be a
 8 resident of this state, then of the county where the holder of the
 9 property resides. No incumbrance of personal property which may be
 10 held exempt from execution by the head of a family, if a resident of
 11 this state, under the provisions of law, shall be of any validity as to
 12 such exempt property only, unless the same be by written instrument,
 13 and unless the husband and wife, if both be living, concur in and sign
 14 the same joint instrument. But incumbrances on the property sold,
 15 given to secure the purchase price, need only be signed and acknowl-
 16 edged by the purchaser.

[C., '51, § 1193; R., '60, § 2201; C., '73, § 1923; C., '97, §
 2906; 38 G. A., ch. 352, § 2.]

SEC. 6319. Filing equivalent of recording.

1 Upon receipt of any such instrument, the recorder shall indorse
 2 thereon the time of receiving it, and shall file the same in his office
 3 for the inspection of all persons, and such filing shall have the same
 4 force and effect as if recorded at length; upon request of person pre-
 5 senting instrument for filing, the county recorder shall issue a receipt
 6 therefor, and such receipt shall describe instrument as to grantor,
 7 grantee, date, consideration and date filed.

[38 G. A., ch. 352, § 3.]

SEC. 6320. Void after five years—extension.

1 Every mortgage so filed shall be void as against the creditors of
 2 the person making the same, or as against subsequent purchasers or
 3 mortgagees in good faith, after the expiration of five years after
 4 the maturity of the debt thereby secured, unless an extension agree-
 5 ment, duly executed by the mortgagor shall be filed with the instru-
 6 ment to which it relates, and such extension agreement shall operate
 7 to continue the lien in the same manner as the original instrument.

[38 G. A., ch. 352, § 4.]

SEC. 6321. Copy furnished on request.

1 A duplicate or copy of such mortgage, bill of sale, or other instru-
 2 ment filed under the provision of this chapter, shall be supplied by the
 3 county recorder upon request of any party in interest, and the pay-
 4 ment of fees therefor, as hereinafter stipulated. Such duplicate or
 5 copy shall be duly certified by the county recorder and may be filed in
 6 other counties of the state in the same manner as herein provided.

[38 G. A., ch. 352, § 5.]

SEC. 6322. Copy receivable in evidence.

1 A copy of such original instrument, duly certified by the county
 2 recorder in whose office the same shall have been filed, shall be re-
 3 ceived in evidence in all suits or actions to which it may be applicable;
 4 and if in any suit or action, the due execution of such instrument or
 5 its genuineness be questioned in such manner as to render the produc-
 6 tion of the original instrument desirable or necessary, then the same
 7 may be produced by the recorder of the county in obedience to a proper
 8 judicial process or court order.

[38 G. A., ch. 352, § 6.]

SEC. 6323. Recorder to keep index book.

1 The county recorder shall keep an index book in which shall be
 2 entered a list of mortgages of personal property, or extensions thereof,
 3 bills of sale, and other instruments affecting title to or incumbrance of
 4 personal property, which may be filed under this chapter. Such book
 5 shall be ruled into separate columns with appropriate heads, and
 6 shall set out:

- 7 1. The time of reception.
- 8 2. The name of mortgagor.
- 9 3. The name of mortgagee.
- 10 4. The date of instrument.
- 11 5. The amount secured.
- 12 6. When due.
- 13 7. The nature of the property mortgaged.
- 14 8. Where located.
- 15 9. Extension.
- 16 10. When released.
- 17 11. Remarks.

18 The proper entry shall be made under each such heads. Under
 19 the head of "property mortgaged," it will be sufficient to enter a
 20 general description of the kind or nature of the property.

[38 G. A., ch. 352, § 7.]

SEC. 6324. How released.

1 Any mortgage or pledge of personal property may be released of
 2 record, by filing with the original instrument, a duly executed satis-
 3 faction piece or release of mortgage; or by the mortgagee or his
 4 authorized agent indorsing a satisfaction of said mortgage on the
 5 index book under the head of "remarks" in the same manner as
 6 mortgages are now released by marginal satisfaction, and when so
 7 released on index book, the recorder shall enter a memoranda thereof
 8 on the original instrument.

[38 G. A., ch. 352, § 8.]

SEC. 6325. Original returned to maker when satisfied.

1 When any chattel mortgage or other instrument of writing or
 2 indebtedness which may have been filed as herein provided shall have
 3 been satisfied, it shall be the duty of the recorder, after making a
 4 proper entry of such satisfaction in the index book or record where
 5 the original instrument is recorded, to return the original instrument,
 6 with any extension, or release, thereto attached, to the mortgagor or
 7 person executing the same, upon request therefor.

[38 G. A., ch. 352, § 9.]

SEC. 6326. Originals destroyed after five years.

1 In case such instrument, with the extension or release thereof, if
 2 any, be not returned as hereinbefore provided within five years from
 3 the maturity thereof, or the maturity of any extension thereof, the
 4 recorder shall destroy such chattel mortgages with the extension or
 5 releases thereto attached, or other instruments or writing relating
 6 thereto, by burning the same in the presence of the board of county
 7 supervisors, or a committee appointed by the board of supervisors
 8 from their own number, to superintend the same, and when so

9 destroyed the date shall be entered on the index record under "re-
10 marks."

[38 G. A., ch. 352, § 10.]

SEC. 6327. Fees.

1 The fees to be collected by the county recorder under this chapter
2 shall be as follows: For filing any mortgage, bill of sale, extension
3 agreement, release of mortgage or other instrument affecting the title
4 to or incumbrance of personal property, twenty-five cents each. For
5 certified copies of such instruments, fifty cents for the first four hun-
6 dred words and ten cents for each one hundred additional words or
7 fraction thereof.

[38 G. A., ch. 352, § 11.]

SEC. 6328. Index.

1 The recorder must keep an index book for instruments of the
2 above description, having the pages thereof ruled so as to show in
3 parallel columns, in the manner hereinafter provided in case of deeds
4 for real property:

- 5 1. Each mortgagor or vendor.
- 6 2. Each mortgagee or vendee.
- 7 3. The date of filing the instrument.
- 8 4. The date of the instrument.
- 9 5. Its nature.
- 10 6. The page and book where the record is to be found.

[C., '51, § 1194; R., '60, § 2202; C., '73, § 1924; C., '97,
§ 2907.]

SEC. 6329. Time of filing noted.

1 When any written instrument of the character above contem-
2 plated is filed for record, the recorder shall note thereon the day and
3 hour of filing the same, and forthwith enter in his index book all the
4 particulars required in the preceding section, except the sixth; and
5 from the time of said entry the sale or mortgage shall be deemed com-
6 plete as to third persons, and have the same effect as though it had
7 been accompanied by the actual delivery of the property sold or
8 mortgaged.

[C., '51, § 1195; R., '60, § 2203; C., '73, § 1925; C., '97,
§ 2908.]

**SEC. 6330. Transfers by person acting in representative capa-
city.**

1 In indexing transfers of personal property made by an adminis-
2 trator, executor, guardian, referee, receiver, sheriff, commissioner or
3 other person acting in a representative capacity, the recorder shall
4 enter upon such index book the name and capacity of each person
5 executing such instrument, and the owner of the property, if dis-
6 closed therein.

[C., '97, § 2909.]

SEC. 6331. Recording.

1 The recorder shall, as soon as practicable, record such instrument,
2 and enter in his index book in its proper place the page and book
3 where the record may be found.

[C., '51, § 1196; R., '60, § 2204; C., '73, § 1926; C., '97,
§ 2910.]

SEC. 6332. Mortgagee entitled to possession.

1 In the absence of stipulations in the mortgage, the mortgagee of
2 personal property is entitled to the possession thereof, but the title
3 shall remain in the mortgagor until divested by sale as provided by
4 law.

[C., '51, § 1210; R., '60, § 2217; C., '73, § 1927; C., '97,
§ 2911.]

SEC. 6333. Sales in bulk—inventory—creditors—notice.

1 The sale, transfer or assignment, in bulk, of any part or the whole
2 of a stock of merchandise and the fixtures pertaining to the conduct-
3 ing of said business, otherwise than in the ordinary course of trade
4 and in the regular prosecution of the business of the seller, trans-
5 feror or assignor, shall be void as against the creditors of the seller,
6 transferor, assignor, unless the seller, transferor, assignor and pur-
7 chaser, transferee and assignee, shall, at least seven days before the
8 sale, make a full detailed inventory, showing the quantity and so far
9 as possible with the exercise of reasonable diligence, the cost price to
10 the seller, transferor and assignor of each article to be included in
11 the sale; and unless the purchaser, transferee and assignee demand
12 and receive from the seller, transferor and assignor a written list of
13 names and addresses of the creditors of the seller, transferor and
14 assignor, with the amount of the indebtedness due or owing to each
15 and certified by the seller, transferor and assignor under oath, to be
16 a full, accurate and complete list of his creditors, and of his indebted-
17 ness; and unless the purchaser, transferee and assignee shall, at least
18 seven days before taking possession of such merchandise, or mer-
19 chandise and fixtures, or paying therefor, notify personally or by reg-
20 istered mail, every creditor whose name and address are stated in said
21 list, or of which he has knowledge of the proposed sale and of the
22 price, terms and conditions thereof.

[S. S., '15, §§ 2911-a, 2911-b; 37 G. A., ch. 64, § 1.]

SEC. 6334. Meaning of terms—exceptions.

1 Sellers, transferors and assignors, purchasers, transferees and
2 assignees, under this chapter, shall include corporations, associations,
3 copartnerships and individuals. But nothing contained in this chapter
4 shall apply to sales by executors, administrators, receivers, trustees
5 in bankruptcy, or any public officer under judicial process.

[S., '13, § 2911-c; 37 G. A., ch. 64, § 2.]

SEC. 6335. When purchaser a trustee or receiver.

1 Any purchaser, transferee or assignee, who shall not conform to
2 the provisions of this chapter, shall upon application of any of the
3 creditors of the seller, transferor or assignor, become a receiver and
4 be held accountable to such creditors for all the goods, wares, mer-

5 chandise and fixtures that have come into his possession by virtue of
6 such sale, transfer or assignment; but any purchaser, transferee, or
7 assignee, who shall conform to the provisions of this chapter shall
8 not be held in any way accountable to any creditor of the seller, trans-
9 feror or assignor, or to the seller, transferor or assignor for any of the
10 goods, wares, merchandise or fixtures that have come into the posses-
11 sion of said purchaser, transferee or assignee by virtue of such sale,
12 transfer or assignment.

[37 G. A., ch. 64, § 3.]

TITLE XXIII.

REAL PROPERTY.

CHAPTER 1.

REAL PROPERTY.

SECTION 6336. Who deemed seized.

1 All persons owning real estate not held by an adverse possession
2 shall be deemed to be seized and possessed of the same.
[C., '51, § 1199; R., '60, § 2207; C., '73, § 1928; C., '97,
§ 2912.]

SEC. 6337. Estate in fee simple.

1 The term "heirs" or other technical words of inheritance are not
2 necessary to create and convey an estate in fee simple.
[C., '51, § 1200; R., '60, § 2208; C., '73, § 1929; C., '97,
§ 2913.]

SEC. 6338. Conveyance passes grantor's interest.

1 Every conveyance of real estate passes all the interest of the
2 grantor therein, unless a contrary intent can be reasonably inferred
3 from the terms used.
[C., '51, § 1201; R., '60, § 2209; C., '73, § 1930; C., '97,
§ 2914.]

SEC. 6339. After-acquired interest.

1 Where a deed purports to convey a greater interest than the
2 grantor was at the time possessed of, any after-acquired interest of
3 such grantor, to the extent of that which the deed purports to convey,
4 inures to the benefit of the grantee. But if the wife or husband of
5 such grantor joins in such conveyance for the purpose of relinquish-
6 ing dower or homestead only, and subsequently acquires an interest
7 therein as above defined, it shall not be held to inure to the benefit of
8 the grantee.
[C., '51, § 1202; R., '60, § 2210; C., '73, § 1931; C., '97,
§ 2915.]

SEC. 6340. Adverse possession.

1 Adverse possession of real estate does not prevent any person
2 from selling his interest in the same.
[C., '51, § 1203; R., '60, § 2211; C., '73, § 1932; C., '97,
§ 2916.]

SEC. 6341. Future estates.

1 Estates may be created to commence at a future day.
[C., '51, § 1204; R., '60, § 2212; C., '73, § 1933; C., '97,
§ 2917.]

SEC. 6342. Declarations of trust.

1 Declarations or creations of trusts or powers in relation to real
2 estate must be executed in the same manner as deeds of conveyance;
3 but this provision does not apply to trusts resulting from the opera-
4 tion or construction of law.

[C., '51, § 1205; R., '60, § 2213; C., '73, § 1934; C., '97,
§ 2918.]

SEC. 6343. Conveyances by married women.

1 A married woman may convey or incumber any real estate or
2 interest therein belonging to her, and may control the same, or con-
3 tract with reference thereto, to the same extent and in the same man-
4 ner as other persons.

[C., '51, § 1207; R., '60, § 2215; C., '73, § 1935; C., '97,
§ 2919.]

SEC. 6344. Conveyances by husband and wife.

1 Every conveyance made by a husband and wife shall be sufficient
2 to pass any and all right of either in the property conveyed, unless the
3 contrary appears on the face of the conveyance.

[R., '60, § 2255; C., '73, § 1936; C., '97, § 2920.]

SEC. 6345. Covenants.

1 Where either the husband or wife joins in a conveyance of real
2 estate owned by the other, the husband or wife so joining shall not
3 be bound by the covenants of such conveyance, unless it is expressly
4 so stated on the face thereof.

[C., '73, § 1937; C., '97, § 2921.]

SEC. 6346. Title and possession of mortgagor.

1 In absence of stipulations to the contrary, the mortgagor of real
2 estate retains the legal title and right of possession thereto.

[C., '51, § 1210; R., '60, § 2217; C., '73, § 1938; C., '97,
§ 2922.]

SEC. 6347. Tenancy in common—right of tenant not in possession in case of partition.

1 Conveyances to two or more in their own right create a tenancy
2 in common, unless a contrary intent is expressed.

3 In all cases in which any real estate is now or shall be hereafter
4 held by two or more persons as tenants in common, and one or more
5 of said tenants shall have been or shall hereafter be in possession of
6 said real estate, it shall be lawful for any one or more of said tenants
7 in common, not in possession, to sue for and recover from such tenants
8 in possession his or their proportionate part of the rental value of
9 said real estate for the time, not exceeding a period of five years,
10 such real estate shall have been in possession as aforesaid; and in
11 case of partition of such real estate held in common as aforesaid, the
12 parties in possession shall have deducted from their distributive
13 shares of said real estate the rental value thereof to which their co-
14 tenants are entitled.

[C., '51, § 1206; R., '60, § 2214; C., '73, § 1939; C., '97, § 2923;
37 G. A., ch. 27, § 1.]

SEC. 6348. Vendor's lien.

1 No vendor's lien for unpaid purchase money shall be enforced in
2 any court of this state after a conveyance by the vendee, unless such
3 lien is reserved by conveyance, mortgage or other instrument duly
4 acknowledged and recorded, or unless such conveyance by the vendee
5 is made after suit by the vendor, his executor or assigns to enforce
6 such lien. But nothing herein shall be construed to deprive a vendor
7 of any remedy now existing against conveyance procured through the
8 fraud or collusion of the vendees therein, or persons purchasing of
9 such vendees with notice of such fraud or lien.

[C., '73, § 1940; C., '97, § 2924.]

SEC. 6349. Rule in Shelley's case abolished.

1 The rule or principle of the common law known as the rule in
2 Shelley's case is hereby abolished and is declared not to be a part of
3 the law of this state.

[S., '13, § 2924-a.]

SEC. 6350. Estate not enlarged.

1 No express devise, bequest or conveyance of an estate for life or
2 other limited estate in real or personal property shall be enlarged or
3 construed to pass any greater estate to the devisee, legatee, or grantee
4 thereof by reason of any devise, bequest or conveyance to the heirs,
5 heirs of the body, children, or issue of such devisee, legatee or grantee,
6 but this section shall not in any manner or under any circumstances
7 be so construed as to impair or affect the vested rights of any person
8 in or to any lands or estates acquired prior to July fourth, nineteen
9 hundred seven.

[S., '13, § 2924-b.]

SEC. 6351. Registration of farm names—certificate.

1 Any owner of a farm in the state of Iowa may have the name
2 of his farm, together with a description of his lands to which said
3 name applies, recorded in a register kept for that purpose in the office
4 of the county recorder of the county in which said farm is located, and
5 such recorder shall furnish to such landowner a proper certificate set-
6 ting forth said name and a description of such lands. When any name
7 shall have been recorded as the name of any farm in such county, such
8 name shall not be recorded as the name of any other farm in the same
9 county.

[S., '13, § 2924-c.]

SEC. 6352. Fee.

1 Any person having the name of his farm recorded as provided
2 in the preceding section shall first pay to the county recorder a fee
3 of one dollar, which fee shall be paid to the county treasurer as other
4 fees are paid to the county treasurer by such recorder.

[S., '13, § 2924-d.]

SEC. 6353. Transfer of farm may include name.

1 When any owner of a farm, the name of which has been recorded
2 as hereinbefore provided, transfers by deed or otherwise, the whole
3 of such farm, such transfer may include the registered name thereof;

4 but if the owner shall transfer only a portion of such farm, then in
5 that event, the registered name thereof shall not be transferred to the
6 purchaser unless so stated in the deed of conveyance.

[S., '13, § 2924-e.]

SEC. 6354. Cancellation—fee.

1 When any owner of a registered farm desires to cancel the regis-
2 tered name thereof, he shall state on the margin of the record of the
3 register of such name the following: "This name is canceled and I
4 hereby release all rights thereunder," which shall be signed by the
5 person canceling such name and attested by the county recorder. For
6 such latter service the county recorder shall charge a fee of twenty-
7 five cents, which shall be paid to the county treasurer as other fees
8 are paid to the county treasurer by him.

[S., '13, § 2924-f.]

CHAPTER 2.

CONVEYANCES.

SECTION 6355. Recording.

1 No instrument affecting real estate is of any validity against sub-
2 sequent purchasers for a valuable consideration, without notice, unless
3 recorded in the office of the recorder of the county in which the same
4 lies, as hereinafter provided.

[C., '51, § 1211; R., '60, § 2220; C., '73, § 1941; C., '97,
§ 2925.]

SEC. 6356. Acknowledgment.

1 It shall not be deemed lawfully recorded, unless it has been pre-
2 viously acknowledged or proved in the manner hereinafter prescribed.

[C., '51, § 1212; R., '60, § 2221; C., '73, § 1942; C., '97,
§ 2926.]

SEC. 6357. Transfer and index books.

1 The county auditor shall keep in his office books for the transfer
2 of real estate, which shall consist of a transfer book, index book and
3 plat book.

[C., '73, § 1948; C., '97, § 2927.]

SEC. 6358. Form of.

1 Said transfer book shall be ruled and headed substantially after
2 the following form; and entries thereupon shall be in numerical order,
3 beginning with section one:

SECTION NO....., TOWNSHIP....., RANGE.....

GRANTEE.	GRANTOR.	DATE OF INSTRUMENT.	DESCRIPTION.	PAGE OF PLATS.
.....

The index book thus:

NAMES OF GRANTEES.	PAGES OF TRANSFER BOOK.
.....

[C., '73, § 1949; C., '97, § 2928.]

SEC. 6359. Book of plats.

1 The auditor shall keep the book of plats so as to show the number
 2 of lot and block, or township and range, divided into sections and
 3 subdivisions as occasion may require, and shall designate thereon each
 4 piece of real estate, and mark in pencil the name of the owner thereon,
 5 in a legible manner; which plats shall be lettered or numbered so that
 6 they may be conveniently referred to by the memoranda of the trans-
 7 fer book, and shall be drawn on the scale of not less than four inches
 8 to the mile.

[C., '73, § 1950; C., '97, § 2929.]

SEC. 6360. Entries of transfers—certificate of council's approval of plats or additions.

1 When a deed of unconditional conveyance of real estate or trans-
 2 script as provided in section eighty-one hundred forty is presented,
 3 the auditor shall enter in the index book, in alphabetical order, the
 4 name of the grantee, and opposite thereto the number of the page of
 5 the transfer book on which such transfer is made; and upon the trans-
 6 fer book he shall enter in the proper columns the name of the grantee,
 7 the grantor, date and character of the instrument, the description of
 8 the real estate, and the number or letter of the plat on which the same
 9 is marked; but no conveyances or plats of additions to any city or town
 10 or subdivisions of any part or parcels of lands lying within or adjacent
 11 to any city or town in which streets and alleys and other public
 12 grounds are sought to be dedicated to public use, or other conveyances
 13 in which streets and alleys are sought to be conveyed to such city or
 14 town, shall be so entered, unless such conveyances, plats or other
 15 instruments have indorsed thereon the approval of the council of such
 16 city or town, the certificate of such approval to be made by the city
 17 clerk.

[C., '73, § 1951; C., '97, § 2930; S., '13, § 2930.]

SEC. 6361. Judgments.

1 Upon receipt of a certificate from the clerk of the district or su-
 2 preme court, that the title to real estate has been finally established
 3 in any named person by judgment or decree of said court, or by will,
 4 the auditor shall enter the same upon the transfer books, upon pay-
 5 ment of a fee of twenty-five cents.

[C., '97, § 2931.]

Affiant.	Date of Filing.					Date of Instrument.			Where Recorded.	
	Month	Day	Year	Hour		Month	Day	Year	Book	Page
				A. M.	P. M.					

[C., '51, § 1213; R., '60, § 2222; C., '73, § 1943; C., '97, § 2935; S., '13, § 2935.]

SEC. 6366. Indorsement—entries.

1 He must indorse upon every instrument properly filed in his office
 2 for record the time when it was filed, and shall forthwith make the
 3 entries provided for in the preceding section, except that of the book
 4 and page where the record of the instrument may be found, and from
 5 that time such entries shall furnish constructive notice to all persons
 6 of the rights of the grantees conferred by such instruments.

[C., '51, § 1214; R., '60, § 2223; C., '73, § 1944; C., '97, § 2936.]

SEC. 6367. Arranged alphabetically.

1 The entries in such book shall show the names of the respective
 2 grantors and grantees, arranged in alphabetical order. When such
 3 instrument is executed by an administrator, executor, guardian, ref-
 4 erree, commissioner, receiver, sheriff, or other person acting in a repre-
 5 sentative capacity, the recorder shall enter the same upon the index
 6 book in the manner required for the entry thereon of transfers of
 7 personal property similarly made.

[C., '51, § 1215; R., '60, § 2224; C., '73, § 1945; C., '97, § 2937.]

SEC. 6368. How recorded.

1 Every such instrument shall be recorded, as soon as practicable,
 2 in a suitable book to be kept by the recorder for that purpose, after
 3 which he shall complete the entries aforesaid, so as to show the book
 4 and page where the record is to be found.

[C., '51, § 1216; R., '60, § 2225; C., '73, § 1946; C., '97, § 2938.]

SEC. 6369. Transcript of instruments—certified transcript may be recorded same as original.

1 Any person interested therein may procure from any recorder
 2 in this state a transcript of any instrument affecting real estate which
 3 is of record in his office. Such transcript shall be certified by the
 4 recorder, and the clerk of the district court shall certify under the
 5 seal of his office to the signature of such recorder and that he is such
 6 officer. A transcript of the record of any instrument affecting real
 7 estate, certified as herein provided, shall be entitled to record in the
 8 office of the recorder of any other county in this state in which is

9 situated any of the real estate affected by such instrument. The effect
10 of the recording of such transcript shall be the same as the recording
11 of the original instrument.

[S., '13, § 2938-a.]

SEC. 6370. Recording land grants.

1 Every railroad company which owns or claims to own real estate
2 in this state, granted by the government of the United States or this
3 state to aid in the construction of its railroad, where it has not already
4 done so, shall place on file and cause to be recorded, in each county
5 wherein the real estate granted is situated, evidence of its title or
6 claim of title, whether the same consists of patents from the United
7 States, certificates from the secretary of the interior, or governor of
8 this state, or the proper land office of the United States or this state.
9 Where no patent was issued, reference shall be made in said certificate
10 to the act or acts of congress, and the acts of the legislature of this
11 state, granting such lands, giving the date thereof, and date of their
12 approval under which claim of title is made; but where the certificate
13 of the secretary of the interior or the patents contain real estate situ-
14 ated in more than one county, the secretary of state shall, upon the
15 application of any railroad company or its grantee, prepare and fur-
16 nish, to be recorded, a list of all the real estate situated in any one
17 county so granted, patented or certified; and all such evidences of title
18 shall be entered by the auditor upon the index, transfer and plat books.

[C., '97, § 2939.]

SEC. 6371. Notice.

1 Such evidence of title shall be filed with the recorder of deeds of
2 the county in which the real estate is situated, who shall record the
3 same, and place an abstract thereof upon the index of deeds, so as to
4 show the evidence of title; and the recording thereof shall be con-
5 structive notice to all persons, as provided in other cases of entries
6 upon said index, and the recorder shall receive the same fees therefor
7 as for recording other instruments.

[C., '97, § 2940.]

SEC. 6372. Town lots.

1 The recorder shall index and record all deeds, mortgages and
2 other instruments affecting lots in cities, towns or villages, the plats
3 whereof are recorded, in separate books from those in which other
4 conveyances of real estate are recorded. Where any instrument con-
5 tains a description of both land, and lots in cities, towns or villages,
6 the plats whereof are recorded, he shall record such instruments in
7 but one record and charge but one fee, but shall index in both land
8 and town lot indexes.

[R., '60, § 2241; C., '73, § 1947; C., '97, § 2941; S., '13,
§ 2941.]

SEC. 6373. Acknowledgment of conveyances or incumbrances.

1 The acknowledgment of any deed, conveyance or other instrument
2 in writing by which real estate in this state shall be conveyed or in-
3 cumbered, if made within this state, must be before some court having
4 a seal, or some judge or clerk thereof, or some county auditor or his

5 deputy, or justice of the peace within the county, or notary public
 6 within the county of his appointment or in an adjoining county in
 7 which he has filed with the clerk of the district court a certified copy
 8 of his certificate of appointment. And each of the officers above
 9 named is authorized to take and certify acknowledgments of all writ-
 10 ten instruments, authorized or required by law to be acknowledged.
 [C., '51, § 1217; R., '60, § 2226; C., '73, § 1955; C., '97, § 2942;
 S., '13, § 2942.]

SEC. 6374. Out of state.

1 When made out of the state but within the United States, it shall
 2 be before a judge of some court of record, or officer holding the seal
 3 thereof, or some commissioner appointed by the governor of this state
 4 to take the acknowledgment of deeds, or some notary public or justice
 5 of the peace; and when made before a judge, or justice of the peace,
 6 a certificate, under the official seal of the clerk or other proper certi-
 7 fying officer of a court of record of the county or district, or of the
 8 secretary of state of the state or territory within which such acknowl-
 9 edgment was taken, under the seal of his office, of the official character
 10 of said judge, or justice, and of the genuineness of his signature, shall
 11 accompany said certificate of acknowledgment.

[R., '60, § 2245; C., '73, § 1956; C., '97, § 2943; S., '13,
 § 2943.]

SEC. 6375. Notarial seals of nonresidents.

1 The notarial seal which purports to have been affixed to any in-
 2 strument in writing, by any notary public residing elsewhere than in
 3 the state of Iowa, shall be prima facie evidence that the words thereon
 4 engraved conform to the requirements of the law of the place where
 5 such certificate purports to have been made.

[S., '13, § 2943-a.]

SEC. 6376. Execution out of state.

1 The proof or acknowledgment of any deed or other written in-
 2 strument required to be proved or acknowledged in order to enable
 3 the same to be recorded or read in evidence, when made by any person
 4 without this state and within any other state, territory or district of
 5 the United States, may also be made before any officer of such state,
 6 territory or district authorized by the laws thereof to take the proof
 7 and acknowledgment of deeds, and, when so taken and certified as
 8 herein provided, shall be entitled to be recorded in this state, and may
 9 be read in evidence in the same manner and with like effect as proofs
 10 and acknowledgments taken before any of the officers now authorized
 11 by law to take such proofs and acknowledgments, and whose authority
 12 so to do is not intended to be hereby affected.

[C., '97, § 2944.]

SEC. 6377. Certificate of authority.

1 To entitle any conveyance or written instrument, acknowledged
 2 or proved under the preceding section, to be read in evidence or re-
 3 corded in this state, there shall be subjoined or attached to the certifi-
 4 cate of proof or acknowledgment signed by such officer a certificate
 5 of the secretary of state of the state or territory in which such officer
 6 resides, under the seal of such state or territory, or a certificate of

7 the clerk of a court of record of such state, territory or district in
 8 the county in which said officer resides or in which he took such proof
 9 or acknowledgment, under the seal of such court, stating that such
 10 officer was at the time of taking such proof or acknowledgment duly
 11 authorized to take acknowledgments and proofs of deeds of lands in
 12 said state, territory or district, and that said conveyance and the
 13 acknowledgment thereof are in due form of law, and that said secre-
 14 tary of state or clerk of court is well acquainted with the handwriting
 15 of such officer, and that he verily believes that the signature affixed to
 16 such certificate of proof or acknowledgment is genuine.

[C., '97, § 2945.]

SEC. 6378. Form.

1 The following form of authentication of the proof or acknowledg-
 2 ment of a deed or other written instrument, when taken without this
 3 state and within any other state, territory or district of the United
 4 States, or any form substantially in compliance with the foregoing
 5 provisions of this chapter, may be used:
 6 (Begin with a caption specifying the state, territory or district,
 7 and county or place where the authentication is made.)
 8 "I,, clerk of the court in and for said county,
 9 which court is a court of record, having a seal (or I,,
 10 secretary of state of such state or territory), do hereby certify that
 11, by and before whom the foregoing acknowledgment
 12 (or proof) was taken, was at the time of taking the same a notary
 13 public (or other officer) residing (or authorized to act) in said county,
 14 and was duly authorized by the laws of said state (territory or dis-
 15 trict) to take and certify acknowledgments or proofs of deeds of land
 16 in said state (territory or district), and that said conveyance and the
 17 acknowledgment thereof are in due form of law; and, further, that I
 18 am well acquainted with the handwriting of said,
 19 and that I verily believe that the signature to said certificate of
 20 acknowledgment (or proof) is genuine. In testimony whereof, I have
 21 hereunto set my hand and affixed the seal of the said court (or state)
 22 this day of, A. D."

[C., '97, § 2946.]

SEC. 6379. When out of the United States.

1 When the acknowledgment is made without the United States, it
 2 may be before any ambassador, minister, secretary of legation, consul,
 3 vice consul, charge d'affaires, consular agent, or any other officer of
 4 the United States in a foreign country who is authorized to issue cer-
 5 tificates under the seal of the United States. Said instruments may
 6 also be acknowledged or proven before any officer of a foreign country
 7 who is authorized by the laws thereof to certify to the acknowledg-
 8 ments of written documents; but the certificate of acknowledgment
 9 by a foreign officer must be authenticated by one of the above named
 10 officers of the United States, whose official written statement that full
 11 faith and credit is due to the certificate of such foreign officer shall
 12 be deemed sufficient evidence of the qualification of said officer to take
 13 acknowledgments and certify thereto, and of the genuineness of his
 14 signature, and seal if he have any.

[C., '73, § 1957; C., '97, § 2947.]

SEC. 6380. Certificate of acknowledgment.

1 The court or officer taking the acknowledgment must indorse upon
 2 the deed or instrument a certificate setting forth the following par-
 3 ticulars:
 4 1. The title of the court or person before whom the acknowledg-
 5 ment was made.
 6 2. That the person making the acknowledgment was known to
 7 the officer taking the acknowledgment to be the identical person whose
 8 name is affixed to the deed as grantor, or that such identity was proved
 9 by at least one credible witness, naming him.
 10 3. That such person acknowledged the execution of the instru-
 11 ment to be his voluntary act and deed.
 [C., '51, § 1219; R., '60, § 2227; C., '73, § 1958; C., '97,
 § 2948.]

SEC. 6381. Proof of execution and delivery.

1 Proof of the due and voluntary execution and delivery of a deed
 2 or other instrument may be made before any officer authorized to take
 3 acknowledgments, by one competent person other than the vendee or
 4 other person to whom the instrument is executed, in the following
 5 cases:
 6 1. If the grantor dies before making the acknowledgment.
 7 2. If his attendance can not be procured.
 8 3. If, having appeared, he refuses to acknowledge the execution
 9 of the instrument.
 [C., '51, §§ 1220, 1221; R., '60, § 2228; C., '73, § 1959; C.,
 '97, § 2949.]

SEC. 6382. Certificate—must state what.

1 The certificate indorsed by the officer upon a deed or other instru-
 2 ment thus proved must state:
 3 1. The title of the officer taking the proof.
 4 2. That it was satisfactorily proved that the grantor was dead,
 5 or that for some other reason his attendance could not be procured
 6 in order to make the acknowledgment, or that, having appeared, he
 7 refused to acknowledge the same.
 8 3. The name of the witness by whom proof was made, and that
 9 it was proved by him that the instrument was executed and delivered
 10 by the person whose name is thereunto subscribed as a party.
 [C., '51, § 1222; R., '60, § 2230; C., '73, § 1960; C., '97,
 § 2950.]

SEC. 6383. Form.

1 The certificate of proof or acknowledgment may be given under
 2 seal or otherwise, according to the mode by which the officer making
 3 the same usually authenticates his formal acts.
 [C., '51, § 1223; R., '60, § 2231; C., '73, § 1961; C., '97,
 § 2951.]

SEC. 6384. Attorney in fact.

1 The execution of any deed, mortgage or other instrument in writ-
 2 ing, executed by any attorney in fact, may be acknowledged by the
 3 attorney executing the same.
 [R., '60, § 2251; C., '73, § 1962; C., '97, § 2952.]

SEC. 6385. Certificate.

1 The person taking the acknowledgment must indorse upon such
2 instrument a certificate, setting forth the following particulars:

3 1. The title of the person before whom the acknowledgment was
4 taken.

5 2. That the person making the acknowledgment was known to
6 the officer taking the acknowledgment to be the identical person whose
7 name is subscribed to the instrument as attorney for the grantor
8 therein named, or that such identity was proved to him by at least
9 one credible witness, to him personally known and therein named.

10 3. That such person acknowledged said instrument to be the act
11 and deed of the grantor therein named, by him, as such attorney there-
12 unto appointed, voluntarily done and executed.

[R., '60, § 2252; C., '73, § 1963; C., '97, § 2953.]

SEC. 6386. By officers of corporation.

1 If the acknowledgment is made by the officers of a corporation,
2 the certificate shall show that such persons as such officers, naming
3 the office of each person, acknowledged the execution of the instru-
4 ment as the voluntary act and deed of such corporation, by each of
5 them voluntarily executed.

[C., '97, § 2954.]

SEC. 6387. Liability of officer.

1 Any officer, who knowingly misstates a material fact in either
2 of the certificates hereinbefore contemplated shall be liable for all dam-
3 ages caused thereby, and shall be guilty of a misdemeanor, and fined
4 any sum not exceeding the value of the property conveyed or other-
5 wise affected by the instrument on which such certificate is indorsed.

[C., '51, § 1224; R., '60, § 2232; C., '73, § 1964; C., '97,
§ 2955.]

SEC. 6388. Subpoenas.

1 Any officer having power to take the proof hereinbefore contem-
2 plated may issue the necessary subpoenas, and compel the attendance
3 of witnesses residing within the county, in the manner provided for
4 the taking of depositions.

[C., '51, § 1225; R., '60, § 2233; C., '73, § 1965; C., '97,
§ 2956.]

SEC. 6389. Power of attorney—recording—revocation.

1 All instruments containing a power to convey, or in any manner
2 relating to real estate, shall be held to be instruments affecting the
3 same; and no such instrument, when certified and recorded as above
4 prescribed, can be revoked as to third parties by any act of the parties
5 by whom it was executed, until the instrument containing such revo-
6 cation is acknowledged and filed for record in the same office in which
7 the instrument containing such power is recorded. Affidavits ex-
8 plaining any defect in the chain of title to any real estate may be
9 recorded as instruments affecting the same, but no one except the
10 owner in possession of such real estate shall have the right to file the
11 same.

[C., '51, § 1226; R., '60, § 2234; C., '73, § 1969; C., '97,
§ 2957.]

SEC. 6390. Forms of conveyances.

1 The following or other equivalent forms, varied to suit circum-
 2 stances, are sufficient for the purposes herein contemplated:

3 **FOR A QUITCLAIM DEED.**

4 For the consideration of dollars, I hereby quitclaim to A.
 5 B. all my interest in the following tract of real estate (describing it).

6 **FOR A DEED IN FEE SIMPLE WITHOUT WARRANTY.**

7 For the consideration of dollars, I hereby convey to A. B.
 8 the following tract of real estate (describing it).

9 **FOR A DEED IN FEE WITH WARRANTY.**

10 The same as the last preceding form, adding the words: "And
 11 I warrant the title against all persons whomsoever" (or other words
 12 of warranty, as the party may desire).

13 **FOR A MORTGAGE.**

14 The same as deed of conveyance, adding the following: "To be
 15 void upon condition that I pay, etc."

[C., '51, § 1232; R., '60, § 2240; C., '73, § 1970; C., '97,
 § 2958.]

**SEC. 6391. Instruments affecting real estate — execution — re-
 lease.**

1 In the execution of any written instrument conveying, incumber-
 2 ing or affecting real estate by a corporation that has adopted a cor-
 3 porate seal, the seal of such corporation shall be attached or affixed to
 4 such written instrument, or if the corporation has not adopted a cor-
 5 porate seal such fact shall be stated in such written instrument, except
 6 that it shall not hereafter be necessary to attach or affix the corporate
 7 seal to any release or satisfaction of any mortgage, judgment or other
 8 lien, that is made or entered by any corporation on the page or pages
 9 of the official record where any such lien appears recorded or entered,
 10 but the officer executing such release or satisfaction shall therein cer-
 11 tify that same is executed with authority of the board of directors
 12 of such corporation, and the county recorder or deputy shall attach
 13 thereto a statement showing the relation such officer then bears to the
 14 corporation.

[C., '51, § 974; R., '60, § 1823; C., '73, § 2112; C., '97, § 3068;
 S., '13, § 3068.]

SEC. 6392. Forms of acknowledgment.

1 The following forms of acknowledgment shall be sufficient in the
 2 cases to which they are respectively applicable. In each case where
 3 one of these forms is used, the name of the state and county where
 4 the acknowledgment is taken shall precede the certificate, and the sig-
 5 nature and official title of the officer shall follow it as indicated in the
 6 first form, and the seal of the officer shall be attached when necessary
 7 under the provision of this chapter.

8 1. In the case of natural persons acting in their own right:

9 STATE OF }
 10 County of } ss.

11 On this day of, A. D., before me
 12 personally appeared A. B. (or A. B. and C. D.), to me known to be
 13 the person (or persons) named in and who executed the foregoing

14 instrument, and acknowledged that he (or they) executed the same
15 as his (or their) voluntary act and deed.

16

17

Notary Public in and for said county.

18

2. In the case of natural persons acting by attorney:

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On this day of, A. D., before me personally appeared A. B., to me known to be the person who executed the foregoing instrument in behalf of C. D., and acknowledged that he executed the same as the voluntary act and deed of said C. D.

3. In the case of corporations or joint stock associations:

On this day of, A. D., before me appeared A. B., to me personally known, who, being by me duly sworn (or affirmed), did say that he is the president (or other officer or agent of the corporation or association) of (describing the corporation or association), and that the seal affixed to said instrument is the corporate seal of said corporation (or association), and that said instrument was signed and sealed in behalf of said corporation (or association) by authority of its board of directors (or trustees), and said A. B. acknowledged said instrument to be the voluntary act and deed of said corporation (or association).

(In case the corporation or association has no corporate seal, omit the words "the seal affixed to said instrument is the corporate seal of said corporation (or association), and that," and add, at the end of the affidavit clause, the words "and that said corporation (or association) has no corporate seal.")

(In all cases add signature and title of the officer taking the acknowledgment.)

[C., '97, § 2959.]

SEC. 6393. By married women.

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The acknowledgment of a married woman, when required by law, may be taken in the same form as if she were sole, and without any examination separate and apart from her husband.

[C., '97, § 2960.]

SEC. 6394. Records transcribed.

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The board of supervisors of any county, or one formerly attached to another, when necessary, may have copied, indexed and arranged any deed, probate, mortgage, court or county record, or government survey belonging or relating to said county, and have a complete index thereof made; and may have correctly copied any index of deeds, mortgages or other records.

[R., '60, §§ 2258, 2259; C., '73, §§ 1971, 1972; C., '97, § 2961.]

SEC. 6395. Compensation.

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The board of supervisors may employ any suitable person to perform the labor contemplated in the preceding section, the amount of compensation therefor to be previously fixed by them, not exceeding six cents for each one hundred words of the records proper, and twelve and one-half cents for each one hundred words of indexing; such compensation to be paid out of the treasury of the county for which the records are copied, to be audited as other claims.

[R., '60, § 2260; C., '73, § 1973; C., '97, § 2962.]

SEC. 6396. Effect.

1 When any such records are copied, the officer to whose office the
 2 original records belong shall compare the copy so made with the orig-
 3 inal, and, upon the same being found correct, shall attach his certifi-
 4 cate in each volume or book of such copied records, to the effect that
 5 he has compared such copies with the original and they are true and
 6 correct, and such copied records shall have the same force and effect
 7 in all respects as the original records.

[R., '60, §§ 2261, 2262; C., '73, §§ 1974, 1975; C., '97, § 2963.]

SEC. 6397. Conveyances by heirs or spouse of deceased prior to nineteen hundred—conclusive evidence of right to convey.

1 All conveyances of real estate executed prior to January first,
 2 nineteen hundred, wherein the grantor or grantors described herself,
 3 himself or themselves as the surviving spouse, heir at law, heirs at
 4 law, surviving spouse and heir at law, or surviving spouse and heirs
 5 at law of some person deceased in whom the record title or ownership
 6 of said real estate previously vested, shall be conclusive evidence of
 7 the facts purported to be so recited as far as they relate to the right
 8 of the grantor or grantors to convey, and said conveyance or the
 9 records thereof shall be conclusive evidence of the facts purported to
 10 be recited so far as they relate to the right of said grantor or grantors
 11 to convey and the said conveyance or the records thereof shall be con-
 12 clusive evidence of his, her or their rights to convey the entire estate,
 13 title or interest of such purported deceased person as fully as though
 14 the record title of said grantor or grantors had been established by
 15 due probate proceedings in the county where the real estate is situated;
 16 provided, however, that where any such conveyance in express terms
 17 purports to convey less than the entire estate or a limited estate, the
 18 recitals above referred to shall be conclusive evidence of the facts pur-
 19 ported to be recited so far as they relate to the right of said grantor
 20 or grantors to convey and said conveyance or the records thereof shall
 21 be conclusive evidence of his, her or their right to convey that portion,
 22 title or interest which said conveyance purports to convey as fully as
 23 though the record title of said grantor or grantors had been estab-
 24 lished by due probate proceedings in the county where the real estate
 25 is located.

[S., '13, § 2963-e.]

SEC. 6398. Judgment or decree quieting title legalized—defects prior to nineteen hundred.

1 No existing judgment or decree quieting title to real estate as
 2 against defects arising prior to January first, nineteen hundred, and
 3 purporting to sustain the record title shall be held ineffectual because
 4 of the failure to properly set out in the petition or notice the deriva-
 5 tion or devolution of the interest of the unknown defendants or on
 6 account of the failure of the record to show that such notice was ap-
 7 proved by the court or that the same was published as directed by
 8 the court or because of the failure of the record to show that an affi-
 9 davit was filed by plaintiff showing that personal service could not
 10 be made on any defendant in the state of Iowa, or because of the fail-
 11 ure of defense by a guardian ad litem for any defendant under legal
 12 disability, or where there was more than one tract of real estate de-
 13 scribed in the same petition and decree, or where the plaintiffs have

14 no joint or common interest in the property or defects of title or
 15 because of failure to comply with any other provision of law, but all
 16 such decrees are hereby made legal and effectual the same as if all
 17 provisions of law had been complied with in obtaining them.

[S., '13, § 2963-f.]

SEC. 6399. Sheriffs' deeds prior to nineteen hundred legalized.

1 No foreclosure proceeding or sale of real estate on execution prior
 2 to January first, nineteen hundred, wherein a sheriff's deed was exe-
 3 cuted and which purports to sustain the record title shall be held
 4 ineffectual on account of the failure of the record to show that any of
 5 the steps in obtaining said judgments or in the sale of said property
 6 were complied with, that such proceedings are hereby legalized and
 7 made valid as if the record showed that all the provisions of the law
 8 had been complied with.

[S., '13, § 2963-h.]

**SEC. 6400. Affidavits of defects prior to nineteen hundred con-
 clusive evidence—later affidavits prima facie evidence.**

1 Affidavits on record in the office of any county recorder July
 2 fourth, nineteen hundred thirteen, explaining any defect in the chain
 3 of title to real estate arising prior to January first, nineteen hundred,
 4 or the records thereof made under section sixty-three hundred eighty-
 5 nine shall be conclusive evidence of the facts purported to be stated
 6 therein in all actions involving the title to said real estate and affi-
 7 davits thereafter made and recorded as provided in section sixty-three
 8 hundred eighty-nine shall be prima facie evidence of the facts therein
 9 contained for three years next succeeding the recording thereof and
 10 thereafter the same shall be conclusive evidence of the facts therein
 11 contained.

[S., '13, § 2963-i.]

**SEC. 6401. Contract or bond for deed prior to nineteen hundred—
 deemed abandoned.**

1 In all cases where the record shows that a contract or bond for
 2 a deed has been given prior to January first, nineteen hundred, and
 3 the record discloses no performance of the same and that more than
 4 ten years have elapsed since the contract by its terms was to be per-
 5 formed, that such contract shall be deemed abandoned and of no effect
 6 and the land freed from any lien or defect on account of such contract.

[S., '13, § 2963-j.]

**SEC. 6402. Conveyances prior to nineteen hundred—Christian
 names and initials—conclusive evidence.**

1 In the proof of title to real estate derived from deeds or other
 2 conveyances or instruments affecting real estate, executed prior to
 3 January first, nineteen hundred, wherein there is a difference between
 4 the Christian name, names, initial or initials in which title is taken,
 5 and the Christian name, names, initial or initials of the grantor or
 6 grantors in a succeeding conveyance, the surname in both instances
 7 being written the same or sounding the same, such conveyances or the
 8 records thereof shall be conclusive evidence that the same surname
 9 refers to the same person in the several conveyances and instruments.

[S., '13, § 2963-k.]

SEC. 6403. Assignment of original entry or certificate of entry—deemed conveyance.

1 In the event the record title to any parcel of real estate discloses
2 that the original entry, certificate of entry, receipt or duplicate thereof
3 has been assigned, that prior to such assignment or thereafter, the
4 United States or state issued a patent or conveyance to the assignor,
5 that no deed of conveyance appears on record from the original entry-
6 man or assignor to the assignee, that the present record owner holds
7 title by, through or under such assignment, such assignment shall
8 have the same force and effect as a deed of conveyance and shall be
9 conclusively presumed to carry all right, title, and interest of the
10 patentee of said real estate, the same as though a deed of conveyance
11 had been subsequently executed by the patentee or assignor to a sub-
12 sequent grantor.

[S., '13, § 2963-n.]

SEC. 6404. Rights terminated—limitation of action.

1 Any grantee, grantor, surviving spouse, heirs, legatees, devisees,
2 assignees, assignors, personal representative or any other person or
3 persons having or claiming any right, title or interest in any real
4 estate, which right, title or interest may be terminated, divested or
5 cut off by the terms of sections sixty-three hundred ninety-seven to
6 sixty-four hundred five, inclusive, and sections sixty-five hundred forty-
7 six, sixty-five hundred fifty-nine, sixty-five hundred sixty-two and
8 seventy-one hundred sixteen, or whose right, title or interest said sec-
9 tions purport to terminate, divest or cut off, but for any reason it
10 would not be thereby terminated, divested or cut off, shall have one
11 year from July fourth, nineteen hundred thirteen, in which to com-
12 mence actions to establish any right, title or interest claimed. But
13 after July fourth, nineteen hundred fourteen, no action shall be main-
14 tained and in all matters of evidence made conclusive by said sections
15 shall, in actions commenced under this section, be presumptive evi-
16 dence.

[S., '13, § 2963-p.]

SEC. 6405. Limitations of actions by minors and insane persons not applicable.

1 The provisions of section seventy-one hundred thirty-two extend-
2 ing the period of limitations in favor of minors and insane persons
3 shall not be applicable to any of the provisions of sections sixty-three
4 hundred ninety-seven to sixty-four hundred five, inclusive, and sections
5 sixty-five hundred forty-six, sixty-five hundred fifty-nine, sixty-five
6 hundred sixty-two and seventy-one hundred sixteen.

[S., '13, § 2963-q.]

CHAPTER 3.

OCCUPYING CLAIMANTS.

SECTION 6406. Proceedings.

1 Where an occupant of real estate has color of title thereto, and
2 in good faith has made valuable improvements thereon, and is after-

3 wards in a proper action found not to be the owner, no execution
4 shall issue to put the plaintiff in possession of the same, after the filing
5 of a petition as hereinafter provided, until the provisions of this chap-
6 ter have been complied with.

[C., '51, § 1233; R., '60, § 2264; C., '73, § 1976; C., '97,
§ 2964.]

SEC. 6407. Petition—issues—appraisalment.

1 Such petition must set forth the grounds on which the defendant
2 seeks relief, stating as accurately as practicable the value of the real
3 estate, exclusive of the improvements thereon made by the claimant
4 or his grantors, and the value of such improvements. The issues
5 joined thereon must be tried as in ordinary actions, and the value of
6 the real estate and of such improvements must be separately ascer-
7 tained on the trial.

[C., '51, §§ 1234, 1235; R., '60, §§ 2265, 2266; C., '73, §§ 1977,
1978; C., '97, § 2965.]

SEC. 6408. Payment—tenants in common.

1 The plaintiff in the main action may thereupon pay the appraised
2 value of the improvements and take the property, but should he fail
3 to do this after a reasonable time, to be fixed by the court, the defend-
4 ant may take the property upon paying its value, exclusive of the
5 improvements. If this is not done within a reasonable time, to be
6 fixed by the court, the parties will be held to be tenants in common
7 of all the real estate, including the improvements, each holding an
8 interest proportionate to the values ascertained on the trial.

[C., '51, §§ 1236-1238; R., '60, § 2267; C., '73, §§ 1979-1981;
C., '97, § 2966.]

SEC. 6409. Color of title.

1 A purchaser in good faith at any judicial or tax sale, made by
2 the proper person or officer, has color of title within the meaning of
3 this chapter, whether such person or officer has sufficient authority
4 to sell or not, unless such want of authority was known to such pur-
5 chaser at the time of the sale; and his rights shall pass to his assignees
6 or representatives. Any person has also color of title who has occu-
7 pied a tract of real estate by himself, or by those under whom he
8 claims, for the term of five years, or who has thus occupied it for less
9 time, if he or those under whom he claims have, at any time during
10 such occupancy, with the knowledge or consent, express or implied,
11 of the real owner, made any valuable improvements thereon, or if he
12 or those under whom he claims have, at any time during such occu-
13 pancy, paid the ordinary county taxes thereon for any one year, and
14 two years have elapsed without a repayment or offer of repayment
15 of the same by the owner thereof, and such occupancy is continued
16 up to the time at which the action is brought by which the recovery
17 of the real estate is obtained; but nothing in this chapter shall be
18 construed to give tenants color of title against their landlords.

[C., '51, §§ 1239, 1240; R., '60, §§ 2268, 2269; C., '73, §§ 1982,
1983; C., '97, § 2967.]

SEC. 6410. Settlers.

1 When any person has settled upon any real estate, and occupied
2 the same for three years under or by virtue of any law or contract

3 with the proper officers of the state for the purchase thereof, or under
4 any law of, or by virtue of any purchase from, the United States, shall
5 have made valuable improvements thereon, and shall be found not to be
6 the owner thereof, or not to have acquired a right to purchase the
7 same from the state or the United States, such person shall be an
8 occupying claimant within the meaning of this chapter.

[C., '73, § 1984; C., '97, § 2968.]

SEC. 6411. Waste by claimant.

1 In the cases hereinbefore provided for, if the occupying claimant
2 has committed any injury to the real estate by cutting timber or
3 otherwise, the plaintiff may set the same off against any claim or
4 improvements made by the claimant.

[C., '51, § 1241; R., '60, § 2270; C., '73, § 1985; C., '97,
§ 2969.]

SEC. 6412. Execution.

1 The plaintiff is entitled to an execution to put him in possession
2 of his property in accordance with the provisions of this chapter, but
3 not otherwise.

[C., '51, § 1243; R., '60, § 2272; C., '73, § 1986; C., '97,
§ 2970.]

SEC. 6413. Removal of improvements.

1 Any person having improvements on any real estate granted to
2 the state in aid of any work of internal improvement, whose title
3 thereto is questioned by another, may remove such improvements
4 without injury otherwise to such real estate, at any time before he
5 is evicted therefrom, or he may claim and have the benefit of this
6 chapter by proceeding as herein directed.

[C., '73, § 1987; C., '97, § 2971.]

CHAPTER 4.

HOMESTEAD.

SECTION 6414. Exempt.

1 The homestead of every family, whether owned by the husband
2 or wife, is exempt from judicial sale, where there is no special declara-
3 tion of statute to the contrary.

[C., '51, § 1245; R., '60, § 2277; C., '73, § 1988; C., '97,
§ 2972.]

SEC. 6415. Family defined.

1 A widow or widower, though without children, shall be deemed
2 a family within the meaning of this chapter, while continuing to oc-
3 cupy the real estate used as a homestead at the death of the husband or
4 wife, and such right shall continue to the party to whom it is adjudged
5 in a decree of divorce, during continued personal occupancy.

[C., '51, § 1246; R., '60, § 2278; C., '73, § 1989; C., '97,
§ 2973.]

SEC. 6416. Conveyance or incumbrance.

1 No conveyance or incumbrance of or contract to convey or incum-
 2 ber the homestead, if the owner is married, is valid, unless the husband
 3 and wife join in the execution of the same joint instrument, whether
 4 the homestead is exclusively the subject of the contract or not, but
 5 such contracts may be enforced as to real estate other than the home-
 6 stead at the option of the purchaser or incumbrancer.

[C., '51, § 1247; R., '60, § 2279; C., '73, § 1990; C., '97,
 § 2974.]

SEC. 6417. Subject to mechanics' liens.

1 The homestead is subject to mechanics' liens for work, labor
 2 or material done or furnished exclusively for the improvement of the
 3 same.

[C., '51, § 1248; R., '60, § 2280; C., '73, § 1991; C., '97,
 § 2975.]

SEC. 6418. Liable for debts antedating purchase—by written contract.

1 The homestead may be sold on execution for debts contracted
 2 prior to its acquisition, but in such case it shall not be sold except to
 3 supply any deficiency remaining after exhausting the other property
 4 of the debtor liable to execution. It may also be sold for debts cre-
 5 ated by written contract, executed by the persons having the power
 6 to convey, and expressly stipulating that it is liable therefor, but then
 7 only for a deficiency remaining after exhausting all other property
 8 pledged by the same contract for the payment of the debt.

[C., '51, § 1249; R., '60, § 2281; C., '73, §§ 1992, 1993; C.,
 '97, § 2976.]

SEC. 6419. What constitutes.

1 It must embrace the house used as a home by the owner, and, if
 2 he has two or more houses thus used, he may select which he will
 3 retain. It may contain one or more contiguous lots or tracts of land,
 4 with the building and other appurtenances thereon, habitually and in
 5 good faith used as part of the same homestead.

[C., '51, §§ 1250, 1251; R., '60, §§ 2282, 2283; C., '73, §§ 1994,
 1995; C., '97, § 2977.]

SEC. 6420. Extent—dwelling—appurtenances—value.

1 If within a city or town plat, it must not exceed one-half acre in
 2 extent, otherwise it must not contain in the aggregate more than
 3 forty acres, but if, in either case, its value is less than five hundred
 4 dollars, it may be enlarged until it reaches that amount. It must not
 5 embrace more than one dwelling house, or any other buildings except
 6 such as are properly appurtenant thereto, but a shop or other building
 7 situated thereon, actually used and occupied by the owner in the prose-
 8 cution of his ordinary business, and not exceeding three hundred dol-
 9 lars in value, is appurtenant thereto.

[C., '51, §§ 1252, 1253; R., '60, §§ 2284, 2285; C., '73, §§ 1996,
 1997; C., '97, § 2978; S., '13, § 2978.]

SEC. 6421. Selecting—platting—notice to plat and record.

1 The owner, husband or wife, may select the homestead and cause
 2 it to be platted, but a failure to do so shall not render the same liable
 3 when it otherwise would not be, and a selection by the owner shall
 4 control. When selected, it shall be marked off by permanent, visible
 5 monuments, and the description thereof shall give the direction and
 6 distance of the starting point from some corner of the dwelling, which
 7 description, with the plat, shall be filed and recorded by the recorder
 8 of the proper county in the homestead book, which shall be, as nearly
 9 as may be, in the form of the record books for deeds, with an index
 10 kept in the same manner. Should the homestead not be platted and
 11 recorded at the time levy is made upon real property in which a home-
 12 stead is included the officer having the execution shall give notice in
 13 writing to said owner, and the husband or wife of such owner, if
 14 found within the county to plat and record the same within ten days
 15 after service thereof; after which time said officer shall cause said
 16 homestead to be platted and recorded as above, and the expense thereof
 17 shall be added to the costs in the case.

[C., '51, §§ 1254, 1255; R., '60, §§ 2286, 2287; C., '73, §§ 1998,
 1999; C., '97, § 2979; S., '13, § 2979.]

SEC. 6422. By court.

1 Upon application made to the district court by any creditor of
 2 the owner of the homestead, or other person interested therein, such
 3 court shall hear the cause upon the proof offered, and fix and establish
 4 the boundaries thereof, and the judgment therein shall be filed and
 5 recorded in the manner provided in the preceding section.

[C., '97, § 2980.]

SEC. 6423. Changes.

1 The owner may, from time to time, change the limits of the home-
 2 stead by changing the metes and bounds; as well as the record of the
 3 plat and description, or vacate it, but such changes shall not prejudice
 4 conveyances or liens made or created previously thereto, and no such
 5 change of the entire homestead, made without the concurrence of the
 6 husband or wife, shall affect his or her rights, or those of the children.
 7 The new homestead, to the extent in value of the old, is exempt from
 8 execution in all cases where the old or former one would have been.

[C., '51, §§ 1256, 1257; R., '60, §§ 2288, 2289; C., '73, §§ 2000,
 2001; C., '97, § 2981.]

SEC. 6424. Referees to determine exemption.

1 When a disagreement takes place between the owner and any
 2 person adversely interested, as to whether any land or buildings are
 3 properly a part of the homestead, the sheriff shall, at the request of
 4 either party, summon nine disinterested persons having the qualifica-
 5 tions of jurors. The parties then, commencing with the owner, shall
 6 in turn strike off one person each, until three remain. Should either
 7 party fail to do so, the sheriff may act for him, and the three as
 8 referees shall proceed to examine and ascertain all the facts of the
 9 case, and report the same, with their opinion thereon, to the next term
 10 of court from which the execution or other process may have issued.

[C., '51, §§ 1258, 1259; R., '60, §§ 2290, 2291; C., '73, §§ 2002,
 2003; C., '97, § 2982.]

SEC. 6425. Referring back—marking off—costs.

1 The court in its discretion may refer the whole or any part of
 2 the matter back to the same or other referees, to be selected in the
 3 same manner, or as the parties agree, giving them directions as to
 4 the report required of them. When the court is sufficiently advised
 5 in the case, it shall make its decision, and may, if expedient, direct
 6 the homestead to be marked off anew, or a new plat and description
 7 to be made and recorded, and take such further steps in the premises
 8 as in its discretion may appear expedient for attaining the objects
 9 of this chapter. It shall also award costs in accordance with the
 10 practice in other cases, as nearly as may be.

[C., '51, §§ 1260, 1261; R., '60, §§ 2292, 2293; C., '73, §§ 2004,
 2005; C., '97, § 2983.]

SEC. 6426. Change of circumstances.

1 The extent or appurtenances of the homestead thus established
 2 may be called in question in like manner, whenever a change in value
 3 or circumstances will justify such new proceedings.

[C., '51, § 1262; R., '60, § 2294; C., '73, § 2006; C., '97,
 § 2984.]

SEC. 6427. Occupancy by surviving spouse—descent.

1 Upon the death of either husband or wife, the survivor may con-
 2 tinue to possess and occupy the whole homestead until it is otherwise
 3 disposed of according to law, but the setting off of the distributive
 4 share of the husband or wife in the real estate of the deceased shall
 5 be such a disposal of the homestead as is herein contemplated. The
 6 survivor may elect to retain the homestead for life in lieu of such
 7 share in the real estate of the deceased; but if there be no survivor,
 8 the homestead descends to the issue of either husband or wife accord-
 9 ing to the rules of descent, unless otherwise directed by will, and is
 10 to be held by such issue exempt from any antecedent debts of their
 11 parents or their own, except those of the owner thereof contracted
 12 prior to its acquisition.

[C., '51, §§ 1263, 1264; R., '60, §§ 2295, 2296; C., '73, §§ 2007,
 2008; C., '97, § 2985.]

SEC. 6428. Sale for debts.

1 If there is no such survivor or issue, the homestead is liable to
 2 be sold for the payment of any debts to which it might at that time
 3 be subjected if it had never been held as a homestead.

[C., '51, § 1265; R., '60, § 2297; C., '73, § 2009; C., '97,
 § 2986.]

SEC. 6429. Devise.

1 Subject to the rights of the surviving husband or wife, the home-
 2 stead may be devised like other real estate of the testator.

[C., '51, § 1266; R., '60, § 2298; C., '73, § 2010; C., '97,
 § 2987.]

SEC. 6430. Removal from homestead.

1 Neither husband nor wife can remove the other nor the children
2 from the homestead without the consent of the other.

[C., '51, § 1462; R., '60, § 2514; C., '73, § 2215; C., '97,
§ 3166.]

CHAPTER 5.**LANDLORD AND TENANT.****SECTION 6431. Apportionment of rent.**

1 The executor of a tenant for life who leases real estate so held,
2 and dies on or before the day on which the rent is payable, and a
3 person entitled to rent dependent on the life of another may recover
4 the proportion of rent which had accrued at the time of the death.

[C., '51, § 1267; R., '60, § 2299; C., '73, § 2011; C., '97,
§ 2988.]

SEC. 6432. Tenant holding over.

1 A tenant giving notice of his intention to quit leased premises at
2 a time named, and afterwards holding over, and a tenant or his as-
3 signee wilfully holding over after the term, and after notice to quit,
4 shall pay double the rental value thereof during the time he holds
5 over to the person entitled thereto.

[C., '51, § 1268; R., '60, § 2300; C., '73, § 2012; C., '97,
§ 2989.]

SEC. 6433. Attornment to stranger.

1 The payment of rent, or delivery of possession of leased prem-
2 ises, to one not the lessor, is void, unless made with his consent, or
3 in pursuance of a judgment or decree of court or judicial sale.

[C., '51, § 1269; R., '60, § 2301; C., '73, § 2013; C., '97,
§ 2990.]

SEC. 6434. Tenant at will—notice to quit.

1 Any person in the possession of real estate, with the assent of the
2 owner, is presumed to be a tenant at will until the contrary is shown,
3 and thirty days' notice in writing must be given by either party before
4 he can terminate such a tenancy; but when, in any case, a rent is
5 reserved payable at intervals of less than thirty days, the length of
6 notice need not be greater than such interval. In case of tenants
7 occupying and cultivating farms, the notice must fix the termination
8 of the tenancy to take place on the first day of March, except in cases
9 of mere croppers, whose leases shall be held to expire when the crop
10 is harvested; if the crop is corn, it shall not be later than the first
11 day of December, unless otherwise agreed upon. But where an agree-
12 ment is made fixing the time of the termination of the tenancy, whether
13 in writing or not, it shall cease at the time agreed upon, without no-
14 tice. When a tenant can not be found in the county, the notice above
15 required may be given to any subtenant or other person in possession
16 of the premises, or, if the premises be vacant, by affixing the notice

17 to any outside door of the dwelling house thereon, or other building,
 18 if there be no dwelling house, or in some conspicuous position on the
 19 premises, if there be no building.

[C., '51, §§ 1208, 1209; R., '60, §§ 2216, 2218; C., '73, §§ 2014-2016; C., '97, § 2991.]

CHAPTER 6.

WALLS IN COMMON.

SECTION 6435. Resting wall on neighbor's land.

1 Where building lots have been surveyed and plats thereof re-
 2 corded, anyone who is about to build contiguous to the land of another
 3 may, if there be no wall on the line between them, build a brick or
 4 stone wall thereon, when the whole thickness of such wall above the
 5 cellar wall does not exceed eighteen inches exclusive of the plastering,
 6 and rest one-half thereof on the adjoining land, but the adjoining
 7 owner shall not be compelled to contribute to the expense of building
 8 said wall.

[R., '60, § 1914; C., '73, § 2019; C., '97, § 2994.]

SEC. 6436. Contribution by adjoining owner.

1 If the adjoining owner contributes one-half of the expense of
 2 building such wall, then it is a wall in common between them, but if
 3 he refuses to contribute, he shall have the right to make it a wall in
 4 common by paying to the person who erected or maintained it one-half
 5 of its appraised value at the time of using it.

[R., '60, § 1915; C., '73, § 2020; C., '97, § 2995.]

SEC. 6437. Openings—presumption.

1 No wall shall be built by any person partly on the land of another
 2 with any openings therein, and every separating wall between build-
 3 ings shall, as high as the upper part of the first story, be presumed to
 4 be a wall in common, if there be no titles, proof or mark to the con-
 5 trary, and if any wall is erected which, under the provisions of this
 6 chapter, becomes, or may become, at the option of another, a wall in
 7 common, such person shall not be compelled to contribute to the ex-
 8 pense of closing any openings therein, but this shall be done at the
 9 expense of the owner of such wall.

[R., '60, § 1916; C., '73, § 2021; C., '97, § 2996.]

SEC. 6438. Repairs—expense apportioned.

1 The repairs and rebuilding of walls in common are to be made
 2 at the expense of all who have a right to them, and in proportion to
 3 the interest of each therein, but every coproprietor of a wall in com-
 4 mon may be exonerated from contributing to the same by giving up
 5 his right in common, if no building belonging to him is actually sup-
 6 ported by such wall.

[R., '60, § 1917; C., '73, § 2022; C., '97, § 2997.]

SEC. 6439. Beams, joists and flues.

1 Every coproprietor may build against a wall held in common, and
 2 cause beams or joists to be placed therein; and any person building
 3 such a wall shall, on being requested by his coproprietor, make the
 4 necessary flues, and leave the necessary bearings for joists or beams,
 5 at such height and distance apart as shall be specified by his co-
 6 proprietor.

[R., '60, § 1918; C., '73, § 2023; C., '97, § 2998.]

SEC. 6440. Height of wall—rebuilding.

1 Every coproprietor may increase the height of a wall in common
 2 at his sole expense, and he shall repair and keep in repair that part
 3 of the same above the part held in common. If the wall so held in
 4 common can not support the wall to be raised upon it, one who wishes
 5 to have it made higher must rebuild it anew and at his own expense,
 6 and the additional thickness of the wall must be placed entirely on
 7 his own land. The person who did not contribute to the heightening
 8 of a wall held in common may cause the raised part to become common
 9 by paying one-half of the appraised value of raising it, and half the
 10 value of the ground occupied by the additional thickness thereof, if
 11 any ground was so occupied.

[R., '60, §§ 1919-1921; C., '73, §§ 2024-2026; C., '97, § 2999.]

SEC. 6441. Paying for share of adjoining wall.

1 Every proprietor joining a wall has the right of making it a wall
 2 in common, in whole or in part, by repaying to the owner thereof one-
 3 half of its value, or one-half of the part which he wishes to hold in
 4 common, and one-half of the value of the ground on which it is built,
 5 if the person who has built it has laid the foundation entirely upon
 6 his own ground.

[R., '60, § 1922; C., '73, § 2027; C., '97, § 3000.]

SEC. 6442. Openings—fixtures.

1 Adjoining owners of walls held in common shall not make open-
 2 ings or cavities therein, nor affix nor attach thereto any work or struc-
 3 ture, without the consent of the other, or upon his refusal, without
 4 having taken all necessary precautions to guard against injury to the
 5 rights of the other, to be ascertained by persons skilled in building.

[R., '60, § 1923; C., '73, § 2028; C., '97, § 3001.]

SEC. 6443. Disputes—delay—bonds.

1 No dispute between adjoining owners as to the amount to be paid
 2 by one or the other, by reason of any of the matters provided in this
 3 chapter, shall delay the execution of the provisions of the same, if the
 4 party on whom the claim is made shall enter into bonds, with security,
 5 to the satisfaction of the clerk of the district court of the proper
 6 county, conditioned that he shall pay to the claimant whatever may
 7 be found to be his due on the settlement of the matter between them,
 8 either in a court of justice or elsewhere; upon the presentation of such
 9 a bond, the clerk shall indorse his approval thereon, and retain the
 10 same until demanded by the party for whose benefit it is executed.

[R., '60, § 1924; C., '73, § 2029; C., '97, § 3002.]

SEC. 6444. Guardian may contract for minors.

1 This chapter shall not prevent adjoining proprietors from enter-
 2 ing into special agreements about walls on the lines between them,
 3 but no evidence thereof shall be competent unless in writing, signed
 4 by the parties thereto or their lawfully authorized agents, or the guard-
 5 ian of either, if a minor, who shall have full authority to act for his
 6 ward in all matters relating to walls in common without an order of
 7 court therefor.

[R., '60, § 1925; C., '73, § 2030; C., '97, § 3003.]

CHAPTER 7.**EASEMENTS.****SECTION 6445. Adverse possession—use.**

1 In all actions hereafter brought, in which title to any easement
 2 in real estate shall be claimed by virtue of adverse possession thereof
 3 for the period of ten years, the use of the same shall not be admitted
 4 as evidence that the party claimed the easement as his right, but the
 5 fact of adverse possession shall be established by evidence distinct
 6 from and independent of its use, and that the party against whom the
 7 claim is made had express notice thereof; and these provisions shall
 8 apply to public as well as private claims.

[C., '73, § 2031; C., '97, § 3004.]

SEC. 6446. Light and air.

1 Whoever has erected, or may erect, any house or other building
 2 near the land of another person, with windows overlooking such land,
 3 shall not, by the mere continuance of such windows, acquire any ease-
 4 ment of light or air, so as to prevent the erection of any building on
 5 such land.

[C., '73, § 2032; C., '97, § 3005.]

SEC. 6447. Footway.

1 No right of footway, except claimed in connection with a right to
 2 pass with carriages, shall be acquired by prescription or adverse use
 3 for any length of time.

[C., '73, § 2033; C., '97, § 3006.]

SEC. 6448. Use terminated by notice.

1 When any person in the use of a way, privilege or other ease-
 2 ment in the land of another, the owner of the land in such case may
 3 give notice in writing to the person claiming or using the way, privi-
 4 lege or easement of his intention to dispute any right arising from
 5 such claim or use, which notice, when served and recorded as herein-
 6 after provided, shall be an interruption of such use, and prevent the
 7 acquiring of any right thereto by the continuance thereof; which no-
 8 tice, signed by the owner of the land, his agent or guardian, may be
 9 served in the same manner as in a civil action, upon the party, his
 10 agent or guardian, if within this state, otherwise on the tenant or occu-
 11 pant, if there be any, and it, with the return thereof, shall be recorded

12 within three months thereafter in the recorder's office of the county
 13 in which the land is situated; and a certified copy of such record of
 14 said notice and the officer's return thereon shall be evidence of the
 15 notice and the service thereof.

[C., '73, § 2034; C., '97, § 3007.]

SEC. 6449. Effect of.

1 When notice is given to prevent the acquisition of a right to a
 2 way or other easement, it shall be considered so far a disturbance
 3 thereof as to enable the party claiming to bring an action for disturb-
 4 ing the same in order to try such right, and if the plaintiff in the
 5 action prevails, he shall recover costs.

[C., '73, § 2035; C., '97, § 3008.]

CHAPTER 8.

PERPETUITIES AND GIFTS.

SECTION 6450. Disposition of property.

1 Every disposition of property is void which suspends the abso-
 2 lute power of controlling the same, for a longer period than during the
 3 lives of persons then in being, and twenty-one years thereafter.

[C., '51, § 1191; R., '60, § 2199; C., '73, § 1920; C., '97,
 § 2901.]

SEC. 6451. Churches may lease—taxation.

1 Church organizations, occupying real property granted to them
 2 by the territory or state, may lease the same for business purposes,
 3 and occupy other real property with their church edifices, but all of
 4 the income derived from such leased real property shall be devoted to
 5 maintaining the religious exercises and ordinance of the church to
 6 which the grant was originally made, and to no other purpose; and
 7 such churches and their affairs shall remain in the control of boards
 8 of trustees regularly chosen in accordance with their charters; but
 9 real property so leased shall in all cases be subject to taxation, the
 10 same as the real property of natural persons.

[C., '73, § 1921; C., '97, § 2902.]

SEC. 6452. Property in trust.

1 A gift, devise or bequest of property, real or personal, may be
 2 made to the state, or to any county or other municipal corporation, to
 3 be held in trust for and applied to any specified purpose within the
 4 scope of its authority, but the same shall not become effectual to pass
 5 the title in such property unless accepted by the executive council in
 6 behalf of the state, or the governing board or body in behalf of a
 7 municipal corporation, as the case may be.

[C., '73, § 1387; C., '97, § 2903.]

SEC. 6453. Acceptance.

1 If gifts are made to the state or a county or municipal corpora-
 2 tion in accordance with the preceding section, for the benefit of an

3 institution thereof, the property, if accepted, shall be held and man-
 4 aged in the same way as other property of the state, county or corpo-
 5 ration acquired for or devoted to the use of such institution; and any
 6 conditions attached to such gifts shall become binding upon the state,
 7 county or corporation upon the acceptance thereof.

[C., '97, § 2904.]

SEC. 6454. Acceptance of gifts, devises, or bequests authorized.

1 Gifts, devises or bequests of property, real or personal, made to
 2 any state institution for purposes not inconsistent with the objects of
 3 such institution, may be accepted by its governing board, and such
 4 board may exercise such powers with reference to the management,
 5 sale, disposition, investment or control of property so given, devised
 6 or bequeathed, as may be deemed essential to its preservation and the
 7 purposes for which the gift, devise or bequest was made.

[S., '13, § 2904-a.]

CHAPTER 9.

THE RIGHTS OF ALIENS.

SECTION 6455. Nonresident aliens—acquiring and holding real estate—limitations as to holdings.

1 Nonresident aliens, or corporations incorporated under the laws
 2 of any foreign country, or corporations organized in this country one-
 3 half of the stock of which is owned or controlled by nonresident
 4 aliens, are prohibited from acquiring title to or holding any real estate
 5 in this state, except as hereinafter provided, save that the widow and
 6 heirs and devisees, being nonresident aliens, of any alien or natural-
 7 ized citizen who has acquired real estate in this state, may hold the
 8 same by devise, descent or distribution, for a period of twenty years;
 9 and if at the end of that time such real estate has not been sold to a
 10 bona fide purchaser for value, or such alien heirs have not become resi-
 11 dents of this state, such land shall escheat to the state; nothing in
 12 this section contained shall prevent aliens from having or acquiring
 13 property of any kind within the corporate limits of any city or town
 14 in the state, or lands not to exceed three hundred and twenty acres in
 15 the name of one person, or any stock in any corporation for pecuniary
 16 profit, or from alienating or devising the same. This chapter shall not
 17 affect the distribution of personal property, and shall apply to real
 18 estate heretofore devised or descended when no proceedings for for-
 19 feiture have been commenced.

[C., '73, §§ 1908, 1909; C., '97, § 2889.]

SEC. 6456. Real property.

1 All corporations organized under the laws of any foreign country,
 2 and corporations organized under the laws of any state of the United
 3 States, one-half of whose stock is owned and controlled by nonresident
 4 aliens, shall have the right to own, hold, and dispose of any real prop-
 5 erty owned or held by any such corporations on the fourth day of July,
 6 eighteen hundred eighty-eight, or any real property acquired by any
 7 such corporations under the provisions of section sixty-four hundred

8 fifty-eight; but any such corporation shall sell or dispose of any such
9 property now owned by it on or before March sixteenth, nineteen hun-
10 dred ten, and in default thereof the provisions of sections sixty-four
11 hundred fifty-nine, sixty-four hundred sixty and sixty-four hundred
12 sixty-one shall be applied thereto.

[S., '13, § 2889-a.]

SEC. 6457. Bona fide contract.

1 A bona fide contract for the sale of any such lands owned by any
2 such corporation shall be held and considered as a sale within the pro-
3 visions of the preceding section, and a good and valid deed of con-
4 veyance may be made by such corporation at any time upon the fulfill-
5 ment of such contract by the purchaser of any such lands.

[S., '13, § 1889-b.]

SEC. 6458. Holders of liens.

1 The provisions of this chapter shall not prevent the holder of any
2 lien upon or interest in real estate, acquired before or after the date
3 mentioned in section sixty-four hundred fifty-five from taking or hold-
4 ing a valid title to the real estate in which he has such interest, or
5 upon which he has such lien; nor shall it prevent any nonresident
6 alien enforcing any lien or judgment for any debt or liability which
7 may have been created subsequently to said date, or which he may
8 hereafter acquire, nor from becoming a purchaser at any sale by virtue
9 of such lien, judgment or liability, if all real estate so acquired shall be
10 sold within ten years after the title shall be perfected in such alien
11 under such sale. Any real estate owned or held by any nonresident
12 alien, as provided in this and the preceding sections and not disposed
13 of as therein required, shall escheat to the state.

[C., '97, § 2890.]

SEC. 6459. Escheat.

1 The county attorney of any county in which any real estate sub-
2 ject to escheat is situated shall proceed by petition in the name of the
3 state against the owner thereof. The court shall hear and determine
4 the issues presented in said petition, and declare such real estate
5 escheated, or dismiss the petition, as the facts may require. When
6 such escheat is decreed by the court, the clerk shall notify the governor
7 that the title to such real estate is vested in the state by the decree of
8 said court, and present to the auditor of state a bill of the costs
9 incurred by the county in prosecuting such action, under his official
10 certificate and seal, who shall issue a warrant payable to said clerk,
11 drawn on the state treasurer, to pay the costs so incurred. Any real
12 estate, the title to which shall be acquired by the state under the pro-
13 visions of this chapter, shall be sold in the manner provided for the
14 sale of school lands, and the proceeds of such sales shall become a part
15 of the permanent school fund.

[C., '97, § 2891.]

SEC. 6460. Proceedings.

1 Any citizen of the state, knowing of lands which have escheated
2 under the provisions of this chapter, may file a motion or petition in
3 the district court, praying an order directing the county attorney to

4 commence the proceeding provided for in the preceding section; and
 5 if, after hearing such proofs as may be offered, it finds there is reason-
 6 able ground to believe that any land has escheated, shall direct the
 7 county attorney to proceed as provided in this chapter. If in any such
 8 case the county attorney is adversely interested, the court may ap-
 9 point an attorney to prosecute such action, and fix a reasonable attor-
 10 ney's fee therefor, to be paid as other costs in the case.

[C., '97, § 2892.]

SEC. 6461. Limitation.

1 No action for the recovery of real estate, the title to which is
 2 acquired by the state under the provisions of this chapter, shall lie,
 3 after the execution and recording of a patent or conveyance thereof
 4 by the state, unless such action shall have been commenced within five
 5 years after the title became vested in the grantee of the state; but a
 6 minor or person of unsound mind shall have the right to bring an
 7 action therefor at any time within five years after his disability
 8 ceases. The defendant in any action brought under the provisions of
 9 this chapter, if the decree is for the plaintiff, shall be entitled to the
 10 benefit of the provisions of this chapter relating to occupying claim-
 11 ants.

[C., '97, § 2893.]

CHAPTER 10.

ISLANDS AND ABANDONED RIVER CHANNELS.

SECTION 6462. Sale authorized.

1 All land between high-water mark and the center of the former
 2 channel of any navigable stream, where such channel has been aban-
 3 doned, so that it is no longer capable of use, and is not likely again
 4 to be used for the purposes of navigation, and all land within such
 5 abandoned river channels, and all bars or islands in the channels of
 6 navigable streams not heretofore surveyed or platted by the United
 7 States or the state of Iowa, and all within the jurisdiction of the state
 8 of Iowa shall be sold and disposed of in the manner hereinafter pro-
 9 vided.

[S., '13, § 2900-a2.]

SEC. 6463. Written applications—by whom made.

1 It shall be the duty of the county auditor to file written applica-
 2 tion with the secretary of state, asking that certain land located
 3 within the county be surveyed, appraised and sold, whenever he is sat-
 4 isfied that such land is of the character contemplated by the preced-
 5 ing section. If the county auditor fails or neglects to make such appli-
 6 cation, then any person desiring to purchase such land may file a
 7 written application with the secretary of state, asking that the said
 8 land be surveyed, appraised and sold. The said application whether
 9 made by the county auditor or by a person desiring to purchase the
 10 land, shall contain an accurate description thereof, stating whether
 11 the land is abandoned river channel, or land within such abandoned
 12 river channel, or an island or a sand bar in a navigable stream, and

13 giving the number of township and range in which it is located, and
 14 the section numbers if possible, and also the estimated acreage.
 [S., '13, § 2900-a3.]

SEC. 6464. Survey.

1 Upon receiving such application, it shall be the duty of the secre-
 2 tary of state to order a complete survey of such land to be made by
 3 the county surveyor of the county wherein the land is situated, and in
 4 case of the refusal or inability of such county surveyor to make such
 5 survey then the secretary of state shall appoint some other competent
 6 surveyor to make such survey. When such survey is made, a full
 7 report thereof, with field notes, shall be filed with the clerk of the state
 8 land office, which report and field notes shall constitute the official sur-
 9 vey of such land.

[S., '13, § 2900-a4.]

SEC. 6465. Appraisalment.

1 Upon the filing of such report, with the accompanying field notes,
 2 the secretary of state shall thereupon appoint a commission of three
 3 disinterested freeholders of the county wherein the land is situated,
 4 to view the land and make appraisalment of the value thereof, which
 5 appraisalment shall be returned and filed with the clerk of the state
 6 land office in the office of the secretary of state. The secretary of
 7 state, if he deems it necessary, may either go in person or send the
 8 clerk of the state land office into the county to make proper selection of
 9 the said commissioners, and the necessary expenses of such trip shall
 10 be paid in the manner provided in section sixty-four hundred sev-
 11 enty-six.

[S., '13, § 2900-a5.]

SEC. 6466. Contract with surveyors.

1 The secretary of state shall make a contract with some surveyor
 2 for making such survey; the surveyor to furnish all the chainmen
 3 and other attendants and pay all necessary expenses, which contract
 4 before it becomes binding shall be submitted to and approved by the
 5 executive council.

[S., '13, § 2900-a6; 38 G. A., ch. 32, § 1.]

SEC. 6467. Commissioners' compensation.

1 Commissioners, for their services in making such appraisalment
 2 shall each be entitled to receive five dollars per day for the actual time
 3 employed.

[38 G. A., ch. 32, § 2.]

SEC. 6468. Sale—how effected—rights of bona fide occupants.

1 Such lands shall be sold in the following manner: Any person
 2 who has in fact lived upon any such land and occupied the same, as a
 3 home, continuously for a period of three or more years immediately
 4 prior to the time of the appraisalment thereof, and such occupancy has
 5 been in good faith for the purpose of procuring title thereto, whenever
 6 by law such title could be vested in him by purchase from the proper
 7 authority, or any person who has acquired possession of such land by
 8 inheritance, or by purchase made in good faith from a former occu-

9 pant, or occupants, whose occupancy dates back over a period of three
 10 years prior to the date of appraisalment of the land, shall have first
 11 right to purchase such land at the appraised value; provided such bona
 12 fide occupant shall file his application for the purchase thereof at the
 13 appraised value with the secretary of state within sixty days after the
 14 day the appraisalment is made, and shall accompany such application
 15 with affidavits showing proof of such bona fide occupancy. If no
 16 application has been filed by such bona fide occupant within the sixty-
 17 day period above provided, then the secretary of state shall advertise
 18 the sale of such land once each week for four consecutive weeks in
 19 two newspapers of general circulation published in the county wherein
 20 the land is situated, and proof of publication shall be filed with the
 21 secretary of state. The sale shall be made upon written bids addressed
 22 to the secretary of state and the advertisements shall fix the time
 23 when such bids will be received and opened. All bids shall be opened
 24 by the secretary of state or by the clerk of the state land office at the
 25 time fixed, and the land thereupon may be sold to the highest bidder
 26 and at not less than the appraised value.

[S. S., '15, § 2900-a7.]

SEC. 6469. Lease authorized—lands readvertised—sale.

1 If no application is filed for the purchase of the land within the
 2 sixty-day period by a bona fide occupant, and if no bids are received
 3 for the purchase thereof, on or before the date of the sale as adver-
 4 tised, then the secretary of state is authorized to lease the land for a
 5 period of from one to five years, upon as favorable terms as he can
 6 obtain. At the expiration of such lease he shall readvertise the land
 7 for sale in the manner provided in the preceding section. If no bids
 8 for the purchase of the land are received on the date of the second
 9 advertised sale, then the secretary of state shall submit the matter
 10 to the executive council, and they may either order the land reap-
 11 praised in the manner provided in section sixty-four hundred sixty-
 12 five, and then advertised and sold in the manner provided in the pre-
 13 ceding section, or if they deem it advisable, they may authorize the
 14 secretary of state to sell the land for less than the appraised value.
 15 In such event the secretary of state shall readvertise the land for sale
 16 in the manner provided in the preceding section, and such advertise-
 17 ment shall also state that the land will be sold to the highest bidder
 18 without restrictions as to the appraised value.

[S., '13, § 2900-a8.]

SEC. 6470. Deed or patent.

1 When, upon full compliance with the conditions of this chapter,
 2 any person shall become entitled to a deed or patent for any land, a
 3 deed or patent shall thereupon be executed and delivered to such per-
 4 son by the governor, on behalf of the state, duly attested with the
 5 seal of the state attached thereto, which deed shall, in addition to the
 6 usual formalities, also recite the name of the party making application
 7 to have the land surveyed, appraised and sold, the date and the amount
 8 of the appraisalment, the name of the party making final payment
 9 and entitled to a deed therefor, whether as bona fide occupant or as
 10 highest bidder, and also that such deed is given for the purpose of
 11 conveying such title and interest in the land as the state may at the
 12 time own and possess, and has the right to convey. A record of such

13 conveyance shall be made and kept by the clerk of the state land office
14 of the secretary of state.

[S., '13, § 2900-a9.]

SEC. 6471. Previous survey.

1 When any such land shall be found to have been previously sur-
2 veyed under and by virtue of any order of a court of record, and the
3 record of such survey has been duly made and preserved, then and in
4 that event, in the discretion of the secretary of state, a duly certified
5 transcript of such record, together with the field notes accompanying
6 the same, if obtainable, may be filed with the clerk of the state land
7 office in the office of secretary of state, and when so filed shall obviate
8 the necessity for any further survey of such land except when such
9 survey becomes necessary for the purpose of execution of conveyance
10 thereof, and the record of such transcript, when filed, shall constitute
11 the official survey of such land.

[S., '13, § 2900-a10.]

SEC. 6472. Boundary commission.

1 If in any proceeding contemplated by the provisions of this chap-
2 ter, it shall become necessary to determine the boundary line between
3 the state of Iowa and either of the states adjoining, the matter shall
4 then be at once referred to the executive council, who shall thereupon
5 proceed to confer with the proper authority of such adjoining state,
6 and if the cooperation of the proper authority of such adjoining state
7 shall be obtained, then the executive council shall appoint a commis-
8 sion of three disinterested, competent persons, who shall, in conjunc-
9 tion with the parties acting for such adjoining state, have authority
10 to ascertain and locate the true boundary line between the state of
11 Iowa and such adjoining state, so far as the particular land under con-
12 sideration at the time is concerned. The report of the commissioners
13 with a statement of their findings shall be submitted to the executive
14 council, who shall file the same with the clerk of the state land office
15 in the office of the secretary of state. The line so ascertained and
16 located shall constitute the true and permanent boundary line between
17 the state of Iowa and such other state to the extent such line shall be
18 so ascertainable and located.

[S., '13, § 2900-a11.]

SEC. 6473. How constituted—compensation.

1 The members of the commission shall be selected with reference
2 to their fitness for the duties required and at least one of them shall
3 be a competent surveyor and civil engineer. They shall receive for
4 their services such amount as the executive council may deem reason-
5 able, to be certified by the executive council to the auditor of state,
6 who shall draw his warrant for the amount, and the same shall be
7 paid out of the general fund.

[S., '13, § 2900-a12.]

SEC. 6474. Purchase money refunded on failure of title.

1 If the grantee of the state, or his successors, administrators, or
2 assigns, shall be deprived of the land conveyed by the state under this
3 chapter by the final decree of a court of record for the reason that
4 the conveyance by the state passed no title whatever to the land

5 therein described, because title thereto had previously for any reason
 6 been vested in others, then the money so paid the state for the said
 7 land shall be refunded by the state to the person or persons entitled
 8 thereto, provided the said grantee, or his successors, administrators
 9 or assigns, shall file a certified copy of the transcript of the said final
 10 decree with the executive council within one year from the date of
 11 the issuance of such decree, and shall also file satisfactory proof with
 12 the executive council that the action over the title to the land was
 13 commenced within ten years from the date of the issuance of patent
 14 or deed by the state. The amount of money to be refunded under the
 15 provisions of this section shall be certified by the executive council to
 16 the auditor of state, who shall draw his warrant therefor, and the
 17 same shall be paid out of the general fund.

[S., '13, § 2900-a13.]

SEC. 6475. Sales and leases for cash.

1 All sales and leases of land under the provisions of this chapter
 2 shall be for cash. All money received for such sales and leases shall
 3 be paid into the state treasury by the secretary of state.

[S., '13, § 2900-a14.]

**SEC. 6476. Expenses of survey, appraisalment and advertising—
 how paid.**

1 The expenses of the survey and the appraisalment, the expenses
 2 of the secretary of state or the clerk of the state land office in making
 3 the trip into the county to select the commissioners to appraise the
 4 land, the expenses of advertising and readvertising for sale of the
 5 land, and the expenses of reappraising whenever such reappraisalment
 6 is deemed necessary, shall be certified by the secretary of state to the
 7 auditor of state, who shall draw his warrant for the amount, and the
 8 same shall be paid out of the general fund.

[S., '13, § 2900-a15.]

**SEC. 6477. Lands in possession of person or corporation for ten
 or more years—how sold.**

1 If any lands in the present or in any former channel of any navi-
 2 gable river, or island therein, or any lands formed by accretion or
 3 avulsion in consequence of the changes of the channel of any such
 4 river, have been for ten years or more in the possession of any per-
 5 son, company or corporation, or of his or its grantors or predecessors
 6 in interest under a bona fide claim of ownership, and the person, com-
 7 pany or corporation so in possession, or his or its grantors or prede-
 8 cessors in interest, have paid state or county taxes upon said lands
 9 for a period of five years, and have in good faith and under bona fide
 10 claim of title made valuable improvements thereon, and also in any
 11 other case where, in the judgment of the executive council, the person
 12 in possession of any land subject to the provisions of this chapter,
 13 has, in equity and good conscience, a substantial interest therein, then
 14 the said lands shall be sold to the person, company or corporation so in
 15 possession thereof as hereinafter provided.

[S., '13, § 2900-a16.]

SEC. 6478. Notice—action to determine title and value—patent.

1 When any person, company or corporation so in possession of any
 2 such lands shall give to the secretary of state written notice of his or

3 its claim, or whenever the executive council shall deem it advisable, it
 4 shall be the duty of the attorney general to bring an action in equity,
 5 in the district court of the county in which said lands are situated,
 6 against the party in possession thereof to determine the title of the
 7 state to such lands, and the value thereof, exclusive of improvements
 8 made thereon by the occupant or by his or its grantors or predecessors
 9 in interest. If the person, company or corporation in possession of
 10 such land shall, after the court has determined the value thereof as
 11 herein provided, tender to the secretary of state the amount adjudged
 12 to be the value of said lands, exclusive of improvements made thereon
 13 by the occupant or by his or its grantors or predecessors in interest,
 14 a deed or patent of such land shall be executed by the governor,
 15 attested by the secretary of state, and delivered to the person, com-
 16 pany or corporation making such tender, as provided by law. If the
 17 person, company or corporation so in possession shall fail to pay to the
 18 state the amount so adjudged within six months after the final deter-
 19 mination of the action so brought by the state, then said lands shall
 20 be subject to the other provisions of this chapter.

[S., '13, § 2900-a17.]

**SEC. 6479. Applications under former law—deposit money re-
 funded.**

1 If the land described in any application is covered by the pro-
 2 visions of the two preceding sections, and notice thereof is given to
 3 the secretary of state as provided in the preceding section, no deed or
 4 patent of such land, or any part thereof, shall be executed or issued
 5 until the title thereto shall have been established by the court as herein
 6 provided. If the party making such application, or his assignee, does
 7 not desire to prosecute his application, or if he does not purchase the
 8 land under this chapter, then all of the money deposited by him with
 9 the secretary of state under the provisions of this chapter shall be
 10 repaid to said applicant by the secretary of state; and if any part of
 11 the money so deposited has been expended by the secretary of state,
 12 then the amount so expended shall be certified by the secretary of
 13 state to the auditor of state, who shall draw his warrant upon the
 14 general fund in favor of the person entitled thereto.

[S., '13, § 2900-a18.]

SEC. 6480. Sale or lease authorized.

1 The executive council of the state is hereby authorized and em-
 2 powered to sell, convey, lease or demise any of the islands belonging
 3 to the state which are within the meandered banks of rivers in the
 4 state, and to execute and deliver a patent or lease thereof. Nothing
 5 in this chapter shall be construed to apply to islands in the Mississippi
 6 or Missouri rivers.

[S., '13, § 2900-a28.]

**SEC. 6481. Survey — appraisalment — sale advertised — written
 bids.**

1 Before a sale of any island is made under the provisions of the
 2 preceding section, the executive council shall cause a survey and plat
 3 of such island to be made, showing its location and area, and the plat
 4 and notes of such survey shall be filed with the secretary of state. The
 5 land composing the island shall then be appraised by a commission

6 appointed by the governor, consisting of three disinterested free-
 7 holders of the state, who shall report their appraisalment to the exec-
 8 utive council. The sale of the island shall then be advertised once each
 9 week for four consecutive weeks in some newspaper of general circu-
 10 lation published in the county where the island is located, and proof
 11 of such publication filed with the executive council. The sale shall be
 12 made upon written bids addressed to the executive council of the
 13 state, and the advertisement shall fix the time when such bids will be
 14 received and opened. All bids shall be opened by the executive council
 15 at the time fixed, and the island may thereupon be sold to the highest
 16 bidder and at not less than its appraised value.

[S., '13, § 2900-a29.]

SEC. 6482. Lease—written bids.

1 If it shall be deemed expedient to lease any such island, a lease
 2 thereof may be made upon written bids addressed to the executive
 3 council, and the island proposed to be leased shall be surveyed and
 4 platted, and notice of the leasing thereof and of the receiving and
 5 opening of bids shall be published, in the manner provided in the pre-
 6 ceding section, but no appraisalment shall be necessary. Upon the
 7 opening of the bids received by the executive council it may make a
 8 lease of such island to the highest bidder for such term as is deemed
 9 advisable.

[S., '13, § 2900-a30.]

SEC. 6483. Sales and leases for cash—expenses.

1 All sales and leases must be for cash, and the money received
 2 therefor shall be paid into the state treasury. All expenses incurred
 3 in making the survey, plat, appraisalment, sale or lease of any such
 4 island shall be certified by the executive council to the auditor of
 5 state, who shall draw his warrant upon the state treasury for the
 6 amount, and the same shall be paid from the general fund.

[S., '13, § 2900-a31.]

SEC. 6484. Patent or lease.

1 When any sale or lease of any island belonging to the state is
 2 made by the executive council as herein provided, the governor shall
 3 execute and deliver to the purchaser or lessee a patent or a lease
 4 thereof, as the case may be, duly attested by the seal of the state of
 5 Iowa.

[S., '13, § 2900-a32.]

CHAPTER 11.

ACQUISITION OF TITLE BY STATE OR MUNICIPAL CORPORATION.

SECTION 6485. Conveyance.

1 When it becomes necessary, to secure the state or any county or
 2 other municipal corporation thereof from loss, to take real estate on
 3 account of a debt by bidding the same in at execution sale or other-
 4 wise, the conveyance shall vest in the grantee as complete a title as if
 5 it were a natural person.

[C., '73, § 1910; C., '97, § 2894.]

SEC. 6486. Bidding in at execution sale.

1 Such real estate shall be bid in, if for the state, by the attorney
2 general, if for the county, by the county attorney, and if any other
3 municipal corporation, by its attorney or agent appointed for that pur-
4 pose, the proceeds of any such real estate, when sold, to be covered
5 into the state, county or municipal treasury, as the case may be, for
6 the use of the general or the special fund to which it rightfully
7 belongs.

[C., '73, § 1911; C., '97, § 2895.]

SEC. 6487. Amount of bid.

1 When real estate is sold as above provided, the fair and reason-
2 able value shall be bid therefor, unless in excess of the judgment,
3 interest, costs and accruing costs, in which case the bid shall be for
4 such sum only.

[C., '73, § 1912; C., '97, § 2896.]

SEC. 6488. Costs and expenses.

1 In all cases in which the state becomes the purchaser of real estate
2 under the provisions of this chapter, the costs and expenses attending
3 such purchases shall be audited and allowed by the state board of
4 audit, and paid out of any money in the state treasury not otherwise
5 appropriated, upon the auditor's warrant, and charged to the fund to
6 which the indebtedness belonged upon which such real estate was
7 taken. If the real estate is purchased by a county, the costs and
8 expenses shall be audited by the board of supervisors and paid out of
9 the county treasury, upon a warrant drawn by the auditor on the
10 treasurer, from the fund to which the debt belonged upon which said
11 real estate was purchased. If the real estate is purchased by any other
12 municipal corporation, then the costs shall be audited and paid by it in
13 the same manner as other claims against it are audited and paid.

[C., '73, § 1913; C., '97, § 2897.]

SEC. 6489. Management by executive council.

1 When the title to any real estate is vested in the state under
2 this chapter, the executive council shall have the management and
3 control thereof; may lease the same, while so owned, upon such
4 terms and for such rental as it shall deem for the best interests of the
5 state, and such rents shall be paid into the state treasury and credited
6 to the fund to which the debt belonged upon which it was taken. It
7 shall keep all valuable buildings thereon insured against loss by fire
8 and lightning in some responsible insurance company in the name of
9 the state, and the premiums therefor shall be paid out of the fund to
10 which such real estate belongs, on the order of the said council and
11 warrant of the state auditor drawn thereon; it may sell the same for
12 such sum and upon such terms as to it seems best, and for any deferred
13 payments of the purchase price thereof it may take such adequate se-
14 curity as it sees proper, and the proceeds of such sales shall be paid
15 into the state treasury, and credited to the fund to which such real
16 estate belonged; it shall cause to be executed by the governor, and
17 attested by the secretary of state, such contracts, patents or other
18 instruments as may be necessary to complete such sales or leases, and
19 take such notes, mortgages and other securities in relation thereto as
20 may be proper, running to the state.

[C., '73, §§ 1914-1916, 1919; C., '97, § 2898.]

SEC. 6490. By board of supervisors.

1 When a county holds such real estate, it shall be controlled, man-
 2 aged and sold by the board of supervisors, and while so held may be
 3 leased upon such terms as may seem for the best interests of the
 4 county, and all rents received therefrom shall be paid into the county
 5 treasury and credited to the fund to which the debt belonged on
 6 which such real estate was taken; the board shall keep any valuable
 7 buildings thereon insured in some responsible insurance company, and
 8 cause the premiums therefor to be paid by directing the auditor of the
 9 county to draw his warrant on the treasurer therefor, which shall be
 10 paid out of the fund to which the debt belonged on which the real
 11 estate was taken; it shall have power to sell and convey any such real
 12 estate for such price and upon such terms as to it seems for the best
 13 interest of the county, take such portion of the purchase price in cash
 14 as to it seems best, and notes secured by mortgage on the same or
 15 other real estate for the residue, or other adequate security, in its dis-
 16 cretion, payable to such county, and the proceeds of such sales shall be
 17 paid into the county treasury and credited to the fund to which the
 18 debt belonged on which such real estate was taken. Any such lease
 19 or sale shall be made by resolution in writing, regularly adopted by
 20 said board, and spread upon its minutes, with the yea and nay vote by
 21 which the same was adopted, and the date thereof; such resolution
 22 shall show the price paid for such real estate in case of sale, and the
 23 rental in case of lease, and give the description thereof; and a
 24 transcript of such resolution and action of the board thereon, including
 25 the yea and nay vote on its adoption, certified by the county auditor
 26 and under the seal of said board, shall be sufficient to pass the title
 27 or leasehold of such real estate to the purchaser or lessee, and such
 28 transcript shall be entitled to be recorded in the same manner and with
 29 the same effect as a deed executed by a natural person.

[C., '73, §§ 1914-1919; C., '97, § 2899.]

SEC. 6491. In other cases.

1 In case property is thus purchased by any other municipal corpo-
 2 ration as contemplated in this chapter, the power of control and dis-
 3 posal thereof shall be vested in the governing board or body of such
 4 corporation, to be exercised substantially and as nearly as may be in
 5 accordance with the provisions of the preceding section.

[C., '97, § 2900.]

CHAPTER 12.
TRUSTEES TO MANAGE CEMETERY FUNDS.**SECTION 6492. Trustee—appointment—trust funds.**

1 Any owner or owners of any cemetery, or any party or parties
 2 interested therein, may by petition presented to the district court of
 3 the county where the cemetery is situate, have appointed a trustee
 4 with authority to receive any and all moneys that may be donated for
 5 and on account of said cemetery or any part thereof and to invest,
 6 manage and control same under the direction of the court; but he shall
 7 not be authorized to receive any gift, except with the understanding

8 that the principal sum is to remain and be a permanent fund, and
 9 only the net proceeds therefrom to be used in carrying out the pur-
 10 pose of the trust created, and all such funds shall be exempt from
 11 taxation so far as consistent with the regulations governing the asso-
 12 ciation owning or controlling the ground where the lot is located.

[S., '13, § 254-a4.]

SEC. 6493. Receipt attested by clerk—cemetery record.

1 Every such trustee shall execute and deliver to the donor a re-
 2 ceipt showing the amount of money received, and the use to be made
 3 of the net proceeds from same. Such receipt shall be duly attested
 4 by the clerk of the court granting letters of trusteeship, and a copy
 5 thereof, signed by the trustee and so attested, shall be filed with and
 6 recorded by the clerk in a book to be known as the cemetery record,
 7 and in which shall be recorded all reports and other papers, including
 8 orders made by the court or judge relative to cemetery matters.

[S., '13, § 254-a5.]

SEC. 6494. Loans—security.

1 It shall be the duty of such trustee to loan all moneys received
 2 by him, under the direction and with the approval of the court, but
 3 only as same may be secured by first mortgage upon Iowa real estate,
 4 and no loan shall be made or approved, unless it be made to appear
 5 upon oath of three disinterested citizens that such real estate is
 6 worth at least double the amount of the loan applied for, and that the
 7 title to same is good of record and in fact, in the party making appli-
 8 cation therefor; and said trustee may invest said fund in government
 9 bonds of the United States at their marketable value.

[S., '13, § 254-a6; 38 G. A., ch. 55, § 1.]

SEC. 6495. Bond—approval—oath.

1 Every such trustee before entering on the discharge of his duties
 2 or at any time thereafter when required by the court or judge, must
 3 give bond in such penalty as may be required by the court, to be ap-
 4 proved by the clerk, conditioned for the faithful discharge of the
 5 duties imposed on him by law, and take and subscribe an oath the
 6 same in substance as the condition of the bond, which oath and bond
 7 must be filed with the clerk.

[S., '13, § 254-a7.]

SEC. 6496. Clerk—duty of—additional bond.

1 It shall be the duty of the clerk at the time of filing each and
 2 every receipt hereinbefore mentioned, to at once advise the court or
 3 judge as to the amount of the principal fund in the hands of such trust-
 4 ee, the amount of bond filed, and whether or not it is good and suffi-
 5 cient for the amount given, to the end that the court or judge may, if
 6 to him it seems best, require a new or additional bond.

[S., '13, § 254-a8.]

SEC. 6497. To serve without compensation—expenses.

1 Trustees appointed under this chapter shall not be entitled to
 2 receive any compensation for services rendered, but may out of the

3 income received pay all proper items of expense incurred in the per-
4 formance of their duties, including cost of bond, if any.

[S., '13, § 254-a9.]

SEC. 6498. Annual report.

1 It shall be the duty of every such trustee to make full report of
2 his doings in the matter of his trusteeship in the month of January
3 following his appointment and in January of each successive year.
4 In each of said reports he shall apportion the net proceeds received
5 from the sum total of the permanent fund and make proper credit to
6 each of the separate funds assigned to him in trust.

[S., '13, § 254-a10.]

SEC. 6499. Removal—vacancy filled.

1 Any such trustee may be removed by the court or judge thereof
2 at any time for cause, and in the event of removal or death, the court
3 or judge must appoint a new trustee and require his predecessor or his
4 personal representative to make full accounting with him for all the
5 property belonging to such trusteeship.

[S., '13, § 254-a11.]

SEC. 6500. County auditor to act as trustee—when—accounting.

1 In case no trustee is appointed by said court, or if so appointed
2 does not qualify as provided in this chapter, then such funds as are
3 therein mentioned, or any funds donated by any person or estate to
4 improvement of cemeteries, unless otherwise provided by law, shall be
5 placed in the hands of the county auditor, who shall receipt for, loan,
6 and make annual reports of such funds in manner as provided in this
7 chapter. The said auditor shall annually turn over the accrued inter-
8 est in his hands to the cemetery association or other person having
9 control of the cemetery entitled thereto, who shall use the same in
10 carrying out the provisions of said trust, and who shall file a written
11 report annually with the county auditor.

[S. S., '15, § 254-a12.]

**SEC. 6501. Taking property by gift or bequest—how adminis-
tered—tax for maintenance of institutions so established.**

1 Counties, cities, towns, civil townships wholly outside of any city
2 or incorporated town, and school corporations, are authorized to take
3 and hold property, real and personal, derived by gifts and bequests;
4 and to administer the same through their proper officers in pursuance
5 of the terms of the gift or bequest; and when made for the establish-
6 ing of institutions of learning or benevolence, and there is no provi-
7 sion made in the gift or bequest for the execution of the trust, the
8 court having charge of the probate proceedings in the county shall
9 appoint three trustees, residents of said county, who shall have charge
10 and control of the same, and who shall continue to act until removed
11 by the court. And they shall give bond as required in case of execu-
12 tors, to be approved in the same manner as in case of executors' bonds,
13 and said trustees shall be subject to the orders of said court. When
14 any county, city, or town shall receive by gift or devise, property, real
15 or personal, for the purpose of establishing any institution of benevo-
16 lence including hospitals, and no sufficient fund or endowment is pro-
17 vided for its maintenance, or when any such municipality shall receive

18 by gift or devise property, real or personal, for either of said purposes,
19 upon condition that the donee or devisee provide for aiding the main-
20 tenance of such institution by a tax levy upon the assessed property
21 of such municipality, as may be done under the provisions of this
22 section, it shall be the duty of the governing board of such municipal-
23 ity to submit by resolution to the qualified electors thereof at a regu-
24 lar or special election the question whether there shall be levied upon
25 the assessed property of such municipality an annual tax not exceeding
26 three mills on the dollar for the purpose of aiding the maintenance of
27 such institution. The said proposition shall be submitted in the man-
28 ner provided for similar propositions in the title on elections. If a
29 majority of the votes cast at such election on the proposition so sub-
30 mitted shall be in favor of the proposition for taxation the governing
31 board of such municipality shall determine the amount to be levied for
32 such purpose, not exceeding three mills on the dollar, and the amount
33 so fixed shall be levied upon the assessed property of such municipality
34 and collected in the same manner as other taxes of such municipality
35 are levied and collected; and when collected by the county treasurer
36 shall be paid over to the treasurer of the institution authorized to
37 receive the same and shall be paid out on the order of the trustees
38 of such institution who are authorized to manage and control the
39 same, for the purposes authorized by this section and for no other
40 purpose whatever.

41 The governing board of such municipality may discontinue such
42 levy of tax in the event that the institution to be aided thereby is
43 destroyed by the elements and no fund is provided or available for its
44 rebuilding; or after five years of continuance of such tax aid the gov-
45 erning board may, and upon the petition of twenty-five per cent of
46 the qualified electors of such municipality, shall, by resolution, resub-
47 mit to the qualified electors of such municipality, at a regular or spe-
48 cial election, in the same manner hereinbefore specified, the question
49 whether tax aid for such institution shall be discontinued, and if
50 sixty-five per cent of the votes cast at such election on the proposi-
51 tion so submitted be in favor of discontinuing tax aid, no further levy
52 of tax shall be made for such purpose.

53 Cities, including cities under commission form of government and
54 cities under special charter, incorporated towns and civil townships
55 wholly outside of any city or incorporated town shall for the purposes
56 of this section be and they are hereby created trustees in perpetuity,
57 and are authorized and required to accept, receive and expend all
58 moneys and property donated or left to it by bequest, to be used in
59 caring for the property of the donor in any cemetery, or in accordance
60 with the terms of such donation or bequest, and the money or prop-
61 erty thus received shall be used for no other purpose whatever. The
62 mayor and council of such cities and towns, and the township trustees
63 of civil townships wholly outside of any city or incorporated town shall
64 have authority to receive and invest all moneys and property, so
65 donated or bequeathed, in bonds of the United States, or municipal
66 bonds, or certificates, or other evidence of indebtedness issued by
67 authority of and in accordance with the laws of this or any state, when
68 same are at or above par, and shall use the income from such invest-
69 ment in caring for the property of the donor in any cemetery, or as
70 shall be provided in the terms of such gift or donation; but before any
71 part of the principal may be so invested or used, the said city, incor-
72 porated town or civil township shall, by resolution, in accordance with

73 the law as now provided, accept said donation or bequest, and shall, by
74 said resolution, duly provide for the payment of interest thereon at
75 the rate of not less than two per centum per annum, payable an-
76 nually, to the cemetery fund or to the cemetery association, or to the
77 person having charge of said cemetery, to be used in caring for or
78 maintaining the individual property of the donor in said cemetery, all
79 to be in accordance with the terms of the donation or bequest.

[C., '97, § 740; S., '13, § 740.]

TITLE XXIV.

CERTAIN SPECIAL LIENS.

CHAPTER 1.

LANDLORD'S LIEN.

SECTION 6502. Landlord's lien.

1 A landlord shall have a lien for his rent upon all crops grown
 2 upon the leased premises, and upon any other personal property of
 3 the tenant which has been used or kept thereon during the term and
 4 not exempt from execution, for the period of one year after a year's
 5 rent, or the rent of a shorter period, falls due; but such lien shall not
 6 in any case continue more than six months after the expiration of the
 7 term. In the event that a stock of goods or merchandise, or a part
 8 thereof, subject to a landlord's lien, shall be sold under judicial proc-
 9 ess, order of court, or by an assignee under a general assignment for
 10 benefit of creditors, the lien of the landlord shall not be enforceable
 11 against said stock or portion thereof, except for rent due for the term
 12 already expired, and for rent to be paid for the use of demised prem-
 13 ises for a period not exceeding six months after date of sale, any agree-
 14 ment of the parties to the contrary notwithstanding.

[C., '51, § 1270; R., '60, § 2302; C., '73, § 2017; C., '97,
 § 2992.]

SEC. 6503. Attachment.

1 The lien may be effected by the commencement of an action, with-
 2 in the period above prescribed, for the rent alone, in which action the
 3 landlord will be entitled to a writ of attachment, upon filing with the
 4 clerk or justice a verified petition, stating that the action is commenced
 5 to recover rent accrued within one year previous thereto upon prem-
 6 ises described in the petition; and the procedure thereunder shall be
 7 the same, as nearly as may be, as in other cases of attachment, except
 8 no bond shall be required. If a lien for rent is given in a written
 9 lease or other instrument upon additional property, it may be enforced
 10 in the same manner and in the same action.

[C., '51, § 1271; R., '60, § 2303; C., '73, § 2018; C., '97,
 § 2993.]

SEC. 6504. Action by tenant to recover property.

1 An action brought by a tenant, his assignee or under tenant, to
 2 recover the possession of specific personal property taken under land-
 3 lord's attachment, may be against the party who sued out the attach-
 4 ment; and the property claimed in such action may, under the writ
 5 therefor, be taken from the officer who seized it, when he has no other
 6 claim to hold it than that derived from the writ. The indorsement of
 7 a levy on the property, made upon the process by the officer holding

8 it shall be a sufficient taking of the property to sustain an action
9 against the party who sued out the writ.

[R., '60, § 2770; C., '73, § 2575; C., '97, § 3490.]

SEC. 6505. Sale of crops held by landlord's lien.

1 If any tenant of farm lands shall, with intent to defraud, sell,
2 conceal, or in any manner dispose of any of the grain, or other annual
3 products thereof upon which there is a landlord's lien for unpaid rent,
4 without the written consent of the landlord, he shall be guilty of larceny
5 and punished accordingly.

[S., '13, § 4852-a.]

SEC. 6506. Action barred by payment of rent.

1 The payment of the rent for the lands upon which such grain
2 or other annual products were raised at or before the time the same
3 falls due, shall be a bar to any prosecution under the preceding section
4 and no prosecution shall be commenced until such rent be wholly due.

[S., '13, § 4852-b.]

CHAPTER 2.

MECHANICS' LIEN.

SECTION 6507. Definition of "owner."

1 Every person for whose use or benefit any building, erection or
2 other improvement is made, having the capacity to contract, including
3 guardians, shall be included in the word "owner" as used in this
4 chapter.

[C., '51, § 982; R., '60, § 1866; C., '73, § 2144; C., '97, § 3096.]

SEC. 6508. Definition of "subcontractor."

1 All persons furnishing materials or doing work provided for in
2 this chapter shall be considered subcontractors, except such as have
3 contracts therefor directly with the owner, his agent or trustee.

[R., '60, § 1871; C., '73, § 2146; C., '97, § 3097.]

SEC. 6509. Who may have lien.

1 Every person who shall do any labor upon, or furnish any ma-
2 terials, machinery or fixtures for, any building, erection or other im-
3 provement upon land, including those engaged in the construction or
4 repair of any work of internal improvement, and those engaged in
5 grading any land or lot by virtue of any contract with the owner, his
6 agent, trustee, contractor or subcontractor, upon complying with the
7 provisions of this chapter, shall have for his labor done, or material,
8 machinery or fixtures furnished, a lien upon such building, erection
9 or improvement and upon the land belonging to such owner on which
10 the same is situated, or upon the land or lot so graded, to secure pay-
11 ment for such labor done or material, machinery or fixtures furnished.

[C., '51, §§ 981, 1010; R., '60, § 1846; C., '73, § 2130; C., '97,
§ 3089.]

SEC. 6510. Collateral security.

1 No person shall be entitled to a mechanic's lien who, at the time
 2 of making or executing a contract for furnishing material or perform-
 3 ing labor, or during the progress of the work, erection, building or
 4 other improvement, shall take any collateral security on such contract.
 5 But after the completion of such work, and when the contractor or
 6 other person shall have become entitled to claim or establish a lien,
 7 the taking of such or other security shall not affect the right thereto,
 8 unless such new security shall, by express agreement, be given and
 9 received in lieu of such lien.

[C., '51, § 1009; R., '60, § 1845; C., '73, § 2129; C., '97,
 § 3088.]

SEC. 6511. Extent of lien—leasehold interest.

1 The entire land upon which any such building, erection or other
 2 improvement is situated, including that portion not covered therewith,
 3 shall be subject to all liens created by this chapter to the extent of
 4 the interest therein of the person for whose benefit such labor was
 5 done or things furnished; and when such interest is only a leasehold
 6 the forfeiture of such lease for the nonpayment of rent, or for non-
 7 compliance with any of the other conditions therein, shall not forfeit
 8 or impair such liens upon such improvements, but the same may be
 9 sold to satisfy such liens, and be moved away by the purchaser within
 10 thirty days after the sale thereof.

[R., '60, § 1854; C., '73, § 2140; C., '97, § 3090.]

SEC. 6512. Lien on work of internal improvement.

1 When such material has been furnished or labor performed in
 2 the construction, repair or equipment of any railroad, canal, viaduct
 3 or other similar improvement, the lien therefor shall attach to the
 4 erections, excavations, embankments, bridges, roadbed, and all land
 5 upon which the same may be situated, and the rolling stock and other
 6 equipment belonging to any such railroad, canal, viaduct or other
 7 company; all of which, except the easement or right of way, shall con-
 8 stitute the building, erection or improvement provided and mentioned
 9 in this chapter.

[C., '73, § 2132; C., '97, § 3091.]

SEC. 6513. Filing statement.

1 Every person, whether contractor or subcontractor, who wishes
 2 to avail himself of the provisions of this chapter, shall file with the
 3 clerk of the district court of the county in which the building, erection
 4 or other improvement to be charged with the lien is situated a verified
 5 statement or account of the demand due him, after allowing all credits,
 6 setting forth the time when such material was furnished or labor per-
 7 formed, and when completed, and containing a correct description of
 8 the property to be charged with the lien, which statement or account
 9 must be filed by a principal contractor within ninety days, and by a
 10 subcontractor within sixty days, from the date on which the last of
 11 the material shall have been furnished or the last of the labor was
 12 performed; but a failure to file the same within said periods shall not
 13 defeat the lien, except against purchasers or incumbrances in good
 14 faith, without notice, whose rights accrued after the sixty or ninety
 15 days, as the case may be, and before any claim for the lien was filed;

16 but where a lien is claimed upon a railway, the subcontractor shall
 17 have sixty days from the last day of the month in which such labor
 18 was done or material furnished within which to file his claim therefor.

[R., '60, § 1851; C., '73, § 2137; C., '97, § 3092; 38 G. A., ch. 380, § 1.]

SEC. 6514. Subcontractor's lien—liability of owner to original contractor—discharge of lien.

1 No owner of any building or structure upon which a subcontractor's
 2 mechanics' lien may be filed under the provisions of the preceding
 3 section shall be liable to an action by the original contractor for compensation
 4 for any building, structure or other improvement upon land until the
 5 expiration of sixty days from the completion of said building, structure
 6 or improvement, unless the original contractor shall furnish to the owner
 7 of said building, structure or improvement receipts and waivers of claims
 8 for mechanics' liens, signed by all persons who performed any labor or
 9 furnished any material, machinery or fixtures for said building, structure
 10 or improvement, provided there be such persons, or unless the original contractor
 11 shall furnish to the owner a good and sufficient bond to be approved by
 12 said owner, conditioned that said owner shall be held harmless from any
 13 loss which he may sustain by reason of the filing of subcontractor's
 14 mechanics' liens. Should the owner pay to the original contractor any part
 15 of the contract price of such building, structure or improvement before the
 16 lapse of the sixty days allowed by law for the filing of subcontractor's
 17 mechanics' liens, he will still be liable to said subcontractor for the full
 18 value of any material, machinery or fixtures furnished, or labor performed
 19 upon said building, structure or improvement, provided said subcontractor
 20 file his mechanics' lien within the time provided by law for the filing
 21 of subcontractor's mechanics' liens. The lien of a subcontractor may be
 22 vacated and discharged at any time by the owner, principal contractor
 23 or intermediate subcontractor filing with the clerk of the district court
 24 of the county in which the property is located a sufficient bond in twice
 25 the amount of the sum for which the claim for the lien is filed, with
 26 surety or sureties, to be approved by the clerk of the district court
 27 in which said lien is filed, conditioned for the payment of any sum for
 28 which the claimant may obtain judgment upon the demand for which such
 29 statement or account has been filed. Nothing in this section shall be
 30 construed to require the owner to pay a greater amount or at an earlier
 31 date than is provided in his contract with the principal contractor, unless
 32 said owner pays a part or all of the contract price to the original contractor
 33 before the expiration of the sixty days allowed by law for the filing of
 34 subcontractor's mechanics' lien.

[R., '60, § 1847; C., '73, § 2131; C., '97, § 3093; S., '13, § 3093; 38 G. A., ch. 380, § 1.]

SEC. 6515. Subcontractor's claim after sixty days.

1 A subcontractor may, at any time after the expiration of said
 2 sixty days, file his claim for a lien with the clerk of the district court,
 3 and give written notice thereof to the owner, or his agent or trustee,
 4 which notice may be served by any person, and if the party to be served,
 5 his agent, or trustee, is out of the county wherein the property

6 is situated, a return of that fact by the person charged with making
7 such service shall constitute sufficient service from and after the time
8 it was filed with the clerk, and from and after the service of such
9 notice his lien shall have the same force and effect, and be prosecuted
10 or vacated by bond, as if filed within the sixty days, but shall be en-
11 forced against the property or upon the bond, if given by the owner,
12 only to the extent of the balance due from the owner to the contractor
13 at the time of the service of such notice upon him, his agent or trustee;
14 but if in such case the bond is given by the contractor, or person con-
15 tracting with the subcontractor filing the claim for a lien, such bond
16 shall be enforced to the full extent of the amount found due the sub-
17 contractor.

[C., '73, § 2133; C., '97, § 3094; S. S., '15, § 3094; 38 G. A.,
ch. 380, § 1.]

SEC. 6516. Priority.

1 The liens provided for by this chapter shall take priority as
2 follows:

3 1. As between persons claiming mechanics' liens upon the same
4 property, according to the order of the filing of the statements and
5 accounts therefor.

6 2. They shall take priority of all garnishments of the owner for
7 the contract debts, whether made prior or subsequent to the commence-
8 ment of the furnishing of the material or performance of the labor,
9 without regard to the date of filing the claim for such lien.

10 3. They shall be preferred to all other liens and incumbrances
11 which may attach to or upon such buildings, erections or other im-
12 provements, and to the land upon which they are situated, made sub-
13 sequently to the commencement of said buildings, erections or other
14 improvements, but the rights of purchasers, incumbrancers, and other
15 persons who acquire interests in good faith and for a valuable con-
16 sideration, and without notice, after the expiration of the time for
17 filing claims for liens, shall be prior to the claims of all contractors
18 or subcontractors who have not, at the dates such rights and interests
19 were acquired, filed their claims for such liens.

20 4. The liens for the material or work aforesaid, including those
21 for additions, repairs and betterments, shall attach to the buildings,
22 erections or improvements for which they were furnished or done, in
23 preference to any prior lien, incumbrance or mortgage upon the land
24 upon which such erection, building or improvement belongs, or is
25 erected or put. If such material was furnished or labor performed
26 in the erection or construction of an original and independent building,
27 erection or other improvement commenced since the attaching or exe-
28 cution of such prior lien, incumbrance or mortgage, the court may,
29 in its discretion, order and direct such building, erection or improve-
30 ment to be sold separately under execution, and the purchaser may
31 remove the same in such reasonable time as the court may fix. But
32 if the court shall find that such building should not be sold separately,
33 it shall take an account of and ascertain the separate values of the
34 land, and the erection, building or other improvement, and order the
35 whole sold, and distribute the proceeds of such sale so as to secure to
36 the prior mortgage or other lien priority upon the land, and to the
37 mechanics' lien priority upon the building, erection or other improve-
38 ment. If the material furnished or labor performed was for additions
39 to, repairs of, or betterments upon buildings, erections or other im-

40 improvements, the court shall take an accounting of the values before
 41 such material was furnished or labor performed, and the enhanced
 42 value caused by such additions, repairs or betterments, and, upon the
 43 sale of the premises, distribute the proceeds of such sale so as to secure
 44 to the prior mortgagee or lienholder priority upon the land and im-
 45 provements as they existed prior to the attaching of the mechanic's
 46 lien, and to the mechanic's lienholder priority upon the enhanced value
 47 caused by such additions, repairs or betterments. In case the prem-
 48 ises do not sell for more than sufficient to pay off the prior mortgage
 49 or other lien, the proceeds shall be applied on the prior mortgage or
 50 other liens.

[R., '60, §§ 1853, 1855; C., '73, §§ 2139, 2141; C., '97, § 3095.]

SEC. 6517. Filing of statements.

1 The clerk of the court shall indorse upon every account or state-
 2 ment filed in his office the date and hour of its filing, and make an
 3 abstract thereof in a book kept for that purpose and properly indexed,
 4 containing the date and hour of its filing, the name of the person filing
 5 the same, the amount of the lien, the name of the person against whom
 6 it is filed, and a description of the property to be charged therewith.

[R., '60, § 1852; C., '73, § 2138; C., '97, § 3100.]

SEC. 6518. Acknowledgment of satisfaction.

1 Whenever a lien has been claimed by filing a statement therefor
 2 in the clerk's office, and is afterwards paid, the claimant shall acknowl-
 3 edge satisfaction thereof upon the proper book in such office, or other-
 4 wise in writing, and, if he neglects to do so for thirty days after
 5 demand in writing, he shall forfeit and pay twenty-five dollars to the
 6 owner or contractor, and be liable to any person injured to the extent
 7 of his injury.

[R., '60, §§ 1867-1869; C., '73, § 2145; C., '97, § 3101.]

SEC. 6519. Action to enforce lien.

1 Any person having filed a claim for a lien by virtue of this chapter
 2 may at once bring an action to enforce the same, or upon any bond
 3 given in lieu thereof, in the district or superior court of the county
 4 wherein the property is situated.

[R., '60, § 1856; C., '73, § 2142; C., '97, § 3098.]

SEC. 6520. Place of bringing action.

1 An action to enforce a mechanic's lien shall be brought in the
 2 county in which the property to be affected, or some part thereof, is
 3 situated.

[C., '73, § 2578; C., '97, § 3493.]

SEC. 6521. Kind of action.

1 An action to enforce a mechanic's lien shall be by equitable pro-
 2 ceedings, and no other cause of action shall be joined therewith.

[C., '51, § 985; R., '60, § 4183; C., '73, § 2510; C., '97, § 3429.]

SEC. 6522. Limitation on action.

1 Actions to enforce a mechanic's lien may be brought within two
 2 years from the expiration of the thirty or ninety days, as the case

3 may be, for filing the claim as provided in the law relative to me-
4 chanics' liens and not afterwards.

[C., '51, § 984; R., '60, § 1865; C., '73, § 2529; C., '97, § 3447;
S., '13, § 3447; 37 G. A., ch. 63, § 1.]

SEC. 6523. Demand for bringing suit—assignment.

1 Upon the written demand of the owner, his agent or contractor,
2 served on the person claiming the lien, requiring him to commence
3 action to enforce such lien, such action shall be commenced within
4 thirty days thereafter, or the lien shall be forfeited, and all benefits
5 derived therefrom. Mechanics' liens are assignable, and shall follow
6 the assignment of the debt for which they are claimed.

[C., '73, § 2143; C., '97, § 3099.]

CHAPTER 3.

MINERS' LIEN.

SECTION 6524. Liens of miners.

1 Every laborer or miner who shall perform labor in opening, de-
2 veloping or operating any coal mine shall have a lien upon all the
3 property of the person, firm or corporation owning or operating such
4 mine, and used in the construction or operation thereof, including real
5 estate and personal property, for the value of such labor, to the full
6 amount thereof, to be secured and enforced as mechanics' liens are.

[C., '97, § 3105.]

CHAPTER 4.

HOTEL AND INN KEEPER'S LIEN.

**SECTION 6525. Hotel and inn keepers—liability—lien—satisfac-
tion by sale—proceeds—deposit of surplus.**

1 Keepers of hotels, inns and eating houses and steamboat owners,
2 who shall provide and keep therein a good and sufficient vault or safe
3 for the deposit of money, jewels and other valuables, and shall provide
4 a safe and commodious place for the baggage, clothing and other prop-
5 erty belonging to their guests and patrons, and keep posted up in a
6 conspicuous place in the office or other public room, and in the guests'
7 apartments therein, printed notices, stating that such places for safe
8 deposit are provided for the use and accommodation of the inmates
9 thereof, shall not be liable for the loss of any money, jewels, valuables,
10 baggage or other property not deposited with them, unless such loss
11 shall occur through the fault or negligence of such landlord or keeper,
12 or steamboat owner, his agent, servant or employee, but nothing herein
13 contained shall apply to such reasonable amount of money, nor to such
14 jewels, baggage, valuables or other property as is usual, fit and proper
15 for any such guests to have and retain in their apartments or about
16 their persons. Hotel, inn, rooming house or eating house keepers
17 shall have a lien upon, and may take and retain possession of, all bag-

18 gage and other property belonging to or under the control of their
19 guests or patrons, which may be in such hotel, inn, rooming house or
20 eating house, for the value of their accommodations and keep, and
21 for all money paid for or advanced to, and for such extras and other
22 things as shall be furnished such guest or patron, and such property
23 so retained shall not be exempt from attachment or execution to the
24 amount of the reasonable charges of such hotel, inn, rooming house
25 or eating house keeper, against such guest or patron, and the costs of
26 enforcing the lien thereon. The innkeeper or hotel keeper shall retain
27 such baggage and other property upon which he has a lien for a period
28 of ninety days, at the expiration of which time, if such lien is not
29 satisfied, he may sell such baggage and other property at public auc-
30 tion after giving ten days' notice of the time and place of sale in a
31 newspaper of general circulation in the county where the inn or hotel
32 is situated, and also by mailing a copy of such notice addressed to said
33 guest or boarder at the place of residence registered by him in the
34 register of such inn or hotel. After satisfying the lien and any costs
35 that may accrue, any residue remaining shall, on demand within six
36 months, be paid to such guest or boarder, and if not so demanded
37 within six months from date of such sale, such residue shall be depos-
38 ited by such innkeeper or hotel keeper with the treasurer of the county
39 in which the inn or hotel is situated, together with a statement of the
40 innkeeper's claim and the costs of enforcing same, a copy of the pub-
41 lished notice, and the amounts received for the goods sold at said sale;
42 said residue shall by said county treasurer be credited to the general
43 revenue fund of said county, subject to a right of said guest or board-
44 er, or his representative, to reclaim at any time within three years of
45 the date of deposit with the said treasurer.

[C., '97, § 3138; S., '13, § 3138.]

CHAPTER 5.

LIEN FOR CARE OF STOCK.

SECTION 6526. Liens of livery stable keepers.

1 Livery and feed stable keepers, herders, feeders and keepers of
2 stock for hire shall have a lien on all stock and property coming into
3 their hands, as such, for their charges and the expense of keeping,
4 when received from the owner or any other person, subject to all prior
5 liens of record. Any claimant of the property may release the lien
6 by tendering the party in possession a bond, in a penal sum of three
7 times the amount for which the lien is claimed, signed by two sureties,
8 residents of the county, who shall justify as is required in other cases,
9 and conditioned to pay any judgment the lienholder may obtain for
10 such charges. If such charges and expenses are not sooner paid, the
11 lienholder may sell said property at public auction, after giving to
12 the owner or claimant ten days' notice in writing of the time and
13 place of such sale, if found within the county, and also by posting writ-
14 ten notices thereof in three public places in the township where said
15 stock was kept or let. And out of the proceeds of such sale he shall
16 pay all of said charges and expenses of keeping said stock, together
17 with the costs and expenses of said sale, and the balance, if any, shall
18 be paid to the owner or claimant of said property.

[C., '97, § 3137.]

CHAPTER 6.

BAILEE'S LIEN.

SECTION 6527. Unclaimed property—lien for charges.

1 Property transported by, or stored or left with, any forwarding
 2 and commission merchant, express company, carrier or bailee for hire
 3 shall be subject to a lien for the lawful charges thereon for the trans-
 4 portation and storage thereof, or charges and services thereon or in
 5 connection therewith; and if any such property shall remain in the
 6 possession, unclaimed, of any of the persons named in this section for
 7 three months, with the just charges thereon due and unpaid, such
 8 person shall first give notice of the amount of the charges thereon to
 9 the owner or consignee thereof, if his whereabouts is known, if not,
 10 he shall go before the nearest justice of the peace and make an affi-
 11 davit, stating the time and place where such property was received,
 12 the marks or brands by which the same is designated, if any, and, if
 13 not, then such other description as may best answer the purpose of
 14 indicating what the property is, and the probable value of the same,
 15 and to whom consigned, also the charges paid thereon, accompanied
 16 by the original receipt for such charges and by the bill of lading, also
 17 any other charges due and unpaid, and whether the whereabouts of
 18 the owner or consignee is known to the affiant, and whether such no-
 19 tice was first given to him as herein provided; which affidavit shall
 20 be filed by the justice for the inspection of anyone interested therein,
 21 and an entry made in the estray book of the substance of the affidavit,
 22 and a statement when, where and by whom made.

[R., '60, §§ 1898, 1899; C., '73, §§ 2177, 2178; C., '97, § 3130.]

SEC. 6528. Sale—notice.

1 If the property remains unclaimed and the charges unpaid, the
 2 person in possession, if the probable value does not exceed one hun-
 3 dred dollars, shall advertise the same for fourteen days, by posting
 4 notices in five of the most public places in the city or locality where
 5 said property is held, giving such description as will indicate what is
 6 to be sold; if the goods exceed the probable value of one hundred dol-
 7 lars, the length of notice shall be four weeks, and there shall be a
 8 publication thereof, once each week, for the same length of time in
 9 some newspaper of general circulation in the locality where the prop-
 10 erty is held, if there be one, and, if not, then in the next nearest news-
 11 paper published in that neighborhood, at the end of which period, if
 12 the property is still unclaimed or charges unpaid, it may be sold by
 13 him at public auction, between the hours of ten o'clock a. m. and four
 14 o'clock p. m., for the highest price the same will bring, which sale
 15 may be continued from day to day, by public announcement to that
 16 effect at the time of the adjournment, until all the property is sold;
 17 and from the proceeds thereof all charges, costs and expenses of the
 18 sale shall be paid, which sale shall be conducted after the manner of
 19 sheriff's sales, and like costs taxed for like services.

[R., '60, §§ 1900-1902; C., '73, § 2179; C., '97, § 3131; S., '13,
 § 3131.]

SEC. 6529. Perishable property.

1 Fruit, fresh fish, oysters, game and other perishable property
 2 thus held shall be retained twenty-four hours, and, if not claimed

3 within that time and charges paid, after the proper affidavit is made
 4 as required by the second preceding section, may be sold either at
 5 public or private sale, in the discretion of the party holding the same,
 6 for the highest price that the same will bring, and the proceeds of the
 7 sale disposed of as provided in the last preceding section. In either
 8 case, if the owner or consignee of said unclaimed property resides in
 9 the same city, town or locality in which the same is held, and is known
 10 to the agent or party having the same in charge, then personal notice
 11 shall be given to him in writing that the goods are held subject to his
 12 order on payment of charges, and that, unless he pays the same and
 13 removes the property, it will be sold as provided by law.

[R., '60, § 1903; C., '73, § 2180; C., '97, § 3132.]

SEC. 6530. Disposition of proceeds.

1 After the charges on the property and the costs of sale have been
 2 taken out of the proceeds, the seller shall deposit the excess with the
 3 county treasurer of the county where the goods were sold, subject to
 4 the order of the owner, take a receipt therefor, and deposit the same
 5 with the county auditor. At the same time he shall also file a verified
 6 schedule of the property with the treasurer, giving the name of the
 7 consignee or owner, if known, of each piece of property sold, the sum
 8 realized from the sale of each separate package, describing the same,
 9 together with a copy of the advertisement hereinbefore provided for,
 10 and a full statement of the receipts of the sale, and the amount dis-
 11 bursed to pay charges and expenses of sale, which shall all be filed
 12 and preserved in the treasurer's office for the inspection of anyone
 13 interested in the same.

[R., '60, § 1904; C., '73, § 2181; C., '97, § 3133.]

SEC. 6531. Duty of treasurer—refunding to owner.

1 If the money remains in the hands of the treasurer unclaimed,
 2 he shall place the same to the credit of the county in his next settle-
 3 ment, and if it so remains unclaimed for one year, it shall be paid to
 4 the school fund; but any claimant therefor may at any time within
 5 ten years appear before the board of supervisors and establish his
 6 right to the same by competent legal evidence, in which case the orig-
 7 inal sum deposited shall be paid him out of the county treasury.

[R., '60, § 1905; C., '73, § 2182; C., '97 § 3134.]

CHAPTER 7.

SUBCONTRACTOR'S CLAIMS ON FUNDS DUE ON PUBLIC WORKS.

SECTION 6532. Public buildings or bridges — claim of subcontractor—priority rights.

1 Every mechanic, laborer or other person who, as subcontractor,
 2 shall perform labor upon or furnish materials for the construction of
 3 any public building, bridge or other improvement not belonging to
 4 the state, shall have a claim against the public corporation construct-
 5 ing such building, bridge or improvement for the value of such serv-
 6 ices and material, not in excess of the contract price to be paid for
 7 such building, bridge or improvement, nor shall such corporation be

8 required to pay any such claim before or in any different manner from
9 that provided in the principal contract. Such claim shall be made by
10 filing with the public officer through whom the payment is to be made
11 an itemized sworn statement of the demand, within sixty days after
12 the completion of said public building, bridge or other improvement,
13 and such claims shall have priority in the order in which they are filed.
[C., '97, § 3102; 38 G. A., ch. 380, § 2.]

SEC. 6533. Adjudication of claims.

1 Any party in interest may cause an adjudication of the amount,
2 priority and mode and time of payment of such claim, by an equitable
3 action in the district court of the proper county. In such action the
4 court may assess a reasonable attorney's fee against the party failing,
5 in favor of such corporation.
[C., '97, § 3103.]

SEC. 6534. Release of claim.

1 The contractor may at any time release such claim by filing with
2 the treasurer of such corporation a bond for the benefit of such claim-
3 ant, in sufficient penalty and with sureties to be approved by such
4 treasurer, conditioned for the payment of any sum which may be found
5 due such claimant. Such contractor may prevent the filing of such
6 claims by filing in like manner a bond conditioned for the payment
7 of persons who may be entitled to file such claims, and actions may be
8 brought on any such bond by any claimant within two years after his
9 cause of action accrues, and judgment shall be rendered on said bond
10 for the amount due such claimant. No provisions of any bond or
11 contract to the contrary shall affect any of the provisions of this and
12 the two preceding sections.

[C., '97, § 3104; 38 G. A., ch. 53, § 1.]

TITLE XXV.

LEGALIZING ACTS.

Note.—The date following the historical reference, which indicates the time of taking effect of an act by publication, has been computed on the theory that such acts take effect on the first day following the last publication. (Arnold vs. Board, 151 Iowa, 155.)

In those instances in which the historical reference shows that the source of the section consists of more than one legislative enactment, the date indicates the time when the last legislative act took effect.

CHAPTER 1.

NOTARIES PUBLIC AND ACKNOWLEDGMENTS.

SECTION 6535. Official acts of notaries public.

WHEREAS, certain notaries public whose commissions expired July fourth, nineteen hundred and nine, and who have continued to act as such notaries public after the expiration of such commissions and who have since qualified as such notaries public, and,

WHEREAS, certain notaries public in the state of Iowa, under a misapprehension as to the date when their commissions were issued as notaries public, did, prior to the seventeenth day of March, nineteen hundred and eleven, and before their commissions had actually been issued, take certain acknowledgments, and administer certain oaths, and,

WHEREAS, it is the desire of all such notaries public to have their official acts as such notaries public legalized, now, therefore:

1 All acknowledgments of all written instruments, affidavits, deeds,
2 mortgages, papers and documents, by notaries public as described in
3 the preamble hereof, whether or not the same is required by law to be
4 acknowledged, and all taking of affidavits made by notaries public, be,
5 and the same are hereby, legalized and made valid the same as though
6 they had been duly commissioned as notaries public at the time such
7 acknowledgments were taken, provided this act shall not apply to
8 title to real estate or other property rights which are now in litigation.

[34 G. A., ch. 229, § 1. (Took effect by publication April 18, 1911.)]

SEC. 6536. Official acts of notaries public.

1 All of the official acts of all notaries public holding their office
2 during the term ending July fourth, nineteen hundred three, who con-
3 tinued to act as such notaries public after July fourth, nineteen hun-
4 dred three, before qualifying as such, but have since qualified as pro-
5 vided by law, are hereby legalized and made valid to the same extent
6 as though they had become duly qualified to act as notaries public
7 immediately upon the expiration of the term ending July fourth, nine-
8 teen hundred three; provided, however, that nothing in this act [31
9 G. A., ch. 223] shall affect any pending litigation.

[S., '13, § 2942-1. (Took effect July 4, 1906.)]

SEC. 6537. Acts of notaries after expiration of commission.

1 All of the official acts of all notaries public holding their office
 2 during the term ending July fourth, nineteen hundred eighteen, who
 3 continued to act as such notaries public after July fourth, nineteen
 4 hundred eighteen, before qualifying as such, but have since qualified
 5 as provided by law, are hereby legalized and made valid to the same
 6 extent as though they had become duly qualified to act as notaries
 7 public immediately upon the expiration of the term ending July fourth,
 8 nineteen hundred eighteen; provided, however, that nothing in this act
 9 shall affect any pending litigation.

[38 G. A., ch. 146, § 1. (Took effect July 4, 1919.)]

SEC. 6538. Acknowledgments and affidavits of mayors and notaries.

WHEREAS, certain mayors, under section six hundred ninety-one of the code of 1897, have taken the acknowledgments of written instruments and administered oaths in proceedings not connected with the administration of their offices; and,

WHEREAS, certain notaries public, whose commissions expired July fourth, nineteen hundred and six, and who continued to act as such notaries public and who have since qualified as notaries public, desire to have their acts as such notaries public legalized. Now, therefore:

1 All acknowledgments and taking of affidavits made by the mayors
 2 and notaries public, as described in the preamble hereof, are hereby
 3 legalized and made of full effect, the same as though said mayors and
 4 notaries public had been originally empowered to take said acknowl-
 5 edgments and administer said oaths.

[S., '13, § 2942-k. (Took effect by publication March 15, 1907.)]

SEC. 6539. Acknowledgments under provisions of code of 1873.

1 All acknowledgments of instruments in writing taken and cer-
 2 tified according to the provisions and form prescribed by the code of
 3 1873, which were taken and certified after the twenty-ninth day of
 4 September, eighteen hundred ninety-seven, and prior to the passage
 5 of this act [27 G. A., ch. 165], by officers having authority under the
 6 provisions of the code of 1873 to take and certify acknowledgments,
 7 are here declared to be legal and valid, and of the same force and effect
 8 as though the same were taken and certified according to the form
 9 and provisions of the code; and as though the officers taking and cer-
 10 tifying the same were authorized to take and certify acknowledgments.

[S., '13, § 2942-c. (Took effect by publication April 14, 1898.)]

SEC. 6540. Acknowledgments defective as to certificate of officer—unqualified official.

1 The acknowledgments of all deeds, mortgages or other instru-
 2 ments in writing, taken and certified previous to the passage of this
 3 act [29 G. A., ch. 249], and which have been duly recorded in the
 4 proper counties in this state, and which are defective only in the form
 5 of the certificate of the officer taking the same, or by reason of such
 6 acknowledgment having been made before an official not qualified to
 7 take the same, but who was at the time qualified to take acknowledg-
 8 ments generally, are hereby declared to be as legal and valid for all
 9 purposes as if the form of the certificate had been made in accordance

10 with law, and the official taking such acknowledgments duly qualified
11 therefor.

[S., '13, § 2942-e. (Took effect July 4, 1902.)]

SEC. 6541. Acknowledgments of foreign instruments.

1 In all acknowledgments of instruments in writing which by the
2 laws of Iowa are required to be so acknowledged, and which said
3 acknowledgments have been taken without the United States by offi-
4 cers of such countries outside the United States authorized by section
5 two thousand nine hundred forty-seven of the code [code of 1897] to
6 take such acknowledgments, the said acknowledgments are hereby
7 legalized whether or not there is attached to such written instrument,
8 a certificate by an ambassador, minister, consul, vice consul, charge
9 d'affaires or consular agent of the United States certifying that full
10 faith and credit is due such officer of such foreign country taking said
11 acknowledgment; and the certificate of acknowledgment of such officer
12 of such foreign country is hereby declared and made conclusive evi-
13 dence that such officer was duly qualified to make such certificate of
14 acknowledgment.

[38 G. A., ch. 181, § 1. (Took effect July 4, 1919.)]

SEC. 6542. Defective acknowledgment by attorney in fact.

1 No instruments affecting real estate, including satisfactions of
2 mortgages, executed by a party as attorney in fact for the grantor,
3 or grantors, where a duly executed and sufficient power of attorney
4 is on record in the county in which the land is situated, shall be held
5 invalid for the reason that the attorney in fact executed and acknowl-
6 edged the said instrument in the following form: "A. B., attorney in
7 fact for C. D." instead of "C. D., by A. B. his attorney in fact", but all
8 such instruments heretofore filed for record are hereby legalized and
9 made valid as if the record showed the execution and acknowledgment
10 thereof in the latter form above.

[S. S., '15, § 2963-v. (Took effect July 4, 1915.)]

SEC. 6543. Instruments executed when no power of attorney on record.

1 No instruments affecting real estate, including satisfactions of
2 mortgages, executed and duly recorded prior to January first, nineteen
3 hundred, by a party purporting to act for the grantor, or grantors, as
4 attorney in fact, shall be invalid by reason of the fact that no power
5 of attorney is of record in the county in which the land is situated
6 authorizing him to so act, but all such instruments are hereby legalized
7 and made valid as if the record showed a duly executed power of at-
8 torney authorizing the attorney to act in the premises.

[S. S., '15, § 2963-x. (Took effect July 4, 1915.)]

CHAPTER 2.

JUDGMENTS AND DECREES.

SECTION 6544. Decrees against unknown claimants.

1 All decrees of court obtained in cases prior to January fifteenth,
2 nineteen hundred fifteen, in which the notice was entitled in the initial

3 or initials of the plaintiff instead of his full Christian name are hereby
4 legalized and said decrees shall have the same force and effect as if
5 such notice had been entitled in the full name of the plaintiff as was
6 provided for in section thirty-five hundred thirty-eight of the code
7 [code of 1897], and as is provided for in section thirty-five hundred
8 thirty-eight of the supplement to the code, 1913.

[S. S., '15, § 3540-a. (Took effect July 4, 1915.)]

SEC. 6545. Certain publications of original notices.

1 No action in which unknown persons were made parties defendant
2 pursuant to the requirements of section thirty-five hundred thirty-
3 eight, supplemental supplement to the code, 1915, and in which notice
4 of such action was given by publication between the first day of July,
5 nineteen hundred thirteen, and the first day of July, nineteen hun-
6 dred fifteen, for four consecutive weeks, the last publication being ten
7 days prior to the first day of the term for which said action was
8 brought as shown by proof on file in the office of the clerk of the court
9 where said action was pending, shall be held ineffectual, void, or insuf-
10 ficient because the records fail to show that the court or judge approved
11 said notice before publication or failed to indorse his approval on said
12 notice or failed to designate in which paper said notice should be
13 published, as required by section thirty-five hundred thirty-nine of
14 the code [code of 1897].

[37 G. A., ch. 37, § 1. (Took effect July 4, 1917.)]

SEC. 6546. Judgments or decrees respecting wills.

1 No judgment or decree purporting to set aside any will, or the
2 provisions of any will, or to place any construction upon any will or
3 terms of any will, or to aid in carrying out the provisions of any will
4 and no contract or agreement purporting to be a settlement of any
5 suit or action to set aside any will or the terms of any will or to place
6 any construction upon any will or any of the terms thereof shall be
7 held ineffectual, void or insufficient because the records fail to show
8 proper service of notice on all parties interested, that persons under
9 disability affected by the action were not properly served with notice
10 or represented by guardian or guardian ad litem, either in suit, action
11 or in a settlement thereof, that all persons interested participated in
12 the settlement, or that any other provisions of law had been complied
13 with which are necessary to make a valid decree, judgment or settle-
14 ment, provided more than ten years had elapsed since the judgment,
15 decree, contract or agreement was filed, entered or placed on record
16 in the county where the real estate affected thereby is situated. And
17 said decree, judgment, contract or agreement shall be conclusive evi-
18 dence of the right, title or interest it purports to establish or adjudi-
19 cate in so far as it affects the title to such real estate, and said pro-
20 ceedings therein are hereby made legal and effectual the same as
21 though all provisions of law had been complied with in the obtaining
22 of said decree, judgment or execution of said contract or agreement;
23 and that any judgment, decree, contract or agreement such as above
24 described which is now of record less than ten years in the county in
25 which the real estate is situated, shall, at the expiration of ten years
26 from date of filing, entering or recording thereof, have the same force
27 and effect as is above given to those now in effect more than ten years.

[S., '13, § 2963-m. (Took effect July 4, 1913.)]

SEC. 6547. Decrees of divorce—affidavit of nonresidence.

1 In all cases where decrees of court have been obtained prior to
 2 the first day of January, nineteen hundred seven, upon publication of
 3 notice before the filing of the affidavit of nonresidence, as provided by
 4 section thirty-five hundred thirty-four of the code [code of 1897], and
 5 the same has not been filed as provided by law, but has been filed dur-
 6 ing the time that the notice was being published, on which such de-
 7 crees are based, are hereby legalized and such decrees shall have the
 8 same force and effect as though the affidavit of nonresidence, as pro-
 9 vided in said section, was filed at the time of or prior to the first publi-
 10 cation of such notice, and that all decrees so obtained, as aforesaid, are
 11 hereby legalized and held to have the same force and effect as though
 12 the affidavit of nonresidence had been filed, as by law required.

[S., '13, § 3534-a. (Took effect by publication April 12, 1911.)]

SEC. 6548. Decrees of divorce—affidavit of publication by editor.

1 In all cases where decrees of court have been obtained prior to
 2 January first, nineteen hundred seventeen, in which the proof of pub-
 3 lication of the original notice has been made by the affidavit of the
 4 editor of the newspaper or the publisher, manager, cashier or fore-
 5 man thereof in which such original notice was published, the same
 6 are hereby legalized, and such decrees shall have the same force and
 7 effect as though the affidavit of the publisher, or his foreman, of the
 8 newspaper in which original notice was published had been filed as
 9 provided by section three thousand five hundred thirty-six of the
 10 code [code of 1897], that all decrees obtained as aforesaid are hereby
 11 legalized and held to have the same force and effect as though the
 12 proof of the publication of the original notice had been made by the
 13 affidavit of the publisher, or his foreman, of the newspaper in which
 14 such original notice was published.

[S., '13, § 3536-a; 38 G. A., ch. 89, § 1. (Took effect July 4, 1919.)]

SEC. 6549. Annulment of marriages—service by publication.

1 All decrees of the courts of this state made and entered of record
 2 in actions brought to annul a marriage and in which cases the service
 3 of the original notice was made by publication in the manner provided
 4 by law for actions for divorce, be and the same are hereby legalized
 5 and validated as fully and to the same extent as if the statute at the
 6 time such suit was instituted had provided for service of the original
 7 notice by publication in the time and manner aforesaid.

[S., '13, § 3187-a. (Took effect July 4, 1913.)]

CHAPTER 3.**REAL PROPERTY.****SECTION 6550. Acknowledgments with seal not affixed.**

1 All deeds, mortgages, or other instruments in writing, for the
 2 conveyance of lands which have heretofore been made and executed,
 3 and the officer taking the acknowledgment has not affixed his seal to

4 the acknowledgment, such acknowledgment shall, nevertheless, be
5 good and valid in law and equity, anything in any law heretofore
6 passed to the contrary notwithstanding.

[S., '13, § 2942-h. (Took effect by publication March 24, 1906.)]

SEC. 6551. Absence of, or defective acknowledgments.

1 Any instrument in writing affecting the title to real estate within
2 the state of Iowa, to which is attached no certificate of acknowledg-
3 ment or to which is attached a defective certificate of acknowledg-
4 ment, which was, prior to January first, nineteen hundred ten, re-
5 corded or spread upon the records in the office of the recorder of the
6 county in which the real estate described in such instrument is
7 located, is, together with the recording and the record thereof, legal-
8 ized and declared as valid, legal and binding as if such instrument had
9 been properly acknowledged and legally recorded.

[S. S., '15, § 2963-a; 37 G. A., ch. 388, § 1. (Took effect July 4, 1917.)]

SEC. 6552. Acknowledgments by officers of corporations.

1 The acknowledgments of all deeds, mortgages, or other instru-
2 ments in writing heretofore taken or certified, and which instruments
3 have been recorded in the recorder's office of any county of this state,
4 including acknowledgments of instruments made by any private or
5 other corporation, or to which such corporation was a party, or under
6 which such corporation was a beneficiary, and which have been ac-
7 knowledged before or certified by any notary public who was at the
8 time of such acknowledgment or certifying a stockholder or officer in
9 such corporation, are hereby declared to be legal and valid official acts
10 of such notaries public, and to entitle such instruments to be recorded,
11 anything in the laws of the state of Iowa in regard to acknowledg-
12 ments to the contrary notwithstanding; and such instruments are, if
13 otherwise valid, hereby declared effectual and valid in law to all intents
14 and purposes as though acknowledged or proved before an officer not
15 interested therein, and if heretofore recorded in the respective coun-
16 ties in which such lands may be, the records thereof are hereby con-
17 firmed and declared effectual and valid in law to all intents and
18 purposes as though said deeds, mortgages, and conveyances, so
19 acknowledged or proved and recorded, had (prior to being recorded)
20 been acknowledged or proved before an officer having no interest
21 therein.

[37 G. A., ch. 397, § 1. (Took effect July 4, 1917.)]

Note.—See 37 G. A., ch. 173, § 1; 34 G. A., ch. 151, § 1; 31 G. A., ch. 146, § 1, 26 G. A., Ext. Ses., ch. 23, § 1.

SEC. 6553. Acknowledgments by stockholders of corporations.

1 All deeds and conveyances of lands within this state heretofore
2 executed but which have been acknowledged or proved according to
3 and in compliance with the laws of this state before a notary public
4 or other official authorized by law to take acknowledgments who was,
5 at the time of such acknowledgment, an officer or stockholder of a cor-
6 poration interested in any such deed or conveyance, or otherwise
7 interested therein, are, if otherwise valid, hereby declared effectual
8 and valid in law to all intents and purposes as though acknowledged

9 or proved before an officer not interested therein; and if heretofore
10 recorded in the respective counties in which such lands may be, the
11 records thereof are hereby confirmed and declared effectual and valid
12 in law to all intents and purposes as though said deeds and convey-
13 ances, so acknowledged or proved and recorded, had (prior to being
14 recorded) been acknowledged or proved before an officer having no
15 interest therein.

[S., '13, § 2942-d. (Took effect July 4, 1898.)]

SEC. 6554. Instruments of corporations affecting real estate.

1 All instruments in writing executed by any corporation prior to
2 July fourth, nineteen hundred nine, conveying, incumbering, or affect-
3 ing real estate, including releases, satisfaction of mortgages, judg-
4 ments, or any other liens by entry of such release or satisfaction upon
5 the page or pages where such lien appears recorded or entered, where
6 the corporate seal of such corporation has not been affixed or attached
7 thereto, and which are otherwise legally and properly executed, are
8 hereby declared legal, valid and binding, the same as though the cor-
9 porate seal had been attached or affixed thereto.

[S., '13, § 3068-a. (Took effect July 4, 1911.)]

SEC. 6555. Sales, contracts and deeds by corporations.

1 All sales, contracts, deeds, or conveyances of lands owned by any
2 such corporation on the fourth day of July, eighteen hundred eighty-
3 eight, or acquired by any such corporation under the provisions of
4 section six of chapter eighty-five of the laws of the twenty-second
5 general assembly or section twenty-eight hundred ninety of the code
6 [code of 1897], bearing date on or after the fourth day of July,
7 eighteen hundred eighty-eight, are hereby legalized and rendered of
8 full force and effect, according to their terms, in so far as their validity
9 or the validity of the titles conveyed thereby may be affected by chap-
10 ter eighty-five of the laws of the twenty-second general assembly, or
11 any amendments thereto, or by chapter one, title fourteen, of the code
12 [code of 1897].

[S., '13, § 2889-c. (Took effect by publication March 17,
1900.)]

SEC. 6556. Marginal releases of mortgages.

1 Any release or satisfaction of any mortgage or trust deed or of
2 any instrument in writing creating a lien upon real estate where such
3 release or satisfaction has been recorded in the recorder's office of the
4 county in this state, or upon the margin of the record, where such
5 original instrument was recorded and which release or satisfaction
6 was made by any individual, association, copartnership, assignee, cor-
7 poration, attorney in fact, or by a resident or foreign executor, admin-
8 istrator, referee, receiver, trustee, guardian or commissioner and
9 which release or satisfaction was executed, filed and recorded prior
10 to March first, nineteen hundred seven, is hereby legalized, declared
11 valid, legal and binding and of full force and effect, any defects in
12 the execution, acknowledgment, recording, filing or otherwise of such
13 releases or satisfactions to the contrary notwithstanding.

[S., '13, § 2938-b; 37 G. A., ch. 345, § 1. (Took effect July 4,
1917.)]

SEC. 6557. Marginal releases of school fund mortgages.

1 The release or satisfaction of any school fund mortgage entered
2 on the margin of the record of such mortgage by the auditor of the
3 county prior to July fourth, eighteen hundred ninety-four, is hereby
4 legalized and given the same force and effect as though such auditor
5 had had at the time of entering such release or satisfaction the same
6 power thereafter conferred upon him by chapter fifty-three of the
7 acts of the twenty-fifth general assembly.

[37 G. A., ch. 339, § 1. (Took effect July 4, 1917.)]

SEC. 6558. Marginal assignment of mortgage or lien.

1 In any case where an assignment of a mortgage or other recorded
2 lien on real estate has heretofore been made by written assignment
3 thereof on the margin of the record where such mortgage or other
4 lien is recorded or entered, such assignment shall be deemed to have
5 passed all the right, title, and interest therein, which the assignor at
6 the time had, with like force and effect as if such assignment had been
7 made by separate instrument duly acknowledged and recorded, and
8 any such assignment or a duly authenticated copy thereof when ac-
9 companied by a duly authenticated copy of the record of the instru-
10 ment or lien it purports to assign, shall be admissible in evidence as
11 is provided by law for the admission of the records of deed and
12 mortgages.

[S. S., '15, § 2963-x2. (Took effect July 4, 1915.)]

Note.—See 36 G. A., ch. 322, § 1; 34 G. A., ch. 227, § 1.

SEC. 6559. Conveyances by executors, trustees, assignees.

1 In all cases where, prior to the year A. D. nineteen hundred ten,
2 an executor, administrator, trustee, guardian, assignee, receiver, ref-
3 erree or commissioner, acting as such in this or any state, has conveyed
4 in such trust capacity real estate lying in this state and such convey-
5 ance has been of record since prior to the first day of January, A. D.
6 nineteen hundred ten, in the county where the real estate so conveyed
7 is located and which conveyance purports to sustain the title in the
8 present record owner or owners thereof, such conveyance shall not be
9 held void or insufficient by reason of the fact that due and legal notice
10 of all proceedings with reference to the making of any such convey-
11 ance was not served upon all interested or necessary parties or that
12 such executor, administrator, trustee, guardian, assignee, receiver,
13 referee or commissioner is not shown to have been duly authorized by
14 an order of court to make and execute such conveyance, that a bond
15 was not given therefor, or that no report of the sale was made; or
16 such sale or deed of conveyance was not approved by order of court
17 or that any such foreign executor, administrator, trustee, guardian,
18 assignee, receiver, referee or commissioner was not appointed or
19 qualified in the state of Iowa prior to the making of such conveyance
20 or that the record thereof fails to disclose compliance with any other
21 provisions of law, and all such conveyances are hereby legalized and
22 declared valid, legal and binding and of full force and effect. Allot-
23 ments by referees in partition shall be considered conveyances within
24 the meaning of this section.

[S. S., '15, § 2963-1; 37 G. A., ch. 388, § 2. (Took effect July
4, 1917.)]

SEC. 6560. Conveyances by administrators, trustees, guardians.

1 In all cases where, prior to the year A. D. eighteen hundred ninety,
2 an executor, administrator, trustee, guardian, referee or commis-
3 sioner, duly appointed and qualified, and acting as such in this or any
4 other state, has conveyed in such trust capacity, real estate lying in
5 this state, and such conveyance has been of record since prior to the
6 first day of January, A. D. eighteen hundred ninety, in the county
7 where the real estate so conveyed is located, and the possession of said
8 real estate since said date has rested in the grantee thereunder, or
9 parties claiming by, through or under him, such conveyance shall not
10 be held void or insufficient by reason of the fact that due and legal
11 notice of all proceedings with reference to the making of any such
12 conveyance was not served upon all interested or necessary parties,
13 or that such executor, administrator, trustee, guardian, referee, or
14 commissioner is not shown to have been duly authorized by an order
15 of court to make and execute such conveyance, or that a bond was not
16 given therefor; or that no report of the sale was made; or such sale
17 or deed of conveyance was not approved by order of court, or that any
18 such foreign executor, administrator, trustee, guardian, referee, or
19 commissioner was not appointed or qualified in the state of Iowa,
20 prior to the making of such conveyance, and all such conveyances are
21 hereby legalized and declared valid, legal and binding and of full
22 force and effect.

[S., '13, § 2942-j. (Took effect July 4, 1911.)]

SEC. 6561. Sheriff's deed executed by deputy and recorded.

1 All conveyances executed prior to the year eighteen hundred
2 eighty-five in the state of Iowa by deputy sheriffs, wherein such dep-
3 uty sheriff executed a sheriff's deed to real estate in the state of Iowa,
4 and which conveyances have been of record in the office of the county
5 recorder of the county wherein the real estate is located since prior
6 to the first day of January, eighteen hundred eighty-five, are hereby
7 legalized and made of full force and effect, the same as though deputy
8 sheriffs had been originally empowered and authorized to execute
9 sheriff's deeds.

[S., '13, § 2963-s. (Took effect July 4, 1911.)]

SEC. 6562. Defective tax deeds.

1 No sale of real property for taxes made prior to January first,
2 eighteen hundred ninety-five, wherein the tax deed was executed and
3 which deed purports to sustain the record title, shall be held ineffectual
4 on account of the failure of the record to show that any of the steps
5 in the sale and deeding of said property were complied with; said
6 proceedings are hereby legalized and made valid and effectual as if
7 the record showed that all the provisions of law had been compl-
8 ied with.

[S., '13, § 2963-o. (Took effect July 4, 1913.)]

SEC. 6563. Conveyances by spouse under power of attorney.

1 No conveyance of real estate heretofore made, wherein the hus-
2 band or wife conveyed or contracted to convey the inchoate right of
3 dower through the other spouse, acting as the attorney in fact, by
4 virtue of a power of attorney executed by such spouse, such power
5 of attorney not having been executed as a part of a contract of separa-

6 tion, shall be held invalid as contravening the provisions of section
7 thirty-one hundred fifty-four of the code, but all such conveyances
8 are hereby legalized and made effective.

[S., '13, § 2942-f; 37 G. A., ch. 351, § 2. (Took effect July 4, 1917.)]

SEC. 6564. Conveyances by foreign executors.

1 All conveyances of real property made prior to January first,
2 nineteen hundred thirteen, by executors or trustees under foreign
3 wills and prior to the expiration of three months after the recording
4 of a duly authenticated copy of the will, original record of appoint-
5 ment, qualification and bond, as required by the provisions of section
6 thirty-two hundred ninety-five of the code [code of 1897], are hereby
7 legalized and declared as valid and effective in law as though the pro-
8 visions of said section had been strictly followed, provided the proper
9 proof of authority was a matter of record in the office of the clerk of
10 the district court in the county where the real property is situated, at
11 the time the conveyance was executed, or was made a matter of record
12 prior to the passage of this act; provided that nothing in this act shall
13 affect pending litigation.

[S., '13, § 3295-b. (Took effect July 4, 1913.)]

Note.—See 35 G. A., ch. 272, § 12; 34 G. A., ch. 157, § 1; 27 G. A., ch. 182, § 1;
18 G. A., ch. 162, § 2.

SEC. 6565. Conveyances by foreign executor.

1 All conveyances of real property made prior to January first,
2 nineteen hundred thirteen, by executors or trustees under foreign
3 wills and prior to the date upon which such will was admitted to pro-
4 bate in Iowa or prior to the expiration of three months after the
5 recording of a duly authenticated copy of such will, original record
6 of appointment, qualification and bond as required by the provisions
7 of section thirty-two hundred ninety-five of the code [code of 1897],
8 and in which such will was subsequent to said conveyance, probated
9 in Iowa or shall hereafter be probated in Iowa, and in which a duly
10 authenticated copy of the will, original record of appointment, qualifi-
11 cation and bond as required by said section thirty-two hundred ninety-
12 five was subsequent to such conveyance, or shall be hereafter made a
13 matter of record as provided in said section thirty-two hundred
14 ninety-five, are hereby legalized and declared as valid and effectual in
15 law and in equity as though such will had been probated in Iowa prior
16 to such conveyance and as though the provisions of said section thirty-
17 two hundred ninety-five had been strictly complied with; provided
18 nothing in this act [35 G. A., ch. 273, § 1] shall affect pending
19 litigation.

[S., '13, § 3295-c. (Took effect July 4, 1913.)]

SEC. 6566. Releases and discharges in re real estate.

1 All releases and discharges of judgments, mortgages or deeds of
2 trust affecting property in this state made prior to January first, nine-
3 teen hundred three, by administrators, executors or guardians ap-
4 pointed by the court of any other state or county without complying
5 with the provisions of section thirty-three hundred eight of the code
6 [code of 1897] are hereby legalized and declared as valid and effective
7 in law and in equity as though the provisions of said section had been

8 strictly followed; provided that nothing in this act [35 G. A., ch. 276,
9 § 1] shall affect pending litigation.

[S., '13, § 3308-a. (Took effect July 4, 1913.)]

SEC. 6567. Certain loans, contracts and mortgages.

1 All loans, contracts, and mortgages which are affected by the
2 repeal of chapter forty-eight, acts of the twenty-seventh general
3 assembly, are hereby legalized so far as to permit recovery to be had
4 thereon for interest at the rate of eight per cent per annum, but at
5 no greater rate, and nothing contained in such contracts shall be con-
6 strued to be usurious so as to work a forfeiture of any penalty to
7 the school fund.

[S., '13, § 1898-b. (Took effect by publication May 4, 1900.)]

SEC. 6568. Descriptions of land referring to defective plats.

1 The description of land in all instruments, conveyances and in-
2 cumbrances describing lots in or referring to plats made by the county
3 auditors of Iowa, or by the county surveyor for the owner, and placed
4 of record by the county recorders of Iowa, are hereby legalized and
5 the same declared valid and binding the same as though the said plats
6 had been signed and acknowledged and filed and recorded in strict
7 compliance with law.

[S., '13, § 924-b. (Took effect by publication March 3, 1907.)]

SEC. 6569. Defective conveyances—tax deeds—sheriffs' deeds.

1 Any deed of conveyance, or other instrument purporting to con-
2 vey real estate within the state of Iowa, where such deed or instru-
3 ment has been recorded in the office of the recorder of any county
4 wherein such real estate is situated, and which said deed or instrument
5 was executed by a county treasurer under a tax sale, a sheriff under
6 execution sale, or by a resident or foreign executor, administrator,
7 referee, receiver, trustee, guardian, commissioner, individual, copart-
8 nership, association or corporation, and was executed and recorded
9 prior to the first day of January A. D. eighteen hundred ninety, and
10 where the grantee or grantees named in such deed or conveyance, or
11 other instrument, his, her, their or its grantees, heirs or devisees, by
12 direct line of title or conveyance have been in the actual, open ad-
13 verse possession of such premises since said date, be and the same
14 is hereby legalized, declared valid, legal, and binding, and of full
15 force and effect, notwithstanding any defects in the execution of said
16 deed or instrument.

[S., '13, § 2963-c. (Took effect by publication April 15,
1913.)]

CHAPTER 4.

CORPORATIONS.

SECTION 6570. Defective publication.

1 Each corporation heretofore incorporated under the laws of the
2 state of Iowa which has caused notice of its incorporation to be pub-
3 lished once each week for four consecutive weeks in some daily, semi-

4 weekly or triweekly newspaper, instead of causing the same to be
 5 published in each issue of such newspaper for four consecutive weeks,
 6 are hereby legalized and are declared legal incorporations the same
 7 as though the law had been complied with in all respects in regard to
 8 the publication of notice.

[S., '13, § 1613-a. (Took effect by publication March 12, 1902.)]

SEC. 6571. Publication after required time.*

1 In all instances where the incorporators of corporations for
 2 pecuniary profit have omitted to publish notice of incorporation within
 3 three months from the date of the certificate of incorporation issued
 4 by the secretary of state, but have published notice thereafter, in
 5 manner and form as by law required, such notices are hereby legal-
 6 ized and shall have the same force and effect as though published
 7 within said period of three months, as to all acts of said corporation
 8 from the date of said completed publication.

[S., '13, § 1614-a. (Took effect July 4, 1909.)]

SEC. 6572. Filing of renewals after required time.

1 In all instances where proper action has been taken prior to Feb-
 2 ruary first, nineteen hundred fifteen, by the stockholders for renewal
 3 of any corporation for pecuniary profit and the certificate showing
 4 such proceedings together with the articles of incorporation have been
 5 filed and recorded in the office of the county recorder and later in the
 6 office of the secretary of state, although there has been failure to file
 7 such certificates and articles of incorporation in either or both of the
 8 said offices within the time specified therefor by law; such renewals
 9 are hereby legalized and shall be held to have the same force and effect
 10 as though the filings of the said documents in the said offices had been
 11 made within the periods prescribed by the statute.

[S. S., '15, § 1618-1a. (Took effect July 4, 1915.)]

SEC. 6573. Notices of incorporation.

1 In all instances where the incorporators of corporations organ-
 2 ized in this state for pecuniary profit have omitted to publish notices
 3 of such incorporation within three months from and after the date of
 4 the certificates of incorporation issued by the secretary of state, but
 5 did publish such notices within three months after the date required
 6 by law in such cases in the manner and form as required by law, such
 7 notices of incorporation are hereby legalized, and shall have the same
 8 force and effect in all respects as though the same had been published
 9 within said three months' period, as provided by section sixteen hun-
 10 dred fourteen of the code [code of 1897] and amendments thereto, and
 11 all the corporate acts of such corporations from and after the date of
 12 such completed publications are hereby legalized in all respects.

[38 G. A., ch. 158, § 1. (Took effect July 4, 1919.)]

SEC. 6574. Notices of incorporation.

1 In all instances where the incorporators of corporations for
 2 pecuniary profit have omitted to publish notice of incorporation within
 3 three months from the date of the certificate of incorporation issued
 4 by the secretary of state, but have published notice thereafter, in
 5 manner and form as by law required, such notices are hereby legalized

6 and shall have the same force and effect as though published within
7 said period of three months, as to all acts of said corporation from
8 the date of said completed publication.

[37 G. A., ch. 96, § 1. (Took effect July 4, 1917.)]

SEC. 6575. Amended articles and change of name.

1 Any corporation so organized [32 G. A., ch. 250] under chapter
2 two of title nine of the code which shall have heretofore adopted
3 articles of incorporation, or changed its name or amended its articles
4 and some question has arisen as to whether such articles, change in
5 name or amendment was adopted by a majority of the members of
6 such corporation as required by section sixteen hundred fifty-one of
7 the code [code of 1897], and such corporation shall have been engaged
8 in the exercise of its corporate functions for the period of at least
9 three years, such articles, change in name or amendment, shall be held
10 and considered to have been duly adopted by a majority of all the
11 members of such corporation, and are hereby legalized and made valid.

[S., '13, § 1642-b. (Took effect by publication April 19,
1907.)]

CHAPTER 5.

CITIES AND TOWNS.

SECTION 6576. Bonds for garbage disposal plants.

1 All proceedings of such cities and towns as herein included, here-
2 tofore had, subsequent to the adoption of section six hundred ninety-
3 six-b by the thirty-sixth general assembly, and prior to the passage
4 of this act [37 G. A., ch. 367], providing for the issuance of bonds
5 within the limitations of this act, for the purchase or erection of
6 garbage disposal plants, the vote of the people authorizing such issue
7 and the bonds issued under such proceedings and vote, are hereby
8 legalized and declared legal and valid, the same as though all of the
9 provisions of this act had been included in said section six hundred
10 ninety-six-b of the 1915 supplemental supplement to the code, and
11 such cities may issue and sell such bonds without again submitting
12 such question to vote.

[37 G. A., ch. 367, § 2. (Took effect by publication May 1,
1917.)]

SEC. 6577. Plats legalized.

1 None of the provisions of this chapter [chapter 13, title 5, C.,
2 '97] shall be construed to require replatting in any case where plats
3 have been made and recorded in pursuance of law; and all plats here-
4 tofore filed for record and not subsequently vacated are hereby de-
5 clared valid, notwithstanding irregularities and omissions in the
6 required statement or plat, or in the manner or form of acknowledg-
7 ment, or certificates thereof.

[C., '73, § 571; C., '97, § 929. (Took effect Oct. 1, 1897.)]

SEC. 6578. City and town plats.

1 In all cases where, prior to January first, eighteen hundred ninety-
2 five, any person, persons or corporations have laid out any parcel of
3 land into town or city lots and the plat or plats thereof have been
4 recorded and the same appears to be insufficient because of failure to
5 show certificates of the county judge, county treasurer or county re-
6 corder, or because said certificates are defective, or because said plat
7 failed to show signatures or acknowledgment of proprietors as pro-
8 vided by law, or because said acknowledgment was defective, and
9 subsequent to such platting, lots or subdivisions thereof have been sold
10 and conveyed, all such said plats which have not been vacated and have
11 been of record for a period of twenty years or more, are hereby legal-
12 ized and made of full force and effect as of the date of the making
13 thereof the same as though all certificates had been attached and all
14 the other necessary steps taken as provided by law, and the record
15 thereof shall be conclusive evidence that the person, persons, firm or
16 corporation were the proprietors of such tract of land and the owners
17 thereof at the time of said platting and that said tract of land was
18 free and clear of all incumbrances unless an affidavit to the contrary
19 was filed at the time of recording such plat. Any person or persons
20 having, or claiming to have any right, title or interest in any platted
21 premises affected by the provisions of this act [37 G. A., ch. 79] and
22 which right, title or interest this act terminates or cuts off or purports
23 to terminate or cut off, shall have six months from the taking effect
24 of this act in which to commence an action, or actions to establish
25 such right, and thereafter shall be barred from claiming any such
26 right, title or interest. The provisions of this act shall not affect
27 pending litigation.

[37 G. A., ch. 79, § 1. (Took effect July 4, 1917.)]

SEC. 6579. Making and recording plats.

1 The acts of the county auditors of Iowa, in making and recording
2 plats as authorized under sections nine hundred twenty-two, nine
3 hundred twenty-three and nine hundred twenty-four of the code [code
4 of 1897] without first having properly signed or acknowledged the
5 same, and the acts of the county recorders of Iowa in recording such
6 plats, are hereby legalized and the same declared valid and binding
7 the same as though they had in such respects been made and recorded
8 in strict compliance with law.

[S., '13, § 924-a. (Took effect by publication March 3, 1907.)]

SEC. 6580. Ordinances and proceedings of council.

1 All acts, motions, proceedings, resolutions and ordinances here-
2 tofore passed or adopted by the council of any city, including cities
3 acting under special charter, and incorporated towns in the state on
4 the supposition that the mayor was not a member of such council, and
5 which would conform to the law if the mayor had not been a member
6 of said council, shall for all purposes from the date of such act, motion,
7 proceeding, resolution or ordinance, be considered as valid and legal
8 as they would have been had the mayor not been a member of
9 such body.

[S., '13, § 658-a. (Took effect by publication March 1, 1902.)]

SEC. 6581. Contracts, elections and ordinances in re libraries.

1 Where cities or incorporated towns and institutions of learning
 2 have established or contracted to establish public libraries to be main-
 3 tained and controlled jointly as contemplated by this act [30 G. A.,
 4 ch. 24], all contracts, elections, ordinances and other proceedings
 5 made, held or passed in the manner provided by law are hereby de-
 6 clared as valid and obligatory upon the parties thereto as though the
 7 same had been made, held or passed after the taking effect of this act.
 [S., '13, § 730-a. (Took effect July 4, 1904.)]

SEC. 6582. Changing names of streets.

WHEREAS, certain cities or towns throughout the state of Iowa have passed ordinances changing the name or names of certain streets in said cities;

1 Now, therefore, it is provided that the acts of said city and town
 2 councils of such cities and towns in enacting said ordinances changing
 3 the names of said certain streets are hereby declared valid. On the
 4 filing for record of the said ordinances, duly certified by the mayor
 5 and city or town clerk, with the county recorder he shall make and
 6 record in the records of his office a plat showing the changes in the
 7 names of the streets and shall file a copy of said plat with the
 8 county auditor.

[34 G. A., ch. 228, § 1. (Took effect by publication March 30, 1911.)]

CHAPTER 6.**BONDS.****SECTION 6583. Refunding bonds.**

1 All bonds which have been heretofore issued under chapter one
 2 hundred fifty-two of the laws of the thirty-second general assembly
 3 of Iowa and which are subject to the objection that they were issued
 4 to refund bonds which had been issued subsequent to the adoption of
 5 said chapter one hundred fifty-two, are hereby legalized in respect to
 6 said objection, the same in effect as if the bonds refunded had been
 7 issued prior to the adoption of said chapter one hundred fifty-two.

[37 G. A., ch. 262, § 2. (Took effect by publication May 2, 1917.)]

SEC. 6584. Drainage bonds.

1 All such drainage districts [38 G. A., ch. 135] heretofore organ-
 2 ized, and assessments levied and confirmed in respect thereof, and
 3 bonds issued in anticipation of the collection of such assessments, are
 4 hereby validated and legalized.

[38 G. A., ch. 135, § 1. (Took effect by publication April 11, 1919.)]

CHAPTER 7.

ELECTIONS.

SECTION 6585. Elections in re school bonds.

1 In all cases where an election has been held in any school district,
2 under the provisions of sections twenty-eight hundred twenty-d-one,
3 twenty-eight hundred twenty-d-two, twenty-eight hundred twenty-d-
4 three, twenty-eight hundred twenty-d-four, and twenty-eight hundred
5 twenty-d-five, supplement to the code, 1913, and a majority of the
6 votes cast, regardless of the sex of the voter, at such election was in
7 favor of the issuance of bonds, such election is hereby declared to be
8 sufficient authorization for the issuance of bonds, and all bonds so
9 authorized, whether heretofore issued or hereafter to be issued, are
10 hereby legalized and validated.

[38 G. A., ch. 134, § 2. (Took effect by publication April 6,
1919.)]

SEC. 6586. Elections in re sites and buildings for counties.

1 The provisions of sections thirty-two hundred forty-three and
2 thirty-two hundred forty-four as here amended [37 G. A., ch. 304]
3 are hereby made retroactive, and shall apply to any election held
4 prior to as well as after with the same effect as if the said amendments
5 had been made prior to the call and holding of such election, and the
6 tax levies and bond issues voted at such prior election are hereby
7 legalized, confirmed and made valid.

[37 G. A., ch. 304, § 3. (Took effect by publication May 1,
1917.)]

TITLE XXVI.

DOMESTIC RELATIONS.

CHAPTER 1.

MARRIAGE.

SECTION 6587. Contract.

1 Marriage is a civil contract, requiring the consent of the parties
2 capable of entering into other contracts, except as herein otherwise
3 declared.

[C., '51, § 1463; R., '60, § 2515; C., '73, § 2185; C., '97,
§ 3139.]

SEC. 6588. Age.

1 A marriage between a male of sixteen and a female of fourteen
2 years of age is valid; but if either party has not attained the age thus
3 fixed, the marriage will be a nullity or not, at the option of such party,
4 made known at any time before he or she is six months older than
5 the age thus fixed.

[C., '51, § 1464; R., '60, § 2516; C., '73, § 2186; C., '97,
§ 3140.]

SEC. 6589. License—consent of parent.

1 Previous to the solemnization of any marriage, a license for that
2 purpose must be obtained from the clerk of the district court of the
3 county wherein the marriage is to be solemnized. Such license must
4 not be granted in any case where either party is under the age neces-
5 sary to render the marriage valid, nor where either party is a minor,
6 without the previous consent of the parents, or the survivor if one be
7 dead, or the guardian of such minor if both parents are dead, nor
8 where either party is disqualified from making any other civil con-
9 tract, nor where the parties are first cousins.

[C., '51, §§ 1465, 1466; R., '60, §§ 2517, 2518; C., '73,
§§ 2187, 2188; C., '97, § 3141; S., '13, § 3141.]

SEC. 6590. Proof of age—record.

1 Unless the clerk is acquainted with the age and qualification of
2 the parties for the marriage of whom the license is asked, he must
3 take the testimony of competent and disinterested witnesses on the
4 subject. He must make an entry of each application made for the
5 issuance of a license, stating that he was acquainted with the parties
6 and knew them to be competent to contract a marriage, or that the
7 requisite proof of such fact was made to him by one or more witnesses
8 named, in a book kept for that purpose, which shall constitute a part
9 of the records of his office.

[C., '51, §§ 1467, 1468; R., '60, §§ 2519, 2520; C., '73,
§§ 2189, 2190; C., '97, § 3142.]

SEC. 6591. Proof of consent of parent.

1 If either applicant for a license is a minor, a certificate in writ-
 2 ing of the parents or guardian, as the case may be, of consent, as pro-
 3 vided in the second preceding section, must be filed in the office of the
 4 clerk, and be acknowledged by them or proven to be genuine, and a
 5 memorandum thereof entered in the license book. The false making
 6 of such certificate shall be punishable as forgery.

[C., '51, § 1469; R., '60, § 2521; C., '73, § 2191; C., '97,
 § 3143.]

SEC. 6592. Penalty.

1 If the clerk issues a license in violation of the provisions of the
 2 preceding section, or if a marriage is solemnized without its being
 3 procured, the clerk so issuing the same, and the parties married, and
 4 all persons aiding them, are guilty of a misdemeanor.

[C., '51, § 1470; R., '60, § 2522; C., '73, § 2192; C., '97,
 § 3144.]

SEC. 6593. Who may solemnize.

1 Marriages must be solemnized:

2 1. By a justice of the peace, or the mayor of the city or town
 3 wherein the marriage takes place.

4 2. By some judge of the supreme, district, superior or municipal
 5 court of the state.

6 3. By some minister of the gospel, ordained or licensed according
 7 to the usages of his denomination.

8 4. By the United States government superintendent of any Indian
 9 agency where the contracting parties are members of an Indian tribe
 10 under the supervision of such superintendent, and for such marriages
 11 no license shall be required but the return of such marriage shall be
 12 made to the clerk of the district court as required in the following
 13 section, by such superintendent.

[C., '51, § 1472; R., '60, § 2524; C., '73, § 2193; C., '97,
 § 3145; 37 G. A., ch. 36, § 1; 37 G. A., ch. 313, § 1.]

SEC. 6594. Forfeiture.

1 Marriages solemnized, with the consent of parties, in any other
 2 manner than as herein prescribed, are valid; but the parties thereto,
 3 and all persons aiding or abetting them, shall forfeit to the school fund
 4 the sum of fifty dollars each; but this shall not apply to the person
 5 conducting the marriage ceremony, if within fifteen days thereafter
 6 he makes the required return to the clerk of the district court.

[C., '51, §§ 1474, 1475; R., '60, §§ 2526, 2527; C., '73,
 §§ 2195, 2196; C., '97, § 3147; S., '13, § 3147.]

SEC. 6595. Fee.

1 Any person authorized to solemnize marriage may charge two
 2 dollars in each case for officiating and making return.

[C., '51, § 2551; R., '60, § 4159; C., '73, § 3828; C., '97,
 § 3152.]

SEC. 6596. Certificate—return—record.

1 After the marriage has been solemnized, the officiating minister
 2 or magistrate shall give each of the parties a certificate, and make

3 return thereof within fifteen days to the clerk of the district court,
4 who shall record the same in the book required to be kept in chapter
5 eleven, title six.

[C., '51, §§ 1473, 1476; R., '60, §§ 2525, 2528; C., '73,
§§ 2194, 2197; C., '97, § 3146; S., '13, § 3146.]

SEC. 6597. Husband responsible for return.

1 When a marriage is consummated without the services of a
2 clergyman or magistrate, the required return thereof shall be made
3 to the clerk by the husband.

[C., '51, § 1478; R., '60, § 2530; C., '73, § 2199; C., '97,
§ 3149.]

SEC. 6598. Peculiar mode.

1 The provisions of this chapter, so far as they relate to procuring
2 licenses and to the solemnizing of marriages, are not applicable to
3 members of any particular denomination having, as such, any peculiar
4 mode of entering the marriage relation.

[C., '51, § 1477; R., '60, § 2529; C., '73, § 2198; C., '97,
§ 3148.]

SEC. 6599. Issue legitimized.

1 Illegitimate children become legitimate by the subsequent mar-
2 riage of their parents.

[C., '51, § 1479; R., '60, § 2531; C., '73, § 2200; C., '97,
§ 3150.]

SEC. 6600. Void marriages.

1 A marriage between persons prohibited by law, or between per-
2 sons either of whom has a husband or wife living, is void; but, if the
3 parties live and cohabit together after the death or divorce of the
4 former husband or wife, such marriage shall be valid.

[C., '73, § 2201; C., '97, § 3151.]

CHAPTER 2.

HUSBAND AND WIFE.

SECTION 6601. Property rights of married women.

1 A married woman may own in her own right real and personal
2 property, acquired by descent, gift or purchase, and manage, sell and
3 convey the same, and dispose thereof by will, to the same extent and
4 in the same manner the husband can property belonging to him.

[C., '73, § 2202; C., '97, § 3153.]

SEC. 6602. Interest of either spouse in other's property.

1 When property is owned by the husband or wife, the other has
2 no interest therein which can be the subject of contract between
3 them, nor such interest as will make the same liable for the contracts

4 or liabilities of the one not the owner of the property, except as pro-
5 vided in this chapter.

[C., '73, § 2203; C., '97, § 3154.]

SEC. 6603. Remedy by one against the other.

1 Should the husband or wife obtain possession or control of prop-
2 erty belonging to the other before or after marriage, the owner of
3 the property may maintain an action therefor, or for any right grow-
4 ing out of the same, in the same manner and extent as if they were
5 unmarried.

[C., '73, § 2204; C., '97, § 3155.]

SEC. 6604. Conveyances to each other valid.

1 A conveyance, transfer or lien, executed by either husband or
2 wife to or in favor of the other, shall be valid to the same extent as
3 between other persons.

[C., '73, § 2206; C., '97, § 3157.]

SEC. 6605. Attorney in fact.

1 A husband or wife may constitute the other his or her attorney
2 in fact, to control and dispose of his or her property for their mutual
3 benefit, and may revoke the appointment, the same as other persons.

[C., '73, § 2210; C., '97, § 3161.]

SEC. 6606. Insanity of either spouse—conveyance of property.

1 Where either the husband or wife is insane and incapable of
2 executing a deed or mortgage relinquishing, conveying or incumber-
3 ing his or her right to the real property of the other, the other may
4 petition the district court of the county of his or her residence or the
5 county where the real estate to be conveyed or incumbered is situated,
6 setting forth the facts and praying for an order authorizing the appli-
7 cant or some other person to execute a deed or mortgage and relin-
8 quish or incur the interest of the insane person in said real estate.

[R., '60, § 1500; C., '73, § 2216; C., '97, § 3167; S., '13,
§ 3167.]

SEC. 6607. Proceedings.

1 The petition shall be verified by the petitioner, and filed in the
2 office of the clerk of the district court of the proper county, notice of
3 which shall be given as in other cases. Upon completed service, the
4 court shall appoint some responsible attorney thereof guardian for
5 the person alleged to be insane, who shall ascertain the propriety, good
6 faith and necessity of the prayer of the petitioner, and may resist the
7 application by making any legal or equitable defense thereto, and he
8 shall be allowed by the court a reasonable compensation to be paid as
9 the other costs.

[R., '60, § 1501; C., '73, § 2217; C., '97, § 3168.]

SEC. 6608. Decree.

1 Upon the hearing of the petition the court, if satisfied that it is
2 made in good faith by the petitioner and he is a proper person to exer-
3 cise the power and make the conveyance or mortgage and it is neces-
4 sary and proper, shall enter a decree authorizing the execution of the

5 conveyance or mortgage for and in the name of such husband or wife
6 by such person as the court may appoint.

[R., '60, § 1502; C., '73, § 2218; C., '97, § 3169; S., '13,
§ 3169.]

SEC. 6609. Conveyances—revocation.

1 All deeds executed as provided in this chapter shall convey the
2 interest of such insane person in the real estate described, but such
3 power shall cease and be revoked as soon as he or she shall become of
4 sound mind and apply to the court therefor, but such revocation shall
5 not affect conveyances previously made.

[R., '60, § 1503; C., '73, § 2219; C., '97, § 3170.]

SEC. 6610. Abandonment of either—proceedings.

1 In case the husband or wife abandons the other for one year, or
2 leaves the state and is absent therefrom for such term, without pro-
3 viding for the maintenance and support of his or her family, or is
4 confined in jail or the penitentiary for such period, the district court
5 of the county where the abandoned party resides may, on application
6 by petition setting forth the facts, authorize the applicant to manage,
7 control, sell and incumber the property of the guilty party for the
8 support and maintenance of the family and for the purpose of paying
9 debts. Notice of such proceedings shall be given as in ordinary ac-
10 tions, and anything done under or by virtue of the order or decree of
11 the court shall be valid to the same extent as if the same was done by
12 the party owning the property.

[C., '51, §§ 1456-1459, 1461; R., '60, §§ 2508-2511, 2513;
C., '73, § 2207; C., '97, § 3158.]

SEC. 6611. Contracts and sales binding.

1 All contracts, sales or incumbrances made by either husband or
2 wife under the provisions of the preceding section shall be binding on
3 both, and during such absence or confinement the person acting under
4 such power may sue and be sued thereon, and for all acts done the
5 property of both shall be liable, and execution may be levied or attach-
6 ment issued accordingly. No action or proceeding shall abate or be
7 affected by the return or release of the person absent or confined, but
8 he or she may be permitted to prosecute or defend jointly with
9 the other.

[C., '73, § 2208; C., '97, § 3159.]

SEC. 6612. Decree set aside.

1 The husband or wife affected by the proceedings contemplated in
2 the two preceding sections may obtain an annulment thereof, upon
3 filing a petition therefor and serving a notice on the person in whose
4 favor the same was granted, as in ordinary actions; but the setting
5 aside of such decree or order shall not affect any act done thereunder.

[C., '51, § 1460; R., '60, § 2512; C., '73, § 2209; C., '97,
§ 3160.]

SEC. 6613. Family expenses.

1 The reasonable and necessary expenses of the family and the edu-
2 cation of the children are chargeable upon the property of both hus-

3 band and wife, or either of them, and in relation thereto they may be
4 sued jointly or separately.

[C., '51, § 1455; R., '60, § 2507; C., '73, § 2214; C., '97,
§ 3165; S., '13, § 3165.]

SEC. 6614. Custody of children.

1 If the husband abandons the wife she is entitled to the custody
2 of the minor children, unless the district court, upon application for
3 that purpose, shall otherwise direct.

[C., '51, § 1462; R., '60, § 2514; C., '73, § 2215; C., '97,
§ 3166.]

SEC. 6615. Wages of wife—actions by.

1 A wife may receive the wages for her personal labor, and main-
2 tain an action therefor in her own name, and hold the same in her
3 own right, and may prosecute and defend all actions for the preserva-
4 tion and protection of her rights and property, as if unmarried.

[C., '73, § 2211; C., '97, § 3162.]

SEC. 6616. Liability for separate debts.

1 Neither husband nor wife is liable for the debts or liabilities of
2 the other incurred before marriage, and, except as herein otherwise
3 declared, they are not liable for the debts of each other contracted
4 after marriage; nor are the wages, earnings or property of either,
5 nor is the rent or income of the property of either, liable for the sep-
6 arate debts of the other.

[C., '51, § 1453; R., '60, § 2505; C., '73, § 2212; C., '97,
§ 3163.]

SEC. 6617. Contracts of wife.

1 Contracts may be made by a wife and liabilities incurred, and
2 the same enforced by or against her, to the same extent and in the
3 same manner as if she were unmarried.

[C., '51, § 1454; R., '60, § 2506; C., '73, § 2213; C., '97,
§ 3164.]

SEC. 6618. Husband not liable for wife's torts.

1 For civil injuries committed by a married woman, damages may
2 be recovered from her alone, and her husband shall not be liable there-
3 for, except in cases where he would be jointly liable with her if the
4 marriage did not exist.

[C., '73, § 2205; C., '97, § 3156.]

CHAPTER 3.

DIVORCE AND ANNULMENT OF MARRIAGES.

SECTION 6619. Jurisdiction.

1 The district court in the county where either party resides has
2 jurisdiction of the subject matter of this chapter.

[C., '51, § 1480; R., '60, § 2532; C., '73, § 2220; C., '97,
§ 3171.]

SEC. 6620. Kind of action.

1 An action for a divorce shall be by equitable proceedings, and no
2 cause of action, save for alimony, shall be joined therewith.

[R., '60, § 4184; C., '73, § 2511; C., '97, § 3430.]

SEC. 6621. Petition.

1 Except where the defendant is a resident of this state, served by
2 personal service, the petition for divorce, in addition to the facts on
3 account of which the plaintiff claims the relief sought, must state that
4 the plaintiff has been for the last year a resident of the state, speci-
5 fying the township and county in which he or she has resided, and
6 the length of such residence therein after deducting all absences from
7 the state; that it has been in good faith and not for the purpose of
8 obtaining a divorce only; and in all cases it must be alleged that the
9 application is made in good faith and for the purpose set forth in the
10 petition.

[C., '51, § 1481; R., '60, § 2533; C., '73, § 2221; C., '97,
§ 3172.]

SEC. 6622. Verification—evidence—hearing.

1 The petition must be verified by the plaintiff, and its allegations
2 established by competent evidence. If the averments as to residence
3 are not fully proved, the hearing shall proceed no further, and the
4 action be dismissed by the court; and no divorce shall be granted on
5 the testimony of the plaintiff alone. All such actions shall be heard
6 in open court upon the oral testimony of witnesses, or depositions
7 taken as in other equitable actions or by a commissioner appointed
8 by the court.

[C., '51, § 1481; R., '60, § 2533; C., '73, § 2222; C., '97,
§ 3173.]

SEC. 6623. Causes.

1 Divorces from the bonds of matrimony may be decreed against
2 the husband for the following causes:

- 3 1. When he has committed adultery subsequent to the marriage.
- 4 2. When he wilfully deserts his wife and absents himself without
5 a reasonable cause for the space of two years.
- 6 3. When he is convicted of a felony after the marriage.
- 7 4. When after marriage he becomes addicted to habitual drunk-
8 enness.
- 9 5. When he is guilty of such inhuman treatment as to endanger
10 the life of his wife.

[C., '51, § 1482; R., '60, § 2534; C., '73, § 2223; C., '97,
§ 3174.]

SEC. 6624. Husband from wife.

1 The husband may obtain a divorce from the wife for like cause,
2 and also when the wife at the time of the marriage was pregnant by
3 another than the husband, of which he had no knowledge, unless such
4 husband had an illegitimate child or children then living, which at the
5 time of the marriage was unknown to the wife.

[C., '51, § 1483; R., '60, § 2535; C., '73, § 2224; C., '97,
§ 3175.]

SEC. 6625. Cross petition.

1 The defendant upon a cross petition may obtain a divorce for
 2 either of the causes stated in the second preceding section, and if the
 3 husband is defendant he may, in addition to those causes, have a like
 4 decree for the cause stated in the last section.

[C., '73, § 2225; C., '97, § 3176.]

SEC. 6626. Maintenance during litigation.

1 The court may order either party to pay the clerk a sum of money
 2 for the separate support and maintenance of the adverse party and
 3 the children, and to enable such party to prosecute or defend the action.

[C., '73, § 2226; C., '97, § 3177.]

SEC. 6627. Attachment.

1 The petition may be presented to the court or judge for the allow-
 2 ance of an order of attachment, who, by indorsement thereon, may
 3 direct such attachment and fix the amount for which it may issue,
 4 and the amount of the bond, if any, that shall be given. Any property
 5 taken by virtue thereof shall be held to satisfy the judgment or decree
 6 of the court, but may be discharged or released as in other cases.

[C., '73, § 2227; C., '97, § 3178.]

SEC. 6628. Showing.

1 In making such orders, the court or judge shall take into con-
 2 sideration the age and sex of the plaintiff, the physical and pecuniary
 3 condition of the parties, and such other matters as are pertinent,
 4 which may be shown by affidavits, in addition to the pleadings or oth-
 5 erwise, as the court or judge may direct.

[C., '73, § 2228; C., '97, § 3179.]

SEC. 6629. Alimony—custody of children—changes.

1 When a divorce is decreed, the court may make such order in
 2 relation to the children, property, parties, and the maintenance of
 3 the parties as shall be right. Subsequent changes may be made by
 4 it in these respects, when circumstances render them expedient.

[C., '51, § 1485; R., '60, § 2537; C., '73, § 2229; C., '97,
 § 3180.]

SEC. 6630. Forfeiture of rights.

1 When a divorce is decreed the guilty party forfeits all rights ac-
 2 quired by marriage. In every case in which a divorce is decreed,
 3 neither party shall marry again within a year from the date of the
 4 filing of said decree unless permission to do so is granted by the court
 5 in such decree; provided, however, that nothing herein contained shall
 6 prevent the persons divorced from remarrying each other. Any per-
 7 son marrying contrary to the provisions of this section shall be deemed
 8 guilty of a misdemeanor and punished accordingly.

[C., '51, § 1486; C., '73, § 2230; C., '97, § 3181; S., '13,
 § 3181.]

SEC. 6631. Annuling illegal marriages—causes.

1 Marriage may be annulled for the following causes:
 2 1. Where the marriage between the parties is prohibited by law.

- 3 2. Where either party was impotent at the time of marriage.
 4 3. Where either party had a husband or wife living at the time
 5 of the marriage, provided they have not, with a knowledge of such
 6 fact, lived and cohabited together after the death of the former spouse
 7 of such party.
 8 4. Where either party was insane or idiotic at the time of the
 9 marriage.

[C., '73, § 2231; C., '97, § 3182.]

SEC. 6632. Petition.

- 1 A petition shall be filed in such cases as in actions for divorce,
 2 and all the provisions of this chapter in relation thereto shall apply
 3 to such cases, except as otherwise provided.

[C., '73, § 2232; C., '97, § 3183.]

SEC 6633. Validity determined.

- 1 When the validity of a marriage is doubted, either party may file
 2 a petition, and the court shall decree it annulled or affirmed according
 3 to the proof.

[C., '73, § 2233; C., '97, § 3184.]

SEC. 6634. Children—legitimacy.

- 1 When a marriage is annulled on account of the consanguinity or
 2 affinity of the parties, the issue shall be illegitimate; if because of the
 3 impotency of the husband, any issue of the wife shall be illegitimate;
 4 but when on account of nonage, insanity or idiocy, the issue will be
 5 legitimate as to the party capable of contracting the marriage.

[C., '73, § 2234; C., '97, § 3185.]

SEC. 6635. Prior marriage.

- 1 When a marriage is annulled on account of a prior marriage and
 2 the parties contracted the second marriage in good faith, believing
 3 the prior husband or wife to be dead, that fact shall be stated in the
 4 decree of nullity, and the issue of the second marriage begotten before
 5 the decree of the court will be the legitimate issue of the parent ca-
 6 pable of contracting.

[C., '73, § 2235; C., '97, § 3186.]

SEC. 6636. Alimony.

- 1 In case either party entered into the contract of marriage in good
 2 faith, supposing the other to be capable of contracting, and the mar-
 3 riage is declared a nullity, such fact shall be entered in the decree,
 4 and the court may decree such innocent party compensation as in cases
 5 of divorce.

[C., '73, § 2236; C., '97, § 3187.]

CHAPTER 4.

MINORS.

SECTION 6637. Majority.

1 The period of minority extends in males to the age of twenty-one
 2 years, and in females to that of eighteen years; but all minors attain
 3 their majority by marriage.

[C., '51, § 1487; R., '60, § 2539; C., '73, § 2237; C., '97,
 § 3188.]

SEC. 6638. Contracts—disaffirmance.

1 A minor is bound not only by contracts for necessaries, but also
 2 by his other contracts, unless he disaffirms them within a reasonable
 3 time after he attains his majority, and restores to the other party all
 4 money or property received by him by virtue of the contract, and
 5 remaining within his control at any time after his attaining his ma-
 6 jority, except as otherwise provided.

[C., '51, § 1488; R., '60, § 2540; C., '73, § 2238; C., '97,
 § 3187.]

SEC. 6639. Misrepresentations—engaging in business.

1 No contract can be thus disaffirmed in cases where, on account
 2 of the minor's own misrepresentations as to his majority, or from his
 3 having engaged in business as an adult, the other party had good rea-
 4 son to believe him capable of contracting.

[C., '51, § 1489; R., '60, § 2541; C., '73, § 2239; C., '97,
 § 3190.]

SEC. 6640. Payments.

1 Where a contract for the personal services of a minor has been
 2 made with him alone, and the services are afterwards performed,
 3 payment therefor made to him, in accordance with the terms of the
 4 contract, is a full satisfaction therefor, and the parent or guardian
 5 can not recover a second time.

[C., '51, § 1490; R., '60, § 2542; C., '73, § 2240; C., '97,
 § 3191.]

CHAPTER 5.

GUARDIANSHIP.

SECTION 6641. Natural guardian.

1 Parents are the natural guardians of the persons of their minor
 2 children, and equally entitled to their care and custody.

[C., '51, § 1491; R., '60, § 2543; C., '73, § 2241; C., '97,
 § 3192.]

SEC. 6642. Surviving parent—guardian of the person.

1 The surviving parent becomes such guardian, but, if there is none,
 2 the district court shall appoint one, who shall have the same power
 3 and control over his ward as the parents would have, if living.

[C., '51, §§ 1492, 1498; R., '60, §§ 2544, 2550; C., '73, §§ 2242,
 2249; C., '97, § 3193.]

SEC. 6643. Of property.

1 If a minor owns property, a guardian must be appointed to man-
2 age the same.

[C., '51, §§ 1493, 1494; R., '60, §§ 2545, 2546; C., '73, § 2243;
C., '97, § 3194.]

SEC. 6644. Minor may choose.

1 A minor over fourteen years of age, of sound mind, may select
2 the guardian, subject to approval by the district court, or a judge
3 thereof, of the county in which his parents reside, if living with them,
4 if not, of the county of his residence.

[C., '51, § 1495; R., '60, § 2547; C., '73, § 2244; C., '97,
§ 3195.]

SEC. 6645. Bond and oath.

1 Guardians appointed to take charge of the property of a minor
2 must give bond, with surety to be approved by the court or clerk, in
3 a penalty double the value of the personal estate and of the rents and
4 profits of the real estate of the minor, conditioned for the faithful
5 discharge of their duties as such guardians according to law, and take
6 an oath of the same tenor as the condition of the bond, provided that
7 in cases where an approved surety company's bond is furnished said
8 bond may be fixed in a lesser amount, but in no case less than the
9 actual value of the present estate, and the rents and profits of the real
10 estate, with twenty-five per centum added thereto. The court, or a
11 judge thereof, may also require a bond to be given by the guardian
12 of the persons of minors, with like conditions.

[C., '51, § 1496; R., '60, § 2548; C., '73, § 2246; C., '97, § 3197;
38 G. A., ch. 130, § 1.]

SEC. 6646. Inventory and appraisalment.

1 Guardians, within fifteen days after their appointment, must
2 make out an inventory of all the property of the minor, which shall
3 be appraised in the same manner as the property of a deceased person,
4 and filed in the office of the clerk of the district court.

[C., '51, § 1497; R., '60, § 2549; C., '73, § 2248; C., '97,
§ 3199.]

SEC. 6647. Duties.

1 Guardians of the property of minors must prosecute and defend
2 for their wards, may employ counsel therefor, lease lands, loan money,
3 and in all other respects manage their affairs, under proper orders of
4 the court or a judge thereof.

[C., '51, § 1499; R., '60, § 2551; C., '73, § 2250; C., '97,
§ 3200.]

SEC. 6648. Suits by guardians.

1 Any guardian may sue in his own name, describing himself as
2 guardian of the ward for whom he sues; and when his guardianship
3 shall cease by his death, removal or otherwise, or by the decease of
4 his ward, any action or proceeding then pending shall not abate, but
5 his successor, or the person for whom he was guardian, or the executor

6 or administrator of such person, as the case may require, shall be
7 substituted or joined as party thereto.

[R., '60, § 1452; C., '73, § 2275; C., '97, § 3224.]

SEC. 6649. Power of court and guardian.

1 The guardian and court making the appointment have power and
2 authority over any property of the minor, situated or being in any
3 other county, to the same extent as if it was situated in the county
4 where the appointment was made; but, if an order is made by such
5 court affecting the title of lands lying in another county, a certified
6 copy of such order, and of all the papers on which it is founded, shall
7 be transmitted to the clerk of the district court in the county where
8 such lands are situated, who shall enter the same on the proper docket,
9 index, and make a complete record thereof, in the same manner as if
10 the cause in which the order is made had been commenced in his court.

[C., '73, § 2245; C., '97, § 3196.]

SEC. 6650. Guardian to complete contracts.

1 The guardian of any person contemplated in this and the two
2 following chapters providing for the appointment of guardians, wheth-
3 er appointed by a court in this state or elsewhere, may complete the
4 real contracts of his ward, or any authorized contracts of a guardian
5 who has died or been removed, in the same manner and by like pro-
6 ceedings as the real contracts of one deceased may be, under an order
7 of court, performed by his executor or administrator.

[R., '60, § 1454; C., '73, § 2277; C., '97, § 3226.]

SEC. 6651. Property sold.

1 When not in violation of the terms of a will by which a minor
2 holds his real property, it may, upon application by the guardian to,
3 and under the direction of, the district court or judge, be sold or mort-
4 gaged, when such sale or mortgage is necessary for the minor's sup-
5 port or education, or where his interest will be thereby promoted by
6 reason of the unproductiveness of the property, or of its being exposed
7 to waste, or of any other peculiar circumstances.

[C., '51, § 1500; R., '60, § 2552; C., '73, § 2257; C., '97,
§ 3206.]

SEC. 6652. Petition—notice.

1 The petition for that purpose must state the grounds thereof, be
2 verified by oath, and a copy thereof, with a notice of the time at which
3 such application will be made to the court or judge, must be served
4 personally upon the minor at least ten days prior to the time fixed
5 for such application.

[C., '51, § 1501; R., '60, § 2553; C., '73, § 2258; C., '97,
§ 3207.]

SEC. 6653. Postponement and publication—reference.

1 The court in its discretion, or the judge thereof, may direct a
2 postponement of the matter, and order such further notice, by publi-
3 cation through the newspapers or otherwise, as may be expedient, and

4 may direct a reference for the purpose of ascertaining the propriety
5 of ordering the sale or mortgage applied for.

[C., '51, §§ 1502, 1503; R., '60, §§ 2554, 2555; C., '73, §§ 2259,
2260; C., '97, § 3208.]

SEC. 6654. Bond.

1 Before any such sale or mortgage can be executed, the guardian
2 must give security to the satisfaction of the court or judge, the penalty
3 of which shall be at least double the value of the property to be sold
4 or of the money to be raised by the mortgage, conditioned that he will
5 faithfully account for and apply all money received by him, by virtue
6 of such sale or mortgage, under the direction of the court or judge.

[C., '51, § 1504; R., '60, § 2556; C., '73, § 2261; C., '97,
§ 3209.]

SEC. 6655. Costs.

1 When the application for the sale or mortgage of property is re-
2 sisted, the court may, in its discretion, award costs to the prevailing
3 party, and, when satisfied that there was no reasonable ground for
4 making it, may direct the costs to be paid by the guardian from his
5 own funds.

[C., '51, § 1505; R., '60, § 2557; C., '73, § 2262; C., '97,
§ 3210.]

SEC. 6656. Deeds—approval.

1 Deeds may be made by the guardian in his own name, but must
2 be returned to the court, and the sale or mortgage be approved, before
3 the same are valid.

[C., '51, § 1506; R., '60, § 2558; C., '73, § 2263; C., '97,
§ 3211.]

SEC. 6657. Evidence—limitation.

1 The rule prescribed in the sale of real property by executors shall
2 be observed in relation to the evidence necessary to show the regu-
3 larity and validity of the sales of guardians; and no person can ques-
4 tion the validity of any such sale after the lapse of five years from
5 the time it was made.

[C., '51, §§ 1507, 1508; R., '60, §§ 2559, 2560; C., '73, §§ 2264,
2265; C., '97, § 3212.]

SEC. 6658. Account.

1 All guardians are required to render an account to the district
2 court, at least once each year, of all moneys or other property in their
3 possession, with all interest which may have accrued on money loaned,
4 belonging to their wards.

[R., '60, § 2568; C., '73, § 2254; C., '97, § 3203.]

SEC. 6659. Penalty.

1 In case any guardian shall fail to make such report within the
2 time above specified, he shall forfeit and pay into the county treasury
3 the sum of fifty dollars, and such failure shall be ground for his
4 removal.

[R., '60, § 2569; C., '73, § 2255; C., '97, § 3204.]

SEC. 6660. Compensation.

1 Guardians shall receive such compensation as the court may from
 2 time to time allow, the amount and the service for which it was made
 3 being entered upon the records of the court.

[C., '51, § 1515; R., '60, § 2567; C., '73, § 2256; C., '97,
 § 3205.]

SEC. 6661. Breach of bond—new guardian.

1 A failure to comply with any order of the court or a judge thereof
 2 in relation to guardianships shall be ground for removal, and a breach
 3 of the guardian's bond; and the court or judge may appoint a new
 4 guardian, if necessary, and require his predecessor to deliver to the
 5 person entitled thereto, within a time fixed by the court or judge, the
 6 effects of such ward then in the hands of said predecessor, and may
 7 commit him to jail until he complies with such order. Action for the
 8 breach of such bond may be brought by anyone aggrieved thereby, or
 9 by such new guardian, and, if property is not delivered in accordance
 10 with such order, the guardian removed shall, in addition to any other
 11 remedy, be subject to a penalty, for the benefit of the ward's estate,
 12 of one hundred dollars, to be recovered in an action on his bond.

[C., '51, §§ 1509, 1511; R., '60, §§ 2561, 2563; C., '73, §§ 2251,
 2252; C., '97, § 3201.]

SEC. 6662. Removal—new bond.

1 Guardians may, upon notice given them, be removed by the court
 2 at any time for cause, which must be entered of record; and new or
 3 additional bonds may be required, if it finds the same necessary for
 4 the protection of the estate.

[C., '51, § 1510; R., '60, § 2562; C., '73, § 2247; C., '97,
 § 3198.]

SEC. 6663. Nonresident minors.

1 A guardian may be appointed for a nonresident minor, idiot,
 2 lunatic or person of unsound mind, who has property in this state,
 3 on application to the district court or judge of the county in which
 4 such property or any part thereof may be, who shall qualify in the
 5 same manner, have the same powers, and be subject to the same rules,
 6 as guardians of resident minors.

[C., '73, § 2253; C., '97, § 3202.]

CHAPTER 6.**FOREIGN GUARDIANS.****SECTION 6664. Property in this state.**

1 The foreign guardian of any nonresident minor, idiot, lunatic or
 2 person of unsound mind may be appointed the guardian of the prop-
 3 erty of such person in this state by the district court, or judge thereof,
 4 of the county wherein he has any property, for the purpose of selling,
 5 mortgaging or otherwise controlling that and all other property of

6 such person within the state, unless a guardian has previously been
7 appointed.

[C., '51, § 1512; R., '60, § 2564; C., '73, § 2266; C., '97,
§ 3213.]

SEC. 6665. Appointment—qualifying.

1 Such appointment may be made upon his filing with the clerk of
2 the district court of the county wherein there is any such property
3 an authenticated copy of the order for his appointment. He shall
4 thereupon qualify like other guardians, except as provided in the next
5 section.

[C., '51, § 1513; R., '60, § 2565; C., '73, § 2267; C., '97,
§ 3214.]

SEC. 6666. Bond.

1 Upon the filing of an authenticated copy of the bond and inven-
2 tory filed by the guardian in a foreign state, if the court or judge is
3 satisfied with the sufficiency and the amount of the security, it may
4 dispense with the filing of an additional bond.

[C., '51, § 1514; R., '60, § 2566; C., '73, § 2268; C., '97,
§ 3215.]

SEC. 6667. Personal property.

1 Foreign guardians of nonresidents may be authorized by the dis-
2 trict court, or judge thereof, of the county wherein such ward has
3 personal property, to receive the same upon complying with the pro-
4 visions of the following sections.

[C., '73, § 2269; C., '97, § 3216.]

SEC. 6668. Copy of bond.

1 Such foreign guardian shall file in the office of the clerk of the
2 district court, in the county where the property is situated, a certified
3 copy of his official bond, duly authenticated by the court granting the
4 letters of guardianship, and shall also execute a receipt for the prop-
5 erty received by him.

[C., '73, § 2270; C., '97, § 3217.]

SEC. 6669. Order of court.

1 Upon the filing of the bond as above provided, and the court or
2 judge being satisfied with the amount thereof, it shall order the per-
3 sonal property of the minor to be delivered to the guardian, and the
4 clerk shall spread the bonds and receipt upon the records, and notify
5 by mail the court granting the letters of guardianship of the amount
6 of property allowed to the guardian, and the date of the delivery
7 thereof.

[C., '73, § 2271; C., '97, § 3218.]

CHAPTER 7.

GUARDIANS FOR DRUNKARDS, SPENDTHRIFTS AND LUNATICS.

SECTION 6670. Guardians of.

1 When a petition, verified by affidavit, is presented to the district
2 court that any inhabitant of the county is:

- 3 1. An idiot, lunatic or person of unsound mind.
 4 2. An habitual drunkard, incapable of managing his affairs.
 5 3. A spendthrift who is squandering his property.
 6 And the allegations of the petition are satisfactorily proved upon
 7 the trial provided for in the following section, the court may appoint
 8 a guardian of the property of such person, who shall be the guardian
 9 of the minor children of his ward, unless the court otherwise orders;
 10 and if such person is an habitual drunkard the court may appoint a
 11 guardian of his person, whether he has any estate or not.
 [R., '60, § 1449; C., '73, § 2272; C., '97, § 3219.]

SEC. 6671. Petition—trial.

- 1 Such petition shall set forth, as particularly as may be, the facts
 2 upon which the application is based, and shall be answered as in other
 3 ordinary actions, all the rules of which shall govern so far as applicable
 4 and not otherwise provided in this chapter. The applicant shall be
 5 plaintiff and the other party defendant, and either party may have a
 6 trial by jury. The petition may be presented to the judge, who may
 7 appoint a temporary guardian.
 [C., '73, § 2273; C., '97, § 3220.]

SEC. 6672. Termination of guardianship.

- 1 At any time, not less than six months after the appointment of
 2 such guardian, the person under guardianship may apply to the court,
 3 or any judge thereof, by petition, alleging that he is no longer a proper
 4 subject thereof, and asking that the guardianship be terminated. No-
 5 tice of such petition shall be served upon the guardian in such manner
 6 and for such length of time as the court or judge may direct, requiring
 7 the guardian to answer the same at or before a time fixed therein.
 8 If the guardian shall file an answer denying the allegations of the
 9 petition, the court or judge shall try the issue, unless the petitioner
 10 demand a jury trial, in which case the issue shall be tried by a jury
 11 as soon as practicable, and the costs paid by the ward, unless judg-
 12 ment terminating the guardianship is rendered, and a finding is made
 13 that the guardian resisted the petition therefor without reasonable
 14 cause, in which event the costs or any part thereof may be taxed
 15 against him. If any petition for terminating such guardianship shall
 16 be denied, no other petition shall be filed therefor until at least four
 17 months shall have elapsed since the denial of the former one.
 [C., '97, § 3222.]

SEC. 6673. Provisions made applicable.

- 1 The provisions of this and the two preceding chapters, and all
 2 other laws relating to guardians for minors, and regulating or pre-
 3 scribing the powers, duties or liabilities of each, and of the court or
 4 judge thereof, so far as the same are applicable, shall apply to guard-
 5 ians and their wards appointed under the fourth preceding section
 6 of this chapter.
 [R., '60, § 1451; C., '73, § 2274; C., '97, § 3223.]

SEC. 6674. Real estate sold—allowance to family.

- 1 Whenever the sale or mortgage of the real estate of such ward
 2 is necessary for his support or for the support of his family or the
 3 payment of his debts, or will be for the interest of the estate or his

4 children, the guardian may sell or mortgage the same under like pro-
 5 ceedings as required by law to authorize the sale of real estate by the
 6 guardian of the minor. The court shall, if necessary, set off to the
 7 wife and minor children of the insane person, or to either, sufficient
 8 of his property, of such kind as it shall deem appropriate, to support
 9 them during the period such person is insane.

[R., '60, § 1453; C., '73, § 2276; C., '97, § 3225; S., '13,
 § 3225.]

SEC. 6675. When estate is insolvent.

1 If the estate of such person is insolvent, or will probably be insol-
 2 vent, the same shall be settled by the guardian in like manner, and
 3 like proceedings may be had, as are required by law for the settlement
 4 of the insolvent estate of a deceased person.

[R., '60, § 1455; C., '73, § 2278; C., '97, § 3227.]

SEC. 6676. Custody.

1 The priority of claim to the custody of any idiot, lunatic, person
 2 of unsound mind, habitual drunkard or spendthrift shall be:

- 3 1. The legally appointed guardian.
- 4 2. The husband or wife.
- 5 3. The parents.
- 6 4. The children.

[C., '73, § 2279; C., '97, § 3228.]

CHAPTER 8.

GUARDIANS FOR ABSENTEES.

SECTION 6677. Petition for guardianship—notice.

1 When any adult person owning property within the state and
 2 whose whereabouts are and have been unknown for a period of three
 3 months, and whose property is liable to become injured, lost or dam-
 4 aged by reason of such absence, and when there is no other provision
 5 of law, authorizing supervision and control over such property, any
 6 citizen of the county in which the property or any part thereof is situ-
 7 ated may file a petition under oath in the district court of said county,
 8 setting forth the facts of such disappearance; the place where and
 9 with whom he last resided; the kind and value of his property; the
 10 necessity for care and supervision over the same; and asking that a
 11 guardian be appointed to take charge of, preserve and control such
 12 property. Whereupon, the court or judge shall prescribe a notice to
 13 be given to such absentee and order the same to be published in a
 14 newspaper published in said county, to be designated by the court or
 15 judge once each week for four successive weeks. Such notice shall
 16 also be served on the county attorney of the county and upon all the
 17 members of the family of the absentee residing within the county, for
 18 the length of time as is required for the service of original notices.
 19 Proof of the publication and service of such notice shall be filed with
 20 said cause.

[S., '13, § 3228-a.]

SEC. 6678. Hearing—duty of county attorney—evidence reported.

1 If at the time stated in such notice for hearing the absentee fails
2 to appear, the court shall hear such petition and the proof offered,
3 and all evidence given at such hearing shall be taken down by the official
4 reporter and a verified transcript thereof filed in said cause, and
5 at every such hearing the county attorney shall be present and represent
6 the interests of the absentee, and shall be allowed reasonable compensation
7 therefor to be fixed by the court.

[S., '13, § 3228-b.]

SEC. 6679. Guardian appointed.

1 If on such hearing the court is satisfied that the person has disappeared
2 for the length of time herein required and that his whereabouts are unknown
3 to his family or friends and that his property requires supervision and care,
4 it may appoint some suitable person guardian of the estate of such absentee.

[S., '13, § 3228-c.]

SEC. 6680. Qualifications—powers and duties.

1 The person so appointed to act as such guardian shall qualify in
2 the same manner as is required in the case of other guardians, and
3 shall have the same powers and his duties shall be the same as is provided
4 for guardians of the estates of minors, so far as applicable.

[S., '13, § 3228-d.]

SEC. 6681. Termination of guardianship.

1 If at any time the absentee shall return and claim his property,
2 he shall file in said court his application to terminate such guardianship
3 and, thereupon, the guardian shall make full and complete settlement
4 with such absentee, and after paying the costs of the proceedings and the
5 necessary expenses of the guardian in executing the trust, shall turn over
6 to such absentee all money and property then in his hands as such guardian
7 taking receipt therefor, and shall make a final report to the court of his
8 doings as such guardian.

[S., '13, § 3228-e.]

SEC. 6682. Costs chargeable to estate.

1 The estate of such absentee shall be liable for the costs of the
2 proceedings and the necessary expenses incurred by the guardian and
3 allowed by the court.

[S., '13, § 3228-f.]

SEC. 6683. Control of court—removal.

1 Such guardian shall at all times be under the control and orders
2 of the court and may at any time be removed for any cause making
3 it apparent to the court that said guardianship should be terminated
4 or the trust transferred to another person.

[S., '13, § 3228-g.]

SEC. 6684. Discharge.

1 When the final report of such guardian shall have been approved
2 by the court he shall be discharged and the proceedings closed or the
3 trust transferred, as the court may determine.

[S., '13, § 3228-h.]

CHAPTER 9.

ADOPTION.

SECTION 6685. Who may adopt.

1 Any person competent to make a will is authorized to adopt as
 2 his own the minor child of another, conferring thereby upon it all the
 3 rights, privileges and responsibilities which would pertain to it, if born
 4 in lawful wedlock to the person adopting.

[R., '60, § 2600; C., '73, § 2307; C., '97, § 3250.]

SEC. 6686. Consent of parents or officer.

1 If living, and not divorced or separated, the consent of both par-
 2 ents; if divorced, separated or unmarried, the consent of the parent
 3 lawfully having the care and providing for the wants of the child; or
 4 if either is dead, then the consent of the survivor; or if both are dead,
 5 or if the child has been abandoned, that of the mayor of the city; or
 6 if not in a city, of the clerk of the district court of the county where
 7 it is living, shall be given to such adoption by an instrument in writ-
 8 ing, signed by the parties or party consenting, which shall give the
 9 names of the parents if known, the name of the child if known, the
 10 name of the person adopting it, the place of residence of all if known,
 11 the name by which such child is thereafter to be called, and also state
 12 that it is given to the person adopting for the purpose of adoption
 13 as his own.

[R., '60, § 2601; C., '73, § 2308; C., '97, § 3251.]

SEC. 6687. Instrument acknowledged and recorded.

1 Such instrument must also be signed by the person adopting, and
 2 be acknowledged by all the parties thereto in the same manner as
 3 deeds conveying real estate are acknowledged, and shall be recorded
 4 in the recorder's office in the county where the person adopting re-
 5 sides, and be indexed with the name of the parent by adoption, as
 6 grantor, and the child as grantee, in its original name, if stated in the
 7 instrument.

[R., '60, § 2602; C., '73, § 2309; C., '97, § 3252.]

SEC. 6688. Effect.

1 Upon the execution, acknowledgment and filing for record of such
 2 instrument, the rights, duties and relations between the parent and
 3 child by adoption shall be the same that exist by law between parent
 4 and child by lawful birth, and the right of inheritance from each other
 5 shall be the same as between parent and children born in lawful
 6 wedlock.

[R., '60, § 2603; C., '73, § 2310; C., '97, § 3253; S., '13,
 § 3253.]

SEC. 6689. Change of custody.

1 In case of maltreatment committed or allowed by the adopting
 2 parent, or neglect of duty on his part toward such child, the custody
 3 thereof may be taken from him by the district court of the county
 4 where the parent resides, and intrusted to another at his expense, and
 5 the same proceedings may be had therefor, so far as applicable, as in
 6 case of master and apprentice, or the court may, on showing of the

7 facts, require from the adopting parent bond with security, in a sum
8 to be fixed by it, running to the county, and for the benefit of the child,
9 conditioned for its proper treatment and the performance of his duty
10 toward it; but no action of the court in the premises shall affect the
11 acquired right of inheritance on the part of the child.

[R., '60, § 2604; C., '73, § 2311; C., '97, § 3254.]

CHAPTER 10.

MASTER AND APPRENTICE.

SECTION 6690. Indenture.

1 Any minor child may be bound to service, until the attainment
2 of the age of majority, by a written indenture, specifying the age of
3 the minor, the terms of agreement, and, if more than twelve years
4 of age and not a pauper, the indenture must be signed by him of his
5 own free will.

[C., '51, §§ 1516, 1517; R., '60, §§ 2573, 2574; C., '73, §§ 2280,
2281; C., '97, § 3229.]

SEC. 6691. Consent of parent or guardian.

1 A written consent must be appended to such agreement and
2 signed by the father, but if he is dead or has abandoned his family
3 or is for any cause incapacitated, by the mother, or if she is dead or
4 is incapacitated, by the guardian, or if there is none, then by the clerk
5 of the district court.

[C., '51, § 1518; R., '60, § 2575; C., '73, § 2282; C., '97,
§ 3230.]

SEC. 6692. Indenture in triplicate.

1 The indenture must in all cases where there is a parent or guard-
2 ian be in three parts, one being left with the master, another with
3 the clerk of the district court, and the third with the person by whose
4 consent he is bound.

[C., '51, § 1521; R., '60, § 2578; C., '73, § 2285; C., '97,
§ 3232.]

SEC. 6693. Paupers.

1 The clerk of the district court may bind minors who are paupers
2 until they have attained the age of majority, without obtaining their
3 consent, and the indenture must in that case be signed by the master
4 and said clerk.

[C., '51, §§ 1519, 1520; R., '60, §§ 2576, 2577; C., '73, §§ 2283,
2284; C., '97, § 3231.]

SEC. 6694. Binding out children in poorhouse.

1 Any child confined in any poorhouse or house of refuge, who is
2 under sixteen years of age, may be apprenticed to learn a trade or
3 occupation, and such apprenticeship shall continue until the child at-
4 tains the age of eighteen years, or such earlier age as may be fixed
5 in the articles, but the apprenticeship shall terminate upon marriage.

6 The board of supervisors of the county, or the board of trustees of
 7 such house of refuge, may appoint a committee from its members,
 8 consisting of one or more, who may, in the name of such board, sub-
 9 ject to the approval of the district court or a judge thereof, execute
 10 articles of indenture for such child to any proper person whom such
 11 committee may select, which articles shall be filed with the clerk of
 12 the district court, but in all other respects such apprenticeship shall
 13 be governed by the provisions of this chapter. Such apprentice, if
 14 he proves untrustworthy and intractable, shall be returned to the in-
 15 stitution from which he was apprenticed, upon an application in writ-
 16 ing by the master, and satisfactory proof thereof to the proper board,
 17 who shall thereupon cancel the articles of indenture, and make a
 18 record thereof.

[C., '51, § 839; R., '60, §§ 1112, 1113, 1115, 1407; C., '73,
 §§ 539-541, 1378; C., '97, § 3234.]

SEC. 6695. Binding out by order of court.

1 Upon a verified complaint being made to the district court of the
 2 proper county that the father or mother of a minor child is, from
 3 habitual intemperance or vicious and brutal conduct, or from vicious,
 4 brutal or criminal conduct toward said child, an unsuitable person to
 5 retain the control and education of such child, or where minor children
 6 have been abandoned by the parents, the court may, if it finds the
 7 allegations in the complaint manifestly true, and may if expedient
 8 also, direct that such child be bound as an apprentice to some suitable
 9 person until he attains his majority, or appoint a guardian for such
 10 child; but nothing herein shall be so construed as to allow the taking
 11 of such child, if either parent is a proper custodian.

[C., '51, §§ 1537, 1538; R., '60, §§ 2594, 2595; C., '73, §§ 2301,
 2302; C., '97, § 3246.]

SEC. 6696. Complaint.

1 In such a case, a verified complaint must be filed in the office of
 2 the clerk of the district court, and a copy thereof, with a notice fixing
 3 the time when the matter will be for hearing before the court, must
 4 be personally served upon the parent from whom the custody is sought
 5 to be taken, at least ten days before the time stated.

[C., '51, § 1539; R., '60, § 2596; C., '73, § 2303; C., '97,
 § 3247.]

SEC. 6697. Preference.

1 Preference shall be given to such cases over the ordinary business
 2 of the court, but trials actually commenced need not be suspended for
 3 that purpose.

[C., '51, § 1541; R., '60, § 2598; C., '73, § 2305; C., '97,
 § 3248.]

SEC. 6698. Trial—appeal.

1 In any of the cases provided for in this chapter, where issue is
 2 joined, the same shall be tried as ordinary civil actions, and from the
 3 judgment rendered therein the right of appeal by either party will be
 4 the same as in such actions.

[C., '51, §§ 1532, 1535, 1540; R., '60, §§ 2589, 2592, 2597;
 C., '73, §§ 2296, 2299, 2304; C., '97, § 3249.]

SEC. 6699. Powers—rights—liabilities.

1 The powers, liabilities and duties of the master and the rights of
 2 the apprentice are the same as those of parent and child, respectively,
 3 except as to inheritances and as is otherwise provided by law.

[C., '51, § 1522; R., '60, § 2579; C., '73, § 2286; C., '97,
 § 3233.]

SEC. 6700. Interests of minor protected.

1 The parent, guardian or officer by whose act or consent any minor
 2 is bound must watch over his interests, and, if the case requires, must
 3 enter complaint as provided for in the following section.

[C., '51, § 1523; R., '60, § 2580; C., '73, § 2287; C., '97,
 § 3235.]

SEC. 6701. Complaint against master—notice.

1 Upon complaint by the minor, or by any other person, made to the
 2 judge of the district court, stating under oath that the master is ill-
 3 treating his apprentice, or is in any other manner failing in the dis-
 4 charge of his duty in regard to him, and giving the particulars with
 5 reasonable certainty, the court shall summon the master to appear and
 6 answer to such complaint, which, with the summons indorsed thereon,
 7 must be served and returned in the same manner as a notice of the
 8 commencement of an ordinary action, and the time for appearance
 9 shall be regulated by the same rules. The court may make such order
 10 as is necessary for the care and custody of the apprentice pending the
 11 hearing.

[C., '51, §§ 1524, 1525; R., '60, §§ 2581, 2582; C., '73, §§ 2288,
 2289; C., '97, § 3236.]

SEC. 6702. Answer—trial.

1 The answer of the master must be under oath, and if any other
 2 issue be joined thereon it must be tried as in other cases in the court.

[C., '51, § 1526; R., '60, § 2583; C., '73, § 2290; C., '97,
 § 3237.]

SEC. 6703. Judgment—discharge.

1 If the complaint is admitted by the master, or if the facts proved
 2 upon the trial are of sufficient importance to justify the discharge of
 3 the minor from further service, judgment shall be rendered accord-
 4 ingly, and a certificate thereof placed in his hands; otherwise the
 5 complaint shall be dismissed.

[C., '51, § 1527; R., '60, § 2584; C., '73, § 2291; C., '97,
 § 3238.]

SEC. 6704. Appeal.

1 From any judgment in such cases either party may appeal in the
 2 same manner as in ordinary actions.

[C., '51, § 1528; R., '60, § 2585; C., '73, § 2292; C., '97,
 § 3239.]

SEC. 6705. Suit for damages.

1 The above proceedings will be no bar to the bringing of an action
2 by or on behalf of the minor for damages, nor for compensation for
3 services.

[C., '51, § 1529; R., '60, § 2586; C., '73, § 2293; C., '97,
§ 3240.]

SEC. 6706. Complaint against apprentice.

1 If the apprentice refuses to serve according to the terms of the
2 indenture, upon complaint made by the master, the judge shall issue
3 a warrant to forthwith bring the apprentice before him, and shall
4 also cause notice of the proceedings to be given to the parent, guardian
5 or officer by whose act or consent the minor was bound, if found in
6 the county, and a reasonable time, not exceeding three days, shall be
7 allowed the minor in which to make his answer to the complaint.

[C., '51, §§ 1530, 1531; R., '60, §§ 2587, 2588; C., '73, §§ 2294,
2295; C., '97, § 3241.]

SEC. 6707. Discharge.

1 If he shows sufficient cause for refusing to serve, he may be dis-
2 charged from his indenture in the manner hereinbefore provided.

[C., '51, § 1533; R., '60, § 2590; C., '73, § 2297; C., '97,
§ 3242.]

SEC. 6708. Master released.

1 Instead of proceeding as above provided, the master may, for any
2 refusal to serve, or for any gross misbehavior on the part of the ap-
3 prentice, file a complaint for the purpose of releasing himself from
4 the indenture, whereupon proceedings shall be had similar to those
5 provided in case of a complaint by or on behalf of the apprentice, and
6 judgment rendered in like manner.

[C., '51, §§ 1534, 1535; R., '60, §§ 2591, 2592; C., '73, §§ 2298,
2299; C., '97, § 3243.]

SEC. 6709. Schooling and treatment of apprentice.

1 Every master shall send his apprentice, who is six years old and
2 over, to school at least four months in each year, if there is one in the
3 district in which he resides, and at all times he shall clothe him in a
4 comfortable and becoming manner, and provide him with suitable and
5 sufficient food.

[C., '51, § 1542; R., '60, § 2599; C., '73, § 2306; C., '97,
§ 3244.]

SEC. 6710. Dissolution—allowance.

1 The death of the master or removal from the state shall work a
2 dissolution of the indenture, unless otherwise provided therein, or
3 unless the apprentice elects to continue in his service, and, in the event
4 of a dissolution, the apprentice shall receive such allowance for serv-
5 ices previously rendered as may be reasonable under the circumstances
6 of the case.

[C., '51, § 1536; R., '60, § 2593; C., '73, § 2300; C., '97,
§ 3245.]

TITLE XXVII.

JUSTICES OF THE PEACE.

CHAPTER 1.

JUSTICE OF THE PEACE COURT.

SECTION 6711. Jurisdiction.

1 The jurisdiction of justices of the peace, when not specially re-
2 stricted, is coextensive with their respective counties; but does not
3 embrace actions for the recovery of money against actual residents
4 of any other county, except as provided in this chapter.

[C., '51, § 2261; R., '60, § 3849; C., '73, § 3507; C., '97,
§ 4476.]

SEC. 6712. Amount in controversy.

1 Within the prescribed limit, it extends to all civil actions, except
2 those by equitable proceedings, where the amount in controversy does
3 not exceed one hundred dollars; and, by consent by parties in writing,
4 it may be extended to actions where the amount claimed is not more
5 than three hundred dollars.

[C., '51, § 2262; R., '60, § 3850; C., '73, § 3508; C., '97,
§ 4477.]

SEC. 6713. Suits brought where party resides.

1 Actions in all cases may be brought in the township where the
2 plaintiff, or the defendant, or one of several defendants, resides, unless
3 otherwise provided by law.

[C., '51, § 2263; R., '60, § 3851; C., '73, § 3509; C., '97,
§ 4478.]

SEC. 6714. Where defendant served.

1 They may also be brought in any other township of the same
2 county, if actual service on one or more of the defendants is made in
3 such township.

[C., '51, § 2264; R., '60, § 3852; C., '73, § 3510; C., '97,
§ 4479.]

SEC. 6715. In replevin or attachment—against nonresidents.

1 Actions in replevin may also be brought before any justice in the
2 county in which the property is found. Actions aided by attachment
3 may be brought against nonresidents of the state in any county and
4 township wherein the property sought to be levied upon is found, and
5 any action against such nonresidents may be brought in any county
6 wherein any defendant is served with notice thereof.

[C., '51, §§ 2265, 2266; R., '60, §§ 3853, 3854; C., '73, §§ 3511,
3512; C., '97, § 4480.]

SEC. 6716. Contracts in writing—fraud in the inception of contract—change of venue.

1 On written contracts stipulating for payment at a particular place,
2 action may be brought in the township where the payment was agreed
3 to be made; provided that should action be brought under the provi-
4 sions of this section in any county other than that of the residence of
5 the defendant and the plaintiff shall fail to appear at the time fixed
6 for the trial in the original notice, the justice of the peace before whom
7 said action is brought, shall, upon presentation of the copy of the
8 original notice served upon the defendant, docket said cause and enter
9 judgment therein against the plaintiff in favor of the defendant for
10 all costs in the action, which costs shall include all reasonable expenses
11 of the defendant in attending the place of trial and an attorney's fee
12 not to exceed fifteen dollars for defendant's attorney; and should any
13 action brought under the provisions of this section for any cause,
14 except upon trial upon the merits, be dismissed, the defendant shall
15 recover like costs and expenses and attorney fees; provided, however,
16 that where an action is brought relying upon the foregoing provisions
17 to fix the venue in a township in a county other than the residence of
18 the signer of a written contract, and the defendant files a verified
19 answer setting forth a legal defense alleging fraud in the inception of
20 the contract, and he files therein a motion asking to have said cause
21 transferred to the county of his residence, accompanied by a cost bond
22 of fifty dollars to be approved by the court where the action is brought,
23 the justice before whom such action is brought shall thereupon order
24 the same transferred to such county upon the defendant paying fees
25 of transcript and postage, and all papers and transcript shall forth-
26 with be mailed, by registered letter, to the clerk of the district court
27 of the county of defendant's residence, and said cause shall be docketed
28 for trial. If two or more defendants in the same cause apply for
29 change of venue as herein provided the justice shall transmit said
30 papers to the county of the defendant making first application. If,
31 upon trial, the defendant shall establish his defense of fraud, then he
32 shall be entitled to recover, as a part of his costs, the reasonable ex-
33 pense, including attorney's fees, for securing the change of place of
34 trial, but if he shall fail to establish said defense, then he shall be
35 liable to plaintiff, as a part of the costs, for the reasonable additional
36 expense caused to him by reason of such change.

[C., '51, § 2267; R., '60, § 3855; C., '73, § 3513; C., '97,
§ 4481; S., '13, § 4481.]

SEC. 6717. In adjoining township.

1 If there is no justice in the proper township qualified or able to
2 act, it may be commenced in any adjoining township in the same
3 county.

[C., '51, § 2268; R., '60, § 3856; C., '73, § 3514; C., '97,
§ 4482.]

SEC. 6718. Docket furnished.

1 The board of supervisors of each county shall furnish to each
2 justice of the peace thereof a well-bound blank record book of not
3 less than four quires, with index, suitable for a docket, upon his cer-
4 tificate that the same is necessary for the business of the office.

[C., '73, § 3635; C., '97, § 4483.]

SEC. 6719. Entries on docket.

- 1 Each justice shall keep such docket by entering therein each ac-
 2 tion and each act done, with the proper date as follows:
 3 1. The title of the action.
 4 2. A brief statement of the nature and amount of the plaintiff's
 5 demand, and defendant's counterclaim, if any, giving date to each
 6 where dates exist.
 7 3. The issuing of the notice and the return thereof.
 8 4. The appearance of the parties.
 9 5. Every adjournment, stating at whose instance and for what
 10 time.
 11 6. The granting of a change of place of trial, and the name of the
 12 justice to whom the case is sent.
 13 7. The trial, and whether by the justice or by a jury.
 14 8. The verdict and judgment.
 15 9. The issuance of each execution, to whom delivered, the re-
 16 newals, if any, and the amount of judgment and costs to be collected
 17 thereunder.
 18 10. The issuance of each writ of attachment or replevin or other
 19 process, to whom delivered, and the particulars thereof.
 20 11. The taking of an appeal, if any.
 21 12. The giving a transcript for filing in the clerk's office, or for
 22 setting off against another judgment.
 23 13. A note of all motions made or demurrers interposed, and
 24 whether sustained or overruled.

[C., '51, § 2269; R., '60, § 3857; C., '73, § 3515; C., '97,
 § 4484.]

SEC. 6720. Parties—proceedings.

- 1 The parties to the action may be the same as in the district court,
 2 and all the proceedings prescribed for that court, so far as applicable
 3 and not herein changed, shall be pursued in justices' courts. The
 4 powers of the court are only as herein enumerated.

[C., '51, § 2270; R., '60, § 3858; C., '73, § 3516; C., '97,
 § 4485.]

SEC. 6721. How commenced.

- 1 Actions in justices' courts are commenced by voluntary appear-
 2 ance or by notice.

[C., '51, § 2271; R., '60, § 3859; C., '73, § 3517; C., '97,
 § 4486.]

SEC. 6722. Petition not necessary.

- 1 No petition need be filed except as in this chapter required. The
 2 notice must state the cause of the action in general terms, sufficient
 3 to apprise the defendant of the nature of the claims against him.

[C., '51, § 2272; R., '60, § 3860; C., '73, § 3518; C., '97,
 § 4487.]

SEC. 6723. Form of notice.

- 1 It must be addressed to the defendant by name, but if his name
 2 is unknown, a description of him will be sufficient. It must be sub-

3 scribed by the plaintiff, his attorney, or the justice before whom it is
4 returnable.

[C., '51, § 2273; R., '60, § 3861; C., '73, § 3519; C., '97,
§ 4488.]

SEC. 6724. What to state.

1 It must state the amount for which the plaintiff will take judg-
2 ment if the defendant fails to appear and answer at the time and place
3 therein fixed.

[C., '51, § 2274; R., '60, § 3862; C., '73, § 3520; C., '97,
§ 4489.]

SEC. 6725. Time fixed.

1 The time fixed in the notice must be not less than five nor more
2 than fifteen days from the date, and it must be served not less than
3 five days previous to the trial.

[C., '51, § 2275; R., '60, § 3863; C., '73, § 3521; C., '97,
§ 4490.]

SEC. 6726. Service and return.

1 The service and return thereto must be made in the same manner
2 as in the district court, except no service shall be made by publication
3 other than is herein provided, nor shall any return made by another
4 than the sheriff or a constable of the county be valid unless sworn to.

[C., '51, § 2276; R., '60, § 3864; C., '73, § 3522; C., '97,
§ 4491.]

SEC. 6727. Defendant may pay officer.

1 The defendant may at any time pay to the officer having the notice
2 for service, or to the justice of the peace, the amount of the claim, to-
3 gether with the costs which have been accrued, and thereupon the
4 proceedings shall be dismissed.

[C., '51, § 2277; R., '60, § 3865; C., '73, § 3523; C., '97,
§ 4492.]

SEC. 6728. Appearance of parties—agent's authority.

1 Either of the parties may appear in person or by agent; if by
2 agent, he may be required by the justice to show his authority, if
3 written, or prove it by his oath or otherwise, if verbal.

[C., '51, § 2278; R., '60, § 3866; C., '73, § 3524; C., '97,
§ 4493.]

SEC. 6729. Security for costs.

1 If a defendant in any cause of action in the justice court at any
2 time within two days before the commencement of the trial of the
3 cause, shall make and file an affidavit stating that he has a good de-
4 fense in whole or in part, the plaintiff, if he is a nonresident of this
5 state, or a private or foreign corporation, before any other proceed-
6 ings in the action, must file with the justice of the peace before whom
7 such action is pending, a bond with sureties to be approved by such
8 justice in an amount to be fixed by the justice for the payment of all
9 costs which may accrue in the action in the court in which it is brought,
10 or in any other justice court to which it may be carried, either to the

11 defendant or to the officers of the court. The application for such
 12 security shall be by motion, filed with the case, and the facts support-
 13 ing it must be shown by affidavit annexed thereto, which may be
 14 responded to by counter affidavits on or before the hearing of the
 15 motion, and each party shall file all his affidavits at once and none
 16 thereafter.

[S., '13, § 4493-a.]

SEC. 6730. Time for appearance.

1 The parties in all cases are entitled to one hour in which to appear
 2 after the time fixed therefor, but neither party is bound to wait longer
 3 for the other.

[C., '51, § 2279; R., '60, § 3867; C., '73, § 3525; C., '97,
 § 4494.]

SEC. 6731. Postponement.

1 Upon the return day, if the justice is actually engaged in other
 2 official business, he may postpone proceedings in the case until such
 3 business is finished.

[C., '51, § 2280; R., '60, § 3868; C., '73, § 3526; C., '97,
 § 4495.]

SEC. 6732. Adjournment.

1 If from any cause the justice is unable to attend to the trial at
 2 the time fixed, or if a jury is demanded, he may adjourn the cause
 3 for a period not exceeding three days, nor shall he make more than
 4 two such adjournments.

[C., '51, § 2281; R., '60, § 3869; C., '73, § 3527; C., '97,
 § 4496.]

SEC. 6733. Showing for.

1 In case of the absence of witnesses, either party, at his own cost,
 2 may have an adjournment, not exceeding sixty days, upon motion sup-
 3 ported by an affidavit like that required to obtain a continuance in
 4 the district court for the like cause.

[C., '51, § 2282; R., '60, § 3870; C., '73, § 3528; C., '97,
 § 4497.]

SEC. 6734. Testimony of witness taken.

1 Either party applying for an adjournment must, if required by
 2 the adverse party, consent that the testimony of any witness of the
 3 adverse party who is in attendance be then taken in writing, to be
 4 used as a deposition on the trial of the cause.

[C., '51, § 2283; R., '60, § 3871; C., '73, § 3529; C., '97,
 § 4498.]

SEC. 6735. Pleadings.

1 The pleadings must be substantially the same as in the district
 2 court. They may be written or oral, but if required to be verified
 3 they must be in writing. If oral, they must in substance be written
 4 down by the justice in his docket.

[C., '51, § 2284; R., '60, § 3872; C., '73, § 3530; C., '97,
 § 4499.]

SEC. 6736. Counterclaim.

1 A counterclaim must be made, if at all, at the time the answer
 2 is put in.
 [C., '51, § 2285; R., '60, § 3873; C., '73, § 3531; C., '97,
 § 4500.]

SEC. 6737. Written instruments filed.

1 The original, or a copy, of all written instruments upon which
 2 a cause of action or counterclaim is founded must be filed with the
 3 claim founded thereon, or a sufficient reason given for not doing so.
 [C., '51, § 2286; R., '60, § 3874; C., '73, § 3532; C., '97,
 § 4501.]

SEC. 6738. Change of place of trial.

1 Either party, before the trial is commenced, may have the place
 2 of trial changed, upon filing an affidavit that the justice is prejudiced
 3 against him, or is a near relative of the other party, or is a material
 4 witness for the affiant, or that he can not obtain justice before him;
 5 but no more than one change shall be allowed each party, unless the
 6 justice to whom the case is transmitted is related to either party by
 7 consanguinity or affinity within the fourth degree, or is a witness,
 8 or has been an attorney employed in the action; in either of which
 9 events a second change may be allowed.
 [R., '60, § 3875; C., '73, § 3533; C., '97, § 4502.]

SEC. 6739. Next nearest justice.

1 When a change is allowed and the fees for transcript are paid,
 2 said justice shall transmit all the original papers in the case, and a
 3 transcript of his proceedings, to the next nearest justice in the town-
 4 ship, if there be any, if not, to the next nearest justice in his county,
 5 and said justice shall proceed to try said case, and, if he can not try
 6 the same immediately, he shall then fix a time therefor, of which all
 7 parties shall take notice.
 [R., '60, § 3876; C., '73, § 3534; C., '97, § 4503.]

SEC. 6740. When change is not effected.

1 If the person to whom the cause is sent is not a justice, or for
 2 any reason, though a justice, can not act, the court granting the change
 3 shall retain jurisdiction of the case for the purpose of perfecting the
 4 same and sending it to the next nearest justice who can serve.
 [C., '97, § 4504.]

SEC. 6741. Title to real property.

1 If the title to real property is put in issue by verified pleadings,
 2 or such fact manifestly appears from the proof on the trial of the issue,
 3 the justice shall, without further proceedings, certify the cause and
 4 papers, with a transcript of his docket showing the reason of such
 5 transfer, to the district court, where the same shall be tried on the
 6 merits. No cause so transferred shall be dismissed because the jus-
 7 tice erred in transferring the same.
 [C., '51, §§ 2287, 2288; R., '60, §§ 3877, 3878; C., '73, § 3535;
 C., '97, § 4505.]

SEC. 6742. Other causes severed.

1 When a case is thus transferred, if there are other causes of
2 action not necessarily connected with the issue of title, they may be
3 severed, retained, and tried before the justice.

[C., '51, § 2289; R., '60, § 3879; C., '73, § 3536; C., '97,
§ 4506.]

SEC. 6743. Demand for jury.

1 Unless one of the parties demands a trial by jury at or before
2 the time for joining issue, it shall be by the justice.

[C., '51, § 2290; R., '60, § 3880; C., '73, § 3537; C., '97,
§ 4507.]

SEC. 6744. Dismissal of action.

1 If the plaintiff fails to appear by himself or agent on the return
2 day or time fixed for the trial, the justice shall dismiss the case and
3 render judgment against him for costs, except as provided in the next
4 section.

[C., '51, § 2291; R., '60, § 3881; C., '73, § 3538; C., '97,
§ 4508.]

SEC. 6745. On written instrument.

1 When the action is founded on an instrument in writing, purport-
2 ing to have been executed by the defendant, calling for a certain sum
3 as due the plaintiff, if the signature of the defendant is not denied
4 under oath, and if the instrument has been filed with the justice pre-
5 vious to the time fixed for appearance, or the action is upon an account
6 which is verified, he may proceed with the cause, whether the plaintiff
7 appears or not.

[C., '51, § 2292; R., '60, § 3882; C., '73, § 3539; C., '97,
§ 4509.]

SEC. 6746. Default in such case.

1 In the case provided for in the last section, if the defendant does
2 not appear, judgment shall be rendered against him for the amount
3 of the plaintiff's claim.

[C., '51, § 2293; R., '60, § 3883; C., '73, § 3540; C., '97,
§ 4510.]

SEC. 6747. Default in other cases.

1 Where the plaintiff's claim is not founded upon such written in-
2 strument or account, and the defendant does not appear, the justice
3 shall proceed to hear the allegations and proofs of the plaintiff, and
4 render judgment thereon for the amount to which he shows himself
5 entitled, not exceeding the amount stated in the notice.

[C., '51, § 2294; R., '60, § 3884; C., '73, § 3541; C., '97,
§ 4511.]

SEC. 6748. Default as to counterclaim.

1 In the cases contemplated in the last two sections, if the defend-
2 ant has previously filed a counterclaim, founded on a written instru-
3 ment purporting to have been signed by the plaintiff, calling for a
4 certain sum, or on a verified account, the justice shall allow such

5 counterclaim in the same manner as though the defendant had ap-
6 peared, and render judgment accordingly.

[C., '51, § 2295; R., '60, § 3885; C., '73, § 3542; C., '97,
§ 4512.]

SEC. 6749. Judgment set aside.

1 Judgment dismissing the cause, or by default, may be set aside
2 by the justice at any time within six days after being rendered, if the
3 party applying therefor shows a satisfactory excuse for his non-
4 appearance.

[C., '51, § 2296; R., '60, § 3886; C., '73, § 3543; C., '97,
§ 4513.]

SEC. 6750. New trial.

1 In such case a new day shall be fixed for trial, and notice thereof
2 given to the other party or his agent.

[C., '51, § 2297; R., '60, § 3887; C., '73, § 3544; C., '97,
§ 4514.]

SEC. 6751. Costs of new trial.

1 Such orders shall be made in relation to the additional costs there-
2 by created as are equitable.

[C., '51, § 2298; R., '60, § 3888; C., '73, § 3545; C., '97,
§ 4515.]

SEC. 6752. Execution recalled.

1 Any execution which may in the meantime have been issued shall
2 be recalled in the same manner as in cases of appeal.

[C., '51, § 2299; R., '60, § 3889; C., '73, § 3546; C., '97,
§ 4516.]

SEC. 6753. Jury summoned.

1 If a jury be demanded, the justice shall issue his precept to some
2 constable of the township, directing him to summon the requisite num-
3 ber of jurors possessing the same qualifications as are required in the
4 district court.

[C., '51, § 2301; R., '60, § 3890; C., '73, § 3547; C., '97,
§ 4517.]

SEC. 6754. Selection of jury.

1 The jury shall consist of six jurors, unless a smaller number be
2 agreed upon between the parties. Each party is entitled to three
3 peremptory challenges and no more. Any deficiency in their number,
4 arising from any cause, may be supplied by summoning others in the
5 manner above directed.

[C., '51, § 2302; R., '60, § 3891; C., '73, § 3548; C., '97,
§ 4518.]

SEC. 6755. Discharge of jury.

1 The justice may discharge the jury, when satisfied that it can not
2 agree, and shall immediately issue a new precept for summoning an-

3 other, to appear at a time therein fixed, not more than three days
4 distant, unless the parties otherwise agree.

[C., '51, § 2303; R., '60, § 3892; C., '73, § 3549; C., '97,
§ 4519.]

SEC. 6756. Motion in arrest or for new trial.

1 No motion in arrest of judgment to set aside a verdict, or for a
2 new trial, can be entertained by a justice of the peace; nor can the
3 justice give instructions to the jury, but must rule on objections to
4 evidence.

[C., '51, § 2304; R., '60, § 3893; C., '73, § 3550; C., '97,
§ 4520.]

SEC. 6757. Verdict.

1 The verdict of the jury must be general. But, where there are
2 several plaintiffs or defendants, it may be for or against one or more
3 of them.

[C., '51, § 2305; R., '60, § 3894; C., '73, § 3551; C., '97,
§ 4521.]

SEC. 6758. Judgment entered.

1 In cases of dismissal, or of judgment by confession or on the
2 verdict of a jury, the judgment shall be rendered and entered upon
3 the docket forthwith. In all other cases, it shall be done within three
4 days after the cause is submitted to the justice for final action.

[C., '51, § 2306; R., '60, § 3895; C., '73, § 3552; C., '97,
§ 4522.]

SEC. 6759. In excess of jurisdiction.

1 If the sum found for either party exceeds the jurisdiction of the
2 justice, such party may remit the excess and take judgment for the
3 residue, but he can not afterwards sue for the amount remitted.

[C., '51, § 2307; R., '60, § 3896; C., '73, § 3553; C., '97,
§ 4523.]

SEC. 6760. Dismissal.

1 Instead of remitting the excess, the party obtaining such verdict
2 may elect to have judgment dismissing the action, in which case such
3 party shall pay the costs.

[C., '51, § 2308; R., '60, § 3897; C., '73, § 3554; C., '97,
§ 4524.]

SEC. 6761. Mutual judgments set off.

1 Mutual judgments between the same parties, rendered by the same
2 or different justices, may be set off against each other.

[C., '51, § 2309; R., '60, § 3898; C., '73, § 3555; C., '97,
§ 4525.]

SEC. 6762. As in district court.

1 When rendered by the same court, the same course shall be pur-
2 sued as is prescribed in the district court.

[C., '51, § 2310; R., '60, § 3899; C., '73, § 3556; C., '97,
§ 4526.]

SEC. 6763. When by different justices.

1 If the judgment proposed to be set off was rendered by another
 2 justice, the party offering it must obtain a transcript thereof, with
 3 a certificate of such justice indorsed thereon, stating that no appeal
 4 has been taken, and that the transcript was obtained for the purpose
 5 of being used as a counterclaim in that case.

[C., '51, § 2311; R., '60, § 3900; C., '73, § 3557; C., '97,
 § 4527.]

SEC. 6764. Transcripts.

1 Such transcript shall not be given until the time for taking an
 2 appeal has elapsed.

[C., '51, § 2312; R., '60, § 3901; C., '73, § 3558; C., '97,
 § 4528.]

SEC. 6765. Docket entry.

1 The justice giving the transcript shall make an entry of the fact
 2 in his docket, and all other proceedings in his court shall thenceforth
 3 be stayed.

[C., '51, § 2313; R., '60, § 3902; C., '73, § 3559; C., '97,
 § 4529.]

SEC. 6766. Execution for balance.

1 The transcript being presented to the justice who has rendered
 2 a judgment between the same parties, if execution has not been issued
 3 thereon, he shall strike a balance between the judgments and issue
 4 execution for such balance.

[C., '51, § 2314; R., '60, § 3903; C., '73, § 3560; C., '97,
 § 4530.]

SEC. 6767. Execution on transcript.

1 If execution has issued, he shall also issue execution on the tran-
 2 script filed with him, and deliver it to the officer who has the other
 3 execution.

[C., '51, § 2315; R., '60, § 3904; C., '73, § 3561; C., '97,
 § 4531.]

SEC. 6768. Executions set off.

1 Such officer shall treat the lesser execution as so much cash col-
 2 lected on the larger, and proceed to collect the balance.

[C., '51, § 2316; R., '60, § 3905; C., '73, § 3562; C., '97,
 § 4532.]

SEC. 6769. Costs in case of set-off.

1 The above rules as to setting off judgments between the same
 2 parties are subject to the same prohibition as to setting off costs, when
 3 the effect will be to leave an insufficient amount of money actually
 4 collected to satisfy the costs of both judgments, as is contained in the
 5 rules of proceedings in the district court.

[C., '51, § 2317; R., '60, § 3906; C., '73, § 3563; C., '97,
 § 4533.]

SEC. 6770. Transcript filed.

1 When the judgment of another justice is thus allowed to be set
 2 off, the transcript thereof shall be filed among the papers of the case
 3 in which it is to be used, and the proper entry made in the justice's
 4 docket.

[C., '51, § 2318; R., '60, § 3907; C., '73, § 3564; C., '97,
 § 4534.]

SEC. 6771. Refusal to allow set-off of judgment.

1 If the justice refuses the judgment as a set-off, he shall so certify
 2 on the transcript and return it to the party who offered it. When
 3 filed in the office of the justice who gave it, proceedings may be had
 4 by him in the same manner as though no transcript had been certified.

[C., '51, § 2319; R., '60, § 3908; C., '73, § 3565; C., '97,
 § 4535.]

SEC. 6772. Judgment by confession.

1 A judgment by confession, without action, may be entered by a
 2 justice of the peace for an amount within his jurisdiction, and the
 3 provisions of law regulating judgments by confessions in courts of
 4 record shall, so far as may be, apply to confessions of judgment before
 5 a justice of the peace, and the justice shall enter such judgment on
 6 his docket, and may issue execution thereon as in other cases.

[C., '51, §§ 1837, 1841; R., '60, §§ 3397, 3401; C., '73, § 3566;
 C., '97, § 4536.]

SEC. 6773. Inferior courts—transcripts—filing authorized.

1 A party obtaining a judgment in the justice's or mayor's court
 2 may cause a transcript thereof to be certified to the office of the clerk
 3 of the district court in the county.

[C., '51, § 2320; R., '60, § 3909; C., '73, § 3567; C., '97, § 4537;
 37 G. A., ch. 389, § 1.]

SEC. 6774. Mayor's courts—prior filings legalized.

1 All transcripts from mayor's courts heretofore filed in the office
 2 of the clerk of the district court as provided in the preceding section,
 3 shall have the same force and effect as though from the office of the
 4 justice of the peace.

[37 G. A., ch. 389, § 2.]

SEC. 6775. Effect.

1 The clerk shall file the transcript as soon as received, and enter
 2 a memorandum thereof and the time of filing in the judgment docket
 3 and lien index, and from such entry it shall be treated in all respects
 4 and in its enforcement as a judgment obtained in the district court.
 5 No execution shall issue from the justice's court after the filing of
 6 such transcript.

[C., '51, § 2321; R., '60, § 3910; C., '73, § 3568; C., '97, § 4538;
 S., '13, § 4538.]

SEC. 6776. Executions.

1 Executions for the enforcement of judgments in a justice's court
2 may be issued, as provided in this chapter, at any time within ten
3 years from the entry of the judgment, but not afterward.

[C., '51, § 2322; R., '60, § 3911; C., '73, § 3569; C., '97,
§ 4539.]

SEC. 6777. Form.

1 Such execution shall be against the goods and chattels of the de-
2 fendant therein, and shall be directed to any constable of the county.

[C., '51, § 2323; R., '60, § 3912; C., '73, § 3570; C., '97,
§ 4540.]

SEC. 6778. Return.

1 It must be dated on the day on which it is issued, and made re-
2 turnable within thirty days thereafter.

[C., '51, § 2324; R., '60, § 3913; C., '73, § 3571; C., '97,
§ 4541.]

SEC. 6779. Renewable.

1 If not satisfied when returned, it may be renewed from time to
2 time by an indorsement thereon to that effect, signed by the justice,
3 and dated of the date of such renewal.

[C., '51, § 2325; R., '60, § 3914; C., '73, § 3572; C., '97,
§ 4542.]

SEC. 6780. For thirty days.

1 The indorsement must state the amount paid thereon, and shall
2 continue the execution in full force for thirty days from the date of
3 renewal.

[C., '51, § 2326; R., '60, § 3915; C., '73, § 3573; C., '97,
§ 4543.]

SEC. 6781. Garnishment.

1 Garnishment proceedings under execution shall be the same as
2 in the district court, except, upon return of the garnishment being
3 made to the justice who issued the execution, he shall docket a cause,
4 fix a time, and cite the garnishee then to appear and answer. Judg-
5 ment against the garnishee shall not be entered until the principal
6 defendant shall have had five days' notice of the garnishment pro-
7 ceedings to be served in the same manner as original notices.

[C., '97, § 4544; S., '13, § 4544.]

SEC. 6782. Property sold.

1 Property levied on before such renewal may be retained by the
2 officer and sold after renewal.

[C., '51, § 2327; R., '60, § 3916; C., '73, § 3574; C., '97,
§ 4545.]

SEC. 6783. Appeal.

1 Any person aggrieved by the final judgment of a justice may
2 appeal therefrom to the district or a superior court in the county, at
3 his option, in the manner provided by law.

[C., '51, § 2328; R., '60, § 3917; C., '73, § 3575; C., '97,
§ 4546.]

SEC. 6784. Amount in controversy.

1 No such appeal shall be allowed when the amount in controversy
2 does not exceed twenty-five dollars.

[C., '97, § 4547.]

SEC. 6785. Time.

1 The appeal must be perfected within twenty days after the ren-
2 dition of the judgment.

[C., '51, § 2329; R., '60, § 3918; C., '73, § 3576; C., '97,
§ 4548.]

SEC. 6786. By clerk.

1 If within twenty days the appellant is prepared to take his ap-
2 peal, and is prevented only by the absence or death of the justice, or
3 his inability to act, he may apply to the clerk of the court to which
4 the appeal may be taken for the allowance thereof.

[C., '51, § 2330; R., '60, § 3919; C., '73, § 3577; C., '97,
§ 4549.]

SEC. 6787. How secured.

1 Such application shall be founded on an affidavit, stating the
2 amount and nature of the judgment, and the time of the rendition
3 thereof, as nearly as practicable, and the reason why he thus applies.

[C., '51, § 2331; R., '60, § 3920; C., '73, § 3578; C., '97,
§ 4550.]

SEC. 6788. Action of clerk.

1 The clerk has thereupon the same power to act in the premises
2 as the justice would have had. He may require the books and papers
3 of the justice to be delivered to him, for which purpose he may issue
4 a precept to the sheriff to that effect, if necessary, and may make out
5 and file the transcript. After this he shall return to the office of the
6 justice of the peace all the papers proper to be kept by the justice.

[C., '51, § 2332; R., '60, § 3921; C., '73, § 3579; C., '97,
§ 4551.]

SEC. 6789. Form of bond.

1 The appeal is not perfected until a bond in the following form,
2 or its equivalent, is taken and filed in the office of the justice or clerk
3 as above provided, in an amount sufficient to secure the judgment and
4 costs of appeal:

5 The undersigned acknowledge ourselves indebted to.....in
6 the sum of.....dollars, upon the following conditions: Whereas
7has appealed from the judgment of....., a justice of the
8 peace, in an action between.....as plaintiff, and.....defendant:
9 Now, if said appellant pays whatever amount is legally adjudged

10 against him in the further progress of this cause, then this bond to
11 be void.

12 Approved. A.....B....., principal.

13 E.....F....., justice. C.....D....., surety.

14 If the judgment is affirmed, or if on a new trial the appellee re-
15 covers, or if the appeal is withdrawn or dismissed, judgment shall be
16 rendered against the principal and surety on said bond.

[C., '51, § 2333; R., '60, § 3922; C., '73, § 3580; C., '97,
§ 4552.]

SEC. 6790. Proceedings suspended.

1 Upon the appeal being perfected, all further proceedings in that
2 court shall be suspended, and the case will be in the court to which the
3 appeal is taken.

[C., '51, §§ 2334, 2337; R., '60, §§ 3923, 3926; C., '73, §§ 3581,
3584; C., '97, § 4553.]

SEC. 6791. Execution recalled.

1 If, in the meantime, an execution has been issued, the justice shall
2 give the appellant a certificate that an appeal has been taken and
3 perfected. Upon that certificate being presented to the constable, he
4 shall cease further action, and release any property taken in execution.

[C., '51, § 2335; R., '60, § 3924; C., '73, § 3582; C., '97,
§ 4554.]

SEC. 6792. Papers filed.

1 Upon the appeal being perfected, the justice shall file in the office
2 of the clerk of the court to which it is taken all the original papers
3 relating to the action, with a transcript of all the entries in his docket.

[C., '51, § 2336; R., '60, § 3925; C., '73, § 3583; C., '97,
§ 4555.]

SEC. 6793. Return amended.

1 The proper court may, by rule, compel the justice to approve an
2 appeal bond, or make or amend his return according to law.

[C., '51, § 2338; R., '60, § 3927; C., '73, § 3585; C., '97,
§ 4556.]

SEC. 6794. Mistakes corrected.

1 Where an omission or mistake has been made by the justice in
2 his docket entries, and that fact is made unquestionable, the court to
3 which the appeal is taken may correct the mistake or supply the omis-
4 sion, or direct the justice to do so.

[C., '51, § 2339; R., '60, § 3928; C., '73, § 3586; C., '97,
§ 4557.]

SEC. 6795. Return—when made.

1 If an appeal is perfected ten days before the next term of the
2 court to which it is taken, the justice's return must be made at least
3 five days before that term. All such cases must be tried when reached,
4 unless continued for cause.

[C., '51, § 2340; R., '60, § 3929; C., '73, § 3587; C., '97,
§ 4558.]

SEC. 6796. Affirmance—trial.

1 If the appellant fails to pay the docket fee and have the case dock-
 2 eted by noon of the second day of the term at which the appeal should
 3 properly come on for trial, unless time is extended by the court, the
 4 appellee may do so, and have the judgment below affirmed, or have
 5 the case set down for trial on its merits, as he may elect. If the appel-
 6 lant, before noon of the next day after an order of affirmance has been
 7 granted, shall appear and make a sufficient showing of merits and
 8 proper excuse for his default, and pay to the clerk the docket fee, the
 9 court in its discretion may set aside the order of affirmance, and the
 10 cause shall stand for trial at that term, unless appellee asks a con-
 11 tinuance, and the clerk shall pay over to the appellee the docket fee,
 12 but, if the appeal at the election of appellee is set down for trial on
 13 its merits, and the trial has commenced, the foregoing provision shall
 14 not apply.

[C., '97, § 4559.]

SEC. 6797. Notice of appeal.

1 If an appeal is not perfected on the day on which judgment is
 2 rendered, written notice thereof must be served on the appellee or his
 3 agent, at least ten days before the next term of the court to which the
 4 appeal is taken, if ten days intervene, or the action, on motion of the
 5 appellee, shall be continued at the cost of the appellant.

[C., '51, § 2341; R., '60, § 2930; C., '73, § 3588; C., '97,
 § 4560.]

SEC. 6798. How served.

1 Such notice may be served like the original notice, and if the
 2 appellee or his agent has no place of residence in the county, it may
 3 be served by being left with the justice.

[C., '51, § 2342; R., '60, § 3931; C., '73, § 3589; C., '97,
 § 4561.]

SEC. 6799. Trial of appeal.

1 An appeal brings up the action for trial on the merits alone. All
 2 errors, irregularities and illegalities are to be disregarded under such
 3 circumstances, if the action might have been prosecuted in the court
 4 to which the appeal is taken.

[C., '51, § 2343; R., '60, § 3932; C., '73, § 3590; C., '97,
 § 4562.]

SEC. 6800. New demand.

1 No new demand or counterclaim can be made upon the appeal,
 2 unless by mutual consent.

[C., '51, § 2344; R., '60, § 3933; C., '73, § 3591; C., '97,
 § 4563.]

SEC. 6801. Costs of appeal.

1 The appellant must pay the costs of the appeal, unless he obtains
 2 a more favorable judgment than that from which he appealed.

[C., '51, § 2345; R., '60, § 3934; C., '73, § 3592; C., '97,
 § 4564.]

SEC. 6802. Offer to confess judgment.

1 Appellant may offer to confess judgment for a certain amount,
2 with costs, and if the final amount recovered be less favorable to the
3 appellee than such offer, he shall pay the costs of appeal.

[C., '51, § 2346; R., '60, § 3935; C., '73, § 3593; C., '97,
§ 4565.]

SEC. 6803. Judgment on appeal bond.

1 Any judgment on the appeal against the appellant shall be en-
2 tered against him and his sureties, and shall recite the order of liabil-
3 ity as principal and surety.

[C., '51, § 2347; R., '60, § 3936; C., '73, § 3594; C., '97,
§ 4566.]

SEC. 6804. Damages for delay.

1 If an appeal is taken for delay, the court to which it is taken may
2 award such damages, not exceeding ten per cent on the amount of the
3 judgment below, as may seem right.

[C., '51, § 2348; R., '60, § 3937; C., '73, § 3595; C., '97,
§ 4567.]

SEC. 6805. Appeal from default—pleadings.

1 If the appeal is taken from a judgment by default, the defendant
2 may file, before noon of the second day of the term at which the appeal
3 is triable, in the court to which it is taken, and the plaintiff reply
4 thereto as in other cases, any pleadings necessary to properly set forth
5 any defense he may have to the action. In such case the costs of the
6 trial before the justice shall be taxed to the defendant.

[C., '73, § 3596; C., '97, § 4568.]

SEC. 6806. Writs of error—when allowed.

1 Any person aggrieved by an erroneous decision in a matter of
2 law or other illegality in the proceedings of a justice of the peace may,
3 within twenty days after the final decision is made, remove the same,
4 or so much thereof as is necessary, for correction into the court to
5 which an appeal from such justice might be taken.

[C., '51, § 2349; R., '60, § 3938; C., '73, § 3597; C., '97,
§ 4569.]

SEC. 6807. Affidavit—notice.

1 The basis of the proceedings is an affidavit filed in the office of
2 the clerk, setting forth the errors complained of, and must be filed in
3 the same time, and the notice must be the same as in case of appeal.

[C., '51, § 2350; R., '60, § 3939; C., '73, § 3598; C., '97,
§ 4570.]

SEC. 6808. Writ.

1 The clerk shall thereupon issue an order commanding the justice
2 to certify the record and proceedings, so far as they relate to the facts
3 stated in the affidavit.

[C., '51, § 2351; R., '60, § 3940; C., '73, § 3599; C., '97,
§ 4571.]

SEC. 6809. Copy served—return.

1 A copy of the affidavit shall accompany the order and be served
 2 upon the justice, who shall, with the least practicable delay, make the
 3 return required.

[C., '51, § 2352; R., '60, § 3941; C., '73, § 3600; C., '97,
 § 4572.]

SEC. 6810. Bond.

1 All proceedings in the justice's court subsequent to judgment may
 2 be stayed by a bond, entered into like that required in cases of appeals,
 3 and on which judgment shall be entered against the principal and
 4 surety in like manner and under like circumstances.

[C., '51, § 2353; R., '60, § 3942; C., '73, § 3601; C., '97,
 § 4573.]

SEC. 6811. Amended return.

1 The court may compel a return to the writ, or an amended return
 2 when the first is not full and complete.

[C., '51, § 2354; R., '60, § 3943; C., '73, § 3602; C., '97,
 § 4574.]

SEC. 6812. Hearing—dismissal—affirmance.

1 The action shall stand for hearing on the writ of error at the first
 2 term after due notice thereof has been given. In case the party suing
 3 out the writ fails to have the return of the justice docketed before
 4 noon of the second day of the term at which the case should properly
 5 come on for hearing on such writ of error, and to pay the clerk's fees
 6 therefor, the appellee, unless time is extended by the court, may cause
 7 the action to be docketed and the writ of error dismissed, and, if he
 8 so elect, the judgment below affirmed; and the provisions of the section
 9 relating to docketing of appeals by appellee shall be applicable to pro-
 10 ceedings under writs of error, so far as may be.

[C., '97, § 4575.]

SEC. 6813. Judgment.

1 The court may render final judgment, or it may remand the cause
 2 to the justice for a new trial, or such further proceedings as shall be
 3 deemed proper, and prescribe the notice necessary to bring the parties
 4 again before the justice.

[C., '51, § 2355; R., '60, § 3944; C., '73, § 3603; C., '97,
 § 4576.]

SEC. 6814. Restitution.

1 If the court renders a final judgment reversing the judgment of
 2 the justice of the peace, after such judgment has been collected in
 3 whole or in part, it may award restitution, with interest, and issue
 4 execution accordingly, or it may remand the cause to the justice for
 5 this purpose.

[C., '51, § 2356; R., '60, § 3945; C., '73, § 3604; C., '97,
 § 4577.]

SEC. 6815. Replevin.

1 The proceedings and verdict in replevin shall be the same as are
2 prescribed in such cases in the district court, except as modified in
3 this chapter.

[C., '51, § 2357; R., '60, § 3946; C., '73, § 3605; C., '97,
§ 4578.]

SEC. 6816. Attachment.

1 Proceedings in attachment, except as modified in this chapter,
2 shall be the same as in the district court, the justice performing the
3 duties with reference thereto which are required of the clerk of that
4 court. The petition must be verified, and claim more than five dol-
5 lars, and, if a less sum is recovered, the plaintiff shall pay all the costs
6 of the attachment.

[C., '51, §§ 1884, 2358; R., '60, §§ 3245, 3947; C., '73, §§ 3024,
3606; C., '97, § 4579.]

SEC. 6817. Answers of garnishee.

1 The constable has the same power to administer an oath to the
2 garnishee in attachment or on execution, and to take his answer, as
3 is given to the sheriff in like cases in the district court.

[C., '51, § 2360; R., '60, § 3948; C., '73, § 3607; C., '97,
§ 4580.]

SEC. 6818. Appearance.

1 Garnishees may be required to appear and answer at the time
2 fixed for the appearance of the parties to the action, and the conduct
3 of the same shall be governed by the law relating to garnishments
4 under attachments in the district court.

[C., '51, § 2361; R., '60, § 3949; C., '73, § 3608; C., '97,
§ 4581.]

SEC. 6819. Attachment without personal service.

1 In actions in which an attachment is sought, if it is made to ap-
2 pear by affidavit that personal service can not be had on the defendant
3 within the state, the justice, upon the return day, unless the defendant
4 appear, shall make an order fixing the day for the trial, not less than
5 sixty days thereafter, and requiring notice to be given by any con-
6 stable as provided in the next section.

[R., '60, § 3950; C., '73, § 3609; C., '97, § 4582.]

SEC. 6820. Notice by posting.

1 Upon such order being made, at least sixty days' notice of the
2 pendency of such action shall be given by posting up written or printed
3 notices in three public places in the township where the action was
4 commenced, which shall have the effect of a service by publication in
5 the district court, and the justice shall proceed to hear the cause upon
6 the day specified for that purpose; but no bond shall be required of
7 the plaintiff after judgment as may be in the district court.

[R., '60, § 3951; C., '73, § 3610; C., '97, § 4583.]

SEC. 6821. Records deposited with successor.

1 Every justice of the peace, upon the expiration of his term of
2 office, must deposit with his successor his official docket, as well as

3 those of his predecessors which may be in his custody, there to be
4 kept as public records. All his official papers shall also be turned
5 over to his successor.

[C., '51, § 2377; R., '60, § 3967; C., '73, § 3625; C., '97,
§ 4584.]

SEC. 6822. Or county auditor—transcripts by clerk.

1 If his office becomes vacant before his successor is elected, the
2 said docket and papers shall be placed in the hands of the county au-
3 ditor, and by him turned over to his successor when elected and quali-
4 fied. During the time of the vacancy in said office, and while the
5 docket and papers are in the hands of the auditor, the clerk of the
6 district court of said county, on the filing of a written request and
7 payment of the fee required by law for the filing of transcripts, by
8 the plaintiff, his agent, or attorney, in any case in which a judgment
9 appears in said docket, shall make a transcript and certify to the
10 same, as provided by law, noting said fact on said docket with date
11 thereof, which transcript, when so made and filed in the office of the
12 clerk of the district court, shall have the same force and effect as
13 though made by a justice of the peace rendering said judgment.

[C., '51, § 2378; R., '60, § 3968; C., '73, § 3626; C., '97, § 4585;
S., '13, § 4585.]

SEC. 6823. Execution or transcript by successor.

1 The justice with whom the docket of his predecessor is thus de-
2 posited may issue or renew execution on or give a transcript of any
3 judgment there entered, in the same manner and with like effect as
4 the justice who rendered the judgment might have done; and in case
5 of the death, absence or inability to act of any justice, or the vacation
6 of the office from any cause, execution may be issued from the docket
7 of said justice, or transcript given therefrom, by any other justice
8 in said township, with like effect as might have been done by the jus-
9 tice who rendered the judgment.

[C., '51, § 2379; R., '60, § 3969; C., '73, § 3627; C., '97,
§ 4586.]

SEC. 6824. Successor—how determined.

1 When two or more justices are equally entitled to be held the
2 successor in office of any justice, the county auditor shall determine
3 by lot which is, and certify accordingly; which certificate shall be in
4 duplicate, one copy of which shall be filed in the office of such auditor,
5 and the other given to such successor.

[C., '51, §§ 2380, 2381; R., '60, §§ 3970, 3971; C., '73, § 3628;
C., '97, § 4587.]

SEC. 6825. Interchange.

1 In case of sickness or other disability or absence of a justice at
2 the time fixed for a trial of a cause or other proceeding, any other
3 justice of the township may, at his request, attend and transact the
4 business for him without any transfer to another office. The entries
5 shall be made in the docket of the justice at whose office the business
6 is transacted, and the same effect shall be given to the proceedings as
7 though no such interchange of official service had taken place.

[C., '51, § 2382; R., '60, § 3972; C., '73, § 3629; C., '97,
§ 4588.]

SEC. 6826. Special constables.

1 Any justice of the peace in writing may specially appoint any
 2 person of suitable age to perform any particular duty properly de-
 3 veloping upon a constable, and for that particular purpose the appointee
 4 shall be subject to the same obligations and receive the same fees. If
 5 such person is appointed to serve an attachment, execution, or order
 6 for the delivery of property, he shall, before levying upon the same,
 7 execute a bond to the state in a penal sum of not less than two hun-
 8 dred dollars, to be fixed by the justice, with one or more freeholders
 9 as sureties, to be approved by and filed with the justice making the
 10 appointment, and the usual official oath shall be indorsed thereon and
 11 signed. For any breach of such bond, any person injured thereby
 12 may bring action thereon in his own name, and recover the same dam-
 13 ages as upon a constable's bond in like cases.

[C., '51, § 2383; R., '60, § 3973; C., '73, § 3630; C., '97,
 § 4589.]

SEC. 6827. No process to another county.

1 No process can issue from a justice's court into another county,
 2 except when specially authorized.

[C., '51, § 2384; R., '60, § 3974; C., '73, § 3631; C., '97,
 § 4590.]

SEC. 6828. Sheriff and constable.

1 The constable is the proper executive officer in a justice's court,
 2 but the sheriff may perform any of the duties required of him. The
 3 powers and duties of the sheriff in relation to the business of the dis-
 4 trict court, so far as the same are applicable and not modified by stat-
 5 ute, devolve upon the constable in relation to the justice's court.

[C., '51, § 2385; R., '60, § 3975; C., '73, § 3632; C., '97,
 § 4591.]

SEC. 6829. Justice his own clerk.

1 The justice shall be his own clerk and perform the duty of both
 2 judge and clerk.

[C., '51, § 2386; R., '60, § 3976; C., '73, § 3633; C., '97,
 § 4592.]

SEC. 6830. Jury fees.

1 Jury fees in justices' courts shall be taxed as part of the costs.

[C., '51, § 2545; R., '60, § 4154; C., '73, § 3811; C., '97,
 § 4593.]

SEC. 6831. Powers of successor.

1 When the term of office of a justice of the peace expires, his suc-
 2 cessor may issue execution or renew execution in the same manner
 3 and under the same circumstances as the former justice might have
 4 done if his term of office had not expired.

[C., '51, § 2387; R., '60, § 3977; C., '73, § 3634; C., '97,
 § 4594.]

SEC. 6832. Report of unclaimed witness fees.

1 Each justice of the peace shall, on the first Monday in January
 2 and July each year, pay into the county treasury for the use of the

3 county all fees of whatsoever kind in his hands at the date of payment
 4 and still unclaimed, and shall take from the treasurer duplicate re-
 5 cepts therefor, giving the title of the cause, the names of the wit-
 6 nesses, jurors, officers or other persons, and the amount each one is
 7 entitled to receive, one of which he shall file with the county auditor,
 8 who shall charge the amount thereof to the treasurer as so much
 9 county revenue, and enter the same upon the proper records as a claim
 10 allowed, and, on demand by the persons entitled to said fees, shall
 11 issue county orders for the amount due each person, respectively.

[C., '73, § 3815; C., '97, § 4595.]

SEC. 6833. Penalty.

1 Any failure to pay over to the county treasurer witness fees, as
 2 above provided, is a misdemeanor, and shall be prosecuted as pro-
 3 vided by law.

[R., '60, § 352; C., '73, § 3816; C., '97, § 4596.]

SEC. 6834. Fees of justice.

1 Justices of the peace shall be entitled to charge and receive the
 2 following fees:
 3 1. For docketing each case in any action, except in garnishment
 4 proceedings, fifty cents.
 5 2. For issuing each original notice, fifty cents.
 6 3. For issuing attachment or order for the delivery of property,
 7 twenty-five cents.
 8 4. For drawing and approving bond, when required in any case,
 9 fifty cents.
 10 5. For entering judgment by confession after action brought,
 11 fifty cents.
 12 6. For entering judgment by confession before action brought,
 13 one dollar.
 14 7. For entering judgment by default, or on a plea of guilty, fifty
 15 cents.
 16 8. For entering judgment when contested, fifty cents.
 17 9. For additional when a jury is called, one dollar.
 18 10. For issuing venire for jury, twenty-five cents.
 19 11. For each subpoena in civil action, when demanded, twenty-
 20 five cents.
 21 12. For each oath or affirmation, except in proceedings connected
 22 with actions before him, five cents.
 23 13. For each continuance at the request of either party, fifty
 24 cents.
 25 14. For setting aside each judgment by default, fifty cents.
 26 15. For each information and affidavit, fifty cents.
 27 16. For each execution, renewal of execution, or warrant of any
 28 kind, fifty cents.
 29 17. For each bond or recognition, fifty cents.
 30 18. For each mittimus or order of discharge, fifty cents.
 31 19. For each official certificate or acknowledgment, twenty-five
 32 cents.
 33 20. For making and certifying transcript, fifty cents.
 34 21. For trial of all actions, civil or criminal, for each six hours
 35 or fraction thereof, one dollar.

36 22. For all money collected and paid over without action, five per
37 cent; and for all money collected and paid over after action brought
38 without judgment, two per cent, which shall be added to the costs.

[C., '73, § 3804; C., '97, § 4597.]

SEC. 6835. Fees of constable.

1 Constables shall be entitled to charge and receive the following
2 fees:
3 1. For serving any notice or civil process, on each person named
4 therein, fifty cents.
5 2. For copy thereof when required, ten cents.
6 3. For serving attachment or order for the delivery of property,
7 fifty cents.
8 4. For traveling fees, going and returning by the nearest trav-
9 eled route, per mile, ten cents.
10 5. For summoning a jury, including mileage, one dollar.
11 6. For attending the same on trial, for each calendar day, one
12 dollar.
13 7. For serving execution, besides mileage, fifty cents.
14 8. For advertising and selling property, seventy-five cents.
15 9. For advertising without selling, twenty-five cents.
16 10. For return of execution when no levy is made, ten cents.
17 11. For serving each subpoena, besides mileage, fifteen cents.
18 12. For posting up each notice required by law, fifteen cents.
19 13. For serving each warrant of any kind, seventy-five cents.
20 14. For attending each trial in a criminal case, for each calendar
21 day, one dollar.
22 15. For serving each mittimus or order of release, besides mile-
23 age, thirty cents.
24 16. For serving a warrant for the seizure of intoxicating liquors
25 and any other matter connected therewith, the same compensation as
26 allowed a sheriff for a like service.
27 17. For all money collected on execution and paid over, except
28 costs, five per cent, which shall constitute part of the costs.

[C., '73, § 3805; C., '97, § 4598; 38 G. A., ch. 48, § 1.]

SEC. 6836. In criminal cases.

1 The fees contemplated in the two preceding sections, in criminal
2 cases, shall be audited and paid out of the county treasury in any case
3 where the prosecution fails, or where such fees can not be made from
4 the person liable to pay the same, the facts being certified by the jus-
5 tice and verified by affidavit.

[C., '73, § 3806; C., '97, § 4599.]

SEC. 6837. Accounting for fees—compensation.

1 Justices of the peace and constables in townships having a popu-
2 lation of more than twelve thousand shall pay into the county treasury
3 all criminal fees collected in each year. Justices of the peace and con-
4 stables in townships having a population of under twelve thousand
5 shall pay into the county treasury all fees collected each year in excess
6 of the following sums: In townships having a population of four
7 thousand and under twelve thousand, justices, eight hundred dollars;
8 constables, six hundred dollars; in all townships having a population
9 of under four thousand, justices, six hundred dollars; constables, five
10 hundred dollars. In townships having a population of twelve thou-

11 sand or more, justices of the peace and constables shall receive in full
12 compensation for their services performed in criminal cases during
13 the year, the following sums which shall be paid quarterly out of the
14 county treasury: In townships having a population of forty thousand
15 or more, justices, eighteen hundred dollars; constables, fifteen hun-
16 dred dollars; in townships having a population of twenty-eight thou-
17 sand or more, justices, fifteen hundred dollars; constables, twelve
18 hundred dollars; in townships having a population of twenty thousand
19 and under twenty-eight thousand, justices, twelve hundred dollars;
20 constables, one thousand dollars; in townships having a population of
21 twelve thousand and under twenty thousand, justices, one thousand
22 dollars; constables, eight hundred dollars. Justices and constables in
23 all townships having a population of twelve thousand and over shall
24 retain such civil fees as may be allowed by the board of supervisors,
25 not to exceed five hundred dollars per annum, for expenses of their
26 offices actually incurred, and shall pay in to the county treasurer all
27 the balance of the civil fees collected by them.

[C., '97, § 4600; S., '13, § 4600-a; 38 G. A., ch. 216, § 1.]

SEC. 6838. Annual report to board of supervisors.

1 All justices of the peace and constables shall under oath make an
2 annual report to the board of supervisors, upon blanks furnished by
3 the county auditor, of all criminal fees taxed and collected during the
4 year, which report shall also show that all criminal fees and fines col-
5 lectible by law have been received, such annual report to be made on
6 the first Monday in January, and before the annual settlement shall
7 be made, and accompanied with the receipts of the treasurer for all
8 money paid in to him.

[C., '97, § 4600; S., '13, § 4600-b.]

SEC. 6839. Quarterly report to county auditor.

1 Justices of the peace shall make, under oath, quarterly reports,
2 upon blanks furnished by the county auditor, and shall file the same
3 with the county auditor, which reports shall contain a true and correct
4 transcript of all criminal proceedings which have been instituted or
5 adjudicated in their courts, with the names of all attending witnesses
6 and jurors and fees taxed in their favor.

[C., '97, § 4600; S., '13, § 4600-c.]

TITLE XXVIII.

COURTS OF RECORD OF ORIGINAL JURISDICTION.

CHAPTER 1.

MUNICIPAL COURT.

SECTION 6840. Municipal court—limits of city defined.

1 Any city, whether organized under commission form of govern-
2 ment or the general law for the incorporation of cities or towns, now
3 or hereafter having a population of five thousand or more, as shown
4 by the last preceding state or United States census, may establish a
5 municipal court under the provisions of this chapter by proceeding as
6 hereinafter provided, and for the purpose of this chapter, the terri-
7 torial limits of any such city shall be held to extend to the limits and
8 include therein all civil townships in which said city or any part
9 thereof is located.

[S. S., '15, § 694-c1; 38 G. A., ch. 142, § 1.]

SEC. 6841. Election—how secured.

1 Upon the petition of not less than fifteen per cent of the qualified
2 electors as shown by the poll lists in the last municipal or state elec-
3 tion of any such city or municipal court district, being filed with the
4 city clerk, the mayor shall, by proclamation, published once a week for
5 three consecutive weeks in two newspapers of general circulation
6 published in said municipality, or, if two such newspapers be not pub-
7 lished, then in one such newspaper, submit the question of establish-
8 ing a municipal court as provided in this chapter, at a general state
9 or municipal election or special election to be held at a time specified
10 therein, which time shall be within two months after said petition is
11 filed. If the said proposition is not adopted at such election, said ques-
12 tion shall not be resubmitted to the voters of said city, within two
13 years thereafter, and then said proposition may be resubmitted as
14 above provided.

[S. S., '15, § 694-c2.]

SEC. 6842. Question submitted—conducting election—certifying result—judges elected.

1 At such election the proposition to be submitted shall be, "Shall
2 the proposition to establish a municipal court in the city of (name of
3 city) under chapter one, title twenty-eight of the code be adopted?"
4 The election shall be conducted, the vote canvassed and the result de-
5 clared in the same manner as provided by law, in respect to other
6 municipal elections. If the majority of the vote cast on said proposi-
7 tion shall be in favor thereof, said municipal court shall be deemed
8 established. Immediately after such proposition is adopted, the mayor
9 shall transmit to the governor, the secretary of state and the county
10 auditor, each, a certificate showing that such proposition was adopted.

11 At the next regular municipal election after the adoption of such
12 proposition there shall be elected the judge or judges of said municipal
13 court and the clerk and bailiff thereof as hereinafter provided.

[S. S., '15, § 694-c3; 38 G. A., ch. 16, § 1.]

SEC. 6843. By what laws governed.

1 All laws governing district courts, superior courts, justice courts,
2 mayor's courts and police courts, not inconsistent with the provisions
3 of this chapter shall apply to and govern the municipal courts organ-
4 ized under this chapter.

[S. S., '15, § 694-c4.]

**SEC. 6844. Inferior courts abolished—dockets and records de-
livered to clerk.**

1 After the adoption of the proposition to establish a municipal
2 court under the provisions of this chapter, and upon the election or
3 appointment and qualification of the officers herein provided for, the
4 police court, mayor's court, justice of the peace court and the superior
5 court in and for the territory within the municipal court district, shall
6 be abolished and the offices of police judge, clerk of police court,
7 justices of the peace, constables, superior judge and clerk of superior
8 court shall likewise be abolished; and when said offices shall be abol-
9 ished the dockets of such courts and all records and papers in their
10 possession pertaining to any proceedings had before them shall be
11 forthwith delivered to the clerk of the municipal court, who shall
12 preserve same in his office and who shall have full power and authority
13 to certify and transcript such proceedings, as appear in the said
14 dockets and records and papers of the said courts, and all subsequent
15 proceedings in any cause of action then pending in any of the said
16 courts so abolished, shall be carried out in the said municipal court in
17 the manner herein provided for, the same as if the said cause had
18 originated in said municipal court.

[S. S., '15, § 694-c5; 38 G. A., ch. 16, § 2.]

SEC. 6845. Number of judges.

1 In any city having a population of less than thirty thousand
2 inhabitants, as shown by the last state or United States census, wherein
3 a municipal court has been or may hereafter be established, there shall
4 be one municipal judge; in cities having more than thirty thousand
5 and less than fifty thousand inhabitants there shall be two municipal
6 judges; provided, further, that in cities having more than fifty thou-
7 sand inhabitants there shall be one municipal judge for each thirty
8 thousand inhabitants or major fraction thereof; provided that the
9 inhabitants of any civil township in which said city or any part thereof
10 is located shall be counted in determining the number of judges. In
11 every city, establishing a municipal court, as herein provided, there
12 shall be nominated at the following primary, and elected at the follow-
13 ing city election, a judge or judges of said municipal court, a clerk
14 and a bailiff thereof, as hereinafter provided; provided, however,
15 that when the territorial limits of any municipal court extend beyond
16 the city limits to the borders of any township in which any such city
17 is located as herein provided, then the primary and general election
18 shall be held on the same day and subject to the same requirements
19 as said city primary and election. They shall qualify and their terms

20 of office shall begin on the first Monday after their election. The
 21 term of office of each judge and of the clerk and bailiff shall be
 22 four years.

[S. S., '15, § 694-c6; 38 G. A., ch. 163, § 1.]

SEC. 6846. Appointment of judge.

1 In any city which shall be entitled to an additional judge of the
 2 municipal court under the provisions of the preceding section a
 3 vacancy shall be deemed to exist as to the office of such additional
 4 judge and the governor shall, by appointment, fill such vacancy as
 5 provided in section sixty-eight hundred fifty-six.

[38 G. A., ch. 163, § 2.]

SEC. 6847. Judges—qualifications.

1 Each of said judges shall be a qualified elector residing in such
 2 municipal court district and be a practicing attorney at law, and shall
 3 subscribe to the same oath required of the judges in the district
 4 court of the state of Iowa and shall file the same with the city clerk.

[S. S., '15, § 694-c7.]

SEC. 6848. Clerk—qualifications—duties.

1 The clerk of said court shall be a qualified elector of said municipal
 2 court district. The duties of the clerk shall be to have charge of all
 3 the books, papers and records filed or kept in the municipal court and
 4 to collect all costs, receive and disburse all moneys paid into said
 5 court; and to do and perform all necessary acts similar to those
 6 incumbent upon the clerk of the district court and not inconsistent
 7 with the provisions of this chapter. He shall, from time to time, make
 8 a record of all proceedings of the court, which, when correct, shall be
 9 signed by the judge or judges of said court. Delays in signing the
 10 record shall not prevent executions from issuing and all other proceed-
 11 ings may be had in the same manner as though the record had
 12 been signed.

[S. S., '15, § 694-c8; 37 G. A., ch. 75, § 7.]

SEC. 6849. Bailiff—duties.

1 The bailiff of said court shall be a qualified elector of said
 2 municipal court district. The bailiff shall have control and have
 3 supervision of the court rooms, and shall execute or direct the execu-
 4 tion of all orders, writs, notices or processes coming into said court, or
 5 authorized or directed by a judge thereof; and shall do and perform
 6 all acts similar to those incumbent upon constables and sheriffs. He
 7 shall have control of, and be responsible for all persons in his custody
 8 and while in the court rooms, and it shall be his duty to preserve order
 9 during every session of the said court. All regular police officers
 10 shall be ex officio special bailiffs when so ordered by a judge of said
 11 court, without other compensation than that paid for their services
 12 as police officers.

[S. S., '15, § 694-c9.]

SEC. 6850. Deputy clerks and bailiffs—how appointed—salary.

1 The clerk and bailiff, with the approval of the city council, shall
 2 each have power to appoint such deputies as may be necessary to
 3 transact the business of the municipal court, and the city council shall

4 fix the salary to be paid to such deputies. When such deputy officers
5 are appointed and their appointment approved, they shall take the
6 same oath as that required of the clerk and the bailiff.

[S. S., '15, § 694-c10.]

SEC. 6851. Bonds.

1 The judges of said municipal court, the clerk, the deputy clerk
2 or clerks, if any, the bailiff, and the deputy bailiff or bailiffs, if any,
3 shall give such bonds as may be required by the city council, which
4 bonds shall be filed with and approved by the city clerk.

[S. S., '15, § 694-c11.]

SEC. 6852. Nominations by primary—laws applicable.

1 All candidates for judge of said municipal court or for clerk or
2 bailiff thereof, to be voted for at the general municipal election at
3 which judges of the municipal court, the clerk and the bailiff thereof
4 are to be elected under the provisions of this chapter, shall be nomi-
5 nated by primary election and no names shall be placed upon the
6 general ballot, except those selected in the manner hereinafter pre-
7 scribed. The primary election for such nomination shall be held at
8 the same time as, and be a part of the primary election, nominating
9 other candidates for municipal offices to be elected at the following
10 general municipal election. All laws governing the affidavits required
11 to be filed by candidates for municipal offices and the petitions of such
12 candidates applicable to nomination and election of municipal officers
13 elected in cities operating under the commission plan form of govern-
14 ment of cities as provided in chapter two of title four, and not
15 inconsistent with the provisions of this chapter shall apply to and
16 govern the nomination and election of the judge or judges of municipal
17 courts and the clerk and the bailiff thereof as herein provided.

[S. S., '15, § 694-c12.]

SEC. 6853. Separate ballots provided—number nominated.

1 At all primary elections at which a judge or judges of municipal
2 court, the clerk or bailiff thereof are to be nominated, there shall be
3 separate ballots, upon which shall be placed the names of the candi-
4 dates for offices, which ballot shall be entitled the "municipal judiciary
5 primary ballot," and the names of such candidates shall be placed
6 thereon in alphabetical order and without party designation and there
7 shall be designated thereon the number of judges each elector is
8 entitled to vote for. This ballot shall be delivered to each elector by
9 proper election officers and the candidates on such ballot, to the
10 extent of double the number of those to be elected, provided there are
11 that many or more candidates for such office or offices, receiving the
12 highest number of votes, shall be duly nominated.

[S. S., '15, § 694-c13.]

SEC. 6854. Separate ballots provided for general election.

1 At the general municipal election, there shall be a separate
2 ballot on which shall be placed the names of candidates nominated
3 for judge or judges of the municipal court, the clerk or the bailiff of
4 said court, who have been nominated as herein provided, which ballot
5 shall be entitled the "municipal judiciary ballot." The names of all
6 candidates shall be placed thereon in alphabetical order without party

7 designation, and there shall be designated thereon the number of
 8 judges for which each elector is entitled to vote. This ballot shall be
 9 delivered to each elector and the candidates on each ballot, to the
 10 number of those to be elected, receiving the highest number of votes,
 11 shall be duly elected.

[S. S., '15, § 694-c14.]

SEC. 6855. General election laws applicable.

1 The method of conducting such primary and general election and
 2 the canvassing and announcing the result, of recounting the ballots,
 3 of proper notice of nomination and election and the penalties for
 4 illegal voting and misconduct of election officials, the hire of services
 5 and the making of sworn return of election expense shall be the same
 6 as now provided by the general primary and general election laws of
 7 the state of Iowa and of cities operating under the commission plan
 8 form of government.

[S. S., '15, § 694-c15.]

SEC. 6856. Vacancies—how filled—temporary vacancies.

1 If any vacancy occurs in the office of municipal judge, the governor
 2 of the state of Iowa shall appoint such officer to fill such vacancy who
 3 shall hold the office until the next regular city election or until his
 4 successor to fill the unexpired term is elected and qualified. In case
 5 of vacancy in any other elective office herein provided, the mayor, by
 6 and with the consent of the city council, shall make such appointment.
 7 Whenever the proposition establishing a municipal court has been
 8 or may hereafter be adopted and no officers of such court have been
 9 appointed as herein provided, or have been elected at any regular
 10 city election, a vacancy in such offices shall be deemed to exist and may
 11 be filled as provided in this section. In case of inability of any judge
 12 to act, any other judge of any municipal or district court in the
 13 county may hold court during such inability or the governor of the
 14 state of Iowa may appoint a judge to hold court during such inability,
 15 which judge shall have the same qualifications as the regularly elected
 16 municipal judge and shall receive the same salary as the regular judge
 17 would have received, which shall be paid in the same manner as the
 18 salary of the regular judge.

[S. S., '15, § 694-c16; 38 G. A., ch. 16, § 3.]

SEC. 6857. Sessions continuous—correction of judgments—laws applicable—executions—stay—appeal.

1 There shall be no terms of court and the court shall be open for
 2 business twelve months of the year, and there shall always be at least
 3 one judge present each day to hold court and to issue such writs and
 4 orders as are required; provided, however, that if it shall be necessary
 5 to appoint another judge to act during any absence, that such judge
 6 so appointed shall receive as compensation for his services so rendered
 7 a sum equal to the salary of the regular judge and payable in the
 8 same manner. Grounds for, and the practice governing the correction,
 9 vacation, or modification of final judgment or order of said court,
 10 and the granting of new trial, shall be the same, so far as may be, as
 11 in the district court; and the jurisdiction of said court shall be con-
 12 sidered as retained by it for correction of errors of the court, or in the
 13 record, for a period of ten days following the entry of final judgment,

14 except that execution may issue upon the entry of final judgment
 15 unless stayed by order of court for a period not exceeding such ten
 16 days, or by appeal perfected by notice and supersedeas. Default or
 17 judgment thereon may be set aside in the same manner and upon the
 18 same terms as is now or may hereafter be provided for setting aside
 19 defaults in the district court. Application therefor must be made
 20 within ten days from the day on which default or judgment was
 21 entered, providing, however, that within one year from the rendition
 22 of final judgment proceedings may be brought to reverse, vacate or
 23 modify the same, as provided in chapter thirty-two, title thirty-one,
 24 for vacating or modifying final judgment or order of the district court.

[S. S., '15, § 694-c17; 37 G. A., ch. 75, § 1.]

SEC. 6858. Jurisdiction.

1 Said municipal court shall have concurrent jurisdiction with the
 2 district court, in all civil matters, where the amount in controversy
 3 does not exceed one thousand dollars, except in probate matters,
 4 actions for divorce, alimony, separate maintenance, those directly
 5 affecting the title to real estate, and juvenile proceedings, and said
 6 court shall have no power to grant injunctions, except where the
 7 issuance of the writ is auxiliary to the other relief demanded and of
 8 which the court has jurisdiction. Said court shall have all criminal
 9 jurisdiction that is now or hereafter may be conferred on justice of
 10 peace, mayor's courts and police courts. Prisoners may be committed
 11 to the city prison or any other place or institution for confinement or
 12 punishment instead of the county jail or may be paroled or their
 13 sentence suspended, at the option of the judge.

[S. S., '15, § 694-c18.]

SEC. 6859. Causes of action—how divided.

1 Causes of action in the municipal court shall be divided in the
 2 following classes:
 3 Class "A" shall include all equitable actions and all ordinary
 4 actions, when the amount in controversy exceeds one hundred dollars,
 5 and all special actions of which this court has jurisdiction.
 6 Class "B" shall include all ordinary actions when the amount in
 7 controversy is one hundred dollars or less.
 8 Class "C" shall include the trial of all public offenses of which this
 9 court has jurisdiction other than for the violation of the city ordi-
 10 nances.
 11 Class "D" shall include all criminal actions for the violation of
 12 city ordinances.

[S. S., '15, § 694-c19.]

SEC. 6860. Laws governing district court—how far applicable.

1 All statutes governing the district court as to pleading and prac-
 2 tice, parties, evidence, commencement of actions, jurisdiction, process,
 3 modes of trial, judgment, execution, attachment, garnishment, replevin
 4 and limitation of actions, shall apply to and govern the municipal
 5 court except when the same are inconsistent with the provisions of
 6 this chapter.

[S. S., '15, § 694-c20.]

SEC. 6861. Pleadings.

1 All pleadings in class "A" cases shall be in writing and in sub-
 2 stantially the same form as in the district court, and the petition must
 3 be filed with the clerk of the municipal court not less than five days
 4 before the date set in the original notice for the appearance of the
 5 defendant. The time for filing all subsequent pleadings shall be the
 6 same as in the district court unless a different time is prescribed by
 7 the judge or judges of the municipal court in the rules thereof. The
 8 pleadings in class "B" cases shall be the same as is now or may here-
 9 after be provided for the trial of civil cases in justice of the peace
 10 courts, except as otherwise provided for herein.

[S. S., '15, § 694-c21.]

SEC. 6862. Commencement of actions.

1 Civil actions in the municipal court are commenced by voluntary
 2 appearance or by written notice. If by notice, the same shall be
 3 addressed to the defendant or defendants by name, but if his name is
 4 unknown, a description of him shall be sufficient. It must be sub-
 5 scribed by the plaintiff or his attorney. The notice must state the
 6 amount for which the plaintiff will take judgment if the defendant
 7 does not appear and answer at the time and place stated in the original
 8 notice, which shall be not less than five nor more than fifteen days
 9 after the service thereof, if served upon the defendant within the
 10 county where the municipal court is situated, and not less than ten
 11 days nor more than twenty days after the service thereof if served
 12 upon the defendant without the county where the municipal court is
 13 situated. In class "A" cases it must further state the date on or
 14 before which the petition will be filed with the clerk of the municipal
 15 court, and unless the petition is filed with the clerk of the municipal
 16 court on or before such date, which shall be at least five days before
 17 return day, the defendant or defendants shall not be held to appear
 18 and answer. If service is made within the state, the truth of the
 19 return is proven by the signature of the bailiff, sheriff, or his deputy,
 20 and the court shall take judicial notice thereof.

[S. S., '15, § 694-c22; 37 G. A., ch. 75, § 2.]

SEC. 6863. Service by publication.

1 1. Service of original notice may be made by publication when
 2 an affidavit is filed that personal service can not be made on the de-
 3 fendant within this state in either of the following cases:
 4 *a* In actions brought against a nonresident of this state or a
 5 foreign corporation, having in the state property or debts owing to
 6 such defendant, sought to be taken by any of the provisional remedies
 7 or to be appropriated in any way.
 8 *b* In actions which relate to or the subject of which is personal
 9 property in this state, when any defendant has or claims a lien or
 10 interest, actual or contingent, therein, or the relief demanded con-
 11 sists wholly or partially in excluding him from any interests therein,
 12 and such defendant is a nonresident of the state or a foreign corpora-
 13 tion.
 14 *c* In all actions where the defendant, being a resident of this
 15 state, has departed therefrom, or from the county of his residence,
 16 with intent to delay or defraud his creditors, or to avoid the service
 17 of a notice, or keeps himself concealed therein with like intent.

18 2. The publication must be of the original notice required for the
19 commencement of actions, once each week for three consecutive weeks,
20 before or after the filing of the petition, in some newspaper published
21 in the city where the municipal court is situated, which paper shall be
22 determined by the plaintiff or his attorney.

23 3. When the foregoing provisions have been complied with, the
24 defendant so notified shall be required to appear on the date desig-
25 nated in the said original notice, which shall be not less than five nor
26 more than fifteen days after the date of the last publication.

27 4. Actual personal service of the notice within or without the
28 state supersedes the necessity of publication.

[37 G. A., ch. 75, § 3.]

SEC. 6864. Change of venue.

1 Changes of venue may be taken from the said court in all civil
2 actions to the district court in the county in which said municipal
3 court is situated or to another county, in the same manner, for like
4 causes and with the same effect as the venue is changed in the district
5 court. But in cases where a contract, payable in such city, has been
6 signed by a nonresident of such city, and suit is brought upon said
7 contract against such nonresident, he may, at his option, upon motion,
8 supported by affidavit showing that he is a nonresident, have the case
9 transferred to the district court of that county at any time before trial.

[S. S., '15, § 694-c23.]

SEC. 6865. Criminal actions—how tried.

1 All criminal actions for the violation of city ordinances, shall be
2 tried summarily and without a jury, saving to the defendant the right
3 of appeal to the district court, which appeal shall be taken in the same
4 time and manner as appeals are taken from justices' courts and police
5 courts, in criminal actions. All other criminal actions shall be triable
6 in the same manner as are now or may hereafter be made triable by
7 justice of the peace or other courts having jurisdiction thereof.

[S. S., '15, § 694-c24.]

SEC. 6866. Court of record.

1 The municipal court shall be a court of record and shall have a
2 seal. Within the jurisdiction of the municipal court, the judges shall
3 have the same power in regard to injunctions, writs, orders and other
4 proceedings in court and out of court as are possessed by the judges
5 of the district court. The judges of the municipal court shall have
6 power to make and enforce rules of practice and procedure for the
7 conduct of affairs of the court. The records to be kept by said court,
8 shall be in substantially the same form as provided for the dis-
9 trict court.

[S. S., '15, § 694-c25.]

SEC. 6867. Method of procedure.

1 If the method of procedure in any case within the jurisdiction of
2 the municipal court is not sufficiently prescribed by this chapter or
3 by any rule of court adopted in pursuance hereof, the court may make
4 such provision for conducting and disposing of the same as may appear
5 to the court proper for the just determination of the rights of the
6 parties.

[S. S., '15, § 694-c26.]

SEC. 6868. Fees—costs—how accounted for.

1 Unless otherwise provided in this chapter, fees, costs and expense
 2 payable in said court shall be the same as in the district court, and
 3 where no provision is made therefor in the district court, then the
 4 fees, cost and expense shall be the same as in the courts of justices of
 5 the peace. All fees, fines, forfeitures, costs and expense paid to the
 6 clerk and bailiff shall be paid to the city treasurer on or before the
 7 tenth day of each succeeding month; provided that the amounts
 8 allowed the bailiff by law for mileage and for necessary and actual
 9 expenses paid by him may be retained by him in addition to his salary.

[S. S., '15, § 694-c27; 37 G. A., ch. 226, § 1; 38 G. A., ch. 42,
 § 1.]

SEC. 6869. Witness fees.

1 The witness fees allowed in the municipal court shall be the same
 2 as in the district court in all cases included in class "A". The witness
 3 fees to be taxed in all cases arising in classes "B", "C", and "D" shall
 4 be the same as in courts of justices of the peace; provided, however,
 5 that no regular police officer of such city, no clerk or his deputy and
 6 no bailiff or his deputy shall be allowed a witness fee in cases arising
 7 in classes "C" and "D".

[S. S., '15, § 694-c28.]

SEC. 6870. Jury.

1 In each municipal district where municipal courts shall have
 2 been established, the jury lists shall be prepared, jury panels drawn,
 3 the juries summoned and the jurors in each case drawn in the manner
 4 hereinafter provided.

[S. S., '15, § 694-c29.]

SEC. 6871. Jury commission.

1 The city clerk, the city auditor and the clerk of the municipal
 2 court shall constitute the jury commission for that municipal court
 3 district and each such officer shall be a jury commissioner during his
 4 term of office. The oath of office administered to each officer on enter-
 5 ing upon the duties of their respective offices, shall also apply to their
 6 duties as jury commissioners and the bond given by each such officer
 7 shall thereafter, in addition to the conditions otherwise required by
 8 law, be conditioned upon the faithful discharge of all the duties of the
 9 jury commissioners during their term of office.

[S. S., '15, § 694-c30.]

SEC. 6872. Jurors—qualifications—causes for challenge.

1 All persons selected to serve as jurors in each such municipal
 2 court district shall have the same qualifications and exemptions and
 3 shall be subject to the same challenges as jurors in the district court
 4 of the state of Iowa; but jurors in the district court shall be exempt
 5 from any jury service in the municipal courts.

[S. S., '15, § 694-c31.]

SEC. 6873. Jury list—how prepared.

1 Said jury commissioners shall be provided with a poll list of
 2 such municipal court district of the last preceding municipal court

3 election, and shall, before the last Monday in April following and
4 every two years thereafter, prepare a list of all electors, possessing
5 the necessary legal qualifications for jury service as herein provided
6 to be known as the "jury list." The name of each person on said list
7 shall be entered in alphabetical order in a book or books to be kept
8 for that purpose, and opposite each name there shall be entered the
9 age of said person, his occupation and his place of residence, giving
10 his street and number. The custody of said book or books shall be in
11 the city clerk and shall be open to the public for inspection and
12 investigation at all times. This jury list may be revised and amended
13 annually in the discretion of the jury commission or upon order of the
14 municipal court. The jury commission shall keep record of such
15 changes or correction in said jury lists as shall come to the knowledge
16 of each or any jury commissioner and said jury commission shall
17 annually before the last Monday in April of each year, amend said
18 jury list by striking the names of such electors as shall be disqualified
19 for jury service; provided, further, that when the territorial limits of
20 any municipal court extends beyond the city limits to the borders of
21 the township in which said city is located, as herein provided, that
22 the "jury list" shall also include the qualified electors in such addi-
23 tional territory, as shown by the last municipal court or general
24 election.

[S. S., '15, § 694-c32.]

SEC. 6874. Boards of registration to examine electors as to qualifications.

1 The boards of registration of such municipality, or in event there
2 are no such boards, then the election boards in each voting precinct,
3 when so directed by the jury commission, shall make such examination
4 of the electors of their respective precincts, touching their qualifica-
5 tions for jury service as said jury commission may lawfully require,
6 which examination shall be under oath and a complete record thereof
7 be made and preserved in a book or books provided for that purpose
8 and when completed and properly certified by said boards, they shall
9 deliver the same to the city clerk to be by him kept and preserved.

[S. S., '15, § 694-c33.]

SEC. 6875. Jurors—how names prepared.

1 When the jury commission shall have prepared the jury list as
2 herein provided, they shall write each name on a separate ticket, with
3 the age, place of residence, occupation of each, if known, each ticket
4 to be of uniform size, color and material and folded uniformly and
5 in such a manner that same can not be read without unfolding, and
6 placed in separate envelopes of uniform size, color and material, with-
7 out any mark of identification whatsoever, which envelope shall then
8 be sealed and the whole put in a drum or box to be kept for that
9 purpose to be known as the "jury box," which jury box shall have but
10 one opening and that only large enough to insert the hand, and shall
11 be so constructed that when revolved upon an axis, the ballots therein
12 contained shall be thoroughly mixed. After said ballots have been
13 placed in said jury box, the same shall be closed and securely sealed,
14 the separate seal of each jury commissioner being attached thereto,
15 which jury box shall not be opened thereafter except in open court
16 in the presence of a judge and of each jury commissioner. The custody
17 of said jury box shall be in the clerk of the municipal court. After

18 any drawing of names from the jury box as hereinafter provided,
 19 the said jury box shall again be closed and sealed in like manner as
 20 above provided in the presence of court and when so sealed, shall be
 21 returned to the custody of the said clerk of the municipal court.

[S. S., '15, § 694-c34.]

SEC. 6876. Jurors—how drawn.

1 On the last Monday of each month, in open court and in the
 2 presence of a judge of said court and in the presence of the other jury
 3 commissioners, the city auditor shall, after the jury box containing
 4 the names of all persons then legally on the jury list shall have been
 5 well shaken, and the names therein contained have been thoroughly
 6 mixed, break the seals thereon and then, being blindfolded shall,
 7 without partiality and at random, draw from said jury box, an envel-
 8 ope, which, without opening, the said city auditor shall pass to the
 9 clerk of the municipal court, who shall open same, unfold the ticket
 10 therein contained and read same aloud so that all may hear, which
 11 shall then be passed to the city clerk who shall make a record thereof.
 12 Thereafter other names shall be drawn in like manner as before until
 13 such number of names as the majority of the judges shall have ordered
 14 drawn for jury service, shall have been drawn, which persons shall
 15 constitute the jury panel for that month; provided that if for any
 16 reason it seems probable that a jury can not be secured from the regu-
 17 lar panel, the judge or a majority of the judges shall order such
 18 number of additional jurors drawn as he or they may deem necessary,
 19 which drawing shall be in open court and in like manner as herein-
 20 before provided; provided, further, that should the name of any person
 21 known to be dead, a nonresident, one absent from the state, one unable
 22 to attend on account of illness or who is legally disqualified, be
 23 drawn, such name shall not be included in the panel and other names
 24 shall be drawn until the required number shall have been selected.
 25 The name of any person excluded by the provisions of this section
 26 from the jury panel, shall, after the month and before the drawing
 27 for the following month, be replaced in said jury box. The jury panel
 28 as drawn on the last Monday of each month shall constitute the jury
 29 panel for the succeeding month beginning on the first Monday of
 30 each month.

[S. S., '15, § 694-c35.]

SEC. 6877. Setting aside jury panel.

1 Whenever the court is satisfied that the jury commission has
 2 failed in any material respect to perform the duties required of them
 3 or that any improper influence has in any manner reached them and
 4 influenced the selection of the jury panel, the court may set aside the
 5 said panel and order new panels drawn and in the same manner as
 6 herein provided for the selecting of said jury panel.

[S. S., '15, § 694-c36.]

SEC. 6878. Jury summons.

1 The clerk of the municipal court shall forthwith issue a summons
 2 to each person drawn as herein provided, which summons shall be at
 3 once served by the bailiff or other officer in the manner provided by
 4 law, to appear in court on the first Monday of the succeeding month
 5 and when such jurors shall have appeared the jurors shall be selected

6 in each cause of action as hereinafter provided, at which time the
7 name of each juror shall be called and all excuses heard and deter-
8 mined by the court.

[S. S., '15, § 694-c37.]

SEC. 6879. Jurors to serve during but one month.

1 When the jury for each month shall be discharged the clerk of
2 the municipal court shall certify to the city clerk the names of all
3 persons who have served during said month, a complete record of
4 which shall be made and kept by the city clerk showing the name,
5 service and date of service of each juror, and the names of all who
6 have so served shall then be checked off from said jury list and not
7 again be placed thereon until the new jury list shall be prepared by
8 the jury commissioners on or before the last Monday in April of
9 the year following the next succeeding municipal election. The names
10 of all jurors who have been excused from service because of sickness
11 or other reason and also those who were not drawn or accepted for
12 jury service during the term of court and who possess the legal qualifi-
13 cations for jury service, shall be again placed in the jury box before
14 drawing the jury for the following month.

[S. S., '15, § 694-c38.]

SEC. 6880. Jury—how drawn.

1 When the jury panel shall have been selected as herein provided,
2 the clerk of the municipal court shall prepare the names on said panel
3 for drawing in the same manner as herein provided for preparing
4 the names on the jury list by the jury commissioners, placed in a like
5 jury box as hereinbefore provided, which box shall then be closed and
6 sealed with the separate seal of the clerk of the municipal court
7 attached thereto. This box shall be kept in the custody of the clerk
8 of the municipal court and shall not be thereafter opened except in
9 open court and in the presence of a judge of the municipal court, and
10 only when so ordered by such judge and then only for the purpose of
11 drawing a jury or inserting the names of jurors so discharged, which
12 names shall have been first prepared in a like manner as above pro-
13 vided. After said jury box shall have been opened for any purpose,
14 it shall in open court and in the presence of a judge, be resealed by
15 the clerk of the municipal court. When ordered by the judge, the
16 clerk of the municipal court, in open court and, in the presence of the
17 attorneys of all parties litigant in pending cause of action, and after
18 the names contained in said jury box shall have been thoroughly
19 mixed, the clerk of the municipal court shall break the seal on said
20 jury box and impartially and at random draw an envelope therefrom,
21 which he shall open and read aloud so that all persons may hear; then
22 other names shall be drawn in like manner as before, until the required
23 number shall have been drawn, which persons shall constitute the
24 jury for the pending cause of action, provided that should any person
25 so drawn be absent from court, be excused from service or be dis-
26 qualified for service in the pending trial because of being challenged,
27 other names shall be drawn in like manner as before until the required
28 number of jurors are selected; provided, further, that the names of
29 all persons so excused, absent or disqualified, shall at once, in the
30 presence of the court, be prepared as hereinbefore provided and be
31 replaced in the jury box, after which the same shall be sealed as above

32 provided; provided, further, that if for any reason the number of
33 jurors required by law can not be secured from the jury panel, the
34 judge of such court shall order such number of additional names as
35 he shall deem necessary to be drawn by the jury commissioners from
36 the jury list as herein provided and when so drawn, summons shall
37 issue for their attendance in court; provided that the clerk of the
38 municipal court may deputize a deputy who may lawfully seal the petit
39 jury box as herein provided; provided that when any party to a pend-
40 ing trial has reason to believe that irregularities exist in preparing
41 the names of the jury panel in said jury box, [he] may demand of the
42 court an examination thereof; and any party to a pending trial may
43 lawfully refuse to proceed with the trial until such examination of
44 said jury box shall have been made in open court and then not until
45 the names of said jury panel shall have been prepared and inserted
46 in said jury box in a manner provided by law.

[S. S., '15, § 694-c39.]

SEC. 6881. Jury commission to serve without compensation.

1 Members of the jury commission shall, without additional com-
2 pensation to that by law provided, perform all of the duties of the
3 jury commissioners in addition to their respective duties as now or
4 hereinafter shall be provided by law. The city council shall, if neces-
5 sary, be empowered to expend a reasonable sum necessary for expenses
6 incident to the transaction of the duties of the jury commission.

[S. S., '15, § 694-c40.]

SEC. 6882. Improperly influencing selection of jury.

1 Any person who shall seek in any manner, to influence the action
2 of the jury commission, or who shall seek the position of juror, or who
3 shall ask any jury commissioner or any attorney or any officer of the
4 court or any other person to secure his selection as juryman, shall be
5 guilty of contempt of court and punished as by law provided. Any
6 attorney or party to a suit pending in said municipal court who shall
7 request or solicit the place of any person upon the jury, shall in addi-
8 tion to the other penalties provided by law, likewise be guilty of
9 contempt of court and be punished as by law provided, and any person
10 so soliciting or sought to be put upon the jury shall be disqualified to
11 serve as a juror. Any official having anything to do in any manner
12 whatsoever with the making of the jury list, the selecting of the jury
13 panel, or the drawing of the jurors, who shall neglect or fail to carry
14 out, or shall in any unlawful manner carry out or attempt to carry
15 out any of the provisions of the law relating to the selection of juries,
16 shall, except when otherwise provided by law, be guilty of misde-
17 meanor and shall be punished by a fine of not more than one hundred
18 dollars or thirty days in jail or both and conviction therefor shall be
19 grounds for removal from office.

[S. S., '15, § 694-c41.]

SEC. 6883. Compensation for jurors—number—demand for jury.

1 The jurors provided for herein shall receive the same compensa-
2 tion as jurors in the district court, except that they shall be allowed
3 no mileage. In all cases where the case is tried by a jury, the jury
4 shall consist of six legally chosen and selected jurors. Upon request
5 of either party to any cause of action in class "A", triable by jury,

6 the jury may consist of twelve jurors; provided, however, that the
7 party so requesting such jury, shall pay in advance to the clerk of
8 said court an extra fee of six dollars therefor. The judges of said
9 court may, by rule of court, provide time at which the parties to each
10 cause of action triable by jury shall make known their demand for a
11 jury, and in the event that such demand is not made at the time and
12 in the manner provided for by the rules of said court, said cause of
13 action shall be triable by the court.

[S. S., '15, § 694-c42; 38 G. A., ch. 161, § 1.]

SEC. 6884. Peremptory challenges—challenges for cause.

1 Challenges for cause shall be the same as in the district court.
2 Where the jury consists of twelve jurors, the same number of chal-
3 lenges shall be allowed to either party as is, or may be, allowed in the
4 district court. In all cases where the jury shall consist of six jurors,
5 the clerk shall select eight jurors by lot from the regular panel or
6 additions thereto, and prepare a list of the names of such jurors called.
7 Each party shall have the right to peremptorily challenge two jurors
8 and strike off one juror. Peremptory challenges shall be exercised
9 or waived the same as is, or may be, provided in the district court
10 and such challenge shall be indicated by the clerk, upon the list
11 opposite the name of the juror challenged, and if waived, by indicat-
12 ing the number of waiver elsewhere on the list. After peremptory
13 challenges have been exhausted or waived the parties shall alternately
14 in the same manner strike one juror from the list. The clerk shall
15 read the names of the six jurors remaining, and the six so remaining
16 shall constitute the jury selected.

[S. S., '15, § 694-c43; 37 G. A., ch. 75, § 10.]

SEC. 6885. Instructions.

1 The judges of said court shall give written instructions to the
2 jury in all cases triable to juries; provided, however, that if the
3 amount in controversy in any cause of action shall be one hundred
4 dollars or less, the trial judge in each such cause, may, at his option,
5 give either oral or written instructions to the jury.

[S. S., '15, § 694-c44.]

SEC. 6886. Appeals direct to supreme court.

1 All appeals from judgments or orders of said court, or the judge
2 thereof, in civil actions, shall be taken to the supreme court in the
3 same manner, under the same restrictions, within the same limita-
4 tions, within the same time and with the same effect as appeals are
5 now or hereafter may be taken from the district court to the supreme
6 court, and judgments so appealed from may be superseded by bonds
7 to be approved by the clerk of said court and filed in his office as a
8 part of the record of the cause from which the appeal is taken, and
9 all laws applicable thereto in the case of such bonds filed in the dis-
10 trict court of the state of Iowa shall be applicable to such procedure
11 in the municipal court. Judgments of said court not appealed from
12 may also be stayed in said court in the same cases, for the same time,
13 and upon the same conditions, bonds therefor to be approved by and
14 filed in the office of the clerk of said municipal court.

[S. S., '15, § 694-c45; 37 G. A., ch. 75, § 4.]

SEC. 6887. Judgments—liens.

1 Judgments of the municipal court may be made liens upon real
2 estate in the county by filing transcript of same in the district court,
3 as is now or hereafter may be provided by the statutes of Iowa in
4 relation to judgments of justices of the peace, and with equal effect,
5 and from the time of such filing they shall be treated in all respects
6 as to their mode of enforcement as judgments rendered in the district
7 court as of that date, and no execution can thereafter be issued from
8 the municipal court on such judgments, and no real property shall
9 be levied on or sold on process issued out of the municipal court.
10 Judgments of the municipal court may be made liens upon real estate
11 in other counties in the same manner as judgments in the district
12 courts. Where judgments are not transcribed the municipal court
13 shall have jurisdiction of proceedings auxiliary to execution. In the
14 event that an appeal shall have been taken from any judgment of
15 said municipal court, so transcribed to the district court, and there-
16 after superseded as provided in section sixty-eight hundred fifty-seven,
17 it shall be the duty of the clerk of the municipal court to immediately
18 transmit to the clerk of the district court a certificate of such fact;
19 whereupon the clerk of the district court shall file such certificate and
20 make the appropriate notation thereof on the transcript docket, in
21 connection with such judgment, which shall have the effect of super-
22 seding the enforcement of said judgment in the district court, and
23 shall make it the duty of the clerk of said district court to recall any
24 execution that may have been issued, in all respects as if the appeal
25 had been taken from a judgment in that court, and when any appeal
26 from a judgment in the municipal court which has been so transcribed
27 to the district court shall have been finally disposed of in the appellate
28 court, it shall be the duty of the clerk of the municipal court, on
29 receipt of the mandate from the appellate court, to immediately certify
30 and transmit a copy thereof to the clerk of the district court, and all
31 proceedings in such causes thereafter, both in the municipal and dis-
32 trict courts, shall be in harmony with such mandate.

[S. S., '15, § 694-c46; 37 G. A., ch. 75, § 5.]

SEC. 6888. Salary.

1 The salary of each municipal judge, in cities of thirty thousand
2 or more inhabitants, shall be two thousand five hundred dollars per
3 annum, and in cities of less than thirty thousand inhabitants two
4 thousand dollars per annum.
5 The clerk and the bailiff shall receive a salary of one thousand
6 dollars per annum, each, in cities of less than thirty thousand inhabit-
7 ants, and one thousand two hundred dollars each, per annum, in cities
8 having from thirty thousand to fifty thousand population; one thou-
9 sand three hundred dollars in cities having from fifty thousand to
10 seventy-five thousand population; one thousand five hundred dollars
11 in cities having from seventy-five thousand to one hundred thousand
12 population and one thousand seven hundred fifty dollars in cities hav-
13 ing a population of over one hundred thousand. The deputy clerks
14 and deputy bailiffs shall receive such compensation as the city council
15 may allow.
16 The salaries of municipal judges, clerks and all deputies shall be
17 paid monthly on the first Monday of each month. For the first month
18 such salary shall be paid from the city treasury and the second month

19 such salary shall be paid from the county treasury. Each month
20 thereafter such payments shall alternate from the city to the county
21 treasury in like manner.

[S. S., '15, § 694-c47; 37 G. A., ch. 152, § 1.]

SEC. 6889. City to provide rooms—expenses apportioned.

1 The city council shall provide suitable place for holding said court,
2 and such other rooms and offices as may be necessary for the trans-
3 action of the business of said court. All of the other expenses of
4 maintaining said court not otherwise provided for in this chapter,
5 shall be paid from the city treasury.

[S. S., '15, § 694-c48; 37 G. A., ch. 226, § 2.]

SEC. 6890. Shorthand reporter.

1 Each judge of the municipal court, may appoint a shorthand
2 reporter. All provisions relating to shorthand reporters and their
3 duties in the district court, in so far as applicable, shall govern, except
4 their compensation which shall be six dollars per day for the time
5 actually employed and shall be paid one-half by the county and one-
6 half by the city as provided in this chapter. All actions included in
7 class "A" hereof, may be reported the same as in the district court,
8 and the reporters' fees shall be taxed in said action as costs. No
9 reporter shall be provided for in the trial of actions in class "B", unless
10 the party demanding the same shall pay the costs of said reporter to
11 the clerk in advance which shall be taxed as costs in the case. The
12 transcript fees paid reporters will be the same as in the district court,
13 and may be taxed as part of the costs on appeal.

[S. S., '15, § 694-c49.]

SEC. 6891. Abolishing municipal courts.

1 In any city where municipal courts, as herein provided, shall have
2 been established for more than four years, such city may abandon
3 such municipal court and accept the provisions of the general law of
4 the state then applicable to such cities by proceeding as follows: Upon
5 the petition of not less than fifteen per cent of the qualified electors
6 of such municipal court district as shown by the poll lists of the last
7 municipal or state election, being filed with the city clerk, the mayor,
8 by proclamation, shall submit such proposition at a general election.
9 If the majority of votes cast at such election be in favor of the proposi-
10 tion of abandoning the municipal court, the officers elected at the next
11 succeeding general election shall be those then prescribed by the
12 general law of the state for such cities and townships and upon the
13 qualification of such officers such municipal courts shall be abolished
14 and the court provided for by the general law of the state established.
15 The filing of the petition, the manner of conducting such election and
16 the declaring of the result shall be as by law provided for in this chap-
17 ter, for the adoption of the municipal courts in so far as the provisions
18 thereof are applicable.

[S. S., '15, § 694-c50.]

SEC. 6892. Sales on execution—notice.

1 When property is sold on execution, notice shall be given by post-
2 ing up in at least three public places of the township, one of which

3 shall be at the place where the municipal court was held, in addition
4 to which where personal property to the amount of two hundred
5 dollars or upwards is to be sold, there shall be two weekly publica-
6 tions of such notice in some newspaper printed in the city where the
7 municipal court was held, to be selected by the party causing the
8 notice to be given, and the compensation for such publication shall be
9 the same as is provided by law for legal notices.

[37 G. A., ch. 75, § 8.]

SEC. 6893. Entry of judgment.

1 In all cases judgments shall be rendered and entered upon the
2 record or calendar of said court within ten days after the cause is
3 submitted for final action, unless for good cause the court extends
4 the time.

[37 G. A., ch. 75, § 9.]

SEC. 6894. Municipal court buildings authorized.

1 Cities having a population of fifty thousand or over, including
2 cities under commission form of government, shall have the power to
3 erect a municipal court building, and to purchase the grounds there-
4 for, such building when constructed to be used for the housing of the
5 municipal court and such other like purposes as the council from time
6 to time may by ordinance direct, including the housing and retention
7 of persons charged with offenses against the laws of the city and
8 the state.

[37 G. A., ch. 17, § 1.]

SEC. 6895. Tax levy authorized.

1 For the purpose of paying for the construction of such building,
2 and the purchase price of such grounds, such city shall have the power
3 to levy upon all the property within the corporate limits of such
4 cities and towns, subject to taxation, for said purposes, in addition to
5 all other taxes now provided by law, a special tax not exceeding in any
6 one year one mill on the dollar for a period of years not exceeding fifty.

[37 G. A., ch. 17, § 2.]

SEC. 6896. Bonds authorized—maturity—duty of treasurer.

1 Any city desiring to construct such a building or to purchase
2 grounds therefor, may anticipate the collection of the tax herein
3 authorized to be levied for the construction of a municipal court build-
4 ing, and for that purpose may issue interest bearing bonds carrying
5 a rate of interest not to exceed five per cent per annum, to be denom-
6 inated "municipal court building bonds" and the said bonds, and the
7 interest thereon shall be secured by said assessment and levy, and shall
8 be payable only out of the proceeds of the special tax provided for in
9 the preceding section, and no bonds shall be issued in excess of taxes
10 authorized to be levied to secure the payment of the same. It shall
11 be the duty of the treasurer of such city to collect said tax authorized
12 to be levied and to hold the same separate and apart in trust, for the
13 payment of said bonds, and interest, and to apply the proceeds of said
14 special tax, pledged for that purpose, to the payment of said bonds
15 and interest. Such bonds shall be known as "municipal court building
16 bonds" and shall be issued and sold in accordance with the provisions
17 of chapter thirty-four of title thirteen. In issuing such bonds city

18 council may cause portions of said bonds to become due at different
19 definite periods, but none of such bonds so issued shall be due and
20 payable in less than three or more than fifty years from date.

[37 G. A., ch. 17, § 3.]

SEC. 6897. Election as condition precedent.

1 No building shall be erected under the provisions of this chapter
2 unless a majority of the legal voters voting thereon vote in favor of
3 the same at a general city election, or at a special election called for
4 such purpose.

[37 G. A., ch. 17, § 4.]

SEC. 6898. Election—procedure.

1 The question provided in the preceding section, to be submitted,
2 may be ordered by the city council submitted to a vote at a general
3 city election, or at one specially called for that purpose. Notice of
4 such election shall be given by publication in two newspapers pub-
5 lished in said city, once each week, for not less than four consecutive
6 weeks, and the election shall be held not less than seven nor more
7 than ten days after the completion of such publication. The question
8 to be submitted shall be in the following form:

9 "Shall the city of....., erect a municipal court
10 building at a cost not exceeding \$.....?"

[37 G. A., ch. 17, § 5.]

SEC. 6899. Fund to be exclusive.

1 No part of the purchase price of the grounds nor of any of the
2 bonds issued hereunder and no part of the interest accruing thereon
3 shall ever be paid from the general revenue or funds of the city, or
4 out of any fund, or from the proceeds of any tax, other than funds
5 arising from the tax provided for herein.

[37 G. A., ch. 17, § 6.]

SEC. 6900. Judge may act as clerk.

1 Nothing in this chapter shall be construed to forbid the same per-
2 son acting as judge and clerk of the municipal court, nor the appoint-
3 ment of a member of the police force to act as bailiff, in which event
4 the city council shall decide whether the salaries of clerk and bailiff
5 shall be paid.

[S. S., '15, § 694-c3.]

CHAPTER 2.

SUPERIOR COURT.

SECTION 6901. Establishment and effect of.

1 Any city in this state containing four thousand inhabitants,
2 whether organized under a special charter or the general law for the
3 incorporation of cities and towns, may establish a superior court as
4 hereinafter provided, which, when established, shall take the place of
5 the police court of such city.

[C., '97, § 255; S., '13, § 255.]

SEC. 6902. Court of record—laws relating to district court to apply.

1 The superior court shall be a court of record. All statutes govern-
2 ing the district court as to venue, commencement of action, jurisdic-
3 tion, process, pleadings, practice, modes of trial, judgment, execution
4 and costs shall apply to and govern the superior courts, except when
5 the same may be inconsistent with the provisions of this chapter.

[C., '97, § 263.]

SEC. 6903. Seal.

1 Each such court shall have its own seal, with the words "superior
2 court" and the name of the city and state thereon.

[C., '97, § 264.]

SEC. 6904. Jurisdiction—attachments of real estate—city prisons used—inebriates.

1 Said court shall have jurisdiction concurrent with the district
2 court in all civil matters, except in probate matters and actions for
3 divorce, alimony and separate maintenance. It shall have exclusive
4 original jurisdiction to try and determine all actions, civil and crim-
5 inal, for the violation of city ordinances, and all jurisdiction conferred
6 on police courts as now or as may hereafter be provided by law, and
7 concurrent jurisdiction with justices of the peace. Writs of error
8 and appeals may be taken thereto from justices' courts in the township
9 in which the court is held, and, by consent of parties, from any other
10 township in the county. For the trial of criminal actions on informa-
11 tion and complaint, the court shall be open at such times and under
12 such rules as it shall prescribe. In actions by attachment, where real
13 property is levied on by writ of attachment, the officer levying the
14 writ shall make entry thereof in the incumbrance book in the office of
15 the clerk of the district court, in like manner and with like effect as
16 of levies made in the district court. Parties may be committed to
17 the city prison for confinement or punishment, instead of the county
18 jail, at the option of the judge. In the absence of the judge, or in
19 case of his inability to act, then, during such time, proceedings for the
20 violation of city ordinances may be had before a justice of the peace
21 residing in such city. Superior courts shall have original concurrent
22 jurisdiction with the district courts of the state of Iowa in all matters
23 pertaining to the detention and treatment of dipsomaniacs, inebriates
24 and those addicted to the excessive use of narcotics, as provided in
25 chapter seven of title nine, and the same proceeding shall be held so
26 far as applicable. Wherever the words "district judge", "district
27 court" or "judge of the district court" appear in chapter seven of title
28 nine, the same shall be construed to apply to the superior courts or
29 the judge thereof to the same extent that the same applies to the dis-
30 trict court or the judge thereof.

[C., '97, § 260; S., '13, § 260.]

SEC. 6905. City attorney to file informations.

1 It shall be the duty of the city attorney or solicitor to file informa-
2 tions in the superior court for violations of the city ordinances and
3 prosecute the same, and for such services he shall receive such com-
4 pensation as the city council shall allow

[C., '97, § 274.]

SEC. 6906. Juvenile detention homes and schools—jurisdiction.

1 The superior court of any city shall have concurrent jurisdiction
2 with the district court of the county in which said superior court is
3 located, of all cases brought under the provisions of sections twenty
4 hundred eighty-nine to twenty hundred ninety-one, inclusive, and sec-
5 tions twenty hundred ninety-eight to twenty-one hundred thirteen,
6 inclusive; the superior courts shall have and possess all the powers
7 conferred by said sections upon the district court and shall proceed
8 in like manner, except that a jury trial in the superior court shall be
9 had before a jury of six members.

[S., '13, § 260-a.]

SEC. 6907. Powers of judge.

1 The judge shall have the same power in regard to injunctions,
2 writs, orders and other proceedings, out of court, as are possessed by
3 the judges of the district court.

[C., '97, § 262.]

SEC. 6908. Submission to voters—election of judges—term—commission.

1 Upon petition of a hundred citizens of any such city, the mayor,
2 by and with the consent of the council, may, at least ten days before
3 any general or city election, issue a proclamation submitting to the
4 qualified voters of any city the question of establishing said court.
5 Should a majority of all the votes cast at such election upon such
6 proposition be in favor of said court, the same shall be established.
7 The terms of the judges of all superior courts other than those whose
8 terms expire after the first Monday in January, nineteen hundred
9 eight, shall terminate on the first Monday in January, nineteen hun-
10 dred seven, and there shall be elected at the general election in Novem-
11 ber, nineteen hundred six, for a term of four years the successors of
12 those judges whose terms of office under this section are made to
13 expire on the first Monday in January, nineteen hundred seven.
14 Except as above provided, the judges of the superior courts now or
15 hereafter established shall be elected at the last general election
16 preceding the expiration of the term of office of the incumbent. The
17 names of candidates for judge shall be placed upon the same ballot as
18 used in the city for state, county and township officers. The vote
19 shall be returned and canvassed in the same manner as provided for
20 county officers. Certificates of nomination of candidates for judge
21 by conventions or primaries of political parties and nominations by
22 petition shall be filed with the auditor of the county in which said
23 city is situated within the same time as provided by law for the filing
24 of certificates of nomination and nominations by petition for offices
25 to be filled by the electors of counties. Each judge shall qualify and
26 hold his office for the term of four years from the first Monday in
27 January next ensuing after said election and until his successor is
28 elected and qualified. Immediately after the election of any judge,
29 the board of supervisors of said county shall transmit a certificate of
30 the election of said judge to the governor of the state, who shall there-
31 upon issue to him a commission empowering him to act as judge, as
32 herein provided.

[S., '13, § 256-a.]

SEC. 6909. Judge—qualification—bond as clerk.

1 Said judge shall be a qualified elector of the city, and a practicing
2 attorney at law, and shall subscribe in writing the same oath required
3 of judges of the district court, and file the same with the mayor of the
4 city, and when he acts as clerk thereof he shall give bond to the state
5 of Iowa, in the sum of four thousand dollars, for the faithful discharge
6 of his duties as clerk, which must be filed with and approved by the
7 mayor; and the effect of such election and qualification shall be to
8 abolish the office of police judge of such city.

[C., '97, § 257.]

SEC. 6910. Salary of judge.

1 The salary of each superior court judge shall be two thousand
2 dollars per annum, and paid quarterly; the first two quarters from
3 the city treasury, and the last two from the county treasury of the
4 county wherein said court is located.

[C., '97, § 278.]

SEC. 6911. Vacancy—inability to act.

1 In case of vacancy in said office the governor shall appoint a judge
2 who shall hold the office until the next general election, and in case of
3 inability of any judge to act through sickness or any other cause a
4 judge shall be appointed by the governor to hold during such inability.

[C., '97, § 258; S., '13, § 258-a.]

SEC. 6912. When recorder to act as clerk.

1 As long as the business of the court can be done without a clerk,
2 the judge shall be the clerk of said court and the city recorder or city
3 clerk shall be deputy clerk of said court and may perform the duties
4 of his principal as clerk of said court. Whenever, from the accumula-
5 tion of causes and other demands upon the court, a clerk becomes
6 necessary, the city recorder or clerk shall be the clerk thereof. He
7 shall give bonds as required when the judge acts as clerk, and perform
8 the same services as required by law of the clerk of the district court.

[C., '97, § 265; S., '13, § 265.]

SEC. 6913. Compensation of clerk.

1 When a clerk or recorder of a city in which such court is estab-
2 lished is required to perform the duties of clerk thereof, he shall receive
3 such compensation for such services as the city council may allow.

[C., '97, § 279.]

SEC. 6914. Marshal as sheriff.

1 The city marshal shall be the executive officer of said court, and
2 his duties and authority in court and in executing process shall cor-
3 respond with those of the sheriff of the county in the district court,
4 and with process from that court. But the process of said court may
5 be also served by the sheriff.

[C., '97, § 266.]

SEC. 6915. Compensation of marshal.

1 The marshal shall receive the same fees and compensation for
2 serving the process of said court, and for other services required of

3 the sheriff in the district court, as the sheriff receives for like services,
4 but in all criminal cases in said court the marshal shall receive the
5 same fees for his services as are paid to the constable in justice court.

[C., '97, § 280; S., '13, § 280.]

SEC. 6916. Shorthand reporters—compensation.

1 The judge of each superior court may appoint a shorthand
2 reporter. All provisions relating to shorthand reporters and their
3 duties in the district court, in so far as applicable in every respect,
4 shall govern, except the compensation shall not exceed eight dollars a
5 day for the time actually employed.

[C., '97, § 275; 37 G. A., ch. 186, § 1.]

SEC. 6917. Terms.

1 There shall be held not less than eight nor more than eleven terms
2 of court in each year, the times being arranged by the judge in such
3 manner as shall least conflict with the terms of the district court of
4 the county where said superior court is held, to be fixed by general
5 order made of record, at least ten days before the first term in each
6 year; but, as a police court, it shall always be open for the dispatch
7 of business.

[C., '97, § 259.]

SEC. 6918. Changes of venue—for nonresidents—no jury in criminal cases.

1 Changes of venue may be taken from said court in all civil actions
2 to the district court of the same or another county, in the same
3 manner, for like causes and with the same effect as the venue is
4 changed from the district court. But in all civil cases where any
5 party defendant shall, before any pleading is filed by him, file in said
6 cause a motion for a change of venue to the district court of the
7 county, supported by affidavit showing that such party defendant was
8 not a resident of the city where such court is held, at the time of the
9 commencement of the action, the cause, upon such motion, shall be
10 transferred to the district court of the county. All criminal actions,
11 including those for the violation of the city ordinances, shall be tried
12 summarily and without a jury, saving to the defendant the right of
13 appeal to the district court, which appeal shall be taken in the same
14 time and manner as appeals are taken from justices' courts in criminal
15 actions.

[C., '97, § 261; S., '13, § 261.]

SEC. 6919. How jurors provided.

1 In order to provide jurors for the superior courts, the county
2 auditor, clerk of the district court and recorder, of the county in which
3 any city having a superior court is located, except in counties coming
4 under the provisions of sections seventy hundred seventeen to seventy
5 hundred thirty, inclusive, shall meet at the courthouse on the third
6 Monday of February, April, June, August, October and December of
7 each year, and proceed to draw, from the first box provided by sections
8 sixty-nine hundred eighty-nine to seventy hundred sixteen, inclusive,
9 and in the manner provided by this chapter, the names of fifteen persons
10 to act as jurors in said superior court. The persons whose names
11 are drawn at any drawing under the provisions hereof shall be subject

12 to jury duty, and constitute the regular panel of jurors in said superior
 13 court, for the two calendar months commencing with the first day of
 14 the month next succeeding the drawing. A list of the names of the
 15 persons drawn at each drawing provided by this chapter shall be
 16 immediately made out and certified by the clerk of the district court,
 17 under his hand and seal, and such certified list transmitted by mail
 18 to the recorder or clerk of the city in which said superior court is
 19 located, and a precept of said superior court shall issue, five days
 20 before the first day of each term of court, for the jurors constituting
 21 the panel for such term, under the provisions hereof, which precept
 22 shall be issued and served as provided by law in like cases in the dis-
 23 trict court.

[C., '97, § 269; 38 G. A., ch. 251, § 1.]

SEC. 6920. Drawing of petit jurors — provisions applicable to superior courts.

1 The provisions of chapter seven of title twenty-eight in relation
 2 to the selection and drawing of petit jurors and talesmen for the dis-
 3 trict courts, shall also apply to the selection and drawing of petit
 4 jurors and talesmen for the superior courts in such counties.

[38 G. A., ch. 251, § 2.]

SEC. 6921. Right to jury, on demand.

1 When causes are assigned for trial, any party desiring a jury
 2 shall then make his demand therefor, or the same shall be deemed to
 3 have been waived. Causes in which a jury has been demanded shall
 4 be tried first in their order, and when disposition shall have been
 5 made of such causes the jury shall be discharged from further at-
 6 tendance at that term.

[C., '97, § 268.]

SEC. 6922. Trial by jury without additional expense.

1 In all cities which now have a population of forty thousand or
 2 more and in which superior courts are now or may hereafter be estab-
 3 lished, it shall be unnecessary in such superior court to make demand
 4 for trial by jury, and causes triable to a jury shall be tried to twelve
 5 jurors without the additional expense to any of the parties, required
 6 by section sixty-nine hundred twenty-eight.

[S., '13, § 280-a; 38 G. A., ch. 245, § 2.]

SEC. 6923. Jury—how drawn.

1 In providing jurors for superior courts in all such cities the
 2 names of sixty persons shall be drawn by the officers at the times and
 3 in the manner provided by sections seventy hundred seventeen to
 4 seventy hundred thirty, inclusive, and such persons whose names are
 5 drawn shall be subject to jury duty, and shall constitute the regular
 6 panel of jurors in said superior courts for the two calendar months,
 7 commencing with the first day of the month succeeding the drawing.
 8 A list of the names of the persons drawn at each drawing provided
 9 by this chapter shall be immediately made out and certified by the
 10 clerk of the district court, under his hand and seal, and such certified
 11 list transmitted by mail to the recorder or clerk of the city in which
 12 said superior court is located, and a precept of said superior court
 13 shall issue at such time or times as the judge of said court shall

14 direct, authorizing and directing the marshal of said city in which
 15 said superior court is located, to summon such number of said jurors,
 16 in the order of their certification by the clerk of the district court, as
 17 the judge of said superior court shall deem necessary, which precept
 18 shall be issued and served as provided by law in like cases in the
 19 district court.

[S., '13, § 280-b; 38 G. A., ch. 245, § 3.]

SEC. 6924. Salary of judge.

1 In all such cities the salary of the judge of the superior court
 2 shall be three thousand dollars per annum, and paid quarterly; the first
 3 two quarters from the city treasury, and the last two from the county
 4 treasury of the county wherein such court is located.

[S., '13, § 280-c.]

SEC. 6925. Compensation shorthand reporter.

1 In all such cities the compensation of the shorthand reporter in
 2 such superior court shall be eight dollars a day for the time actu-
 3 ally employed.

[S., '13, § 280-d.]

SEC. 6926. Deputy clerk—compensation.

1 In all such cities there may be appointed by the city council, a
 2 deputy clerk of the court, who shall receive such compensation as the
 3 city council may allow.

[S., '13, § 280-e.]

SEC. 6927. Applicable to certain cities.

1 The five preceding sections shall apply to cities acting under the
 2 commission form of government, which are not county seats, and
 3 which may have, or may hereafter have, a population of twenty-five
 4 thousand or more.

[S., '13, § 280-f.]

SEC. 6928. Jury of six unless twelve demanded.

1 The jury shall consist of six qualified jurors, unless, when a jury
 2 is demanded as provided in this chapter, the party at that time shall
 3 demand a jury of twelve, and in all civil cases the party requesting
 4 a jury of twelve shall at the time of making such demand deposit with
 5 the clerk the entire additional expense of the additional jurors, which
 6 sum shall be fixed by the court and paid to the clerk at the time of
 7 making such demand. Talesmen may be summoned on the order of
 8 the court by the marshal from the body of the county. All such
 9 deposits of additional expense for jurors shall be paid into the county
 10 treasury at the close of each term of such superior court, and the
 11 county treasurer shall give duplicate receipts therefor, one to be held
 12 by said clerk, and the other to be presented by him to the county
 13 auditor, who shall charge the treasurer with the amount thereof in
 14 the proper account.

[C., '97, § 270.]

SEC. 6929. Challenges.

1 In all civil cases, where the jury shall consist of six jurors, the
 2 challenges allowed to either party shall be limited to three each, but

3 where the jury shall consist of twelve jurors, the same number of
4 challenges shall be allowed to either party as is or may be allowed in
5 the district court.

[C., '97, § 271.]

SEC. 6930. Probation officers—qualifications.

1 The probation officers appointed by the district court under
2 section twenty hundred ninety-one, shall also act as the probation
3 officers of the superior court, where such superior court is located at
4 the county seat. Where the superior court is located in a city other
5 than the county seat and in a county having a population of more
6 than fifty thousand, the judge of such court may appoint a person of
7 good moral character and special fitness to serve as probation officer
8 during the pleasure of the court and such probation officer shall have
9 the same powers as those conferred upon probation officers under the
10 provisions of said section, and the compensation of such officer shall
11 be fixed as provided by the terms of said section.

[S., '13, § 260-b.]

**SEC. 6931. Costs—amount of—how paid—to be accounted for—
fines.**

1 The costs and fees of said courts in civil actions shall be the same
2 as in the district court, except as herein otherwise provided, and the
3 clerk of the superior court shall account for and pay over to the city
4 all fees that may be paid into the said court, and also all fines for the
5 violation of the city ordinances. Of all other fines he shall render
6 the same account as is provided for justices of the peace. In actions
7 for the violation of city ordinances, if unsuccessful, the city shall pay
8 all costs, the same as provided by law for the county in criminal
9 actions prosecuted in the name and on behalf of the state. The fees
10 in criminal actions shall be the same as in justices' courts, and shall
11 be paid and accounted for as hereinbefore stated, and as otherwise
12 provided by law for justices of the peace and their courts.

[C., '97, § 267.]

SEC. 6932. Judgments made liens by transcript.

1 Judgments in said court may be made liens upon real estate in
2 the county in which the city is situated, by filing transcripts of the
3 same in the district court, as provided in this code in relation to judg-
4 ments of justices of the peace, and with equal effect, and from the time
5 of such filing they shall be treated in all respects as to their effect and
6 mode of enforcement as judgments rendered in the district court as
7 of that date, and no execution can thereafter be issued from the said
8 superior court on such judgments, and no real property shall be levied
9 on or sold on process issued out of the superior court. Judgments of
10 said court may be made liens upon real estate in other counties in the
11 same manner as judgments in the district courts.

[C., '97, § 273.]

SEC. 6933. Appeals to supreme court.

1 All appeals from judgments or orders of said court, or the judge
2 thereof, in civil actions shall be taken to the supreme court in the
3 same manner, under the same restrictions, within the same time and

4 with the same effect as appeals are taken from the district court to
5 the supreme court.

[C., '97, § 272.]

SEC. 6934. Question of abolishing court to be submitted.

1 Upon the petition of one-third of the qualified electors of any
2 city in which a superior court is now or hereafter established, the
3 mayor, by and with the consent of the council of such city, shall, at
4 least ten days before any general election or election for city officers,
5 issue a proclamation submitting to the qualified voters of said city the
6 proposition to abolish the superior court. The ballots shall be
7 printed, and in the following form: "Shall the proposition to abolish
8 the superior court of be adopted?" and the election shall
9 be conducted in all respects in accordance with the provisions of the
10 election law.

[C., '97, § 276; S., '13, § 276.]

SEC. 6935. When abolished—duties of mayor, judge and clerk.

1 If a majority of the votes cast at said election are for abolishing
2 said superior court, the mayor of such city shall immediately transmit
3 a certificate showing such fact to the secretary of state, and said
4 court shall be abolished, to take effect upon the date of the expiration
5 of the term of office of the judge then upon the bench, and the effect
6 of such abolition shall be to revive and reestablish in such city the
7 police court and all the powers incident thereto, in the same manner
8 as the law prescribes for cities where superior courts do not exist.
9 The judge of said superior court shall, before retiring from said
10 position, turn over to the clerk of said city the judgment records of
11 his court in which are entered and recorded all judgments and fines
12 for the violation of ordinances of such city, together with all money
13 collected as fines for the violation of such ordinances, and take the
14 clerk's receipt therefor. All other books, records and papers pertain-
15 ing to said superior court shall be turned over to the clerk of the
16 district court of the county in which such city is situated, and his
17 duplicate receipt taken therefor, together with all the money in the
18 hands of said judge which has come into his hands as judge of said
19 court, one receipt to be filed with the county auditor, and said judge
20 shall immediately make reports to the board of supervisors and city
21 council as to the disposition made of said books, papers, dockets and
22 moneys, as herein provided. It shall be the duty of the clerk of the
23 district court, upon receipt of such books, dockets and records belong-
24 ing to said superior court, to transfer all cases pending before the
25 same, as shown by said record, and of which the district court would
26 have jurisdiction, to the proper appearance docket of the district
27 court, and to notify the parties or their attorneys of such transfer,
28 and such causes shall stand for trial as if brought originally in said
29 court. All causes pending in the superior court at the time it is
30 abolished, of which the district court would not have jurisdiction,
31 shall be transferred to the police court. The clerk of the district
32 court shall make transcripts and issue executions from the records
33 of said superior court under the seal of the district court, for which
34 he shall be entitled to charge and receive the same fees as are now
35 allowed for like services in the district court, and all papers so issued

36 shall have the same force and effect as if issued from the superior
37 court during its existence.

[C., '97, § 277.]

CHAPTER 3.

DISTRICT COURT.

SECTION 6936. Jurisdiction—civil, criminal, probate—successor of circuit court.

1 The district court shall have general, original and exclusive
2 jurisdiction of all actions, proceedings and remedies, both civil and
3 criminal, except in cases where exclusive or concurrent jurisdiction
4 is or may hereafter be conferred upon some other court or tribunal
5 by the constitution and laws of the state, and shall have and exercise
6 all the powers usually possessed and exercised by courts of record.
7 It shall also possess and exercise jurisdiction in all appeals and writs
8 of error taken in civil and criminal actions and special proceedings
9 authorized to be taken from all inferior courts, tribunals, boards or
10 officers, under any provisions of the laws of this state, and shall have
11 a general supervision thereof, in all matters, to prevent and correct
12 abuses, where no other remedy is provided.

13 *First.* The jurisdiction of the courts of the state of Iowa, in
14 counties bordering on the Missouri river, in all civil and criminal
15 actions and proceedings, is hereby declared to extend to the center of
16 the main channel of the Missouri river, where the same now is or may
17 hereafter be, and to all lands and territory lying along said river,
18 which have been adjudged by the United States supreme court or the
19 supreme court of this state to be within the state of Iowa, and to
20 such other lands and territory along said river over which the courts
21 of this state have heretofore exercised jurisdiction.

22 *Second.* The district court of each county shall have original
23 and exclusive jurisdiction to probate the wills of, and to grant admin-
24 istration upon the estates of, all persons who at the time of their death
25 were residents of the county, and of nonresidents of the state who
26 die leaving property within the county subject to administration, or
27 whose property is afterwards brought into the county.

28 *Third.* To appoint guardians of the persons and property of all
29 persons resident in the county subject to guardianship.

30 *Fourth.* To appoint guardians of the property of all such per-
31 sons nonresidents of the state who have property within the county
32 subject to guardianship, or whose property is afterwards brought
33 into the county.

34 *Fifth.* It shall have jurisdiction in all matters in relation to the
35 appointment of executors and trustees, and the management and
36 disposition of the property of and settlement of such estates; provided
37 that where jurisdiction has heretofore been acquired, the same shall
38 be retained until such estate is closed.

39 The district court shall succeed to, and exercise full authority
40 and jurisdiction over, the records of the circuit court, and may enforce
41 all judgments, decrees and orders thereof in the same manner and to
42 the same extent as it may exercise like jurisdiction and authority
43 over its own records, and, for the purpose of the issuance of process,

44 and of any and all other acts necessary to the due and efficient enforce-
 45 ment of the orders, judgments and decrees of the circuit court, the
 46 records thereof shall be deemed records of the district court. Tran-
 47 scripts and process from the judgments, decrees and records of the
 48 circuit court shall be issued by the clerk of the district court, and
 49 under the seal of his office.

[C., '51, § 1576; R., '60, § 2663; C., '73, §§ 161, 162, 2312;
 C., '97, § 225; S., '13, § 395-a.]

SEC. 6937. Judicial districts.

1 For judicial purposes, the state is hereby divided into twenty-
 2 one judicial districts, as follows:

3 The first district shall consist of the county of Lee, and have two
 4 judges.

5 The second district shall consist of the counties of Lucas, Monroe,
 6 Wapello, Jefferson, Davis, Van Buren and Appanoose, and have four
 7 judges.

8 The third district shall consist of the counties of Wayne, Decatur,
 9 Clarke, Union, Ringgold, Taylor and Adams, and have three judges.

10 The fourth district shall consist of the counties of Woodbury and
 11 Monona, and have three judges.

12 The fifth district shall consist of the counties of Dallas, Guthrie,
 13 Adair, Madison, Warren and Marion, and have three judges.

14 The sixth district shall consist of the counties of Jasper, Powe-
 15 shiek, Mahaska, Keokuk and Washington, and have three judges.

16 The seventh district shall consist of the counties of Muscatine,
 17 Scott, Clinton and Jackson, and shall have five judges, who shall be
 18 so elected that each county shall have at least one resident judge.

19 The eighth district shall consist of the counties of Iowa and
 20 Johnson, and have two judges, who shall not be residents of the same
 21 county.

22 The ninth district shall consist of the county of Polk, and have
 23 five judges.

24 The tenth district shall consist of the counties of Delaware,
 25 Buchanan, Black Hawk and Grundy, and have three judges.

26 The eleventh district shall consist of the counties of Story, Boone,
 27 Webster, Hamilton, Hardin, Franklin and Wright, and have four
 28 judges.

29 The twelfth district shall consist of the counties of Bremer,
 30 Butler, Floyd, Mitchell, Worth, Cerro Gordo, Hancock and Winnebago,
 31 and have three judges.

32 The thirteenth district shall consist of the counties of Clayton,
 33 Allamakee, Fayette, Winneshiek, Howard and Chickasaw, and have
 34 two judges.

35 The fourteenth district shall consist of the counties of Buena
 36 Vista, Clay, Palo Alto, Kossuth, Emmet, Dickinson, Humboldt and
 37 Pocahontas, and have three judges.

38 The fifteenth district shall consist of the counties of Pottawat-
 39 tamie, Cass, Shelby, Audubon, Montgomery, Mills, Page, Fremont and
 40 Harrison, and shall have five judges.

41 The sixteenth district shall consist of the counties of Ida, Sac,
 42 Calhoun, Crawford, Carroll and Greene, and have two judges.

43 The seventeenth district shall consist of the counties of Tama,
 44 Benton and Marshall, and have two judges.

45 The eighteenth district shall consist of the counties of Linn, Jones
46 and Cedar, and have four judges.

47 The nineteenth district shall consist of the county of Dubuque,
48 and have two judges.

49 The twentieth district shall consist of the counties of Des Moines,
50 Henry and Louisa, and shall have two judges.

51 The twenty-first district shall consist of the counties of Cherokee,
52 O'Brien, Osceola, Lyon, Sioux and Plymouth, and shall have two
53 judges.

54 The district judge shall be a resident of the district in which he
55 is elected, and each judge shall hold office until the expiration of the
56 term for which he has been heretofore elected. Each district judge
57 hereafter elected, except to fill a vacancy, shall hold office four years
58 and until his successor is elected and qualified. Each judge elected
59 to fill a vacancy shall hold for the unexpired term and until his suc-
60 cessor is elected and qualified.

[C., '97, § 227; S. S., '15, § 227; 37 G. A., ch. 91, § 1; ch. 256,
§ 1; ch. 257, § 1.]

SEC. 6938. Salary of judges—expenses.

1 The salary of each judge of the district court shall be four thou-
2 sand dollars per year. Where a judge of the district court is required,
3 in the discharge of his official duties, to leave the county of his
4 residence or leave the city or town of his residence to perform such
5 duties, he shall be paid such actual and necessary hotel and living
6 expenses not to exceed the sum of three dollars per day and trans-
7 portation expenses as shall be incurred. An itemized expense account
8 shall be certified by the party entitled thereto to the auditor of state,
9 which account shall be rendered quarterly and shall be paid in the
10 same manner as the salary of such judge.

[C., '73, § 3774; C., '97, § 253; S. S., '15, § 253; 37 G. A.,
ch. 235, § 1; 38 G. A., ch. 70, § 1.]

SEC. 6939. Shorthand reporter.

1 Each judge of the district court shall appoint a shorthand reporter
2 who shall, upon the request of either party in a civil case or a criminal
3 case, take and report in full the oral evidence and proceedings in the
4 case, and perform all duties required of him on the trial, as provided
5 by law.

[C., '73, § 181; C., '97, § 245.]

SEC. 6940. Oath—removal.

1 Such reporter shall take an oath faithfully to perform the duties
2 of his office, which shall be filed in the office of the clerk. He shall
3 attend such sessions of the court as the judge who appointed him may
4 direct, and may be removed by the judge making such appointment.

[C., '73, § 182; C., '97, § 246.]

SEC. 6941. Reporter—compensation.

1 Shorthand reporters of the district courts shall be paid ten dollars
2 per day for each day's attendance upon said court, under the direc-
3 tion of the judge, out of the county treasury where such court is held,
4 upon the certificate of the judge holding the court; and in case the
5 total per diem of each reporter and his substitute shall not amount to

6 the sum of twenty-four hundred dollars per year, the judge appoint-
 7 ing him shall at the end of the year apportion the deficiency so remain-
 8 ing unpaid among the several counties of the district, if there be
 9 more than one county in such district, in proportion to the number of
 10 days of court actually held by said judge in such counties, which
 11 apportionment shall be by him certified to the several county auditors,
 12 who shall issue warrants therefor to said reporter, which warrants
 13 shall be paid by the county treasurers out of any funds in the treasury
 14 not otherwise appropriated. Shorthand reporters shall also receive
 15 eight cents per hundred words for transcribing their official notes,
 16 to be paid for in all cases by the party ordering the same. If a defend-
 17 ant in a criminal cause has perfected an appeal from a judgment
 18 against him and shall satisfy a judge of the district court from which
 19 the appeal is taken that he is unable to pay for a transcript of the
 20 evidence, such judge may order the same made at the expense of the
 21 county where said defendant was tried. Where a shorthand court
 22 reporter is required, in the discharge of his official duties, to leave the
 23 county of his residence or leave the city or town of his residence to
 24 perform such duties, he shall be paid his actual and necessary hotel
 25 and living expenses not to exceed the sum of three dollars per day and
 26 transportation expenses as shall be incurred, which account shall be
 27 itemized and approved by the presiding judge of the district court and
 28 certified to the county auditor of the county in which such expenses
 29 are incurred, and shall be paid in the same manner as the per diem of
 30 such reporter is paid.

[C., '73, § 3777; C., '97, § 254; S. S., '15, § 254-a2; 38 G. A.,
 ch. 268, § 1.]

SEC. 6942. Terms to be held.

1 The district judges shall hold four terms of court at each of the
 2 places in the several counties of their districts where court is author-
 3 ized to be held, and, if business requires, then the judges of such
 4 district shall, by joint order made at the time of making the assign-
 5 ment of terms hereinafter required and entered of record, provide for
 6 regular additional terms.

[C., '97, § 229.]

SEC. 6943. First district—judges to alternate.

1 The judges in the first judicial district shall as nearly as prac-
 2 ticable, alternate in holding terms at the places for holding court in
 3 said judicial district, and terms may be held simultaneously at both
 4 places.

[S., '13, § 227-1a.]

SEC. 6944. Eighth district—judges to alternate in holding terms.

1 The judges in the eighth judicial district shall as nearly as prac-
 2 ticable, alternate in holding terms at the places for holding court in
 3 said judicial district, and terms may be held simultaneously at both
 4 places.

[S. S., '15, § 227-8ab.]

SEC. 6945. Terms where two county seats.

1 In any county having two county seats, terms of court shall be
 2 held at each, and, in the county of Pottawattamie, court shall be held
 3 at Avoca, as well as at the county seat.

[C., '73, § 164; C., '97, § 228.]

SEC. 6946. Petition for temporary additional judge—assignment—expenses.

1 When, from any cause, the business of the district court of any
2 judicial district of this state can not be disposed of within a reasonable
3 time by the judges elected within and for such district, then upon the
4 filing of a petition signed by five or more resident attorneys of such
5 district with the clerk of the supreme court, addressed to the chief
6 justice thereof, setting forth the facts, the chief justice, being satis-
7 fied that the business of such judicial district demands an additional
8 judge for a temporary period of time to dispose of such business or
9 assist in the disposal of such business, shall name and transfer a judge
10 from some other judicial district where the business of such district
11 will warrant, to the place in the judicial district for which such peti-
12 tion is filed, who shall hold a term of court for such length of time as
13 the chief justice of the supreme court may determine. The judge so
14 transferred shall be allowed and paid all reasonable and actual ex-
15 penses while in the performance of his duties in said temporary char-
16 acter, in addition to his salary.

[S., '13, § 240-b.]

SEC. 6947. Jury drawn as for regular term.

1 Upon the order being made for the transfer of such judge as
2 contemplated by the preceding section, such order shall be filed in the
3 office of the clerk of the district court of the county where such judge
4 shall hold a term or part thereof; thereupon the proper officers, as by
5 statute provided, shall proceed and are hereby empowered as by stat-
6 ute provided, to draw a grand jury and trial jury, if necessary, which
7 shall have the same force and effect as if drawn for a regular term
8 and upon the order of a judge elected for such district in the usual
9 and ordinary transaction of business of such district.

[S., '13, § 240-c.]

SEC. 6948. Terms not at county seats—effect—duty of clerk.

1 When a court shall be held at a place not the county seat, all of
2 the provisions of the statute in relation to district courts shall be ap-
3 plicable thereto, except as herein modified. All proceedings had in
4 said court shall have, within the territory over which said court shall
5 have jurisdiction, the same force and effect as though ordered in the
6 court at the county seat of said county, but transcripts of judgments
7 and decrees rendered therein, levies of writs of attachment upon real
8 estate, mechanics' liens, lis pendens, sales of real estate, redemption,
9 satisfaction of judgments and mechanics' liens, dismissals or decrees
10 in lis pendens, together with all other matters affecting titles to real
11 estate, shall be forthwith certified by the deputy clerk at such place,
12 to the clerk of such court at the county seat, who shall immediately
13 enter the same upon the records in his office.

[C., '97, § 230.]

SEC. 6949. Division of work by judges.

1 In case the judges of any district are unable to agree as to the
2 manner of holding their courts, or as to the counties in which they
3 are severally to preside, they shall refer the matter to the chief justice
4 of the supreme court, who shall assign said judges to such counties
5 as he may determine; and the chief justice of the supreme court shall

6 also have power to assign any district judge, when not occupied in
7 holding court in his own district, to hold court in any other district
8 in the state where any judge may be incapacitated from holding court,
9 or there may arise a necessity therefor. But this section shall not
10 be held to affect the right of the judges to interchange holding their
11 terms of court, as now provided by law.

[C., '97, § 231.]

SEC. 6950. Judges to prepare schedule—printing—distribution.

1 On or before the first day of October in each odd-numbered year
2 the judges shall meet in their respective districts and determine the
3 times and places of holding their courts during the two succeeding
4 calendar years. The plan or schedule thus agreed upon, or ordered
5 by the chief justice of the supreme court when they can not agree,
6 shall be forthwith forwarded by the district judges to the secretary
7 of state and the clerk of the district court in each county in such dis-
8 trict, and the clerk shall file the same and enter it of record in the
9 journal of the court. The secretary of state shall, within ten days
10 after receiving said orders, or before the first Monday in December
11 after said orders are made, prepare a tabular statement of the times
12 of holding the several courts, as fixed by the several orders in his
13 office, and have printed five thousand copies thereof, which shall be
14 distributed as follows: One copy to each state officer, each county
15 auditor and sheriff, two copies to each judge of the district and su-
16 perior courts, ten copies each to the state library, the library of the law
17 department of the state university, and the state historical society,
18 thirty-five hundred copies to the clerks of the district court, in propor-
19 tion to the population of the county, for gratuitous distribution among
20 the attorneys of the county, and the residue for free distribution under
21 the supervision of the secretary of state. In preparing said plan or
22 schedule, the judges shall so arrange, if practicable, that each judge
23 shall hold at least one term of court during the year in each of the
24 several counties of his district.

[C., '51, §§ 1567, 1568; R., '60, §§ 2654, 2655; C., '73, § 165;
C., '97, § 232; S., '13, § 232.]

SEC. 6951. When special terms ordered—pleas of guilty in criminal cases.

1 A special term may be ordered in any county at any regular term
2 of court in that county, or at any other time, by any judge of the dis-
3 trict, for the trial of all causes pending at the last regular term of
4 said court held prior to said special term, in which either party shall
5 have served a trial notice as provided by law, or for receiving pleas
6 of guilty in criminal cases and the entry of judgment thereon. When
7 ordering a special term, the court or judge shall direct whether a grand
8 or trial jury, or both, shall be summoned.

[C., '51, §§ 1569-1571; R., '60, §§ 2656-2658; C., '73, § 166;
C., '97, § 233; S., '13, § 233.]

SEC. 6952. When judge fails to attend.

1 If the judge does not appear on the day appointed for holding the
2 term, the clerk shall make an entry thereof in his record, and adjourn
3 the court until the next day, and so on until the third day, unless he
4 appears, provided three days are allowed for such term, and if he does

5 not appear by five o'clock p. m. of the third day, and before the ex-
6 piration of the time allotted to the term, it shall stand adjourned until
7 the next regular term.

[C., '51, §§ 1581, 1582; R., '60, §§ 2668, 2669; C., '73, §§ 167,
168; C., '97, § 234.]

SEC. 6953. When special adjournment ordered.

1 If the judge is sick, or for any cause is unable to attend court at
2 the regularly appointed time, he may by letter, telegram or telephone
3 direct an adjournment to a particular day, and the clerk shall, on the
4 first day thereof, or as soon after as he receives the order, adjourn
5 the court as directed.

[C., '51, § 1583; R., '60, § 2670; C., '73, § 169; C., '97, § 235;
38 G. A., ch. 190, § 1.]

SEC. 6954. When no courthouse.

1 When there is no courthouse at the place where the courts are to
2 be held, its sessions shall be at such suitable place as the board of
3 supervisors provide, but if no such place is provided, the court may
4 direct the sheriff to procure one at the expense of the county.

[C., '51, §§ 1573, 1574; R., '60, §§ 2660, 2661; C., '73, §§ 173,
174; C., '97, § 239.]

SEC. 6955. City or town to provide court room.

1 Where terms are held in any city or town not the county seat,
2 such city or town shall provide and furnish the necessary rooms and
3 places for such terms, free of charge to the county.

[C., '51, § 1566; R., '60, § 2653; C., '73, § 163; C., '97, § 226.]

SEC. 6956. Trials commenced to be concluded—motion for new trial.

1 Whenever a trial has been commenced, it may be concluded and
2 all proceedings in the case thereafter conducted in the usual course,
3 whether the time has arrived for commencing a term in another county
4 in the district or not, and without regard to any other court or term
5 thereof. If a verdict shall be returned after the expiration of the
6 term, a motion for a new trial may be filed at any time on or before
7 the first day of the next term of court.

[C., '73, §§ 185, 186; C., '97, § 248.]

SEC. 6957. Judges not to sit together.

1 In districts in which the district court is composed of more than
2 one judge, the judges shall not sit together in the trial of causes, nor
3 upon the hearing of motions for new trials, but may together hold
4 the same term, making an apportionment of the business between
5 them; and in districts composed of more than one county they may
6 hold terms in different counties at the same time.

[C., '97, § 241.]

SEC. 6958. Judges may interchange.

1 The district judges may interchange and hold each other's courts.

[C., '51, § 1575; R., '60, § 2662; C., '73, § 175; C., '97, § 240.]

SEC. 6959. Business stands continued.

1 No recognizance or other instrument or proceeding shall be ren-
 2 dered invalid by reason of there being a failure of the term; but all
 3 proceedings pending in court shall be continued to the next regular
 4 term, unless an adjournment be made as authorized in section sixty-
 5 nine hundred fifty-three.

[C., '51, § 1584; R., '60, § 2671; C., '73, § 170; C., '97, § 236.]

SEC. 6960. Recognizances continued.

1 In cases of such continuances or adjournments, persons recog-
 2 nized or bound to appear at the regular term, which has failed as
 3 aforesaid, shall be held bound in like manner to appear at the time
 4 so fixed, and their sureties, if any, shall be liable in case of their non-
 5 appearance, in the same manner as though the term had been held at
 6 the regular time and they had failed to make their appearance thereat.

[C., '51, § 1585; R., '60, § 2672; C., '73, § 171; C., '97, § 237.]

SEC. 6961. Regular adjournment—business continued.

1 Upon any final adjournment of the court, all business not other-
 2 wise disposed of shall stand continued.

[C., '51, § 1586; R., '60, § 2673; C., '73, § 172; C., '97, § 238.]

SEC. 6962. Record to be signed—execution not delayed.

1 The clerk shall from time to time make a record of all proceed-
 2 ings of the court, which, when correct, shall be signed by the judge.
 3 When it is not practicable to have all the records prepared and signed
 4 during the term, they may be prepared in vacation and corrected and
 5 signed at the next succeeding term; but such delay shall not prevent
 6 an execution from issuing in the meantime, and all other proceedings
 7 may be had in the same manner as though the record had been signed.
 8 Entries authorized to be made in vacation shall be signed at the next
 9 term of the court.

[C., '51, § 1578; R., '60, §§ 2664, 2665; C., '73, §§ 176, 177;
 C., '97, § 242.]

SEC. 6963. Court controls record.

1 The record aforesaid is under the control of the court, and may
 2 be amended, or any entry therein expunged, at any time during the
 3 term at which it is made, or before it is signed by the judge.

[C., '51, § 1579; R., '60, § 2606; C., '73, § 178; C., '97, § 243.]

SEC. 6964. Records not to be altered.

1 No record shall be amended or impaired by the clerk or other
 2 officer of the court, or by any other person without the order of such
 3 court, or of some court of competent authority.

[R., '60, § 2984; C., '73, § 2736; C., '97, § 3646.]

SEC. 6965. Corrections.

1 Entries made and signed at a previous term can be altered only
 2 to correct an evident mistake.

[C., '51, § 1580; R., '60, § 2667; C., '73, § 179; C., '97, § 244.]

SEC. 6966. Decisions in vacation.

1 With consent of parties, actions and other matters pending in the
 2 courts named in this chapter may be taken under advisement by the
 3 judges, decided and entered of record in vacation, or at the next term;
 4 if so entered in vacation, they shall have the same force and effect
 5 from the time of such entry as if done in term time.

[C., '73, § 183; C., '97, § 247.]

CHAPTER 4.**GENERAL PROVISIONS RELATING TO JUDGES AND COURTS.****SECTION 6967. Judges not to practice.**

1 No judge of any court of record shall practice as an attorney or
 2 counselor at law, or give advice in relation to any action pending or
 3 about to be brought in any of the courts of this state, but nothing
 4 contained in this section shall be construed to prohibit judges of police
 5 courts from the practice as attorneys and counselors at law in civil
 6 matters.

[C., '51, § 1587; R., '60, § 2674; C., '73, § 187; C., '97, § 281;
 S., '13, § 281.]

SEC. 6968. Judicial proceedings public.

1 All judicial proceedings must be public, unless otherwise specially
 2 provided by statute or agreed upon by the parties.

[C., '51, § 1593; R., '60, § 2683; C., '73, § 189; C., '97, § 283.]

SEC. 6969. When judge disqualified.

1 A judge or justice is disqualified from acting as such, except by
 2 mutual consent of parties, in any case wherein he is a party or inter-
 3 ested, or where he is related to either party by consanguinity or affinity
 4 within the fourth degree, or where he has been attorney for either
 5 party in the action or proceeding. But this section shall not prevent
 6 him from disposing of any preliminary matter not affecting the merits
 7 of the case.

[C., '51, § 1595; R., '60, § 2685; C., '73, § 190; C., '97, § 284.]

SEC. 6970. No business done on Sunday, except.

1 No court can be opened nor any judicial business transacted on
 2 Sunday, except:

- 3 1. To give instructions to a jury then deliberating on its verdict.
- 4 2. To receive a verdict or discharge a jury.
- 5 3. To exercise the powers of a single magistrate in a criminal
- 6 proceeding.
- 7 4. And such other acts as are provided by law.

[C., '51, § 1596; R., '60, § 2686; C., '73, § 191; C., '97, § 285.]

SEC. 6971. Courts to be held at places provided, except.

1 Courts must be held at the places provided by law, except for the
 2 determination of actions, special proceedings and other matters not

3 requiring a jury, when they may, by consent of the parties therein,
4 be held at some other place.

[C., '51, § 1597; R., '60, § 2687; C., '73, § 192; C., '97, § 286.]

CHAPTER 5.

CLERK OF THE DISTRICT COURT.

SEC. 6972. Office—duties.

1 The clerk of the district court shall keep his office at the county
2 seat, attend the sessions of the district court himself or by deputy,
3 keep the records, papers and seal, and record the proceedings of the
4 court as hereinafter directed, under the direction of the judge.

[C., '51, § 1577; R., '60, § 343; C., '73, § 194; C., '97, § 287.]

SEC. 6973. Attestation of process.

1 All process issued by the clerk of the court shall bear date the
2 day it is issued, and be attested in the name of the clerk who issued
3 it, and under the seal of the court.

[C., '51, § 1592; R., '60, § 2682; C., '73, § 188; C., '97, § 282.]

SEC. 6974. Records—books to be kept.

1 The records of said court shall consist of the original papers filed
2 in all proceedings, and the books to be kept by the clerk thereof as
3 follows:

4 1. One containing the entries of the proceedings of the court,
5 which may be known as the "record book," and which is to have an
6 index referring to each proceeding in each cause under the names of
7 the parties, both plaintiff and defendant, and under the name of each
8 person named in either party.

9 2. One containing an abstract of the judgments, having in sep-
10 arate and appropriate columns the names of the parties, the date of
11 the judgment, the damages recovered, costs, the date of the issuance
12 and return of executions, with the entry of satisfaction, and other
13 memoranda, which book may be known as the "judgment docket," and
14 is to have an index like that required for the record book.

15 3. One in which to enter in detail the costs and fees in each action
16 or proceeding under the title of the same, with an index like that re-
17 quired above, and which may be known as the "fee book."

18 4. One in which to enter the following matters in relation to any
19 judgment under which real property is sold, entering them after the
20 execution is returned: The title of the action, the date of the judg-
21 ment, the amount of damages recovered, the total amount of costs,
22 and the officer's return in full; which book may be known as the "sale
23 book," and is to have an index like those required above.

24 5. One to be called the "incumbrance book," in which the sheriff
25 shall enter a statement of the levy of every attachment on real estate.

26 6. One to be known as the "appearance docket," which shall con-
27 tain all matters required by law to be kept therein; but the entries
28 provided for in this subdivision and subdivisions two and three may
29 be combined in one book, indexed as provided in subdivision one here-

30 of, which, when thus kept, shall be known as the "combination docket."
 31 7. One in which an index of all liens in said court shall be kept.
 [R., '60, §§ 345, 346; C., '73, §§ 196, 197; C., '97, § 288.]

SEC. 6975. How appearance docket to be kept.

1 The clerk shall enter in said appearance docket the titles of all
 2 actions or special proceedings that shall be brought in the court, num-
 3 bering them consecutively in the order in which they shall have been
 4 commenced, which numbers shall not be changed during the further
 5 progress thereof. In making such entries, the clerk shall set out the
 6 full names of all the parties, plaintiffs and defendants, as contained in
 7 the petition, or as subsequently made parties by any pleading, pro-
 8 ceeding or order.

[C., '73, § 198; C., '97, § 289.]

SEC. 6976. Entry of return of notice.

1 When the original notice shall be returned to the office of the
 2 clerk, he shall enter in said docket so much of the return thereon as
 3 to show who of the parties have been served therewith, and the man-
 4 ner and time of service.

[C., '73, § 199; C., '97, § 290.]

SEC. 6977. Pleadings—when deemed filed—dates to be entered.

1 The clerk shall, immediately upon the filing thereof, make in the
 2 appearance docket a memorandum of the date of the filing of all peti-
 3 tions, demurrers, answers, motions, or papers of any other descrip-
 4 tion in the cause; and no pleading of any description shall be consid-
 5 ered as filed in the cause, or taken from the clerk's office, until the said
 6 memorandum is made.

[C., '73, § 200; C., '97, § 291.]

SEC. 6978. Minutes of subsequent proceedings, with date and reference.

1 Immediately upon the sustaining or overruling of any demurrer
 2 or motion, the striking out or amendment of any pleading, trial of
 3 the cause, rendition of the verdict, entry of judgment, issuing of exe-
 4 cution, or any other act or thing done in the progress of the cause, the
 5 like memorandum thereof shall be made in said docket, giving the
 6 date thereof, and the number of the book and page of the record where
 7 such entry shall have been made, it being intended that the appearance
 8 docket shall be an index from the commencement to the end of a suit.

[C., '73, § 201; C., '97, § 292.]

SEC. 6979. Clerk and deputy not to be justice or attorney.

1 The clerk or deputy clerk of the district court is prohibited from
 2 holding the office of justice of the peace, or practicing, directly or
 3 indirectly, as an attorney or solicitor in any of the courts of this state.

[C., '73, § 204; C., '97, § 294.]

SEC. 6980. Change in title to be certified to auditor.

1 Where the title of any real estate is finally established in any
 2 person or persons by judgment or decree of said court or of the su-
 3 preme court, or where title to real estate is changed by judgment,
 4 decree, will or order in probate, the clerk of the district court shall

5 certify the same, under the seal of said court, to the county auditor
6 of the county in which said land is located.

[C., '97, § 295.]

SEC. 6981. Taxed as part of costs.

1 A charge of six dollars per day for reporting in all cases, except
2 where the defendant in a criminal case is acquitted, shall be taxed as
3 part of the costs in the case by the clerk of the court and paid into
4 the county treasury when collected.

[S., '13, § 254-a3.]

SEC. 6982. Fees to be collected and paid to county—when payable by county.

1 The clerk of the district court shall be entitled to charge and
2 receive the following fees:

- 3 1. For filing any petition, appeal or writ of error and docketing
4 the same, one dollar and fifty cents.
- 5 2. For every attachment, fifty cents.
- 6 3. For every cause tried by jury, one dollar and fifty cents.
- 7 4. For every cause tried by the court, seventy-five cents.
- 8 5. For every equity case, one dollar and fifty cents.
- 9 6. For each injunction or other extraordinary process or order,
10 one dollar.
- 11 7. For all causes continued on application of a party by affidavit,
12 fifty cents.
- 13 8. For all other continuances, fifteen cents.
- 14 9. For entering any final judgment or decree, seventy-five cents.
- 15 10. For taxing costs, fifty cents.
- 16 11. For issuing execution or other process after judgment or de-
17 cree, fifty cents.
- 18 12. For filing and properly entering and indorsing each mechan-
19 ic's lien, one dollar, and in case a suit is brought thereon, the same to
20 be taxed as other costs in the action.
- 21 13. For certificate and seal, fifty cents.
- 22 14. For filing and docketing transcript of judgment from an-
23 other county or a justice of the peace, fifty cents.
- 24 15. For entering any rule or order, twenty-five cents.
- 25 16. For issuing writ or order, not including subpoenas, fifty cents.
- 26 17. For issuing commission to take depositions, fifty cents.
- 27 18. For entering sheriff's sale of real estate, fifty cents.
- 28 19. For entering judgment by confession, one dollar.
- 29 20. For entering satisfaction of any judgment, twenty-five cents.
- 30 21. For all copies of record, or papers filed in his office, tran-
31 scripts, and making complete record, ten cents for each hundred
32 words.
- 33 22. For taking and approving a bond and sureties thereon, fifty
34 cents.
- 35 23. For declaration of intention by an alien to become a citizen,
36 twenty-five cents.
- 37 24. For all services on naturalization of aliens, including oaths
38 and certificates, fifty cents.
- 39 25. For certificates and seal to applications to procure pensions,
40 bounties or back pay for soldiers or other persons entitled thereto, ten
41 cents.

42 26. For making out transcripts in criminal cases appealed to the
43 supreme court, when the defendant is unable to pay, for each one hun-
44 dred words, ten cents, to be paid by the county.

45 27. In criminal cases, and in all causes in which the state or county
46 is a party plaintiff, the same fees for same services as in suits between
47 private parties. When judgment is rendered against the defendant,
48 the fees shall be collected from such defendant. Where the state fails,
49 the clerk's fees shall be paid by the county.

50 In addition to the foregoing, he shall charge and collect:

51 28. For issuing marriage licenses, one dollar each.

52 29. For all services performed in the settlement of the estate of
53 any decedent, minor, insane person, or other persons laboring under
54 any legal disability, except where actions are brought by the adminis-
55 trator, guardian, trustee or person acting in a representative capacity
56 or against him, or as may be otherwise provided herein, where the
57 value of the property of the estate does not exceed three thousand
58 dollars, three dollars; where such value is between three and five thou-
59 sand dollars, five dollars; where such value is between five and seven
60 thousand dollars, eight dollars; where such value is between seven
61 and ten thousand dollars, ten dollars; where such value is between ten
62 and twenty-five thousand dollars, fifteen dollars; for each additional
63 twenty-five thousand dollars or major fraction thereof, there shall be
64 taxed the further sum of ten dollars.

65 30. In addition to the foregoing, for making a complete record
66 in cases where the same is required by law or directed by an order
67 of the court, for every one hundred words, ten cents.

68 All of which fees shall be paid into the county treasury.

[C., '51, §§ 2527, 2531, 2532; R., '60, §§ 430, 436, 1852, 4136,
4140, 4141; C., '73, §§ 3781, 3782, 3787; C., '97, § 296;
S., '13, § 296.]

SEC. 6983. Salary.

1 Each clerk of the district court shall receive for his services the
2 following compensation: In counties having a population of less than
3 ten thousand, seventeen hundred dollars; in counties having a popu-
4 lation of ten thousand and less than fifteen thousand, eighteen hundred
5 dollars; in counties having a population of fifteen thousand and less
6 than twenty thousand, nineteen hundred dollars; in counties having
7 a population of twenty thousand and less than twenty-five thousand,
8 two thousand dollars; in counties having a population of twenty-five
9 thousand and less than thirty thousand, twenty-one hundred dollars;
10 in counties having a population of thirty thousand and less than thirty-
11 five thousand, twenty-two hundred dollars; in counties having a
12 population of thirty-five thousand and less than forty thousand,
13 twenty-four hundred dollars; in counties having a population of forty
14 thousand and less than fifty thousand, twenty-eight hundred dollars;
15 in counties having a population of fifty thousand and less than sixty
16 thousand, three thousand fifty dollars; in counties having a popula-
17 tion of sixty thousand and less than sixty-five thousand, thirty-three
18 hundred dollars; in counties having a population of sixty-five thousand
19 and over, thirty-four hundred dollars; provided, however, that in
20 counties where the district court is held in two places he shall receive
21 as additional compensation the sum of four hundred dollars.

22 Any increase in salaries provided for in this act [38 G. A., ch.
23 293] shall not apply after June thirtieth, nineteen hundred twenty-one.
[C., '51, § 211; R., '60, § 422; C., '73, § 3784; C., '97, § 297;
S., '13, § 297; 37 G. A., ch. 426, § 1; 38 G. A., ch 293,
§§ 5, 6.]

SEC. 6984. Salary exclusive.

1 The clerk of the district court shall accept the salary herein pro-
2 vided, in full compensation of all services performed by him in his
3 official capacity as such clerk of the district court.

[37 G. A., ch. 426, § 2.]

**SEC. 6985. Deputies — appointment — compensation — qualifica-
tions.**

1 Each clerk of the district court may, in writing, with the consent
2 of the board of supervisors, appoint one or more deputies not holding
3 a county office, for whose acts he shall be responsible, and from whom
4 he shall require a bond, which bond shall be approved by the officer
5 who has the approval of the principal's bond. Such appointment may
6 be revoked in writing, which appointment and revocation shall be filed
7 in the auditor's office. The person or persons thus appointed shall
8 qualify by taking the same oath as his principal, indorsed upon the
9 certificate of appointment. The deputy, in the absence or disability
10 of his principal, may perform all the duties of the principal pertaining
11 to his office.

12 He shall receive a salary of not less than fifty per cent of that
13 of his principal, nor more than fifteen hundred dollars per year, to
14 be fixed by the board of supervisors, and in case additional deputies
15 and clerks are needed, the board of supervisors may make such allow-
16 ance therefor as they deem reasonable; provided that in counties hav-
17 ing a population of fifty thousand or over the salary of the first deputy
18 shall be not less than fifty per cent of that of his principal nor more
19 than seventeen hundred fifty dollars per year to be fixed by the board
20 of supervisors and the salary of the second deputy shall be not less
21 than fifty per cent of that of his principal nor more than fifteen hun-
22 dred dollars per year and the salary of the third deputy shall be fifty
23 per cent of that of his principal; provided that in counties having
24 within their limits a city of sixty thousand or over the salary of the
25 first deputy and second deputy shall be sixty-five per cent of that of
26 the principal and the salary of the third and fourth deputies shall be
27 fifty per cent of that of the principal and in case additional deputies
28 and clerks are needed the salary of such deputies and clerks shall be
29 fixed by the board of supervisors; provided, further, that in counties
30 in which the district court is held in two places, the deputy in charge
31 at the place other than the county seat shall receive the same salary
32 as the first deputy in said county.

[C., '51, §§ 411-416; R., '60, §§ 642-645, 647; C., '73, §§ 766-
768, 770, 3784; C., '97, § 298; S. S., '15, § 298; 37 G. A.,
ch. 77, § 1; 38 G. A., ch. 278, § 1.]

SEC. 6986. Deputies—district court in two places.

1 In counties in which district court is held in two places and in
2 counties having a population of forty-five thousand and over first and

3 second deputies shall each receive an amount equal to one-half of the
4 amount received by the clerk.

[S. S., '15, § 298-a.]

SEC. 6987. Clerk to report and pay over fees of office.

1 The clerk of the district court shall report to the board of super-
2 visors of his county, at each regular session, a full and complete state-
3 ment of the amount of fees received by him, which shall be verified
4 by his affidavit, and pay such fees into the county treasury as herein-
5 before provided.

[R., '60, § 431; C., '73, § 3785; C., '97, § 299.]

SEC. 6988. Other fees to be reported and paid over.

1 He shall, on the first Monday in January and July of each year,
2 pay into the county treasury, for the use of the county, all other fees
3 not belonging to his office, in his hands at the date of preceding pay-
4 ment and still unclaimed, and, at the time of so doing, he shall take
5 from the treasurer duplicate receipts therefor, giving the title of the
6 cause and style of the court in which the same was pending, with the
7 names of the witnesses, jurors, officers or other persons, and the
8 amount each one is entitled to receive; one of which receipts he shall
9 file with the county auditor, who shall charge the amount thereof to
10 the treasurer as so much county revenue, and shall enter the same
11 upon the proper records as a claim allowed, and, on demand by the
12 persons entitled to said fees, he shall issue county orders for the
13 amount due each person, respectively.

[R., '60, §§ 353-356; C., '73, § 3786; C., '97, § 300.]

CHAPTER 6.

JURORS.

SECTION 6989. Competency to act.

1 All qualified electors of the state, of good moral character, sound
2 judgment, and in full possession of the senses of hearing and seeing,
3 and who can speak, write and read the English language, are com-
4 petent jurors in their respective counties.

[C., '51, § 1630; R., '60, § 2720; C., '73, § 227; C., '97, § 332.]

SEC. 6990. Who exempt.

1 The following persons are exempt from liability to act as jurors:
2 All persons holding office under the laws of the United States or this
3 state; all practicing attorneys, physicians, registered pharmacists,
4 dentists, and clergymen; all acting professors or teachers of any col-
5 lege, school or other institution of learning; and all persons disabled
6 by bodily infirmity, or over sixty-five years of age; active members
7 of any fire company; and any person who is conscientiously opposed
8 to acting as a juror because of his religious faith.

[C., '51, § 1631; R., '60, § 2721; C., '73, § 228; C., '97, § 333;
S., '13, § 333.]

SEC. 6991. Who may be excused—false statements punished.

1 Any person may also be excused from serving on a jury when
 2 his own interests or those of the public will be materially injured by
 3 his attendance, or when the state of his own health, or the death or
 4 sickness of a member of his family, requires his absence from court.
 5 Any person who knowingly makes any false affidavit, statement or
 6 claim, for the purpose of relieving himself from serving as a juror,
 7 or any person who requests the judges of election to return his name
 8 as such juror, shall, upon conviction, be punished by fine not exceeding
 9 one hundred dollars, or by imprisonment in the county jail not more
 10 than thirty days, or the court may punish such person as for contempt.

[C., '51, § 1632; R., '60, § 2722; C., '73, § 229; C., '97, § 334.]

SEC. 6992. Lists to be made biennially.

1 At the time of holding the general election in A. D. nineteen hun-
 2 dred twelve, and biennially thereafter, lists shall be made from which
 3 to select persons to serve as grand and petit jurors and talesmen for
 4 the biennial period commencing with the first day of January next
 5 thereafter, as follows: One hundred fifty persons in each county
 6 from which to select grand jurors; the number equal to one-fourth
 7 of the whole number of qualified electors in said county, who voted in
 8 the last preceding general election as shown by the poll books of said
 9 election, from which to select petit jurors; and the number equal to
 10 thirty per cent of the whole number of qualified electors, who voted
 11 at the last preceding general election, as shown by the poll books of
 12 said election, in the city or town in which the district court is held
 13 and the township or townships in which said city or town is located,
 14 from which to select talesmen; provided, however, that in no case
 15 shall such list for talesmen contain more than six hundred names.

[C., '51, § 1633; R., '60, § 2723; C., '73, § 234; C., '97, § 335;
 S., '13, § 335.]

SEC. 6993. Talesmen—residence.

1 The talesmen list shall be made from names of persons who re-
 2 side in the city or town in which the district court is held and the
 3 township or townships in which said city or town is located.

[S., '13, § 335-a.]

SEC. 6994. Courts held in more than one place in county—jurors and talesmen.

1 In counties where court is held in more than one place, the persons
 2 shall be selected from the qualified electors of the separate divisions
 3 of the county, giving to each division the number of grand jurors and
 4 petit jurors and talesmen to which it would be entitled, if it were a
 5 separate county.

[S., '13, § 335-b.]

SEC. 6995. Eligibility for jury service—length of service.

1 No person on the list of grand jurors shall be eligible to serve as
 2 a grand juror except for one calendar year of the biennial period for
 3 which the list is made, and no person on the list of petit jurors shall
 4 be eligible to serve as a juror at more than one term of court during
 5 such biennial period.

[S., '13, § 335-c.]

SEC. 6996. Auditor to apportion.

1 On or before the first Monday in September in each year, the
 2 county auditor shall apportion the number of grand and petit jurors
 3 to be selected among the several election precincts, and the talesmen
 4 among the precincts from which the same are to be drawn, in each
 5 case as nearly as practicable in proportion to the number of votes
 6 polled in such precincts at the last general election.

[C., '51, § 1635; R., '60, § 2725; C., '73, § 236; C., '97, § 336.]

SEC. 6997. Judges of election to return names—if they fail, supervisors supply names—who shall be omitted.

1 The auditor shall, at the time of furnishing the poll books to the
 2 judges of election, furnish them also a statement of the number of
 3 persons apportioned to their respective precincts to be returned for
 4 each of the said jury lists, together with the names of all persons who
 5 have served as grand or petit jurors since January first preceding,
 6 which latter names shall be furnished to him by the clerk of the dis-
 7 trict court. The judges shall thereupon make the requisite selection,
 8 and return lists of names so selected to the auditor with the returns
 9 of elections; and in case the judges of election shall fail to make and
 10 return said lists as herein required, the board of supervisors shall, at
 11 the meeting held to canvass the votes polled in the county, make such
 12 lists for the delinquent precincts and the auditor shall file such lists
 13 in his office, and cause a copy thereof to be recorded in the election
 14 book. Such lists shall be composed only of persons competent and
 15 qualified to serve as jurors; and the judges of election or boards of
 16 supervisors shall omit from said lists the name of any person who
 17 has served as a grand or petit juror in a court of record since January
 18 first preceding and shall also omit the name of any person who has
 19 served as judge or clerk of the general election in the year in which
 20 said jury list is prepared. And if the name of any such person is
 21 returned, the fact that he has requested to be so returned, or has
 22 served as such juror in a court of record during the jury year, as
 23 defined in this chapter, or has served as such judge or clerk of election
 24 as herein stated, shall be a ground for challenge for cause. The mem-
 25 bers of the election board, or the board of supervisors, when certifying
 26 to such lists, shall state that the lists do not contain the name of any
 27 person who requested, directly or indirectly, that his name appear
 28 thereon, and that it does not contain the name of anyone who served
 29 as judge or clerk of the general election in the year in which the list
 30 is prepared. If the boundaries of any voting precinct shall be
 31 changed, it shall be the duty of the auditor, in making the apportion-
 32 ment of grand and petit jurors and talesmen, to assign to the new
 33 voting precincts the total number of grand and petit jurors and tales-
 34 men to which all the former precincts affected by the change were
 35 entitled, giving to each new precinct an equal number as nearly as
 36 possible.

[C., '51, §§ 1636-1638; R., '60, §§ 2726-2728; C., '73, §§ 237, 238; C., '97, § 337; S., '13, § 337.]

SEC. 6998. District court to order lists prepared.

1 Wherever it has been or hereafter shall be found or determined
 2 by the district court in any county that, for any cause, the lawfully
 3 constituted grand jury or a like petit jury has not or can not be ob-

4 tained by drawing from the names returned by the election officers to
 5 the county auditor to serve as jurors, or that lawfully qualified tales-
 6 men can not be selected by drawing from the list of names, or that
 7 the term for which such lists were drawn has expired, the said court
 8 may order the board of supervisors of said county to prepare lists of
 9 names of persons having the qualifications required by law for grand
 10 jurors, petit jurors and talesmen. The court ordering shall fix the
 11 time of meeting of said board of supervisors therefor and shall pre-
 12 scribe the time and manner of notice thereof to be given the several
 13 members of such board. Said notice may be served by any person
 14 and proof of service shall be the same as that of original notice.

[S., '13, § 337-a.]

SEC. 6999. Supervisors to prepare lists—meeting.

1 It is hereby made the duty of the members of said board of super-
 2 visors to obey the order of the district court made in accordance with
 3 the authority granted it in the preceding section, and they are hereby
 4 empowered and authorized to hold a meeting of said board for the
 5 said purpose and the preparation of jury lists by said board at said
 6 meeting shall have precedence over all other business.

[S., '13, § 337-b.]

SEC. 7000. Apportionment.

1 The names to be drawn for grand jurors, petit jurors and tales-
 2 men shall be the number now required by law; they shall be appor-
 3 tioned among the several voting precincts by the county auditor as
 4 required by law, and such apportionment shall be certified by the
 5 auditor to the board of supervisors.

[S., '13, § 337-c.]

SEC. 7001. Names selected — lists certified — filed with county auditor.

1 In preparing such lists the board of supervisors shall select the
 2 names from the qualified electors from the several precincts as shown
 3 by the poll lists of the last preceding general election, selecting for
 4 grand jury, petit jury and talesmen lists, the number in each precinct
 5 shown by the auditor's apportionment provided for in the preceding
 6 section. Such lists shall be separately certified by the board of super-
 7 visors, in substance and in form, as election officers are now required
 8 to certify lists returned by them and the lists shall be filed with the
 9 county auditor and recorded by him in the proper record, and shall
 10 stand as the regular jury list for the county for the year for which
 11 it is selected and shall be used therefor and juries chosen therefrom,
 12 in all respects except as to time of selection of list and panel and sum-
 13 moning of the jurors, as is now provided by law; the time of selection
 14 of list and panel and summoning of the jurors to be under the order
 15 of the court.

[S., '13, § 337-d.]

SEC. 7002. Auditor and clerk prepare ballots.

1 On or before the first Monday in December in each year, the
 2 county auditor and clerk of the district court shall prepare from said
 3 lists separate ballots, containing the names and places of residence
 4 of all persons so returned by the judges of election or board of super-

5 visors, keeping the names of the several classes of jurors separate,
6 and deposit in separate boxes the ballots of the grand jurors, petit
7 jurors and talesmen, as returned on said lists, which boxes shall be
8 plainly marked, sealed and forthwith deposited with the clerk of the
9 district court. In preparing the lists as herein provided, the county
10 auditor and clerk shall omit therefrom the names of all persons who
11 have served as grand or petit jurors since January first preceding.

[C., '51, § 1640; R., '60, § 2730; C., '73, § 240; C., '97, § 338.]

SEC. 7003. Grand jurors—panel of twelve for each year.

1 Twelve persons shall be drawn from the grand jury list, and shall
2 constitute the panel from which to select grand jurors for one year;
3 but no more than one person shall be drawn as grand juror from any
4 civil township, except when there are less than twelve civil townships
5 in the county, in which case not more than two persons shall be drawn
6 from any one township. No person shall be summoned or serve as
7 grand juror for two consecutive years. If more persons shall be
8 drawn from any civil township than is hereby authorized, or any per-
9 son is drawn who has served during the preceding jury year as grand
10 juror, it is the duty of the officer drawing such grand jury to reject
11 all such names so drawn, and to proceed with the drawing until the
12 required number of jurors shall be secured.

[C., '51, §§ 1641, 1642; R., '60, §§ 2731, 2732; C., '73, § 241;
C., '97, § 339.]

SEC. 7004. Petit jurors—new panel each term.

1 Petit jurors shall be drawn from the petit jury lists for each
2 term, but no person shall be required to attend as a petit juror more
3 than one term in the same year. But this exemption shall not apply
4 to talesmen.

[C., '51, § 1639; R., '60, § 2729; C., '73, § 239; C., '97, § 341.]

SEC. 7005. When, how, and by whom drawn.

1 At least twenty days prior to the first day of each term at which
2 a grand or petit jury is required to be selected, the county auditor,
3 clerk of the district court and recorder shall meet at the courthouse
4 and proceed to draw the grand and petit jurors as provided herein.
5 The ballots, when placed in the respective boxes from which the draw-
6 ings are to be made, shall be uniform in size and paper, and be so
7 folded as to conceal the names on the ballots, and the boxes shall be
8 arranged with only an aperture to insert the hand, and at the time
9 of the drawing the boxes shall be thoroughly shaken in the presence
10 of the officers attending the drawing, and the seal on the aperture
11 broken in their presence, and one of the said officers shall then, with-
12 out looking at the ballots, draw one from the appropriate petit jury
13 or grand jury box, as the case may be, and pass it to one of the other
14 officers attending the drawing, who shall open it, and the name thereon
15 shall be read aloud by him and taken down; then another ballot shall
16 be drawn and opened in the same manner until the whole number of
17 jurors required shall be drawn for each class, when the boxes shall
18 again be sealed up and returned to the clerk of the district court, who
19 shall immediately issue his precept to the sheriff of the county, com-
20 manding him to summon the persons so drawn to appear at the court-
21 house at the time designated in such precept, or, if the court shall

22 determine that either the grand or petit jurors have been illegally
 23 drawn, selected or summoned the court may set aside the precept un-
 24 der which they were summoned, and direct a sufficient number drawn
 25 and summoned in the manner above provided. Such drawing may
 26 proceed forthwith, and the jurors so drawn be required to appear im-
 27 mediately, or at such time as the court may fix.

[C., '51, §§ 1641, 1643; R., '60, §§ 2731, 2733; C., '73, § 241;
 C., '97, § 342.]

SEC. 7006. Sheriff to summon.

1 The sheriff shall immediately obey such precepts, and on or before
 2 the day for the appearance of said jurors must make return thereof,
 3 and, on a failure to do so without sufficient cause, may be punished
 4 for contempt.

[C., '51, § 1644; R., '60, § 2734; C., '73, § 242; C., '97, § 343.]

SEC. 7007. Grand jurors summoned but once.

1 Except when required at a special term, the twelve persons from
 2 which the grand jury is to be impaneled need not be summoned after
 3 the first term, but must appear at each succeeding term during the
 4 year without summons, under the same penalty as though they had
 5 been summoned.

[C., '51, § 1646; R., '60, § 2736; C., '73, § 243; C., '97, § 344.]

SEC. 7008. When to appear—excuses—contempt.

1 Unless the court or judge otherwise orders, jurors shall be sum-
 2 moned to appear at each place where court is to be held at ten o'clock
 3 a. m. of the second day of the term, at which time they shall be called,
 4 and all excuses shall be heard and determined by the court, but the
 5 impaneling of the grand or petit juries may be postponed to a sub-
 6 sequent day by order of the court or judge. If any person summoned
 7 fail to appear without sending a sufficient excuse, the court may issue
 8 an order requiring him to appear and show cause why he should not
 9 be punished for contempt, and unless he render a sufficient excuse for
 10 such failure he may be punished for contempt.

[C., '51, § 1645; R., '60, § 2735; C., '73, § 230; C., '97, § 345.]

SEC. 7009. Number of jurors.

1 The grand jury shall be composed of seven members. The petit
 2 jurors shall be twenty-four in number unless the court or judge other-
 3 wise orders a greater or less number.

[C., '51, § 1642; R., '60, § 2732; C., '73, § 231; C., '97, § 346;
 37 G. A., ch. 310, § 1; 38 G. A., ch. 223, § 1.]

SEC. 7010. Others drawn when necessary.

1 Should the number of petit jurors summoned fail to appear, or
 2 be excused as provided in this chapter, the requisite number shall be
 3 drawn in the same manner as the original panel, and the persons so
 4 drawn shall be forthwith summoned to appear and serve as jurors
 5 during the term. Persons so drawn shall have the right to present
 6 excuses as provided for the original panel. The court or judge there-
 7 of, either before or during the term, may order as many additional
 8 jurors drawn for the term, or for the trial of any particular case, as

9 may be deemed necessary, which drawing shall be in the same manner
10 as for the original and regular panel, so far as applicable.

[C., '51, § 1647; R., '60, § 2737; C., '73, § 232; C., '97, § 347.]

SEC. 7011. Court controls number.

1 If in the judgment of the court the business of the term does
2 not require the attendance of all the petit jurors, such number as the
3 court deems proper may be discharged. Should it afterwards appear
4 that a jury is required, the court may direct them to be resummoned.

[C., '73, § 233; C., '97, § 348.]

SEC. 7012. Talesmen—when and how drawn—waiver.

1 If, upon the trial of any cause, the court shall determine that it
2 is probable talesmen will be needed to complete the jury, or if the
3 regular panel has been exhausted, the clerk shall, in the presence of
4 the court, draw such number of names as the court may order from
5 the talesmen box to complete the jury. In drawing such names, the
6 clerk, when the court directs, shall reject those known to be unable
7 to serve or absent from the territory from which drawn, and proceed
8 until the required number is secured. The persons whose names are
9 so drawn, or as many thereof as may be found within the territory
10 from which talesmen are selected, shall be immediately summoned
11 by the sheriff to appear forthwith, and the jury shall be completed
12 from the persons so summoned and appearing. The names of jurors
13 so drawn, and who serve, shall be placed in a safe receptacle from
14 time to time, until all the ballots are drawn from the talesmen's box,
15 when such ballots shall be returned to the said box, to be drawn in
16 like manner as before. When the parties to the cause, by agreement
17 entered of record, waive the drawing of talesmen as above provided,
18 the court may direct the sheriff to summon such talesmen from the
19 body of the county.

[C., '97, § 349.]

SEC. 7013. Disposition of ballots drawn.

1 All ballots drawn, when the persons do not appear or do not serve
2 (except when permanent disability is shown), shall be returned to
3 the respective boxes from which drawn, but the ballots of the petit
4 jurors, except talesmen, so drawn, who appear and serve for any term,
5 shall be destroyed.

[C., '97, § 350.]

SEC. 7014. Special venire in lieu of talesmen.

1 When a city or town is a party to a suit, the talesmen shall not
2 be drawn therefrom, but in such cases the court shall order a special
3 venire, or may order the talesmen drawn from the petit jury box.

[C., '97, § 351.]

SEC. 7015. Failure of officer—misdemeanor.

1 Any officer whose duty it is to perform any of the services in this
2 chapter mentioned, who shall intentionally fail to perform them as
3 required by law, or who shall act corruptly in the discharge of such
4 duties or any of them, shall be deemed guilty of a misdemeanor, and

5 on conviction thereof shall be imprisoned not less than six months,
6 nor more than one year.

[C., '97, § 352.]

SEC. 7016. Fees of jurors.

1 Jurors shall receive the following fees:

2 1. For each day's service or attendance in courts of record, in-
3 cluding jurors summoned on special venire, three dollars, and for each
4 mile traveled from his residence to the place of trial, ten cents.

5 2. For each day's service before a justice of the peace, one dollar.
6 3. No mileage shall be allowed talesmen or jurors before justices.
7 Immediately after the adjournment of each term of a court of record,
8 the clerk thereof shall certify to the county auditor a list of the jurors,
9 with the number of days' attendance to which each one is entitled.

[C., '51, § 2545; R., '60, § 4154; C., '73, § 3811; C., '97, § 354;
S., '13, § 354; 37 G. A., ch. 59, § 1.]

CHAPTER 7.

JURY COMMISSION.

SECTION 7017. Jury commission—qualifications.

1 In all counties having a population exceeding twenty thousand,
2 in which there is a city having a population of fifteen thousand, or
3 more, the judge, or judges of the district court of the judicial district,
4 in which such county is located, shall, on or before the first day of
5 October, in each year, select and appoint three competent persons,
6 having the qualification of electors in the county in which they are
7 appointed, commissioners, to select the grand and petit jurors, and
8 talesmen for the district court of such county, for the year beginning
9 on the first day of January, next after their appointment; and the
10 persons so appointed shall be known as the jury commission. Not
11 more than two members of the commission shall be residents of the
12 city in which the courthouse of the county in which they are appointed,
13 is located, and no person shall be appointed who has solicited such
14 appointment; nor shall any county officer be appointed a member of
15 such commission. If a vacancy shall occur in such commission
16 through death, removal or inability of a member thereof to act, the
17 judge, or judges of the judicial district, shall appoint some person to
18 act during the remainder of such unexpired term.

[37 G. A., ch. 267, § 2; 38 G. A., ch. 211, § 1.]

SEC. 7018. Procedure attending appointment.

1 The appointment of such commissioners shall be in writing,
2 signed by the judge, or a majority of the judges, if more than one, of
3 the judicial district in which the appointment is made, and shall be
4 filed and made a matter of record, in the office of the clerk of the dis-
5 trict court of the county in which the commission is appointed. If,
6 for any reason, any judge of a district, in which such commission
7 should be appointed, is unable to act, the appointment shall be signed
8 by the judge, or a majority of the judges of such district, who are
9 able to act. Upon the filing of the written appointment, the clerk of

10 the court, in whose office such appointment shall be filed, shall, at once,
11 by registered letter, notify each commissioner, of his appointment.

[37 G. A., ch. 267, § 3.]

SEC. 7019. Commissioners to qualify—tenure—refusal to qualify—compensation.

1 The commissioners shall, after their appointment, and before the
2 tenth day of October, in each year, qualify, by taking the oath of office,
3 as provided in section six hundred six, which oath shall be subscribed
4 by them, and filed in the office of the clerk of the district court, in
5 the county in which they are appointed, and shall hold office for the
6 term of one year, and until their successors are duly appointed and
7 qualified. Any person appointed as jury commissioner, under the
8 provisions of the two preceding sections, who shall fail to qualify, and
9 act as such commissioner, after having been so appointed and notified,
10 shall forfeit and pay to the county treasurer of the county in which
11 he shall have been appointed, for the benefit of the school fund of the
12 county, the sum of one hundred dollars, which sum may be recovered
13 in a civil action, by the county against him, unless he be excused from
14 serving as such commissioner, by the judge or one of the judges by
15 whom he was appointed. Each commissioner shall be paid from the
16 general fund of the county, as compensation for his services, four
17 dollars for every day, or fraction thereof, at any meeting of the com-
18 mission, during which he is actually engaged in the duties of his office,
19 together with his actual expenses; and a statement of the time the
20 commissioner is actually employed in the duties of his office and his
21 actual expenses shall be approved by a judge of the district court and
22 shall be certified by the clerk of the district court to the county audi-
23 tor, and the auditor shall thereupon draw a warrant upon the proper
24 funds of the county, and deliver the same to the commissioner entitled
25 thereto, for the amount to which such commissioner is entitled. It is
26 further provided that the jury commissioners may employ such cler-
27 cal assistance in preparing the jury lists as they may deem necessary,
28 and the clerk of said district court shall certify the expense incidental
29 thereto to the county auditor, upon a sworn statement of such expense
30 filed by said commissioners with said clerk, and the auditor shall there-
31 upon draw a warrant upon the court expense fund for the amount
32 thereof.

[37 G. A., ch. 267, § 4; 38 G. A., ch. 193, § 1; 38 G. A., ch.
211, § 2.]

SEC. 7020. Number of grand and petit jurors—duty of auditor.

1 The commission shall meet in a room, which shall be provided by
2 the board of supervisors, in the courthouse, in the county in which
3 they are appointed, on the second Monday after the general election
4 in each year such election is held, and the first Monday in November
5 in each year in which no general election is held, and select the names
6 of persons, having the qualification of jurors, and who are of good
7 moral character, to serve as grand and petit jurors, and talesmen, for
8 the year beginning on the first day of January next after the meeting
9 of such commission. The names of one hundred persons shall be
10 drawn from which the grand jurors shall be selected: the names of a
11 number of persons equal to one-seventh of the whole number of quali-
12 fied electors in the county, who voted at the last preceding general
13 election, as shown by the poll books of such election, shall be drawn,

14 from which the petit jurors shall be selected; and the names of five
15 hundred qualified electors, who voted at the last preceding general
16 election, as shown by the poll books of said election, in the city or
17 town, in which the district court is held, and the township or town-
18 ships in which said city or town is located, shall be drawn, from which
19 talesmen shall be selected, and the names so drawn shall constitute
20 the grand and petit jury lists, and the list of talesmen from which
21 grand and petit jurors and talesmen shall be selected, for the annual
22 period commencing with the first day of January next after the meet-
23 ing of such commission. The county auditor shall compute in the
24 manner provided by law, and furnish the commission, a statement of
25 the number of grand and petit jurors and talesmen, to be drawn from
26 each voting precinct in the county, and the commission shall draw the
27 number of persons so proportioned by the county auditor, from each
28 of such voting precincts. In counties which are divided for judicial
29 purposes, and in which courts are held at more than one place, the
30 grand and petit jurors, and talesmen, selected to serve in the respec-
31 tive courts, shall be drawn from the division of the county in which
32 the court is held, at which they are required to serve.

[37 G. A., ch. 267, § 5; 38 G. A., ch. 211, § 3.]

**SEC. 7021. Duty of auditor—exemption from service—disqualifi-
cation.**

1 For the purpose of aiding the commission, in making the lists of
2 grand and petit jurors and talesmen, the county auditor shall furnish
3 the commission with the poll books of the last preceding general elec-
4 tion, and a statement of the number of persons apportioned by him
5 to be drawn from the respective voting precincts of the county as
6 jurors, together with the names of all persons who have served as
7 grand or petit jurors, after the first day of January, preceding the
8 time of the meeting of the commission. No person who has been
9 drawn, and has served in a court of record, as a grand or petit juror,
10 during the year beginning with the first day of January, preceding
11 the time of the meeting of the commission, and no person who has
12 requested to be selected as a grand or petit juror, or talesman, shall
13 be selected by the commission as a grand or petit juror, or talesman.
14 And if the name of any such person shall be selected by the commis-
15 sion, the fact that he has requested to be selected, or that he has served
16 as a grand or petit juror, in a court of record, during the year, shall
17 be ground for challenge for cause.

[37 G. A., ch. 267, § 6.]

SEC. 7022. Preparation, certification, sealing and filing of lists.

1 The names of the persons selected by the commission for grand
2 or petit jurors, and talesmen, shall be, by the commission entered upon
3 lists, which shall be furnished by the county auditor for that purpose,
4 and when such lists are completed, they shall be separately certified,
5 by the commissioners, in substance and in form as election officers are
6 required to certify the lists of jurors, returned by them. After such
7 lists have been so certified, they shall, by the commission, be placed
8 in sealed envelopes, and on or before the first Monday in December,
9 of the year in which such lists are made, be deposited with, and filed
10 by the county auditor, and recorded by him in the proper record, and
11 shall stand as the regular jury lists of the county for the year for

12 which such lists are selected, and the grand and petit jurors, and tales-
13 men shall be chosen from such lists for that year, as herein provided.
[37 G. A., ch. 267, § 7; 38 G. A., ch. 211, § 4.]

SEC. 7023. Preparation and deposit of ballots.

1 Within five days after such lists are deposited with the county
2 auditor, the auditor and clerk of the court shall prepare therefrom,
3 separate ballots, which shall be uniform in size, shape and appearance,
4 and upon which the names and places of residence of all persons se-
5 lected by the jury commission, for grand and petit jurors, and tales-
6 men, shall be written. The names of the classes of jurors shall be
7 kept separate, and each ballot shall be folded, so as to conceal the
8 name written thereon. The ballots containing the names of the grand
9 and petit jurors, and talesmen, shall be deposited in separate boxes,
10 as provided by section seventy hundred two, which shall be plainly
11 marked, so as to show the class of jurors, whose names are contained
12 therein, and shall have but one aperture, through which a hand may
13 be inserted. The boxes shall then be sealed by the auditor, in the
14 presence of the clerk, and deposited with the clerk of the district court.
[37 G. A., ch. 267, § 8.]

SEC. 7024. Drawing of jurors.

1 At a day to be fixed by the clerk of the court, which shall be not
2 less than twenty days, nor more than thirty days, before the first day
3 of each term of the district court, which shall be held after the thirty-
4 first day of December, nineteen hundred seventeen, in the counties
5 included in section seventy hundred seventeen, at which a petit jury
6 is required, and of which five days' notice shall be given by the clerk,
7 by mailing to each commissioner a notice thereof, the jury commis-
8 sion shall meet at the office of the clerk of the court, and in the pres-
9 ence of the county auditor and clerk, shall draw from the proper box,
10 the required number of ballots, containing the names of the persons
11 selected to serve as petit jurors, and the persons whose names are so
12 drawn, shall constitute the petit jurors for the next ensuing term of
13 the court. If for any reason all of such jury commissioners are un-
14 able to meet at the time fixed by the clerk, after notice by the clerk
15 to such commissioners of the time fixed by him for drawing the jury
16 panel, any two of such commissioners, in the presence of the county
17 auditor and clerk, may proceed and draw the jury at said time. The
18 box containing the names of the persons selected as petit jurors, shall,
19 at the time of the drawing, and before the name of any juror shall
20 have been drawn therefrom, be thoroughly shaken, and the seal on
21 the aperture broken by one of the commissioners. After the seal on
22 the box shall have been broken, one of the commissioners shall, with-
23 out looking at the ballots, draw one ballot at a time from the box, and
24 pass it to one of the other commissioners or county auditor, who shall
25 open such ballot, and read aloud the name of the person written there-
26 on, which name shall be taken down, by the clerk of the court, upon a
27 list which shall contain the names of all the petit jurors so drawn, and
28 the commissioners shall, in like manner, continue to draw ballots from
29 the box until the names of the entire number of petit jurors required,
30 shall have been drawn, and their names duly entered upon the list by
31 the clerk of the court. After the required number of petit jurors shall
32 have been drawn in the manner provided, and their names entered

33 upon the list by the clerk, the box shall again be sealed by the commis-
34 sion, and returned to the custody of the clerk.

[37 G. A., ch. 267, § 9; 38 G. A., ch. 211, § 5.]

SEC. 7025. Precept.

1 The clerk of the district court shall immediately, after the names
2 of the petit jurors have been drawn, as herein provided, and their
3 names entered upon the list made by him, issue his precept to the
4 sheriff of the county, commanding him to summon the persons whose
5 names have been drawn, to appear at the courthouse at the time desig-
6 nated by the judge or judges of the district court, to serve as petit
7 jurors.

[37 G. A., ch. 267, § 10.]

SEC. 7026. Annuling precept—procedure.

1 If the court shall, for any reason, determine that the petit jurors
2 shall have been illegally drawn, selected, or summoned, it may set
3 aside the precept, under which they were summoned, and direct a suffi-
4 cient number to be drawn and summoned, in the manner herein pro-
5 vided. In such case, the jury commission shall meet at the office of
6 the clerk of the court, at such time as the court may direct, and in the
7 presence of the clerk and auditor, and in the manner herein speci-
8 fied, draw the number of petit jurors required, under the order of the
9 court, and the jurors so drawn and summoned, shall be required to
10 appear immediately, or at such time as the court may fix.

[37 G. A., ch. 267, § 11.]

SEC. 7027. Deficiency in number appearing—procedure.

1 Should the number of petit jurors summoned fail to appear or be
2 excused, the requisite number, upon the order of court, shall be drawn
3 in the same manner as the original panel, and the commissioners shall
4 meet at the office of the clerk, at a time fixed by the court, and draw
5 the names of the number of petit jurors required by the court to fill
6 the panel. The persons whose names are so drawn shall forthwith
7 be summoned to appear and serve as jurors during the term of court
8 for which they are drawn, and shall have the right to present excuses,
9 as provided for the original panel.

[37 G. A., ch. 267, § 13.]

SEC. 7028. Additional jurors—discharge of panel—procedure.

1 The court, or judge thereof, either before or during any term of
2 court, may order as many additional jurors drawn for the term, or
3 for the trial of any particular case, as may be deemed necessary, and
4 may at any time, discharge the panel of jurors, or any part of it, and
5 order a new panel, or such number of jurors as may be deemed neces-
6 sary to be drawn. The names of such jurors shall be drawn by the
7 commissioners in the manner herein provided, and the commission
8 shall, upon the order of the court, meet at the office of the clerk of the
9 court, for that purpose.

10 Whenever the commission shall be required to meet for the pur-
11 pose of drawing jurors under the order of the court, the clerk of the
12 court shall at once notify each commissioner of such order, and the
13 time fixed for the meeting of the commission; and, if deemed neces-
14 sary, the court may order the notice to be served by the sheriff of the

15 county, who shall be entitled to charge the same fees and mileage for
 16 such service, as he is entitled to charge for the service of an original
 17 notice, and such fees and mileage shall be paid by the county.

[37 G. A., ch. 267, § 14.]

SEC. 7029. Grand jurors—how drawn.

1 The names of grand jurors shall be drawn by the jury commis-
 2 sion from the box containing the ballots upon which their names are
 3 written, as provided by sections seventy hundred three and seventy
 4 hundred four and the names of talesmen, required to serve as jurors,
 5 in the counties included in section seventy hundred seventeen, shall
 6 be drawn in the manner now provided by law, from the box containing
 7 the names of the persons selected by the commission, to serve as such
 8 talesmen.

[37 G. A., ch. 267, § 15; 38 G. A., ch. 211, § 6.]

SEC. 7030. Statutes made applicable.

1 All of the provisions of the preceding chapter which are not incon-
 2 sistent with this chapter shall apply to all jurors selected and drawn
 3 by the jury commission.

[37 G. A., ch. 267, § 12.]

CHAPTER 8.

ATTORNEYS AND COUNSELORS.

SECTION 7031. Power to admit to practice.

1 The power to admit persons to practice as attorneys and coun-
 2 selors in the courts of this state, or any of them, is vested exclusively
 3 in the supreme court.

[C., '97, § 309.]

SEC. 7032. Qualifications.

1 Every applicant for such admission must be at least twenty-one
 2 years of age, of good moral character, and an inhabitant of this state,
 3 and must have actually and in good faith pursued a regular course of
 4 study of the law for at least three full years, either in the office of a
 5 member of the bar in regular practice of this state or other state, or
 6 of a judge of a court of record thereof, or in some reputable law school
 7 in the United States, or partly in such office and partly in such law
 8 school; but, in reckoning such period of study, the school year of any
 9 such law school, consisting of not less than thirty-six weeks exclusive
 10 of vacations, shall be considered equivalent to a full year. Every such
 11 applicant for admission must also have actually and in good faith ac-
 12 quired a general education substantially equivalent to that involved
 13 in the completion of a high-school course of study of at least four years
 14 in extent.

[C., '51, § 1610; R., '60, § 2700; C., '73, § 208; C., '97, § 310;
 S., '13, § 310.]

SEC. 7033. Examinations.

1 Every such applicant shall also be examined by the court, or by
 2 a commission of not less than five members constituted as hereinafter

3 provided, as to his learning and skill in the law; and the court must
4 be satisfied, before admitting to practice, that the applicant has ac-
5 tually and in good faith devoted the time hereinbefore required to the
6 study of law, and possesses the requisite learning and skill therein,
7 and has also the general education required by this chapter. The
8 sufficiency of the general education of the applicant may be determined
9 by examination before the commission, or in such other manner as
10 the supreme court may by rule prescribe.

[C., '97, § 311; S., '13, § 311.]

SEC. 7034. Commission—how constituted—term—oath—compensation—temporary examiners.

1 The attorney general shall, by virtue of his office, be a member
2 of, and the chairman of, the commission provided for by this chapter,
3 and the court shall appoint from the members of the bar of this state
4 at least four other persons who, with the attorney general, shall con-
5 stitute said commission, which shall be known as the board of law
6 examiners. Of the persons first appointed as commissioners two shall
7 be designated by the court to serve for one year; the remaining mem-
8 bers shall serve for two years; and thereafter each person appointed
9 shall serve for two years, except that in case of a vacancy during the
10 term of office of any commissioner his successor shall be appointed
11 only for the remainder of such term. The members thus appointed
12 shall take and subscribe an oath to be administered by one of the
13 judges of the supreme court to faithfully and impartially discharge
14 the duties of the office, and shall receive such compensation as may be
15 allowed by the supreme court out of the fund arising from the exami-
16 nation fees hereinafter provided for. The supreme court may also
17 appoint from time to time, when necessary, temporary examiners to
18 assist the commission, who shall serve for one examination only, and
19 shall receive such compensation as the court may allow, to be paid
20 from the fund aforesaid.

[S., '13, § 311-a.]

SEC. 7035. Fees—how used.

1 Each applicant for admission shall pay to the clerk of the supreme
2 court an examination fee of five dollars, payable before the examina-
3 tion is commenced. The fees thus paid to said clerk shall be retained
4 by him as a special fund to be appropriated as provided for in the
5 preceding section, and for other expenses incident to the examinations
6 provided for in this chapter; and any amount thereof remaining in
7 his hands unappropriated on the thirtieth day of June shall be turned
8 over to the state treasury.

[S., '13, § 311-b.]

SEC. 7036. Of students in law department of university.

1 Students in the law department of the state university, who are
2 recommended by the faculty of said department as candidates for
3 graduation and as persons of good moral character, who have actually
4 and in good faith studied law for the time and in the manner required
5 by statute, at least one year of such study having been as a student
6 in said department, may be examined at the university by not less
7 than three members of said commission with the addition of such tem-
8 porary members as may be appointed by the court in accordance with

9 the provisions of this chapter, and upon the certificate of such exam-
 10 iners, that such candidates possess the learning and skill requisite for
 11 the practice of law, they shall be admitted without further exam-
 12 ination.

[C., '73, § 209; C., '97, § 312; S., '13, § 312.]

SEC. 7037. Practitioners from other states.

1 Any person a resident of this state having been admitted to the
 2 bar of any other of the United States may, in the discretion of the
 3 court, be admitted to practice in this state without examination or
 4 proof of period of study, as hereinbefore provided, on proof of the
 5 other qualifications required by this chapter, and on satisfactory proof
 6 that he has practiced law regularly for not less than one year in the
 7 state where admitted to practice, after having been admitted to the
 8 bar according to the laws of such state. Proper proof that any per-
 9 son, a resident of this state, has been admitted to the bar of the su-
 10 preme court of the United States five years or more before he applies
 11 for admission to the bar in this state shall dispense with his making
 12 proof that he has been admitted to the bar of some state of the United
 13 States, and his making proof that he has practiced law regularly for
 14 not less than one year in some state of the United States wherein he
 15 has been admitted to practice after having been admitted to the bar
 16 according to the laws of such state.

[C., '97, § 313; S., '13, § 313; 37 G. A., ch. 330, § 1.]

SEC. 7038. Oath required.

1 All persons on being admitted to the bar shall take an oath or
 2 affirmation to support the constitution of the United States and of
 3 the state of Iowa, and to faithfully discharge the duties of an attorney
 4 and counselor of this state according to the best of their ability.

[C., '51, § 1613; R., '60, § 2703; C., '73, § 208; C., '97, § 314.]

SEC. 7039. Mode of examination.

1 The supreme court may by general rules prescribe the mode in
 2 which examinations under this chapter shall be conducted, and in
 3 which the qualifications required as to age, residence, character, gen-
 4 eral education and term of study shall be proved, and may make any
 5 other and further rules, not inconsistent with this chapter, for the
 6 purpose of carrying out its object and intent.

[C., '97, § 315; S., '13, § 315.]

SEC. 7040. Attorneys resident in other states—must appoint local attorney.

1 Any member of the bar of another state, actually engaged in any
 2 cause or matter pending in any court of this state, may be permitted
 3 by such court to appear in and conduct such cause or matter while
 4 retaining his residence in another state, without being subject to the
 5 foregoing provisions of this chapter; provided that at the time he
 6 enters his appearance he files with the clerk of such court the written
 7 appointment of some attorney resident in the county where such suit
 8 is pending, upon whom service may be had in all matters connected
 9 with said action, with the same effect as if personally made on such
 10 foreign attorney within such county. In case of failure to make such

11 appointment, such attorney shall not be permitted to practice as afore-
12 said, and all papers filed by him shall be stricken from the files.

[C., '51, § 1612; R., '60, § 2702; C., '73, § 210; C., '97, § 316;
S., '13, § 316.]

SEC. 7041. Duties of attorneys and counselors.

1 It is the duty of an attorney and counselor:

2 1. To maintain the respect due to the courts of justice and ju-
3 dicial officers.

4 2. To counsel or maintain no other actions, proceedings or de-
5 fenses than those which appear to him legal and just, except the
6 defense of a person charged with a public offense.

7 3. To employ, for the purpose of maintaining the causes confided
8 to him, such means only as are consistent with truth, and never to
9 seek to mislead the judges by any artifice or false statement of fact
10 or law.

11 4. To maintain inviolate the confidence, and, at any peril to him-
12 self, to preserve the secret of his client.

13 5. To abstain from all offensive personalities, and to advance no
14 fact prejudicial to the honor or reputation of a party or witness, un-
15 less required by the justice of the cause with which he is charged.

16 6. Not to encourage either the commencement or continuance of
17 an action or proceeding from any motive of passion or interest.

18 7. Never to reject for any consideration personal to himself the
19 cause of the defenseless or oppressed.

[C., '51, § 1614; R., '60, § 2704; C., '73, § 211; C., '97, § 317.]

SEC. 7042. Deceit or collusion—punishment.

1 An attorney and counselor who is guilty of deceit or collusion, or
2 consents thereto, with intent to deceive a court or judge or a party to
3 an action or proceeding, is liable to be disbarred, and shall forfeit to
4 the injured party treble damages to be recovered in a civil action.

[C., '51, § 1615; R., '60, § 2705; C., '73, § 212; C., '97, § 318.]

SEC. 7043. Authority of attorneys and counselors.

1 An attorney and counselor has power:

2 1. To execute in the name of his client a bond, or other written
3 instrument, necessary and proper for the prosecution of an action or
4 proceeding about to be or already commenced, or for the prosecution
5 or defense of any right growing out of an action, proceeding, or final
6 judgment rendered therein.

7 2. To bind his client to any agreement, in respect to any proceed-
8 ing within the scope of his proper duties and powers; but no evidence
9 of any such agreement is receivable, except the statement of the attor-
10 ney himself, his written agreement signed and filed with the clerk, or
11 an entry thereof upon the records of the court.

12 3. To receive money claimed by his client in an action or proceed-
13 ing during the pendency thereof, or afterwards, unless he has been
14 previously discharged by his client, and, upon payment thereof, and
15 not otherwise, to discharge the claim or acknowledge satisfaction of
16 the judgment.

[C., '51, § 1616; R., '60, § 2706; C., '73, § 213; C., '97, § 319.]

SEC. 7044. Proof of authority may be required.

1 The court may, on motion of either party and on the showing of
2 reasonable grounds therefor, require the attorney for the adverse
3 party, or for any one of the several adverse parties, to produce or
4 prove by his own oath, or otherwise, the authority under which he
5 appears, and, until he does so, may stay all proceedings by him on
6 behalf of the parties for whom he assumes to appear.

[C., '51, § 1617; R., '60, § 2707; C., '73, § 214; C., '97, § 320.]

SEC. 7045. Attorney's lien—notice.

1 An attorney has a lien for a general balance of compensation
2 upon:

3 1. Any papers belonging to his client which have come into his
4 hands in the course of his professional employment.

5 2. Money in his hands belonging to his client.

6 3. Money due his client in the hands of the adverse party, or
7 attorney of such party, in an action or proceeding in which the attor-
8 ney claiming the lien was employed, from the time of giving notice
9 in writing to such adverse party, or attorney of such party, if the
10 money is in the possession or under the control of such attorney, which
11 notice shall state the amount claimed, and, in general terms, for what
12 services.

13 4. After judgment in any court of record, such notice may be
14 given, and the lien made effective against the judgment debtor, by
15 entering the same in the judgment or combination docket opposite the
16 entry of the judgment.

[C., '51, § 1618; R., '60, § 2708; C., '73, § 215; C., '97, § 321.]

SEC. 7046. How lien released.

1 Any person interested may release such lien by executing a bond
2 in a sum double the amount claimed, or in such sum as may be fixed
3 by any district judge, payable to the attorney, with security to be
4 approved by the clerk of the supreme or district court, conditioned
5 to pay any amount finally found due the attorney for his services,
6 which amount may be ascertained by suit on the bond. Such lien
7 will be released, unless the attorney, within ten days after demand
8 therefor, files with the clerk a full and complete bill of particulars of
9 the services and amount claimed for each item, or written contract
10 with the party for whom the services were rendered.

[C., '51, § 1619; R., '60, § 2709; C., '73, § 216; C., '97, § 322.]

SEC. 7047. Retention of money—misdemeanor.

1 An attorney who receives the money or property of his client in
2 the course of his professional business, and refuses to pay or deliver
3 it in a reasonable time, after demand, is guilty of a misdemeanor.

[C., '51, § 1627; R., '60, § 2717; C., '73, § 224; C., '97, § 330.]

SEC. 7048. When not guilty.

1 When the attorney claims to be entitled to a lien upon the money
2 or property, he is not liable to the penalties of the preceding section
3 until the person demanding the money proffers sufficient security for
4 the payment of the amount of the attorney's claim, when it is legally
5 ascertained. Nor is he in any case liable as aforesaid, provided he

6 gives sufficient security that he will pay over the whole or any portion
7 thereof to the claimant when he is found entitled thereto.

[C., '51, §§ 1628, 1629; R., '60, §§ 2718, 2719; C., '73, §§ 225,
226; C., '97, § 331.]

SEC. 7049. License to practice may be revoked.

1 Any court of record may revoke or suspend the license of an attor-
2 ney or counselor at law to practice therein, and a revocation or sus-
3 pension in one county operates to the same extent in the courts of all
4 other counties.

[C., '51, § 1620; R., '60, § 2710; C., '73, § 217; C., '97, § 323.]

SEC. 7050. Grounds of revocation.

1 The following are sufficient causes for revocation or suspension:
2 1. When he has been convicted of a felony, or of a misdemeanor
3 involving moral turpitude; in either of which cases the record of con-
4 viction is conclusive evidence.

5 2. When he is guilty of a wilful disobedience or violation of the
6 order of the court, requiring him to do or forbear an act connected
7 with or in the course of his profession.

8 3. A wilful violation of any of the duties of an attorney or coun-
9 selor as hereinbefore prescribed.

10 4. Doing any other act to which such a consequence is by law
11 attached.

[C., '51, § 1621; R., '60, § 2711; C., '73, § 218; C., '97, § 324.]

SEC. 7051. Proceedings—how begun—costs—how paid.

1 The proceedings to remove or suspend an attorney may be com-
2 menced by the direction of the court or on motion of any individual.
3 In the former case, the court must direct some attorney to draw up
4 the accusation; in the latter, the accusation must be drawn up and
5 sworn to by the person making it. If an action is commenced by
6 direction of the court, the costs shall be taxed and disposed of as in
7 criminal cases; provided, however, that no allowance shall be made
8 in such case for the payment of attorney fees.

[C., '51, § 1622; R., '60, § 2712; C., '73, § 219; C., '97, § 325;
S., '13, § 325.]

SEC. 7052. Notice.

1 If the court deem the accusation sufficient to justify further ac-
2 tion, it shall cause an order to be entered requiring the accused to
3 appear and answer on a day therein fixed, either at the same or a
4 subsequent term, and shall cause a copy of the accusation and order
5 to be served upon him personally.

[C., '51, § 1623; R., '60, § 2713; C., '73, § 220; C., '97, § 326.]

SEC. 7053. Pleading—trial—evidence preserved.

1 To the accusation he may plead or demur, and the issues joined
2 thereon shall, in all cases, be tried by the court, all the evidence being
3 reduced to writing, filed and preserved.

[C., '51, § 1624; R., '60, § 2714; C., '73, § 221; C., '97, § 327.]

SEC. 7054. Plea of guilty or failure to plead—judgment.

1 If the accused plead guilty, or fail to answer, the court shall pro-
2 ceed to render such judgment as the case requires.

[C., '51, § 1625; R., '60, § 2715; C., '73, § 222; C., '97, § 328.]

SEC. 7055. Appeal.

1 In case of a removal or suspension being ordered, an appeal there-
2 from lies to the supreme court, and all the original papers, together
3 with a transcript of the record, shall thereupon be transferred to the
4 supreme court, to be there considered and finally acted upon. A judg-
5 ment of acquittal by a court of record is final.

[C., '51, § 1626; R., '60, § 2716; C., '73, § 223; C., '97, § 329.]

SEC. 7056. Clerk to certify order or judgment.

1 When a judgment has been entered in any court of record in the
2 state of Iowa revoking or suspending the license of any attorney at
3 law to practice in the said court, the clerk of the court in which the
4 judgment is rendered shall immediately certify to the clerk of the
5 supreme court the order or judgment of the court in said cause.

[S., '13, § 329-a.]

TITLE XXIX.

GENERAL PROVISIONS RELATING TO CIVIL PRACTICE AND PROCEDURE.

CHAPTER 1.

FORMS OF ACTIONS.

SECTION 7057. Proceedings.

1 Every proceeding in court is an action, and is civil, special or
2 criminal.
[R., '60, § 2605; C., '73, § 2504; C., '97, § 3424.]

SEC. 7058. Civil and special actions.

1 A civil action is a proceeding in a court of justice in which one
2 party, known as the plaintiff, demands against another party, known
3 as the defendant, the enforcement or protection of a private right, or
4 the prevention or redress of a private wrong. It may also be brought
5 for the recovery of a penalty or forfeiture. Every other proceeding
6 in a civil case is a special action.
[R., '60, §§ 2606, 2607, 2609; C., '73, §§ 2505, 2506; C., '97,
§ 3425.]

SEC. 7059. Forms of action.

1 All forms of action are abolished, but proceedings in civil actions
2 may be of two kinds, ordinary or equitable.
[R., '60, §§ 2608, 2610; C., '73, § 2507; C., '97, § 3426.]

SEC. 7060. Equitable proceedings.

1 The plaintiff may prosecute his action by equitable proceedings
2 in all cases where courts of equity before the adoption of this code
3 had jurisdiction, and must so proceed in all cases where such jurisdic-
4 tion was exclusive.
[R., '60, § 2611; C., '73, § 2508; C., '97, § 3427.]

SEC. 7061. Action on note and mortgage.

1 An action on a note, together with a mortgage or deed of trust for
2 the foreclosure of the same, shall be by equitable proceedings. An
3 action on the bond or note alone, without regard therein to the mort-
4 gage or deed of trust, shall be by ordinary proceedings.
[R., '60, § 4179; C., '73, § 2509; C., '97, § 3428.]

SEC. 7062. Ordinary proceedings.

1 In all other cases, unless otherwise provided, the plaintiff must
2 prosecute his action by ordinary proceedings.
[R., '60, § 2612; C., '73, § 2513; C., '97, § 3431.]

SEC. 7063. Error—effect of.

1 An error of the plaintiff as to the kind of proceedings adopted
2 shall not cause the abatement or dismissal of the action, but merely a
3 change into the proper proceedings, and a transfer to the proper
4 docket.

[R., '60, § 2613; C., '73, § 2514; C., '97, § 3432.]

SEC. 7064. How corrected by plaintiff.

1 Such error may be corrected by the plaintiff without motion at
2 any time before the defendant has answered, or afterwards on motion
3 in court.

[R., '60, § 2614; C., '73, § 2515; C., '97, § 3433.]

SEC. 7065. By defendant.

1 The defendant may have the correction made by motion at or
2 before the filing of his answer, where it appears by the provision of
3 this code wrong proceedings have been adopted.

[R., '60, §§ 2615, 2616; C., '73, § 2516; C., '97, § 3434.]

SEC. 7066. Equitable issues.

1 Where the action has been properly commenced by ordinary pro-
2 ceedings, either party shall have the right, by motion, to have any
3 issue heretofore exclusively cognizable in equity tried in the manner
4 hereinafter prescribed in cases of equitable proceedings; and if all the
5 issues were such, though none were exclusively so, the defendant shall
6 be entitled to have them all tried as in cases of equitable proceedings.

[R., '60, § 2617; C., '73, § 2517; C., '97, § 3435.]

SEC. 7067. Court may order change.

1 If there is more than one party plaintiff or defendant, who fail
2 to unite on the kind of proceedings to be adopted, the court, on its
3 own motion, may direct such proceedings to be changed to the same
4 extent as if the parties had united in asking it to be done.

[C., '73, § 2518; C., '97, § 3436.]

SEC. 7068. Errors waived.

1 An error as to the kind of proceedings adopted in the action is
2 waived by a failure to move for its correction at the time and in the
3 manner prescribed in this chapter; and all errors in the decisions of
4 the court are waived unless excepted to at the time, save final judg-
5 ments and interlocutory or final decrees entered of record.

[R., '60, § 2619; C., '73, § 2519; C., '97, § 3437.]

SEC. 7069. Uniformity of procedure.

1 The provisions of this code concerning the prosecution of a civil
2 action apply to both ordinary and equitable proceedings unless the
3 contrary appears, and shall be followed in special actions not other-
4 wise regulated, so far as applicable.

[C., '51, § 2516; R., '60, §§ 2620, 4173; C., '73, § 2520; C., '97,
§ 3438.]

SEC. 7070. Title of cause.

1 The title of the cause shall not be changed in any of its stages
2 of transit from one court to another.

[R., '60, § 2949; C., '73, § 2721; C., '97, § 3631.]

SEC. 7071. Judgments not annulled in equity.

1 Judgment obtained in an action by ordinary proceedings shall not
2 be annulled or modified by any order in an action by equitable pro-
3 ceedings, except for a defense which has arisen or been discovered
4 since the judgment was rendered. But such judgment does not pre-
5 vent the recovery of any claim, though such claim might have been
6 used by way of counterclaim in the action on which the judgment
7 was recovered.

[R., '60, § 2621; C., '73, § 2522; C., '97, § 3440.]

SEC. 7072. Discovery.

1 No action to obtain a discovery shall be brought, except, where
2 a person or corporation is liable either jointly or severally with others
3 by the same contract, an action may be brought against any parties
4 who are liable, to obtain discovery of the names and residences of
5 the others. In such action the plaintiff shall state in his petition, in
6 effect, that he has used due diligence, without success, to obtain the
7 information asked to be discovered, and that he does not believe the
8 parties to the contract who are known to him have property sufficient
9 to satisfy his claim. The petition shall be verified, and the cost of
10 such action shall be paid by the plaintiff unless the discovery be
11 resisted.

[R., '60, § 4127; C., '73, § 2523; C., '97, § 3441.]

SEC. 7073. Successive actions.

1 Successive actions may be maintained upon the same contract or
2 transaction whenever, after the former action, a new cause of action
3 has arisen thereon or therefrom.

[R., '60, § 4128; C., '73, § 2524; C., '97, § 3442.]

SEC. 7074. Actions survive.

1 All causes of action shall survive and may be brought notwith-
2 standing the death of the person entitled or liable to the same.

[C., '51, § 2502; R., '60, § 3467; C., '73, § 2525; C., '97,
§ 3443.]

SEC. 7075. Civil remedy not merged in crime.

1 The right of civil remedy is not merged in a public offense, but
2 may in all cases be enforced independently of and in addition to the
3 punishment of the latter.

[C., '51, § 2500; R., '60, § 4110; C., '73, § 2526; C., '97,
§ 3444.]

SEC. 7076. Actions by or against legal representatives—substitution.

1 Any action contemplated in the two preceding sections may be
2 brought, or the court, on motion, may allow the action to be continued,
3 by or against the legal representatives or successors in interest of the

4 deceased. Such action shall be deemed a continuing one, and to have
 5 accrued to such representative or successor at the time it would have
 6 accrued to the deceased if he had survived. If such is continued
 7 against the legal representative of the defendant, a notice shall be
 8 served on him as in case of original notices.

[C., '51, § 1699; R., '60, § 4111; C., '73, § 2527; C., '97,
 § 3445.]

SEC. 7077. Construction of code provisions.

1 The rule of the common law, that statutes in derogation thereof
 2 are to be strictly construed, has no application to this code. Its pro-
 3 visions and all proceedings under it shall be liberally construed with
 4 a view to promote its objects and assist the parties in obtaining justice.

[C., '51, § 2503; R., '60, § 2622; C., '73, § 2528; C., '97,
 § 3446.]

CHAPTER 2.

JOINDER OF ACTIONS.

SECTION 7078. When permitted—issues tried separately.

1 Causes of action of whatever kind, where each may be prosecuted
 2 by the same kind of proceedings, if held by the same party, and against
 3 the same party, in the same rights, and if action on all may be brought
 4 and tried in that county, may be joined in the same petition; but the
 5 court may direct all or any portion of the issues joined to be tried
 6 separately, and may determine the order thereof.

[C., '51, § 1751; R., '60, § 2844; C., '73, § 2630; C., '97,
 § 3545.]

SEC. 7079. Plaintiff may strike out.

1 The plaintiff may at any time before the final submission of the
 2 case to the jury, or to the court when the trial is by the court, strike
 3 from his petition any cause of action or part thereof.

[R., '60, § 2845; C., '73, § 2631; C., '97, § 3546.]

SEC. 7080. Motion to strike out.

1 The court, at any time before the answer is filed, upon motion of
 2 the defendant, shall strike out of the petition any cause or causes of
 3 action improperly joined with others.

[R., '60, § 2846; C., '73, § 2632; C., '97, § 3547.]

SEC. 7081. Misjoinder waived.

1 All objections to the misjoinder of causes of action shall be
 2 waived, unless made as provided in the last preceding section.

[R., '60, § 2847; C., '73, § 2633; C., '97, § 3548.]

SEC. 7082. Separate petitions.

1 When a motion is sustained on the ground of misjoinder of causes
 2 of action, the court, on motion of the plaintiff, shall allow him, with
 3 or without costs, in his discretion, to file several petitions, each includ-

4 ing such of said causes of action as may be joined, and an action shall
5 be docketed for each of said petitions, and the causes shall be pro-
6 ceeded in without further service, the court fixing by order the time
7 of pleading therein.

[R., '60, § 2848; C., '73, § 2634; C., '97, § 3549.]

SEC. 7083. Principal and agent—joinder—issue of agency tried same cause.

1 In any action in which the liability of a party depends upon the
2 existence of the relation of principal and agent, a cause of action
3 against the principal may be joined in the same suit with any cause
4 of action against the agent, growing out of the same transaction where
5 either cause of action is dependent upon the fact of agency, and the
6 issue of agency shall be tried with the other issues of the respective
7 causes of action.

[37 G. A., ch. 312, § 1.]

CHAPTER 3.

PARTIES TO ACTIONS.

SECTION 7084. Plaintiff—party in interest—exception.

1 Every action must be prosecuted in the name of the real party in
2 interest; but an executor or administrator, a guardian, a trustee of
3 an express trust, a party with whom or in whose name a contract is
4 made for the benefit of another, or party expressly authorized by
5 statute, may sue in his own name, without joining with him the party
6 for whose benefit the action is prosecuted.

[C., '51, § 1676; R., '60, §§ 2757, 2758; C., '73, §§ 2543, 2544;
C., '97, § 3459.]

SEC. 7085. Plaintiffs joined.

1 All persons having an interest in the subject of the action, and
2 in obtaining the relief demanded, may join as plaintiffs, except as
3 otherwise provided.

[C., '51, § 1678; R., '60, § 2759; C., '73, § 2545; C., '97,
§ 3460.]

SEC. 7086. Assignment—without prejudice.

1 The assignment of a thing in action shall be without prejudice
2 to any counterclaim, defense or cause of action, whether matured or
3 not, if matured when pleaded, existing in favor of the defendant and
4 against the assignor before notice of the assignment; but this section
5 shall not apply to negotiable instruments transferred in good faith
6 and upon a valuable consideration before due.

[R., '60, § 2760; C., '73, § 2546; C., '97, § 3461.]

SEC. 7087. Defendants.

1 Any person may be made a defendant who has or claims an inter-
2 est in the controversy adverse to the plaintiff, or who is a necessary

3 party to a complete determination or settlement of the question in-
4 volved in the action, except as otherwise expressly provided.

[R., '60, § 2761; C., '73, § 2547; C., '97, § 3462.]

SEC. 7088. United interest.

1 Persons having a united interest must be joined on the same side,
2 either as plaintiffs or defendants, except as otherwise expressly pro-
3 vided; but when some who should be made plaintiffs refuse to join,
4 they may be made defendants, the reason therefor being set forth in
5 the petition.

[C., '51, § 1679; R., '60, § 2762; C., '73, § 2548; C., '97,
§ 3463.]

SEC. 7089. One suing for all.

1 When the question is one of a common or general interest to many
2 persons, or when the parties are very numerous and it is impracticable
3 to bring them all before the court, one or more may sue or defend for
4 the benefit of the whole.

[C., '51, § 1680; R., '60, § 2763; C., '73, § 2549; C., '97,
§ 3464.]

SEC. 7090. Joint and several obligations.

1 Where two or more persons are bound by contract or by judg-
2 ment, decree or statute, whether jointly only, or jointly and severally,
3 or severally only, including the parties to negotiable paper, common
4 orders and checks, and sureties on the same or separate instruments,
5 or by any liability growing out of the same, the action thereon may,
6 at the plaintiff's option, be brought against any or all of them. When
7 any of those so bound are dead, the action may be brought against
8 any or all of the survivors, with any or all of the representatives of
9 the decedents, or against any or all such representatives. An action
10 or judgment against any one or more of several persons jointly bound
11 shall not be a bar to proceedings against the others.

[C., '51, §§ 1681, 1682; R., '60, § 2764; C., '73, § 2550; C., '97,
§ 3465.]

SEC. 7091. Other parties brought in.

1 The court may determine any controversy between parties before
2 it, when it can be done without prejudice to the rights of others, or
3 by saving their rights; but when a determination of the controversy
4 between the parties before the court can not be made without the pre-
5 sence of other parties, it must order them to be brought in.

[C., '51, § 1683; R., '60, § 2765; C., '73, § 2551; C., '97,
§ 3466.]

SEC. 7092. Suit on public bond.

1 When a bond or other instrument given to the state or county
2 or other municipal or school corporation, or to any officer or person,
3 is intended for the security of the public generally, or of particular
4 individuals, action may be brought thereon in the name of any person
5 intended to be thus secured, who has sustained an injury in conse-
6 quence of a breach thereof, except when otherwise provided.

[C., '51, § 1693; R., '60, § 2787; C., '73, § 2552; C., '97,
§ 3467.]

SEC. 7093. Partnership.

1 Actions may be brought by or against a partnership as such, or
 2 against all or either of the individual members thereof, or against it
 3 and all or any of the members thereof; and a judgment against the
 4 firm as such may be enforced against the partnership property, or
 5 that of such members as have appeared or been served with notice.
 6 A new action may be brought against the members not made parties,
 7 on the original cause of action.

[C., '51, §§ 1690, 1691; R., '60, § 2785; C., '73, § 2553; C., '97,
 § 3468.]

SEC. 7094. Foreign corporations.

1 Foreign corporations may sue in the courts of this state in their
 2 corporate name.

[C., '51, § 1695; R., '60, § 2789; C., '73, § 2554; C., '97,
 § 3469.]

SEC. 7095. Action for seduction.

1 An unmarried female may maintain, as plaintiff, an action for
 2 her own seduction.

[C., '51, § 1696; R., '60, § 2790; C., '73, § 2555; C., '97,
 § 3470.]

SEC. 7096. Injury or death of minor child.

1 A father, or, in case of his death or imprisonment or desertion
 2 of his family, the mother, may as plaintiff maintain an action for the
 3 expenses and actual loss of service resulting from the injury or death
 4 of a minor child.

[C., '51, § 1697; R., '60, § 2792; C., '73, § 2556; C., '97,
 § 3471.]

SEC. 7097. Name unknown.

1 When the precise name of any defendant can not be ascertained,
 2 he may be described as accurately as practicable, and when it is ascer-
 3 tained it shall be substituted in the proceedings.

[C., '51, § 1694; R., '60, § 2788; C., '73, § 2557; C., '97,
 § 3472.]

SEC. 7098. Action on written instrument.

1 When an action is founded on a written instrument, it may be
 2 brought by or against any of the parties thereto by the same name and
 3 description as those by which they are designated in such instrument.

[C., '51, § 1692; R., '60, § 2786; C., '73, § 2558; C., '97,
 § 3473.]

SEC. 7099. Prisoner in penitentiary.

1 No judgment can be rendered against a prisoner in the peniten-
 2 tiary until after a defense made for him by his attorney, or, if there
 3 is none, by a person appointed by the court.

[R., '60, § 2784; C., '73, § 2559; C., '97, § 3474.]

SEC. 7100. Actions by state.

1 The state may maintain actions in the same manner as natural
 2 persons, but no security shall be required in such cases.
 [R., '60, § 2793; C., '73, § 2560; C., '97, § 3475.]

SEC. 7101. Transfer—abatment.

1 No action shall abate by the transfer of any interest therein dur-
 2 ing its pendency, and new parties may be brought in, as may be nec-
 3 essary.
 [C., '51, § 1698; R., '60, § 2794; C., '73, § 2561; C., '97,
 § 3476.]

SEC. 7102. Married woman may sue.

1 A married woman may in all cases sue and be sued without join-
 2 ing her husband with her, and an attachment or judgment in such
 3 action shall be enforced by or against her as if she were single.
 [R., '60, §§ 2771, 2772; C., '73, § 2562; C., '97, § 3477.]

SEC. 7103. Recovery by woman or her estate for personal injury—maximum.

1 When any woman receives an injury caused by the negligence or
 2 wrongful act of any person, firm or corporation, including a municipal
 3 corporation, she may recover for loss of time, medical attendance and
 4 other expenses incurred as a result thereof in addition to any elements
 5 of damages recoverable by common law; and if such injury result in
 6 causing death, her administrator may sue and recover for her estate,
 7 the value of her services as a wife or mother or both in such sum as
 8 the jury may deem proportionate to the injury resulting in her death,
 9 in addition to such damages as are recoverable by common law; also
 10 loss of services and expenses incurred before death, if not previously
 11 recovered, and in such case of injury arising from wilful, gross, or
 12 wanton negligence, punitive damages may be allowed by the jury in
 13 addition to other damages herein provided, but in no event shall the
 14 amount exceed the sum of fifteen thousand dollars.
 [S. S., '15, § 3477-a.]

SEC. 7104. Defense by.

1 If husband and wife are sued together, the wife may defend for
 2 her own right, and if either neglects to defend, the other may defend
 3 for both.
 [C., '51, § 1687; R., '60, § 2774; C., '73, § 2563; C., '97,
 § 3478.]

SEC. 7105. When husband or wife deserts family.

1 When a husband has deserted his family, the wife may prosecute
 2 or defend in his name any action which he might have prosecuted or
 3 defended, and shall have the same powers and rights therein as he
 4 might have had; and, under like circumstances, the husband shall have
 5 the same right.
 [R., '60, § 2776; C., '73, § 2564; C., '97, § 3479.]

SEC. 7106. Actions by minors.

1 The action of a minor must be brought by his guardian, if he has
 2 one, if not, by his next friend, but the court may dismiss it if it is not

3 for his benefit, or may substitute a guardian or another person as
4 next friend.

[C., '51, §§ 1688, 1689; R., '60, § 2777; C., '73, § 2565; C., '97,
§ 3480.]

SEC. 7107. Plaintiff insane.

1 The action of a person judicially found to be of unsound mind
2 must be brought by his guardian, but, if he have none, the court or
3 judge thereof, or the clerk in vacation, may appoint one for the pur-
4 poses of the action.

[R., '60, § 2781; C., '73, § 2569; C., '97, § 3481.]

SEC. 7108. Defense by minor.

1 The defense of a minor must be by his regular guardian, or by
2 one appointed to defend for him where no regular guardian appears,
3 or, where the court directs a defense, by one appointed for that pur-
4 pose. No judgment can be rendered against a minor until after a
5 defense by a guardian.

[C., '51, §§ 1688, 1689; R., '60, § 2778; C., '73, § 2566; C., '97,
§ 3482.]

SEC. 7109. Guardian ad litem.

1 Such appointment can not be made until after the required serv-
2 ices of the notice in the action, and then may be by the court, or in
3 vacation by a judge or the clerk; but the court shall have the power
4 to remove such guardian when the interests of the minor require it.
5 If made by the judge or clerk, it shall be done by indorsing the name
6 of the person appointed and the time thereof on the petition in the
7 action.

[R., '60, § 2779; C., '73, § 2567; C., '97, § 3483.]

SEC. 7110. Application for appointment.

1 The appointment may also be made on the application of the
2 minor, if he is of the age of fourteen years, and applies at or before
3 the time he is required to appear and defend. If he does not, or is
4 under that age, the appointment may be made on the application of
5 any friend of his, or on that of the plaintiff in the action.

[R., '60, § 2780; C., '73, § 2568; C., '97, § 3484.]

SEC. 7111. Defense of insane person—appointment of guardian.

1 The defense of an action against a person judicially found to be
2 of unsound mind, or of one confined in any state hospital for the insane
3 who, by the certificate of the physician in charge, appears to be insane,
4 must be by his guardian, or a guardian appointed by the court to de-
5 fend for him. Such appointment may be made upon the application
6 of any friend of the defendant, or on that of the plaintiff, but not
7 until service has been made as directed in this code, and no judgment
8 can be rendered against him until defense has been made as herein
9 provided.

[R., '60, § 2782; C., '73, § 2570; C., '97, § 3485.]

SEC. 7112. Pending suit.

1 Where a party is judicially found to be of unsound mind, or is
2 confined in any state hospital for the insane, and, by the certificate

3 of the physician in charge, appears to be insane, during the pendency
 4 of an action, the fact being stated on the record, if he is plaintiff his
 5 guardian may be joined with him in the action as such; if defendant,
 6 the plaintiff may, on ten days' notice thereof to his guardian, have an
 7 order making the guardian a defendant also.

[R., '60, § 2783; C., '73, § 2571; C., '97, § 3486.]

SEC. 7113. Interpleader.

1 Upon the affidavit, before answer, of a defendant in any action
 2 upon contract for the recovery of personal property, that some third
 3 person, without collusion with him, has or makes a claim to the sub-
 4 ject of the action, or on proof thereof, as the court may direct, it may
 5 make an order for the safe-keeping, or for the payment or deposit in
 6 court, or delivery of the subject of the action to such person as it may
 7 direct, and an order requiring such third person to appear in a rea-
 8 sonable time and maintain or relinquish his claims against defendant,
 9 and in the meantime stay the proceedings. If such third person, being
 10 served with a copy of the order, fails to appear, the court may declare
 11 him barred of all claims in respect to the subject of the action against
 12 the defendant therein. If such third person appears, he shall be
 13 allowed to make himself defendant in the action in lieu of the original
 14 defendant, who shall be discharged from all liability to either of the
 15 other parties in respect to the subject of the action, upon his com-
 16 pliance with the order of the court for payment, deposit or delivery
 17 thereof.

[C., '51, §§ 1685, 1686; R., '60, § 2767; C., '73, § 2572; C., '97,
 § 3487.]

SEC. 7114. By sheriff.

1 The provisions of the last section shall be so far applicable to an
 2 action brought against a sheriff or other officer for the recovery of
 3 personal property taken by him under an attachment or execution, or
 4 for the value of such property so taken and sold by him, that, upon
 5 exhibiting to the court the process under which he acted, with his
 6 affidavit that the property for the recovery of which, or its proceeds,
 7 the action was brought was taken under such process, he may have
 8 the attaching or execution creditor made a joint defendant with him,
 9 and if judgment go against them, it shall provide that the property
 10 of such creditor shall be first exhausted in satisfaction thereof.

[R., '60, § 2768; C., '73, § 2573; C., '97, § 3488.]

SEC. 7115. Substitution.

1 In an action against a sheriff or other officer for the recovery of
 2 property taken under an attachment or execution, the court may, upon
 3 application of the defendant and of the party in whose favor the
 4 process issued, permit the latter to be joined with such officer as
 5 defendant.

[R., '60, § 2769; C., '73, § 2574; C., '97, § 3489.]

CHAPTER 4.

LIMITATIONS OF ACTIONS.

SECTION 7116. Period of.

1 Actions may be brought within the times herein limited, respec-
2 tively, after their causes accrue, and not afterwards, except when
3 otherwise specially declared:

4 1. *In actions for injuries from defects in roads or streets—notice.*
5 Those founded on injury to the person on account of defective roads,
6 bridges, streets or sidewalks, within three months, unless written
7 notice specifying the time, place and circumstances of the injury shall
8 have been served upon the county or municipal corporation to be
9 charged within sixty days from the happening of the injury.

10 2. *Penalties or forfeitures under ordinance.* Those to enforce the
11 payment of a penalty or forfeiture under an ordinance, within one year.

12 3. *Injuries to person or reputation—relative rights—statute pen-*
13 *alty—setting aside will.* Those founded on injuries to the person or
14 reputation, including injuries to relative rights, whether based on
15 contract or tort, or for a statute penalty, within two years; and those
16 brought to set aside a will, within two years from the time the same
17 is filed in the clerk's office for probate and notice thereof is given;
18 provided that after a will is probated the executor may cause personal
19 service of an original notice to be made on any person interested,
20 which shall contain the name of decedent, the date of his death, the
21 court in which and the date on which the will was probated, together
22 with a copy of said will; said notice shall be served in the same manner
23 as original notices and no action shall be instituted by any person so
24 served after one year from date of service.

25 4. *Against sheriff or other public officer.* Those against a sheriff
26 or other public officer, growing out of a liability incurred by the doing
27 of an act in an official capacity or by the omission of an official duty,
28 including the nonpayment of money collected on execution, within
29 three years.

30 5. *Unwritten contracts—injuries to property—fraud—other ac-*
31 *tions.* Those founded on unwritten contracts, those brought for
32 injuries to property, or for relief on the ground of fraud in cases
33 heretofore solely cognizable in a court of chancery, and all other ac-
34 tions not otherwise provided for in this respect, within five years.

35 6. *Written contracts—judgments of courts not of record—recov-*
36 *ery of real property.* Those founded on written contracts, or on
37 judgments of any courts except those provided for in the next sub-
38 division, and those brought for the recovery of real property, within
39 ten years.

40 7. *Judgments of courts of record.* Those founded on a judgment
41 of a court of record, whether of this or of any other of the United
42 States, or of the federal courts of the United States, within twenty
43 years.

44 8. *Limitation of action.* No action shall be brought to set aside
45 a judgment or decree quieting title to real estate unless the same shall
46 be commenced within ten years from and after the rendition thereof.

47 9. *Recovery of certain real estate.* In all cases where any
48 deed of trust or declaration of trust has been executed and the real
49 estate affected thereby has been conveyed by the trustee or the surviv-
50 ing spouse or heirs of said trustee and such conveyance was duly
51 recorded in the proper county prior to January first, eighteen hundred

52 ninety, and the interest of the cestui que trust thereunder has not
 53 been by such cestui que trust conveyed, or established by proper pro-
 54 ceedings in court, no action, suit or proceeding shall be commenced or
 55 maintained to foreclose the same, or to establish or recover the interest
 56 of the cestui que trust therein, or of the surviving spouse or heirs of
 57 the cestui que trust, unless such action, suit or proceeding be com-
 58 menced by filing petition and service of notice not later than the first
 59 day of March, A. D. nineteen hundred fourteen.

[C., '51, § 1659; R., '60, §§ 1075, 1865, 2740; C., '73, §§ 486,
 2529; C., '97, § 3447; S., '13, §§ 2963-g, 3447; 37 G. A.,
 ch. 63, § 1.]

SEC. 7117. Death of party to be charged—extension of time.

1 In all cases where by the death of the party to be charged, the
 2 bringing of an action against his estate shall have been delayed beyond
 3 the period provided for by statute, the time within which action may
 4 be brought against his estate is hereby extended for six months from
 5 the date of the death of said decedent.

[S., '13, § 3447-a.]

SEC. 7118. Recovery of interest in real estate when spouse failed to join in conveyance.

1 In all cases where the holder of the legal or equitable title or
 2 estate to real estate situated within this state, prior to the first day of
 3 January, nineteen hundred five, conveyed said real estate or any
 4 interest therein by deed, mortgage, or other instrument, and the
 5 spouse failed to join therein, such spouse or the heirs at law, personal
 6 representatives, devisees, grantees, or assignees of such spouse shall
 7 be barred from recovery unless suit is brought therefor within one
 8 year after July fourth, nineteen hundred eleven. But in case the
 9 right to such distributive share has not accrued by the death of the
 10 spouse making such instrument, then the one not joining is hereby
 11 authorized to file in the recorder's office of the county where the land
 12 is situated, a notice with affidavit, setting forth affiant's claim, to-
 13 gether with the facts upon which such claim rests, and the residence
 14 of such claimants; and if such notice is not filed within two years after
 15 July fourth, nineteen hundred eleven, such claim shall be barred
 16 forever. Any action contemplated in this section may include land
 17 situated in different counties, by giving notice thereof as provided by
 18 section seventy-one hundred eighty-nine; provided that the repeal of
 19 section thirty-four hundred forty-seven-b, supplement to the code,
 20 1907, shall not affect any act done, any right accruing or which has
 21 accrued or been established, nor any suit or proceeding had or com-
 22 menced in any civil cause before the time when such repeal takes
 23 effect; but the proceedings in such cases shall be conformed to the
 24 provisions of said repealed section as far as consistent.

[S., '13, § 3447-b; 37 G. A., ch. 351, § 1.]

Note.—Section 3447-b, S., 1907, has been repealed and therefore does not appear in the compiled code.

SEC. 7119. Limitation of actions to recover real estate on claims existing prior to nineteen hundred—claim filed with county recorder.

1 No action based upon any claim arising or existing prior to the
 2 first day of January, A. D. nineteen hundred, shall be maintained,

3 either at law or in equity, in any court to recover any real estate in
 4 this state or to recover or establish any interest therein or claim
 5 thereto, legal or equitable, against the holder of the record title to
 6 such real estate in possession, when such holder of the record title
 7 and his grantors immediate or remote are shown by the record to
 8 have held chain of title to said real estate, since the said first day of
 9 January, A. D. nineteen hundred, unless such claimant, by himself,
 10 or by his attorney or agent, or if he be a minor or under legal dis-
 11 ability, by his guardian, trustee or either parent shall within one year
 12 from and after July fourth, nineteen hundred nineteen, file in the
 13 office of the recorder of deeds of the county wherein such real estate
 14 is situated, a statement in writing, which shall be duly acknowledged,
 15 definitely describing the real estate involved, the nature and extent of
 16 the right or interest claimed, and stating the facts upon which the
 17 same is based.

18 For the purposes of this section and the three following sections,
 19 any person who holds title to real estate by will or descent from any
 20 person who held the title of record to such real estate at the date of
 21 his death or who holds title by decree or order of any court, or under
 22 any tax deed, trustee's, referee's, guardian's, executor's, administra-
 23 tor's, receiver's, assignee's, master's in chancery or sheriff's deed,
 24 shall be deemed to hold chain of title the same as though holding by
 25 direct conveyance.

[38 G. A., ch. 270, § 1.]

SEC. 7120. Claim indorsed and indexed in claimant's book.

1 Any such claim so filed, shall be indexed under the description of
 2 the real estate involved in a book set apart and specially designed for
 3 that purpose to be known as the "claimant's book" and kept in the
 4 office of the recorder of the county where such real estate is situated,
 5 and said statement, when so indexed, shall be recorded as other instru-
 6 ments affecting real estate.

[38 G. A., ch. 270, § 2.]

SEC. 7121. General statute as to minors and insane persons modified.

1 The provisions of section seventy-one hundred thirty-two as to
 2 the rights of minors and insane persons shall not be applicable against
 3 the provisions of sections seventy-one hundred nineteen, seventy-one
 4 hundred twenty and seventy-one hundred twenty-two.

[38 G. A., ch. 270, § 3.]

SEC. 7122. Three preceding sections not to affect certain actions and rights—pending litigation.

1 Provided, however, that nothing contained in the three preceding
 2 sections shall be construed as limiting or extending the time within
 3 which actions by a spouse to recover dower or distributive share in
 4 real estate within this state may be brought or maintained under the
 5 provisions of section seventy-one hundred eighteen, or as limiting or
 6 extending the time within which actions may be brought or main-
 7 tained to foreclose or enforce any real estate mortgage, bond for deed,
 8 trust deed, or contract for the sale or conveyance of real estate under
 9 the provisions of section seventy-one hundred twenty-four; and, pro-
 10 vided further, that the three preceding sections should in no case
 11 revive or permit an action to be brought or maintained upon any

12 claim or cause of action which is barred by any statute which is in
 13 force July fourth, nineteen hundred nineteen; provided, however, that
 14 nothing contained in the three preceding sections shall affect pend-
 15 ing litigation.

[38 G. A., ch. 270, §§ 4, 5.]

SEC. 7123. Actions on judgments.

1 No action shall be brought upon any judgment against a defend-
 2 ant therein, rendered in any court of record of this state, within nine
 3 years after the rendition thereof, without leave of the court, or a
 4 judge thereof, for good cause shown, and, if the adverse party is a
 5 resident of this state, upon reasonable notice of the application there-
 6 for to him; nor on a judgment of a justice of the peace in the state
 7 within nine years after the same is rendered, unless the docket of the
 8 justice or record of such judgment is lost or destroyed; but the time
 9 during which an action on a judgment is prohibited by this section
 10 shall not be excluded in computing the statutory period of limitation
 11 for an action thereon.

[C., '73, § 2521; C., '97, § 3439; S., '13, § 3439; 38 G. A.,
 ch. 96, § 1.]

SEC. 7124. Foreclosure of certain mortgages.

1 No action shall be maintained to foreclose or enforce any real
 2 estate mortgage, bond for deed, trust deed or contract for the sale or
 3 conveyance of real estate, after twenty years from the date thereof,
 4 as shown by the record of such instrument, unless the record of such
 5 instrument shows that less than ten years have elapsed since the date
 6 of maturity of the indebtedness or part thereof, secured thereby, or
 7 since the right of action has accrued thereon, or unless the record
 8 shows an extension of the maturity of the instrument or of the debt
 9 or a part thereof, and that ten years from the expiration of the time
 10 of such extension have not yet expired. The date of maturity, when
 11 different than as appears by the record of the instrument, and the
 12 date of maturity of any extension of said indebtedness or part thereof,
 13 may be shown at any time prior to the expiration of the above periods
 14 of limitation by the holder of the debt or the owner or assignee of the
 15 instrument filing an extension agreement, duly acknowledged as the
 16 original instrument was required to be acknowledged, in the office of
 17 the recorder where the instrument is recorded, or by noting on the
 18 margin of the record of such instrument in the recorder's office an
 19 extension of the maturity of the instrument or of the debt secured,
 20 or any part thereof; each notation to be witnessed by the recorder
 21 and entered upon the index of mortgages in the name of the mortgagor
 22 and mortgagee. This section shall in no case revive the rights or
 23 claims barred by section thirty-four hundred forty-seven-c of the sup-
 24 plement to the code, 1907.

[S., '13, § 3447-c.]

Note.—Section 3447-c, S., 1907, has been repealed and therefore does not appear
 in the compiled code.

**SEC. 7125. Action to set aside guardian's deed, recorded prior to
 January first, nineteen hundred five—limitation.**

1 No action shall be maintained to set aside, cancel, annul, declare
 2 void or invalid, or to redeem from any tax deed, guardian's deed,
 3 executor's deed, administrator's deed, receiver's deed, referee's deed,

4 assignee's deed, sheriff's deed which shall have been recorded in the
 5 office of the recorder of the county or counties in this state in which
 6 the land described in such deed is situated prior to the first day of
 7 January, A. D. nineteen hundred five, unless such action shall be
 8 commenced prior to the first day of January, A. D. nineteen hundred
 9 seventeen, and if no action to set aside, cancel, annul, declare void
 10 or invalid, or to redeem from any such deed shall be commenced prior
 11 to the first day of January, A. D. nineteen hundred seventeen, then
 12 such deed and all the proceedings upon which the same is based shall
 13 be conclusively presumed to have been in all things valid and unim-
 14 peachable and effective to convey title according to the purport
 15 thereof, without exception for infancy, insanity, absence from the
 16 state or other disability or cause; provided that this and the following
 17 section shall not apply to any real property described in any such
 18 deed which is not on July fourth, nineteen hundred fifteen, in the
 19 possession of those claiming title under such deed.

[S. S., '15, § 3447-d.]

SEC. 7126. How "possession", referred to in preceding section, may be established.

1 The possession of the persons claiming title as provided for in
 2 the preceding section may be established by affidavit recorded in the
 3 office of the recorder of the county or counties in this state in which
 4 the deed to the land referred to in said affidavit is recorded.

[S. S., '15, § 3447-e.]

SEC. 7127. Fraud—mistake—trespass.

1 In actions for relief on the ground of fraud or mistake, and those
 2 for trespass to property, the cause of action shall not be deemed to
 3 have accrued until the fraud, mistake or trespass complained of shall
 4 have been discovered by the party aggrieved.

[C., '51, § 1660; R., '60, § 2741; C., '73, § 2530; C., '97,
 § 3448.]

SEC. 7128. Open account.

1 When there is a continuous, open, current account, the cause of
 2 action shall be deemed to have accrued on the date of the last item
 3 therein, as proved on the trial.

[C., '51, § 1662; R., '60, § 2743; C., '73, § 2531; C., '97,
 § 3449.]

SEC. 7129. Commencement of action.

1 The delivery of the original notice to the sheriff of the proper
 2 county, with intent that it be served immediately, which intent shall
 3 be presumed unless the contrary appears, or the actual service of that
 4 notice by another person, is a commencement of the action.

[C., '51, § 1663; R., '60, § 2744; C., '73, § 2532; C., '97,
 § 3450.]

SEC. 7130. Nonresidence.

1 The time during which a defendant is a nonresident of the state
 2 shall not be included in computing any of the periods of limitation
 3 above described.

[C., '51, § 1664; R., '60, § 2745; C., '73, § 2533; C., '97,
 § 3451.]

SEC. 7131. Bar in foreign jurisdiction.

1 When a cause of action has been fully barred by the laws of any
2 country where the defendant has previously resided, such bar shall
3 be the same defense here as though it had arisen under the provisions
4 of this chapter; but this section shall not apply to causes of action
5 arising within this state.

[C., '51, § 1665; R., '60, § 2746; C., '73, § 2534; C., '97,
§ 3452.]

SEC. 7132. Minors and insane persons.

1 The times limited for actions herein, except those brought for
2 penalties and forfeitures, shall be extended in favor of minors and
3 insane persons, so that they shall have one year from and after the
4 termination of such disability within which to commence said action.

[C., '51, § 1666; R., '60, § 2747; C., '73, § 2535; C., '97,
§ 3453.]

SEC. 7133. Exception in case of death.

1 If the person having a cause of action dies within one year next
2 previous to the expiration of the limitation above provided for, such
3 limitation shall not apply until one year after such death.

[C., '51, § 1667; R., '60, § 2748; C., '73, § 2536; C., '97,
§ 3454.]

SEC. 7134. Failure of action.

1 If, after the commencement of an action, the plaintiff, for any
2 cause except negligence in its prosecution, fails therein, and a new
3 one is brought within six months thereafter, the second shall, for the
4 purposes herein contemplated, be held a continuation of the first.

[C., '51, § 1668; R., '60, § 2749; C., '73, § 2537; C., '97,
§ 3455.]

SEC. 7135. Admission in writing—new promise.

1 Causes of action founded on contract are revived by an admission
2 in writing, signed by the party to be charged, that the debt is unpaid,
3 or by a like new promise to pay the same.

[C., '51, § 1670; R., '60, § 2751; C., '73, § 2539; C., '97,
§ 3456.]

SEC. 7136. Counterclaim.

1 A counterclaim may be pleaded as a defense to any cause of
2 action, notwithstanding it is barred by the provisions of this chapter,
3 if it was the property of the party pleading it at the time it became
4 barred, and was not barred at the time the claim sued on originated;
5 but no judgment thereon, except for costs, can be rendered in favor of
6 the party so pleading it.

[R., '60, § 2752; C., '73, § 2540; C., '97, § 3457.]

SEC. 7137. Injunction.

1 When the commencement of an action shall be stayed by injunc-
2 tion or statutory prohibition, the time of the continuance of such
3 injunction or prohibition shall not be part of the time limited for the
4 commencement of the action, except as herein otherwise provided.

[C., '73, § 2541; C., '97, § 3458.]

SEC. 7138. Moratorium declared.

1 All soldiers and sailors and other persons in the military or naval
 2 service of the government of the United States or who may hereafter
 3 enter such service during the present war are hereby exempted while
 4 in such service and for a period of six months after the termination
 5 of the war or of said service or death from payment of any bill of
 6 exchange or of any negotiable instrument or of any other payment in
 7 pursuance of any contract or from any writ of attachment or execution.
 [37 G. A., ch. 380, § 1.]

SEC. 7139. Continuances of causes.

1 That any such person in the military or naval service of the
 2 United States who is now or may hereafter be party to any litigation;
 3 the trial of said cause shall, upon his request, be continued until the
 4 termination of such service or death of said party.
 [37 G. A., ch. 380, § 2.]

SEC. 7140. Homesteads—exemption from taxation.

1 The homestead of all soldiers, sailors or other persons in the
 2 military or naval service of the United States shall be exempt from
 3 taxes during their term of service in the present war; or other prop-
 4 erty to the actual value of ten thousand dollars in the event of no
 5 such homestead.
 [37 G. A., ch. 380, § 3.]

SEC. 7141. Statute of limitations tolled.

1 The statute of limitations shall not run against any action held
 2 against anyone affected by the three preceding sections during the
 3 time the same is stayed by the terms of the three preceding sections.
 [37 G. A., ch. 380, § 4.]

CHAPTER 5.**PLACE OF BRINGING ACTIONS.****SECTION 7142. In relation to real property.**

1 Actions for the recovery of real property, or of an estate therein,
 2 or for the determination of such right or interest, or for the partition
 3 of real property, must be brought in the county in which the subject
 4 of the action or some part thereof is situated.
 [C., '51, § 1703; R., '60, § 2795; C., '73, § 2576; C., '97,
 § 3491.]

SEC. 7143. For injuries thereto.

1 Actions for injuries to real property may be brought either in
 2 the county where the property is, or where the defendant resides.
 [C., '73, § 2577; C., '97, § 3492.]

SEC. 7144. Local actions.

1 Actions for the following causes must be brought in the county
 2 where the cause, or some part thereof, arose:

3 1. *For fines, penalties or forfeitures.* Those for the recovery of
4 a fine, penalty or forfeiture imposed by a statute; but when the offense
5 for which the claim is made was committed on a watercourse or road
6 which is the boundary of two counties, the action may be brought in
7 either of them.

8 2. *Against public officers.* Those against a public officer or per-
9 son specially appointed to execute his duties, for an act done by him in
10 virtue or under color of his office, or against one who by his command
11 or in his aid shall do anything touching the duties of such officer, or
12 for neglect of official duty.

13 3. *On official bonds.* Those on the official bond of a public officer.

14 4. *Executor, administrator or guardian.* Those on the bond of
15 an executor, administrator, or guardian may be brought in the county
16 in which the appointment was made and such bond filed.

17 5. *Actions on other bonds.* And actions on all other bonds pro-
18 vided for or authorized by law may be brought in the county in which
19 such bond was filed and approved.

[R., '60, § 2796; C., '73, § 2579; C., '97, § 3494; S., '13,
§ 3494.]

SEC. 7145. By attachment.

1 An action against a nonresident of the state, when aided by an
2 attachment, may be brought in any county of the state wherein any
3 part of the property sought to be attached may be found, or wherein
4 any part was situated when the action was commenced, or where the
5 defendant is personally served in this state; and, except as herein-
6 after provided, an action against a resident of this state must be
7 brought in the county of his residence, or that in which the contract
8 was to be performed, except that, if an action be duly brought against
9 such defendant in any other county by virtue of any of the provisions
10 of this chapter, then such action may, if legal cause for an attachment
11 exist, be aided by attachment. Should such action be brought against
12 a resident of this state in any other county than that of his residence,
13 he may have the place of trial changed to the district court of the
14 county wherein he resides, in the same manner and upon the same
15 terms as provided in section seventy-one hundred fifty-seven, and the
16 property attached shall not be released because said action was
17 brought in the wrong county, but shall be held and subject in the same
18 manner as if said action had been brought in the county of defend-
19 ant's residence.

[C., '51, § 1703; R., '60, § 2797; C., '73, § 2580; C., '97,
§ 3495.]

SEC. 7146. Place of contract.

1 When, by its terms, a written contract is to be performed in any
2 particular place, action for a breach thereof may, except as otherwise
3 provided, be brought in the county wherein such place is situated.

[C., '51, § 1704; R., '60, § 2798; C., '73, § 2581; C., '97,
§ 3496.]

SEC. 7147. Against common carriers.

1 An action may be brought against any railway corporation, the
2 owner of stages, or other line of coaches or cars, express, canal, steam-
3 boat and other river crafts, telegraph and telephone companies, or
4 the owner of any line for the transmission of electric current for

5 lighting, power or heating purposes, and the lessees, companies or
6 persons operating the same, in any county through which such road
7 or line passes or is operated.

[C., '73, § 2582; C., '97, § 3497; S., '13, § 3497; 37 G. A.,
ch. 424, § 1.]

SEC. 7148. Against construction companies.

1 An action may be brought against any corporation, company or
2 person engaged in the construction of a railway, canal, telegraph
3 or telephone line, on any contract relating thereto or to any part
4 thereof, or for damages in any manner growing out of the work
5 thereon, in any county where such contract was made, or performed
6 in whole or in part, or where the work was done out of which the
7 damage claimed arose.

[C., '73, § 2583; C., '97, § 3498.]

SEC. 7149. Against insurance companies.

1 Insurance companies may be sued in any county in which their
2 principal place of business is kept, or in which the contract of insur-
3 ance was made, or in which the loss insured against occurred, or, in
4 case of insurance against death or disability, in the county of the
5 domicile of the insured at the time the loss occurred, or in the county
6 of plaintiff's residence.

[C., '73, § 2584; C., '97, § 3499.]

SEC. 7150. Against operators of coal mines brought in county where mine is located.

1 An action may be brought against any corporation, company, or
2 person, owning, leasing, operating, or maintaining a coal mine, in the
3 county where said mine is located, on any contract, or for any tort,
4 in any manner connected with or growing out of the construction, use,
5 or operation of said mine.

[S., '13, § 3499-a.]

SEC. 7151. Office or agency.

1 When a corporation, company or individual has an office or
2 agency in any county for the transaction of business, any actions
3 growing out of or connected with the business of that office or agency
4 may be brought in the county where such office or agency is located.

[C., '51, § 1705; R., '60, § 2801; C., '73, § 2585; C., '97,
§ 3500.]

SEC. 7152. Against surety companies.

1 Suit may be brought against any company or corporation fur-
2 nishing or pretending to furnish surety, fidelity, or other bonds in this
3 state, in any county in which the principal place of business of such
4 company or corporation is maintained in this state, or in any county
5 wherein is maintained its general office for the transaction of its
6 Iowa business, or in the county where the principal resides at the
7 time of bringing suit, or in the county where the principal did reside
8 at the time the bond or other undertaking was executed; and in the
9 case of bonds furnished by any such company or corporation for any
10 building or improvement, either public or private, action may be

11 brought in the county wherein said building or improvement, or any
12 part thereof is located.

[S., '13, § 3500-a.]

SEC. 7153. Place of residence.

1 Personal actions, except as otherwise provided, must be brought
2 in a county in which some of the defendants actually reside, but if
3 neither of them have a residence in the state, they may be sued in any
4 county in which either of them may be found. In all actions upon
5 negotiable paper, except when made payable at a particular place, in
6 which any maker thereof, being a resident of the state, is defendant,
7 the place of trial shall be limited to a county wherein some one of
8 such makers resides.

[C., '51, § 1701; R., '60, § 2800; C., '73, § 2586; C., '97,
§ 3501.]

SEC. 7154. Soliciting claims.

1 It shall be unlawful for any person, with the intent, or for the
2 purpose of instituting a suit thereon outside of this state, to seek or
3 solicit the business of collecting any claim for damages for personal
4 injuries sustained within this state or for death resulting therefrom,
5 or in any way to promote the prosecution of a suit brought outside of
6 this state for such damages, or to do any act or thing in furtherance
7 thereof, in cases where such right of action rests in a resident of this
8 state, or his legal representative, and is against a person, copartner-
9 ship or corporation subject to personal service within this state.

[37 G. A., ch. 293, § 1.]

SEC. 7155. Residents of different counties.

1 Where an action provided for in the second preceding section is
2 against several defendants, some of whom are residents and others
3 nonresidents of the county, and the action is dismissed as to the resi-
4 dents, or judgment is rendered in their favor, or there is a failure to
5 obtain judgment against such residents, such nonresidents may, upon
6 motion, have said cause dismissed, with reasonable compensation for
7 trouble and expense in attending at the wrong county, unless they,
8 having appeared to the action, fail to object before judgment is ren-
9 dered against them.

[C., '73, § 2587; C., '97, § 3502.]

SEC. 7156. Change of residence.

1 If, after the commencement of an action in the county of the
2 defendant's residence, he removes therefrom, the service of notice
3 upon him in another county shall have the same effect as if it had been
4 made in the county from which he removed.

[C., '73, § 2588; C., '97, § 3503.]

SEC. 7157. Change when brought in wrong county.

1 If an action is brought in a wrong county, it may there be prose-
2 cuted to a termination, unless the defendant, before answer, demands
3 a change of place of trial to the proper county, in which case the
4 court shall order the same at the cost of the plaintiff, and may award
5 the defendant a reasonable compensation for his trouble and expense
6 in attending at the wrong county; and if the sum so awarded and
7 costs are not paid to the clerk by a time to be fixed by the court, or if

8 the papers in such case are not filed by the plaintiff in the court to
 9 which the change is ordered ten days before the first day of the next
 10 term thereof, or, if ten days do not intervene between the making of
 11 said order and the first day of the next term of said court, ten days
 12 preceding the first day of the next succeeding term thereof, in either
 13 event the action shall be dismissed.

[C., '51, § 1702; R., '60, § 2802; C., '73, § 2589; C., '97,
 § 3504.]

SEC. 7158. Against municipal corporations.

1 Actions against municipal corporations, including cities organ-
 2 ized under special charters, in all counties where terms of the district
 3 court are held in more than one place must be brought in the county
 4 and at the place where terms of the district court are held nearest to
 5 where the cause or subject of the action originated.

[S., '13, § 3504-a.]

CHAPTER 6.

MANNER OF COMMENCING ACTIONS.

SECTION 7159. Original notice.

1 Action in a court of record shall be commenced by serving the
 2 defendant with a notice, signed by the plaintiff or his attorney, inform-
 3 ing him of the name of the plaintiff, that a petition is, or on or before
 4 the date named therein will be, filed in the office of the clerk of the
 5 court wherein action is brought, naming it, and stating in general
 6 terms the cause or causes thereof, and if it is for money, the amount
 7 thereof, and that unless he appears thereto and defends before noon of
 8 the second day of the term at which defendant is required to appear,
 9 naming it, his default will be entered and judgment or decree rendered
 10 against him thereon. In all cases where the time for the commence-
 11 ment of the term has been changed after the notice has been served,
 12 the defendant shall be held to appear at the time to which such term
 13 has been changed.

[C., '51, §§ 1714, 1715; R., '60, §§ 2811, 2812; C., '73, § 2599;
 C., '97, § 3514.]

SEC. 7160. Dismissal for failure to file petition.

1 If the petition is not filed by the date thus fixed, and ten days
 2 before the term, the defendant may have the action dismissed.

[C., '51, § 1716; R., '60, § 2813; C., '73, § 2600; C., '97,
 § 3515.]

SEC. 7161. Who may serve notice.

1 The notice may be served by any person not a party to the action.

[C., '51, § 1718; R., '60, § 2814; C., '73, § 2601; C., '97,
 § 3516.]

SEC. 7162. How long before term.

1 The defendant shall be held to appear at the next term after
 2 service:

3 1. If served within the county where the action is brought in
4 such time as to leave at least ten days between the day of service and
5 the first day of the next term.

6 2. If without the county, but within the judicial district, so as to
7 leave at least fifteen such days.

8 3. If elsewhere, so as to leave twenty such days for every one
9 thousand miles, or fraction thereof, extending between the places of
10 trial and service, which distance shall be judicially noticed by the
11 court. If not so served, he shall be held to appear at the second term
12 after service.

[C., '51, § 1720; R., '60, § 2815; C., '73, § 2602; C., '97,
§ 3517.]

SEC. 7163. Method of service.

1 The notice shall be served as follows:

2 1. By reading it to the defendant, or offering to do so in case he
3 neglects or refuses to hear it read, and in either case by delivering
4 him personally a copy thereof, or, if he refuses to receive it, offering
5 to do so.

6 2. If not found within the county of his residence, by leaving a
7 copy thereof at his usual place of residence with some member of the
8 family over fourteen years of age.

9 3. By taking an acknowledgment of the service indorsed thereon,
10 dated and signed by the defendant.

[C., '51, §§ 1721, 1732; R., '60, § 2816; C., '73, § 2603;
C., '97, § 3518.]

SEC. 7164. Return of personal service.

1 If served personally, the return must state the time, manner and
2 place of making the service, and that a copy was delivered to defend-
3 ant, or offered to be delivered. If made by leaving a copy with the
4 family, it must state at whose house the same was left, and that it
5 was the usual place of residence of the defendant, and the township,
6 town or city in which the house was situated, the name of the person
7 with whom the same was left, or a sufficient reason for omitting to
8 do so, and that such person was over fourteen years of age and was
9 a member of the family.

[C., '51, § 1723; R., '60, § 2817; C., '73, § 2604; C., '97,
§ 3519.]

SEC. 7165. Indorsement and return by sheriff.

1 If the notice is placed in the hands of a sheriff, he must note
2 thereon the date when received, and proceed to serve the same without
3 delay in his county, and must file the same, with his return thereon, in
4 the office of the clerk of the court where the action is pending, or
5 return the same by mail or otherwise to the party from whom he
6 received it.

[C., '51, § 1717; R., '60, § 2819; C., '73, § 2605; C., '97,
§ 3520.]

SEC. 7166. Penalty—amendment.

1 If a notice is not filed or returned by the sheriff to the person
2 from whom it was received, or if the return thereon is defective, the
3 officer making the same may be fined by the court not exceeding ten

4 dollars, and he shall be liable to an action for damages by any person
5 aggrieved thereby. But the court may, before or after judgment is
6 entered, permit an amendment according to the truth of the case.

[R., '60, § 2820; C., '73, § 2606; C., '97, § 3521; 37 G. A.,
ch. 31, § 1.]

SEC. 7167. Service on Sunday.

1 Notice shall not be served on Sunday unless the plaintiff, his
2 agent or attorney makes oath thereon that personal service will not
3 be possible unless then made, and a notice so indorsed shall be served
4 by the sheriff, or may be served by another, as on a secular day.

[R., '60, § 2821; C., '73, § 2607; C., '97, § 3522.]

SEC. 7168. Notice of no personal claim.

1 The plaintiff may state in the notice the general subject of the
2 action, a brief description of the property affected by it, and that no
3 personal claim is made against any defendant, naming him, and if
4 such defendant unreasonably defends he shall pay the costs oc-
5 casioned thereby.

[C., '51, § 1724; R., '60, § 2822; C., '73, § 2608; C., '97,
§ 3523.]

SEC. 7169. Proof of service—patients in hospital for insane.

1 If service is made within the state, the truth of the return is
2 proven by the signature of the sheriff or his deputy, and the court
3 shall take judicial notice thereof. If made without the state, or by
4 one not such officer within the state, the return must be proven by the
5 affidavit of the person making the same. Service may be made on any
6 patient confined in any of the hospitals for the insane by the super-
7 intendent or assistant superintendent thereof, and the certificate of
8 such officer, under the seal of the hospital, shall be proof of
9 such service.

[C., '51, § 1732; R., '60, § 2823; C., '73, § 2609; C., '97,
§ 3524.]

SEC. 7170. Superintendent may acknowledge service.

1 When it becomes necessary to serve personally with a notice or
2 process of any kind a person who is confined in any state hospital for
3 the insane, or county home, the superintendent thereof shall acknowl-
4 edge service for such person, whenever in his opinion personal service
5 would injuriously affect such person, which fact shall be stated in
6 the acknowledgment of service. A service thus made shall be held a
7 personal one on the defendant.

[C., '73, § 2616; C., '97, § 3525; 37 G. A., ch. 217, § 1.]

SEC. 7171. Service on insane person out of hospital.

1 When a defendant has been judicially declared to be of unsound
2 mind and is not confined in any state hospital for the insane, service
3 may be made upon him and upon his guardian, and, if he have none,
4 then upon his wife, or the person having the care or custody of him
5 or with whom he lives.

[C., '51, § 1729; R., '60, § 2829; C., '73, § 2615; C., '97,
§ 3526.]

SEC. 7172. On prisoner in penitentiary.

1 When the defendant is a prisoner in the penitentiary, a copy of
 2 the petition must be delivered to him at the time the notice is served,
 3 and a copy of the notice must be delivered to the husband or wife of
 4 the defendant, if any such be found within this state.

[R., '60, § 2830; C., '73, § 2617; C., '97, § 3527.]

SEC. 7173. Service on county—presentation of claims.

1 If a county is defendant, service may be made on the chairman
 2 of the board of supervisors or county auditor. But no action shall be
 3 brought against any county, on an unliquidated demand, until the
 4 same has been presented to such board and payment demanded and
 5 refused or neglected.

[C., '51, § 1726; R., '60, § 2824; C., '73, § 2610; C., '97,
 § 3528.]

SEC. 7174. On agent of corporation.

1 If the action is against any corporation or person owning or
 2 operating any railway or canal, steamboat or other river craft, or
 3 any telegraph, telephone, stage, coach or car line, or against any
 4 express company, or against any foreign corporation, service may be
 5 made upon any general agent of such corporation, company or person,
 6 wherever found, or upon any station, ticket or other agent or person
 7 transacting the business thereof or selling tickets therefor in the
 8 county where the action is brought; if there is no such agent in said
 9 county, then service may be had upon any such agent or person trans-
 10 acting said business in any other county. If the action is against any
 11 railway corporation which has merged and consolidated its stock,
 12 property, franchises and liabilities with that of any other railway
 13 corporation, as authorized by section fifty hundred fifty-three, or
 14 which has sold or leased its property and franchises to any other
 15 railway corporation as authorized by section fifty hundred eighty-six,
 16 service of the original notice may be made upon any station, ticket or
 17 other agent of the merged, vendee or lessee corporation in the county
 18 where the action is brought; if there is no such agent in said county,
 19 then service may be made upon such agent or person in any other
 20 county.

[C., '51, § 1727; R., '60, § 2825; C., '73, § 2611; C., '97,
 § 3529; S., '13, § 3529.]

SEC. 7175. On agent of insurance company.

1 If the action is against an insurance company, for loss or damage
 2 upon any contract of insurance or indemnity, service may be had upon
 3 any general agent of the company wherever found, or upon any re-
 4 cording agent or agent who has authority to issue policies.

[C., '97, § 3530.]

SEC. 7176. On municipal or other corporation.

1 When the action is against a municipal corporation, service may
 2 be made on the mayor or clerk; if against a school township or inde-
 3 pendent district, on the president or secretary; if against any other
 4 corporation, on any trustee or officer thereof, or on any agent em-
 5 ployed in the general management of its business, or on any of the
 6 last known or acting officers of such corporation; and if no person

7 can be found on whom service can be made as provided in this and
8 the two preceding sections, it may be made by publication as provided
9 in other cases.

[C., '51, § 1726; R., '60, § 2824; C., '73, § 2612; C., '97,
§ 3531.]

SEC. 7177. On agent, as to business of office or agency.

1 When a corporation, company or individual has, for the trans-
2 action of any business, an office or agency in any county other than
3 that in which the principal resides, service may be made on any agent
4 or clerk employed in such office or agency, in all actions growing out
5 of or connected with the business of that office or agency.

[C., '51, § 1705; R., '60, § 2827; C., '73, § 2613; C., '97,
§ 3532.]

SEC. 7178. On minor.

1 If the defendant is a minor under fourteen years of age, the
2 service must be made on his father, mother or guardian, but if there
3 be none of these within the state, then on the person therein having
4 care of or control over him, or with whom he resides, or in whose
5 service he is employed. When he is over fourteen years of age, serv-
6 ice on him shall be sufficient.

[C., '51, § 1729; R., '60, § 2828; C., '73, § 2614; C., '97,
§ 3533.]

SEC. 7179. By publication.

1 Service may be made by publication, when an affidavit is filed
2 that personal service can not be made on the defendant within this
3 state, in either of the following cases:

4 1. In actions brought for the recovery of real property, or an
5 estate or interest therein.

6 2. In an action for the partition of real property.

7 3. In an action for the sale of real property under a mortgage,
8 lien or other incumbrance or charge.

9 4. In actions to compel the specific performance of a contract of
10 sale of real estate, or in actions to establish or set aside a will, where
11 in such cases any or all of the defendants reside out of this state and
12 the real property is within it.

13 5. In actions brought against a nonresident of this state, or a
14 foreign corporation, having in the state property or debts owing to
15 such defendant, sought to be taken by any of the provisional remedies,
16 or to be appropriated in any way.

17 6. In actions which relate to or the subject of which is real or
18 personal property in this state, when any defendant has or claims
19 a lien or interest, actual or contingent, therein, or the relief demanded
20 consists wholly or partly in excluding him from any interest therein,
21 and such defendant is a nonresident of the state or a foreign cor-
22 poration.

23 7. In all actions where the defendant, being a resident of the
24 state, has departed therefrom, or from the county of his residence,
25 with intent to delay or defraud his creditors, or to avoid the service
26 of a notice, or keeps himself concealed therein with like intent.

27 8. Where the action is for a divorce, if the defendant is a non-
28 resident of the state, or his residence is unknown.

29 9. Where the action is an action to quiet title to real estate if the
30 defendant is a nonresident of the state or his residence is unknown.

31 10. Where the action is for the annulment of an illegal marriage,
32 if the defendant is a nonresident of the state, or his residence is un-
33 known.

[C., '51, § 1725; R., '60, §§ 2831, 2832; C., '73, § 2618; C., '97,
§ 3534; S., '13, § 3534.]

SEC. 7180. Method.

1 The publication must be of the original notice required for the
2 commencement of actions, once each week for four consecutive weeks,
3 before or after the filing of the petition, in some newspaper printed
4 in the county where the petition is or will be filed, which paper shall
5 be determined by the plaintiff or his attorney.

[R., '60, § 2833; C., '73, § 2619; C., '97, § 3535.]

SEC. 7181. When complete—proof.

1 When the foregoing provisions have been complied with, the de-
2 fendant so notified shall be required to appear as if personally served
3 on the day of the last publication within the county in which the peti-
4 tion is filed, proof thereof being made by the affidavit of the publisher
5 or his foreman, and filed before default is taken.

[C., '51, § 1732; R., '60, § 2834; C., '73, § 2620; C., '97,
§ 3536.]

SEC. 7182. Actual service.

1 Actual personal service of the notice within or without the state
2 supersedes the necessity of publication.

[R., '60, § 2835; C., '73, § 2621; C., '97, § 3537.]

SEC. 7183. Unknown defendants.

1 Where it is necessary to make an unknown person defendant, the
2 petition shall be sworn to and state the claim of plaintiff with refer-
3 ence to the property involved in the action, that the name and resi-
4 dence of such person is unknown to the plaintiff, and that he has sought
5 diligently to learn the same. The notice thereof shall contain the
6 name of the plaintiff, a description of the property, the claim of the
7 plaintiff thereto, the relief demanded, the name of the court, and the
8 term in which appearance must be made. Such notice must be en-
9 titled in the name of the plaintiff against the unknown claimants of
10 the property and shall be signed by the plaintiff or his attorney.

[R., '60, §§ 2836, 2837; C., '73, §§ 2622, 2623; C., '97, § 3538;
S. S., '15, § 3538.]

SEC. 7184. Clerk to designate paper.

1 The clerk of the court where action is brought against unknown
2 defendants shall designate the paper in which original notice shall
3 be published.

[R., '60, § 2838; C., '73, § 2624; C., '97, § 3539; S. S., '15,
§ 3539.]

SEC. 7185. Length of publication.

1 Such notice shall be filed in the action, and its contents shall be
2 published in the paper, and for the time designated, at least once each

2,600,000
15,000
60.

20.

3 week for four successive weeks, and at the end of said time service
4 shall be complete, and such unknown person in court at the next term
5 thereafter.

[R., '60, § 2839; C., '73, § 2625; C., '97, § 3540; S., '13,
§ 3540.]

SEC. 7186. Mode of appearance—when required.

1 The mode of appearance may be:

2 1. By delivering to the plaintiff or the clerk of the court a memo-
3 randum in writing to the effect that the defendant appears, signed
4 either by the defendant in person or his attorney, dated the day of
5 its delivery and filed in the case.

6 2. By entering an appearance in the appearance docket or judge's
7 calendar or by announcing to the court an appearance which shall be
8 entered of record.

9 3. By taking part either personally or by attorney in the trial of
10 the case.

11 4. Any defendant may appear specially for the sole purpose of
12 attacking the jurisdiction of the court. Such special appearance shall
13 be announced at the time it is made and shall limit the party to juris-
14 dictional matters only and shall give him no right to plead to the
15 merits of the case.

16 5. No member of the general assembly shall be held to appear or
17 answer in any civil or special action in any court while such general
18 assembly is in session, nor shall any person be held to answer or ap-
19 pear in any court on any day now or hereafter made a legal holiday.

[R., '60, § 2840; C., '73, § 2626; C., '97, § 3541; S., '13,
§ 3541.]

SEC. 7187. Where one or more of defendants not served.

1 When the action is against two or more defendants, and one or
2 more of them shall have been served, but not all, the plaintiff may
3 proceed as follows:

4 1. If the action is against defendants who are jointly, or jointly
5 and severally, or severally liable only, he may, without prejudice to
6 his rights in that or any other action against those not served, proceed
7 against those served in the same manner as if they were the only de-
8 fendants; if he recovers against those jointly liable only, he may take
9 judgment against all thus liable, which may be enforced against the
10 joint and separate property of those served, but not against the sep-
11 arate property of those not served, until they have had opportunity
12 to show cause why judgment should not be enforced against their
13 separate property; or,

14 2. He may continue until the next term and bring in the other
15 defendants; but at such second term the action shall proceed against
16 all who have been served in due time, and no further delay shall be
17 allowed to bring in the others, unless all that appear shall consent to
18 such delay, or the cause is continued for other reasons.

[R., '60, § 2841; C., '73, § 2627; C., '97, § 3542.]

SEC. 7188. Notice of action pending—indexing.

1 When a petition affecting real estate is filed, the clerk of the dis-
2 trict court where filed shall forthwith index same in an index book to
3 be provided therefor, under the tract number which describes the prop-

erty, entering in each instance the cause number as a guide to the record of court proceedings which affect such real estate. If the petition be amended to include other parties or other lands, same shall be similarly indexed. When the cause is finally determined the result shall be indicated in said book wherever indexed. When so indexed said action shall be considered pending so as to charge all third persons with notice of its pendency, and while pending no interest can be acquired by third persons in the subject matter thereof as against the plaintiff's rights. If the real property affected be situated in the county where the petition is filed it shall be unnecessary to show in said index lands not situated in said county.

[R., '60, § 2842; C., '73, § 2628; C., '97, § 3543; S., '13, § 3543; 37 G. A., ch. 324, § 1.]

SEC. 7189. In another county.

When any part of real property, the subject of an action, is situated in any other county than the one in which the action is brought, the plaintiff must, in order to affect third persons with constructive notice of the pendency thereof, file with the clerk of the district court of such county a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the property in that county affected thereby, who shall at once index and enter a memorandum thereof in the incumbrance book, and, from the time of such indexing, the pendency of the action shall be constructive notice to subsequent purchasers or incumbrancers thereof, who shall be bound by all the proceedings taken after the filing of such notice, to the same extent as if parties to the action. Within two months after the determination of the action, there shall also be filed with such clerk a certified copy of the final order, judgment or decree, who shall enter and index the same as though rendered in that county, or such notice of pendency shall cease to be constructive notice.

[R., '60, § 2843; C., '73, § 2629; C., '97, § 3544.]

CHAPTER 7.

PLEADINGS.

SECTION 7190. Pleadings defined—filing—forms abolished.

Pleadings are the written statements by the parties of their respective claims and defenses and are:

1. The petition of the plaintiff.
2. The motion, demurrer or answer of the defendant.
3. The motion, demurrer or reply of the plaintiff.
4. The motion, or demurrer of the defendant.

The filing of a pleading or motion in the clerk's office during a term, and a memorandum of such filing made in the appearance docket within the time allowed, shall be equivalent to filing the same in open court. All technical forms of action and pleading, all common counts, general issues, and all fictions, are abolished, and hereafter the forms of pleading in civil actions, and the rules by which their sufficiency is to be determined, are those prescribed in the code.

[R., '60, §§ 2871-2874; C., '73, §§ 2643-2645; C., '97, § 3557.]

SEC. 7191. Petition—what to contain—counts—divisions—paragraphs.

1 The petition must contain:

2 1. The name of the court and county in which the action is
3 brought.

4 2. The names of the parties to the action, plaintiffs and defend-
5 ants, followed by the words, "petition at law" or "petition in equity,"
6 as the case may be.

7 3. A statement of the facts constituting the plaintiff's cause of
8 action.

9 4. A demand of the relief to which the plaintiff considers him-
10 self entitled, and if for money, the amount thereof.

11 5. Where the petition contains more than one cause of action,
12 each must be stated wholly in a count or division by itself, and must
13 be sufficient in itself; but one prayer for judgment may include a sum
14 based on all counts seeking a money remedy. In a petition by equit-
15 able proceedings, each division shall also be separated into paragraphs
16 numbered as such, and each paragraph shall contain, as near as may
17 be convenient, a complete and distinct statement.

[C., '51, § 1736; R., '60, § 2875; C., '73, § 2646; C., '97,
§ 3559.]

SEC. 7192. Answer—what to contain—distinct defenses.

1 The answer shall contain:

2 1. The name of the court and county, and of the plaintiffs and
3 defendants, but when there are several plaintiffs and defendants it
4 shall only be necessary to give the first name of each class, with the
5 words "and others."

6 2. A general denial of each allegation of the petition, or of any
7 knowledge or information thereof sufficient to form a belief.

8 3. A special denial of each allegation of the petition controverted
9 by the defendant, or of any knowledge or information thereof suffi-
10 cient to form a belief.

11 4. A statement of any new matter constituting a defense.

12 5. A statement of any new matter constituting a counterclaim.

13 The defendant may set forth in his answer as many causes of
14 defense or counterclaim, whether legal or equitable, as he may have.

[R., '60, § 2880; C., '73, § 2655; C., '97, § 3566.]

SEC. 7193. Answer of guardian.

1 The guardian of a minor or other person, or attorney for a person
2 in prison, must deny in the answer all the material allegations of the
3 petition prejudicial to such defendant.

[R., '60, § 2893; C., '73, § 2656; C., '97, § 3567.]

SEC. 7194. Divisions of answer.

1 Each affirmative defense shall be stated in a distinct division of
2 the answer, and must be sufficient in itself, and must intelligibly refer
3 to that part of the petition to which it is intended to apply.

[R., '60, § 2882; C., '73, § 2657; C., '97, § 3568.]

SEC. 7195. No prayer.

1 In the defense part of an answer or reply, it shall not be neces-
2 sary to make a prayer for judgment.

[R., '60, § 2883; C., '73, § 2658; C., '97, § 3569.]

SEC. 7196. Counts and divisions numbered.

1 The counts of the petition, and divisions of a petition in equity,
2 must be consecutively numbered as such, and so must the divisions of
3 the answer and reply.

[R., '60, § 2902; C., '73, § 2705; C., '97, § 3616.]

SEC. 7197. Correction of defect.

1 If any pleading does not conform to the foregoing requirements
2 as to form, divisions or numbering, or the distinct or separate state-
3 ments of its causes of action or defense, the court may, on its own mo-
4 tion or that of the adverse party, order the same to be corrected, on
5 such terms as it may impose.

[R., '60, § 2903; C., '73, § 2706; C., '97, § 3617.]

SEC. 7198. Time to plead.

1 The defendant shall, in an action commenced in a court of record,
2 demur or answer to the original petition, or assail the same by motion,
3 before noon of the second day of the term.

[C., '51, § 1737; R., '60, § 2849; C., '73, § 2635; C., '97,
§ 3550.]

SEC. 7199. First day of term.

1 The day on which the judge actually opens court shall, for the pur-
2 pose of timing the pleading, be considered the first day of the term.

[R., '60, § 2857; C., '73, § 2637; C., '97, § 3553.]

SEC. 7200. Extension of time.

1 The court may extend the time for filing any pleading beyond that
2 herein fixed, but shall do so with due regard to making up issues at the
3 earliest day practicable.

[R., '60, § 2859; C., '73, § 2638; C., '97, § 3554.]

SEC. 7201. Copy filed—delivery by clerk to party—fee—taking files from office.

1 Every party, at the time of filing any petition, answer, reply, de-
2 murrer or motion, except a motion for continuance or change of venue,
3 shall file with the same one plain copy thereof for the use of the adverse
4 party, and, on failure to do so, the cause may be continued at the option
5 of the adverse party, or the paper so filed stricken from the files. A
6 fee of ten cents per hundred words shall be allowed for all copies and
7 taxed with the costs. The original files shall be taken from the clerk's
8 office only on order of the judge by leaving with the clerk a receipt for
9 the same. The clerk of the court wherein the copy herein provided for
10 is filed, shall, as soon as may be, either deliver or mail such copy to the
11 attorney for the adverse party.

[C., '97, § 3558; S. S., '15, § 3558.]

SEC. 7202. Motion for more specific statement.

1 When the allegations of a pleading are so indefinite and uncertain
 2 that the precise nature of the charge or defense is not apparent, the
 3 court may, on motion, require it to be made more definite and certain.
 4 No pleading which recites or refers to a contract shall be sufficiently
 5 specific unless it states whether it is in writing or not. Such motion
 6 shall point out wherein the pleading is not sufficiently specific, or it
 7 shall be disregarded, and if the reason for such demand exists outside
 8 of the pleadings, the motion must state the same, and be supported
 9 by affidavit.

[R., '60, § 2948; C., '73, § 2720; C., '97, § 3630.]

SEC. 7203. Motions and demurrers.

1 All demurrers and motions assailing a pleading shall be in writing,
 2 and filed before answer or reply has been filed to the pleading assailed,
 3 except as provided in this chapter, and specify the causes on which
 4 they are founded, and none other shall be argued or considered; but
 5 one motion and one demurrer assailing such pleading shall be filed,
 6 unless such pleading is amended after the filing of a motion or de-
 7 murrer thereto.

[R., '60, §§ 2864-2866; C., '73, § 2639; C., '97, § 3551.]

SEC. 7204. Subsequent pleadings.

1 Each party shall so demur, assail by motion, answer or reply to
 2 all subsequent pleadings, including amendments thereto and substi-
 3 tutes therefor, before noon of the day succeeding that on which the
 4 pleading is filed, but all pleadings must be filed by the time the cause
 5 is reached for trial.

[R., '60, §§ 2850, 2851, 2858; C., '73, § 2636; C., '97, § 3552.]

**SEC. 7205. Demurrer or motion suspends other pleadings—sub-
mission.**

1 A motion or demurrer assailing any pleading, or count thereof,
 2 suspends the necessity of filing any other pleading thereto until the
 3 same has been determined, and the next pleading shall be filed by the
 4 morning of the day succeeding such determination; and all motions
 5 and demurrers shall be argued and submitted on the morning of the
 6 day succeeding the filing thereof, or at such other time as is ordered
 7 by the court, unless the cause is sooner reached for trial.

[R., '60, §§ 2867, 2869; C., '73, §§ 2640, 2641; C., '97, § 3555.]

SEC. 7206. Not withdrawn.

1 A motion or demurrer once filed shall not be withdrawn without
 2 the consent of the adverse party in writing, or given in open court,
 3 or of the court.

[R., '60, § 2870; C., '73, § 2642; C., '97, § 3556.]

SEC. 7207. Amended before answer.

1 The plaintiff, without prejudice to the proceedings already had,
 2 may amend his petition, without leave, at any time before the answer
 3 is filed, notice thereof being given the defendant or his attorney, and

4 the defendant shall have the same time to plead thereto as he had to
5 the original petition.

[R., '60, § 2975; C., '73, § 2647; C., '97, § 3560.]

SEC. 7208. Demurrer—causes of.

1 The defendant may demur to the petition only where it appears
2 on its face:

3 1. That the court has no jurisdiction of the person of the defend-
4 ant or the subject of the action.

5 2. That the plaintiff has not legal capacity to sue.

6 3. That there is another action pending between the same parties
7 for the same cause.

8 4. That there is a defect of parties, plaintiffs or defendants.

9 5. That the facts stated in the petition do not entitle the plaintiff
10 to the relief demanded.

11 6. That the petition, on the face thereof, shows that the cause of
12 action is barred by the statute of limitations; or fails to show it to be
13 in writing, where it should be so evidenced; or, if founded on an ac-
14 count or writing as evidence of indebtedness, that neither such writing
15 or account or copy thereof is incorporated into or attached to the
16 pleading, or a sufficient reason stated for not doing so.

[R., '60, §§ 2876, 2920, 2961, 2963, 2964; C., '73, § 2648;
C., '97, § 3561.]

SEC. 7209. How specific.

1 A demurrer must specify and number the grounds of objection to
2 the pleading; and it shall not be sufficient to state the objection in the
3 terms of the preceding section, except that a demurrer to an equitable
4 petition, for the fifth reason of said section, may be stated in the
5 terms thereof.

[C., '51, § 1754; R., '60, § 2877; C., '73, § 2649; C., '97,
§ 3562.]

SEC. 7210. Demurrer to one of several causes—effect of demurrer and ruling.

1 The defendant may demur to one or more of the several causes of
2 action alleged in the petition, and answer as to the residue. A demur-
3 rer shall be considered as an admission of the allegations of the
4 pleading demurred to for the purposes of demurrer, and for such
5 purposes only; and when a demurrer shall be overruled and the party
6 demurring shall answer or reply, the ruling on the demurrer shall not
7 be considered as an adjudication of any question raised by the demur-
8 rer; and in such case the sufficiency of the pleading thus attacked shall
9 be determined as if no demurrer had been filed. No pleading shall be
10 held sufficient on account of a failure to demur thereto.

[C., '51, § 1738; R., '60, § 2879; C., '73, § 2651; C., '97,
§ 3564.]

**SEC. 7211. Joinder in demurrer—answering, amending or plead-
ing over.**

1 The opposite party shall be deemed to join in a demurrer when-
2 ever he shall not amend the pleading to which it is addressed. Upon
3 a demurrer being overruled, the party demurring may answer or
4 reply. Upon a decision of a demurrer, if the adverse party fail to

5 amend or plead over, the same consequences shall ensue as though a
6 verdict had passed against the plaintiff or the defendant had made
7 default, as the case may be.

[C., '51, §§ 1755, 1771; R., '60, §§ 2900, 2976, 3086; C., '73,
§§ 2652-2654; C., '97, § 3565.]

SEC. 7212. Objection raised by answer—arrest of judgment.

1 When any of the matters enumerated as grounds of demurrer do
2 not appear on the face of the petition, the objection may be taken by
3 answer. If the facts stated by the petition do not entitle the plaintiff
4 to any relief whatever, advantage may be taken of it by motion in
5 arrest of judgment before judgment is entered.

[R., '60, § 2878; C., '73, § 2650; C., '97, § 3563.]

SEC. 7213. Counterclaim—how stated—what may constitute.

1 Each counterclaim must be stated in a distinct count or division,
2 and must be:

3 1. When the action is founded on contract, a cause of action also
4 arising on contract, or ascertained by the decision of a court.

5 2. A cause of action in favor of the defendants, or some of them,
6 against the plaintiffs, or some of them, arising out of the contracts or
7 transactions set forth in the petition or connected with the subject
8 of the action.

9 3. Any new matter constituting a cause of action in favor of the
10 defendant, or all of the defendants if more than one, against the
11 plaintiff, or all of the plaintiffs if more than one, and which the
12 defendant or defendants might have brought when suit was com-
13 menced, or which was then held, either matured or not, if matured
14 when so plead.

[C., '51, § 1740; R., '60, §§ 2884, 2886, 2889, 2891; C., '73,
§ 2659; C., '97, § 3570.]

SEC. 7214. Equitable answer—paragraphs.

1 An equitable division must also be separated into paragraphs and
2 numbered, as required in regard to an equitable cause of action in
3 the petition.

[R., '60, § 2885; C., '73, § 2660; C., '97, § 3571.]

SEC. 7215. Counterclaim by comaker or surety.

1 A comaker or surety, when sued alone, may, with the consent of
2 his comaker or principal, avail himself by way of counterclaim of a
3 debt or liquidated demand due from the plaintiff at the commencement
4 of the action to such comaker or principal, but the plaintiff may
5 meet such counterclaim in the same way as if made by the comaker
6 or principal himself.

[R., '60, § 2887; C., '73, § 2661; C., '97, § 3572.]

SEC. 7216. New party.

1 When a new party is necessary to a final decision upon a counter-
2 claim, the court may either permit such party to be made, or direct
3 that it be stricken out of the answer and made the subject of a sep-
4 arate action.

[R., '60, §§ 2888, 2890; C., '73, § 2662; C., '97, § 3573.]

SEC. 7217. Cross petition.

1 When a defendant has a cause of action affecting the subject
 2 matter of the action against a codefendant, or a person not a party
 3 to the action, he may, in the same action, file a cross petition against
 4 the codefendant or other person. The defendants thereto may be
 5 notified as in other cases, and defense thereto shall be made in the
 6 time and manner prescribed in regard to the original petition, and with
 7 the same right of obtaining provisional remedies applicable to the
 8 case. The prosecution of the cross petition shall not delay the trial
 9 of the original action, when a judgment can be rendered therein that
 10 will not prejudice the rights of the parties to the cross petition.

[R., '60, § 2892; C., '73, § 2663; C., '97, § 3574.]

SEC. 7218. Demurrer to answer.

1 When the facts stated in the answer, or any count or division
 2 thereof, are not sufficient to constitute a defense or counterclaim, the
 3 adverse party may demur, and shall be held to the same certainty in
 4 the statement of the grounds therefor as obtains in a demurrer to the
 5 petition, and with like results attendant upon the ruling thereon.

[R., '60, § 2894; C., '73, § 2664; C., '97, § 3575.]

SEC. 7219. Reply—when necessary.

1 There shall be no reply except:
 2 1. Where a counterclaim is alleged.
 3 2. Where some matter is alleged in the answer to which the
 4 plaintiff claims to have a defense by reason of the existence of some
 5 fact which avoids the matter alleged in the answer.

[C., '51, § 1741; R., '60, § 2895; C., '73, § 2665; C., '97,
 § 3576.]

SEC. 7220. Statements of.

1 When a reply must be filed, it shall consist of:
 2 1. A general or specific denial of each allegation or counter-
 3 claim controverted, or any knowledge or information thereof sufficient
 4 to form a belief.
 5 2. Any new matter, not inconsistent with the petition, constitut-
 6 ing a defense to the matter alleged in the answer; or the matter in the
 7 answer may be confessed, and any new matter alleged, not inconsis-
 8 tent with the petition, which avoids the same, but an allegation of new
 9 matter in avoidance shall not be treated as a waiver of the denial of
 10 the allegations of the answer implied by law.

[R., '60, § 2896; C., '73, § 2666; C., '97, § 3577.]

SEC. 7221. Defenses to counterclaim—paragraphs.

1 Any number of defenses, negative or affirmative, are pleadable
 2 to a counterclaim, and each affirmative matter of defense in the reply
 3 shall be sufficient in itself, and must intelligibly refer to the part of
 4 the answer to which it is intended to apply. A division of equitable
 5 matter must also be separated into paragraphs and numbered, as
 6 required in case of such matter in the answer.

[R., '60, §§ 2897, 2898; C., '73, § 2667; C., '97, § 3578.]

SEC. 7222. Demurrer to reply.

1 When the facts stated in the reply do not amount to a sufficient
 2 defense, the defendant may demur, subject to the same requirements
 3 of certainty in statement of grounds thereof as obtain in demurrer
 4 to the petition, and with like results attendant upon the ruling thereon.
 [R., '60, § 2899; C., '73, § 2668; C., '97, § 3579.]

SEC. 7223. Verification—when necessary.

1 Every pleading must be subscribed by the party or his attorney,
 2 and when any pleading in a case shall be verified by affidavit, all sub-
 3 sequent pleadings, except motions and demurrers, shall be verified
 4 also; and in all cases of verification of a pleading, the affidavit shall
 5 be to the effect that the affiant believes the statements there to be true.
 [R., '60, § 2904; C., '73, § 2669; C., '97, § 3580.]

SEC. 7224. By corporation.

1 Where a corporation is a party, the affidavit may be made by any
 2 officer or agent thereof.
 [R., '60, § 2905; C., '73, § 2670; C., '97, § 3581.]

SEC. 7225. By parties united in interest.

1 When there are several parties united in interest, the affidavit
 2 may be made by any one of them.
 [R., '60, § 2906; C., '73, § 2671; C., '97, § 3582.]

SEC. 7226. By agent or attorney.

1 If the pleading is founded on a written instrument for the pay-
 2 ment of money only, and such instrument is in possession of the agent
 3 or attorney, the affidavit may be made by such agent or attorney, so
 4 far as relative to the statement of the cause of action thereon; but
 5 when relief is asked other than a money judgment or decree of fore-
 6 closure, the affidavit must contain averments showing competency, as
 7 herein provided.
 [R., '60, § 2907; C., '73, § 2672; C., '97, § 3583.]

SEC. 7227. By person knowing facts.

1 If the statements of a pleading are known to any person other
 2 than the party, such person may make the affidavit, which shall con-
 3 tain averments showing affiant competent to make the same.
 [R., '60, §§ 2908, 2909; C., '73, § 2673; C., '97, § 3584.]

SEC. 7228. Verification of counterclaim.

1 Where the petition is not verified, and the answer contains a
 2 counterclaim, the same may be verified apart from the defense part
 3 of the answer, and the foregoing provisions are applicable to the
 4 counterclaim as if the same were a separate pleading.
 [C., '73, § 2674; C., '97, § 3585.]

SEC. 7229. When verification not required.

1 Verifications shall not be required to any pleading of a guard-
 2 ian, executor or prisoner in the penitentiary, nor to any pleading

3 controverting the answer of a garnishee, nor to one grounded on an
4 injury to the person or the character.

[R., '60, §§ 2910, 2912; C., '73, § 2675; C., '97, § 3586.]

SEC. 7230. Crimination not required.

1 When it can be seen from the pleading to be answered that an
2 admission of the truth of its allegations might subject the party to a
3 criminal prosecution, no verification shall be required.

[R., '60, § 2911; C., '73, § 2676; C., '97, § 3587.]

SEC. 7231. Failure to verify.

1 If a pleading is not duly verified, it may be stricken out on mo-
2 tion; but such defect will be waived if the other party responds
3 thereto, or proceeds to trial without such motion.

[R., '60, § 2916; C., '73, § 2677; C., '97, § 3588.]

SEC. 7232. When verification applicable to amount claimed.

1 The verification of the pleading does not apply to the amount
2 claimed, except in actions founded on contract, express or implied,
3 for the payment of money only.

[R., '60, § 2914; C., '73, § 2678; C., '97, § 3589.]

SEC. 7233. Effect of verification.

1 The verification shall not make other or greater proof necessary
2 on the side of the adverse party.

[R., '60, § 2915; C., '73, § 2679; C., '97, § 3590.]

SEC. 7234. Amendments not verified.

1 Amendments may be made without being verified, unless a new
2 and distinct cause of action or counterclaim is thereby introduced, in
3 which case they shall be verified as other pleadings.

[R., '60, § 2981; C., '73, § 2680; C., '97, § 3591.]

SEC. 7235. Matter in mitigation—justification.

1 In any action brought to recover damages for an injury to person,
2 character or property, the defendant may set forth, in a distinct
3 division of his answer, any facts, of which evidence is legally admis-
4 sible, to mitigate or otherwise reduce the damages, whether a complete
5 defense or justification be pleaded or not, and he may give in evidence
6 the mitigating circumstances, whether he proves the defense or jus-
7 tification or not, and no mitigating circumstances shall be proved
8 unless pleaded, except such as are shown by or grow out of the testi-
9 mony introduced by the adverse party.

[R., '60, § 2929; C., '73, § 2682; C., '97, § 3593.]

**SEC. 7236. Contributory negligence—burden of proof on defend-
ant—mitigation of damages.**

1 In all actions brought in the courts of this state to recover dam-
2 ages caused by the negligence of the defendant, the burden of proving
3 contributory negligence shall rest upon the defendant. Provided
4 that this section shall only apply to actions brought by an employee
5 against his or her employer, or by a passenger against a common

6 carrier, and in such cases contributory negligence may be pleaded in
7 mitigation of damages.

[S. S., '15, § 3593-a.]

SEC. 7237. Intervention.

1 Any person who has an interest in the matter in litigation, in the
2 success of either of the parties to the action, or against both, may
3 become a party to an action between other persons, either by joining
4 the plaintiff in claiming what is sought by the petition, or by uniting
5 with the defendant in resisting the claim of the plaintiff, or by de-
6 manding anything adversely to both the plaintiff and defendant, either
7 before or after issue has been joined in the cause, and before the
8 trial commences.

[R., '60, § 2930; C., '73, § 2683; C., '97, § 3594.]

SEC. 7238. Decision—no delay—costs.

1 The court shall determine upon the intervention at the same time
2 that the action is decided, and the intervenor has no right to delay;
3 and if the claim of the intervenor is not sustained he shall pay all costs
4 of the intervention.

[R., '60, § 2931; C., '73, § 2684; C., '97, § 3595.]

SEC. 7239. By petition.

1 The intervention shall be by petition, which must set forth the
2 facts on which it rests, and all the pleadings therein shall be governed
3 by the same principles and rules as obtain in other pleadings. But
4 if such petition is filed during term, the court shall direct the time in
5 which an answer shall be filed thereto.

[R., '60, § 2932; C., '73, § 2685; C., '97, § 3596.]

SEC. 7240. Variance—amendments.

1 No variance between the allegations in a pleading and the proof
2 is to be regarded as material, unless it has actually misled the adverse
3 party to his prejudice in maintaining his action or defense upon the
4 merits. Whenever it is alleged that a party has been so misled, that
5 fact must be shown by proof to the satisfaction of the court, and such
6 proof must also show in what respect he has been so misled, and there-
7 upon the court may order the pleading to be amended upon such terms
8 as may be just.

[C., '51, § 1758; R., '60, § 2972; C., '73, § 2686; C., '97,
§ 3597.]

SEC. 7241. Not material.

1 When the variance is not material, the court may direct the fact
2 to be found according to the evidence, and order an immediate amend-
3 ment without cost.

[C., '51, § 1757; R., '60, § 2973; C., '73, § 2687; C., '97,
§ 3598.]

SEC. 7242. Failure of proof.

1 When, however, the allegation of the claim or defense to which
2 the proof is directed is unproved in its general meaning, it shall not

3 be held to be a case of variance within the last two sections, but a
4 failure of proof.

[R., '60, § 2974; C., '73, § 2688; C., '97, § 3599.]

SEC. 7243. Amendments allowed.

1 The court may, on motion of either party at any time, in further-
2 ance of justice and on such terms as may be proper, permit such party
3 to amend any pleadings or proceedings by adding or striking out the
4 name of a party, or by correcting a mistake in the name of a party,
5 or a mistake in any other respect, or by inserting other allegations
6 material to the case, or, when the amendment does not change sub-
7 stantially the claim or defense, by conforming the pleading or proceed-
8 ings to the facts proved.

[C., '51, § 1759; R., '60, § 2977; C., '73, § 2689; C., '97,
§ 3600.]

SEC. 7244. Errors disregarded.

1 The court, in every stage of an action, must disregard any error
2 or defect in the proceeding which does not affect the substantial rights
3 of the adverse party; and no judgment shall be reversed or affected
4 by reason of such error or defect.

[R., '60, § 2978; C., '73, § 2690; C., '97, § 3601.]

SEC. 7245. Continuance on account of amendment.

1 When a party amends a pleading or proceeding, the case shall
2 not be continued in consequence thereof, unless the court is satisfied,
3 by affidavit or otherwise, that the adverse party could not be ready
4 for trial in consequence of such amendment; if the court is thus satis-
5 fied, a continuance may be granted to some day in the same or the
6 next term of said court.

[C., '51, § 1756; R., '60, § 2979; C., '73, § 2691; C., '97,
§ 3602.]

SEC. 7246. How amendment made.

1 All matters of supplement or amendment, whether of addition or
2 subtraction, shall not be made by erasure or interlineation of the
3 original, or by addition thereto, but upon a separate paper, which shall
4 be filed and constitute, with the original, but one pleading. But if it
5 be stated in such paper that it is a substitute for the former pleading
6 intended to be amended, it shall be so taken, but the pleading super-
7 seded by the substitute shall not be withdrawn from the files.

[R., '60, § 2983; C., '73, § 2692; C., '97, § 3603.]

SEC. 7247. Interrogatories annexed to pleading.

1 Either party may annex to his petition, answer or reply written
2 interrogatories to any one or more of the adverse parties, concerning
3 any of the material facts in issue in the action, the answer to which,
4 on oath, may be read by either party as a deposition between the party
5 interrogating and the party answering.

[R., '60, § 2985; C., '73, § 2693; C., '97, § 3604.]

SEC. 7248. Answers thereto.

1 The party answering shall not be confined to responding merely
2 to the interrogatories, but may state any new matter concerning the
3 same cause of action, which shall likewise be read as a deposition.

[R., '60, § 2986; C., '73, § 2694; C., '97, § 3605.]

SEC. 7249. Time of responding.

1 The interrogatories shall be answered at the same time the plead-
2 ing to which they are annexed is answered or replied to, unless they
3 are excepted to by the adverse party; in which event the court shall
4 determine as to the propriety of the interrogatories propounded, and
5 which of them shall be answered, and within what time such answer
6 shall be made.

[R., '60, § 2987; C., '73, § 2695; C., '97, § 3606.]

SEC. 7250. Continuance for failure to answer.

1 The trial of an action by ordinary proceedings shall not be post-
2 poned on account of the failure to answer interrogatories, if the party
3 interrogated is present in court at the trial, so that he may be orally
4 examined; nor in case of absence, unless an affidavit is filed showing
5 the facts the party believes will be proved by the answers thereto, and
6 that the party has not filed the interrogatories for the purpose of
7 delay; whereupon, if the party will consent that the facts stated in the
8 affidavit shall be considered as admitted by those interrogated, the
9 trial shall not be postponed for that cause.

[R., '60, § 2988; C., '73, § 2696; C., '97, § 3607.]

SEC. 7251. Particularity required.

1 The party, in answering such interrogatories, shall distinguish
2 clearly between what is stated from his personal knowledge and what
3 from information or belief merely. An unqualified statement of a
4 fact shall be considered as made of his personal knowledge.

[R., '60, § 2989; C., '73, § 2697; C., '97, § 3608.]

SEC. 7252. How verified.

1 The answers to the interrogatories shall be verified by the affidavit
2 of the party making them, to the effect that the statements therein
3 made of his own personal knowledge are true, and those made from
4 the information of others he believes to be true. And when the party
5 interrogated is a corporation, the answers and affidavit verifying the
6 same shall be made by the officers or agents of such corporation who
7 have knowledge of the subjects and matters covered by the inter-
8 rogatories.

[R., '60, § 2990; C., '73, § 2698; C., '97, § 3609.]

SEC. 7253. Effect of failure to answer.

1 Where a party filing interrogatories shall also file an affidavit
2 that he verily believes the subject of the interrogatories, or any of
3 them, is in the personal knowledge of the opposite party, and that his
4 answers thereto, if truly made from such knowledge, will sustain the
5 claim or defense, or any part thereof, and the opposite party shall
6 fail to answer the same within the time allowed therefor, or by the
7 court extended, the claim or defense, or the part thereof, according

8 to such affidavit, shall be deemed to be sustained, and judgment given
9 accordingly.

[R., '60, § 2991; C., '73, § 2699; C., '97, § 3610.]

SEC. 7254. Answers compelled.

1 The court may compel answers to interrogatories by process of
2 contempt, and may, on the failure of the party to answer them, after
3 reasonable time allowed therefor, dismiss the petition, or strike the
4 pleading of the party so failing from the files.

[R., '60, § 2992; C., '73, § 2700; C., '97, § 3611.]

SEC. 7255. Denial as to time, sum, quantity, or place.

1 In all cases in which a denial is made by answer or reply concern-
2 ing a time, sum, quantity or place alleged, the party denying shall
3 declare whether such denial is applicable to every time, sum, quantity
4 or place and, if not, what time, sum, quantity or place he admits.

[R., '60, § 2901; C., '73, § 2701; C., '97, § 3612.]

SEC. 7256. Allegations as to time.

1 When time is material, the day, month and year, or when there is
2 a continued act, its duration, must be alleged. When time is not ma-
3 terial it need not be stated, and, if stated, need not be proved.

[R., '60, § 2955; C., '73, § 2702; C., '97, § 3613.]

SEC. 7257. Allegations as to place.

1 It shall be necessary to allege a place only when it forms a part
2 of the substance of the issue.

[R., '60, § 2957; C., '73, § 2703; C., '97, § 3614.]

SEC. 7258. Evidence under denial.

1 Under a denial of an allegation, no evidence shall be introduced
2 which does not tend to negative some fact the party making the con-
3 troverted allegation is bound to prove.

[R., '60, § 2944; C., '73, § 2704; C., '97, § 3615.]

SEC. 7259. Sham defenses—redundant matter.

1 Sham and irrelevant answers and defenses, and irrelevant and
2 redundant matter in all pleadings, may be stricken out on motion,
3 upon such terms as the court may, in its discretion, impose.

[C., '51, § 1753; R., '60, §§ 2861, 2946; C., '73, §§ 2707, 2719;
C., '97, § 3618.]

SEC. 7260. Statute—how pleaded—judicial notice.

1 In pleading a statute, or a right derived therefrom, it shall be
2 sufficient to refer thereto so as to plainly designate it, and the court
3 shall thereupon take judicial notice thereof.

[R., '60, § 2926; C., '73, § 2708; C., '97, § 3619.]

SEC. 7261. Inconsistent defenses—verification.

1 Inconsistent defenses may be stated in the same answer or reply,
2 and when a verification is required, it must be to the effect that the
3 party believes one or the other to be true, but can not determine which.

[R., '60, § 2937; C., '73, § 2710; C., '97, § 3620.]

SEC. 7262. Pleading exceptions.

1 When a party claims a right in derogation of the general law, or
 2 when his claim is founded upon an exception of any kind, he shall set
 3 forth such claim or such exception particularly in his pleading.

[R., '60, § 2940; C., '73, § 2711; C., '97, § 3621.]

SEC. 7263. What deemed admitted.

1 Every material allegation in a pleading not controverted by a
 2 subsequent pleading shall, for the purposes of the action, be taken as
 3 true, but the allegations of the answer not relating to a counterclaim,
 4 and of the reply, are to be deemed controverted. An allegation of
 5 value, or amount of damage, shall not be held true by a failure to con-
 6 trovert it. A party desiring to admit any allegations which, by this
 7 section, would be considered controverted may file at any time a
 8 written admission thereof.

[C., '51, § 1742; R., '60, § 2917; C., '73, § 2712; C., '97,
 § 3622.]

SEC. 7264. Account—bill of particulars.

1 If a pleading is founded on an account, a bill of particulars
 2 thereof, with the items therein consecutively numbered, must be incor-
 3 porated into or attached to such pleading, and considered a portion
 4 thereof, subject to be made more specific on motion, and shall define
 5 and limit the proof, but may be amended as other pleadings.

[R., '60, § 2918; C., '73, § 2713; C., '97, § 3623.]

SEC. 7265. Account deemed true.

1 In all actions for money due upon an open account, when the
 2 defendant has been personally served with the original notice therein,
 3 and the petition is duly verified, and where a bill of particulars of said
 4 account is incorporated into or attached to the petition, if the defend-
 5 ant makes default or fails to controvert or deny the same or any of
 6 the items thereof by pleading duly verified, the account, or so much
 7 thereof as is not so controverted or denied, shall be taken as true
 8 and admitted.

[C., '97, § 3624.]

SEC. 7266. Judgment—how pleaded.

1 In pleading a judgment, or the determination of a court or officer
 2 of special jurisdiction, it shall not be necessary to state the facts con-
 3 ferring jurisdiction, but it may be stated to have been duly given
 4 or made.

[R., '60, § 2921; C., '73, § 2714; C., '97, § 3625.]

SEC. 7267. Conditions precedent.

1 In pleading the performance of conditions precedent in a con-
 2 tract, it is not necessary to state the facts constituting such perform-
 3 ance, but the party may state, generally, that he duly performed all
 4 the conditions on his part.

[R., '60, § 2922; C., '73, § 2715; C., '97, § 3626.]

SEC. 7268. Action in representative capacity.

1 A plaintiff suing as a corporation, partnership, executor, guard-
 2 ian, or in any other way implying corporate, partnership, representa-

3 tive or other than individual capacity, need not state the facts
4 constituting such capacity or relation, but may aver the same gener-
5 ally, or as a legal conclusion, and where a defendant is held in such
6 capacity or relation, a plaintiff may aver such capacity or relation in
7 the same general way.

[R., '60, § 2923; C., '73, § 2716; C., '97, § 3627.]

SEC. 7269. Denial—facts must be stated.

1 If either of the allegations contemplated in the three preceding
2 sections is controverted, it shall not be sufficient to do so in terms
3 contradictory of the allegation, but the facts relied on shall be specif-
4 ically stated.

[R., '60, § 2925; C., '73, § 2717; C., '97, § 3628.]

SEC. 7270. Matters specifically pleaded.

1 Any defense showing that a contract, written or oral, or any
2 instrument sued on, is void or voidable; or that the instrument was
3 delivered to a person as an escrow, or showing matter of justification,
4 excuse, discharge or release, and any defense which admits the facts
5 of the adverse pleading, but by some other matter seeks to avoid their
6 legal effect, must be specially pleaded.

[R., '60, § 2942; C., '73, § 2718; C., '97, § 3629.]

SEC. 7271. Judicial notice.

1 Matters of which judicial notice is taken need not be stated in
2 a pleading.

[R., '60, § 2950; C., '73, § 2722; C., '97, § 3632.]

SEC. 7272. Pleading conveyance.

1 When a party claims by conveyance, he may state it according to
2 its legal effect or name.

[R., '60, § 2952; C., '73, § 2723; C., '97, § 3633.]

SEC. 7273. Pleading estate.

1 It shall not be necessary to allege the commencement of either a
2 particular or a superior estate, unless it be essential to the merits of
3 the case.

[R., '60, § 2954; C., '73, § 2724; C., '97, § 3634.]

SEC. 7274. Injuries to goods.

1 In actions for injuries to goods and chattels, their kind or species
2 shall be alleged.

[R., '60, § 2956; C., '73, § 2725; C., '97, § 3635.]

SEC. 7275. Injuries to real property.

1 In actions for injuries to real property, the petition shall describe
2 the property, and when the injury is to an incorporeal hereditament,
3 shall describe the property in respect of which the right is claimed,
4 as well as the right itself, either by the numbers by which the property
5 is designated in the national survey, or by its abuttals, or by its courses
6 and distances, or by any name which it has acquired by reputation
7 certain enough to identify it.

[R., '60, § 2958; C., '73, § 2726; C., '97, § 3636.]

SEC. 7276. Malice.

1 When the party intends to prove malice to affect damages, he
2 must aver the same.

[R., '60, § 2959; C., '73, § 2727; C., '97, § 3637.]

SEC. 7277. Bond—breaches of.

1 In an action on a bond with conditions, the party suing thereon
2 shall notice the conditions and allege the facts constituting the breaches
3 relied on.

[C., '51, § 1818; R., '60, § 2960; C., '73, § 2728; C., '97,
§ 3638.]

SEC. 7278. Amount of proof.

1 A party shall not be compelled to prove more than is necessary
2 to entitle him to the relief asked for, or any lower degree included
3 therein, nor more than sufficient to sustain his defense.

[R., '60, § 2966; C., '73, § 2729; C., '97, § 3639.]

SEC. 7279. Denial of genuineness of signature.

1 When a written instrument is referred to in a pleading, and the
2 same or a copy thereof is incorporated in or attached to such pleading,
3 the signature thereto, and to any indorsement thereon, shall be deemed
4 genuine and admitted, unless the person whose signature the same
5 purports to be shall, in a pleading or writing filed within the time
6 allowed for pleading, deny under oath the genuineness of such signa-
7 ture. If such instrument is not negotiable, and purports to be executed
8 by a person not a party to the proceeding, the signature thereto shall
9 not be deemed genuine or admitted, if a party to the proceeding, in
10 the manner and within the time before mentioned, states under oath
11 that he has no knowledge or information sufficient to enable him to
12 form a belief as to the genuineness of such signature. The person
13 whose signature purports to be signed to such instrument shall, on
14 demand, be entitled to an inspection thereof.

[R., '60, § 2967; C., '73, § 2730; C., '97, § 3640.]

SEC. 7280. Supplemental pleading.

1 Either party may be allowed to make a supplemental petition,
2 answer or reply, alleging facts material to the case which have hap-
3 pened or have come to his knowledge since the filing of the former
4 pleading; nor shall such new pleading be considered a waiver of
5 former pleadings.

[C., '51, § 1749; R., '60, § 2968; C., '73, § 2731; C., '97,
§ 3641.]

SEC. 7281. Matter in abatement.

1 Matter in abatement may be stated in the answer or reply, either
2 together with or without causes of defense in bar, and no one of such
3 causes shall be deemed to overrule the other; nor shall a party, after
4 trial on matter of abatement, be allowed in the same action to answer
5 or reply matter in bar.

[R., '60, § 2969; C., '73, § 2732; C., '97, § 3642.]

SEC. 7282. Subsequent defenses.

1 Any defense arising after the commencement of any action shall
 2 be stated according to the fact, without any formal commencement or
 3 conclusion, and any answer which does not state whether the defense
 4 therein set up arose before or after action shall be held to be of matter
 5 arising before action.

[R., '60, § 2970; C., '73, § 2733; C., '97, § 3643.]

SEC. 7283. Consolidation of actions.

1 When two or more actions are pending in the same court which
 2 might have been joined, the defendant may, on motion and notice to
 3 the adverse party, require him to show cause why the same shall not
 4 be consolidated, and if no sufficient cause is shown, it shall be done.

[R., '60, § 2980; C., '73, § 2734; C., '97, § 3644.]

SEC. 7284. Lost pleading—substitution.

1 If an original pleading is lost, or withheld by anyone, the court
 2 may order a copy thereof to be substituted, or a substituted pleading
 3 to be filed.

[C., '51, § 1760; R., '60, § 2982; C., '73, § 2735; C., '97,
 § 3645.]

CHAPTER 8.
MOTIONS AND ORDERS.**SECTION 7285. Motion defined.**

1 A motion is a written application for an order, addressed to the
 2 court or to a judge in vacation, by any party to an action, or by any
 3 one interested therein.

[R., '60, § 3428; C., '73, § 2911; C., '97, § 3831.]

SEC. 7286. Several objects.

1 Several objects may be included in the same motion, if they all
 2 grow out of or are connected with the action in which it is made.

[R., '60, § 3438; C., '73, § 2912; C., '97, § 3832.]

SEC. 7287. Proof by affidavit.

1 Testimony to sustain or resist a motion may be in the form of
 2 affidavits, or in such other form as the parties may agree on or the
 3 court or judge direct. If by affidavit, the person making the same
 4 may be required by the court or judge to appear and submit to a
 5 cross-examination.

[R., '60, § 3440; C., '73, § 2913; C., '97, § 3833.]

SEC. 7288. Notice of motion.

1 A party who has appeared in an action, or who has been served
 2 with the original notice therein in any manner provided by this code,
 3 shall take notice of all motions filed during term time, upon the same
 4 being filed by the clerk and entered in the appearance docket. All

5 motions filed in vacation shall be entered on such docket and served
6 as herein required.

[R., '60, § 3429; C., '73, § 2914; C., '97, § 3834.]

SEC. 7289. Form of notice.

1 When notice of a motion is required to be served, it shall state
2 the names of the parties to the action or proceeding in which it is
3 made, the name of the court or judge before whom it is to be made,
4 and the place where and the day on which it is to be heard, and, if
5 affidavits are to be used on the hearing, the notice shall be accompanied
6 with copies thereof, and shall be served such length of time before the
7 hearing as the court or judge may fix.

[R., '60, § 3430; C., '73, § 2915; C., '97, § 3835.]

SEC. 7290. Service.

1 Notices and copies of motions mentioned in this chapter may be
2 served by any one who would be authorized to serve an original notice.

[R., '60, § 3431; C., '73, § 2916; C., '97, § 3836.]

SEC. 7291. On each party.

1 The service shall be on each of the parties adverse to the motion,
2 if more than one, or on an attorney of record of such party.

[R., '60, § 3432; C., '73, § 2917; C., '97, § 3837.]

SEC. 7292. Personal or on attorney.

1 The service may be personal on such party or attorney, or may
2 be made in the same manner as is provided for the service of the
3 original notice in civil actions; or it may be served on the attorney by
4 being left at his office with any person having the charge thereof.

[C., '51, § 2496; R., '60, § 3433; C., '73, § 2918; C., '97,
§ 3838.]

SEC. 7293. Return.

1 Any officer authorized to serve any notice shall serve the same at
2 once and make prompt return to the party who delivered it to him,
3 and a failure to do so shall be punished as a disobedience of the
4 process of the court.

[R., '60, § 3435; C., '73, § 2919; C., '97, § 3839.]

SEC. 7294. What to state.

1 The return of proof of service must state the manner in which
2 it was made.

[C., '51, § 2499; R., '60, § 3436; C., '73, § 2920; C., '97,
§ 3840.]

SEC. 7295. Court may direct mode of service.

1 When the party has no known place of abode in this state, and no
2 attorney in the county where the action is pending, or where the
3 parties, plaintiffs or defendants, are numerous, the court or judge
4 may direct the mode of serving such notices, and on whom they shall
5 be served.

[R., '60, § 3437; C., '73, § 2921; C., '97, § 3841.]

SEC. 7296. "Order" defined.

1 Every direction of a court or judge, made or entered in writing
2 and not included in a judgment, is an order.

[R., '60, § 3427; C., '73, § 2922; C., '97, § 3842.]

SEC. 7297. May issue in vacation.

1 A judge's order may issue in vacation, directing any of the offi-
2 cers of the court in relation to the discharge of their duties.

[C., '51, § 2210; R., '60, § 3795; C., '73, § 2923; C., '97,
§ 3843.]

SEC. 7298. How long in force.

1 Such order shall be in force only during the vacation in which it
2 is granted, and for the first two days of the ensuing term.

[C., '51, § 2211; R., '60, § 3796; C., '73, § 2924; C., '97,
§ 3844.]

SEC. 7299. Bond.

1 The judge granting it may require the filing of a bond as in case
2 of an injunction, unless from the nature of the case such requirement
3 would be clearly unnecessary or improper.

[C., '51, § 2212; R., '60, § 3797; C., '73, § 2925; C., '97,
§ 3845.]

SEC. 7300. Filed and entered.

1 Orders made out of court shall forthwith be filed with and entered
2 by the clerk in the journal of the court in the same manner as orders
3 made in the term.

[R., '60, § 3439; C., '73, § 2926; C., '97, § 3846.]

CHAPTER 9.
SECURITY FOR COSTS.**SECTION 7301. Bond for costs—when required.**

1 If a defendant, at any time before answering shall make and file
2 an affidavit stating that he has a good defense in whole or in part, the
3 plaintiff, or party bringing the action or proceeding, if he is a non-
4 resident of this state, or a private or foreign corporation, before any
5 other proceedings in the action, must file in the clerk's office a bond
6 with sureties to be approved by the clerk, in an amount to be fixed
7 by the court, for the payment of all costs which may accrue in the
8 action in the court in which it is brought, or in any other to which it
9 may be carried, either to the defendant or to the officers of the court.
10 The application for such security shall be by motion, filed with the
11 case, and the facts supporting it must be shown by affidavits annexed
12 thereto, which may be responded to by counter affidavits on or before
13 the hearing of the motion, and each party shall file all his affidavits
14 at once, and none thereafter. And a nonresident intervenor or party

15 bringing an action in probate shall be required in like manner to give
16 bond on motion of any party required to answer or defend.

[R., '60, §§ 3442, 3448; C., '73, § 2927; C., '97, § 3847;
S., '13, § 3847; 37 G. A., ch. 47, §§ 1, 2.]

SEC. 7302. Dismissal for failure to furnish.

1 An action in which a bond for costs is required by the last section
2 shall be dismissed, if a bond is not given in such time as the court
3 allows.

[R., '60, § 3443; C., '73, § 2928; C., '97, § 3848.]

SEC. 7303. When plaintiff or intervenor becomes nonresident.

1 If the plaintiff or any intervenor in an action, after its institution
2 and at any time before its final determination, becomes a nonresident
3 of this state, he may be required to give security for costs in the
4 manner provided in the preceding sections of this chapter.

[R., '60, § 3444; C., '73, § 2929; C., '97, § 3849; S., '13,
§ 3849.]

SEC. 7304. Additional security.

1 In an action in which a bond for costs has been given, the defend-
2 ant may, at any time before trial, make a motion for additional
3 security, and if on such motion the court is satisfied that the surety
4 in the plaintiff's bond has removed from the state, or it is not sufficient
5 for the amount thereof, it may dismiss the action unless, in a reason-
6 able time to be fixed by the court, sufficient security is given by
7 the plaintiff.

[R., '60, § 3445; C., '73, § 2930; C., '97, § 3850.]

SEC. 7305. Attorney or other officer not received.

1 No attorney or other officer of the court shall be received as
2 security in any proceeding in court.

[R., '60, § 3446; C., '73, § 2931; C., '97, § 3851.]

SEC. 7306. Judgment on bond rendered on motion.

1 After final judgment has been rendered in an action in which
2 security for costs has been given as above required, the court may,
3 on motion of the defendant or any other person having the right to
4 such costs or any part thereof, render judgment summarily, in the
5 name of the defendant or his legal representatives, against the sureties
6 for costs, for the amount of costs adjudged against the plaintiff, or so
7 much thereof as may remain unpaid.

[R., '60, § 3447; C., '73, § 2932; C., '97, § 3852.]

SEC. 7307. Cash deposit in lieu of bond.

1 In all cases in which a bond for security for costs is required,
2 the party required to give such security may deposit in cash the
3 amount fixed in said bond with the clerk of the district court or justice
4 of the peace in lieu of said bond.

[S., '13, § 3852-a.]

CHAPTER 10.

GENERAL PRINCIPLES OF EVIDENCE.

SECTION 7308. Witnesses—who competent.

1 Every human being of sufficient capacity to understand the obli-
 2 gation of an oath is a competent witness in all cases, except as other-
 3 wise declared.

[C., '51, § 2388; R., '60, § 3978; C., '73, § 3636; C., '97,
 § 4601.]

SEC. 7309. Credibility.

1 Facts which have heretofore caused the exclusion of testimony
 2 may still be shown for the purpose of lessening its credibility.

[C., '51, § 2389; R., '60, § 3979; C., '73, § 3637; C., '97,
 § 4602.]

SEC. 7310. Interest.

1 No person offered as a witness in any action or proceedings in
 2 any court, or before any officer acting judicially, shall be excluded by
 3 reason of his interest in the event of the action or proceeding, or
 4 because he is a party thereto, except as provided in this chapter.

[R., '60, § 3980; C., '73, § 3638; C., '97, § 4603.]

SEC. 7311. Transaction with person since deceased.

1 No party to any action or proceeding, nor any person interested
 2 in the event thereof, nor any person from, through or under whom any
 3 such party or interested person derives any interest or title by assign-
 4 ment or otherwise, and no husband or wife of any said party or
 5 person, shall be examined as a witness in regard to any personal
 6 transaction or communication between such witness and a person at
 7 the commencement of such examination deceased, insane or lunatic,
 8 against the executor, administrator, heir at law, next of kin, assignee,
 9 legatee, devisee or survivor of such deceased person, or the assignee
 10 or guardian of such insane person or lunatic. But this prohibition
 11 shall not extend to any transaction or communication as to which any
 12 such executor, administrator, heir at law, next of kin, assignee, leg-
 13 atee, devisee, survivor or guardian shall be examined on his own
 14 behalf, or as to which the testimony of such deceased or insane person
 15 or lunatic shall be given in evidence.

[R., '60, § 3982; C., '73, § 3639; C., '97, § 4604.]

SEC. 7312. Depositions taken conditionally.

1 Any person may have his own deposition, or that of any other
 2 person, read in evidence in all cases where his evidence would be
 3 incompetent by the provisions of the preceding section, by causing it
 4 to be taken, either before or after action is brought, during the lifetime
 5 or sanity of the person against whose executor, heir or other repre-
 6 sentative the same is to be used, if such deposition shall have been
 7 taken and filed ten days prior to the death or insanity of such person.
 8 If after action is brought, such deposition may be taken in the usual
 9 manner; if before, then the same may be taken de bene esse, as pro-
 10 vided by law.

[C., '73, § 3640; C., '97, § 4605.]

SEC. 7313. Husband or wife as witness.

1 Neither the husband nor wife shall in any case be a witness
 2 against the other, except in a criminal prosecution for a crime com-
 3 mitted one against the other, or in a civil action or proceeding one
 4 against the other, or in a civil action by one against a third party for
 5 alienating the affections of the other; or in any civil action brought
 6 by a judgment creditor against either the husband or the wife, to set
 7 aside a conveyance of property from one to the other on the ground
 8 of want of consideration or fraud, and to subject the same to the
 9 payment of his judgment; but in all civil and criminal cases they may
 10 be witnesses for each other.

[C., '51, § 2391; R., '60, § 3983; C., '73, § 3641; C., '97,
 § 4606; S., '13, § 4606.]

SEC. 7314. Communications between husband and wife.

1 Neither husband nor wife can be examined in any case as to any
 2 communication made by the one to the other while married, nor shall
 3 they, after the marriage relation ceases, be permitted to reveal in
 4 testimony any such communication made while the marriage subsisted.

[C., '51, § 2392; R., '60, § 3984; C., '73, § 3642; C., '97,
 § 4607.]

SEC. 7315. Communications in professional confidence.

1 No practicing attorney, counselor, physician, surgeon, or the ste-
 2 nographer or confidential clerk of any such person, who obtains such
 3 information by reason of his employment, minister of the gospel or
 4 priest of any denomination shall be allowed, in giving testimony, to
 5 disclose any confidential communication properly intrusted to him in
 6 his professional capacity, and necessary and proper to enable him to
 7 discharge the functions of his office according to the usual course of
 8 practice or discipline. Such prohibition shall not apply to cases where
 9 the party in whose favor the same is made waives the rights conferred.

[C., '51, §§ 2393, 2394; R., '60, §§ 3985, 3986; C., '73, § 3643;
 C., '97, § 4608; S., '13, § 4608.]

SEC. 7316. Public officers.

1 A public officer can not be examined as to communications made
 2 to him in official confidence, when the public interests would suffer by
 3 the disclosure.

[C., '51, § 2395; R., '60, § 3987; C., '73, § 3644; C., '97,
 § 4609.]

SEC. 7317. Judge as witness.

1 The judge of the court is a competent witness for either party,
 2 and may be sworn upon the trial. But in such case it is in his discre-
 3 tion to order the trial to be postponed or suspended, and to take place
 4 before another judge.

[C., '51, § 2408; R., '60, § 4005; C., '73, § 3645; C., '97,
 § 4610.]

SEC. 7318. Civil liability.

1 No witness is excused from answering a question upon the mere
2 ground that he would be thereby subjected to a civil liability.

[C., '51, § 2396; R., '60, § 3988; C., '73, § 3646; C., '97,
§ 4611.]

SEC. 7319. Criminating questions.

1 But when the matter sought to be elicited would tend to render
2 him criminally liable, or to expose him to public ignominy, he is not
3 compelled to answer, except as provided in the next section. But in
4 prosecutions against gaming, betting, lotteries, dealing in options,
5 creating, entering into or becoming a member of, or a party to any
6 pool, trust, agreement, contract, combination, confederation or under-
7 standing with any other corporation, partnership, association or in-
8 dividual to regulate or fix the price of any article of merchandise or
9 commodity or to fix or limit the amount or quantity of any article,
10 commodity or merchandise to be manufactured, mined, produced or
11 sold in this state, and keeping gambling houses, or rooms for illegal
12 use or disposal of intoxicating liquors, no witness shall be excused
13 from giving testimony upon the ground that his testimony would tend
14 to render him criminally liable or expose him to public ignominy; but
15 any matter so elicited shall not be used against him, and said witness
16 shall not be prosecuted for any crime connected with or growing out
17 of the act on which the prosecution is based in the cause in which his
18 evidence is used for the state, under the provisions of this section.

[C., '51, § 2397; R., '60, § 3989; C., '73, § 3647; C., '97,
§ 4612; S., '13, § 4612.]

SEC. 7320. Previous conviction.

1 A witness may be interrogated as to his previous conviction for
2 a felony. But no other proof is competent, except the record thereof.

[C., '51, § 2398; R., '60, § 3990; C., '73, § 3648; C., '97,
§ 4613.]

SEC. 7321. Moral character.

1 The general moral character of a witness may be proved for the
2 purpose of testing his credibility.

[R., '60, § 3991; C., '73, § 3649; C., '97, § 4614.]

SEC. 7322. Whole of a writing or conversation.

1 When part of an act, declaration, conversation or writing is given
2 in evidence by one party, the whole on the same subject may be in-
3 quired into by the other; thus, when a letter is read, all other letters
4 on the same subject between the same parties may be given. And
5 when a detached act, declaration, conversation or writing is given in
6 evidence, any other act, declaration, conversation or writing which
7 is necessary to make it fully understood, or to explain the same, may
8 also be given in evidence.

[C., '51, § 2399; R., '60, § 3992; C., '73, § 3650; C., '97,
§ 4615.]

SEC. 7323. Writing and printing.

- 1 When an instrument consists partly of written and partly of
 2 printed form, the former controls the latter, if the two are inconsistent.
 [C., '51, § 2400; R., '60, § 3993; C., '73, § 3651; C., '97,
 § 4616.]

SEC. 7324. Understanding of parties to agreement.

- 1 When the terms of an agreement have been intended in a different
 2 sense by the parties to it, that sense is to prevail against either party
 3 in which he had reason to suppose the other understood it.
 [C., '51, § 2401; R., '60, § 3994; C., '73, § 3652; C., '97,
 § 4617.]

SEC. 7325. Historical and scientific works.

- 1 Historical works, books of science or art, and published maps or
 2 charts, when made by persons indifferent between the parties, are
 3 presumptive evidence of facts of general notoriety or interest therein
 4 stated.
 [C., '51, § 2402; R., '60, § 3995; C., '73, § 3653; C., '97,
 § 4618.]

SEC. 7326. Subscribing witness.

- 1 When a subscribing witness denies or does not recollect the execu-
 2 tion of the instrument to which his name is subscribed as such witness,
 3 its execution may be proved by other evidence.
 [C., '51, § 2403; R., '60, § 3996; C., '73, § 3654; C., '97,
 § 4619.]

SEC. 7327. Handwriting.

- 1 Evidence respecting handwriting may be given by experts, by
 2 comparison, or by comparison by the jury, with writings of the same
 3 person which are proved to be genuine.
 [C., '51, § 2404; R., '60, § 3997; C., '73, § 3655; C., '97,
 § 4620.]

SEC. 7328. Private writing—acknowledgment.

- 1 Every private writing, except a last will and testament, after
 2 being acknowledged or proved and certified in the manner prescribed
 3 for the proof or acknowledgment of conveyances of real property, may
 4 be read in evidence without further proof.
 [C., '51, § 2407; R., '60, § 4000; C., '73, § 3656; C., '97,
 § 4621.]

SEC. 7329. Entries by deceased person.

- 1 The entries and other writings of a person deceased, who was in
 2 a position to know the facts therein stated, made at or near the time
 3 of the transaction, are presumptive evidence of such facts, when the
 4 entry was made against the interest of the person so making it, or
 5 when made in a professional capacity or in the ordinary course of
 6 professional conduct, or when made in the performance of a duty
 7 specially enjoined by law.
 [C., '51, § 2405; R., '60, § 3998; C., '73, § 3657; C., '97,
 § 4622.]

SEC. 7330. Books of account—when admissible—photographic copy as part of deposition.

1 Books of account containing charges by one party against the
2 other, made in the ordinary course of business, are receivable in evi-
3 dence only under the following circumstances, subject to all just
4 exceptions as to their credibility:

5 1. They must show a continuous dealing with persons generally,
6 or several items of charge at different times against the other party
7 in the same book or set of books.

8 2. It must be shown by the party's oath, or otherwise, that they
9 are his books of original entries.

10 3. It must be shown in like manner that the charges were made
11 at or near the time of the transactions therein entered, unless satis-
12 factory reasons appear for not making such proof.

13 4. The charges must also be verified by the party or clerk who
14 made the entries, to the effect that they believe them just and true,
15 or a sufficient reason must be given why such verification is not made.
16 Any loose leaf or card or other form of entry which may be in use in
17 the ordinary course of business by the party seeking to prove an
18 account against another, and shall have been properly identified as
19 being the original entry of such account shall be admitted as competent
20 evidence for the purpose of proving such account by deposition or in
21 open court, and it shall be competent for any person whose duties in
22 the ordinary course of such business require a personal knowledge of
23 the records of such business, to verify such account or make deposition
24 or testify in open court with regard to any matters pertaining to such
25 records.

26 5. In all cases where depositions are taken by either method pro-
27 vided by law, outside of the county in which the case is for trial where
28 books of account are competent evidence in the case, the party desir-
29 ing to offer the entries of said books as evidence may cause the same
30 to be photographed by or under the direction of the officer taking the
31 deposition and such photographic copy when certified by such officer
32 with his seal attached shall be attached to the deposition, and if the
33 record shows affirmatively the preliminary proof required by sub-
34 divisions one, two, three and four of this section, such copy shall be
35 admitted in evidence with the same force and effect as the original.

[C., '51, § 2406; R., '60, § 3999; C., '73, § 3658; C., '97,
§ 4623; S., '13, § 4623; 38 G. A., ch. 393, § 1.]

SEC. 7331. Notarial certificate of protest.

1 The usual protest of a notary public, without proof of his signa-
2 ture or notarial seal, is prima facie evidence of what it recites con-
3 cerning the dishonor, and notice thereof, of a bill of exchange or
4 promissory note, and a copy from his record, properly certified by
5 him, shall receive such faith and credit as it is entitled to by the law
6 and custom of merchants.

[C., '51, §§ 82, 2414; R., '60, §§ 199, 4011; C., '73, § 3668;
C., '97, § 4624.]

SEC. 7332. Statute of frauds—contract in writing.

1 Except when otherwise specially provided, no evidence of the
2 following enumerated contracts is competent, unless it be in writing
3 and signed by the party charged or by his authorized agent:

- 4 1. Those in relation to the sale of personal property, when no part
5 of the property is delivered and no part of the price is paid.
6 2. Those made in consideration of marriage.
7 3. Those wherein one person promises to answer for the debt,
8 default or miscarriage of another, including promises by executors to
9 pay the debt of the decedent from their own estate.
10 4. Those for the creation or transfer of any interest in lands,
11 except leases for a term not exceeding one year.
12 5. Those that are not to be performed within one year from the
13 making thereof.

[C., '51, §§ 2409, 2410; R., '60, §§ 4006, 4007; C., '73, §§ 3663,
3664; C., '97, § 4625.]

SEC. 7333. Exceptions.

- 1 The provisions of the first subdivision of the preceding section
2 do not apply when the article of personal property sold is not at the
3 time of the contract owned by the vendor and ready for delivery, but
4 labor, skill or money is necessarily to be expended in producing or
5 procuring the same; nor do those of the fourth subdivision apply
6 where the purchase money, or any portion thereof, has been received
7 by the vendor, or when the vendee, with the actual or implied consent
8 of the vendor, has taken and held possession thereof under and by
9 virtue of the contract, or when there is any other circumstance which,
10 by the law heretofore in force, would have taken the case out of the
11 statute of frauds.

[C., '51, § 2411; R., '60, § 4008; C., '73, § 3665; C., '97,
§ 4626.]

SEC. 7334. When contract not denied in the pleadings.

- 1 The above regulations, relating merely to the proof of contracts,
2 shall not prevent the enforcement of those not denied in the pleadings,
3 except in cases when the contract is sought to be enforced, or damages
4 recovered for the breach thereof, against some person other than him
5 who made it.

[C., '51, § 2412; R., '60, § 4009; C., '73, § 3666; C., '97,
§ 4627.]

SEC. 7335. Party made witness.

- 1 The oral evidence of the maker against whom the unwritten con-
2 tract is sought to be enforced shall be competent to establish the same.

[C., '51, § 2413; R., '60, § 4010; C., '73, § 3667; C., '97,
§ 4628.]

SEC. 7336. Instruments affecting real estate.

- 1 Every instrument in writing affecting real estate, or the adoption
2 of minors, which is acknowledged or proved and certified as required,
3 may be read in evidence without further proof.

[C., '51, § 1227; R., '60, §§ 2235, 4001; C., '73, § 3659;
C., '97, § 4629.]

SEC. 7337. Record or certified copy.

- 1 When the recording of any instrument in the office of any public
2 officer is authorized by law, the record of such instrument, or a duly

3 authenticated copy thereof, is competent evidence whenever, by the
 4 party's own oath or otherwise, the original is shown to be lost, or not
 5 belonging to the party wishing to use the same, nor within his control.
 6 In such case, it is no objection to the record that no official seal is
 7 appended to the recorded acknowledgment thereof, if, when the ac-
 8 knowledgment purports to have been taken by an officer having an
 9 official seal, there is a statement in the certificate of acknowledgment
 10 that the same is made under his hand and seal of office, and the record
 11 shows, by a scroll or otherwise, that there was such a seal, which will
 12 be presumptive evidence that it was attached to the original certificate.

[C., '51, §§ 1228, 1476; R., '60, §§ 2528, 2536, 4002; C., '73,
 §§ 2197, 3660; C., '97, § 4630.]

SEC. 7338. Retrospective.

1 The provisions of the preceding section are intended to apply to
 2 all instruments heretofore recorded, as well as those hereafter to
 3 be recorded.

[C., '51, § 1229; R., '60, §§ 2237, 4003; C., '73, § 3661; C., '97,
 § 4631.]

SEC. 7339. Not conclusive.

1 Neither the certificate, the record nor the transcript thereof is
 2 conclusive evidence of the facts therein stated.

[C., '51, § 1230; R., '60, §§ 2238, 4004; C., '73, § 3662; C., '97,
 § 4632.]

SEC. 7340. Recording United States and state patents.

1 United States and state patents for land in the state, and duly
 2 certified copies thereof from the general land office of the United
 3 States, or the state land office, that have been or may be recorded in
 4 the recorder's office of the county in which the land is situated shall
 5 be matters of record, and such record, and copies thereof, certified
 6 to by the recorder, may be received and read in evidence in all courts,
 7 with like effect as the record of other instruments, and other certified
 8 copies of original papers recorded in his office; and such patents and
 9 certified copies may be recorded without an acknowledgment.

[C., '97, § 4633; S., '13, § 4633.]

SEC. 7341. Field notes and plats.

1 A copy of the field notes of any surveyor, or a plat made by him
 2 and certified under oath as correct, may be received as evidence to
 3 show the shape or dimensions of a tract of land, or any other fact the
 4 ascertainment of which requires the exercise of scientific skill or
 5 calculation only.

[C., '51, § 2431; R., '60, § 4046; C., '73, § 3701; C., '97,
 § 4634.]

SEC. 7342. Copies of records and entries in public offices.

1 Duly certified copies of all records and entries or papers belonging
 2 to any public office, or by authority of law filed to be kept therein,
 3 shall be evidence in all cases of equal credibility with the original
 4 record or papers so filed.

[C., '51, § 2432; R., '60, § 4047; C., '73, § 3702; C., '97,
 § 4635.]

SEC. 7343. Copies of books of original entries.

1 Copies of entries made in the book of "copies of original entries,"
2 kept as a record in the office of the county recorder, when such book
3 has been compared with the originals and certified as true copies by
4 the register of the United States land office at which such original
5 entries were made, may, when certified by the recorder to be true
6 copies, be received and read in evidence in all of the courts, with like
7 effect as certified copies of original papers recorded in his office.

[R., '60, § 4049; C., '73, § 3704; C., '97, § 4636.]

SEC. 7344. Additional entries.

1 Copies of additional entries shall, from time to time, be procured
2 as made, certified as required in the preceding section, and entered in
3 the book of "copies of original entries," until all the lands in the county
4 have been entered and so certified.

[R., '60, § 4050; C., '73, § 3705; C., '97, § 4637.]

SEC. 7345. Officer to give copies of records.

1 Every officer having the custody of a public record or writing
2 shall furnish any person, upon demand and payment of the legal fees
3 therefor, a certified copy thereof.

[C., '51, § 2433; R., '60, § 4051; C., '73, § 3706; C., '97,
§ 4638.]

SEC. 7346. Maps in office of surveyor general.

1 Copies of all maps, official letters and other documents in the
2 office of the surveyor general of the United States, when certified by
3 that officer according to law, shall be received by the courts of this
4 state as presumptive evidence of the existence and contents of the
5 originals, and that they are copies of the originals, notwithstanding
6 such maps, official letters or other papers, may themselves be copied.

[R., '60, § 4052; C., '73, § 3707; C., '97, § 4639.]

SEC. 7347. Certificate as to loss of paper.

1 The certificate of a public officer, that he has made diligent and
2 ineffectual search for a paper in his office, is of the same efficacy in all
3 cases as if such officer had personally appeared and sworn to such facts.

[C., '51, § 2434; R., '60, § 4053; C., '73, § 3708; C., '97,
§ 4640.]

SEC. 7348. Duplicate receipt of receiver of land office.

1 The usual duplicate receipt of the receiver of any land office, or
2 the certificate of such receiver that the books of his office show the
3 sale of a tract of land to a certain individual, is proof of title, equiv-
4 alent to a patent, against all but the holder of an actual patent.

[C., '51, § 2435; R., '60, § 4054; C., '73, § 3709; C., '97,
§ 4641.]

SEC. 7349. Certificate of register or receiver.

1 The certificate of the register or receiver of any land office of
2 the United States, as to the entry of land within his district, shall

3 be presumptive evidence of title, in the person entering, to the real
4 estate therein named.

[R., '60, § 4055; C., '73, § 3710; C., '97, § 4642.]

SEC. 7350. Official signature presumed genuine.

1 In the cases contemplated in the last ten sections, the signature
2 of the officer shall be presumed to be genuine until the contrary is
3 shown.

[C., '51, § 2436; R., '60, § 4056; C., '73, § 3711; C., '97,
§ 4643.]

SEC. 7351. Judicial record—of this state or federal courts.

1 A judicial record of this state or any court of the United States
2 may be proved by the production of the original, or a copy thereof
3 certified by the clerk or person having the legal custody thereof, au-
4 thenticated by his seal of office, if he have one.

[C., '51, § 2437; R., '60, § 4057; C., '73, § 3712; C., '97,
§ 4644.]

SEC. 7352. Of another state.

1 That of another state may be proved by the attestation of the
2 clerk and the seal of the court annexed, if there be a seal, together
3 with a certificate of a judge, chief justice or presiding magistrate
4 that the attestation is in due form of law.

[C., '51, § 2438; R., '60, § 4058; C., '73, § 3713; C., '97,
§ 4645.]

SEC. 7353. Of a justice of the peace.

1 The official certificate of a justice of the peace of any of the
2 United States to any judgment and the preliminary proceedings be-
3 fore him, supported by the official certificate of the clerk of any court
4 of record within the county in which such justice resides, stating
5 that he is an acting justice of the peace of that county, and that the
6 signature to his certificate is genuine, is sufficient evidence of such
7 proceedings and judgment.

[C., '51, § 2439; R., '60, § 4059; C., '73, § 3714; C., '97,
§ 4646.]

SEC. 7354. Of a foreign country.

1 Copies of records and proceedings in the courts of a foreign
2 country may be admitted in evidence upon being authenticated as
3 follows:

4 1. By the official attestation of the clerk or officer in whose cus-
5 tody such records are legally kept.

6 2. By the certificate of one of the judges or magistrates of such
7 court, that the person so attesting is the clerk or officer legally in-
8 trusted with the custody of such records, and that the signature to
9 his attestation is genuine.

10 3. By the official certificate of the officer who has the custody of
11 the principal seal of the government under whose authority the court
12 is held, attested by said seal, stating that such court is duly consti-

13 tuted, specifying the general nature of its jurisdiction, and verifying
14 the seal of the court.

[C., '51, § 2440; R., '60, § 4060; C., '73, § 3715; C., '97,
§ 4647.]

SEC. 7355. Presumption of regularity.

1 The proceedings of all officers and courts of limited and inferior
2 jurisdiction within the state shall be presumed regular, except in re-
3 gard to matters required to be entered of record, and except where
4 otherwise expressly declared.

[C., '51, § 2512; R., '60, § 4120; C., '73, § 3669; C., '97,
§ 4648.]

SEC. 7356. Executive acts.

1 Acts of the executive of the United States, or of this or any other
2 state of the Union, or of a foreign government, are proved by the
3 records of the state department of the respective governments, or by
4 public documents purporting to have been printed by order of the
5 legislatures of those governments, respectively, or by either branch
6 thereof.

[C., '51, § 2441; R., '60, § 4061; C., '73, § 3716; C., '97,
§ 4649.]

SEC. 7357. Proceedings of legislature.

1 The proceedings of the legislature of this or any other state of
2 the Union, or of the United States, or of any foreign government, are
3 proved by the journals of those bodies, respectively, or of either branch
4 thereof, and either by copies officially certified by the clerk of the house
5 in which the proceeding was had, or by a copy purporting to have
6 been printed by its order.

[C., '51, § 2442; R., '60, § 4062; C., '73, § 3717; C., '97,
§ 4650.]

SEC. 7358. Printed copies of the statutes.

1 Printed copies of the statute laws of this or any other of the
2 United States, or of congress, or of any foreign government, purport-
3 ing or proved to have been published under the authority thereof, or
4 proved to be commonly admitted as evidence of the existing laws in
5 the courts of such state or government, shall be admitted in the courts
6 of this state as presumptive evidence of such laws.

[C., '51, § 2443; R., '60, § 4063; C., '73, § 3718; C., '97,
§ 4651.]

SEC. 7359. Written law—unwritten law.

1 The public seal of the state or county, affixed to a copy of the
2 written law or other public writing, is admissible as evidence of such
3 law or writing, respectively. The unwritten laws of any other state
4 or government may be proved as facts by parol evidence, or by the
5 books of reports of cases adjudged in their courts.

[C., '51, § 2444; R., '60, § 4064; C., '73, § 3719; C., '97,
§ 4652.]

SEC. 7360. Ordinances of city or town.

1 The printed copies of the ordinance of any municipal corporation,
 2 published by its authority, or transcripts of any ordinance, act or
 3 proceeding thereof recorded in any book, or entries on any minutes
 4 or journals kept under its direction, and certified by its clerk, shall be
 5 received in evidence for any purpose for which the original ordinances,
 6 books, minutes or journals would be received, and with the same effect.
 7 The clerk shall furnish such transcripts, and be entitled to charge
 8 therefor at the rate that the clerk of the district court is entitled to
 9 charge for transcripts of records from that court.

[R., '60, § 1076; C., '73, § 3720; C., '97, § 4653.]

SEC. 7361. Books and papers—how procured.

1 The district or superior court may in its discretion, by rule, re-
 2 quire the production of any papers or books which are material to the
 3 just determination of any cause pending before it, for the purpose
 4 of being inspected and copied by or for the party thus calling for them.

[C., '51, § 2423; R., '60, § 4026; C., '73, § 3685; C., '97,
 § 4654.]

SEC. 7362. Petition—rule.

1 The petition for that purpose must state the facts expected to be
 2 proved by such books or papers, and that, as the petitioner believes,
 3 such books and papers are under the control of the party against whom
 4 the rule is sought, and must show wherein they are material. The
 5 rule shall thereupon be granted to produce the books and papers, or
 6 show cause to the contrary, if the court deems such rule expedient and
 7 proper.

[C., '51, § 2424; R., '60, § 4027; C., '73, § 3686; C., '97,
 § 4655.]

SEC. 7363. Failure to obey.

1 On failure to obey the rule or show sufficient cause therefor, the
 2 same consequences shall ensue as if the party had failed to appear
 3 and testify when subpoenaed by the party now calling for the books
 4 and papers.

[C., '51, § 2425; R., '60, § 4028; C., '73, § 3687; C., '97,
 § 4656.]

SEC. 7364. Writing called for.

1 Though a writing called for by one party is by the other produced,
 2 the party calling for it is not obliged to use it as evidence in the case.

[C., '51, § 2426; R., '60, § 4029; C., '73, § 3688; C., '97,
 § 4657.]

SEC. 7365. Subpoenas for witnesses.

1 The clerks of the several courts shall, on application of any per-
 2 son having a cause or matter pending in court, issue a subpoena for
 3 witnesses under the seal of the court, inserting all the names required
 4 by the applicant in one subpoena, if practicable, which may be served
 5 by the sheriff, coroner or any constable of the county, or by the party
 6 or any other person. When a subpoena is served by any person other

7 than the sheriff, coroner or constable, proof thereof shall be shown
8 by affidavit; but no costs for serving the same shall be allowed.

[R., '60, § 4012; C., '73, § 3671; C., '97, § 4658.]

SEC. 7366. To whom directed—duces tecum.

1 The subpoena shall be directed to the person therein named, re-
2 quiring him to attend at a particular time or place to testify as a
3 witness, and it may contain a clause directing the witness to bring
4 with him any book, writing or other thing under his control, which
5 he is bound by law to produce as evidence.

[C., '51, § 2415; R., '60, § 4013; C., '73, § 3672; C., '97,
§ 4659.]

SEC. 7367. How far compelled to attend.

1 Witnesses in civil cases can not be compelled to attend the district
2 or superior court out of the state where they are served, nor at a dis-
3 tance of more than one hundred miles from the place of their resi-
4 dence, or from that where they are served with a subpoena, unless
5 within the same county; provided that the court or judge, for good
6 cause shown, may, upon deposit with the clerk of the court of suffi-
7 cient money to pay the legal fees and mileage of a witness, order a
8 subpoena to issue requiring the attendance of such witness from a
9 greater distance within the state. Such subpoena shall show that it
10 is issued under the provisions hereof. No other subpoena but that
11 from the district or superior court can compel his attendance at a
12 greater distance than thirty miles from his place of residence, or of
13 service, if not in the same county.

[C., '51, § 2416; R., '60, § 4014; C., '73, § 3673; C., '97, § 4660;
38 G. A., ch. 22, § 1.]

SEC. 7368. Witness fees.

1 Witnesses in any court of record, except in the police courts, shall
2 receive for each day's attendance two dollars, and in the police courts
3 the same fees and mileage as are allowed before justices of the peace;
4 before a justice of the peace, fifty cents for each day; and in all cases
5 five cents per mile for each mile actually traveled. An attorney, juror
6 or officer, who is in habitual attendance on the court for the term at
7 which he is examined as a witness, shall be entitled to but one day's
8 attendance. No peace officer shall, in any case, receive fees as a wit-
9 ness for testifying in regard to any matter coming to his knowledge
10 in the discharge of his official duties in such case, unless the court so
11 orders. Witnesses called to testify only to an opinion founded on spe-
12 cial study or experience in any branch of science, or to make scientific
13 or professional examinations and state the result thereof, shall receive
14 additional compensation, to be fixed by the court, with reference to
15 the value of the time employed and the degree of learning or skill
16 required; but such additional compensation shall not exceed four dol-
17 lars per day while so employed. For attending before the trial jury
18 or court in criminal cases where the defendant is adjudged not guilty,
19 the fees above provided for attending the district or justice's court
20 shall be paid by the county, upon a certificate of the clerk or justice
21 showing the amount of the services to which they are entitled.

[C., '51, § 2544; R., '60, § 4153; C., '73, § 3814; C., '97,
§ 4661; 37 G. A., ch. 356, § 1; 38 G. A., ch. 61, § 1.]

SEC. 7369. Fees in advance.

1 Witnesses, except parties to the action, are entitled to receive in
2 advance, if demanded when subpoenaed, their traveling fees to and
3 from the court, with their fees for one day's attendance. At the com-
4 mencement of each day after the first, they are further entitled, on
5 demand, to receive the legal fees for that day in advance. If not
6 thus paid, they are not compelled to attend or remain as witnesses.

[C., '51, § 2417; R., '60, § 4015; C., '73, § 3674; C., '97,
§ 4662.]

SEC. 7370. Witness fees paid by party or county.

1 When the county or any party has paid the fees of any witness,
2 and the same is afterward collected from the adverse party, the county
3 or person so paying the same shall, upon the production of the receipt
4 of such witness or other satisfactory evidence, be entitled to such fee,
5 whether it be in the hands of the justice or clerk, or has been paid into
6 the county treasury.

[C., '73, § 3817; C., '97, § 4663.]

SEC. 7371. Contempt in failing to attend or testify.

1 For a failure to obey a valid subpoena without a sufficient cause
2 or excuse, or for a refusal to testify after appearance, the delinquent
3 is guilty of a contempt of court and subject to be proceeded against
4 by attachment. He is also liable to the party by whom he was sub-
5 poenaed for all consequences of such delinquency, with fifty dollars
6 additional damages.

[C., '51, § 2418; R., '60, § 4016; C., '73, § 3675; C., '97,
§ 4664.]

SEC. 7372. Proceedings for contempt.

1 Before a witness is so liable for a contempt for not appearing,
2 he must be served personally with the process, by reading it to him,
3 and leaving a copy thereof with him, if demanded, and it must be
4 shown that the fees and traveling expenses allowed by law were ten-
5 dered to him, if required; or it must appear that a copy of the sub-
6 poena, if left at his usual place of residence, came into his hands, with
7 the fees and traveling expenses above mentioned.

[C., '51, § 2419; R., '60, § 4017; C., '73, § 3676; C., '97,
§ 4665.]

SEC. 7373. Serving subpoena.

1 If a witness conceals himself, or in any manner attempts to avoid
2 being personally served with a subpoena, any sheriff or constable hav-
3 ing the subpoena may use all necessary and proper means to serve
4 the same, and may for that purpose break into any building or other
5 place where the witness is to be found, having first made known his
6 business and demanded admission.

[C., '51, § 2420; R., '60, § 4018; C., '73, § 3677; C., '97,
§ 4666.]

SEC. 7374. When party fails to obey subpoena.

1 In addition to the above remedies, if a party to an action in his
2 own right, on being duly subpoenaed, fails to appear and give testi-

3 mony, the other party may, at his election, have a continuance of the
4 cause at the cost of the delinquent.

[C., '51, § 2421; R., '60, § 4024; C., '73, § 3683; C., '97,
§ 4667.]

SEC. 7375. Pleading taken true, or continuance.

1 Or if he shows by his own testimony, or otherwise, that he could
2 not have a full personal knowledge of the transaction, the court may
3 order his pleading to be taken as true; subject to be reconsidered
4 during the term of the court, upon satisfactory reasons being shown
5 for the delinquency.

[C., '51, § 2422; R., '60, § 4025; C., '73, § 3684; C., '97,
§ 4668.]

SEC. 7376. Subpoenas by officer or board.

1 Any officer or board authorized to hear evidence shall have au-
2 thority to subpoena witnesses and compel them to attend and testify,
3 in the same manner as officers authorized to take depositions.

[C., '97, § 4669.]

SEC. 7377. Prisoner produced.

1 A person confined in a penitentiary or jail in the state may, by
2 order of any court of record, be required to be produced for oral exam-
3 ination in the county where he is imprisoned, and in a criminal case
4 in any county in the state; but in all other cases his examination must
5 be by a deposition.

[R., '60, § 4019; C., '73, § 3678; C., '97, § 4670.]

SEC. 7378. Deposition of.

1 While a prisoner's deposition is being taken, he shall remain in
2 the custody of the officer having him in charge, who shall afford rea-
3 sonable facilities for the taking thereof.

[R., '60, § 4020; C., '73, § 3679; C., '97, § 4671.]

SEC. 7379. Procuring depositions.

1 When, by the laws of this or any other state or country, testi-
2 mony may be taken in the form of depositions to be used in any of
3 the courts thereof, the person authorized to take such depositions may
4 issue subpoenas for witnesses, which must be served by the same offi-
5 cers and returned in the same manner as is required in a justice's
6 court, and obedience thereto may be enforced in the same way and to
7 the same extent a justice of the peace might do, or he may report the
8 matter to the district court or a judge thereof, who may enforce obedi-
9 ence as though the action was pending in said court.

[C., '51, §§ 2477-2479; R., '60, §§ 4021-4023; C., '73, §§ 3680-
3682; C., '97, § 4672.]

SEC. 7380. Affidavits—before whom made.

1 An affidavit is a written declaration made under oath, without
2 notice to the adverse party, before any person authorized to admin-
3 ister oaths within or without the state.

[R., '60, §§ 4030, 4035; C., '73, §§ 3689, 3690; C., '97, § 4673.]

SEC. 7381. Out of the state.

1 Those taken out of the state before any judge or clerk of a court
2 of record, or before a notary public, or a commissioner appointed by
3 the governor of this state to take acknowledgment of deeds in the state
4 where such affidavit is taken, are of the same credibility as if taken
5 within the state.

[C., '51, § 2475; R., '60, § 4036; C., '73, § 3691; C., '97,
§ 4674.]

SEC. 7382. How compelled.

1 When a person is desirous of obtaining the affidavit of another
2 who is unwilling to make the same fully, he may apply by petition to
3 any officer competent to take depositions, stating the object for which
4 he desires the affidavit.

[C., '51, § 2480; R., '60, § 4038; C., '73, § 3692; C., '97,
§ 4675.]

SEC. 7383. Subpoena issued.

1 If the officer is satisfied that the object is legal and proper, he
2 shall issue his subpoena to bring the witness before him, and, if he
3 fails then to make a full affidavit of the facts within his knowledge to
4 the extent required of him by the officer, the latter may proceed to take
5 his deposition by question and answer in the usual way, which may
6 be used instead of an ordinary affidavit.

[C., '51, § 2481; R., '60, § 4039; C., '73, § 3693; C., '97,
§ 4676.]

SEC. 7384. Notice.

1 The officer may, in his discretion, require notice of the taking of
2 such affidavit or deposition to be given to any person interested in the
3 subject matter, and allow him to be present and cross-examine such
4 witness.

[C., '51, § 2482; R., '60, § 4040; C., '73, § 3694; C., '97,
§ 4677.]

SEC. 7385. Affiant produced.

1 The court or officer to whom any affidavit is presented as a basis
2 for some action, in relation to which any discretion is lodged with
3 such court or officer, may require the witness to be brought before
4 it or him and submit to a cross-examination by the opposite party.

[C., '51, § 2483; R., '60, § 4041; C., '73, § 3695; C., '97,
§ 4678.]

SEC. 7386. Signature and seal—presumption.

1 The signature and seal of such officers as are authorized to take
2 depositions or affidavits, having a seal, and the simple signature of
3 such as have no seal, are presumptive evidence of the genuineness
4 thereof, as well as of the official character of the officer, except as
5 otherwise declared.

[C., '51, § 2476; R., '60, § 4037; C., '73, § 3696; C., '97,
§ 4679.]

SEC. 7387. Publications—how proved.

1 Publications required to be made in a newspaper may be proved
2 by the affidavit of any person having knowledge of the fact, speci-
3 fying the times when and the paper in which the publication was
4 made, but such affidavit must be made within six months after the
5 last day of publication.

[C., '51, § 2427; R., '60, § 4042; C., '73, § 3697; C., '97,
§ 4680.]

SEC. 7388. Proof of serving or posting notices.

1 The posting up or service of any notice or other paper required
2 by law may be proved by the affidavit of any competent witness at-
3 tached to a copy of said notice or paper, and made within six months
4 of the time of such posting up.

[C., '51, § 2428; R., '60, § 4043; C., '73, § 3698; C., '97,
§ 4681.]

SEC. 7389. Other facts.

1 Any other fact which is required to be shown by affidavit, and
2 which may be required for future use in any action or other proceed-
3 ing, may be proved by pursuing the course above indicated, as nearly
4 as the circumstances of the case will admit.

[C., '51, § 2429; R., '60, § 4044; C., '73, § 3699; C., '97,
§ 4682.]

SEC. 7390. How perpetuated.

1 Proof so made may be perpetuated and preserved for future use
2 by filing the papers above mentioned in the office of the clerk of the
3 district court of the county where the act is done, and the original
4 affidavit appended to the notice or paper, if there is one, and, if not,
5 the affidavit by itself is presumptive evidence of the facts stated there-
6 in, but does not preclude other modes of proof now held sufficient.

[C., '51, § 2430; R., '60, § 4045; C., '73, § 3700; C., '97,
§ 4683.]

SEC. 7391. Reporter's notes as evidence.

1 The original shorthand notes of the evidence or any part
2 thereof heretofore or hereafter taken upon the trial of any cause or
3 proceeding, in any court of record of this state, by the shorthand
4 reporter of such court, or any transcript thereof, duly certified by
5 such reporter, when material and competent, shall be admissible in
6 evidence on any retrial of the case or proceeding in which the same
7 were taken, and for purposes of impeachment in any case, and shall
8 have the same force and effect as a deposition, subject to the same
9 objections so far as applicable. It shall be the duty of any such re-
10 porter, upon demand by any party to any cause or proceeding, or by
11 the attorney of such party, when such shorthand notes are offered in
12 evidence, to read the same before the court, judge, referee, or jury,
13 or to furnish to any person when demanded a certified transcript of
14 the shorthand notes of the evidence, of any one or more witnesses,
15 upon payment of his fees therefor. When the reporter taking such
16 notes in any case or proceeding in court has ceased to be the reporter
17 of such court, any transcript by him made therefrom, and sworn to

18 by him before any person authorized to administer an oath as a full,
 19 true, and complete transcript of the notes of the testimony of the wit-
 20 ness, a transcript of whose testimony is demanded, shall have the same
 21 force and effect as though duly certified by the reporter of said court.
 22 When any exhibit, record, or document is referred to in such short-
 23 hand notes or transcript thereof, the identity of such exhibit, record,
 24 or document, as the one referred to by the witness, may be proven
 25 either by the reporter, or any other person who heard the evidence
 26 of the witness given on the stand. No portion of the transcript of
 27 the shorthand notes of the evidence of any witness shall be admissible
 28 as such deposition, unless it shall appear from the certificate or veri-
 29 fication thereof that the whole of the shorthand notes of the evidence
 30 of such witness, upon the trial or hearing in which the same was
 31 given, is contained in such transcript, but the party offering the same
 32 shall not be compelled to offer the whole of such transcript.

[S., '13, § 245-a.]

SEC. 7392. Depositions—when taken and by whom.

1 After the commencement of a civil action or other civil proceed-
 2 ing, if the witness resides within this state but in a different county
 3 from the place of trial, or is about to go beyond the reach of a sub-
 4 poena, or is for any other cause expected to be unable to attend court
 5 at the time of trial, the party wishing his testimony may take his
 6 deposition in writing before any person having authority to administer
 7 oaths; and if the action is by equitable proceedings, then, without any
 8 other reason therefor, either party may so take the deposition of any
 9 witness.

[C., '51, § 2445; R., '60, § 4065; C., '73, § 3721; C., '97,
 § 4684.]

SEC. 7393. Upon notice or by commission.

1 If the deposition is to be taken within the state, it may be upon
 2 notice or upon commission, and, if without the state, it must be by
 3 the latter method, except by agreement of the parties.

[C., '51, §§ 2446, 2447; R., '60, §§ 4066, 4067; C., '73, §§ 3722,
 3723; C., '97, § 4685.]

SEC. 7394. By consent.

1 By the written consent of parties, depositions may be taken in
 2 either method, and without any reason therefor being made to appear,
 3 and before any person designated in the agreement.

[C., '51, § 2448; R., '60, § 4068; C., '73, § 3724; C., '97,
 § 4686.]

SEC. 7395. On notice.

1 When the deposition is taken upon notice, it must be before some
 2 person authorized to administer oaths, or agreed upon by the parties,
 3 and notice of the name of the witness, and the time when, the place
 4 where and the person before whom it is to be taken shall be given to
 5 the opposite party.

[C., '51, § 2445; R., '60, § 4065; C., '73, § 3721; C., '97,
 § 4687.]

SEC. 7396. Not on election day or holiday nor during term of court.

1 No party shall be required to take depositions on notice on the
2 day of the general election, nor on any of the days on which appear-
3 ance in an action can not by law be required, nor during a term of the
4 court in which the action is pending, unless such court, upon written
5 motion, in furtherance of justice, shall so order. If notices are given
6 in the same case by the same party of the taking of depositions at
7 different places upon the same day, they shall be invalid.

[C., '51, §§ 2446, 2453; R., '60, §§ 4066, 4073; C., '73, §§ 3722,
3730; C., '97, § 4688.]

SEC. 7397. On commission—notice—interrogatories.

1 A party wishing to take a deposition by commission may serve
2 on the opposite party a notice that, on a day named, a commission
3 will issue from the office of the clerk of the court in which the action
4 or proceeding is pending, or in a case in a justice's court, from the
5 office of the clerk of the district court of the county, directed to any
6 of the officers or persons enumerated in the following section, speci-
7 fying the officer or person, for the taking of such depositions on writ-
8 ten interrogatories to be filed with the clerk, a copy of which must
9 accompany and be served with said notice. Such notice shall give the
10 name of the witness whose deposition is thus to be taken.

[C., '51, §§ 2451, 2465; R., '60, §§ 4071, 4092; C., '73, § 3727;
C., '97, § 4689.]

SEC. 7398. Who may act as commissioner.

1 Such commission may issue to the clerk or any judge of any court
2 of record, or any commissioner appointed by the governor of this state
3 to take acknowledgments of deeds in another state, or any notary
4 public, or any consul or consular agent of the United States, and such
5 officer may be designated in the notice and in the commission, either
6 by the name of office of such officer or by his individual name and
7 official style; or the commission may issue to any person designated
8 by the court for that purpose or agreed upon by the parties, such per-
9 son being named in the notice. If the commission issues to any officer
10 or person for the taking of the deposition in any of the United States
11 or in Canada, the name of the state and county in which the deposition
12 is to be taken shall be specified in the notice and commission; other-
13 wise, it shall be sufficient to name the state, territory or district, and
14 town or city.

[C., '51, § 2449; R., '60, § 4069; C., '73, § 3725; C., '97,
§ 4690.]

SEC. 7399. Officer within limits of jurisdiction.

1 None of the above named officers are permitted to take the dep-
2 sitions aforesaid by virtue of a commission directed to him merely
3 as such officer, unless within the limits of his official jurisdiction.

[C., '51, § 2450; R., '60, § 4070; C., '73, § 3726; C., '97,
§ 4691.]

SEC. 7400. Cross-interrogatories.

1 At or before the time fixed in the notice for the issuance of the
2 commission, the opposite party may file cross-interrogatories. If
3 cross-interrogatories are not filed, the clerk shall file the following:

- 4 1. Are you directly or indirectly interested in this action? and,
5 if interested, explain the interest you have.
- 6 2. Are all your statements in the foregoing answers made from
7 your personal knowledge? and, if not, do your answers show what
8 are made from your personal knowledge, and what are from informa-
9 tion, and the source of that information? if not, now show what is
10 from information, and give its source.
- 11 3. State everything you know concerning the subject of this ac-
12 tion favorable to either party.

[C., '51, § 2452; R., '60, § 4072; C., '73, § 3728; C., '97,
§ 4692.]

SEC. 7401. Oral cross-examination.

1 When notice is served of taking a deposition on commission, the
2 adverse party may elect to appear and orally cross-examine the wit-
3 ness, and, if he so elects, he shall serve written notice of his election
4 on the opposite party or his attorney at least one day before the date
5 on which the commission is to be issued; and if such notice is given,
6 then, before said commission shall issue, the party suing out the same
7 shall deliver to the adverse party or his attorney a written statement,
8 giving the name and address of the commissioner, the place, and, if
9 in a city, the street and number, and the day and hour of taking the
10 deposition. Such statement must be delivered to said adverse party
11 or his attorney five days before the date fixed for taking the deposition,
12 if taken within the state; if taken elsewhere, one additional day for
13 every three hundred miles distance between the place where the com-
14 mission issues and where the deposition is to be taken. If the ad-
15 verse party elects to cross-examine the witness orally, the party suing
16 out the commission may waive his written interrogatories and appear
17 and orally examine the witness. Except as otherwise provided in
18 this section, the provision relating to taking depositions on notice shall
19 be followed in taking that part of the deposition which is taken by
20 oral examination.

[C., '97, § 4693.]

SEC. 7402. Form of commission.

1 On the day fixed in the notice, the commission may issue in the
2 name of the court and under its seal, with the signature of the clerk,
3 and need contain only a statement of the case and court in which the
4 testimony is to be used, the authority conferred upon the commis-
5 sioner, who shall be designated as hereinbefore provided, and instruc-
6 tions to guide him in the taking of the deposition. The interroga-
7 tories and cross-interrogatories filed by the respective parties are to
8 be appended to such commission.

[C., '51, § 2455; R., '60, § 4078; C., '73, § 3734; C., '97,
§ 4694.]

SEC. 7403. In justice's court.

1 If the action in which it is desired to take a deposition on com-
2 mission is pending in a justice's court, the commission shall issue from
3 the office of the clerk of the district court of the county, or of the
4 superior court, if there be one in the same township, on such notice
5 as is required in suing out a commission in a case pending in such

6 court. When such deposition is returned to the clerk of the court
7 from which the commission issued, he shall deliver it personally or
8 forward it by mail to the justice before whom the action is pending.
[C., '97, § 4695.]

SEC. 7404. Service of notice.

1 The notice of taking depositions by either of the methods provided
2 may be served personally upon the opposite party or his attorney of
3 record, in the same manner as an original notice in a civil action,
4 except by publication, or such service may be accepted by the party
5 or his attorney.

[R., '60, §§ 4074, 4075; C., '73, §§ 3731, 3732; C., '97, § 4696.]

SEC. 7405. By filing in clerk's office.

1 If the party sought to be served with notice is a nonresident, or
2 his residence is unknown, or in case of default, and the party has no
3 attorney of record who is a resident of the state, the notice of the
4 taking of depositions or suing out a commission therefor may be served
5 by filing such notice, or such notice with a copy of the interrogatories
6 attached, with the clerk of the court in which the action or proceeding
7 is pending, ten days before the taking of the depositions or the issu-
8 ance of the commission, as the case may be.

[R., '60, § 4076; C., '73, § 3733; C., '97, § 4697.]

SEC. 7406. Length of notice.

1 The notice of taking a deposition by either of the methods, except
2 as otherwise provided shall be, when served on the attorney, at least
3 ten days, and upon the party within the county where the deposition
4 is to be taken or the commission sued out, at least five days. If served
5 upon the party outside such county, the length of time shall be that
6 required in serving an original notice. If depositions are to be taken
7 upon notice, whether served upon the attorney or party, one day in
8 addition to the time hereinbefore specified must be allowed for every
9 one hundred miles travel from the place where it is served to where
10 the deposition is to be taken.

[C., '51, § 2453; R., '60, § 4073; C., '73, § 3730; C., '97,
§ 4698.]

SEC. 7407. Method of taking.

1 The person before whom depositions are taken must cause the
2 interrogatories propounded, if oral, to be written out, if written to
3 be stated by number, and the answers thereto inserted immediately
4 thereunder. The answers must be in the language, as nearly as prac-
5 ticable, of the witness. The whole, being read over by or to the wit-
6 ness, must be subscribed and sworn to by him in the usual manner.

[C., '51, § 2456; R., '60, § 4079; C., '73, § 3735; C., '97,
§ 4699.]

SEC. 7408. Certificate.

1 The officer taking the deposition shall attach thereto his certifi-
2 cate that the testimony of the witness was correctly and fully written
3 down by him, or by a disinterested person named therein, under his
4 direction and in his presence, and was read over by the officer to such

5 witness and signed and sworn to by the witness in the officer's pres-
 6 ence; any exhibits offered and identified shall be referred to in the
 7 certificate as thus identified, and the certificate shall show that the
 8 same or a true copy thereof is attached to and returned with the depo-
 9 sition. When the oath is administered to the witness by some other
 10 person, the officer's certificate shall recite such fact, stating his name
 11 and official character.

[C., '51, §§ 2457, 2458; R., '60, §§ 4080, 4081; C., '73, §§ 3736,
 3737; C., '97, § 4700.]

SEC. 7409. Oath administered.

1 If the deposition is taken in the state before a person not author-
 2 ized to administer oaths, or out of the state not before an officer enu-
 3 merated in and allowed by this chapter so to do, the witness must be
 4 sworn by some one who has that authority.

[C., '97, § 4701.]

SEC. 7410. Taking in shorthand.

1 The deposition may be taken in shorthand, in which case the cer-
 2 tificate of the person taking it on notice or commission must show
 3 that the testimony of the witness was correctly taken down in short-
 4 hand, and was correctly extended, and that the notes of his testimony
 5 or such extension thereof was read over to the witness, and signed by
 6 him and sworn to, if within the state before a person authorized to
 7 administer oaths, and if without the state before one of the officers
 8 authorized to take depositions outside of the state, and such extension,
 9 together with the shorthand notes, if signed and sworn to, must be
 10 returned as the deposition. Anyone taking depositions in shorthand
 11 shall first take and subscribe an oath to take down and transcribe
 12 correctly such testimony, and shall certify that his translation thereof
 13 is full, true and complete.

[C., '97, § 4702.]

SEC. 7411. Authentication of official character.

1 When depositions are taken before an officer not having a seal,
 2 unless so done by agreement of parties, his signature and official char-
 3 acter must be authenticated by the certificate of the clerk of a court
 4 of record under its seal, or that of the officer having in charge the
 5 seal of state. If taken before an officer having a seal, whether in or
 6 outside the state, the certificate of the officer under such seal shall
 7 be received as presumptive evidence of the genuineness of the signa-
 8 ture and of his official character.

[C., '51, § 2462; R., '60, § 4086; C., '73, § 3742; C., '97,
 § 4703.]

SEC. 7412. Neither party present at taking on commission.

1 Where a deposition is taken upon written interrogatories alone,
 2 neither party, nor his agent or attorney, shall be present at the exam-
 3 ination of the witness, unless both parties are present or represented
 4 by an agent or attorney, and the certificate shall state such fact if a
 5 party or his agent is present.

[R., '60, § 4082; C., '73, § 3738; C., '97, § 4704.]

SEC. 7413. Transmission.

1 The deposition duly certified as hereinbefore required, with the
 2 commission and interrogatories, if taken on commission, must be
 3 sealed up and deposited by the person taking it, within thirty days,
 4 with the clerk of the proper court, or transmitted to him by mail or
 5 express, unless some other mode be agreed upon between the parties.
 [C., '51, § 2458; R., '60, § 4081; C., '73, § 3737; C., '97,
 § 4705.]

SEC. 7414. Indorsement.

1 The deposition, when prepared for filing with or return to the
 2 clerk, must be indorsed, on the outside of a sealed envelope in which
 3 it is inclosed, with the title of the cause in which it is to be used.
 [C., '51, § 2460; R., '60, § 4084; C., '73, § 3740; C., '97,
 § 4706.]

SEC. 7415. Opened—custody.

1 When thus returned, it must be opened by the clerk and placed
 2 on file in his office, after which he shall at any time furnish any person
 3 with an attested copy of the same upon payment of the customary
 4 fees, but must not allow it to be taken from his office previous to the
 5 next term of the court, unless by the written consent of all of the
 6 parties.
 [C., '51, § 2459; R., '60, § 4083; C., '73, § 3739; C., '97,
 § 4707.]

SEC. 7416. Unimportant deviations.

1 Unimportant deviations from any of the above directions shall
 2 not cause the deposition to be excluded, where no substantial preju-
 3 dice could be wrought to the opposite party thereby, and by order of
 4 court it may be returned to the officer taking the same for correction
 5 and amendments as to formal matters.
 [C., '51, § 2461; R., '60, § 4085; C., '73, § 3741; C., '97,
 § 4708.]

SEC. 7417. Deposition to show reason for taking.

1 The deposition in all cases, unless the record discloses a cause for
 2 the taking, must show that the witness is a nonresident of the county,
 3 or such other fact as renders its taking legal, and no such deposition
 4 shall be read on the trial if, at the time, the witness himself is pro-
 5 duced in court.
 [C., '51, § 2463; R., '60, § 4087; C., '73, § 3743; C., '97,
 § 4709.]

SEC. 7418. On appeal from justice.

1 Depositions taken to be used in a justice's court shall be trans-
 2 ferred to the court to which the cause is appealed, and used on the
 3 trial of such appeal.
 [C., '51, § 2466; R., '60, § 4093; C., '73, § 3744; C., '97,
 § 4710.]

SEC. 7419. Notice of filing.

1 Upon the filing of a deposition in the clerk's office, he shall, on
 2 the day it is filed, mail to the attorney of each party to the action,
 3 directed to his postoffice address, a notice thereof, reciting the title
 4 of the case, names of witnesses, and the date of filing. If the post-
 5 office address of any such attorney is unknown to the clerk, the notice
 6 shall be addressed to him at the postoffice where the cause is pending
 7 for trial.

[R., '60, §§ 4088, 4099; C., '73, § 3751; C., '97, § 4711.]

SEC. 7420. Exceptions.

1 If a deposition is filed three days or more prior to noon of the
 2 second day of a term, no exceptions thereto, other than for incom-
 3 petency, irrelevancy or immateriality, shall be regarded, unless made
 4 by motion and filed by that time; if a deposition is filed thereafter or
 5 during a term, such exception shall be filed by noon of the third day
 6 after such filing, but all such exceptions or motions to suppress such
 7 depositions must be made before the cause is reached for trial.

[C., '51, § 2464; R., '60, §§ 4088, 4089; C., '73, § 3751; C., '97,
 § 4712.]

SEC. 7421. Hearing.

1 The court shall, on motion of either party, hear and decide the
 2 questions arising on exceptions and motions to suppress depositions
 3 before the commencement of the trial.

[R., '60, § 4090; C., '73, § 3752; C., '97, § 4713.]

SEC. 7422. Errors waived.

1 Errors of the court in its decision upon exceptions to depositions
 2 are waived, unless excepted to.

[R., '60, § 4091; C., '73, § 3753; C., '97, § 4714.]

SEC. 7423. Fees for taking.

1 Any officer or person taking depositions is authorized to charge
 2 therefor ten cents per hundred words, exclusive of the certificate; for
 3 administering an oath to each witness, five cents; for certifying to the
 4 administration of the oath to and signature of the deposition by each
 5 witness, twenty-five cents; and for the certificate to the deposition or
 6 depositions, twenty-five cents, the charge for such certificate including
 7 the affixing of the seal thereto, if the person certifying is an officer
 8 having a seal; for issuing a subpoena for a witness, twenty-five cents;
 9 for certifying to a court the failure of a witness to respond to a sub-
 10 poena, or his refusal to answer questions or to sign and swear to his
 11 deposition, twenty-five cents, with ten cents per hundred words for
 12 copies of papers required to be certified in such a case.

[C., '51, § 2552; R., '60, § 4160; C., '73, § 3835; C., '97,
 § 4715.]

SEC. 7424. Witness fees.

1 A witness appearing before an officer directed to take his depo-
 2 sition is entitled to the same fees and mileage as a witness in the court
 3 in which the deposition is to be used. If subpoenaed, such a witness
 4 is entitled to his fees and mileage in advance, as in other cases.

[C., '97, § 4716.]

SEC. 7425. Costs.

1 In all cases of taking depositions, the taxable costs thereof must
2 be paid in the first place by the party at whose instance they are
3 taken, subject, like other costs, to be taxed against the failing party
4 in the action.

[C., '51, § 2474; R., '60, § 4100; C., '73, § 3754; C., '97,
§ 4717.]

SEC. 7426. Perpetuating testimony.

1 The testimony of a witness may be perpetuated in the following
2 manner: The applicant must file in the office of the clerk of the dis-
3 trict or superior court a verified petition, which shall set forth the
4 subject matter relative to which testimony is to be taken, the names
5 of the persons interested, if known, and, if not, such general descrip-
6 tion as he can give of such persons, as heirs, devisees, alienees, or
7 otherwise. It must also state the names of the witnesses to be exam-
8 ined, the interrogatories to be propounded to each, that the applicant
9 expects to be a party to an action in a court of the state, in which such
10 testimony will, as he believes, be material, and the obstacles prevent-
11 ing the immediate commencement of the action, where he expects to
12 be the plaintiff.

[R., '60, §§ 4094, 4095; C., '73, §§ 3745, 3746; C., '97, § 4718.]

SEC. 7427. Order of court or judge.

1 The court, or the judge thereof, may, if the occasion for taking
2 the deposition be a proper one, make an order allowing the examina-
3 tion of such witnesses, which shall prescribe the time and place of the
4 examination, how long the parties interested shall be notified thereof,
5 and the manner in which they shall be notified.

[R., '60, § 4096; C., '73, § 3747; C., '97, § 4719.]

SEC. 7428. Cross-interrogatories.

1 When it satisfactorily appears to the court or judge that the
2 parties interested can not be personally notified, such court or judge
3 shall appoint a competent attorney to examine the petition and pre-
4 pare and file cross-interrogatories to those contained therein. The
5 witnesses must be examined upon the interrogatories of the applicant,
6 and any cross-interrogatories filed by or for parties, and no others
7 shall be propounded to them; nor shall any statement be received
8 which is not responsive to some of them. The attorney filing the
9 cross-interrogatories shall be allowed a reasonable fee therefor, to be
10 taxed in the bill of costs.

[R., '60, § 4097; C., '73, § 3748; C., '97, § 4720.]

SEC. 7429. Before whom taken.

1 Such deposition shall be taken before some one authorized by law
2 to take depositions, or before some one specially authorized by the
3 court or judge, and returned to the clerk's office of the court in which
4 the petition is filed, the method of taking and verifying the same being
5 the same as that provided for in case of depositions in an action, so
6 far as applicable.

[R., '60, § 4098; C., '73, § 3749; C., '97, § 4721.]

SEC. 7430. Costs.

1 The costs of taking the deposition, including those incurred in
 2 the proceeding for securing them, shall be paid in the first instance
 3 by the party causing them to be taken.

[C., '97, § 4722.]

SEC. 7431. Filing—use.

1 The court or judge, if satisfied that the depositions have been
 2 properly taken, and as herein required, shall approve the same and
 3 order them to be filed; and if a trial be had between the parties named
 4 in the petition, or their privies or successors in interest, such depo-
 5 sitions, or certified copies thereof, may be given in evidence by either
 6 party where the witnesses are dead or insane, or where their attend-
 7 ance for oral examination can not be obtained as required; but such
 8 depositions shall be subject to the same objections for irrelevancy, in-
 9 competency or immateriality as may be made to depositions taken
 10 pending an action.

[R., '60, § 4099; C., '73, § 3750; C., '97, § 4723.]

CHAPTER 11.
CHANGE OF VENUE.**SECTION 7432. Grounds for.**

1 A change of the place of trial in any civil action may be had in
 2 any of the following cases:

3 1. *County a party.* Where the county in which the action is
 4 pending is a party thereto, if the motion is made by the party ad-
 5 versely interested, and the issue be triable by jury.

6 2. *Judge a party or interested.* Where the judge is a party, or
 7 is directly interested in the action, or is connected by blood or affinity
 8 with any person so interested nearer than the fourth degree.

9 3. *Prejudice or local influence.* Where either party files an affi-
 10 davit, verified by himself and three disinterested persons not related
 11 to the party making the motion nearer than the fourth degree, nor
 12 standing in the relation of servant, agent or employee of such party,
 13 stating that the inhabitants of the county or the judge is so prejudiced
 14 against him, or that the adverse party or his attorney has such an
 15 undue influence over the inhabitants of the county, that he can not
 16 obtain a fair trial; and when either party files such an affidavit the
 17 other party shall have a reasonable time in which to prepare and file
 18 counter affidavits, and the court or judge, in its discretion, may cause
 19 the affiants upon either side to be brought into court for examination
 20 upon the matters contained in their affidavits, and, when fully ad-
 21 vised, shall allow or refuse the change according to the very right and
 22 merits of the matter.

23 4. *Agreement.* By the written agreement of the parties.

24 5. *Jury not obtainable.* If the issue is one triable by a jury, and
 25 it is made apparent to the court or judge that a jury can not be ob-
 26 tained in the county where the action is pending, then, upon the appli-
 27 cation of either party, a change of place of trial shall be granted to
 28 the nearest county in which a jury can be obtained.

29 6. *Fraud in the inception of written contract.* In an action
 30 brought on a written contract in the county where the contract by its
 31 express terms is to be performed, in which a defendant to said action,
 32 residing in a different county in the state, has filed a sworn answer
 33 alleging fraud in the inception of the contract constituting a complete
 34 defense thereto, such defendant, upon application and the filing of a
 35 sufficient bond, may have such action transferred to the district court
 36 of the county of his residence. If upon the trial of the action judg-
 37 ment is rendered against the defendant, it shall include the reasonable
 38 expenses incurred by the plaintiff and his attorney, on account of
 39 change of place of trial, as part of the costs. The bond above referred
 40 to shall be with sureties to be approved by the clerk, in an amount to
 41 be fixed by the court or judge in vacation for the payment of all costs
 42 which may accrue in the action in the court in which it is brought,
 43 or in any other to which it may be carried, either to the plaintiff or
 44 to the officers of the court.

45 Not more than two such changes to either party shall be allowed
 46 for any of the causes enumerated in this section; nor shall a change
 47 be allowed in case of appeal from a justice of the peace; nor, when
 48 the issues can only be tried to the court, for any objection to the in-
 49 habitants of the county, or for the objection that the adverse party
 50 or his attorney has such an undue influence over the inhabitants
 51 thereof that he can not obtain a fair trial. After a change of place
 52 of trial has been taken and a trial had, and the jury discharged or a
 53 new trial granted, a subsequent change may be taken for any of the
 54 causes mentioned in this section.

[C., '51, § 1706; R., '60, § 2803; C., '73, § 2590; C., '97,
 § 3505; S., '13, § 3505.]

**SEC. 7433. Change of venue on objections of judge—where—
 interchange of judges.**

1 When a change of venue is granted on the ground of objection
 2 made to the judge, he may, in his discretion, if there be a judge or
 3 judges of the same district against whom there is no objection, assign
 4 the cause to one of such judges for trial. If there be no other judge
 5 of his district against whom there is no objection, then he may, in his
 6 discretion, send the cause for trial to the nearest and most convenient
 7 county of another district, or to a county of another district agreed
 8 upon by the parties, for trial before a judge of such district; or he
 9 may procure another judge of another district to interchange with
 10 him for the trial of such cause.

[C., '97, § 249.]

SEC. 7434. Application for.

1 The application for a change of place of trial may be made either
 2 to the court or to the judge in vacation, and if made in term time shall
 3 not be awarded until the issues are made up, unless the objection is
 4 to the court, nor shall such application be allowed after a continuance,
 5 except for a cause not known to the affiant before or arising since such
 6 continuance, and after one change no party is entitled to another for
 7 any cause in existence when the first was obtained.

[C., '51, § 1708; R., '60, § 2804; C., '73, § 2591; C., '97,
 § 3506.]

SEC. 7435. To what county or court.

1 If the application for a change is granted for any cause except
2 on account of the prejudice or disability of the judge, or under sub-
3 division six of the first section of this chapter, the cause shall be sent
4 to the nearest or most convenient county in the district, unless objec-
5 tions supported by affidavit are made to each county in the district,
6 in which case to the nearest or most convenient county in another
7 district. If the objections are to the judge, the cause shall not be
8 tried by him, but retained on the docket and tried as provided in the
9 chapter relating to the district court.

[C., '51, § 1707; R., '60, § 2805; C., '73, § 2592; C., '97,
§ 3507; S., '13, § 3507.]

SEC. 7436. Notice in vacation.

1 If an application for the change is made in vacation, five days'
2 notice thereof, with a copy of the affidavit, shall be served on the ad-
3 verse party or his attorney, and, if granted, the judge shall forthwith
4 transmit his order to the clerk, with all the papers presented to him.

[C., '51, § 1709; R., '60, § 2806; C., '73, § 2593; C., '97,
§ 3508.]

SEC. 7437. When change perfected.

1 If the order for the change is granted in vacation, it must be
2 perfected by noon of the second day after the order is received by
3 the clerk, and if granted during term time, by the morning of the sec-
4 ond day thereafter, or before the cause is reached for trial, if sooner
5 reached, or such change, whether granted in term or vacation, will be
6 waived, and the cause tried as though no such order had been granted.
7 When the change has been perfected or agreed to by the parties, the
8 clerk must forthwith transmit to the clerk of the proper court a tran-
9 script of the record and proceedings, with all the original papers, hav-
10 ing first made out and filed in his office authenticated copies thereof;
11 but if less than all of several plaintiffs or defendants take such change,
12 the original papers shall not be so transmitted, but a copy thereof,
13 and, as to those who take no change, the cause shall proceed as if
14 none had been taken.

[C., '51, § 1710; R., '60, §§ 2807, 2810; C., '73, § 2594; C., '97,
§ 3509.]

SEC. 7438. Docketed.

1 Upon filing such transcript and papers in the office of the clerk of
2 the court to which the same were certified, the cause shall be docketed
3 without fee and proceeded with as though it had originated therein.

[C., '51, § 1711; R., '60, § 2808; C., '73, § 2595; C., '97,
§ 3510.]

SEC. 7439. Costs of change.

1 Unless the change is granted under subdivisions two, four, five or
2 six of the first section of this chapter, all costs caused thereby or that
3 are rendered useless by reason thereof, shall be paid by the applicant,
4 and the court or judge, at the time of making the order, shall designate

5 in general terms such costs, and no change shall be held perfected until
6 the same are paid.

[C., '51, § 1712; R., '60, § 2809; C., '73, § 2596; C., '97,
§ 3511; S., '13, § 3511.]

SEC. 7440. Jury fees.

1 Where the place of trial in any civil action is changed to any
2 county other than that in which the same was properly commenced,
3 where the trial thereof takes place at a regular term and occupies
4 more than one calendar day, the judge trying it shall certify the num-
5 ber of days so occupied, and the county in which the action was
6 originally commenced shall be liable to the county where the same is
7 tried for the sum of two dollars per day, for each jurymen engaged
8 in the trial thereof.

[C., '73, § 2597; C., '97, § 3512.]

SEC. 7441. Special term.

1 Where a special term of any court is held for the trial of any
2 action contemplated in the preceding section, the court trying the same
3 shall make out and certify the amount of county expenses incurred in
4 the trial of each action, and the same shall be paid by the county in
5 which the same was properly commenced.

[C., '73, § 2598; C., '97, § 3513.]

CHAPTER 12.

TRIAL AND JUDGMENT.

SECTION 7442. Issues.

1 Issues arise in the pleadings where a fact or conclusion of law is
2 maintained by one party and controverted by the other. They are
3 of two kinds:

- 4 1. Of law.
- 5 2. Of fact.

[R., '60, § 2993; C., '73, § 2737; C., '97, § 3647.]

SEC. 7443. Of fact and of law.

1 An issue of fact arises:
2 1. Upon a material allegation of fact in the petition denied by the
3 answer.
4 2. Upon material allegations of new matter in the answer, either
5 denied by a reply or by operation of law.
6 3. Upon allegations of new matter in the reply, which shall be
7 considered as controverted by the opposite party without further
8 pleading.

9 Any other issue is one of law.

[R., '60, §§ 2994, 2995; C., '73, § 2738; C., '97, § 3648.]

SEC. 7444. Trial defined.

- 1 Issues of law must be tried first. A trial is a judicial examina-
 2 tion of the issues in an action, whether they be issues of law or of fact.
 [C., '51, § 1770; R., '60, §§ 2996, 2997; C., '73, § 2739; C., '97,
 § 3649.]

SEC. 7445. How issues tried.

- 1 Issues of fact in an ordinary action must be tried by jury, unless
 2 the same is waived. All other issues shall be tried by the court, unless
 3 a reference thereof is made.
 [C., '51, § 1772; R., '60, § 2998; C., '73, § 2740; C., '97,
 § 3650.]

SEC. 7446. Method of trial in ordinary actions—appeal.

- 1 All issues of fact in ordinary actions shall be tried upon oral
 2 evidence taken in open court, except that depositions may be used as
 3 provided by law; and, upon appeal, no evidence shall go to the su-
 4 preme court except such as may be necessary to explain any exception
 5 taken in the cause, and such court shall hear and try the case only on
 6 the legal errors so presented.
 [R., '60, § 2999; C., '73, § 2741; C., '97, § 3651.]

SEC. 7447. In equitable actions—certificate of evidence—trial anew on appeal.

- 1 In equitable actions wherein issues of fact are joined, all the
 2 evidence offered in the trial shall be taken down in writing, or the
 3 court may order the evidence, or any part thereof, to be taken in the
 4 form of depositions, or either party may, at pleasure, take his testi-
 5 mony, or any part thereof, by deposition. All the evidence so taken
 6 shall be certified by the judge at any time within six months after the
 7 entry of a final decree, and the evidence and certificate be made a
 8 part of the record, and go on appeal to the supreme court, which shall
 9 try the cause anew. But this section shall be so construed as to
 10 include the evidence taken in shorthand, when the reporter's notes of
 11 such evidence have been certified to by the judge and reporter within
 12 the time herein provided.
 [R., '60, § 2999; C., '73, § 2742; C., '97, § 3652; S., '13,
 § 3652.]

SEC. 7448. Abstracts in equity causes.

- 1 In equitable causes, where the evidence is taken in the form of
 2 depositions, the court may require to be submitted with the arguments
 3 an abstract of the pleadings and evidence, substantially as required by
 4 the rules of the supreme court for abstracts in appeals in equitable
 5 causes, except that the same need not be printed.
 [C., '97, § 3653.]

SEC. 7449. Finding of facts.

- 1 In all trials of fact by the court, other than those contemplated in
 2 the second preceding section, the court shall, if either party requests
 3 it, give its decision in writing, stating separately the facts found and
 4 the legal conclusion founded thereon; and the whole decision shall be

5 a part of the record, and the finding shall have the effect of a spe-
6 cial verdict.

[C., '51, § 1793; R., '60, § 3088; C., '73, § 2743; C., '97,
§ 3654.]

SEC. 7450. Trial term.

1 Except where otherwise provided, causes shall be tried at the first
2 term after legal and timely service has been made.

[C., '51, § 1763; R., '60, § 3007; C., '73, § 2744; C., '97,
§ 3655.]

SEC. 7451. In equitable actions.

1 The appearance term shall not be the trial term for equitable
2 actions, except those brought for mandamus or divorce, to foreclose
3 mortgages and other instruments of writing whereby a lien or charge
4 on property is created, or to enforce mechanics' liens, or appeal cases
5 in contested elections.

[R., '60, § 2856; C., '73, § 2745; C., '97, § 3656; S., '13,
§ 3656.]

SEC. 7452. Separate trials.

1 The court may, in its discretion, allow separate trials between the
2 plaintiff and any defendant, or of any cause of action united with
3 others, or of any issue in an action; and such separate trials may be
4 had at the same or different terms of the court, as circumstances may
5 require.

[C., '51, § 1768; R., '60, §§ 3024, 3025; C., '73, § 2746; C.,
'97, § 3657.]

SEC. 7453. Trial notice.

1 In any case once continued, where an answer is on file, either
2 party desiring to bring such cause on for trial at any term shall, at
3 least ten days before such term, file with the clerk a notice of trial,
4 and no such cause shall stand for trial unless a trial notice be so filed,
5 except by consent of parties. But after the commencement of the
6 term, the court may in its discretion, by order entered of record, per-
7 mit notices of trial to be entered in the same manner, ten days prior
8 to such date as the court may name in such order. Such order may be
9 general, and not entered of record in each particular case. The clerk,
10 in preparing the court calendars, shall note thereon, opposite the title
11 of each cause noticed for trial, the words, "for trial," which words
12 shall also appear on the printed calendar. This rule shall not apply to
13 appearance or criminal cases, nor to proceedings in probate.

[C., '97, § 3658.]

SEC. 7454. Assignments of trial causes—hearing of motions and demurrers.

1 On the first day of the term, or as soon thereafter as practicable,
2 the court may make an assignment of the trial causes, which assign-
3 ment shall fix the day of the term on which each cause will be tried,
4 and parties will be required to conform to this order of trial. Further
5 assignments may be made by the court as often as necessary. The

6 court may also designate particular times for the hearing of motions
7 and demurrers.

[C., '97, § 3659.]

SEC. 7455. Docketing appeals from justices—other appeals.

1 In appeals from justices' courts or other inferior tribunals in civil
2 causes, the appellant shall cause the case to be docketed by noon of the
3 second day of the term to which the same is returnable, and, in case of
4 his failure to do so, the appellee may procure the case to be docketed,
5 and thereupon will be entitled to have the judgment below affirmed, or
6 to have the case set down for trial upon its merits, as he may elect, and
7 the provisions of this code as to appeals from justices' courts shall be
8 applicable, so far as may be, to other appeals contemplated in this
9 section.

[C., '97, § 3660.]

SEC. 7456. Calendar.

1 The clerk shall keep a calendar distinguishing, first, criminal
2 causes, and next, civil causes, and arranging each in the order of their
3 commencement, and, if the court so order, shall, under the direction
4 of the court or judge, apportion the same to as many days as is be-
5 lieved necessary, and, at the request of any party to a cause, or his
6 attorney, shall issue subpoenas accordingly. The clerk shall furnish
7 the court and the bar with a sufficient number of printed copies of the
8 calendar.

[C., '51, §§ 1761, 1762; R., '60, § 3005; C., '73, § 2747; C.,
'97, § 3661.]

SEC. 7457. Continuances—application for.

1 When time is asked for making application for continuance, the
2 cause shall not lose its place on the calendar, or it may be continued
3 at the option of the other party, and at the cost of the party applying
4 therefor, for which cost judgment may at once be entered by the clerk,
5 unless the contrary be agreed between the parties or ordered by the
6 court.

[C., '51, § 1764; R., '60, § 3008; C., '73, § 2748; C., '97,
§ 3662.]

SEC. 7458. Causes for.

1 A continuance shall not be granted for any cause growing out of
2 the fault or negligence of the party applying therefor; subject to this
3 rule, it may be allowed for any cause which satisfies the court that
4 substantial justice will thereby be more nearly obtained.

[C., '51, § 1765; R., '60, § 3009; C., '73, § 2749; C., '97,
§ 3663.]

SEC. 7459. Affidavits—what must show.

1 Motions for continuance on account of the absence of evidence
2 must be founded on the affidavit of the party, his agent or attorney,
3 and must state:

4 1. The name and residence of such witness, or, if not known, that
5 the affiant has used reasonable diligence to ascertain them, and in
6 either case facts showing reasonable grounds of belief that his
7 attendance or testimony will be procured at the next term.

8 2. Efforts constituting due diligence which have been used to
 9 obtain such witness, or his testimony.
 10 3. What particular facts, as distinguished from legal conclusions,
 11 the affiant believes the witness will prove, and that the affiant believes
 12 them to be true, and that he knows of no other witness by whom such
 13 facts can be fully proven.

[C., '51, § 1766; R., '60, §§ 3010, 3011; C., '73, § 2750; C., '97,
 § 3664.]

SEC. 7460. Admission by opposite party.

1 If the application is insufficient, it shall be overruled; if sufficient,
 2 the cause shall be continued, unless the adverse party will admit that
 3 the witness, if present, would testify to the facts therein stated, in
 4 which event the cause shall not be continued, but the party may read
 5 as evidence of such witness the facts held by the court to be properly
 6 stated.

[C., '51, § 1767; R., '60, §§ 3012, 3013; C., '73, § 2751; C., '97,
 § 3665.]

SEC. 7461. Filing motion.

1 The motion must be filed on the second day of the term, if it is
 2 then certain that it will have to be made before the trial, and as soon
 3 thereafter as it becomes certain that it will need to be made, and shall
 4 not be allowed to be made when the cause is called for trial, except
 5 for matters which could not by reasonable diligence have been before
 6 that time discovered. If made after the second day of the term, the
 7 affidavit must state facts constituting an excuse for the delay in mak-
 8 ing it. If time is taken when the case is called to make such motion,
 9 it shall be made and determined as soon as the court opens after the
 10 next ordinary adjournment.

[R., '60, § 3014; C., '73, § 2752; C., '97, § 3666.]

SEC. 7462. Amendment.

1 The application may be amended but once, unless by permission
 2 to supply a clerical error.

[R., '60, § 3015; C., '73, § 2753; C., '97, § 3667.]

SEC. 7463. Written objections.

1 To such motion, in its original form or as amended, the adverse
 2 party may at once, or within such reasonable time as the court shall
 3 allow, file written objections, stating wherein he claims that the same
 4 is insufficient, and on such motion and objections no argument shall
 5 be heard unless the court desires it.

[R., '60, § 3016; C., '73, § 2754; C., '97, § 3668.]

SEC. 7464. Part of record.

1 Such motion and objections shall be a part of the record, and
 2 error in refusing a continuance or in compelling an election may be
 3 reviewed upon appeal.

[R., '60, § 3017; C., '73, § 2755; C., '97, § 3669.]

SEC. 7465. Entered on appearance docket.

1 No copy of a motion for continuance or of objections thereto
2 need be served, but a minute of the filing thereof shall be entered on
3 the appearance docket.

[R., '60, § 3018; C., '73, § 2756; C., '97, § 3670.]

SEC. 7466. Costs.

1 Every continuance granted shall be at the cost of the party apply-
2 ing therefor, unless otherwise ordered by the court.

[R., '60, § 3019; C., '73, § 2757; C., '97, § 3671.]

SEC. 7467. By agreement.

1 The court shall grant continuances whenever the parties agree
2 thereto, and provide as to costs as may be stipulated.

[R., '60, § 3020; C., '73, § 2758; C., '97, § 3672.]

SEC. 7468. Case remains on docket.

1 A case continued remains for all purposes except a trial on the
2 facts.

[R., '60, § 3022; C., '73, § 2759; C., '97, § 3673.]

SEC. 7469. One of several defendants.

1 When the defenses are distinct, any one of several defendants
2 may continue as to himself.

[R., '60, § 3023; C., '73, § 2760; C., '97, § 3674.]

SEC. 7470. Report of trial—certificate.

1 In all appealable actions triable by ordinary or equitable pro-
2 ceedings, any party thereto shall be entitled to have reported the whole
3 proceedings upon the trial or hearing, and the court or judge shall
4 direct the reporter to make such report in writing or shorthand, which
5 shall contain the date of the commencement of the trial, the proceed-
6 ings impaneling the jury, and any objections thereto with the rulings
7 thereon, the oral testimony at length, and all offers thereof, all objec-
8 tions thereto, the rulings thereon, the identification as exhibits, by
9 letter or number or other appropriate mark, of all written or other
10 evidence offered, and by sufficient reference thereto, made in the re-
11 port, to make certain the object or thing offered, all objections to such
12 evidence and the rulings thereon, all motions or other pleas orally
13 made and the rulings thereon, the fact that the testimony was closed,
14 the portions of arguments objected to, when so ordered by the court,
15 all objections thereto with the rulings thereon, all oral comments or
16 statements of the court during the progress of the trial, and any ex-
17 ceptions taken thereto, the fact that the jury is instructed, all objec-
18 tions and exceptions to instructions given by the court on its own
19 motion, the fact that the case is given to the jury, the return of the
20 verdict and action thereon of whatever kind, and any other proceed-
21 ings before the court, judge or jury which might be preserved and
22 made of record by bill of exceptions, and shall note that exception
23 was saved by the party adversely affected to every ruling made by
24 the court or judge. Such report shall be certified by the trial judge
25 and reporter, when demanded by either party, to the effect that it
26 contains a full, true and complete report of all proceedings had that

27 are required to be kept, and, when so certified, the same shall be filed
 28 by the clerk and, with all matters set out or identified therein, shall
 29 be a part of the record in such action, and constitute a complete bill
 30 of exceptions. But on a trial before a jury it shall not be necessary
 31 to take down arguments of counsel or statements of the court, except
 32 his rulings, when not made in the presence of the jury.

[C., '73, § 3777; C., '97, § 3675.]

SEC. 7471. Selection of jury.

1 When an action is to be tried by a jury the clerk shall select
 2 sixteen jurors by lot from the regular panel or additions thereto,
 3 which shall be supplied as provided in the chapter on jurors.

[C., '51, § 1773; R., '60, § 3026; C., '73, § 2761; C., '97, § 3676;
 37 G. A., ch. 310, § 2.]

SEC. 7472. Challenges.

1 A challenge is an objection made to the trial jurors, and is of two
 2 kinds:

- 3 1. To the panel.
- 4 2. To an individual juror.

[C., '51, § 2972; R., '60, § 3027; C., '73, § 2762; C., '97,
 § 3677.]

SEC. 7473. Joint challenges.

1 Where there are several parties, plaintiffs or defendants, and no
 2 separate trial is allowed, they shall not sever their challenges, but
 3 must join in them.

[R., '60, § 3028; C., '73, § 2763; C., '97, § 3678.]

SEC. 7474. To the panel.

1 A challenge to the panel can be founded only on a material
 2 departure from the forms prescribed by statute in respect to the draw-
 3 ing and return of the jury.

[C., '51, § 2974; R., '60, § 3029; C., '73, § 2764; C., '97,
 § 3679.]

SEC. 7475. When and how made.

1 A challenge to the panel must be taken before a juror is sworn,
 2 and must be in writing, specifying distinctly the facts constituting
 3 the ground of challenge.

[C., '51, § 2975; R., '60, § 3030; C., '73, § 2765; C., '97,
 § 3680.]

SEC. 7476. How tried.

1 A challenge to the panel may be taken by either party, and upon
 2 the trial thereof the officers, whether judicial or ministerial, whose
 3 irregularity is complained of, as well as any other persons, may be
 4 examined to prove or disprove the facts alleged as the ground of the
 5 challenge.

[C., '51, § 2976; R., '60, § 3031; C., '73, § 2766; C., '97,
 § 3681.]

SEC. 7477. Allowance.

1 If the challenge is sustained by the court, the jury must be dis-
 2 charged, and its members will be disqualified from sitting in the trial
 3 in question; if it is overruled, the court shall direct the jury to be
 4 impeached.

[C., '51, § 2977; R., '60, § 3032; C., '73, § 2767; C., '97,
 § 3682.]

SEC. 7478. To jurors.

1 A challenge to an individual juror is either peremptory or for
 2 cause.

[C., '51, § 2978; R., '60, § 3033; C., '73, § 2768; C., '97,
 § 3683.]

SEC. 7479. When made—determination.

1 It must be taken when the juror appears and before the jury is
 2 sworn. Upon the trial of a challenge, the juror challenged shall be
 3 sworn, if demanded by either party, and examined as a witness, and
 4 must answer every question pertinent to the inquiry thereof.

[C., '51, § 2979; R., '60, § 3034; C., '73, § 2769; C., '97,
 § 3684.]

SEC. 7480. Peremptory.

1 A peremptory challenge is an objection to a juror for which no
 2 reason need be given, but upon which the court shall exclude him.

[C., '51, § 2980; R., '60, §§ 3035, 4778; C., '73, §§ 2770, 4412;
 C., '97, § 3685.]

SEC. 7481. Challenges—number—striking.

1 Each party shall have the right to peremptorily challenge three
 2 jurors and shall strike two jurors. The clerk shall prepare a list of
 3 jurors called and after all challenges for cause are exhausted or
 4 waived, the parties, commencing with the plaintiff shall alternately
 5 challenge peremptorily or waive by indicating any such challenge upon
 6 the list opposite the name of the juror challenged or by indicating the
 7 number of waiver elsewhere on the list.

8 After all challenges or waivers have been indicated the parties
 9 shall alternately in the same manner each strike two jurors from the
 10 list.

[C., '51, § 1774; R., '60, § 3036; C., '73, § 2771; C., '97, § 3686;
 37 G. A., ch. 310, § 3.]

SEC. 7482. Vacancies.

1 After each challenge, either for cause, or peremptory as indicated
 2 on the list, another juror shall be called and examined for challenge
 3 for cause before further challenge is made and any new juror thus
 4 called may be challenged for cause and shall be subject to peremptory
 5 challenge or to being struck from the list as other jurors. After all
 6 challenges have thus been exercised or waived and four jurors have
 7 been struck from the list the clerk shall read the names of the twelve
 8 jurors remaining who shall constitute the jury selected.

[C., '51, § 1775; R., '60, § 3037; C., '73, § 2772; C., '97,
 § 3687; 37 G. A., ch. 310, § 4.]

SEC. 7483. For cause.

- 1 A challenge for cause is an objection to a juror, and may be for
 2 any of the following causes:
 3 1. A conviction of felony.
 4 2. A want of any of the qualifications prescribed by statute to
 5 render a person a competent juror.
 6 3. Such defects in the faculties of mind or organs of the body as
 7 render him incapable of performing the duties of a juror.
 8 4. Consanguinity or affinity within the ninth degree to the ad-
 9 verse party.
 10 5. Standing in the relation of guardian and ward, or the client of
 11 any attorney engaged in the cause, master and servant, landlord and
 12 tenant, or being a member of the family or in the employment of the
 13 adverse party.
 14 6. Being a party adverse to the challenging party in a civil action,
 15 or having complained against or been accused by him in a criminal
 16 prosecution.
 17 7. Having already sat upon the trial of the same issues.
 18 8. Having served as a grand or trial juror in a criminal case
 19 based on the same transaction.
 20 9. When it appears the juror has formed or expressed an unqual-
 21 ified opinion on the merits of the controversy, or shows such a state
 22 of mind as will preclude him from rendering a just verdict.
 23 10. Being interested in a like question with the issue to be tried.
- [R., '60, §§ 2271, 3037-3040; C., '73, § 2772; C., '97, § 3688.]

SEC. 7484. How tried.

- 1 Upon the trial of a challenge to an individual juror, he may be
 2 examined as a witness to prove or disprove the challenge, and must
 3 answer every question pertinent to the inquiry thereon, and other evi-
 4 dence may be heard.
- [C., '51, § 2988; R., '60, § 3042; C., '73, § 2773; C., '97,
 § 3689.]

SEC. 7485. Determination.

- 1 In all challenges, the court shall determine the law and the
 2 fact, and must either allow or disallow the challenge.
- [C., '51, § 2989; R., '60, § 3043; C., '73, § 2774; C., '97,
 § 3690.]

SEC. 7486. Persons who keep the seventh day.

- 1 A person whose religious faith requires him to keep the seventh
 2 day of the week can not be compelled to attend as a juror on that day.
- [C., '51, § 2504; R., '60, § 4112; C., '73, § 2776; C., '97,
 § 3691.]

SEC. 7487. Exemption.

- 1 An exemption from service as a juror is not a cause of chal-
 2 lenge, but the privilege of the person exempt.
- [C., '51, § 2987; R., '60, §§ 3041, 4772; C., '73, §§ 2777, 4406;
 C., '97, § 3692.]

SEC. 7488. Attachment for absent jurors.

1 When a cause is called for trial, and before drawing the jury,
2 either party may require the names of all the jurors in the panel to
3 be called, and an attachment to be issued against those who are
4 absent, but the court may, in its discretion, wait or not for the return
5 of the attachment.

[C., '97, § 3693.]

SEC. 7489. Ballots prepared.

1 The clerk shall prepare separate ballots containing the names of
2 the persons returned as jurors, which shall be folded, each in the
3 same manner, as near as may be, and so that the name thereon shall
4 not be visible, and must deposit them in a box kept for that purpose.

[C., '97, § 3694.]

SEC. 7490. Drawing.

1 Before the name of any juror is drawn, the box must be closed
2 and shaken, so as to intermingle the ballots therein, and the clerk
3 shall draw such ballots from the box, without seeing the names
4 written thereon, through the top of the lid thereof.

[C., '97, § 3695.]

SEC. 7491. Jurors absent or excused.

1 If a juror is absent when his name is drawn, or be set aside or
2 excused from serving on that trial, the ballot containing his name
3 must be folded and returned to the box as soon as the jury is sworn.

[C., '97, § 3696.]

SEC. 7492. Ballots returned to box.

1 When a jury is completed, the ballots containing the names of
2 the jurors sworn must be laid aside and kept apart from the ballots
3 containing the names of the other jurors until it is discharged, and
4 must then be again folded and returned to the box, and so on, as often
5 as a trial is had.

[C., '97, § 3697.]

SEC. 7493. Panel exhausted.

1 If for any reason the regular panel is exhausted without a jury
2 being selected, it shall be completed in the manner provided in the
3 chapter upon selecting, drawing and summoning juries.

[C., '97, § 3698.]

SEC. 7494. Majority verdict—struck jury.

1 The parties, at any time before the final submission, may agree
2 to take the verdict of the majority, which agreement, being stated
3 to the court and entered upon the record, shall bind the parties, and
4 in such case a verdict, signed by any seven or more and duly rendered,
5 when read and not disapproved by said majority, shall in every partic-
6 ular be as binding as if made by a full jury; or, when both parties
7 require it, a struck jury may be ordered, whereupon eighteen jurors
8 shall be called into the box, and the plaintiff first, and then the de-

9 fendant, shall strike out one juror in turn until each has struck six,
10 and the remaining six shall try the cause.

[C., '51, § 1776; R., '60, § 3045; C., '73, § 2778; C., '97,
§ 3699.]

SEC. 7495. Procedure after jury is sworn—order of evidence.

1 When the jury has been sworn, the court shall proceed in the
2 following order:

3 1. The party on whom rests the burden of proof may briefly
4 state his claim and the evidence by which he expects to sustain it.

5 2. The other party may then briefly state his defense and the
6 evidence by which he expects to sustain it.

7 3. The party on whom rests the burden of proof in the whole
8 action must first produce his evidence, to be followed by that of the
9 adverse party.

10 4. The parties then will be confined to rebutting evidence, unless
11 the court for good reasons, in furtherance of justice, permit them to
12 offer evidence in their original case.

13 5. But one counsel on each side shall examine the same witness.
14 Upon interlocutory questions, the party moving the court or objecting
15 to testimony shall be heard first; the respondent may then reply by
16 one counsel, and the mover rejoining, confining his remarks to the
17 points first stated and a pertinent answer to respondent's argument.
18 Argument on the questions shall then be closed, unless further re-
19 quested by the court.

[R., '60, § 3046; C., '73, § 2779; C., '97, § 3700.]

SEC. 7496. Argument—opening and closing.

1 The parties may then either submit or argue the case to the jury.
2 In the argument, the party then having the burden of the issue shall
3 have the opening and closing, but shall disclose in the opening all the
4 points relied on in the cause; and if in the close he should refer to
5 any new material point or fact not relied upon in the opening, the
6 adverse party shall have the right of reply thereto, which reply shall
7 close the argument in the case.

[R., '60, § 3047; C., '73, § 2780; C., '97, § 3701.]

SEC. 7497. Waiver of opening.

1 If the party holding the affirmative waives the opening, he shall
2 be limited in the close simply to a reply to his adversary's argument,
3 otherwise the other party shall have the concluding argument.

[R., '60, § 3048; C., '73, § 2781; C., '97, § 3702.]

SEC. 7498. Number of attorneys—court to arrange order.

1 Every plaintiff or defendant shall be entitled to appear by one
2 attorney, and if there be but one plaintiff or defendant he may appear
3 by two, and where there are several defendants having the same or
4 separate defenses and appearing by the same or different attorneys,
5 the court shall, before argument, arrange their order.

[R., '60, § 3049; C., '73, § 2782; C., '97, § 3703.]

SEC. 7499. Argument restricted.

1 The court may restrict the time of argument of any attorney to
2 itself, but shall not limit the argument in cases tried to a jury.

[R., '60, § 3050; C., '73, § 2783; C., '97, § 3704.]

SEC. 7500. Instructions—to be in writing.

1 Either party may request instructions to the jury on points of
2 law which shall be given or refused by the court. All instructions
3 asked and the charge of the court shall be in writing.

[R., '60, § 3051; C., '73, § 2784; C., '97, § 3705; S., '13,
§ 3705.]

SEC. 7501. Instructions—exceptions.

1 Either party may take and file exceptions to the instructions of
2 the court or any part of the instructions given or to the refusal to give
3 any instructions as requested within five days after the verdict in the
4 cause is filed or within such further time as the court may allow and
5 may include the same or any part thereof in a motion for a new trial,
6 but all such exceptions shall specify the part of the instructions as
7 excepted to, or of the instructions asked and refused and objected to,
8 and the grounds of such objections.

[S., '13, § 3705-a; 37 G. A., ch. 24, § 1.]

SEC. 7502. Modification.

1 If the court refuse a written instruction as demanded, but give
2 the same with a modification, which the court may do, such modifica-
3 tion shall not be by interlineation or erasure, but shall be well defined,
4 and shall follow some such characterizing words as "changed thus,"
5 which words shall themselves indicate that the same was refused
6 as demanded.

[R., '60, § 3053; C., '73, § 2785; C., '97, § 3706.]

SEC. 7503. Record—exceptions.

1 All instructions requested or given shall be filed by the clerk and
2 be a part of the record, and if the giving or refusal of an instruction
3 is excepted to, it may be noted by the shorthand reporter, and no
4 reason for such exception need be given.

[R., '60, § 3055; C., '73, § 2787; C., '97, § 3707.]

SEC. 7504. Numbered—given or refused.

1 The instructions given, whether by request or otherwise, shall
2 be in consecutively numbered paragraphs, shall be read to the jury
3 without oral comment or explanation, and be announced as given,
4 and those refused shall be so marked, and the court, without reading
5 them, shall announce such refusal. Those given at the request of
6 either party shall be marked given at the request of the party asking
7 them, naming him as plaintiff or defendant, as the case may be.

[R., '60, §§ 3054, 3057, 3058, 3060; C., '73, §§ 2786, 2788;
C., '97, § 3708.]

SEC. 7505. Exceptions after verdict.

1 Either party may take and file exceptions to the charge or in-
2 structions given, or to the refusal to give any instructions asked,

3 within five days after the verdict, which shall be a part of the record,
 4 and may include the same in a motion for a new trial, but in either
 5 case the exceptions shall specify the part of the charge or instruction
 6 objected to and the ground of the objection.

[R., '60, § 3059; C., '73, § 2789; C., '97, § 3709; 38 G. A.,
 ch. 11, § 1.]

SEC. 7506. View of premises by jury.

1 When in the opinion of the court it is proper for the jury to have
 2 a view of the real property which is the subject of controversy, or the
 3 place in which any material fact occurred, it may order them to be
 4 conducted in a body, under the charge of an officer, to the place, which
 5 shall be shown to them by some person appointed by the court for that
 6 purpose; while the jury are thus absent, no one, save such person so
 7 selected, shall speak to them on any subject connected with the trial.

[C., '51, § 1779; R., '60, § 3061; C., '73, § 2790; C., '97,
 § 3710.]

SEC. 7507. Rules as to jury—deliberation—kept together.

1 When the case is finally submitted to the jury, they may decide
 2 in court or retire for deliberation. If they retire, they shall be kept
 3 together, under charge of an officer until they agree upon a verdict or
 4 are discharged by the court. The officer having them under his charge
 5 shall not suffer any communication to be made to them, or make any
 6 himself, except to ask them if they have agreed upon their verdict,
 7 unless by order of the court, and he shall not, before their verdict is
 8 rendered, communicate to any person the state of their deliberations
 9 or the verdict agreed upon.

[C., '51, § 1781; R., '60, § 3062; C., '73, § 2791; C., '97,
 § 3711.]

SEC. 7508. Separation—advice by court.

1 After the jury is sworn they shall not be permitted to separate
 2 during the trial, unless so ordered by the court, and, when so ordered,
 3 they must be advised by the court that it is the duty of each one of
 4 them not to converse with any other of them, or with any person, nor
 5 to suffer himself to be addressed by any person, on any subject of the
 6 trial, and that, during the same, it is the duty of each one of them to
 7 avoid, as far as possible, forming any opinion thereon until the cause
 8 is finally submitted to them.

[C., '51, § 1780; R., '60, § 3063; C., '73, § 2792; C., '97,
 § 3712.]

SEC. 7509. Discharge of juror.

1 If after impaneling a jury and before a verdict a juror becomes
 2 sick, so as to be unable to perform his duty, he may be discharged.
 3 In such case the trial shall proceed with the remaining jurors if the
 4 parties consent, which consent shall be entered by the court or short-
 5 hand reporter and become a part of the record; otherwise the jury
 6 shall be discharged.

[C., '51, § 1782; R., '60, § 3064; C., '73, § 2793; C., '97,
 § 3713.]

SEC. 7510. Discharge of jury.

1 The jury may be discharged by the court on account of any acci-
 2 dent or calamity requiring it, or by the consent of both parties, or
 3 when on an amendment a continuance is ordered, or after they have
 4 been kept together until it satisfactorily appears that there is no
 5 probability of their agreeing.

[R., '60, § 3065; C., '73, § 2794; C., '97, § 3714.]

SEC. 7511. Cause retried.

1 In all cases where the jury are discharged during the trial, or
 2 after the cause is submitted to them, it may be tried again immedi-
 3 ately, or at a future time, as the court may then direct.

[R., '60, § 3066; C., '73, § 2795; C., '97, § 3715.]

SEC. 7512. Adjournment.

1 The court may, at any time after having entered upon the trial
 2 of any cause, and in furtherance of justice, order an adjournment for
 3 such time within the term, and subject to such terms and conditions
 4 as to costs and otherwise, as it may think just.

[R., '60, § 3067; C., '73, § 2796; C., '97, § 3716.]

SEC. 7513. What jury may take with them.

1 Upon retiring for deliberation, the jury may take with them all
 2 books of accounts and all papers which have been received as evidence
 3 in the cause, except depositions, which shall not be taken unless all the
 4 testimony is in writing and none of the same has been ordered to be
 5 struck out.

[C., '51, § 1783; R., '60, § 3068; C., '73, § 2797; C., '97,
 § 3717.]

SEC. 7514. Court open for verdict.

1 When the jury is absent, the court may adjourn from time to
 2 time in respect to other business, but shall be regarded as open for
 3 every purpose connected with the cause submitted to the jury, until
 4 a verdict is rendered or the jury discharged.

[C., '51, § 1784; R., '60, § 3069; C., '73, § 2798; C., '97,
 § 3718.]

SEC. 7515. Further testimony to correct mistake.

1 At any time before the cause is finally submitted to the court or
 2 jury, either party may be permitted by the court to give further
 3 testimony to correct an evident oversight or mistake, but terms may
 4 be imposed upon the party obtaining the privilege.

[C., '51, § 1778; R., '60, § 3070; C., '73, § 2799; C., '97,
 § 3719.]

SEC. 7516. Additional instructions.

1 After the jury has retired for deliberation, if they desire to be
 2 instructed as to any point of law arising in the case, they may request
 3 the officer to conduct them into court, which he shall do, when the
 4 court may further instruct, which instruction shall be given in the
 5 presence of or after notice to the parties or their counsel. Such in-
 6 struction shall be in writing, be filed as other instructions in the case,

7 and be a part of the record, and may be excepted to in the same time
8 and manner as the instructions given before the jury retires.

[R., '60, §§ 3071, 3072; C., '73, §§ 2800, 2801; C., '97,
§ 3720.]

SEC. 7517. Food and lodging.

1 If, while the jury are kept together, either during the progress
2 of the trial or after their retirement for deliberation, the court orders
3 them to be provided with suitable food and lodging, it must be pro-
4 vided by the sheriff at the expense of the county.

[R., '60, § 3076; C., '73, § 2802; C., '97, § 3721.]

SEC. 7518. Verdict—how signed and rendered.

1 The verdict must be in writing, signed by a foreman chosen by
2 the jury itself, and, when agreed to, the jury must be conducted into
3 court, their names called, and the verdict rendered by him and read
4 by the clerk to the jury, and the inquiry made whether it is their ver-
5 dict. If any juror disagrees, the jury must be sent out again, but if
6 no disagreement is expressed, and neither party requires the jury to
7 be polled, the verdict is complete, and the jury shall be discharged
8 from the case.

[C., '51, § 1789; R., '60, § 3073; C., '73, § 2803; C., '97,
§ 3722.]

SEC. 7519. Jury polled.

1 When the verdict is announced, either party may require the
2 jury to be polled, which shall be done by the court or clerk, asking each
3 juror if it is his verdict. If any one answers in the negative, the jury
4 must be sent out for further deliberation.

[R., '60, § 3074; C., '73, § 2804; C., '97, § 3723.]

SEC. 7520. Sealed verdict.

1 When by consent of the parties and the court the jury have been
2 permitted to seal their verdict and separate before it is rendered, such
3 sealing is equivalent to a rendition and a recording thereof in open
4 court, nor shall such jury be polled or permitted to disagree thereto,
5 unless such course has been agreed upon between the parties in open
6 court and entered on the record.

[C., '51, § 1785; R., '60, § 3075; C., '73, § 2805; C., '97,
§ 3724.]

SEC. 7521. General or special.

1 The verdict of a jury is either general or special. A general ver-
2 dict is one in which they pronounce generally for the plaintiff or for
3 the defendant upon all or upon any of the issues.

[R., '60, § 3077; C., '73, § 2806; C., '97, § 3725.]

SEC. 7522. Special defined.

1 A special verdict is one in which the jury finds facts only; it must
2 present the ultimate facts as established by the evidence, and not the
3 evidence to prove them, so that nothing remains to the court but to
4 draw from them its conclusions of law.

[R., '60, § 3078; C., '73, § 2807; C., '97, § 3726.]

SEC. 7523. Findings.

1 The jury in any case in which it renders a general verdict may
 2 be required by the court, and must be so required on the request of
 3 any party to the action, to find specially upon any particular questions
 4 of fact, to be stated to it in writing, which questions of fact shall be
 5 submitted to the attorneys of the adverse party before argument to
 6 the jury is commenced.

[C., '51, §§ 1786, 1787; R., '60, § 3079; C., '73, § 2808; C., '97,
 § 3727.]

SEC. 7524. Findings inconsistent with general verdict.

1 When the special finding of facts is inconsistent with the general
 2 verdict, the former controls the latter, and the court may give judg-
 3 ment accordingly, or set aside the verdict and findings, as justice
 4 may require.

[R., '60, § 3080; C., '73, § 2809; C., '97, § 3728.]

SEC. 7525. Assessment of recovery.

1 When by the verdict either party is entitled to recover money of
 2 the adverse party, the jury in its verdict must assess the amount of
 3 such recovery.

[C., '51, § 1788; R., '60, § 3081; C., '73, § 2810; C., '97,
 § 3729.]

SEC. 7526. Joint or several verdicts.

1 Where there are several plaintiffs or defendants, whether the
 2 pleadings are joint or several, the verdicts shall be molded according
 3 to the facts and to suit the exigencies of the case.

[R., '60, § 3083; C., '73, § 2811; C., '97, § 3730.]

SEC. 7527. Form.

1 The verdict shall be sufficient in form if it expresses the intention
 2 of the jury.

[C., '51, § 1790; R., '60, § 3084; C., '73, § 2812; C., '97,
 § 3731.]

SEC. 7528. Entered of record.

1 The verdict shall in all cases be filed with the clerk and entered
 2 upon the record, after having been put into form by the court, if
 3 necessary, and be a part of the record.

[C., '51, § 1789; R., '60, § 3085; C., '73, § 2813; C., '97,
 § 3732.]

SEC. 7529. Waiver of jury trial.

1 Trial by jury may be waived by the several parties to an issue
 2 of fact in the following cases:

- 3 1. By suffering default, or by failing to appear at the trial.
- 4 2. By written consent, in person or by attorney, filed with the
- 5 clerk.
- 6 3. By oral consent in open court, entered in the minutes.

[R., '60, § 3087; C., '73, § 2814; C., '97, § 3733.]

SEC. 7530. Reference—by consent.

1 All or any of the issues in an action, whether of fact or of law,
 2 or both, may be referred upon the consent of the parties, written or
 3 oral, in court entered upon the record.

[C., '51, §§ 1650, 1794; R., '60, § 3089; C., '73, § 2815; C., '97,
 § 3734.]

SEC. 7531. Without consent.

1 When the parties do not consent, the court may, upon motion of
 2 either, or upon its own motion, direct a reference in either of the fol-
 3 lowing cases:

4 1. When the trial of an issue of fact shall require the examination
 5 of mutual accounts, or when, the account being on one side only, it
 6 shall be made to appear to the court that it is necessary that the party
 7 of the other side should be examined as a witness to prove the account,
 8 in which case the referee may be directed to hear and report upon the
 9 whole issue, or upon any specific question of fact involved therein.

10 2. When the taking of an account shall be necessary for the in-
 11 formation of the court before judgment, or for carrying a judgment
 12 or order into effect.

13 3. When a question of fact shall arise in any action by equitable
 14 proceedings, in which case the court in the order of reference shall
 15 prescribe the manner in which the testimony shall be taken on the trial.

[R., '60, § 3090; C., '73, § 2816; C., '97, § 3735.]

SEC. 7532. Hearing—decision.

1 Where not otherwise declared in the order of reference, all the
 2 referees must meet to hear proofs, arguments, and to deliberate, but
 3 a decision of a majority shall be regarded as their decision.

[C., '51, § 1652; R., '60, § 3091; C., '73, § 2817; C., '97,
 § 3736.]

SEC. 7533. Vacancies.

1 When appointed by the court, the judge thereof may fill vacancies
 2 in vacation.

[C., '51, § 1653; R., '60, § 3092; C., '73, § 2818; C., '97,
 § 3737.]

SEC. 7534. Powers.

1 The referee shall stand in the place of the court, and shall have
 2 the same power, so far as necessary, to discharge his duty.

[C., '51, § 1796; R., '60, § 3093; C., '73, § 2819; C., '97,
 § 3738.]

SEC. 7535. Method of trial—proceedings.

1 The trial by referee shall be conducted in the same manner as a
 2 trial by the court; he shall have the same power to summon and
 3 enforce by attachment the attendance of witnesses, to punish them as
 4 for a contempt for nonattendance or refusal to be sworn or to testify,
 5 and to administer all necessary oaths in the trial of the case, to take
 6 testimony by commission, to allow amendments to pleadings, grant
 7 continuances, preserve order and punish all violations thereof.

[R., '60, § 3094; C., '73, § 2820; C., '97, § 3739.]

SEC. 7536. Report—judgment.

1 The report of the referee on the whole issue must state the facts
 2 thus found and the conclusions of the law separately, and shall stand
 3 as the finding of the court, and judgment may be entered thereon in
 4 the same manner as if the action had been tried by the court; the
 5 report may be excepted to and reviewed in like manner.

[R., '60, § 3095; C., '73, § 2821; C., '97, § 3740.]

SEC. 7537. Finding of facts.

1 When the reference is to report the facts, the report shall have
 2 the effect of a special verdict.

[R., '60, § 3096; C., '73, § 2822; C., '97, § 3741.]

SEC. 7538. Bill of exceptions.

1 The referee shall sign any true bill of exceptions taken to any
 2 ruling by him made in the case upon the demand of either party, who
 3 shall have the same rights to obtain such bill as exists in the court,
 4 which bill shall be returned with the report, but no bill of exceptions
 5 is necessary to preserve or make of record any matter taken or noted
 6 down by the official shorthand reporter of the court, or one appointed
 7 by it or the referee, or agreed upon by the parties, and whose report
 8 is certified by such reporter and referee to be a full and true report
 9 of all the proceedings had, which shall be filed with the referee's
 10 report, and the whole be a part of the record. Such reporter shall be
 11 governed by the law relating to official shorthand reporters.

[R., '60, § 3097; C., '73, § 2823; C., '97, § 3742.]

SEC. 7539. Selection of referees.

1 In all cases of reference, the parties, except when a minor is a
 2 party, may agree upon a suitable person or persons, not exceeding
 3 three, and the reference shall be ordered accordingly; and if the
 4 parties do not agree, the court shall appoint one or more referees, not
 5 exceeding three, who shall be persons free from objection, or the court
 6 may allow each party to select one and itself select a third.

[C., '51, §§ 1651, 1795; R., '60, § 3098; C., '73, § 2824;
 C., '97, § 3743.]

SEC. 7540. Appointed in vacation.

1 A judge of the court, when a cause is pending, may, in vacation,
 2 upon the written consent of the parties, make an order of reference,
 3 which shall be written on the agreement to refer, and filed with the
 4 clerk with the other papers in the case, and become part of the record.

[R., '60, § 3099; C., '73, § 2825; C., '97, § 3744.]

SEC. 7541. Sworn.

1 The referee must make affidavit well and faithfully to hear
 2 and examine the case, and make a just and true report therein,
 3 according to the best of his understanding. The affidavit shall be
 4 returned with the report, filed by the clerk, and be a part of the record.

[R., '60, § 3100; C., '73, § 2826; C., '97, § 3745.]

SEC. 7542. Procedure.

1 The order shall not be made until the case is at issue as to the
 2 parties whose rights are to be examined on the reference. The order

3 may direct when the referee shall proceed to a hearing and when he
4 shall make his report, but, in the absence of such direction, he shall
5 do so on the morning of the tenth day after the day on which the
6 order of reference was made, and shall file his report as soon as done.
7 The parties shall take notice of the time thus fixed or determined and
8 nonattendance of either party within an hour thereof shall be attended
9 with like consequences as if the case were in court, which consequences
10 shall be reported as any other fact or finding of the referee.

[R., '60, § 3102; C., '73, § 2827; C., '97, § 3746.]

SEC. 7543. Acceptance by referee.

1 The referee must be called on by the court to accept or refuse the
2 appointment, and his acceptance shall be entered of record; and he
3 shall be under the control of the court, who may on the motion of
4 either party make proper orders with a view to his proceeding with
5 all due dispatch, and the court or judge may, on motion, extend the
6 time for making his report.

[R., '60, § 3103; C., '73, § 2828; C., '97, § 3747.]

SEC. 7544. Proceed as court.

1 The form of procedure which in the court itself regulates service,
2 pleading, proof, trial and the preparation, progress and method of
3 each of these, shall obtain before the referee; and in every incident of
4 the proceeding before him the rights and responsibilities of parties
5 and of their attorneys, and of the referee, shall be the same as if the
6 referee was the court engaged in the same manner.

[R., '60, § 3105; C., '73, § 2830; C., '97, § 3748.]

SEC. 7545. Exceptions—how taken.

1 An exception is an objection, taken to a decision of the court, or
2 person acting as the court, on a matter of law. The party excepting
3 to the decision must do so at the time it is made, unless it is upon a
4 motion or demurrer, in which case it may be taken within three days.
5 It may be embodied in a bill of exceptions to be filed within thirty
6 days after the final determination of the case, or within a reasonable
7 time thereafter, to be fixed by the court, not to exceed ninety days
8 therefrom. In equitable actions, triable de novo on appeal, no bill of
9 exceptions shall be necessary, nor in other actions in which all the
10 proceedings are, under the direction of the court, taken in writing or
11 shorthand by the regular court reporter, or another appointed by the
12 court or judge for the purpose, and embodied in a report by such
13 reporter, certified by him and the court or judge, in the manner pro-
14 vided in this chapter for making and certifying such report. This
15 section shall not be so construed as to prevent any party embodying
16 in a bill of exceptions all or any part of the proceedings in any action
17 in which he may elect to preserve his exceptions in that form. And
18 whenever the judge or referee trying a cause is unable by reason of
19 death, removal, resignation or any cause to sign a bill of exceptions,
20 or certify the shorthand reporter's record, the same shall be done by
21 his successor, and the time for such signing or certification shall be
22 extended thirty days after the appointment, or election and qualifica-
23 tion of such successor.

[C., '51, § 1805; R., '60, § 3106; C., '73, § 2831; C., '97,
§ 3749.]

SEC. 7546. Form—grounds.

1 No stated form of exception is required. If the exception is to
2 the admission or exclusion of evidence, oral or written, the ground
3 of the objection must be stated, and no other shall be regarded.

[R., '60, § 3107; C., '73, § 2832; C., '97, § 3750.]

SEC. 7547. Exception noted.

1 When the decision objected to is entered on the record, and the
2 grounds of the exception appear in the entry, or when any error
3 appears of record, the exception may be taken by the party causing
4 to be noted at the end of the decision, or in connection therewith, that
5 he excepts.

[R., '60, § 3108; C., '73, § 2833; C., '97, § 3751.]

SEC. 7548. Writings identified—skeleton bill.

1 A bill of exceptions, when presented for signature, need not
2 include therein, spread out at length, any writing filed in court, but
3 may incorporate the same by any unmistakable reference thereto; and
4 the clerk, in making a transcript of the bill of exceptions, shall write
5 therein at length all of such writing included therein by reference.

[R., '60, § 3109; C., '73, § 2834; C., '97, § 3752.]

SEC. 7549. Signing.

1 When the decision is not entered on the record, or the grounds
2 of objection do not sufficiently appear therein, the party excepting
3 must reduce his exception to writing and present it to the judge for
4 his signature, which, if it fairly presents the facts, he shall sign; if he
5 refuses, the party may procure the signature of two bystanders attest-
6 ing that the exception is correctly stated, and that the judge has
7 refused to sign the same, which bill of exceptions shall then be filed
8 with the clerk and become a part of the record. The truth of such
9 exceptions may be controverted and maintained by affidavits, not
10 exceeding five on each side, which shall become a part of the record.
11 All affidavits impugning the exception must be filed within three days
12 from the time of filing the bill, and all affidavits sustaining the same
13 within two days thereafter.

[C., '51, §§ 1806, 1807; R., '60, § 3110; C., '73, § 2835;
C., '97, § 3753.]

SEC. 7550. Must be on material point.

1 No exception shall be regarded in the supreme court unless the
2 ruling has been on a material point, and the effect thereof prejudicial
3 to the rights of the party excepting.

[R., '60, § 3111; C., '73, § 2836; C., '97, § 3754.]

SEC. 7551. New trial—grounds for.

1 A new trial is a reexamination in the same court of an issue of
2 fact, or some part or portions thereof, after verdict by a jury, report
3 of a referee, or a decision by the court. The former report, verdict
4 or decision, or some part or portion thereof, shall be vacated and a
5 new trial granted, on the application of the party aggrieved, for the
6 following causes affecting materially the substantial rights of such
7 party:

- 8 1. Irregularity in the proceedings of the court, jury, referee or
 9 prevailing party; or any order of the court or referee, or abuse of
 10 discretion, by which the party was prevented from having a fair trial.
 11 2. Misconduct of the jury or prevailing party.
 12 3. Accident or surprise which ordinary prudence could not have
 13 guarded against.
 14 4. Excessive damages appearing to have been given under the
 15 influence of passion or prejudice.
 16 5. Error in the assessment of the amount of recovery, whether
 17 too large or too small, where the action is upon a contract or for the
 18 injury or detention of property.
 19 6. That the verdict, report or decision is not sustained by suffi-
 20 cient evidence, or is contrary to law.
 21 7. Newly discovered evidence, material for the party applying,
 22 which he could not with reasonable diligence have discovered and
 23 produced at the trial.
 24 8. Error of law occurring at the trial, excepted to by the party
 25 making the application.
 26 9. That the pleadings of the prevailing party do not state facts
 27 sufficient to constitute a cause of action or defense, as the case may
 28 be, specifying wherein they are defective.

[R., '60, § 3112; C., '73, § 2837; C., '97, § 3755.]

SEC. 7552. Application—affidavits.

- 1 The application must be made within five days after the verdict,
 2 report or decision is rendered, unless for good cause the court extends
 3 the time, except for the cause of newly discovered evidence; must be
 4 by motion upon written grounds, and, if for the causes enumerated
 5 in subdivisions two, three and seven of the preceding section, may be
 6 sustained and controverted by affidavits.

[C., '51, §§ 1808-1810; R., '60, §§ 3114, 3115; C., '73, § 2838;
 C., '97, § 3756; 38 G. A., ch. 11, § 2.]

SEC. 7553. Judgment notwithstanding verdict.

- 1 Either party may file a motion for judgment in his favor, not-
 2 withstanding the fact that a verdict has been returned against him,
 3 if the pleadings of the party in whose favor the verdict has been
 4 returned omit to aver some material fact or facts necessary to con-
 5 stitute a complete cause of action or defense, the motion clearly point-
 6 ing out the omission.

[R., '60, §§ 3119, 3138; C., '73, §§ 2842, 2859; C., '97,
 § 3757.]

SEC. 7554. Arrest of judgment.

- 1 Either party may file a motion in arrest of judgment, where the
 2 pleadings of the prevailing party wholly fail to state a cause of action
 3 or a complete defense, and a verdict has been returned in his favor.

[R., '60, § 2878; C., '73, § 2650; C., '97, § 3758.]

SEC. 7555. Filing of motion.

- 1 The filing of either a motion for a new trial, for judgment not-
 2 withstanding the verdict, or in arrest of judgment, shall not be a
 3 waiver of the right to file either or both of the others, but any such

4 motion shall be filed within the time fixed for the filing of motions for
5 new trials.

[C., '97, § 3759.]

SEC. 7556. Amendment to cure defect.

1 Upon any motion for a new trial, for judgment notwithstanding
2 the verdict, or in arrest of judgment, the party whose pleading it is
3 alleged is defective may, if the court considers it necessary, file an
4 amendment setting up the omitted facts, which, if true, would remedy
5 the alleged defects, and such amendment shall be filed before the hear-
6 ing of the motion, and shall suspend the same. If the facts thus stated
7 would not, if proven, defeat the object of the motion, it shall be sus-
8 tained. If such new averments would, if proven, defeat its object and
9 are not admitted, they must be denied, or confessed and avoided, by
10 the opposite party within such time as the court shall direct, unless
11 the same are denied by legal operation, and in such case the law of
12 pleading and procedure shall apply, except that the amendment and
13 response need not be verified.

[R., '60, § 3119; C., '73, § 2842; C., '97, § 3760.]

SEC. 7557. Issues tried—judgment.

1 If the facts thus pleaded are admitted, the party pleading the
2 same shall be entitled to such judgment as he would have been entitled
3 to if such facts had been stated in the original pleading and admitted
4 as proven on the trial, but, if controverted, there shall be a trial of
5 the issues raised by the new pleadings, and judgment shall be rendered
6 on the original verdict or finding, as modified or supplemented by the
7 verdict or finding on the new issues.

[R., '60, § 3120; C., '73, § 2843; C., '97, § 3761.]

SEC. 7558. Costs of new trial.

1 The cost of all new trials shall either abide the event of the action
2 or be paid by the party to whom such new trial is granted, according
3 to the order of the court, to be made at the time of granting such new
4 trial.

[R., '60, § 3117; C., '73, § 2840; C., '97, § 3762.]

SEC. 7559. Conditions.

1 The court may determine not to grant a new trial unless certain
2 terms or conditions named by it shall be agreed to by the opposite
3 party, and, in the event of his agreement, the terms or conditions
4 named shall be entered on the record, and no new trial shall be granted
5 if he refuses to agree thereto.

[R., '60, § 3118; C., '73, § 2841; C., '97, § 3763.]

SEC. 7560. Dismissal of action.

1 An action may be dismissed, and such dismissal shall be without
2 prejudice to a future action:

3 1. By the plaintiff, before the final submission of the case to the
4 jury, or to the court when the trial is by the court.

5 2. By the court, when the plaintiff fails to appear when the case
6 is called for trial.

7 3. By the court, for want of necessary parties, when not made
8 according to the requirements of the court.

9 4. By the court, on the application of some of the defendants,
10 when there are others whom the plaintiff fails to prosecute with dili-
11 gence.

12 5. By the court, for disobedience by the party of an order con-
13 cerning the pleadings or any proceeding in the action.

[C., '51, §§ 1803, 1804; R., '60, § 3127; C., '73, § 2844; C., '97,
§ 3764.]

SEC. 7561. Decision on the merits.

1 In all other cases upon the trial of the action the decision must
2 be upon the merits.

[R., '60, § 3128; C., '73, § 2845; C., '97, § 3765.]

SEC. 7562. Counterclaim tried.

1 In any case when a counterclaim has been filed, the defendant
2 shall have the right of proceeding to trial thereon, although the plain-
3 tiff may have dismissed his action or failed to appear.

[C., '51, § 1801; R., '60, § 3129; C., '73, § 2846; C., '97,
§ 3766.]

SEC. 7563. Or dismissed.

1 The defendant may, at any time before the final submission of
2 the cause to the jury, or to the court when the trial is by the court,
3 dismiss his counterclaim without prejudice.

[C., '51, § 1802; R., '60, § 3130; C., '73, § 2847; C., '97,
§ 3767.]

SEC. 7564. Dismissal in vacation.

1 Any party to any claim may dismiss the same in vacation, and
2 the clerk shall make the proper entry of dismissal on the record, and
3 if the costs are not paid may enter judgment against such party there-
4 for in favor of the party entitled thereto, and issue execution therefor
5 at the order of such party. The party so dismissing shall be liable
6 for no costs made by the other party after notice to him of such dis-
7 missal.

[C., '51, § 1822; R., '60, § 3131; C., '73, § 2848; C., '97,
§ 3768.]

SEC. 7565. Judgment—final adjudication.

1 Every final adjudication of the rights of the parties in an action
2 is a judgment; and such adjudication may consist of many judgments,
3 one of which may determine for the plaintiff or defendant on the claim
4 of either as an entirety; or, when a claim consists of several parts or
5 items, such judgment may be for either of them on any specific part
6 or item of such aggregate claim, and against him on the other part
7 thereof; or a judgment may, in either of these ways, determine on
8 the claims of coparties on the same side against each other.

[C., '51, §§ 1814, 1815; R., '60, § 3121; C., '73, § 2849; C., '97,
§ 3769.]

SEC. 7566. Judgment for part.

1 Any party who succeeds in part of his cause or causes, and fails
2 as to part, may have the entry in such case express judgment for him
3 for such part as he succeeds upon, and against him on the other part.

[R., '60, § 3122; C., '73, § 2850; C., '97, § 3770.]

SEC. 7567. In abatement.

1 Where matter in abatement is pleaded in connection with other
 2 matter not such, the finding of the jury or court must distinguish
 3 between matter in abatement and matter in bar, and the judgment
 4 must, if it is rendered on the matter in abatement, and not on the
 5 merits, so declare.

[R., '60, § 3124; C., '73, § 2851; C., '97, § 3771.]

SEC. 7568. Special execution.

1 Where any other than a general execution of the common form
 2 is required, the party must state in his pleading the facts entitling
 3 him thereto, and the judgment may be entered in accordance with the
 4 finding of the court or jury thereon.

[R., '60, § 3125; C., '73, § 2852; C., '97, § 3772.]

SEC. 7569. Several judgment.

1 In an action by several plaintiffs, or against several defendants,
 2 the court may, in its discretion, render judgment for or against one
 3 or more of them when a several judgment is proper, leaving the action
 4 to proceed as to the others.

[C., '51, § 1816; R., '60, §§ 3123, 3126; C., '73, § 2853; C., '97,
 § 3773.]

SEC. 7570. Judgment against one of joint defendants.

1 Though all the defendants have been served with notice, judg-
 2 ment may be rendered against any of them severally, where the plain-
 3 tiff would be entitled to judgments against such defendants if the
 4 action had been against such alone.

[R., '60, § 3132; C., '73, § 2854; C., '97, § 3774.]

SEC. 7571. What relief granted.

1 The relief granted to the plaintiff, if there be no answer, can not
 2 exceed that which he has demanded in his petition. In any other case
 3 the court may grant him any relief consistent with the case made by
 4 the petition and embraced within the issue.

[C., '51, § 1820; R., '60, § 3133; C., '73, § 2855; C., '97,
 § 3775.]

SEC. 7572. Judgment for part of claim not controverted.

1 If only part of the claim is controverted by the pleading, judg-
 2 ment may at any time be rendered for the part not controverted.

[R., '60, § 3135; C., '73, § 2856; C., '97, § 3776.]

SEC. 7573. Judgment on verdict.

1 When a trial by jury has been had, judgment must be entered by
 2 the clerk in conformity with the verdict, unless it is special, or the
 3 court orders the case to be reserved for future argument or consid-
 4 eration.

[R., '60, § 3136; C., '73, § 2857; C., '97, § 3777.]

SEC. 7574. When verdict is special.

1 When the verdict is special, or when there has been a special
 2 finding on particular questions of fact or issues, or when the court

3 has ordered the case to be reserved, it shall order what judgment
4 shall be entered.

[R., '60, § 3137; C., '73, § 2858; C., '97, § 3778.]

SEC. 7575. Principal and surety—order of liability.

1 When a judgment is rendered against a principal and his surety,
2 it shall recite the order of their liability therefor, and the term "sure-
3 ty" includes all persons whose liability on the claim is posterior to
4 that of another.

[R., '60, § 3259; C., '73, § 3040; C., '97, § 3779.]

SEC. 7576. Judgment on counterclaim—affirmative relief.

1 If more is recovered on a counterclaim than on the plaintiff's
2 claim, judgment for the defendant must be given for the excess; or,
3 if it appears that the defendant is entitled to any other affirmative
4 relief, judgment must be given therefor.

[C., '51, § 1798; R., '60, § 3139; C., '73, § 2860; C., '97,
§ 3780.]

SEC. 7577. Judgment by agreement.

1 Any judgment in a case pending, other than for divorce, which
2 may be agreed upon between the parties interested therein, may at
3 any time be entered, and if not done in open court, the judgment
4 agreed to shall be in writing, signed, and filed with the clerk, who
5 shall thereupon enter the same accordingly, and execution thereon
6 may issue forthwith unless therein otherwise agreed upon.

[C., '51, §§ 1821, 1822; R., '60, § 3143; C., '73, § 2861; C., '97,
§ 3781.]

SEC. 7578. No distinction between debt and damages.

1 In all actions where the plaintiff recovers a sum of money, the
2 amount to which he is entitled may be awarded him by the judgment
3 generally, without any distinction being therein made as to whether
4 such sum is recovered by way of debt or damages.

[R., '60, § 3144; C., '73, § 2862; C., '97, § 3782.]

SEC. 7579. Court acting as jury.

1 The provisions of this chapter relative to juries are intended to
2 be applied to the court when acting as a jury on the trial of a cause,
3 so far as they are applicable and not incompatible with other provi-
4 sions herein contained.

[C., '51, § 1823; R., '60, § 3145; C., '73, § 2863; C., '97,
§ 3783.]

SEC. 7580. Judgments and orders entered.

1 All judgments and orders must be entered on the record of the
2 court, and must specify clearly the relief granted or order made in
3 the action.

[R., '60, § 3140; C., '73, § 2864; C., '97, § 3784.]

SEC. 7581. Satisfaction of judgment—complete record.

1 Where a judgment is set aside or satisfied by execution or other-
2 wise, the clerk shall at once enter a memorandum thereof on the col-

3 umn left for that purpose in the judgment docket. In cases where
 4 the title to land is involved and expressly settled or determined, the
 5 clerk shall make a complete record of the whole cause and enter it in
 6 the proper book. But in no other case need a complete entry be made,
 7 except at the request of a party who will pay the expense of such
 8 record.

[C., '51, §§ 1817, 1819; R., '60, §§ 3141, 3142; C., '73, §§ 2865,
 2866; C., '97, § 3785.]

SEC. 7582. Discharge of judgment—on motion.

1 A defendant against whom a judgment has been rendered, or
 2 any person interested therein, having matter of discharge which has
 3 arisen since the judgment, may upon motion, in a summary way, have
 4 the same discharged, either in whole or in part, according to the cir-
 5 cumstances.

[R., '60, § 3146; C., '73, § 2867; C., '97, § 3786.]

SEC. 7583. Fraudulent assignment of judgment.

1 The court shall have power, on motion, to inquire into the facts
 2 attending or connected with the assignment of a judgment, or the
 3 entry of the same to the use of any party, and to strike out such use,
 4 or to declare such assignment void, either in whole or in part, when-
 5 ever such assignment or use shall be determined to be inequitable,
 6 fraudulent or in bad faith.

[R., '60, § 3147; C., '73, § 2868; C., '97, § 3787.]

SEC. 7584. Default—when made and entered.

1 If a party fails to file or amend his pleading by the time prescribed
 2 by the rules of pleading, or, in the absence of rules, by the time fixed
 3 by the court, or if, having pleaded, his petition, answer or reply on
 4 motion or demurrer is held insufficient, or is stricken out, and he fails
 5 to amend, answer or reply further as required by the rules of or by
 6 the court, or if he withdraws his pleading without authority or per-
 7 mission to replead, judgment by default may be rendered against him
 8 on demand of the adverse party, made before such pleading is filed.

[C., '51, § 1824; R., '60, § 3148; C., '73, § 2869; C., '97,
 § 3788.]

SEC. 7585. Notice must appear.

1 Where no appearance is made, default shall not be entered until
 2 the court determines from an inspection of the record that notice has
 3 been given as required by this code.

[C., '51, § 1826; R., '60, § 3149; C., '73, § 2870; C., '97,
 § 3789.]

SEC. 7586. Setting aside default—terms.

1 Default may be set aside on such terms as to the court may seem
 2 just, among which must be that of pleading issuably and forthwith,
 3 but not unless an affidavit of merits is filed, and a reasonable excuse
 4 shown for having made such default, nor unless application therefor
 5 is made at the term in which default was entered, or if entered in
 6 vacation, then on the first day of the succeeding term.

[C., '51, § 1827; R., '60, § 3150; C., '73, § 2871; C., '97,
 § 3790.]

SEC. 7587. Clerk to compute amount.

1 When the action is for a money demand, and the amount of the
 2 proper judgment is a mere matter of computation, the clerk shall as-
 3 certain the amount, but no fee shall be charged therefor. When long
 4 accounts are to be examined, the court may refer the matter. In other
 5 cases the court shall assess the damages, unless a jury is demanded
 6 by the party not in default. The proper amount having been ascer-
 7 tained by either of the above methods, judgment shall be rendered
 8 therefor.

[C., '51, §§ 1828-1830, 1832; R., '60, § 3151; C., '73, § 2872;
 C., '97, § 3791.]

SEC. 7588. Appearance to cross-examine witnesses.

1 The party in default may appear at the time of the assessment
 2 and cross-examine the witnesses against him, but for no other purpose.

[C., '51, § 1831; R., '60, § 3152; C., '73, § 2873; C., '97,
 § 3792.]

SEC. 7589. Judgment on default in equitable proceeding.

1 When the action is of an equitable character, the court, upon
 2 hearing the pleadings and proofs, and hearing the testimony offered,
 3 shall render such judgment as is consistent with the rules of equity.

[C., '51, § 1833; R., '60, § 3153; C., '73, § 2874; C., '97,
 § 3793.]

SEC. 7590. Setting aside, if on notice by publication.

1 A defendant served by publication alone shall be allowed, at any
 2 time before judgment, to appear and defend the action, and, upon a
 3 substantial defense being declared, time may be given on reasonable
 4 terms to prepare for trial.

[R., '60, § 3154; C., '73, § 2875; C., '97, § 3794.]

SEC. 7591. Security required of plaintiff.

1 When judgment by default is rendered against a defendant who
 2 has not been personally served, the court, before issuing process to
 3 enforce such judgment, may, if deemed expedient, require the plain-
 4 tiff to give security to abide the future order of the court as contem-
 5 plated in the following section.

[C., '51, § 1834; R., '60, §§ 3156-3159; C., '73, § 2876; C., '97,
 § 3795.]

SEC. 7592. New trial after judgment, on publication.

1 When a judgment has been rendered against a defendant or de-
 2 fendants, served by publication only, and who do not appear, such
 3 defendants, or any one or more of them, or any person legally repre-
 4 senting him or them, may, at any time within two years after the
 5 rendition of the judgment, appear in court and move to have the
 6 action retried, and, security for the costs being given, they shall be
 7 permitted to make defense; and thereupon the action shall be retried
 8 as to such defendants as if there had been no judgment; and upon
 9 the new trial the court may confirm the former judgment, or may
 10 modify or set it aside, and may order the plaintiff to restore any
 11 money of such defendant paid to him under it and yet remaining in

12 his possession, and pay to the defendant the value of any property
13 which may have been taken in attachment in the action or under the
14 judgment, and not restored.

[C., '51, § 1835; R., '60, § 3160; C., '73, § 2877; C., '97,
§ 3796.]

SEC. 7593. Title to property not affected.

1 The title of a purchaser in good faith to any property sold under
2 attachment or judgment shall not be affected by the new trial per-
3 mitted by the preceding section, except the title of property obtained
4 by the plaintiff and not bought of him in good faith by others.

[C., '51, § 1836; R., '60, § 3163; C., '73, § 2878; C., '97,
§ 3797.]

SEC. 7594. Serving copy of judgment.

1 The plaintiff may, at any time after the judgment, cause a certi-
2 fied copy thereof to be served on a defendant served by publication
3 only, whereupon the period in which such defendant is allowed to ap-
4 pear and have a new trial shall be reduced to six months after such
5 service.

[R., '60, § 3161; C., '73, § 2879; C., '97, § 3798.]

SEC. 7595. Manner of service.

1 The service, whether made within or without the state, shall be
2 actual and personal by delivery of such certified copy, and made and
3 returned as in case of original notice.

[R., '60, § 3162; C., '73, § 2880; C., '97, § 3799.]

SEC. 7596. Personal judgment.

1 No personal judgment shall be rendered against a defendant
2 served by publication only who has not made an appearance; but a
3 personal judgment may be rendered against a defendant, whether he
4 appears or not, who has been served in any mode provided in this
5 code other than by publication, whether served within or without this
6 state, if such defendant is a resident of the state.

[R., '60, § 3164; C., '73, § 2881; C., '97, § 3800.]

SEC. 7597. Liens of judgments.

1 Judgments in the supreme or district court of this state, or in
2 the circuit or district court of the United States within the state, are
3 liens upon the real estate owned by the defendant at the time of such
4 rendition, and also upon all he may subsequently acquire, for the
5 period of ten years from the date of the judgment.

[C., '51, §§ 2485, 2489; R., '60, §§ 4105, 4109; C., '73, § 2882;
C., '97, § 3801.]

**SEC. 7598. When attach—filing transcript in another county—
judgments of United States courts and supreme court of Iowa.**

1 When the land lies in the county wherein the judgment was ren-
2 dered, the lien shall attach from the date of such rendition, but if in
3 another it will not attach until an attested copy of the judgment is
4 filed in the office of the clerk of the district court of the county in
5 which the land lies. The lien of judgments of the district or circuit

6 courts of the United States, and the supreme court of Iowa, shall not
7 attach to any real estate until an attested copy of the judgment is filed
8 in the office of the clerk of the district court of the county in which
9 the land lies.

[C., '51, §§ 2486, 2487; R., '60, §§ 4106, 4107; C., '73, §§ 2883,
2884; C., '97, § 3802; S., '13, § 3802.]

SEC. 7599. Docketing transcript.

1 Such clerk shall, on the filing of such transcript of the judgment
2 in his office, immediately proceed to docket and index the same in the
3 same manner as though rendered in the court of his own county.

[C., '51, § 2488; R., '60, § 4108; C., '73, § 2885; C., '97,
§ 3803.]

SEC. 7600. Satisfaction of judgment.

1 When the amount due upon judgment is paid off, or satisfied in
2 full, the party entitled to the proceeds thereof, or those acting for
3 him, must acknowledge satisfaction thereof upon the record of such
4 judgment, or by the execution of an instrument referring to it, duly
5 acknowledged and filed in the office of the clerk in every county where-
6 in the judgment is a lien. A failure to do so for thirty days after
7 having been requested in writing shall subject the delinquent party
8 to a penalty of fifty dollars, to be recovered in an action therefor by
9 the party aggrieved.

[C., '97, § 3804.]

SEC. 7601. Conveyance by commissioner.

1 Real property may be conveyed by a commissioner appointed by
2 the court:

3 1. Where, by judgment in an action, a party is ordered to convey
4 such property to another.

5 2. Where such property has been sold under a judgment or order
6 of the court, and the purchase price has been paid.

[R., '60, § 3165; C., '73, § 2886; C., '97, § 3805.]

SEC. 7602. Deed.

1 The deed of the commissioner shall refer to the judgment, orders
2 and proceedings authorizing the conveyance.

[R., '60, § 3166; C., '73, § 2887; C., '97, § 3806.]

SEC. 7603. Conveys title.

1 A conveyance made in pursuance of a judgment shall pass to the
2 grantee the title of the parties ordered to convey the land.

[R., '60, § 3167; C., '73, § 2888; C., '97, § 3807.]

SEC. 7604. Other parties.

1 A conveyance made in pursuance of a sale ordered by the court
2 shall pass to the grantee the title of all the parties to the action or
3 proceeding.

[R., '60, § 3168; C., '73, § 2889; C., '97, § 3808.]

SEC. 7605. Approval by court.

1 A conveyance by a commissioner shall not pass any right until
 2 it has been approved by the court, which approval shall be indorsed
 3 on the conveyance and recorded with it.

[R., '60, § 3169; C., '73, § 2890; C., '97, § 3809.]

SEC. 7606. Form.

1 The conveyance shall be signed by the commissioner only, with-
 2 out affixing the names of the parties whose title is conveyed, but the
 3 names of such parties shall be recited in the body of the conveyance.

[R., '60, § 3170; C., '73, § 2891; C., '97, § 3810.]

SEC. 7607. Recorded.

1 The conveyance shall be recorded in the office in which, by law,
 2 it should have been recorded had it been made by the parties whose
 3 title is conveyed by it.

[R., '60, § 3171; C., '73, § 2892; C., '97, § 3811.]

SEC. 7608. Approval in vacation.

1 Whenever by law it is permitted or required that judicial or other
 2 sales and conveyances of land may or shall be confirmed and approved
 3 by a court, the judge of the court may, in vacation, approve the same,
 4 and cause the proper entry or entries to be made.

[C., '73, § 2893; C., '97, § 3812.]

SEC. 7609. Judgments on motion.

1 Judgments or final orders may be obtained on motion by sureties
 2 against their principals, or by sureties against their cosureties, for
 3 the recovery of money due them on account of payments made by
 4 them as such; by clients against attorneys; plaintiffs in execution
 5 against sheriffs, constables and other officers, for the recovery of
 6 money or property collected for them, and damages; and in all other
 7 cases specially authorized by statute.

[R., '60, § 3422; C., '73, § 2906; C., '97, § 3826.]

SEC. 7610. Notice—service.

1 Notice of such motion shall be served on the party against whom
 2 the judgment or order is sought, at least ten days before the motion
 3 is made.

[R., '60, § 3423; C., '73, § 2907; C., '97, § 3827.]

SEC. 7611. Form.

1 The notice shall state in plain and ordinary language the nature
 2 and grounds thereof, and the day on which it will be made.

[R., '60, § 3424; C., '73, § 2908; C., '97, § 3828.]

SEC. 7612. When abandoned.

1 Unless the motion is made and filed with the case on or before
 2 the day named in the notice, it shall be considered as abandoned.

[R., '60, § 3425; C., '73, § 2909; C., '97, § 3829.]

SEC. 7613. No written pleadings.

1 It shall be heard and determined by the court without written
2 pleadings, and judgment given according to the very right of the
3 matter.

[R., '60, § 3426; C., '73, § 2910; C., '97, § 3830.]

CHAPTER 13.**COSTS.****SECTION 7614. Recoverable by successful party.**

1 Costs shall be recovered by the successful against the losing party;
2 the losing party, however, shall not be assessed with the cost of mile-
3 age of any witness for a distance of more than seventy miles from the
4 place of trial, unless otherwise ordered by the court at the time of
5 entering judgment. But where the party is successful as to a part of
6 his demand, and fails as to part, unless the case is otherwise provided
7 for, the court on rendering judgment may make an equitable appor-
8 tionment of costs.

[C., '51, § 1811; R., '60, § 3449; C., '73, § 2933; C., '97,
§ 3853; S., '13, § 3853.]

SEC. 7615. Apportionment.

1 In actions where there are several plaintiffs or several defend-
2 ants, the costs shall be apportioned according to the several judgments
3 rendered; and where there are several causes of action embraced in
4 the same petition, or several issues, the plaintiff shall recover costs
5 upon the issues determined in his favor, and the defendant upon those
6 determined in his favor.

[R., '60, § 3451; C., '73, § 2934; C., '97, § 3854.]

SEC. 7616. Collection.

1 All costs accrued at the instance of the successful party, which
2 can not be collected of the other party, may be recovered on motion
3 by the person entitled to them against the successful party.

[R., '60, § 3452; C., '73, § 2935; C., '97, § 3855.]

SEC. 7617. What included in.

1 The necessary fees paid by the successful party in procuring
2 copies of deeds, bonds, wills or other records filed as a part of the
3 testimony shall be taxed in the bill of costs.

[R., '60, § 3453; C., '73, § 2936; C., '97, § 3856.]

SEC. 7618. Postage.

1 Postage paid by the officers of the court, or by the parties, in
2 sending process, depositions, and other papers being part of the rec-
3 ord, by mail, shall be taxed in the bill of costs.

[R., '60, § 3454; C., '73, § 2937; C., '97, § 3857.]

SEC. 7619. Defense arising after action brought.

1 When a pleading contains as a defense matter which arose after
 2 the commencement of the action, whether such matter of defense is
 3 pleaded alone or with other matter of defense which arose before the
 4 action, the party affected by such matter may confess the same, and
 5 shall be entitled to the costs of the action to the time of such pleading.

[R., '60, § 3455; C., '73, § 2938; C., '97, § 3858.]

SEC. 7620. On dismissal of action or abatement.

1 When a plaintiff dismisses the action or any part thereof, or
 2 suffers it to abate by the death of the defendant or other cause, or
 3 where the action abates by the death of the plaintiff, and his repre-
 4 sentatives fail to revive the same, judgment for costs may be rendered
 5 against such plaintiff or representative, and, if against a representa-
 6 tive, shall be paid as other claims against the estate.

[R., '60, § 3456; C., '73, § 2939; C., '97, § 3859.]

SEC. 7621. Between coparties.

1 Coparties against whom judgment has been recovered are en-
 2 titled, as between themselves, to a taxation of the costs of witnesses
 3 whose testimony was obtained at the instance of one of the coparties
 4 and inured exclusively to his benefits.

[R., '60, § 3457; C., '73, § 2940; C., '97, § 3860.]

SEC. 7622. When dismissed for want of jurisdiction.

1 Where an action is dismissed from any court for want of juris-
 2 diction, or because it has not been regularly transferred from an in-
 3 ferior to a superior court, the costs shall be adjudged against the party
 4 attempting to institute or bring up the same.

[R., '60, § 3458; C., '73, § 2941; C., '97, § 3861.]

SEC. 7623. Clerk to tax.

1 The clerk shall tax in favor of the party recovering costs the
 2 allowance of his witnesses, the fees of officers, the compensation of
 3 referees, the necessary expenses of taking depositions by commission
 4 or otherwise, and any further sum for any other matter which the
 5 court may have awarded as costs in the progress of the action, or may
 6 allow.

[R., '60, § 3459; C., '73, § 2942; C., '97, § 3862.]

SEC. 7624. When cause of action assigned.

1 In actions in which the cause of action shall, by assignment after
 2 the commencement thereof, or in any other manner, become the prop-
 3 erty of a person not a party to the action, such party shall be liable
 4 for the costs in the same manner as if he were a party:

[R., '60, § 3460; C., '73, § 2943; C., '97, § 3863.]

SEC. 7625. Retaxation.

1 Any person aggrieved by the taxation of a bill of costs may, upon
 2 application, have the same retaxed by the court, or by a referee ap-
 3 pointed by the court in which the application or proceeding was had,
 4 and in such retaxation all errors shall be corrected; and if the party
 5 aggrieved shall have paid any unlawful charge by reason of the first

6 taxation, the clerk shall pay the costs of retaxation, and also to the
7 party aggrieved the amount which he may have paid by reason of the
8 allowing of such unlawful charges.

[C., '51, § 1813; R., '60, § 3461; C., '73, § 2944; C., '97,
§ 3864.]

SEC. 7626. Bill of costs filed on appeal.

1 In cases of appeals from the district court, the clerk, if final judg-
2 ment is rendered in the supreme court, shall make a complete bill of
3 costs in the court below which shall be filed in the office of the clerk
4 of the supreme court and taxed with the costs in the action therein.

[R., '60, § 3462; C., '73, § 2945; C., '97, § 3865.]

SEC. 7627. Costs in supreme court.

1 When the costs accrued in the supreme court and the court below
2 are paid to the clerk of the supreme court, he shall pay so much of
3 them as accrued in the court below to the clerk of said court, and take
4 his receipt therefor.

[R., '60, § 3463; C., '73, § 2946; C., '97, § 3866.]

SEC. 7628. Duty of clerk below.

1 On receiving such costs, the clerk of the court below shall charge
2 himself with the money and pay it to the persons entitled thereto.

[R., '60, § 3464; C., '73, § 2947; C., '97, § 3867.]

SEC. 7629. Interest.

1 When the judgment is for the recovery of money, interest from
2 the time of the verdict or report until judgment is finally entered shall
3 be computed by the clerk and added to the costs of the party entitled
4 thereto.

[R., '60, § 3466; C., '73, § 2948; C., '97, § 3868.]

SEC. 7630. Attorney's fees—when taxed as costs—amount.

1 When judgment is recovered upon a written contract containing
2 an agreement to pay an attorney's fee, the court shall allow and tax
3 as a part of the costs, on the first two hundred dollars or fraction
4 thereof recovered, ten per cent; on the excess of two hundred to five
5 hundred dollars, five per cent; on the excess of five hundred to one
6 thousand dollars, three per cent; and on all sums in excess of one
7 thousand dollars, one per cent. If action is commenced and the claim
8 paid off before return day, the amount shall be one-half of the sum
9 above provided, and if it is paid after the return day but before judg-
10 ment, three-fourths of said sum; but no fee shall be allowed in any
11 case if an action has not been commenced, or expense incurred, nor
12 shall any greater sum be allowed, any agreement in the contract to
13 the contrary notwithstanding.

[C., '97, § 3869.]

SEC. 7631. Not to be divided—affidavit.

1 The attorney's fee allowed in the preceding section shall not be
2 taxed in any case unless it shall appear by affidavit of the attorney,
3 filed with the petition at the commencement of the action, that there
4 has been, and is, no agreement between such attorney and his client,

5 express or implied, nor between him and any other person, except a
6 practicing attorney engaged with him as an attorney in the cause, for
7 any division or sharing of the fee to be taxed, which, when taxed,
8 shall be only in favor of a regular attorney and as compensation for
9 services actually rendered in the action.

[C., '97, § 3870.]

SEC. 7632. Opportunity to pay.

1 No such attorney fee shall be taxed if the defendant is a resident
2 of the county and the action is not aided by an attachment, unless it
3 shall be made to appear that such defendant had information of and
4 a reasonable opportunity to pay the debt before action was brought.
5 This provision, however, shall not apply to contracts made payable
6 by their terms at a particular place, the maker of which has not ten-
7 dered the sum due at the place named in the contract.

[C., '97, § 3871.]

SEC. 7633. Jury fees taxed as costs.

1 There shall be taxed, in every action tried in a court of record by
2 a jury, a jury fee of six dollars, which, when collected, shall be paid
3 by the clerk into the county treasury; all such fees, not previously
4 reported, to be by him reported to the board of supervisors at each
5 regular session, and by it charged to the treasurer.

[C., '73, § 3812; C., '97, § 3872.]

SEC. 7634. Compensation of arbitrators.

1 Arbitrators shall be paid, for each day actually and necessarily
2 engaged in their official duties, two dollars, or such greater sum as
3 the parties to the arbitration agree upon.

[C., '51, § 2114; R., '60, § 3691; C., '73, § 3834; C., '97,
§ 3873.]

SEC. 7635. Of referees.

1 Referees, acting under a submission by a court in an action pend-
2 ing therein, shall receive such compensation as is fixed by the court
3 or judge, or agreed upon by the parties to the action, which shall be
4 taxed as a part of the costs therein.

[C., '51, § 2114; R., '60, § 3691; C., '73, § 3834; C., '97,
§ 3874.]

SEC. 7636. Of reporters and clerks for transcripts.

1 The fees of shorthand reporters for making transcripts of the
2 notes in any case or any portion thereof, as directed by any party
3 thereto, shall be taxed as costs, as shall also the fees of the clerk for
4 making any transcripts of the record required on appeal, but such
5 taxation may be revised by the supreme court on motion of the appeal,
6 without any motion in the lower court for the retaxation of costs.

[C., '97, § 3875.]

CHAPTER 14.

EXECUTIONS.

SECTION 7637. On judgments or orders — attachment for contempts.

1 Judgments or orders requiring the payment of money, or the de-
 2 livery of the possession of property, are to be enforced by execution.
 3 Obedience to those requiring the performance of any other act is to
 4 be coerced by attachment as for a contempt.

[C., '51, § 1885; R., '60, § 3247; C., '73, § 3026; C., '97,
 § 3954.]

SEC. 7638. Within what time—to other counties—but one.

1 Executions may issue at any time before the judgment is barred
 2 by the statute of limitations; and upon those in the district and su-
 3 preme courts, into any county which the party ordering may direct,
 4 but only one shall be in existence at the same time. When the plaintiff
 5 in judgment shall file in any court in which a judgment has been
 6 entered an affidavit made by himself, his agent or attorney, or by the
 7 officer to whom the execution was issued, that an outstanding execu-
 8 tion has been lost or destroyed, the clerk of such court may issue a
 9 duplicate execution as of the date of the lost execution, which shall
 10 have the same force and effect as the original execution, and any levy
 11 made under the execution so lost shall have the same force and effect
 12 under the duplicate execution as under the original. When the lost
 13 execution shall have expired by limitation and such affidavit is filed,
 14 an execution may issue as it might if such lost execution had been
 15 duly returned.

[C., '51, §§ 1886, 1888; R., '60, §§ 3246, 3248; C., '73, §§ 3025,
 3027; C., '97, § 3955; S., '13, § 3955.]

SEC. 7639. On Sunday.

1 An execution may be issued and executed on Sunday, when an
 2 affidavit is filed by the plaintiff, or some person in his behalf, stating
 3 that he believes he will lose his judgment unless process issues on
 4 that day.

[R., '60, § 3263; C., '73, § 3028; C., '97, § 3956.]

SEC. 7640. On demand of party—entries by clerk.

1 Upon the rendition of judgment, execution may be at once issued
 2 by the clerk on the demand of the party entitled thereto; who shall
 3 enter on the judgment docket the date of its issuance, and to what
 4 county and officer issued, the return of the officer, with the date there-
 5 of, the dates and amount of all moneys received or paid out of the
 6 office thereon; which entries shall be made at the time each act is done.

[R., '60, § 3265; C., '73, § 3029; C., '97, § 3957.]

SEC. 7641. Entries in another county—duplicate returns.

1 In case execution is issued to a county other than that in which
 2 judgment is rendered, and is levied upon real estate in such county, an
 3 entry thereof shall be made upon the incumbrance book of that county
 4 by the officer making it, showing the same particulars as are required
 5 in case of the attachment of real estate, which shall be bound from

6 the time of such entry. And if real estate is sold under said execution
 7 said officer shall make return thereof in duplicate, one of which shall
 8 be appended to the execution and returned to the court from which
 9 it is issued, the other with a copy of the execution to the district court
 10 of the county in which said real estate is situated, which shall be filed
 11 by the clerk who shall make entries thereof in the sale book in the
 12 same manner as if such judgment had been rendered and execution
 13 issued from said court.

[R., '60, § 3249; C., '73, § 3031; C., '97, § 3958; S., '13,
 § 3958.]

SEC. 7642. Return from another county.

1 When sent into any county other than that in which the judgment
 2 was rendered, return may be made by mail. But money can not thus
 3 be sent, except by direction of the party entitled thereto, or his at-
 4 torney.

[C., '51, § 1889; R., '60, § 3250; C., '73, § 3032; C., '97,
 § 3959.]

SEC. 7643. Form of execution.

1 The execution must intelligibly refer to the judgment, stating the
 2 time when and place at which it was rendered, the names of the parties
 3 to the action as well as to the judgment, its amount, and the amount
 4 still to be collected thereon, if for money; if not, it must state what
 5 specific act is required to be performed. If it is against the property
 6 of the judgment debtor, it shall require the sheriff to satisfy the judg-
 7 ment and interest out of property of the debtor subject to execution.

[C., '51, § 1890; R., '60, § 3251; C., '73, § 3033; C., '97,
 § 3960.]

SEC. 7644. Against property.

1 If it is against real or personal property in the hands of personal
 2 representatives, heirs, devisees, legatees, tenants of real property or
 3 trustees, it shall require the sheriff to satisfy the judgment and inter-
 4 est out of such property.

[R., '60, § 3252; C., '73, § 3034; C., '97, § 3961.]

SEC. 7645. For delivery of possession.

1 If it is for the delivery of the possession of real or personal prop-
 2 erty, it shall require the sheriff to deliver the possession of the same,
 3 particularly describing it, to the party entitled thereto, and may, at
 4 the same time, require him to satisfy any costs, damages or rents and
 5 profits, with interest, recovered by the same judgment, out of the
 6 property of the party against whom it was rendered subject to exe-
 7 cution, and the value of the property for which judgment was recov-
 8 ered shall be specified therein, if a delivery thereof can not be had, and
 9 it shall in that respect be regarded as an execution against property.

[R., '60, § 3253; C., '73, § 3035; C., '97, § 3962.]

SEC. 7646. When for performance of any other act.

1 When it requires the performance of any other act, a certified
 2 copy of the judgment may be served on the person against whom it

3 is rendered, or upon the person or officer who is required thereby, or
4 by law, to obey the same, and his obedience thereto enforced.
[R., '60, § 3254; C., '73, § 3036; C., '97, § 3963.]

SEC. 7647. Officer to receipt for—return.

1 Every officer to whose hands an execution may come shall give a
2 receipt therefor, if required, stating the hour when the same was
3 received, and shall make sufficient return thereof, together with the
4 money collected, on or before the seventieth day from the date of its
5 issuance.

[R., '60, § 3255; C., '73, § 3037; C., '97, § 3964.]

SEC. 7648. Indorsement by officer.

1 The officer to whom an execution is issued shall indorse thereon
2 the day and hour when he received it, the levy, sale or other act done
3 by virtue thereof, with the date thereof, the dates and amounts of any
4 receipts or payment in satisfaction thereof; which entries must be
5 made at the time of the receipt or act done.

[R., '60, § 3257; C., '73, § 3038; C., '97, § 3965.]

SEC. 7649. Against principal and surety—order of liability.

1 The clerk issuing an execution on a judgment against principal
2 and surety shall state in the execution the order of liability recited
3 in the judgment, and the officer serving it shall exhaust the property
4 of the principal first, and of the other defendants in the order of
5 liability thus stated; but each person subsequently liable shall, if re-
6 quested by the officer, point out property owned by the party liable,
7 before him, to obtain the benefits of this provision. To obtain the
8 benefits of this section, the order of liability must be recited in the
9 execution, and the officer holding it must separately return thereon
10 the amount collected from the principal debtor and surety.

[C., '51, § 1915; R., '60, §§ 3258-3261, 3303; C., '73, §§ 3039-
3042, 3071; C., '97, § 3966.]

SEC. 7650. Surety subrogated.

1 When the principal and surety are liable for any claim, such
2 surety may pay the same, and recover thereon against all liable to
3 him. If a judgment against principal and surety has been paid by
4 the surety, he shall be subrogated to all the rights of the creditor, and
5 may take an assignment thereof, and enforce the same by execution
6 or otherwise, as the creditor could have done. All questions between
7 the parties thereto may be heard and determined on motion by the
8 court, or a judge thereof, upon such notice as may be prescribed by
9 it or him.

[C., '97, § 3967.]

SEC. 7651. Levy—how made and indorsed.

1 When an execution is delivered to an officer, he must proceed to
2 execute it with diligence; if executed, an exact description of the
3 property at length, with the date of the levy, shall be indorsed upon
4 or appended to the execution and if it was not executed, or only exe-
5 cuted in part, the reason in such case must be stated in the return.

[R., '60, § 3262; C., '73, § 3043; C., '97, § 3968.]

SEC. 7652. What acts necessary.

1 The officer must execute the writ by levying on the property of
2 the judgment debtor, collecting the things in action by suit in his own
3 name, if necessary, or by selling the same, selling the other property,
4 and paying to the clerk or the plaintiff the proceeds, or so much thereof
5 as will satisfy the execution. He may retain his own costs on re-
6 ceipting therefor on the judgment docket.

[C., '51, § 1904; R., '60, § 3267; C., '73, § 3044; C., '97,
§ 3969.]

SEC. 7653. What property—no lien on personalty.

1 The officer shall in all cases select such property, and in such
2 quantities, as will be likely to bring the exact amount required to be
3 raised, as nearly as practicable, and, having made one levy, may at
4 any time thereafter make others, if he finds it necessary. But no
5 execution shall be a lien on personal property before the actual levy
6 thereof.

[C., '51, § 1903; R., '60, § 3268; C., '73, § 3045; C., '97,
§ 3970.]

SEC. 7654. Judgments—money—things in action.

1 Judgments, money, bank bills and other things in action may be
2 levied upon, and sold or appropriated thereunder, and an assignment
3 thereof by the officer shall have the same effect as if made by the de-
4 fendant. The levy upon a judgment shall be made by entering upon
5 the judgment docket a memorandum of such fact, giving the names
6 of the parties plaintiff and defendant, the court from which the exe-
7 cution issued, and the date and hour of such entry, which shall be
8 signed by the officer serving the execution, and a return made on the
9 execution of his doings in the premises.

[C., '51, § 1893; R., '60, § 3272; C., '73, § 3046; C., '97,
§ 3971.]

SEC. 7655. Persons indebted may pay.

1 After the rendition of judgment, any person indebted to the de-
2 fendant in execution may pay to the sheriff the amount of such indebt-
3 edness, or so much thereof as is necessary to satisfy the execution, and
4 his receipt shall be a sufficient discharge therefor.

[C., '51, § 1894; R., '60, § 3273; C., '73, § 3047; C., '97,
§ 3972.]

SEC. 7656. Against municipal corporation—levy of tax.

1 If no property of a municipal corporation against which execu-
2 tion has issued can be found, or if the judgment creditor elects not to
3 issue execution against such corporation, a tax must be levied as early
4 as practicable to pay off the judgment. When a tax has been so levied
5 and any part thereof shall be collected, the treasurer of such corpora-
6 tion shall pay the same to the clerk of the court in which the judg-
7 ment was rendered, in satisfaction thereof.

[C., '51, § 1896; R., '60, § 3275; C., '73, § 3049; C., '97,
§ 3973.]

SEC. 7657. Corporation stock—debts—property in hands of third persons.

1 Stock or interest owned by the defendant in any company or cor-
2 poration, and also debts due him and property of his in the hands of
3 third persons, may be levied upon in the manner provided for attach-
4 ing the same.

[C., '51, § 1892; R., '60, § 3269; C., '73, § 3050; C., '97,
§ 3974.]

SEC. 7658. Garnishment.

1 Property of the defendant in the possession of another, or debts
2 due him, may be reached by garnishment.

[R., '60, § 3270; C., '73, § 3051; C., '97, § 3975.]

**SEC. 7659. Expiration or return of execution—return of garnish-
ments.**

1 Proceedings by garnishment on execution shall not be affected
2 by its expiration or its return. Where parties have been garnished
3 under it, the officer shall return to the next term thereafter a copy
4 of the execution with all his doings thereon, so far as they relate to
5 the garnishments, and the clerk shall docket an action thereon without
6 fee, and thereafter the proceedings shall conform to proceedings in
7 garnishment under attachments as nearly as may be.

[R., '60, § 3271; C., '73, § 3052; C., '97, § 3976.]

SEC. 7660. Joint or partnership property.

1 When an officer has an execution against a person who owns
2 property jointly, in common or in partnership with another, such
3 officer may levy on and take possession of the property owned jointly,
4 in common or in partnership sufficiently to enable him to appraise
5 and inventory the same, and for that purpose shall call to his assist-
6 ance three disinterested persons, which inventory and appraisalment
7 shall be returned by the officer with the execution, and shall state in
8 his return who claims to own the property.

[C., '51, § 1917; R., '60, § 3287; C., '73, § 3053; C., '97,
§ 3977.]

SEC. 7661. Lien—equitable proceeding—receiver.

1 The plaintiff shall, from the time such property is so levied on,
2 have a lien on the interest of the defendant therein, and may com-
3 mence an action by equitable proceedings to ascertain the nature
4 and extent of such interest and to enforce the lien; and, if deemed
5 necessary or proper, the court or judge may appoint a receiver under
6 the circumstances provided in the chapter relating to receivers.

[R., '60, §§ 3289-3291; C., '73, § 3054; C., '97, § 3978.]

**SEC. 7662. Levies upon mortgaged personal property—payment
or deposit.**

1 Mortgaged personal property not exempt from execution may
2 be taken on attachment or execution issued against the mortgagor,
3 if the officer, or the attachment or execution creditor, within ten days
4 after such levy, shall pay to the holder of the mortgage the amount
5 of the mortgaged debt and interest accrued, or deposit the same with

6 the clerk of the district court of the county from which the attach-
7 ment or execution issued, for the use of the holder of the mortgage,
8 or secure the same as in this chapter provided.

[C., '97, § 3979.]

SEC. 7663. Interest.

1 When the debt secured by the mortgage is not due as shown by
2 the mortgage, the officer, or the attachment or execution creditor,
3 must also pay or deposit with the clerk interest on the principal sum
4 at the rate specified in the mortgage for the term of sixty days
5 from the date of the deposit, unless the debt secured falls due in a
6 less time, in which case interest shall be deposited for such shorter
7 period.

[C., '97, § 3980.]

SEC. 7664. Failure to pay, deposit or give security.

1 If within ten days after such levy the attachment or execution
2 creditor does not pay the amount, make the deposit, or give the secu-
3 rity required, the levy shall be discharged, and the property restored
4 to the possession of the person from whom it was taken and the
5 creditor shall be liable to the holder of the mortgage for any damages
6 sustained by reason of such levy.

[C., '97, § 3981.]

SEC. 7665. Creditor subrogated.

1 When such sum is paid to the holder of the mortgage or deposited
2 with the clerk, the attachment or execution creditor shall be subro-
3 gated to all the rights of such holder, and the proceeds of the sale of
4 the mortgaged property shall be first applied to the discharge of such
5 indebtedness and the costs incurred under the writ of attachment or
6 execution.

[C., '97, § 3982.]

SEC. 7666. Holder reinstated.

1 If, for any reason, the levy upon the mortgaged property is dis-
2 charged or released without a sale thereof, the attachment or execu-
3 tion creditor who has paid or deposited the amount of the mortgage
4 debt shall have all the rights under such mortgage possessed by the
5 holder at the time of the levy. If the holder thereof desires to be
6 reinstated in his rights thereunder, he may repay the money received
7 by him, with interest thereon at the rate borne by the mortgage debt
8 for the time it has been held by him, and demand the return of the
9 mortgage, whereupon his rights thereunder shall revest in him, and
10 the attachment or execution creditor shall be entitled to the deposit
11 made, or any part thereof remaining in the hands of the clerk, or any
12 money returned to the clerk by the holder of the mortgage.

[C., '97, § 3983.]

SEC. 7667. Statement by holder of amount due.

1 The holder of the mortgage shall, before receiving the money
2 tendered to him by the attaching or execution creditor or deposited
3 with the clerk, state over his signature and under oath, on the back
4 of the mortgage, the amount due or to become due thereon, and de-

5 liver the same, together with the note or other evidence of indebted-
6 ness secured by said mortgage, to the person paying the said amount
7 or the clerk with whom the deposit is made, and the holder of the
8 mortgage shall only receive the amount so stated to be due, and the
9 surplus, if any, shall be returned to the person making the deposit.

[C., '97, § 3984.]

SEC. 7668. Indemnifying bond released.

1 When the attaching or execution creditor thus pays or deposits
2 the amount of the claim under the mortgage, he shall not be required
3 to give an indemnifying bond on notice to the sheriff by the holder
4 of the mortgage of his right to the property thereunder, or if one has
5 been given, it shall be released.

[C., '97, § 3985.]

SEC. 7669. Costs—surplus.

1 If under execution sale the mortgaged property does not sell for
2 enough to pay the mortgage debt, interest and costs of sale, the
3 judgment creditor shall be liable for all costs thus made, but if a
4 greater sum is realized, the officer conducting the sale shall at once
5 pay to the mortgage holder the amount due thereunder, and apply the
6 surplus on the execution.

[C., '97, § 3986.]

SEC. 7670. Statement of indebtedness.

1 For the purpose of enabling the attaching or execution creditor
2 to determine the amount to be tendered or deposited to hold the levy
3 under the writ of attachment or execution, the person entitled to re-
4 ceive payment of the mortgage debt shall deliver to any such person,
5 upon written demand therefor, a statement in writing under oath,
6 showing the nature and amount of the original debt, the date and the
7 amount of each payment, if any, which has been made thereon, and
8 an itemized statement of the amount then due and unpaid.

[C., '97, § 3987.]

SEC. 7671. Contest as to validity or amount.

1 If the right of the mortgagee to receive such or any sum is for
2 any reason questioned by the levying creditor, he may, within ten
3 days after levy, or after demand is made for a statement of the
4 amount due as above provided, commence an action in equity or con-
5 test such right upon filing a bond in a penalty double the amount of
6 such mortgage, or double the value of the property levied upon, con-
7 ditioned either for the payment of any sum found due on said mort-
8 gage to the person entitled thereto, or for the value of the property
9 levied upon, as the party ordering the levy may elect, with sureties
10 to be approved by the clerk; and if such mortgagee is a nonresident
11 or his residence is unknown, service may be made by publication as in
12 other actions, but if such residence becomes known before final sub-
13 mission, the court may order personal service to be made. If com-
14 menced at law, the court may transfer the same to the equity side
15 as in other cases. The court may appoint a receiver, and shall deter-
16 mine the amount due on the mortgage, the value of the property levied
17 upon, and all other questions properly presented, and may continue
18 and preserve or dismiss the lien of the levy, the costs to be taxed to

19 the losing party as in other cases. If there are two or more mort-
 20 gages, the creditor may admit the validity of one or more, and make
 21 the required deposit as to such, and contest the other, and where there
 22 are two or more such mortgages, each of which is questioned, a failure
 23 to establish the invalidity of all shall not defeat the rights of the levy-
 24 ing creditor, but in such case the decree shall determine the priority of
 25 liens, and direct the order of payment out of the proceeds of the prop-
 26 erty which shall be sold under special execution to be awarded in said
 27 cause; but nothing in this chapter contained shall be construed to
 28 forbid or in any way affect the right of a creditor to contest in any
 29 other way the validity of any mortgage.

[C., '97, § 3988; S., '13, § 3988.]

SEC. 7672. Failure to make statement.

1 A failure to make the statement, when required as above pro-
 2 vided, shall have the effect to postpone the lien of the mortgage and
 3 give the levy of the writ of attachment or execution priority over
 4 the claim of the holder thereof.

[C., '97, § 3989.]

SEC. 7673. Where mortgagee has been garnished.

1 If the mortgagee, before the levy of a writ of attachment or
 2 execution, has been garnished at the suit of a creditor of the mort-
 3 gagee, a creditor desiring to seize the mortgaged property under a
 4 writ of attachment or execution shall pay to the holder of the mort-
 5 gage, or deposit with the clerk, in addition to the mortgage debt, the
 6 sum claimed under the garnishment, and the provisions of this chap-
 7 ter, so far as applicable, in all respects shall govern proceedings relat-
 8 ing thereto.

[C., '97, § 3990.]

SEC. 7674. Indemnifying bond—notice of claim to property.

1 An officer is bound to levy an execution on any personal property
 2 in the possession of, or that he has reason to believe belongs to, the
 3 defendant, or on which the plaintiff directs him to levy, unless he has
 4 received notice in writing under oath from some other person, his
 5 agent or attorney, that such property belongs to him; stating the
 6 nature of his interests therein, how and from whom he acquired the
 7 same, and consideration paid therefor; or from the defendant, that
 8 the property is exempt from execution; but failure to give such notice
 9 shall not deprive the party of any other remedy. Or, if after levy he
 10 receives such notice, such officer may release the property unless a
 11 bond is given as provided in the next section; but the officer shall be
 12 protected from all liability by reason of such levy until he receives
 13 such written notice.

[C., '51, § 1916; R., '60, § 3277; C., '73, § 3055; C., '97,
 § 3991.]

SEC. 7675. Conditions of bond—return.

1 When the officer receives such notice he may forthwith give the
 2 plaintiff, his agent or attorney, notice that an indemnifying bond is
 3 required. Bond may thereupon be given by or for the plaintiff, with
 4 one or more sufficient sureties, to be approved by the officer, to the
 5 effect that the obligors will indemnify him against the damages which

6 he may sustain in consequence of the seizure or sale of the property,
 7 and will pay to any claimant thereof the damages he may sustain in
 8 consequence of the seizure or sale, and will warrant to any purchaser
 9 of the property such estate or interest therein as is sold; and there-
 10 upon the officer shall proceed to subject the property to the execution,
 11 and shall return the indemnifying bond to the court from which the
 12 execution issued.

[R., '60, § 3277; C., '73, § 3056; C., '97, § 3992.]

SEC. 7676. Failure to give bond.

1 If such bond is not given, the officer may refuse to levy, or if
 2 he has done so, and the bond is not given in a reasonable time after
 3 it is required by the officer, he may restore the property to the person
 4 from whose possession it was taken, and the levy shall stand dis-
 5 charged.

[R., '60, § 3278; C., '73, § 3057; C., '97, § 3993.]

SEC. 7677. Application of proceeds.

1 Where property for the sale of which the officer is indemnified
 2 sells for more than enough to satisfy the execution under which it was
 3 taken, the surplus shall be paid into the court to which the indemni-
 4 fying bond is directed to be returned. The court may order such
 5 disposition or payment of the money to be made, temporarily or abso-
 6 lutely, as may be proper in respect to the rights of the parties inter-
 7 ested.

[R., '60, § 3280; C., '73, § 3059; C., '97, § 3994.]

SEC. 7678. Executions by justices.

1 The provisions of the preceding sections, as to bonds, shall apply
 2 to proceedings upon executions issued by justices of the peace. Indem-
 3 nifying bonds shall be returned in such cases with the execution under
 4 which they are taken.

[R., '60, § 3286; C., '73, § 3060; C., '97, § 3995.]

SEC. 7679. Stay of execution—how effected.

1 On all judgments for the recovery of money, except those ren-
 2 dered on any appeal or writ of error, or in favor of a laborer or me-
 3 chanic for his wages, or against one who is surety in the stay of
 4 execution, or against any officer, person or corporation, or the sureties
 5 of any of them, for money received in a fiduciary capacity, or for the
 6 breach of any official duty, there may be a stay of execution, if the
 7 defendant therein shall, within ten days from the entry of judgment,
 8 procure one or more sufficient freehold sureties to enter into a bond,
 9 acknowledging themselves security for the defendant for the payment
 10 of the judgment, interest and costs from the time of rendering judg-
 11 ment until paid, as follows:

- 12 1. If the sum for which judgment was rendered, inclusive of costs,
 13 does not exceed one hundred dollars, three months.
- 14 2. If such sum and costs exceed one hundred dollars, six months.

[R., '60, § 3293; C., '73, § 3061; C., '97, § 3996.]

SEC. 7680. Affidavit of surety.

1 Officers approving stay bonds shall require the affidavit of the
 2 signers thereof, unless waived in writing by the party in whose favor

3 the judgment is rendered, that they own property not exempt from
4 execution, and aside from incumbrance, to the value of twice the
5 amount of the judgment.

[C., '73, § 3062; C., '97, § 3997.]

SEC. 7681. Stay waives appeal.

1 No appeal shall be allowed after a stay of execution has been
2 obtained.

[R., '60, § 3294; C., '73, § 3063; C., '97, § 3998.]

SEC. 7682. Bond—approval—recording—effect.

1 The sureties for stay of execution may be taken and approved
2 by the clerk, and the bond shall be recorded in a book kept for that
3 purpose, and have the force and effect of a judgment confessed from
4 the date thereof against their property, and shall be indexed in the
5 proper judgment docket, as in case of other judgments.

[R., '60, §§ 3295, 3298; C., '73, § 3064; C., '97, § 3999.]

SEC. 7683. Execution recalled.

1 When the bond is accepted and approved after execution has
2 been issued, the clerk shall immediately notify the sheriff of the stay,
3 and he shall forthwith return the execution with his doings thereon.

[R., '60, § 3296; C., '73, § 3065; C., '97, § 4000.]

SEC. 7684. Property released.

1 All property levied on or before stay of execution, and all written
2 undertakings for the delivery of personal property to the sheriff, shall
3 be relinquished by the officer, upon stay of execution being entered.

[R., '60, § 3297; C., '73, § 3066; C., '97, § 4001.]

SEC. 7685. Execution against principal and sureties.

1 At the expiration of the stay, the clerk shall issue a joint execu-
2 tion against the property of all the judgment debtors and sureties,
3 describing them as debtors or sureties therein, and the liability of
4 such sureties shall be subject to that of their principal as provided
5 in this chapter.

[R., '60, § 3299; C., '73, § 3067; C., '97, § 4002.]

SEC. 7686. Objection by surety.

1 When any court shall render judgment against two or more per-
2 sons, any of whom is surety for any other in the contract on which
3 judgment is founded, there shall be no stay of execution allowed, if
4 the surety objects thereto at or before the time of rendering the
5 judgment, whereupon it shall be ordered by the court that there be no
6 stay, unless the surety for the stay of execution will undertake spe-
7 cifically to pay the judgment in case the amount thereof can not be
8 levied of the principal defendant, and the judgment shall recite that
9 the liability of such stay is prior to that of the objecting surety.

[R., '60, § 3300; C., '73, § 3068; C., '97, § 4003.]

SEC. 7687. Stay terminated by surety.

1 Any surety for the stay of execution may file with the clerk an
2 affidavit, stating that he verily believes he will be compelled to pay the

3 judgment, interest and costs thereon unless execution issues imme-
4 diately, and gives notice thereof in writing to the party for whom he
5 is surety; and the clerk shall thereupon issue execution forthwith,
6 unless other sufficient surety be entered before the clerk within five
7 days after such notice is given as in other cases.

[R., '60, § 3301; C., '73, § 3069; C., '97, § 4004.]

SEC. 7688. Other security given.

1 If other sufficient surety is given, it shall have the force of the
2 original surety entered before the filing of the affidavit, and shall
3 discharge the original surety.

[R., '60, § 3302; C., '73, § 3070; C., '97, § 4005.]

SEC. 7689. Lien not released.

1 Where a stay of execution has been taken, such confessed judg-
2 ment shall not release any judgment lien by virtue of the original
3 judgment for the amount then due.

[R., '60, § 3303; C., '73, § 3071; C., '97, § 4006.]

SEC. 7690. Debts owing for labor preferred.

1 When the property of any company, corporation, firm or person
2 shall be seized upon by any process of any court, or placed in the
3 hands of a receiver, trustee or assignee, or their property shall be
4 seized by the action of creditors, for the purpose of paying or secur-
5 ing the payment of the debts of such company, corporation, firm or
6 person, the debts owing to employees for labor performed within the
7 ninety days next preceding the seizure or transfer of such property,
8 to an amount not exceeding one hundred dollars to each person, shall
9 be a preferred debt and paid in full, or if there is not sufficient realized
10 from such property to pay the same in full, then, after the pay-
11 ment of costs, ratably out of the fund remaining, but such preference
12 shall be junior and inferior to mechanics' liens for labor in opening
13 and developing coal mines.

[C., '97, § 4019; S., '13, § 4019.]

SEC. 7691. Statement of claim—allowance.

1 Any employee desiring to enforce his claim for wages, at any
2 time after the seizure of the property under execution or writ of
3 attachment or under any other authority, and before sale thereof is
4 ordered, shall present to the officer levying on such property or to such
5 receiver, trustee or assignee, or to the court having custody of such
6 property or from which such process issued, or person charged with
7 such property, a statement under oath, showing the amount due after
8 allowing all just credits and set-offs, and the kind of work for which
9 such wages are due, and when performed; and unless objection be
10 made thereto as provided in the following section, such claim shall
11 be allowed and paid to the person entitled thereto, after first paying
12 all costs occasioned by the proceeding out of the proceeds of the sale
13 of the property so seized or placed in the hands of a receiver, trus-
14 tee, or assignee, or court, or person charged with the same, subject,
15 however, to the provisions of the preceding section.

[C., '97, § 4020; S., '13, § 4020.]

SEC. 7692. Contest.

1 Any person interested may contest any claim or part thereof by
2 filing objections thereto, supported by affidavit, with such court, re-
3 ceiver, trustee or assignee, and its validity shall be determined in the
4 same way the validity of other claims are which are sought to be
5 enforced against such property, provided that where the claim is filed
6 with a person charged with the property other than the officers above
7 enumerated and a contest is made, the cause shall be transferred to
8 the district court, and there docketed and determined.

[C., '97, § 4021; S., '13, § 4021.]

SEC. 7693. Priority.

1 Claims of employees for labor, if not contested, or if allowed
2 after contest, shall have priority over all claims against or liens upon
3 such property, except prior mechanics' liens for labor in opening or
4 developing coal mines as allowed by law.

[C., '97, § 4022.]

SEC. 7694. Notice of sale.

1 The officer must give four weeks' notice of the time and place
2 of selling real property, and three weeks' notice of personal property.

[C., '51, § 1905; R., '60, § 3310; C., '73, § 3079; C., '97,
§ 4023.]

SEC. 7695. By posting or publication—compensation.

1 Notice shall be given by posting up in at least three public places
2 of the county, one of which shall be at the place where the last
3 district court was held. In addition to which, in case of the sale of
4 real estate, or where personal property to the amount of two hundred
5 dollars or upwards is to be sold, there shall be two weekly publica-
6 tions of such notice in some newspaper printed in the county, to be
7 selected by the party causing the notice to be given, and the com-
8 pensation for such publication shall be the same as is provided by
9 law for legal notices.

[C., '51, § 1906; R., '60, § 3311; C., '73, § 3080; C., '97,
§ 4024; S., '13, § 4024.]

SEC. 7696. Notice to defendant—sale set aside.

1 If the debtor is in actual occupation and possession of any part
2 of the land levied on, the officer having the execution shall, at least
3 twenty days previous to such sale, serve him with written notice,
4 stating that the execution is levied on said land, and mentioning the
5 time and place of sale, which notice shall be served in the manner pro-
6 vided by section seventy-one hundred sixty-three; and sales made
7 without the notice required in this section may be set aside on motion
8 made at the same or the next term thereafter.

[R., '60, § 3318; C., '73, § 3087; C., '97, § 4025; S., '13,
§ 4025.]

SEC. 7697. Sales by constables.

1 In constables' sales, the notice shall be posted for two weeks in
2 three public places of the township of the justice, one of them at his
3 office door, without newspaper publication.

[C., '51, § 1906; R., '60, § 3311; C., '73, § 3080; C., '97,
§ 4026.]

SEC. 7698. Penalty for selling without notice.

1 An officer selling without the notice prescribed in sections seventy-
2 six hundred ninety-four, seventy-six hundred ninety-five and seventy-
3 six hundred ninety-seven shall forfeit one hundred dollars to the de-
4 fendant in execution, in addition to the actual damages sustained by
5 either party; but the validity of the sale is not thereby affected.

[C., '51, § 1907; R., '60, § 3312; C., '73, § 3081; C., '97,
§ 4027; S., '13, § 4027.]

SEC. 7699. Time and manner.

1 The sale must be at public auction, between nine o'clock in the
2 forenoon and four o'clock in the afternoon, and the hour of the com-
3 mencement of the sale must be fixed in the notice.

[C., '51, § 1908; R., '60, § 3313; C., '73, § 3082; C., '97,
§ 4028.]

SEC. 7700. Officer may postpone.

1 When there are no bidders, or when the amount offered is grossly
2 inadequate, or when from any cause the sale is prevented from taking
3 place on the day fixed, or the parties so agree, the officer may post-
4 pone the sale for not more than three days without being required to
5 give any further notice thereof, which postponement shall be publicly
6 announced at the time the sale was to have been made, but not more
7 than two such adjournments shall be made, except by agreement of the
8 parties in writing and made a part of the return upon the execution.

[C., '51, § 1909; R., '60, § 3314; C., '73, § 3083; C., '97,
§ 4029.]

SEC. 7701. Overplus.

1 When the property sells for more than the amount required to be
2 collected, the overplus must be paid to the debtor, unless the officer
3 has another execution in his hands on which said overplus may be
4 rightfully applied, or unless there are liens upon the property which
5 ought to be paid therefrom, and the holders thereof make claim to
6 such surplus and demand application thereon, in which case the
7 officer shall pay the same into the hands of the clerk of the district
8 court, and it shall be applied as ordered by the court.

[C., '51, § 1910; R., '60, § 3315; C., '73, § 3084; C., '97,
§ 4030.]

SEC. 7702. Another execution.

1 If the property levied on sells for less than sufficient to satisfy
2 the execution, the judgment holder may order out another, which
3 shall be credited with the amount of the previous sale. The proceed-

4 ings under the second execution shall conform to those hereinbefore
5 prescribed.

[C., '51, § 1911; R., '60, § 3316; C., '73, § 3085; C., '97,
§ 4031.]

SEC. 7703. Plan of division of land.

1 At any time before nine o'clock a. m. of the day of the sale, the
2 debtor may deliver to the officer a plan of division of the land levied
3 on, subscribed by him, and in that case the officer shall sell, according
4 to said plan, so much of the land as may be necessary to satisfy the
5 debt and costs, and no more. If no such plan is furnished, the officer
6 may sell without any division.

[R., '60, § 3319; C., '73, § 3088; C., '97, § 4032.]

SEC. 7704. When purchaser fails to pay.

1 When the purchaser fails to pay the money when demanded, the
2 judgment holder or his attorney may elect to proceed against him
3 for the amount; otherwise the sheriff shall treat the sale as a
4 nullity, and may sell the property on the same day, or after postpone-
5 ment as above authorized.

[C., '51, § 1913; R., '60, § 3320; C., '73, § 3089; C., '97,
§ 4033.]

SEC. 7705. Sales vacated.

1 When any person shall purchase at a sheriff's sale any real
2 estate on which the judgment upon which the execution issued was
3 not a lien at the time of the levy, and which fact was unknown to
4 the purchaser, the court shall set aside such sale on motion, notice
5 having been given to the debtor as in case of action, and a new execu-
6 tion may be issued to enforce the judgment, and, upon the order
7 being made to set aside the sale, the sheriff or judgment creditor shall
8 pay over to the purchaser the purchase money; said motion may
9 also be made by any person interested in the real estate.

[R., '60, § 3321; C., '73, § 3090; C., '97, § 4034.]

SEC. 7706. Money—things in action.

1 Money levied upon may be appropriated without being advertised
2 or sold, and so may bank bills, drafts, promissory notes, or other
3 papers of the like character, if the plaintiff will receive them at their
4 par value as cash, or if the officer can exchange them for cash at that
5 value.

[C., '51, § 1914; R., '60, § 3322; C., '73, § 3091; C., '97,
§ 4035.]

SEC. 7707. Subjecting real estate of deceased judgment debtor.

1 When a judgment has been obtained against a decedent in his
2 lifetime, the plaintiff may file his petition in the office of the clerk of
3 the court where the judgment is rendered, against the executor, the
4 heirs and devisees of real estate, if such there be, setting forth the
5 facts, and that there is real estate of the deceased, describing its loca-
6 tion and extent, and praying the court to award execution against
7 the same.

[C., '51, § 1918; R., '60, § 3323; C., '73, § 3092; C., '97,
§ 4036.]

SEC. 7708. Notice.

1 The person against whom the petition is filed shall be notified by
2 the plaintiff to appear on the first day of the term and show cause,
3 if any he have, why execution should not be awarded.

[C., '51, § 1919; R., '60, § 3324; C., '73, § 3093; C., '97,
§ 4037.]

SEC. 7709. How served and returned.

1 The notice must be served and returned in the ordinary manner,
2 and the same length of time shall be allowed for appearance as in
3 civil actions, and service of such notice on nonresident defendants
4 may be had in such cases by publication.

[C., '51, § 1920; R., '60, § 3325; C., '73, § 3094; C., '97,
§ 4038.]

SEC. 7710. Execution awarded.

1 At the proper time, the court shall award the execution, unless
2 sufficient cause is shown to the contrary, but the nonage of the heirs
3 or devisees shall not be held such sufficient cause.

[C., '51, §§ 1921, 1922; R., '60, §§ 3326, 3327; C., '73, §§ 3095,
3096; C., '97, § 4039.]

SEC. 7711. Mutual judgments—set off.

1 Mutual judgments, executions on which are in the hands of the
2 same officer, may be set off the one against the other, except the costs,
3 but if the amount collected on the large judgment is sufficient to pay
4 the costs of both, such costs shall be paid therefrom.

[C., '51, § 1923; R., '60, § 3328; C., '73, § 3097; C., '97,
§ 4040.]

SEC. 7712. Appraisement of personal property and leasehold interests.

1 Personal property, and leasehold interests in real property having
2 less than two years of an unexpired term, levied upon and advertised
3 for sale on execution, must be appraised before sale by two disinter-
4 ested householders of the neighborhood, one of whom shall be chosen
5 by the execution debtor and the other by the plaintiff, or, in case of
6 the absence of either party, or if either or both parties neglect or
7 refuse to make choice, the officer making the levy shall choose one or
8 both, as the case may be, who shall forthwith return to said officer a
9 just appraisement, under oath, of said property if they can agree;
10 if they can not, they shall choose another disinterested householder,
11 and with his assistance shall complete such appraisement, and the
12 property shall not, upon the first offer, be sold for less than two-
13 thirds of said valuation; but if offered at the same place and hour of
14 the day as advertised upon three successive days, and no bid is re-
15 ceived equal to two-thirds of the appraised value thereof, then it may
16 be sold for one-half of said valuation.

[C., '73, § 3100; C., '97, § 4041.]

SEC. 7713. Property unsold—levy holds good—additional levy—abandonment.

1 Subject to the provisions of the preceding section, when property
2 is unsold for want of bidders, the levy still holds good; and, if there

3 be sufficient time, it may again be advertised, or the execution returned
 4 and one issued commanding the officer to sell the property, describing
 5 it, previously levied on, to which a clause may be added that, if such
 6 property does not produce a sum sufficient to satisfy such execution,
 7 the officer shall proceed to make an additional levy, on which he shall
 8 proceed as on other executions; or the plaintiff may, in writing filed
 9 with the clerk or justice, abandon such levy, upon paying the costs
 10 thereof; in which case execution may issue with the same effect as
 11 if none had ever been issued.

[C., '51, § 1912; R., '60, § 3317; C., '73, § 3086; C., '97,
 § 4042.]

SEC. 7714. Deed or certificate.

1 If the property sold is not subject to redemption, the sheriff must
 2 execute a deed therefor to the purchaser; but, if subject to redemp-
 3 tion, a certificate, containing a description of the property and the
 4 amount of money paid by such purchaser, and stating that, unless
 5 redemption is made within one year thereafter, according to law, he
 6 or his heirs or assigns will be entitled to a deed for the same.

[C., '51, § 1925; R., '60, § 3331; C., '73, § 3101; C., '97,
 § 4044.]

SEC. 7715. Deed.

1 If the debtor or his assignee fails to redeem, the sheriff then in
 2 office must, at the end of the year, execute a deed to the person who
 3 is entitled to the certificate as hereinbefore provided, or to his assignee.
 4 If the person entitled is dead, the deed shall be made to his heirs.

[C., '51, § 1946; R., '60, § 3354; C., '73, §§ 348, 3124; C.,
 '97, § 4062.]

SEC. 7716. Recording.

1 The purchaser of real estate at a sale on execution need not place
 2 any evidence of his purchase upon record until sixty days after the
 3 expiration of the full time of redemption. Up to that time the pub-
 4 licity of the proceedings is constructive notice of the rights of the
 5 purchaser.

[C., '51, § 1947; R., '60, § 3355; C., '73, § 3125; C., '97,
 § 4063.]

SEC. 7717. Presumption.

1 Deeds executed by a sheriff in pursuance of the sales contem-
 2 plated in this chapter are presumptive evidence of the regularity of
 3 all previous proceedings in the case, and may be given in evidence
 4 without preliminary proof.

[C., '51, § 1948; R., '60, § 3356; C., '73, § 3126; C., '97,
 § 4064.]

SEC. 7718. Damages for injury to property.

1 When real estate has been sold on execution, the purchaser
 2 thereof, or any person who has succeeded to his interest, may, after
 3 his estate becomes absolute, recover damages for any injury to the

4 property committed after the sale and before possession is delivered
5 under the conveyance.

[C., '51, § 1949; R., '60, § 3357; C., '73, § 3127; C., '97,
§ 4065.]

SEC. 7719. Proceedings in justices' courts.

1 The provisions of this chapter are intended to embrace proceed-
2 ings in justices' courts, so far as they are applicable; and the terms
3 "sheriff" and "clerk" are to be understood as qualified in this chapter
4 in the same manner in this respect as in that relative to attachment.

[C., '51, § 1952; R., '60, § 3359; C., '73, § 3129; C., '97,
§ 4066.]

SEC. 7720. Death of holder of judgment.

1 The death of any or all of the joint owners of a judgment shall
2 not prevent an execution being issued thereon, but on any such execu-
3 tion the clerk shall indorse the fact of the death of such of them as
4 are dead, and if all are dead, the names of their personal representa-
5 tives, if the judgment passed to the personal representatives, or the
6 names of the heirs of such deceased person, if the judgment was for
7 real property.

[R., '60, § 3482; C., '73, § 3130; C., '97, § 4067.]

SEC. 7721. Officer's duty.

1 In acting upon an execution, so indorsed, the sheriff shall proceed
2 as if the surviving owners, or the personal representatives or heirs as
3 above provided, were the only owners of the judgment upon which it
4 was issued, and take bonds accordingly.

[R., '60, § 3483; C., '73, § 3131; C., '97, § 4068.]

SEC. 7722. Affidavit required.

1 Before making the indorsements as above provided, an affidavit
2 shall be filed with the clerk by one of the owners of such judgment,
3 or one of such personal representatives or heirs, or their attorney, of
4 the death of such owners as are dead, and that the persons named as
5 such are the personal representatives or heirs, and in the case of
6 personal representatives they shall file with the clerk a certificate of
7 their qualification, unless their appointment is by the court from
8 which the execution issues, in which case the record of such appoint-
9 ment shall be sufficient evidence of the fact.

[R., '60, § 3484; C., '73, § 3132; C., '97, § 4069.]

SEC. 7723. Execution quashed.

1 Any debtor in such a judgment may move the court or judge to
2 quash an execution on the ground that the personal representatives or
3 heirs of a deceased judgment creditor are not properly stated in the
4 indorsement on the execution, and during the vacation of the court
5 may obtain an injunction, upon satisfactory showing that the persons
6 named as such are not entitled to the judgment on which the execution
7 was issued.

[R., '60, § 3486; C., '73, § 3134; C., '97, § 4070.]

SEC. 7724. Death of part of defendants.

1 The death of part of the joint debtors in a judgment shall not
 2 prevent execution being issued thereon, but, when issued, it shall
 3 operate alone on the survivors and their property.

[R., '60, § 3485; C., '73, § 3133; C., '97, § 4071.]

CHAPTER 15.**EXEMPTIONS.****SECTION 7725. Exemption from garnishment—wages—nonresidents.**

1 Wages earned outside of this state by a nonresident of this state,
 2 and payable outside of this state, shall in all cases where the garnish-
 3 ing creditor is a nonresident of this state, be exempt from attach-
 4 ment or garnishment where the cause of action arises outside of this
 5 state; and it shall be the duty of the garnishee in such cases to plead
 6 such exemption, unless the defendant shall be personally served with
 7 original notice in this state.

[S., '13, § 4071-a.]

SEC. 7726. Exemption of public property.

1 Public buildings owned by the state, or any county, city, school
 2 district or other municipal corporation, or any other public property
 3 which is necessary and proper for carrying out the general purpose
 4 for which such corporation is organized, are exempt from execution.
 5 The property of a private citizen can in no case be levied on to pay the
 6 debt of any such.

[C., '51, § 1895; R., '60, § 3274; C., '73, § 3048; C., '97,
 § 4007.]

SEC. 7727. Other exemptions.

1 If the debtor is a resident of this state and the head of a family,
 2 he may hold exempt from execution the following property: All
 3 wearing apparel of himself and family kept for actual use and suitable
 4 to their condition, and the trunks or other receptacles necessary to
 5 contain the same; one musket or rifle and shotgun; all private
 6 libraries, family bibles, portraits, pictures, musical instruments and
 7 paintings not kept for the purpose of sale; a seat or pew occupied by
 8 the debtor or his family in any house of public worship; an interest in
 9 a public or private burying ground, not exceeding one acre for any
 10 defendant; two cows and two calves; fifty sheep and the wool there-
 11 from and the materials manufactured from such wool; six stands
 12 of bees; five hogs, and all pigs under six months; the necessary food
 13 for all animals exempt from execution, for six months; one bedstead
 14 and the necessary bedding for every two in the family; all cloth
 15 manufactured by the defendant, not exceeding one hundred yards in
 16 quantity; household and kitchen furniture, not exceeding two hun-
 17 dred dollars in value; all spinning wheels and looms; one sewing ma-
 18 chine and other instruments of domestic labor kept for actual use;
 19 the necessary provisions and fuel for the use of the family for six
 20 months; the proper tools, instruments or books of the debtor, if a

21 farmer, mechanic, surveyor, clergyman, lawyer, physician, teacher or
 22 professor; if the debtor is a physician, public officer, farmer, teamster
 23 or other laborer, a team, consisting of not more than two horses or
 24 mules, or two yoke of cattle, and the wagon or other vehicle, with
 25 the proper harness or tackle, by the use of which he habitually earns
 26 his living, otherwise one horse; if a printer, a printing press and the
 27 types, furniture and material necessary for the use of such printing
 28 press and a newspaper office connected therewith, not to exceed in all
 29 the value of twelve hundred dollars; poultry to the value of fifty dol-
 30 lars, and the same to any woman whether the head of a family or
 31 not; and if the debtor is a seamstress, one sewing machine.

[C., '51, §§ 1898, 1899; R., '60, §§ 3304, 3305, 3308; C., '73,
 § 3072; C., '97, § 4008.]

SEC. 7728. Pension money.

1 All money received by any person, a resident of the state, as a
 2 pension from the United States government, whether the same shall
 3 be in the actual possession of such pensioner, or deposited, loaned
 4 or invested by him, shall be exempt from execution, whether such
 5 pensioner shall be the head of a family or not.

[C., '97, § 4009.]

SEC. 7729. Homestead bought with pension money.

1 The homestead of every such pensioner, whether the head of a
 2 family or not, purchased and paid for with any such pension money,
 3 or the proceeds or accumulations thereof, shall also be exempt; and
 4 such exemption shall apply to debts of such pensioner contracted prior
 5 to the purchase of the homestead.

[C., '97, § 4010.]

SEC. 7730. Personal earnings.

1 The earnings of a debtor who is a resident of the state and the
 2 head of a family for his personal services, or those of his family, at
 3 any time within ninety days next preceding the levy, are exempt from
 4 liability for debt; provided that where the party in whose favor the
 5 order, decree or judgment was rendered has not remarried, the per-
 6 sonal earnings of the debtor shall not be exempt from any order, judg-
 7 ment or decree for temporary or permanent alimony hereafter ren-
 8 dered in this state, nor from any installment of any such order, judg-
 9 ment or decree heretofore rendered within this state which, by the
 10 provisions thereof, may hereafter become due, or from any order,
 11 judgment or decree for the support of his minor child or children
 12 hereafter rendered in this state nor any installment of any such
 13 order, judgment or decree heretofore rendered in this state which, by
 14 the provisions thereof, may hereafter become due.

[C., '51, § 1901; R., '60, § 3307; C., '73, § 3074; C., '97,
 § 4011; 38 G. A., ch. 65, § 1.]

SEC. 7731. "Family" defined.

1 The word "family," as used in this chapter, does not include
 2 strangers or boarders lodging with the family.

[C., '51, § 1900; R., '60, § 3306; C., '73, § 3073; C., '97,
 § 4012.]

SEC. 7732. Unmarried persons—nonresidents.

1 There shall be exempt to an unmarried person not the head of a
2 family, and to nonresidents, their own ordinary wearing apparel and
3 trunk necessary to contain the same.

[C., '51, § 1902; R., '60, § 3308; C., '73, § 3075; C., '97,
§ 4013.]

SEC. 7733. Persons starting to leave the state.

1 Where the debtor, if the head of a family, has started to leave
2 this state, he shall have exempt only the ordinary wearing apparel
3 of himself and family, and such other property, in addition, as he may
4 select, in all not exceeding seventy-five dollars in value; which prop-
5 erty shall be selected by the debtor and appraised according to the
6 provisions of this code relating to the discharge of attached prop-
7 erty; but any person coming into this state with the intention of
8 remaining shall be considered a resident.

[C., '51, § 1902; R., '60, § 3308; C., '73, § 3076; C., '97,
§ 4014.]

SEC. 7734. Purchase money.

1 None of the exemptions prescribed in this chapter shall be
2 allowed against an execution issued for the purchase money of prop-
3 erty claimed to be exempt, and on which such execution is levied.

[C., '73, § 3077; C., '97, § 4015.]

SEC. 7735. Absconding debtor.

1 When a debtor absconds and leaves his family, such property as
2 is exempt to him under this chapter shall be exempt in the hands
3 of his wife and children, or either of them.

[R., '60, § 3309; C., '73, § 3078; C., '97, § 4016.]

SEC. 7736. Failure to claim exemption.

1 Any person entitled to any of the exemptions mentioned in this
2 chapter does not waive his rights thereto by failing to designate or
3 select such exempt property, or by failing to object to a levy thereon,
4 unless he fails or neglects to do so when required in writing by the
5 officer about to levy thereon.

[C., '51, §§ 1898, 1899; R., '60, §§ 3304, 3305, 3308; C., '73,
§ 3072; C., '97, § 4017.]

SEC. 7737. Sending claims out of state to defeat exemption.

1 Whoever, whether as principal, agent or attorney, with intent
2 to deprive a resident in good faith of the state of the benefit of the
3 exemption laws thereof, sends a claim against such resident and be-
4 longing to a resident, to another state for action, or causes action to
5 be brought on such claim in another state, or assigns or transfers
6 such claim to a nonresident of the state, with intent that action
7 thereon be brought in the courts of another state, the action in either
8 case being one which might have been brought in this state, and the
9 property or debt sought to be reached by such action being such as
10 might, but for the exemption laws of this state, have been reached

11 by action in the courts of this state, shall be guilty of a misdemeanor,
 12 and punished by a fine of not less than ten nor more than fifty dollars.
 [C., '97, § 4018.]

CHAPTER 16.

REDEMPTION.

SECTION 7738. When sale absolute.

1 When real property has been levied upon, if the estate is less
 2 than a leasehold having two years of an unexpired term, the sale is
 3 absolute, but if of a larger amount, it is redeemable as hereinafter
 4 prescribed.

[C., '51, § 1924; R., '60, §§ 3329, 3330; C., '73, §§ 3098, 3099;
 C., '97, § 4043.]

SEC. 7739. Redemption—by debtor—appeal or stay.

1 The debtor may redeem real property at any time within one year
 2 from the day of sale, and will, in the meantime, be entitled to the
 3 possession thereof; and for the first six months thereafter such right
 4 of redemption is exclusive; but no party who has taken an appeal
 5 from the superior or district court, or stayed execution on the judg-
 6 ment, shall be entitled to redeem.

[C., '51, §§ 1926, 1927; R., '60, §§ 3332, 3333; C., '73, §§ 3102,
 3103; C., '97, § 4045.]

SEC. 7740. By creditors.

1 If no redemption is made by the debtor as above provided, there-
 2 after, and at any time within nine months from the day of sale, said
 3 redemption may be made by a mortgagee before or after the debt
 4 secured by the mortgage falls due, or by any creditor whose claim be-
 5 comes a lien prior to the expiration of the time allowed for such
 6 redemption; but a mechanic's lien before judgment thereon is not of
 7 such character as to entitle the holder to redeem. The owner of a
 8 claim which has been allowed and established against the estate of
 9 a decedent may redeem as in this chapter provided, by making applica-
 10 tion to the district court or any judge of the district where the real
 11 estate to be redeemed is situated. Such application shall be heard
 12 after notice to such parties as said court or judge may direct, and
 13 shall be determined with due regard to rights of all persons interested.

[C., '51, §§ 1927, 1928; R., '60, §§ 3333, 3334; C., '73, §§ 3103,
 3104; C., '97, § 4046.]

SEC. 7741. By creditors from each other.

1 Creditors having the right of redemption may redeem from each
 2 other within the time above limited, and in the manner herein pro-
 3 vided.

[C., '51, § 1929; R., '60, § 3335; C., '73, § 3105; C., '97,
 § 4047.]

SEC. 7742. Senior creditor.

1 When a senior creditor thus redeems from his junior, he is
 2 required to pay off only the amount of those liens which are para-
 3 mount to his own, with the interest and costs appertaining to those
 4 liens.

[C., '51, § 1931; R., '60, § 3337; C., '73, § 3107; C., '97,
 § 4048.]

SEC. 7743. Junior may prevent.

1 The junior creditor may in all such cases prevent a redemption
 2 by the holder of the paramount lien by paying off the lien, or by leav-
 3 ing with the clerk beforehand the amount necessary therefor, and a
 4 junior judgment creditor may redeem from a senior judgment creditor.

[C., '51, § 1932; R., '60, §§ 3338, 3339; C., '73, §§ 3108, 3109;
 C., '97, § 4049.]

SEC. 7744. Terms.

1 The terms of redemption, when made by a creditor, in all cases
 2 shall be the reimbursement of the amount bid or paid by the holder
 3 of the certificate, including all costs, with interest the same as the
 4 lien redeemed from bears on the amount of such bid or payment, from
 5 the time thereof, but where a mortgagee whose claim is not yet due
 6 is the person from whom the redemption is thus to be made, he shall
 7 receive on such mortgage only the amount of the principal thereby
 8 secured, with unpaid interest thereon to the time of such redemption.

[C., '51, § 1930; R., '60, § 3336; C., '73, § 3106; C., '97,
 § 4050.]

SEC. 7745. By holder of title—where made.

1 The terms of redemption, when made by the title holder, shall be
 2 the payment into the clerk's office of the amount of the certificate,
 3 and all sums paid by the holder thereof in effecting redemptions,
 4 added to the amount of his own lien, or the amount he has credited
 5 thereon, if less than the whole, with interest at contract rate on the
 6 certificate of sale from its date, and upon sums so paid by way of
 7 redemption from date of payment, and upon the amount credited on
 8 his own judgment from the time of said credit, in each case including
 9 costs. All redemptions made under the provisions of this chapter
 10 shall be made in the county where the sale is had.

[C., '51, § 1930; R., '60, § 3336; C., '73, § 3106; C., '97,
 § 4051; S., '13, § 4051.]

SEC. 7746. By junior from senior creditor.

1 When a senior redeems from a junior creditor, the latter may, in
 2 return, redeem from the former, and so on, as often as the land is
 3 taken from him by virtue of a paramount lien.

[C., '51, § 1933; R., '60, § 3341; C., '73, § 3111; C., '97,
 § 4052.]

SEC. 7747. After nine months.

1 After the expiration of nine months from the day of sale, the
 2 creditors can no longer redeem from each other, except as hereinafter
 3 provided.

[C., '51, § 1934; R., '60, § 3342; C., '73, § 3112; C., '97,
 § 4053.]

SEC. 7748. Who gets property.

1 Unless the defendant redeems, the purchaser, or the creditor
2 who has last redeemed prior to the expiration of the nine months
3 aforesaid, will hold the property absolutely.

[C., '51, § 1935; R., '60, § 3343; C., '73, § 3113; C., '97,
§ 4054.]

SEC. 7749. Claim extinguished.

1 In case it is thus held by a redeeming creditor, his lien, and the
2 claim out of which it arose, will be held to be extinguished, unless he
3 pursues the course pointed out in the next section.

[C., '51, § 1936; R., '60, § 3344; C., '73, § 3114; C., '97,
§ 4055.]

SEC. 7750. Credit on judgment.

1 The mode of redemption by a lienholder shall be by paying into
2 the clerk's office the amount necessary to effect the same, computed
3 as above provided, and filing therein his affidavit, or that of his agent
4 or attorney, stating as nearly as practicable the nature of his lien and
5 the amount still due and unpaid thereon. If he is unwilling to hold the
6 property and credit the debtor thereon the full amount of his lien, he
7 must state the utmost amount he is willing to credit him with. If
8 the amount paid to the clerk is in excess of the prior bid and liens, he
9 shall refund the excess to the party paying the same, and enter each
10 such redemption made by a lienholder upon the sale book, and credit
11 upon the lien, if a judgment in the court of which he is clerk, the full
12 amount thereof, including interest and costs, or such less amount as
13 the lienholder is willing to credit therein, as shown by the affidavit
14 filed.

[C., '51, §§ 1937-1941; R., '60, §§ 3340, 3345-3349; C., '73,
§§ 3110, 3115-3119; C., '97, § 4056.]

SEC. 7751. Contest determined.

1 In case any question arises as to the right to redeem, or the
2 amount of any lien, the person claiming such right may deposit the
3 necessary amount therefor with the clerk, accompanied with the affi-
4 davit above required, and also stating therein the nature of such ques-
5 tion or objection, which question or objection shall be submitted to
6 the court or a judge thereof as soon as practicable thereafter, upon
7 such notice as it or he shall prescribe of the time and place of the
8 hearing of the controversy, at which time and place the matter shall
9 be tried upon such evidence and in such manner as may be pre-
10 scribed, and the proper order made and entered of record in the cause
11 in which execution issued, and the money so paid in shall be held by
12 the clerk subject to the order made.

[C., '97, § 4057.]

SEC. 7752. Assignment of certificate.

1 A creditor redeeming as above contemplated is entitled to receive
2 an assignment of the certificate issued by the sheriff to the original
3 purchaser as hereinbefore directed.

[C., '51, § 1942; R., '60, § 3350; C., '73, § 3120; C., '97,
§ 4058.]

SEC. 7753. Redemption of portion of property.

1 When the property has been sold in parcels, any distinct portion
2 may be redeemed by itself.

[C., '51, § 1943; R., '60, § 3351; C., '73, § 3121; C., '97,
§ 4059.]

SEC. 7754. Interest of tenant in common.

1 When the interests of several tenants in common have been sold
2 on execution, the undivided portion of any or either of them may be
3 redeemed separately.

[C., '51, § 1944; R., '60, § 3352; C., '73, § 3122; C., '97,
§ 4060.]

SEC. 7755. Transfer of debtor's right.

1 The rights of a debtor in relation to redemption are transferable,
2 and the assignee has the like power to redeem.

[C., '51, § 1945; R., '60, § 3353; C., '73, § 3123; C., '97,
§ 4061.]

CHAPTER 17.
PROCEEDINGS AUXILIARY TO EXECUTION.**SECTION 7756. Debtor examined.**

1 When execution against the property of a judgment debtor, or
2 one of several debtors in the same judgment, has been issued from
3 the superior, district or supreme court to the sheriff of the county
4 where such debtor resides, or if he do not reside in the state, to the
5 sheriff of the county where the judgment was rendered, or a tran-
6 script of a justice's judgment has been filed, and execution issued
7 thereon is returned unsatisfied in whole or in part, the owner of the
8 judgment is entitled to an order for the appearance and examination
9 of such debtor.

[C., '51, § 1953; R., '60, § 3375; C., '73, § 3135; C., '97,
§ 4072.]

SEC. 7757. Upon affidavit as to property.

1 The like order may be obtained at any time after the issuing of
2 an execution, upon proof, by the affidavit of the party or otherwise,
3 to the satisfaction of the court or judge who is to grant the same,
4 that any judgment debtor has property which he unjustly refuses to
5 apply towards the satisfaction of the judgment.

[C., '51, § 1954; R., '60, § 3376; C., '73, § 3136; C., '97,
§ 4073.]

SEC. 7758. By whom order granted.

1 Such order may be made by the superior or district court in
2 which the judgment was rendered, or by the district court of the
3 county to which execution has been issued, or in vacation by a judge
4 thereof. And the debtor may be required to appear and answer before

5 either of such courts or judges, or before a referee appointed for that
6 purpose by the court or judge who issued the order, to report either
7 the evidence or the facts.

[C., '51, § 1955; R., '60, §§ 3377, 3385; C., '73, § 3137; C.,
'97, § 4074.]

SEC. 7759. Debtor interrogated.

1 The debtor, on his appearance, may be interrogated in relation
2 to any facts calculated to show the amount of his property, or the
3 disposition which has been made of it, or any other matter pertain-
4 ing to the purpose for which the examination is permitted to be
5 made. The interrogatories and answers shall be reduced to writing
6 and preserved by the court or officer before whom they are taken. All
7 examinations and answers under this chapter shall be on oath, and no
8 person shall, on such examination, be excused from answering any
9 question on the ground that his examination will tend to convict him
10 of a fraud, but his answers shall not be used as evidence against him
11 in a prosecution for such fraud.

[C., '51, § 1956; R., '60, § 3378; C., '73, § 3138; C., '97,
§ 4075.]

SEC. 7760. Witnesses examined.

1 Witnesses may be required by order of the court or judge, or by
2 subpoenas from the referee, to appear and testify upon any proceed-
3 ings under this chapter, in the same manner as upon the trial of an
4 issue.

[R., '60, § 3379; C., '73, § 3139; C., '97, § 4076.]

SEC. 7761. Disposition of property.

1 If any property, rights or credits subject to execution are thus
2 ascertained, an execution may be issued and the same levied upon.
3 The court or judge may order any property of the judgment debtor
4 not exempt, in the hands of himself or others, or due him, to be de-
5 livered up, or in any other mode applied towards the satisfaction of
6 the judgment.

[C., '51, § 1957; R., '60, § 3380; C., '73, § 3140; C., '97,
§ 4077.]

SEC. 7762. Receiver.

1 The court or judge may also, by order, appoint the sheriff of the
2 proper county, or other suitable person, a receiver of the property
3 of the judgment debtor, or by injunction forbid a transfer or other
4 disposition of the property of the judgment debtor, not exempt by
5 law, or any interference therewith.

[R., '60, § 3381; C., '73, § 3141; C., '97, § 4078.]

SEC. 7763. Equitable interest.

1 If it shall appear that the judgment debtor has any equitable
2 interest in real estate in the county in which proceedings are had, as
3 mortgagor, mortgagee or otherwise, and the interest of said debtor
4 can be ascertained as between himself and the person holding the
5 legal estate or having any lien on or interest in the same, without con-
6 troversy as to the interest of such person, the receiver may be

7 ordered to sell and convey the same, or the debtor's equitable interest
8 therein, in the same manner as is provided for the sale of real estate
9 upon execution.

[R., '60, § 3382; C., '73, § 3142; C., '97, § 4079.]

SEC. 7764. Sheriff as receiver.

1 If the sheriff is appointed receiver, he and his sureties shall be
2 liable on his official bond for the faithful discharge of his duties as
3 such.

[R., '60, § 3383; C., '73, § 3143; C., '97, § 4080.]

SEC. 7765. Continuance.

1 The court, judge or referee acting under the provisions of this
2 chapter shall have power to continue his proceedings from time to
3 time until they shall be completed.

[R., '60, § 3384; C., '73, § 3144; C., '97, § 4081.]

SEC. 7766. Debtor failing to appear—contempt.

1 Should the judgment debtor fail to appear after being personally
2 served with notice to that effect, or should he fail to make full
3 answers to all proper interrogatories propounded to him, he will be
4 guilty of contempt, and may be arrested and imprisoned until he com-
5 plies with the requirements of the law in this respect. And if any
6 person, party or witness disobey an order of the court, judge or
7 referee, duly served, such person, party or witness may be punished
8 as for contempt.

[C., '51, § 1958; R., '60, § 3386; C., '73, § 3145; C., '97,
§ 4082.]

SEC. 7767. Service of order.

1 The order mentioned herein shall be in writing and signed by the
2 court, judge or referee making the same, and be served in the same
3 manner as an original notice in other cases.

[R., '60, § 3387; C., '73, § 3146; C., '97, § 4083.]

SEC. 7768. Compensation of officers and witnesses.

1 Sheriffs, referees, receivers and witnesses shall receive such com-
2 pensation as is allowed for like services in other cases, to be taxed as
3 costs in the case, and the collection thereof from such party or
4 parties as ought to pay the same shall be enforced by an order or
5 execution.

[R., '60, § 3388; C., '73, § 3147; C., '97, § 4084.]

SEC. 7769. Warrant of arrest.

1 Upon proof, to the satisfaction of the court or judge authorized
2 to grant the order aforesaid, that there is danger that the defendant
3 will leave the state, or that he will conceal himself, such court or
4 judge, instead of the order, may issue a warrant for the arrest of the
5 debtor, and for bringing him forthwith before the court or judge,
6 upon which being done, he may be examined in the same manner and
7 with the like effect as is above provided.

[C., '51, § 1959; R., '60, § 3389; C., '73, § 3148; C., '97,
§ 4085.]

SEC. 7770. Bond.

1 Upon being brought before the court or judge, he may enter
 2 into an undertaking in such sum as the court or officer shall prescribe,
 3 with one or more sureties, that he will attend from time to time for
 4 examination before the court or judge as shall be directed, and will
 5 not, in the meantime, dispose of his property, or any part thereof; in
 6 default whereof he shall continue under arrest, and may be com-
 7 mitted to jail for safe keeping until the examination shall be con-
 8 cluded.

[R., '60, § 3390; C., '73, § 3149; C., '97, § 4086.]

SEC. 7771. Equitable proceedings.

1 At any time after the rendition of a judgment, an action by
 2 equitable proceedings may be brought to subject any property, money,
 3 rights, credits or interest therein belonging to the defendant to the
 4 satisfaction of such judgment. In such action, persons indebted to
 5 the judgment debtor, or holding any property or money in which such
 6 debtor has any interest, or the evidences of securities for the same,
 7 may be made defendants.

[R., '60, § 3391; C., '73, § 3150; C., '97, § 4087.]

SEC. 7772. Answers verified—petition taken as true.

1 The answers of all defendants shall be verified by their own
 2 oath, and not by that of an agent or attorney, and the court shall
 3 enforce full and explicit discoveries in such answers by process of
 4 contempt; or, upon failure to answer the petition, or any part thereof,
 5 as fully and explicitly as the court may require, the same, or such
 6 part not thus answered, shall be deemed true, and such order made
 7 or judgment rendered as the nature of the case may require.

[R., '60, § 3392; C., '73, § 3151; C., '97, § 4088.]

SEC. 7773. Lien created.

1 In the case contemplated in the two preceding sections, a lien
 2 shall be created on the property of the judgment debtor, or his interest
 3 therein, in the hands of any defendant or under his control, which is
 4 sufficiently described in the petition, from the time of the service of
 5 notice and copy of the petition on the defendant holding or controlling
 6 such property or any interest therein.

[R., '60, §§ 3393, 3394; C., '73, § 3152; C., '97, § 4089.]

SEC. 7774. Surrender of property enforced.

1 The court shall enforce the surrender of the money or securities
 2 therefor, or of any other property of the defendant in the execution,
 3 which may be discovered in the action, and for this purpose may com-
 4 mit to jail any defendant or garnishee failing or refusing to make
 5 such surrender until it shall be done, or the court is satisfied that it is
 6 out of his power to do so.

[R., '60, § 3395; C., '73, § 3153; C., '97, § 4090.]

TITLE XXX.

ESTATES OF DECEDENTS.

CHAPTER 1.

PROBATE COURT.

SECTION 7775. Always open—hearing.

1 The district court shall always be open for the transaction of
2 probate business, but the hearing of any matter requiring notice,
3 except in case of proof of wills, shall be had only in term time, or at
4 such time and place as the judge may appoint. In cases where there
5 is no contest, or by agreement, such hearing may be had at any place
6 within the judicial district in which the business is pending.

[C., '73, § 2313; C., '97, § 3261; 38 G. A., ch. 357, § 2.]

SEC. 7776. Notice.

1 When a judge fixes a time and place of hearing thereof, he shall
2 direct what notice shall be given, and no hearing shall be had until
3 proof is made of the giving of such notice. When no notice is pre-
4 scribed by the judge or court as above provided, the same notice shall
5 be given as in commencing a civil action.

[C., '73, § 2314; C., '97, § 3262.]

SEC. 7777. Disqualification of judge.

1 Where the judge is a party, or connected by blood or affinity with
2 a person interested nearer than the fourth degree, or is personally
3 interested in any probate matter, he shall order the same transferred
4 to the district court of another district, or to be heard before another
5 judge of the same district, or procure a judge of another district to
6 hold his court for the hearing of such matter.

[C., '73, § 2317; C., '97, § 3263.]

SEC. 7778. Concurrent jurisdiction.

1 When a case is originally within the jurisdiction of the courts of
2 two or more counties, that one which first takes cognizance thereof
3 by the commencement of the proceedings shall retain the same
4 throughout.

[C., '51, § 1274; R., '60, § 2306; C., '73, § 2318; C., '97,
§ 3264.]

SEC. 7779. Extent of jurisdiction.

1 The court of the county in which a will is probated, or in which
2 administration or guardianship is granted, shall have jurisdiction co-
3 extensive with the state in the settlement of the estate and the sale
4 and distribution thereof; and a certified copy of any order, judgment
5 or deed, affecting real estate in any county other than that in which

6 administration or guardianship is originally granted, shall be fur-
 7 nished to and entered by the clerk of the district court of the county
 8 where such real estate is situated in the probate records of said court.
 [R., '60, § 2472; C., '73, § 2319; C., '97, § 3265.]

SEC. 7780. Process revoked.

1 Any process or authority emanating from the court in probate
 2 matters may for good cause be revoked and a new one issued.
 [C., '51, § 1275; R., '60, § 2307; C., '73, § 2320; C., '97,
 § 3266.]

SEC. 7781. Bonds filed—approval.

1 All bonds relating to probate matters shall be filed in the office of
 2 the clerk of said court, and shall not be sufficient until examined by
 3 him, and his approval indorsed thereon.
 [C., '51, § 1276; R., '60, § 2308; C., '73, § 2321; C., '97,
 § 3267.]

CHAPTER 2.

CLERK OF PROBATE COURT.

SECTION 7782. Probate powers conferred on clerk.

1 The clerk of the district court shall have and exercise within his
 2 county all the powers and jurisdiction of the court and of the judge
 3 thereof, in the following matters:

4 1. The appointment, when not contested, of resident adminis-
 5 trators, executors, and guardians of minors, and the approval of any
 6 and all bonds given by administrators, executors, trustees and guard-
 7 ians in the discharge of their several trusts.

8 2. The examination and approval of all intermediate or inter-
 9 locutory accounts or reports of administrators, executors and guard-
 10 ians.

11 3. The making of all necessary orders in relation to the per-
 12 sonal effects of a deceased person, where no objection is filed, and
 13 perform all other acts within his jurisdiction, as provided for in this
 14 code.

15 4. The admission to probate of wills of decedents, when not
 16 contested, and the making of necessary orders in relation thereto,
 17 including orders for the issuance of commissions to take depositions
 18 and proof may be made before the clerk in the same manner as is
 19 made in open court. If, on or before the date set for hearing before
 20 the clerk, written objections to the probate of such will shall be filed,
 21 the clerk shall proceed no further, but the proceeding shall stand for
 22 trial before the district court on such objections without further
 23 notice.

[C., '73, § 2315; C., '97, § 250; 38 G. A., ch. 357, § 1.]

SEC. 7783. Clerk to approve.

1 The clerk shall approve the bonds of all guardians, executors,
 2 administrators and trustees, and during the month of June in each
 3 year shall examine into the sufficiency of the sureties, and amount of

4 penalty of all executors', administrators', guardians' and trustees'
 5 bonds in force in his office which have been executed more than six
 6 months prior thereto, and if he finds the same sufficient, shall note
 7 thereon his examination and reapproval, but if he finds the same insuf-
 8 ficient, or the sureties shall not requalify on being required by him to
 9 do so he shall note his disapproval thereon, notifying the principal
 10 thereof by registered letter and place the matter upon the calendar of
 11 the court at the next term for the proper order.

[C., '97, § 3268; S., '13, § 3268.]

SEC. 7784. Validity of clerk's orders—not to make reports for parties.

1 The records, orders and judgments made and entered by the clerk
 2 as hereinbefore provided, and not reversed, set aside or modified by
 3 the court, shall stand, and be of the same force, validity and effect, and
 4 shall be entitled to the same faith and credit, as if made by the court
 5 or by the judge thereof. No clerk, deputy or employee shall make or
 6 assist in making, drafting or filling out any report of any adminis-
 7 trator, executor, guardian, assignee, receiver, trustee, or any other
 8 report to be filed in his office.

[C., '97, § 252.]

SEC. 7785. Clerk's actions may be reviewed.

1 Any person aggrieved by any order made or entered by the clerk,
 2 under the powers conferred in section seventy-seven hundred eighty-
 3 two, may have the same reviewed in court, on motion filed at the next
 4 term and not afterwards, unless upon good cause shown within one
 5 year, and upon such notice as the court or a judge thereof may pre-
 6 scribe. Upon the filing of such motion, the clerk shall place the cause
 7 or proceeding on the docket without additional docket fee, and the
 8 matter shall stand for hearing or trial de novo in open court.

[C., '97, § 251.]

SEC. 7786. Records in probate matters.

1 The clerk shall keep a book to be known as the "probate docket,"
 2 which shall show:

- 3 1. The name of every deceased person whose estate is adminis-
 4 tered, and who dies seized of any real estate situated within the
 5 county, and the date of his death.
- 6 2. The names of all the heirs at law and the surviving spouse of
 7 such deceased person, and their ages and places of residence, so far
 8 as they can be ascertained.
- 9 3. The name of each person as to whom application for guardian-
 10 ship of the person or property has been made or granted.
- 11 4. A note of every sale of real estate made under the order of the
 12 court, with a reference to the volume and page of the record where a
 13 complete record thereof may be found.

[C., '73, § 2490; C., '97, § 3411.]

SEC. 7787. List of heirs—discovery.

1 In order to ascertain the facts required to be stated in such
 2 docket, the clerk may require each executor or administrator to fur-
 3 nish him with a list of the names, ages and places of residence of the
 4 heirs, which list shall be sworn to by him, but if such executor or

5 administrator shall certify under oath that there are no heirs, or that,
 6 after using due diligence, he has been unable to ascertain their names,
 7 ages or residences, the clerk shall make an entry in the docket accord-
 8 ingly. If thought necessary, he may examine the county records to
 9 ascertain whether any deceased person died seized of any real estate,
 10 and be allowed such fee therefor as may be fixed by the court, or he
 11 may, upon the application of any person representing that a person has
 12 died intestate, leaving real estate, and none of the persons entitled by
 13 law to administer upon the estate of such deceased person has made
 14 application for letters of administration, appoint some responsible
 15 person as administrator, whose duty it shall be to ascertain the names,
 16 ages and places of residence of the surviving spouse of such intestate,
 17 if any, and of his children, and the heirs of such thereof as are dead,
 18 and to file a list of the same, with their ages and places of residence,
 19 with a list of such decedent's real estate, with such clerk, and per-
 20 form such other duties as the court may direct in the premises, the
 21 expenses of which administration shall be taxed to the estate.

[C., '73, § 2491; C., '97, § 3412.]

SEC. 7788. Complete record.

1 He shall also keep a book which shall be known as the "probate
 2 record," which shall contain full and complete journal entries of all
 3 orders or other proceedings had in probate matters, and where real
 4 estate is sold or mortgaged by an executor, administrator or guardian,
 5 under an order of court therefor, a complete record of the same, includ-
 6 ing the petition, notice, return of service, and all other papers filed,
 7 with the orders made, report, deed of conveyance or mortgage, and
 8 order of approval.

[C., '73, § 2492; C., '97, § 3413.]

SEC. 7789. Bond record.

1 The clerk shall also keep a book known as "records of bonds,"
 2 in which he shall record all bonds given by executors, administrators
 3 and guardians.

[C., '73, § 2493; C., '97, § 3414.]

SEC. 7790. Calendar.

1 The clerk shall keep a court calendar, and enter thereon only such
 2 cases in probate as require the action of the court, and on the first day
 3 of each term shall report to the presiding judge all estates wherein an
 4 inventory or report is due by law or under the order of the court, and
 5 which has not been filed.

[C., '97, § 3269.]

CHAPTER 3.

WILLS AND LETTERS OF ADMINISTRATION.

SECTION 7791. Disposal of property by will.

1 Any person of full age and sound mind may dispose by will of
 2 all his property, subject to the rights of homestead and exemption
 3 created by law, and the distributive share in his estate given by law

4 to the surviving spouse, except sufficient to pay his debts and expenses
 5 of administration; but where the survivor is named as a devisee
 6 therein, it shall be presumed, unless the intention is clear and explicit
 7 to the contrary, that such devise is in lieu of such distributive share,
 8 homestead and exemptions. No devise or bequest, however, to a cor-
 9 poration organized under the chapter relating to corporations not for
 10 pecuniary profit, or to a foreign corporation of a similar character,
 11 shall be valid in excess of one-fourth of the testator's estate after
 12 payment of debts, if a spouse, child or parent survive the testator.

[C., '51, § 1277; R., '60, §§ 1198, 2309; C., '73, §§ 1101, 2322;
 C., '97, § 3270.]

SEC. 7792. After-acquired property.

1 Property to be subsequently acquired may be devised, when the
 2 intention is clear and explicit.

[C., '51, § 1278; R., '60, § 2310; C., '73, § 2323; C., '97,
 § 3271.]

SEC. 7793. Verbal wills.

1 Personal property to the value of three hundred dollars may be
 2 bequeathed by a verbal will witnessed by two competent persons, but
 3 if such bequest is of greater value, it shall be valid only to that extent.

[C., '51, § 1279; R., '60, § 2311; C., '73, § 2324; C., '97,
 § 3272.]

SEC. 7794. Soldier or mariner.

1 A soldier in actual service, or a mariner at sea, may dispose of all
 2 his personal estate by a will so made and witnessed.

[C., '51, § 1280; R., '60, § 2312; C., '73, § 2325; C., '97,
 § 3273.]

SEC. 7795. In writing—witnessed—signed.

1 All other wills, to be valid, must be in writing, signed by the
 2 testator, or by some person in his presence and by his express direc-
 3 tion writing his name thereto, and witnessed by two competent per-
 4 sons; but if a codicil is duly executed to a will defectively executed and
 5 clearly identified in such codicil, the will and codicil shall be considered
 6 one instrument and the execution of both sufficient.

[C., '51, § 1281; R., '60, § 2313; C., '73, § 2326; C., '97,
 § 3274.]

SEC. 7796. Interest of witness.

1 No subscribing witness to a will can derive any benefit therefrom
 2 unless it be signed by two competent and disinterested persons as wit-
 3 nesses thereto, besides himself, but if, without a will, he would be
 4 entitled to any portion of the testator's estate, he may receive such
 5 portion to the extent in value of the amount devised.

[C., '51, §§ 1282, 1283; R., '60, §§ 2314, 2315; C., '73, §§ 2327,
 2328; C., '97, § 3275.]

SEC. 7797. Revocation—cancellation.

1 Wills can only be revoked in whole or in part by being canceled or
 2 destroyed by the act or direction of the testator, with the intention

3 of so revoking them, or by the execution of subsequent wills. When
4 done by cancellation, the revocation must be witnessed in the same
5 manner as the making of a new will.

[C., '51, §§ 1288, 1289; R., '60, §§ 2320, 2321; C., '73, §§ 2329,
2330; C., '97, § 3276; S., '13, § 3276.]

SEC. 7798. Deposit.

1 A will sealed up and indorsed may be deposited with the clerk
2 of the court, who shall file and preserve the same until the death of
3 the testator, unless he sooner demands it.

[C., '51, § 1290; R., '60, § 2322; C., '73, § 2331; C., '97,
§ 3277.]

SEC. 7799. Executors.

1 If no executors are named in a will, or if those named fail to
2 qualify and act, the court admitting it to probate shall appoint one or
3 more to carry it into effect.

[C., '51, §§ 1299, 1302; R., '60, §§ 2331, 2334; C., '73, §§ 2332,
2333; C., '97, § 3278.]

SEC. 7800. Posthumous children.

1 Whenever a testator shall have a legitimate child born after the
2 making of a last will, either in the lifetime or after the death of such
3 testator, and shall die leaving such child so after born, unprovided
4 for by any settlement, and neither provided for nor mentioned in such
5 will, every such child shall succeed to, and inherit the same interest
6 in such parent's real and personal estate as though no will had been
7 made, and the said interest shall be taken ratably from the interests
8 of heirs, devisees, and legatees.

[C., '51, §§ 1284, 1285; R., '60, §§ 2316, 2317; C., '73, §§ 2334,
2335; C., '97, § 3279; S., '13, § 3279.]

SEC. 7801. Claims.

1 All claims which it becomes necessary to satisfy, and all amounts
2 necessary to be paid from the estate of a testator in disregard of or
3 in opposition to the provisions of a will, shall be taken ratably from
4 the interests of heirs, devisees, and legatees.

[S., '13, § 3279-a.]

SEC. 7802. Devise—legacy—bequest.

1 The word "devisee," as used in this title shall, when applicable,
2 be construed to embrace "legatees," and the word "devised" shall, in
3 like cases, be understood as comprising the word "bequeathed."

[C., '51, § 1286; R., '60, § 2318; C., '73, § 2336; C., '97,
§ 3280.]

SEC. 7803. Heirs of devisee.

1 If a devisee die before the testator, his heirs shall inherit the
2 property devised to him, unless from the terms of the will a con-
3 trary intent is manifest.

[C., '51, § 1287; R., '60, § 2319; C., '73, § 2337; C., '97,
§ 3281.]

SEC. 7804. Custodian—filing—penalty.

1 Any person having the custody of a will shall, as soon as he is
 2 informed of the death of the testator, file the same with the clerk.
 3 Any person who fails to produce the same after receiving reasonable
 4 notice so to do may be committed to jail until he does, and shall be
 5 liable for all damages occasioned by his failure.

[C., '51, §§ 1291, 1292; R., '60, §§ 2323, 2324; C., '73, §§ 2338,
 2339; C., '97, § 3282.]

SEC. 7805. Probate—jury trial.

1 After the will is produced, the clerk shall open and read the
 2 same, and a day shall be fixed by the court or clerk for proving it,
 3 and may be postponed from time to time in the discretion of the court.
 4 When the probate of a will is contested, either party to the contest
 5 shall be entitled to a jury trial thereon.

[C., '51, § 1293; R., '60, § 2325; C., '73, § 2340; C., '97, § 3283;
 38 G. A., ch. 357, § 3.]

SEC. 7806. Notice of hearing.

1 The clerk shall give notice of the time fixed, by publishing a
 2 notice, signed by himself and addressed to all whom it may concern,
 3 in a daily or weekly newspaper printed in the county where the will
 4 is filed, once each week, for three consecutive weeks, the last publica-
 5 tion of which shall be at least ten days before the time fixed for such
 6 hearing, and the court or the judge in vacation in his discretion may
 7 prescribe a different notice.

[C., '51, § 1294; R., '60, § 2326; C., '73, § 2341; C., '97, § 3284;
 S., '13, § 3284; 38 G. A., ch. 88, § 1.]

SEC. 7807. Proof—depositions.

1 The proof may be made by the oral testimony of the subscribing
 2 witnesses taken in open court, or by deposition when they reside out-
 3 side of the state or judicial district in which the will is to be proven.
 4 When by deposition, the court or judge shall order the issuance of a
 5 commission to some officer authorized by the laws of this state to take
 6 depositions, with the will annexed, and the officer taking the deposi-
 7 tion shall exhibit it to the witness for identification, and, when identi-
 8 fied by him, shall mark it as "exhibit.....," and cause the witness
 9 to connect his identification with it as such exhibit. Before sending
 10 the commission out, the clerk shall make and retain in his office a true
 11 copy of such will.

[C., '97, § 3285.]

SEC. 7808. Certificate.

1 Wills, when admitted to probate, shall have a certificate of such
 2 fact indorsed thereon or annexed thereto, signed by the clerk and
 3 attested by the seal of the court; and, when so certified, it or the rec-
 4 ord thereof, or the transcript of such record properly authenticated,
 5 may be read in evidence in all courts without further proof.

[C., '51, § 1300; R., '60, § 2332; C., '73, § 2342; C., '97,
 § 3286.]

SEC. 7809. Recorded—executor to have copy.

1 After being proved and allowed, the will, together with the cer-
 2 tificate hereinbefore required, shall be recorded in a book kept for
 3 that purpose, and the clerk shall cause the same, or an authenticated
 4 copy thereof, to be placed in the hands of the executor therein named
 5 or otherwise appointed. And whenever it shall appear that the tes-
 6 tator died seized of real estate located in a county of this state other
 7 than that in which probate is granted, a complete transcript, properly
 8 authenticated, and of the record entry of the order of court admitting
 9 the will to probate, and if a copy of such will is not contained therein
 10 a certified copy of such will, shall be attached thereto and the same
 11 shall be filed by the clerk in the office of the clerk of the district
 12 court in such other county, who shall cause the same to be entered
 13 in the probate docket, and said transcript shall be recorded in full in
 14 the book kept for the recording of wills in such county, and when so
 15 recorded such record may be read in evidence in all courts without
 16 further proof. The cost of such transcript and of the recording
 17 thereof shall be taxed against the estate of the decedent unless admin-
 18 istration thereof is closed, in which event it shall be paid by the owner
 19 of the real estate involved.

[C., '51, §§ 1295, 1298; R., '60, §§ 2327, 2330; C., '73, §§ 2343,
 2344; C., '97, § 3287; S., '13, § 3287.]

SEC. 7810. Married woman as executor.

1 A married woman may act as executor, independent of her hus-
 2 band.

[C., '51, § 1304; R., '60, § 2336; C., '73, § 2345; C., '97,
 § 3288.]

SEC. 7811. Minors.

1 If a minor under eighteen years of age is nominated as an execu-
 2 tor, there will be a vacancy as to him until he reaches that age.

[C., '51, § 1305; R., '60, § 2337; C., '73, § 2346; C., '97,
 § 3289.]

SEC. 7812. Vacancies.

1 If a person nominated as executor refuses to accept the trust, or
 2 neglects to appear within ten days after his appointment and give
 3 bond as hereinafter prescribed, or if an executor removes his residence
 4 from the state, the office shall be vacant.

[C., '51, § 1303; R., '60, § 2335; C., '73, § 2347; C., '97,
 § 3290.]

SEC. 7813. How filled.

1 In case of a vacancy, letters of administration with the will an-
 2 nexed may be granted to some other person, or, if there be another
 3 executor competent to act, he may be allowed to proceed by himself
 4 in administering the estate.

[C., '51, § 1307; R., '60, § 2339; C., '73, § 2348; C., '97,
 § 3291.]

SEC. 7814. Substitution.

1 The substitution of other executors shall occasion no delay in the
 2 administration of the estate. The periods hereinafter mentioned

3 within which acts are to be performed after the appointment of
4 executors shall all, unless otherwise declared, be computed from the
5 issuing of the letters to the first general executor.

[C., '51, § 1308; R., '60, § 2340; C., '73, § 2349; C., '97,
§ 3292.]

SEC. 7815. Trustees to give bond.

1 Trustees appointed by will or by the court must qualify and give
2 bonds the same as executors, and shall be subject to control or removal
3 by it in the same manner, and others appointed.

[C., '73, § 2350; C., '97, § 3293.]

SEC. 7816. Foreign wills—probated in other states.

1 A will probated in any other state or country shall be admitted
2 to probate in this state, without the notice required in the case of
3 domestic wills, on the production of a copy thereof and of the original
4 record of probate, authenticated by the attestation of the clerk of
5 the court in which such probate was made, or, if there be no clerk,
6 by the attestation of the judge thereof, and the seal of office of such
7 officers, if they have a seal.

[C., '51, § 1296; R., '60, § 2328; C., '73, § 2351; C., '97,
§ 3294.]

SEC. 7817. Sale of real estate by foreign executors.

1 All provisions of law relating to the carrying into effect of do-
2 mestic wills after probate shall, so far as applicable, apply to foreign
3 wills admitted to probate in this state. If the executors or trustees
4 under such wills are empowered to sell and convey real estate, then,
5 upon the production and recording in the proper probate record of a
6 copy of the original record of the appointment, qualification and bond,
7 unless bond was waived in the will, duly authenticated in the manner
8 foreign wills are required to be, such executors or trustees may, in
9 conformity with the power granted in such wills, sell and convey
10 real estate within any county in this state where such probate and
11 proof of qualification may be of record, without further qualifying in
12 this state, and without reporting such sale to the district court in
13 this state for approval; and such sales and conveyances shall have
14 the same force as if made by executors or trustees qualified within
15 this state and reported to and approved by the district court, unless,
16 at the time of the execution and delivery of said deed, letters testa-
17 mentary or of administration upon the estate of such decedent shall
18 have been granted in this state and remain in force, and due notice
19 thereof has been given in such county, if other than one in which
20 such letters were granted here, as required in reference to actions
21 affecting real estate; in which case, any conveyance shall be made
22 subject to all the rights acquired under the appointment and letters
23 granted in this state; but no such conveyance shall be made by such
24 executor or trustee until three months after the recording of a duly
25 authenticated copy of the will, original record of appointment and
26 qualification and bond, unless bond was waived in the will, in the
27 proper probate record of the county where the land is situated.

[C., '73, § 2352; C., '97, § 3295.]

SEC. 7818. Probate conclusive—setting aside.

1 Wills, foreign or domestic, shall not be carried into effect until
 2 admitted to probate as hereinbefore provided, and such probate shall
 3 be conclusive as to the due execution thereof, until set aside by an
 4 original or appellate proceeding.

[C., '51, § 1297; R., '60, § 2329; C., '73, § 2353; C., '97,
 § 3296.]

SEC. 7819. Administration granted.

1 In other cases, where an executor is not appointed by will, admin-
 2 istration shall be granted:

- 3 1. To the husband or wife of the deceased.
- 4 2. To his next of kin.
- 5 3. To his creditors.
- 6 4. To any other person whom the court may select.

7 Individuals belonging to the same or different classes may be
 8 united as administrators.

[C., '51, §§ 1311, 1312; R., '60, §§ 2343, 2344; C., '73, §§ 2354,
 2355; C., '97, § 3297.]

SEC. 7820. Time allowed.

1 To each of the above classes, in succession, a period of twenty
 2 days, commencing with the burial of the deceased, is allowed within
 3 which to apply for administration.

[C., '51, § 1313; R., '60, § 2345; C., '73, § 2356; C., '97,
 § 3298.]

SEC. 7821. Special administrators.

1 When, from any cause, general administration or probate of a
 2 will can not be immediately granted, one or more special administra-
 3 tors may be appointed to collect and preserve the property of the
 4 deceased, and no appeal from such appointment shall prevent their
 5 proceeding in the discharge of their duties.

[C., '51, §§ 1320, 1321; R., '60, §§ 2352, 2353; C., '73, §§ 2357,
 2358; C., '97, § 3299.]

SEC. 7822. Inventory—preservation of property.

1 They shall make and file an inventory of the property of the de-
 2 ceased in the same manner as is required of general executors or
 3 administrators, and shall preserve such property from injury, and for
 4 that purpose may do all needful acts under the direction of the court,
 5 but shall take no steps in relation to the allowance of claims against
 6 the estate. Upon the granting of full administration, the powers of
 7 the special administrators shall cease, and all the business be trans-
 8 ferred to the general executor or administrator.

[C., '51, §§ 1322-1324; R., '60, §§ 2354-2356; C., '73, §§ 2359-
 2361; C., '97, § 3300.]

SEC. 7823. Bond—oath.

1 Every executor or administrator, except as herein otherwise de-
 2 clared, before entering on the discharge of his duties, must give a
 3 bond in such penalty as may be required by the court, to be approved

4 by the clerk, conditioned for the faithful discharge of the duties im-
 5 posed on him by law, according to the best of his ability, and take
 6 and subscribe an oath the same in substance as the condition of the
 7 bond, which oath and bond must be filed with the clerk.

[C., '51, §§ 1316, 1317; R., '60, §§ 2348, 2349; C., '73, §§ 2362,
 2363; C., '97, § 3301.]

SEC. 7824. New bond.

1 New bonds may be required by the court or judge thereof, to be
 2 given in a new penalty and with new securities, when it is found nec-
 3 essary.

[C., '51, § 1318; R., '60, § 2350; C., '73, § 2364; C., '97,
 § 3302.]

SEC. 7825. Letters.

1 After filing the bond, the clerk shall issue letters testamentary or
 2 of administration, as the case may be, under the seal of the court,
 3 giving the executor or administrator the power authorized by law.

[C., '51, § 1319; R., '60, § 2351; C., '73, § 2365; C., '97,
 § 3303.]

SEC. 7826. Notice of appointment.

1 The executors or administrators first appointed and qualified for
 2 the settlement of the estate shall, within ten days after the receipt of
 3 their letters, publish such notice of their appointment as the court or
 4 clerk may direct, which direction shall be indorsed on the letters when
 5 issued.

[C., '51, §§ 1357, 1358; R., '60, §§ 2389, 2390; C., '73, § 2366;
 C., '97, § 3304.]

SEC. 7827. Limitation.

1 Administration shall not be originally granted after five years
 2 from the death of the decedent, or from the time his death was known,
 3 in case he died out of the state. But when personal property belong-
 4 ing to the estate of decedent is discovered after the expiration of
 5 said five years, administration may be granted after the five-year
 6 limit, for the purpose only of making proper disposition and distribu-
 7 tion thereof.

[C., '51, § 1325; R., '60, § 2357; C., '73, § 2367; C., '97, § 3305;
 S., '13, § 3305.]

SEC. 7828. Foreign administration.

1 If administration of the estate of a deceased nonresident has
 2 been granted in accordance with the laws of the state or country
 3 where he resided at the time of his death, the person to whom it
 4 has been committed may, upon his application and upon qualifying in
 5 the manner required of nonresident executors, be appointed to admin-
 6 ister upon the property of the deceased in this state, unless another
 7 had been previously appointed; but the original letters or other author-
 8 ity conferring his power upon such administrator, or an attested copy
 9 thereof, must be filed and recorded with the clerk of the proper court,
 10 and a bond, with resident sureties, given in such an amount as the
 11 court shall prescribe, conditioned for the payment of all claims

12 allowed to residents of the state, and the payment of all legacies and
 13 distributive shares coming to such residents, so far as the assets
 14 thereof shall extend, before such appointment can be made. In such
 15 cases, the court or judge may require payment of all claims filed and
 16 allowed or proved belonging to residents of this state, and of all lega-
 17 cies or distributive shares payable to such residents, before allowing
 18 the estate to be removed from the state.

[C., '51, §§ 1309, 1310; R., '60, §§ 2341, 2342; C., '73, §§ 2368,
 2369; C., '97, § 3306.]

SEC. 7829. Estates of absentees—letters of administration.

1 When a resident of this state owning property therein, or any
 2 person who may have been a resident of this state, has acquired or
 3 may hereafter acquire property or property rights within the state,
 4 absents himself from his usual place of residence and conceals his
 5 whereabouts from his family without known cause for a period of
 6 seven years or any such person who has gone to parts unknown for a
 7 period of ten years, a petition may be filed in the district court of any
 8 county where such property or a part thereof is situated, setting forth
 9 such facts, by any person entitled to administer upon such absentee's
 10 estate if he was known to be dead, and setting forth the names of the
 11 persons who would be the legal heirs of the absentee if he were dead,
 12 so far as known, and praying for the issuance of letters of adminis-
 13 tration upon such estate; thereupon, said court shall prescribe a notice
 14 addressed to such absentee and heirs named, and order the same to be
 15 published in a newspaper published in said county to be designated
 16 by the court, once each week for eight consecutive weeks, and which
 17 shall be served personally upon all the heirs residing within the state
 18 in the manner, and for the length of time as is required for the service
 19 of original notices, proof of the publication and service of which in
 20 manner and for the time ordered shall, at the expiration of said period
 21 be filed with said petition, and thereupon if such absentee fails to
 22 appear, the court shall hear the proof presented, and if satisfied of
 23 the truth of the facts set forth in the petition concerning the absen-
 24 tee, shall order letters of administration upon the estate of such ab-
 25 sentee to issue as though he were known to be dead. The court shall
 26 also hear proof and determine who the legal heirs of such absentee
 27 are and their respective interests in such estate.

[C., '97, § 3307; S., '13, § 3307.]

SEC. 7830. Sale of property—disposition of proceeds.

1 The person to whom the administration is granted shall proceed
 2 to administer and dispose of the estate in the same manner that
 3 administrators are required to dispose of and administer the estates
 4 of decedents. In addition thereto, such administrator may, under the
 5 orders of the court, sell and dispose of all real estate and other prop-
 6 erty owned by such absentee, and after the payment of legal costs,
 7 expenses and claims, make distribution of the proceeds thereof to the
 8 persons entitled thereto. The provisions of law regarding application,
 9 notice and manner of sale of real estate for the payment of debts by
 10 administrators shall be followed so far as applicable.

[S., '13, § 3307-a.]

SEC. 7831. Rights of absentee barred—conveyance by spouse.

1 Administration upon the estate of an absentee shall forever bar
2 his or her right of homestead and statutory distributive share or
3 interest in and to any real estate owned or held by the spouse of such
4 absentee, or in which said spouse may have a legal or equitable inter-
5 est, and a conveyance thereof by such spouse after one year from and
6 after such administration has been granted, shall be free and clear of
7 any claim or right of homestead or statutory distributive share on the
8 part of such absentee.

[S., '13, § 3307-b.]

SEC. 7832. Releases of liens by foreign administrator, executor or guardian—certificate.

1 Any administrator, executor or guardian appointed by the courts
2 of any other state or country is authorized to release and discharge of
3 record in any manner and by any instrument authorized by law to the
4 same extent as any such officer appointed under the laws of this state
5 could do, any judgment rendered by the supreme court or by any court
6 of any county where such judgment is a lien on property, or any mort-
7 gage or deed of trust given as a mortgage on property within this
8 state belonging to the estate or to the minor or other person repre-
9 sented by him, and may also release and discharge any property in
10 this state from the lien of such judgment, mortgage or deed of trust;
11 but such release shall not be valid or effective unless there is filed
12 either before or after the execution thereof, in the office of the clerk of
13 the district court of the county in this state wherein the property
14 sought to be released is situated, the certificate of the judge or clerk
15 of the proper court, duly attested, that said executor, administrator
16 or guardian was prior to the date of such release or instrument ap-
17 pointed such officer by such court and that, as shown by the records
18 of such court, he had not been discharged before that date; but noth-
19 ing herein contained shall authorize any administrator, executor or
20 guardian of another state or country to release or discharge any judg-
21 ment, mortgage or deed of trust in this state while any administrator,
22 executor or guardian of the estate to which such judgment, mortgage
23 or deed of trust belongs, is authorized to act by virtue of appoint-
24 ment, and qualification under the laws thereof.

[C., '97, § 3308; S. S., '15, § 3308.]

SEC. 7833. Will executed in another state or country.

1 A last will and testament executed without this state, in the
2 mode prescribed by the law, either of the place where executed or of
3 the testator's domicile, shall be deemed to be legally executed, and
4 shall be of the same force and effect as if executed in the mode pre-
5 scribed by the laws of this state, provided said last will and testament
6 is in writing and subscribed by the testator.

[C., '97, § 3309.]

CHAPTER 4.**SETTLEMENT OF ESTATES.****SECTION 7834. Inventory.**

1 Within fifteen days after his appointment, the executor or admin-
2 istrator shall make and file with the clerk an inventory of all the per-

3 sonal effects of the deceased which have come to his knowledge, and
 4 a list of all book accounts which appear to be unsettled, which shall
 5 show separately and distinctly, each by itself, the property inven-
 6 toried as general assets of the deceased, that which is regarded as
 7 exempt, and the book accounts. A supplemental inventory must be
 8 made in the same manner whenever the existence of additional prop-
 9 erty is discovered. Inventories as above provided must be filed in all
 10 cases, notwithstanding the provisions of any will or the action of any
 11 heirs or devisees waiving the filing thereof, and no administration
 12 shall be closed until the same has been filed. The court shall enforce
 13 the filing thereof whenever the executor or administrator fails to do so.
 [C., '51, §§ 1328, 1333; R., '60, §§ 2360, 2365; C., '73, §§ 2370,
 2376; C., '97, § 3310.]

SEC. 7835. Appraisement.

1 All property inventoried by the executor or administrator shall
 2 be valued by three appraisers, who shall be appointed immediately on
 3 the filing of the inventory unless the court or judge or clerk of the
 4 district court in vacation shall by an order entered of record waive the
 5 valuation of the property so inventoried. The clerk shall issue to
 6 them a notice of their appointment, accompanied by a copy of the
 7 inventory returned by the executor or administrator, and they shall
 8 qualify by taking an oath faithfully and impartially to make the re-
 9 quired valuation, and in making the same they shall fix a value to
 10 each item of property separately as it appears in the inventory. If
 11 any portion of the decedent's personal property is situated in another
 12 county, the same appraisers may serve, or others may be appointed.
 [C., '51, §§ 1331, 1332; R., '60, §§ 2363, 2364; C., '73, §§ 2373,
 2374, 2378; C., '97, § 3311; S., '13, § 3311.]

SEC. 7836. Exempt personal property.

1 When the deceased leaves a widow, all personal property which
 2 in his hands as the head of a family would be exempt from execution,
 3 after being inventoried and appraised, shall be set apart to her as her
 4 property, and be exempt in her hands as in the hands of the decedent.
 [C., '51, § 1329; R., '60, § 2361; C., '73, § 2371; C., '97,
 § 3312.]

SEC. 7837. Life insurance—damages for death—widow deemed heir.

1 The avails of any life or accident insurance, or other sum of money
 2 made payable by any mutual aid or benevolent society upon the death
 3 or disability of a member thereof, are not subject to the debts of
 4 the deceased, except by special contract or arrangement, and shall be
 5 disposed of like other property left by the deceased. When a wrongful
 6 act produces death, damages recovered therefor shall be disposed of as
 7 personal property belonging to the estate of the deceased, but if
 8 the deceased leaves a husband, wife, child or parent, it shall not be
 9 liable for the payment of debts. The words "heirs," or "legal heirs"
 10 or other equivalent words used to designate the beneficiaries in any life
 11 insurance policy or certificate of membership in any mutual aid or
 12 benevolent association, where no contrary intention is expressed in
 13 such instrument, shall be construed to include the surviving husband

14 or wife of the insured, and the share of such survivor in the proceeds
 15 of such policy or certificate made payable as aforesaid shall be the
 16 same as that provided by law for the distribution of the personal
 17 property of intestates.

[C., '51, § 1330; R., '60, §§ 2362, 4111; C., '73, §§ 1182, 2372,
 2526; C., '97, § 3313.]

SEC. 7838. Allowance to widow and children.

1 The court shall, if necessary, set off to the widow and children
 2 of the decedent under fifteen years of age, or to either, sufficient of
 3 his property, of such kind as is appropriate to support them for
 4 twelve months from the time of his death, and may, on the petition
 5 of the widow or other person interested, review such allowance and
 6 increase or diminish the same, and make such orders in the premises
 7 as shall be right and proper. Applications for such allowance shall
 8 state under oath the number of children under fifteen years of age,
 9 the amount of property already set apart to the widow, the value of
 10 her deceased husband's estate, the amount of its indebtedness, the
 11 value of all property owned by the widow, and what allowance, if any,
 12 has heretofore been made to her.

[C., '51, § 1338; R., '60, § 2370; C., '73, §§ 2375, 2377; C., '97,
 § 3314.]

SEC. 7839. Discovery of assets.

1 The court or judge may require any person suspected of having
 2 taken wrongful possession of any of the effects of the deceased, or of
 3 having had such effects under his control, to appear and submit to an
 4 examination under oath touching such matters, and if on such exam-
 5 ination it appears that he has the wrongful possession of any such
 6 property, the court or judge may order the delivery thereof to the
 7 executor or administrator.

[C., '51, § 1334; R., '60, § 2366; C., '73, § 2379; C., '97,
 § 3315.]

SEC. 7840. Commitment.

1 If, on being served with the order of the court or judge requiring
 2 him to do so, any person fails to appear in accordance therewith, or if,
 3 having appeared, he refuses to answer any question which the court
 4 or judge thinks proper to be put to him in the course of such examina-
 5 tion, or if he fails to comply with the order of the court or judge
 6 requiring him to deliver the property to the executor or administrator,
 7 he may be committed to the jail of the county until he does.

[C., '51, § 1335; R., '60, § 2367; C., '73, § 2380; C., '97,
 § 3316.]

SEC. 7841. Subjecting real estate.

1 When it is probable that the known and acknowledged property
 2 of the deceased will not be sufficient for the payment of his debts, any
 3 person to whom the legal title of any real estate was conveyed by the
 4 decedent, or any person through whom such title has subsequently
 5 passed, or any person claiming an interest therein, may be required
 6 to appear and submit to an examination as provided in the two pre-
 7 ceding sections, subject to the penalties therein described, and the
 8 court or judge shall direct the executor or administrator to file a peti-

9 tion in equity to secure to the estate the title to any real estate which,
10 in the event of the insufficiency of the personal property, would be
11 assets for the payment of debts.

[C., '73, § 2381; C., '97, § 3317.]

SEC. 7842. Compounding claims.

1 The executor or administrator, with the approval of the court,
2 may compound with any debtor of the estate who may be thought
3 unable to pay his whole debt.

[C., '51, § 1336; R., '60, § 2368; C., '73, § 2382; C., '97,
§ 3318.]

SEC. 7843. Mortgage as assets—satisfaction.

1 The interest of a deceased mortgagee shall be included among his
2 personal assets and, upon the mortgage being paid off, satisfaction
3 shall be entered by the executor or administrator.

[C., '51, § 1337; R., '60, § 2369; C., '73, § 2383; C., '97,
§ 3319.]

SEC. 7844. Security to creditors.

1 When a person by his will makes such a disposition of his effects
2 as to prejudice the rights of creditors, the will may be sustained, by
3 giving security to the satisfaction of the court for the payment of the
4 claims of the creditors, to the extent of the value of the property
5 devised.

[C., '51, § 1339; R., '60, § 2371; C., '73, § 2384; C., '97,
§ 3320.]

SEC. 7845. Funds collected—paid out.

1 When no different direction is given by will, debts due the estate,
2 as far as practicable, shall be collected, and the debts owing by the
3 estate paid off therewith, to the extent of the means thus obtained.

[C., '51, § 1340; R., '60, § 2372; C., '73, § 2385; C., '97,
§ 3321.]

SEC. 7846. Sale of personal property.

1 The court, on the application of the executor or administrator,
2 from time to time shall direct the sale of such portions of the personal
3 effects as are of a perishable nature, or which from any cause would
4 otherwise be likely to depreciate in value, and also such portions as
5 are necessary to pay off the debts and charges upon the estate.

[C., '51, § 1341; R., '60, § 2373; C., '73, § 2386; C., '97,
§ 3322.]

SEC. 7847. Sale of real estate—application.

1 If the personal effects are found inadequate to satisfy the debts
2 and charges, a sufficient portion of the real estate may be ordered
3 sold or mortgaged for that purpose, application therefor being made
4 in the court granting administration, and only after a full statement
5 of all the claims against the estate, and after rendering a full account
6 of the disposition made of the personal estate.

[C., '51, §§ 1342, 1343; R., '60, §§ 2374, 2375; C., '73,
§§ 2387, 2388; C., '97, § 3323.]

SEC. 7848. Notice.

1 Before any order to that effect can be made, all persons interested
 2 in such real estate shall be served with notice in the same manner as is
 3 prescribed for the commencement of civil actions, unless a different
 4 one is prescribed by the court or judge.

[C., '51, § 1344; R., '60, § 2376; C., '73, § 2389; C., '97,
 § 3324.]

SEC. 7849. Method of sale.

1 The real estate shall, when to the interest of the estate, be divided
 2 into parcels, appraised as the personal estate was, and the appraise-
 3 ment filed in like manner; but when a part can not be sold without
 4 material prejudice to the general interests of the estate, the court may
 5 order the sale of the whole, or of such parts as can be sold ad-
 6 vantageously.

[C., '51, §§ 1345, 1346; R., '60, §§ 2377, 2378; C., '73,
 §§ 2390, 2391; C., '97, § 3325.]

SEC. 7850. Public or private—notice—credit.

1 Property may be permitted to be sold at private sales when the
 2 court is satisfied that the interest of the estate will be thereby pro-
 3 moted, but in other cases sales must be made at public auction, after
 4 giving the same notice as is necessary for the sale of like property
 5 on execution, but it may be ordered to be sold on a partial credit of
 6 not more than twelve months. No property can be sold at private sale
 7 for less than the appraisement, without the express approval of the
 8 court or judge.

[C., '51, §§ 1347-1350; R., '60, §§ 2379-2382; C., '73, §§ 2392-
 2395; C., '97, § 3326.]

SEC. 7851. Borrowing money.

1 If the court is satisfied that it will be for the best interest of the
 2 estate that the real estate shall be withheld, it may, upon the applica-
 3 tion hereinbefore provided for, order the executor or administrator
 4 to borrow money thereon, and execute a note or notes in the name of
 5 such officer, secured by mortgage on any real estate belonging to the
 6 estate not exempt as a homestead, to secure the payment thereof, and
 7 with the proceeds pay the debts shown in the statement set out in the
 8 application, and report his action therein to the court.

[C., '97, § 3327.]

SEC. 7852. Bond to prevent sale.

1 Any person interested in the estate may prevent a sale of the
 2 whole or any part of the real estate by giving bond to the satisfaction
 3 of the court, conditioned that he will pay all demands against the
 4 estate to the extent of the value of the property thus kept from sale,
 5 as soon as called upon by the court for that purpose, and, if the con-
 6 ditions of such bond are broken, the property will be liable for the
 7 debts unless it has passed into the hands of innocent purchasers, and
 8 the executor or administrator may take possession thereof and sell it
 9 under the direction of the court, or he may prosecute the bond, or
 10 pursue both remedies at the same time, if the court so directs.

[C., '51, §§ 1351, 1352; R., '60, §§ 2383, 2384; C., '73,
 §§ 2396, 2397; C., '97, § 3328.]

SEC. 7853. Effect of bond.

1 If the conditions of the bond are complied with, the property
 2 shall pass by devise, distribution or descent in the same manner as
 3 though there had been no debts against the estate.

[C., '51, § 1353; R., '60, § 2385; C., '73, § 2398; C., '97,
 § 3329.]

SEC. 7854. Approval of conveyances.

1 When real estate is sold or mortgaged, the conveyances or mort-
 2 gages thereof, executed by the executor or administrator, shall not be
 3 valid until approved by the court, which approval shall be entered of
 4 record, and a certificate thereof indorsed on the deed or mortgage,
 5 with the signature of the clerk and the seal of the court affixed thereto,
 6 and, when so indorsed, shall pass to the purchaser all the interest of
 7 the deceased therein prior to his death, in case of sales, and create a
 8 lien thereon, in case of mortgages, and be presumptive evidence of
 9 the validity thereof, and of the regularity of all the proceedings con-
 10 nected therewith.

[C., '51, §§ 1354, 1355; R., '60, §§ 2386, 2387; C., '73, §§ 2399,
 2400; C., '97, § 3330.]

SEC. 7855. Reports of sale or mortgage—record.

1 All sales, deeds and mortgages shall be reported to the court for
 2 approval as soon as practicable after being made. Reports of the sale
 3 or mortgage of real estate must be sworn to, and state the term at
 4 which the order therefor was obtained, whether the property was
 5 appraised, and, if so, the appraised value, whether sold at public or
 6 private sale, the terms of sale, whether the additional bond required
 7 has been given and approved, and the opinion of the persons making
 8 them as to whether the sale is an advantageous one and should be
 9 approved, or otherwise. When the subject of the sale, conveyance or
 10 mortgage is located in a county other than that in which administra-
 11 tion is granted, a complete transcript of the record of all proceedings
 12 relating thereto shall be filed by the administrator in the office of the
 13 clerk of the district court in such county, and he shall cause the same
 14 to be copied at length in the probate records of such county.

[C., '97, § 3331.]

SEC. 7856. Transcript certain conveyances—recording—effect of.

1 Any person interested therein may procure from the clerk of any
 2 district court in this state a transcript of any conveyance executed by
 3 any executor, administrator, guardian, or trustee, which has been
 4 recorded in the office of the clerk of the district or circuit courts of
 5 the state of Iowa, in the county in which such real estate is situated,
 6 for more than ten years, and such transcript when certified by the
 7 clerk of the district court of such county, under the seal of his office,
 8 may be filed in the office of the recorder of such county, and shall have
 9 the same effect, when so recorded, as the original conveyance.

[38 G. A., ch. 166, § 1.]

SEC. 7857. Limitation of action.

1 No action for the recovery of any real estate sold or mortgaged
 2 by an executor or administrator can be maintained by any person

3 claiming under the deceased, unless brought within five years after
4 the sale by him or under the foreclosure of such mortgage.

[C., '51, § 1356; R., '60, § 2388; C., '73, § 2401; C., '97,
§ 3332.]

SEC. 7858. Possession of real property.

1 If there is no heir or devisee present and competent to take pos-
2 session of the real estate left by the decedent, the executor or admin-
3 istrator may do so, and demand and receive the rents and profits, and
4 do all other acts relating thereto which may be for the benefit of the
5 persons entitled to the same.

[C., '73, § 2402; C., '97, § 3333.]

SEC. 7859. Proceeds—account.

1 Such executor or administrator, under the direction of the court,
2 may apply the profits thereof to the payment of taxes and claims
3 against the estate of the deceased, if the personal assets are insuffi-
4 cient, and account to the heirs or devisees therefor, deducting there-
5 from the payments made as above provided, together with a reasonable
6 compensation for his own services, to be fixed by the court.

[C., '73, § 2403, 2404; C., '97, § 3334.]

SEC. 7860. Taxes for minor heirs without guardians.

1 When there are minor heirs for whom no guardian has been
2 appointed, the executor or administrator shall pay, out of any assets
3 in his hands, all taxes assessed against the estate, not otherwise
4 provided for, and be credited therefor as for the payment of other
5 claims against the estate.

[C., '73, § 2405; C., '97, § 3335.]

SEC. 7861. Provisions of will.

1 When the interests of creditors will not thereby be prejudiced,
2 a testator may prescribe the entire manner in which his estate shall
3 be administered; may exempt the executor from the necessity of
4 giving bond, and prescribe the manner in which his affairs shall be
5 conducted until his estate is finally settled, or until his minor children
6 become of age.

[C., '51, § 1326; R., '60, § 2358; C., '73, § 2406; C., '97,
§ 3336.]

SEC. 7862. Business continued.

1 The court, in its discretion, may authorize an executor or admin-
2 istrator to continue the prosecution of any business in which the
3 deceased was engaged at the time of his death, in order to wind up
4 his affairs with greater advantage, but such authority shall not ex-
5 empt him from returning a full inventory and appraisal, and
6 making reports, as in other cases.

[C., '51, § 1327; R., '60, § 2359; C., '73, § 2407; C., '97,
§ 3337.]

SEC. 7863. Claims—statement—notice—allowance.

1 Claims against the estate shall be clearly stated, and, if founded
2 upon a written instrument, the same or a copy thereof and of all

3 indorsements thereon shall be attached as a part of the statement, and
 4 if upon account, an itemized copy shall be attached, showing the bal-
 5 ance; which statement must be sworn to and filed with the clerk of
 6 the district court, and ten days' notice of the hearing thereof—which
 7 shall be at some regular term of the court—accompanied by a copy of
 8 the claim, shall be served on one of the executors or administrators
 9 in the manner required for commencing ordinary actions, unless the
 10 same has been approved by the executor or administrator, in which
 11 case it may be allowed by the clerk, without notice, and so entered
 12 upon the probate calendar.

[C., '51, §§ 1359, 1361; R., '60, §§ 2391, 2393; C., '73,
 § 2408; C., '97, § 3338.]

SEC. 7864. How entitled.

1 All claims filed against the estate shall be entitled in the name
 2 of the claimant against the executor or administrator as such, naming
 3 the estate, and in all further proceedings thereon this title shall
 4 be preserved.

[C., '73, § 2409; C., '97, § 3339.]

SEC. 7865. Denial.

1 All claims filed, and not expressly admitted in writing signed by
 2 the executor or administrator, with the approbation of the court, shall
 3 be considered as denied, without any pleading on behalf of the estate,
 4 but special defenses must be pleaded. The burden of proving that a
 5 claim is unpaid shall not be placed upon the party filing a claim
 6 against the estate; but the executor or administrator may, on the trial
 7 of said cause, subject the claimant to an examination on the question
 8 of payment, or consideration, but the estate shall not be concluded or
 9 bound thereby.

[C., '73, § 2410; C., '97, § 3340; S., '13, § 3340.]

SEC. 7866. Hearing—trial by jury.

1 If a claim filed against the estate is not fully admitted by the
 2 executor or administrator, the court may hear and allow the same, or
 3 may submit it to a jury, and on the hearing, unless otherwise provided,
 4 all provisions of law applicable to an ordinary action shall apply.

[C., '51, §§ 1360, 1362; R., '60, §§ 2392, 2394; C., '73, § 2411;
 C., '97, § 3341.]

SEC. 7867. Demands not due.

1 Demands not yet due may be presented, proved and allowed as
 2 other claims.

[C., '51, § 1364; R., '60, § 2396; C., '73, § 2413; C., '97,
 § 3342.]

SEC. 7868. Contingent liabilities.

1 Contingent liabilities must be presented and proved, or the execu-
 2 tor or administrator shall be under no obligation to make any provi-
 3 sion for satisfying them when they accrue.

[C., '51, § 1365; R., '60, § 2397; C., '73, § 2414; C., '97,
 § 3343.]

SEC. 7869. Referees.

1 Claims against an estate, and counterclaims thereto, may, in the
 2 discretion of the court, be proved before one or more referees, to be
 3 agreed upon by the parties or appointed by the court, and their de-
 4 cision, entered upon the record, shall become the decision of the court.
 [C., '51, § 1366; R., '60, § 2398; C., '73, § 2415; C., '97,
 § 3344.]

SEC. 7870. Actions pending.

1 Actions pending against the decedent at the time of his death
 2 may be prosecuted to judgment, his executor or administrator being
 3 substituted as defendant, and any judgment rendered therein shall
 4 be placed in the catalogue of established claims, but shall not be a lien.
 [C., '51, § 1368; R., '60, § 2400; C., '73, § 2416; C., '97,
 § 3345.]

SEC. 7871. Executor interested.

1 If either of the executors or administrators is interested in favor
 2 of a claim against the estate, he shall not serve in any manner con-
 3 nected therewith, and if all are thus interested, the court shall appoint
 4 some competent person a temporary executor or administrator in
 5 relation to such claims.
 [C., '51, § 1369; R., '60, § 2401; C., '73, § 2417; C., '97,
 § 3346.]

SEC. 7872. Expenses of funeral—allowance to widow.

1 As soon as the executor or administrator is possessed of sufficient
 2 means over and above the expenses of administration, he shall pay off
 3 the charges of the last sickness and funeral of deceased, and next, any
 4 allowance made by the court for the maintenance of the widow and
 5 minor children.
 [C., '51, §§ 1370, 1371; R., '60, §§ 2402, 2403; C., '73, §§ 2418,
 2419; C., '97, § 3347.]

SEC. 7873. Other demands—order of payment—claims for labor.

1 Other demands against the estate shall be payable in the follow-
 2 ing order:
 3 1. Debts entitled to preference under the laws of the United
 4 States.
 5 2. Public rates and taxes.
 6 3. Claims filed within six months after the first publication or
 7 posting of the notice given by the executors or administrators of their
 8 appointment.
 9 4. All other debts.
 10 5. Legacies and the distributive shares, if any.
 11 In payment of claims of the third class all debts owing to em-
 12 ployees for labor performed within the ninety days next preceding
 13 the death of the decedent, having been filed as by law provided, shall
 14 be preferred and paid in full before any other claims of said class are
 15 paid. If there is not sufficient property to pay said claims in full the
 16 same shall be applied ratably on all such claims.
 [C., '51, § 1372; R., '60, § 2404; C., '73, § 2420; C., '97,
 § 3348; S., '13, § 3348.]

SEC. 7874. Limitation.

1 All claims of the fourth of the above classes, not filed and allowed,
2 or if filed and notice thereof, as hereinbefore provided, is not served
3 within twelve months from the giving of the notice aforesaid, will be
4 barred, except as to actions against decedent pending in the district
5 or supreme court at the time of his death, or unless peculiar circum-
6 stances entitle the claimant to equitable relief.

[C., '51, § 1373; R., '60, § 2405; C., '73, § 2421; C., '97,
§ 3349.]

SEC. 7875. Payment of claims—classes.

1 After the expiration of the time for filing the claims of the third
2 of the above classes, the executors or administrators shall proceed to
3 pay off all claims against the estate in the order above stated, as fast
4 as the means of so doing come into their hands, but no payment can
5 be made to a claimant in any one class until those of a previous class
6 are satisfied.

[C., '51, §§ 1374, 1376; R., '60, §§ 2406, 2408; C., '73, §§ 2422,
2424; C., '97, § 3350.]

SEC. 7876. Payment of fourth class.

1 Claims of the fourth class may be paid off at any time after the
2 expiration of six months, without any regard to those claims not filed
3 at the time of such payment.

[C., '51, § 1375; R., '60, § 2407; C., '73, § 2423; C., '97,
§ 3351.]

SEC. 7877. Demands not due.

1 Demands not yet due may be paid, if the holder will consent to
2 such a rebate of interest as the court thinks reasonable; otherwise,
3 the money to which he would be entitled shall be invested until his
4 debt becomes due.

[C., '51, § 1377; R., '60, § 2409; C., '73, § 2425; C., '97,
§ 3352.]

SEC. 7878. Order of payment—dividends.

1 Within their respective classes, debts shall be paid in the order
2 in which they are filed, unless it is likely there will not be sufficient
3 means with which to pay the whole of the debts of any one class, in
4 which case the court shall from time to time order a dividend of the
5 means on hand among all the creditors of that class, and the executors
6 or administrators shall pay the several amounts accordingly.

[C., '51, §§ 1378, 1379; R., '60, §§ 2410, 2411; C., '73, §§ 2426,
2427; C., '97, § 3353.]

SEC. 7879. Incumbrances.

1 The executor or administrator may, with the approval of the
2 court, use funds belonging to the estate to pay off incumbrances upon
3 lands owned by the deceased, or to purchase lands claimed or con-
4 tracted for by him, prior to his death.

[C., '51, § 1380; R., '60, § 2412; C., '73, § 2428; C., '97,
§ 3354.]

SEC. 7880. Specific legacies.

1 Specific legacies of property may by the court be turned over to
 2 the legatees at any time upon their giving unquestionable security by
 3 bond, or upon real estate, as may be ordered by the court or judge,
 4 to restore the property or refund the amount at which it was ap-
 5 praised, if wanted for the payment of debts.

[C., '51, § 1381; R., '60, § 2413; C., '73, § 2429; C., '97,
 § 3355.]

SEC. 7881. In money.

1 Legacies payable in money may be paid on like terms, whenever
 2 the executors possess the means which can be thus used without preju-
 3 dice to the interest of any claim already filed.

[C., '51, § 1382; R., '60, § 2414; C., '73, § 2430; C., '97,
 § 3356.]

SEC. 7882. After twelve months.

1 After the expiration of the twelve months allowed for filing
 2 claims, such legacies may be paid without requiring the security pro-
 3 vided for in the two preceding sections, if means are retained to pay
 4 off all the claims proved or pending.

[C., '51, § 1383; R., '60, § 2415; C., '73, § 2431; C., '97,
 § 3357.]

SEC. 7883. Order named in will.

1 If the testator has not prescribed the order in which legacies are
 2 to be paid, and if no security is given as above provided, in order to
 3 expedite their time of payment, they may be paid in the order in which
 4 they are given in the will, where the estate is sufficient to pay all.

[C., '51, § 1384; R., '60, § 2416; C., '73, § 2432; C., '97,
 § 3358.]

SEC. 7884. Ratable payment.

1 When not incompatible with the manifest intention of the testator,
 2 the court may direct all payments of money to legatees to be made
 3 ratably.

[C., '51, § 1385; R., '60, § 2417; C., '73, § 2433; C., '97,
 § 3359.]

SEC. 7885. Estate insufficient.

1 Such must be the mode pursued when there is danger that the
 2 estate will prove insufficient to pay all the legacies, unless security is
 3 given to refund as above provided.

[C., '51, § 1386; R., '60, § 2418; C., '73, § 2434; C., '97,
 § 3360.]

SEC. 7886. Judgment on executor's bond.

1 If the executor or administrator fails to make any payment in
 2 accordance with the order of the court, any person aggrieved thereby
 3 may, on ten days' notice to him and his sureties, apply to the court for
 4 judgment against them on their bond. The court shall hear the ap-
 5 plication in a summary manner, and may render judgment against
 6 them for the amount of money directed to be paid, and costs, and issue

7 executions against them therefor. If any of the obligors are not
 8 served, the same proceedings in relation to them may be had with the
 9 same effect as in an action by ordinary proceedings under similar
 10 circumstances.

[C., '51, §§ 1387, 1389; R., '60, §§ 2419, 2421; C., '73, § 2435;
 C., '97, § 3361.]

CHAPTER 5.

DESCENT AND DISTRIBUTION OF INTESTATE'S PROPERTY.

SECTION 7887. Personal property.

1 The personal property of the deceased not necessary for the pay-
 2 ment of debts, nor otherwise disposed of, shall be distributed to the
 3 same persons and in the same proportions as though it were real
 4 estate.

[C., '51, § 1390; R., '60, § 2422; C., '73, § 2436; C., '97,
 § 3362.]

SEC. 7888. Payment of shares.

1 The distributive shares shall be paid over as soon as the executor
 2 or administrator can properly do so.

[C., '51, § 1391; R., '60, § 2423; C., '73, § 2437; C., '97,
 § 3363.]

SEC. 7889. In kind—proceeds distributed.

1 The property itself shall be distributed in kind when that can be
 2 satisfactorily and equitably done. In other cases, the court may di-
 3 rect the property to be sold, and the proceeds distributed.

[C., '51, § 1392; R., '60, § 2424; C., '73, § 2438; C., '97,
 § 3364.]

SEC. 7890. Partial distribution.

1 When the circumstances of the family require it, the court may,
 2 in addition to what is set apart for their use, direct a partial distri-
 3 bution of the money or effects on hand, at any time after filing the
 4 inventory and appraisal, upon the execution of security like that
 5 required of legatees in like cases.

[C., '51, § 1393; R., '60, § 2425; C., '73, § 2439; C., '97,
 § 3365.]

SEC. 7891. Share of surviving spouse—dower.

1 One-third in value of all the legal or equitable estates in real
 2 property possessed by the husband at any time during the marriage,
 3 which have not been sold on execution or other judicial sale, and to
 4 which the wife had made no relinquishment of her right, shall be set
 5 apart as her property in fee simple, if she survive him. The same
 6 share of the real estate of a deceased wife shall be set apart to the
 7 surviving husband. All provisions made in this chapter in regard to

8 the widow of a deceased husband shall be applicable to the surviving
9 husband of a deceased wife.

[C., '51, §§ 1394, 1421; R., '60, §§ 2477, 2479; C., '73, § 2440;
C., '97, § 3366.]

SEC. 7892. Homestead.

1 The distributive share of the survivor shall be set off so as to
2 include the ordinary dwelling house given by law to the homestead,
3 or so much thereof as will be equal to the share allotted to her by the
4 last section, unless she prefers a different arrangement; but no such
5 arrangement shall be permitted unless there be sufficient property
6 remaining to pay the debts of the decedents.

[C., '51, § 1395; R., '60, § 2426; C., '73, § 2441; C., '97,
§ 3367.]

SEC. 7893. Survivor a nonresident.

1 As against a purchaser from a nonresident alien, the survivor
2 shall not be entitled to a distributive share in the estate of the de-
3 ceased, if at the time of the purchase such survivor was also a non-
4 resident alien.

[C., '73, § 2442; C., '97, § 3368.]

SEC. 7894. Setting off survivor's share.

1 The survivor's share may be set off by the mutual consent of all
2 parties in interest, or by referees appointed by the court or the judge
3 thereof, the application therefor to be made in writing, after twenty
4 days from the death of the intestate and within ten years, which ap-
5 plication must describe the land in which the share is claimed, and
6 pray the appointment of referees to set it off.

[C., '51, §§ 1396, 1397; R., '60, §§ 2427, 2428; C., '73, §§ 2443,
2444; C., '97, § 3369.]

SEC. 7895. Referees—notice.

1 The court or judge shall fix the time for making the appointment
2 of the referees, and direct such notice thereof and of the application
3 to be given to all parties interested therein as it thinks proper.

[C., '51, § 1398; R., '60, § 2429; C., '73, § 2445; C., '97,
§ 3370.]

SEC. 7896. Shares marked off.

1 The referees may employ a surveyor, if necessary, and must cause
2 the shares to be marked off by metes and bounds, and make report of
3 their proceedings to the court as early as practicable.

[C., '51, § 1399; R., '60, § 2430; C., '73, § 2446; C., '97,
§ 3371.]

SEC. 7897. Report.

1 The court or judge may require a report by such a time as it
2 thinks reasonable, and if the referees fail to obey this or any other
3 of its orders, it may discharge them and appoint others in their stead,

4 and impose upon them the payment of all costs previously made, un-
5 less they show good cause against it.

[C., '51, § 1400; R., '60, § 2431; C., '73, § 2447; C., '97, § 3372.]

SEC. 7898. Confirmation—new reference.

1 The court may confirm the report, or set it aside and refer the
2 matter to the same or other referees, at its discretion, which con-
3 firmation, after the lapse of thirty days, unless appealed from, shall
4 be binding and conclusive, and the survivor may bring an action to
5 obtain possession of the land set apart.

[C., '51, §§ 1401, 1402; R., '60, §§ 2432, 2433; C., '73, §§ 2448, 2449; C., '97, § 3373.]

SEC. 7899. Right contested.

1 Nothing in the last section shall prevent any person interested
2 from controverting the right of the survivor to the shares thus set
3 apart, before confirmation of the report of the referees.

[C., '51, § 1403; R., '60, § 2434; C., '73, § 2450; C., '97, § 3374.]

SEC. 7900. Sale—division of proceeds—homestead.

1 If the referees report that the property or any part of it can not
2 be readily divided, the court may order the whole sold and one-third
3 of the proceeds paid over to the survivor, but no sale shall be made if
4 anyone interested gives security to the satisfaction of the court, con-
5 ditioned to pay the survivor the appraised value of the share, with
6 eight per cent interest on the same, within such reasonable time as it
7 may fix, not exceeding one year. If no such arrangement is made,
8 such survivor may keep the property by giving like security to pay
9 the claims of all others interested upon like terms. With any money
10 thus obtained, the survivor may procure a homestead, which shall be
11 exempt from liability for all debts from which the former homestead
12 would have been exempt, and such sale shall not be ordered so long as
13 those in interest shall express a contrary desire and agree upon some
14 mode of sharing and dividing the rents, profits or use thereof, or
15 shall consent that the court divide it by rent, profits or use.

[C., '51, §§ 1404-1406; R., '60, § 2478; C., '73, § 2451; C., '97, § 3375.]

SEC. 7901. Share not affected by will—election—made by court.

1 The survivor's share can not be affected by any will of the spouse
2 unless consent thereto is given as hereinafter provided. Where a
3 voluntary election to take or refuse to take under a will has not been
4 filed by a surviving spouse within sixty days from the date when the
5 will of a decedent has been admitted to probate, it shall be the duty of
6 the executor appointed to administer the will of such decedent in this
7 state, to cause to be served, in the manner required for service of
8 original notice, upon the surviving spouse, a notice, in writing, advis-
9 ing such surviving spouse that the will of such decedent has been
10 admitted to probate, stating the name of the court and the date when
11 the will was admitted to probate, and requiring that such spouse,
12 within six months after the completed service of such notice, elect
13 whether he or she shall take or refuse to take under the provisions of

14 the will of such decedent, and that such election may be made in
 15 open court or by writing filed in such court, which election, when
 16 made, shall be entered on the proper records thereof. The same notice
 17 may be given by any other person interested in the estate of decedent,
 18 and shall have the same force and effect as if given by the executor.
 19 In case such surviving spouse does not make such election within six
 20 months from the date of the completed service of such notice, it shall
 21 be conclusively presumed that such survivor consents to the provisions
 22 of the will and elects to take thereunder; unless within such period of
 23 six months, an affidavit shall be filed setting forth that such surviving
 24 spouse is mentally incapable of making such election. In case such
 25 an affidavit is so filed, the court shall fix a time and place of hearing
 26 and cause a notice thereof, containing the requirements above set
 27 out, to be served upon said surviving spouse in such manner and for
 28 such time as the court may direct, and at said hearing, a guardian ad
 29 litem shall be appointed to represent such spouse and the court shall
 30 enter an order electing for and in behalf of such spouse, as it shall
 31 deem under the evidence to be for the best interests of such spouse.

[C., '51, § 1407; R., '60, § 2435; C., '73, § 2452; C., '97,
 § 3376; S., '13, § 3376; 38 G. A., ch. 192, § 1.]

**SEC. 7902. Election as between distributive share and occupancy
 of homestead—mental incapability.**

1 Within six months after written notice to the survivor, given by
 2 any heir of a deceased intestate, or by the administrator of his estate
 3 in case a sale of the real estate is necessary to pay debts, the survivor
 4 may elect to take the distributive share, or the right to occupy the
 5 homestead, which election shall be made and entered of record as
 6 provided in the preceding section. In case of a failure to make such
 7 election, the right to occupy the homestead in lieu of the distributive
 8 share shall be waived. But when such surviving spouse is mentally
 9 incapable of making such election, the court on petition being filed
 10 alleging such disability, may set the matter down for hearing at such
 11 time and place as it may deem best, and direct what notice thereof
 12 shall be given; and at such hearing the court may enter an order elect-
 13 ing for such spouse, which shall be the election, under this section,
 14 of the person under such disability; and in case of an election of the
 15 distributive share, such distributive share may be set off to such
 16 surviving spouse under disability on the petition of the guardian of
 17 such spouse and under the provisions for setting off the surviv-
 18 or's share.

[C., '51, § 1264; R., '60, § 2296; C., '73, § 2008; C., '97,
 § 3377; S., '13, § 3377.]

SEC. 7903. Descent—to children.

1 Subject to the rights and charges hereinbefore provided, the
 2 remaining estate of which the decedent died seized shall, in the ab-
 3 sence of a will, descend in equal shares to his children, unless one or
 4 more of them is dead, in which case the heirs of such shall inherit
 5 his or her share in accordance with the rules herein prescribed, in the
 6 same manner as though such child had outlived its parents.

[C., '51, §§ 1408, 1409; R., '60, §§ 2436, 2437; C., '73,
 §§ 2453, 2454; C., '97, § 3378.]

SEC. 7904. Wife and parents.

1 If the intestate leaves no issue, the whole of the estate to the
 2 amount of seventy-five hundred dollars, after the payment of the
 3 debts and expenses of administration, and one-half of all of the estate
 4 in excess of said seventy-five hundred dollars shall go to the surviving
 5 spouse and the other one-half of said excess shall go to the parents.
 6 If no spouse, the whole shall go to the parents.

[C., '51, § 1410; R., '60, § 2495; C., '73, § 2455; C., '97,
 § 3379; S., '13, § 3379.]

SEC. 7905. Appraisal in case of surviving spouse and no issue.

1 Prior to the settlement of every such estate in which there is a
 2 surviving spouse it shall be the duty of the court to appoint three
 3 competent, disinterested appraisers, whose duty it shall be, after first
 4 being duly sworn, to appraise such estate and to make their report to
 5 the court, duly verified, at such time as the court may direct by order.
 6 In such appraisement, the homestead, if any, shall be appraised
 7 separately.

[37 G. A., ch. 250, § 2.]

SEC. 7906. Notice—objections to appraisement—trial.

1 The court shall at the time it appoints such appraisers, determine
 2 the kind of notice, the time for appearance, the method of service,
 3 whether by publication or otherwise; said notice shall designate the
 4 names of such appraisers, the time and place of such appraisement,
 5 and the date on which such appraisers shall file with the clerk of the
 6 court the report of their appraisement, directed to all persons inter-
 7 ested in such appraisement. All persons interested in and having
 8 objections to such report and appraisement, shall appear thereto and
 9 file their objections before noon of the second day after the day fixed
 10 in said notice for the filing of the report of such appraisement. Such
 11 objections, if any, shall be tried to the court as in equity, and the final
 12 order of the court in the matter of such appraisement shall have the
 13 same force and effect as a decree of the court in equity.

[37 G. A., ch. 250, § 3.]

SEC. 7907. Right of spouse to select property.

1 Thereafter, and after the payment of debts and costs of admin-
 2 istration, the surviving spouse shall have the right to select from the
 3 property so appraised, at its appraised value so fixed, property equal
 4 to the sum of seventy-five hundred dollars in value, which selection
 5 shall be in writing filed with the clerk of the court.

[37 G. A., ch. 250, § 4.]

SEC. 7908. Surviving parent.

1 If one of the parents is dead, the portion which would have gone
 2 to such deceased parent shall go to the survivor, including the portion
 3 which would have belonged to the intestate's spouse, had one been
 4 living.

[C., '51, § 1411; R., '60, § 2496; C., '73, § 2456; C., '97,
 § 3380.]

SEC. 7909. Heirs of parents.

1 If both parents are dead, the portion which would have fallen to
 2 their share by the above rules shall be disposed of in the same manner
 3 as if they had outlived the intestate and died in the possession and
 4 ownership of the portion thus falling to their share, and so on, through
 5 ascending ancestors and their issue.

[R., '60, § 2497; C., '73, § 2457; C., '97, § 3381.]

SEC. 7910. Parents by adoption—wife.

1 One-half of the estate of any adopted child who shall die intestate
 2 and leaving no issue shall descend to the parents by adoption of such
 3 child, and the other half to his or her surviving spouse. If one of the
 4 parents by adoption be dead, in case there was more than one such
 5 parent, the portion which would have gone to such parent shall go to
 6 the surviving parent by adoption. If such child leave no surviving
 7 spouse, his entire estate shall go to his parents by adoption; or if he
 8 leave but one such parent then to such parent.

[S., '13, § 3381-a.]

SEC. 7911. Heirs of parents by adoption.

1 If the adopted parent or parents, if more than one, be dead, the
 2 portion which would have gone to such parent or parents had they or
 3 either of them survived the intestate, shall be disposed of in the same
 4 manner as if such parent or parents had outlived the intestate and
 5 died in possession of such share, and so on through their ascending
 6 ancestors.

[S., '13, § 3381-b.]

SEC. 7912. Natural parents.

1 If heirs are not thus found, the portion thus uninherited shall go
 2 to the natural parents of the intestate, and in case of their death then
 3 to their heirs under the ordinary rules of descent.

[S., '13, § 3381-c.]

SEC. 7913. Spouse and heirs.

1 If heirs are not thus found, the portion uninherited shall go to the
 2 spouse of the intestate, or the heirs of such spouse if dead, according
 3 to like rules, and if such intestate has had more than one spouse who
 4 either died or survived in lawful wedlock, it shall be equally divided
 5 between the one who is living and the heirs of those who are dead, or
 6 between the heirs of all, if all are dead, such heirs taking by right
 7 of representation.

[C., '51, § 1413; R., '60, § 2439; C., '73, § 2458; C., '97,
 § 3382.]

SEC. 7914. Advancements.

1 Property given by an intestate by way of advancement to an heir,
 2 for the purposes of the division and distribution thereof shall be con-
 3 sidered part of the estate, and be taken by him toward his share of the
 4 estate at what it would be worth if in the condition in which it was
 5 given to him, but if such advancement exceeds the amount to which

6 he would be entitled, he can not be required to refund any por-
7 tion thereof.

[C., '51, §§ 1419, 1420; R., '60, §§ 2445, 2446; C., '73, § 2459;
C., '97, § 3383.]

SEC. 7915. Illegitimate children—inherit from mother.

1 Illegitimate children inherit from their mother, and she from
2 them.

[C., '51, § 1415; R., '60, § 2441; C., '73, § 2465; C., '97,
§ 3384.]

SEC. 7916. From father.

1 They shall inherit from the father when the paternity is proven
2 during his life, or they have been recognized by him as his children;
3 but such recognition must have been general and notorious, or else in
4 writing. Under such circumstances, if the recognition has been mut-
5 tual, the father may inherit from his illegitimate children.

[C., '51, §§ 1416, 1417; R., '60, §§ 2442, 2443; C., '73, §§ 2466,
2467; C., '97, § 3385.]

SEC. 7917. Heir or beneficiary causing death or disability.

1 No person who feloniously takes or causes or procures another
2 so to take the life of another shall inherit from such person, or receive
3 any interest in the estate of the decedent as surviving spouse, or take
4 by devise or legacy from him, any portion of his estate; and no bene-
5 ficiary of any policy of insurance or certificate of membership issued
6 by any benevolent association or organization, payable upon the death
7 or disability of any person, who in like manner takes or causes or
8 procures to be taken the life upon which such policy or certificate is
9 issued, or who causes or procures a disability of such person, shall
10 take the proceeds of such policy or certificate; but in every instance
11 mentioned in this section, all benefits that would accrue to any such
12 person upon the death or disability of the person whose life is thus
13 taken or who is thus disabled shall become subject to distribution
14 among the other heirs of such deceased person, according to the fore-
15 going rules of descent and distribution in case of death, and in case
16 of disability the benefits thereunder shall be paid to the disabled person.

[C., '97, § 3386; S., '13, § 3386.]

SEC. 7918. Escheat.

1 If there is property remaining uninherited, it shall escheat to
2 the state.

[C., '51, § 1414; R., '60, § 2440; C., '73, § 2460; C., '97,
§ 3387.]

SEC. 7919. Proceedings.

1 When the judge or clerk of the district court has reason to believe
2 that any property of the estate of an intestate within the county
3 should by law escheat, he must forthwith inform the state auditor
4 thereof, and appoint some suitable person administrator to take charge
5 of such property, unless an executor or administrator has already
6 been appointed for that purpose in some county in the state.

[C., '51, § 1443; R., '60, § 2468; C., '73, § 2461; C., '97,
§ 3388.]

SEC. 7920. Notice to persons interested.

1 The administrator must give such notice of the death of the
 2 deceased and the amount and kind of property left by him within the
 3 state as, in the opinion of the judge or clerk appointing him, will be
 4 best calculated to notify those interested, or supposed to be interested,
 5 in the property.

[C., '51, § 1444; R., '60, § 2469; C., '73, § 2462; C., '97,
 § 3389.]

SEC. 7921. Sale—proceeds.

1 If within six months from the giving of such notice no claimant
 2 thereof appears, such property may be sold and the proceeds, under
 3 the direction of the state auditor, paid over by the administrator for
 4 the benefit of the school fund. If real estate, the sale shall be con-
 5 ducted and the proceeds treated like those of school lands.

[C., '51, § 1445; R., '60, § 2470; C., '73, § 2463; C., '97,
 § 3390.]

SEC. 7922. Payment to person entitled.

1 The money or any portion of it shall be paid at any time within
 2 ten years after the sale of the property or the appropriation of the
 3 money, but not afterwards, to anyone showing himself entitled thereto.

[C., '51, § 1446; R., '60, § 2471; C., '73, § 2464; C., '97,
 § 3391.]

SEC. 7923. Land patented to person deceased.

1 Where a patent has been or may be issued by the state to a per-
 2 son who had died, or who dies before the date of such patent, the title
 3 to the land patented shall inure to and vest in the heirs, devisees or
 4 assignees of such patentee, as if the patent had issued to him during
 5 his life.

[C., '97, § 3392.]

CHAPTER 6.
ACCOUNTING OF EXECUTORS AND ADMINISTRATORS.**SECTION 7924. Reference—examination of accounts.**

1 In matters of accounts of executors and administrators, the court
 2 may appoint one or more referees, who shall have the powers and per-
 3 form all the duties therein of referees appointed by the court in a
 4 civil action.

[C., '73, § 2412; C., '97, § 3393.]

SEC. 7925. Report.

1 On the expiration of six and within seven months from the first
 2 publication or notice of his appointment, and sooner if required by
 3 the court, the executor or administrator shall render his account to
 4 the court, showing the condition of the estate, its debts and effects,
 5 the amount of money received, and the disposition made of it; and

6 from time to time, as may be required by the court, he shall render
 7 further accounts until the estate is finally settled, which final settle-
 8 ment shall be made within three years, unless otherwise ordered by
 9 the court. Such account shall embrace all matters directed by the
 10 court and pertinent to the subject.

[C., '51, §§ 1422, 1423; R., '60, §§ 2447, 2448; C., '73,
 § 2469; C., '97, § 3394.]

SEC. 7926. Examination of executor.

1 He may be examined under oath by the court upon any matter
 2 relating to his accounts, when the vouchers and proofs in relation
 3 thereto are not sufficiently full and satisfactory, and must account for
 4 all the property inventoried at the price at which it was appraised,
 5 as well as for all other property coming into his hands belonging to
 6 the estate.

[C., '51, §§ 1424, 1425; R., '60, §§ 2449, 2450; C., '73,
 §§ 2470, 2471; C., '97, § 3395.]

SEC. 7927. Presumption from appraisement.

1 The appraisement shall be presumptive evidence of the value of
 2 an article and so regarded, either for or against him.

[C., '51, § 1426; R., '60, § 2451; C., '73, § 2472; C., '97,
 § 3396.]

SEC. 7928. Profit and loss.

1 He shall derive no profit from the sale of property for a higher
 2 price than the appraisement, nor is he chargeable with any loss oc-
 3 ccurring without his fault.

[C., '51, § 1427; R., '60, § 2452; C., '73, § 2473; C., '97,
 § 3397.]

SEC. 7929. Mistakes corrected.

1 Mistakes in settlements may be corrected in the probate court
 2 at any time before his final settlement and discharge, and after that
 3 time by equitable proceedings, on showing such grounds as will justify
 4 the interference of the court.

[C., '51, § 1432; R., '60, § 2457; C., '73, § 2474; C., '97,
 § 3398.]

SEC. 7930. Settlement contested.

1 Any person interested in the estate may attend upon the settle-
 2 ment of his accounts and contest the same. Accounts settled in the
 3 absence of any person adversely interested, and without notice to him,
 4 may be opened within three months on his application.

[C., '51, § 1431; R., '60, § 2456; C., '73, § 2475; C., '97,
 § 3399.]

SEC. 7931. Discharge.

1 Upon final settlement, an order shall be entered discharging him
 2 from further duties and responsibilities.

[C., '51, § 1434; R., '60, § 2459; C., '73, § 2476; C., '97,
 § 3400.]

SEC. 7932. Judgment—execution.

1 If judgment is rendered against an executor or administrator for
 2 costs in any action prosecuted or defended by him in that capacity,
 3 execution shall be awarded against him as for his own debt, if it
 4 appears to the court that such action was prosecuted or defended
 5 without reasonable cause. In other cases, the execution shall be
 6 awarded against him in his representative capacity only.

[C., '51, § 1433; R., '60, § 2458; C., '73, § 2477; C., '97,
 § 3401.]

SEC. 7933. Receipts by one executor.

1 One of the several executors or administrators may receive and
 2 receipt for any money, which receipt shall be given by him in his own
 3 name only, and he must individually account for all the money thus
 4 received and receipted for by himself, and this shall not charge his
 5 coexecutor or administrator, except so far as it can be shown to have
 6 come into his hands.

[C., '51 § 1442; R., '60, § 2467; C., '73, § 2478; C., '97,
 § 3402.]

SEC. 7934. Notice of order—publication.

1 When the court shall make an order affecting an executor or ad-
 2 ministrator, and it can not be personally served upon him, service
 3 thereof may be made by publication of a notice, stating the substance
 4 of such order, in some newspaper published in the county where such
 5 order was made, once each week, for four weeks in succession, which
 6 publication may be proved as in case of original notice.

[R., '60, §§ 2474, 2475; C., '73, §§ 2479, 2480; C., '97, § 3403;
 S., '13, § 3403.]

SEC. 7935. Effect.

1 Service as above shall be as effectual as if personally made, and
 2 actions and proceedings may be commenced and prosecuted in all re-
 3 spects as if such notices or orders had been personally served.

[R., '60, § 2476; C., '73, § 2481; C., '97, § 3404.]

SEC. 7936. Failure to account.

1 Any executor or administrator failing to account, upon being
 2 required to do so by the court or as he is required to do by law, shall,
 3 for every such failure, forfeit one hundred dollars, to be recovered in
 4 a civil action on his bond for the benefit of the estate by anyone in-
 5 terested therein.

[C., '51, § 1428; R., '60, § 2453; C., '73, § 2482; C., '97,
 § 3405.]

SEC. 7937. Executor of executor.

1 An executor or administrator has no authority to act in a matter
 2 wherein his decedent was merely executor, administrator or trustee.

[C., '51, § 1438; R., '60, § 2463; C., '73, § 2483; C., '97,
 § 3406.]

SEC. 7938. Executors in their own wrong.

1 Any person who, without being regularly appointed as executor
 2 or administrator, intermeddles with the property of a deceased per-

3 son, is responsible to the regular executor or administrator, when
4 appointed, for the value of all property taken or received by him, and
5 for all damage caused by his acts to the estate of the deceased.

[C., '51, § 1439; R., '60, § 2464; C., '73, § 2484; C., '97,
§ 3407.]

SEC. 7939. Action against heirs and devisees—costs—tender.

1 In an action against the heirs and devisees, where the judgment
2 is to be against them in proportion to the respective amounts received
3 by them from the estate, costs awarded against them shall be in like
4 proportion, and any one may tender the amount due from him to the
5 plaintiff, which shall have the same effect, as far as he is concerned,
6 as though he was the sole defendant.

[C., '51, §§ 1440, 1441; R., '60, §§ 2465, 2466; C., '73, §§ 2485,
2486; C., '97, § 3408.]

SEC. 7940. Specific performance.

1 When a person who is under such obligation to convey real estate
2 as might have been enforced against him, if living, dies before making
3 such conveyance, the court may enforce a specific performance of such
4 contract by the executor or administrator, and require him to execute
5 the conveyance accordingly, and it shall not be necessary to make any
6 other than the executor or administrator party defendant to such
7 proceedings in the first instance, but the court in its discretion may
8 direct other persons interested to be made parties, and may cause
9 them to be notified thereof in such manner as it may think expedient,
10 or the heirs and devisees, upon their own motion, may at any time be
11 made defendants, and such conveyances may be authorized upon the
12 petition of the executor or administrator.

[C., '51, §§ 1435, 1436; R., '60, §§ 2460, 2461; C., '73, §§ 2487,
2488; C., '97, § 3409.]

SEC. 7941. Executors considered as one.

1 In an action against several executors or administrators, they
2 shall be considered one person, and judgment may be taken and execu-
3 tion issued against all as such, although only part were served with
4 notice.

[C., '51, § 1437; R., '60, § 2462; C., '73, § 2489; C., '97,
§ 3410.]

SEC. 7942. Compensation.

1 Executors and administrators shall be allowed the following
2 commissions upon the personal estate sold or distributed by them and
3 for the proceeds of real estate sold for the payment of debts by them
4 which shall be received as full compensation for all ordinary services:

5 For the first one thousand dollars, six per cent.

6 For the overplus between one and five thousand dollars, four
7 per cent.

8 For all sums over five thousand dollars, two per cent.

9 There shall also be allowed and taxed as part of the costs of ad-
10 ministration of estates an attorneys' fee for the administrator's or
11 executor's attorney equal to the administrator's or executor's fee as
12 provided herein. Such further allowances as are just and reasonable

13 may be made by the court to administrators, executors and their at-
14 torneys for actual necessary and extraordinary expenses or services.

[C., '51, §§ 1429, 1430; R., '60, §§ 2454, 2455; C., '73, §§ 2494, 2495; C., '97, § 3415; 38 G. A., ch. 391, § 1.]

SEC. 7943. Removal of executor.

1 After letters testamentary, of special administration, or of ad-
2 ministration with the will annexed, or general administration, shall
3 have been granted to any person, he may be removed by the court or
4 judge thereof, when the interests of the estate require it, for any of
5 the following causes:

6 1. When by reason of age, continued sickness, imbecility, or
7 change of residence, or any other cause, he becomes incapable of dis-
8 charging his trust in such manner as the interest and proper manage-
9 ment of the estate may require.

10 2. When he shall fail or refuse to return inventories or accounts
11 of sales of the estate, or to make reports of the condition thereof, or
12 fails or refuses to comply with any order of the court or judge thereof,
13 or fails to seasonably apply for authority to sell personal or real estate
14 for the payment of debts or claims against the estate when it shall
15 be necessary for him to do so, or fails or refuses to discharge any of
16 the duties prescribed for him by law, or shall be guilty of any waste
17 or maladministration of the estate, or where for any other reason it
18 appears for the best interests of the estate.

19 3. Where it is shown to the court or judge thereof by his sureties
20 that he has become or is likely to become insolvent, in consequence of
21 which such sureties have suffered or will suffer loss.

[C., '51, § 1306; R., '60, § 2338; C., '73, § 2496; C., '97, § 3416.]

SEC. 7944. Petition.

1 Petition for the removal of executors or administrators, or for
2 the purpose of requiring additional sureties, shall be filed in the court
3 from which the letters were issued by any person interested in the
4 estate, which petition must be verified by oath, and specify the grounds
5 of complaint.

[C., '73, §§ 2497, 2498; C., '97, § 3417.]

SEC. 7945. Citation—how served.

1 Upon the filing of such petition, a citation shall issue to the per-
2 son complained of, requiring him to appear and answer the complaint,
3 and if he is not a resident of the county where it is made, notice
4 thereof shall be served upon him in such manner as the court or judge
5 thereof or clerk may direct.

[C., '73, §§ 2499, 2500; C., '97, § 3418.]

SEC. 7946. Property delivered—penalty.

1 Upon the removal of any executor or administrator, he shall be
2 required by order of the court or judge to deliver to the person who
3 may be entitled thereto all the property in his hands or under his
4 control belonging to the estate, and if he fails or refuses to comply
5 with any proper order of the court, he may be committed to the jail
6 of the county until he does.

[C., '73, §§ 2501, 2502; C., '97, § 3419.]

SEC. 7947. Reports—accounts.

1 Each report of an executor, administrator, guardian or trustee
2 shall be self-explanatory, so that the clerk or court, from a perusal
3 thereof, may understand the matter in hand, without explanations or
4 being compelled to examine or refer to other papers in the case. All
5 accountings must state the debit and credit and show the balances.
6 Guardians' and trustees' accounts must show the amount of interest
7 earned since appointment or last report, and how and upon what
8 security the trust fund is invested. All reports and accounts must
9 be verified.

[C., '97, § 3420.]

SEC. 7948. Orders in probate—applications.

1 All applications for orders in probate must be made in writing,
2 verified and self-explanatory, so that the clerk or court from a perusal
3 thereof may understand the relief sought without explanations.

[C., '97, § 3421.]

SEC. 7949. Notice of application for discharge.

1 Unless notice be waived in writing, no administrator, executor,
2 guardian or trustee shall be discharged from further duty or re-
3 sponsibility upon final settlement, until notice of the application shall
4 have been served upon all persons interested as required for the com-
5 mencement of a civil action, unless a different service be ordered by
6 the court or judge, which order may be made before or after filing
7 the final report.

[C., '97, § 3422.]

SEC. 7950. Attorney appointed for minors and persons not represented.

1 At or before the hearing of petitions and contests for the pro-
2 bate of wills, letters testamentary or of administration, for sales of
3 real estate and confirmation thereof, settlements and distributions of
4 estates, and all other proceedings in this title, where all the parties
5 interested in the estate are required to be notified thereof, the court
6 in its discretion may appoint some competent attorney at law to rep-
7 resent therein the devisees, legatees, heirs or creditors of the decedent
8 who are minors and have no general guardian in the county, or who
9 are nonresidents of the state, and those interested who, though they
10 are neither minors or nonresidents, are unrepresented. The order
11 making the appointment must specify the names of the parties, so far
12 as known, for whom the attorney is appointed, and he will be author-
13 ized to represent such parties in all such proceedings subsequent to his
14 appointment. He shall be paid for his services out of the estate, as a
15 part of the cost of administration, a fee to be fixed by the court, and
16 upon distribution it may be charged to the party represented by him.
17 The court may substitute another attorney for the one first appointed,
18 in which case the fees must be divided in proportion to the services
19 rendered.

[C., '97, § 3423.]

TITLE XXXI.

PARTICULAR ACTIONS.

CHAPTER 1.

ATTACHMENT.

SECTION 7951. Method.

1 The plaintiff in a civil action may cause the property of the de-
2 fendant not exempt from execution to be attached at the commence-
3 ment or during the progress of the proceeding, by pursuing the course
4 hereinafter prescribed.

[C., '51, § 1846; R., '60, § 3172; C., '73, § 2949; C., '97,
§ 3876.]

SEC. 7952. Proceedings auxiliary.

1 If it be subsequent to the commencement of the action, a separate
2 petition must be filed, and in all cases the proceedings relative to the
3 attachment are to be deemed independent of the ordinary proceedings
4 and only auxiliary thereto.

[C., '51, § 1847; R., '60, § 3173; C., '73, § 2950; C., '97,
§ 3877.]

SEC. 7953. Grounds—not stated in alternative.

1 The petition which asks an attachment must in all cases be sworn
2 to. It must state one or more of the following grounds:
3 1. That the defendant is a foreign corporation or acting as such.
4 2. That he is a nonresident of the state.
5 3. That he is about to remove his property out of the state with-
6 out leaving sufficient remaining for the payment of his debts.
7 4. That he has disposed of his property, in whole or in part, with
8 intent to defraud his creditors.
9 5. That the defendant is about to dispose of his property with
10 intent to defraud his creditors.
11 6. That he has absconded, so that the ordinary process can not
12 be served upon him.
13 7. That he is about to remove permanently out of the county,
14 and has property therein not exempt from execution, and that he re-
15 fuses to pay or secure the plaintiff.
16 8. That he is about to remove permanently out of the state, and
17 refuses to pay or secure the debt due the plaintiff.
18 9. That he is about to remove his property or a part thereof out
19 of the county with intent to defraud his creditors.
20 10. That he is about to convert his property or a part thereof into
21 money for the purpose of placing it beyond the reach of his creditors.
22 11. That he has property or rights in action which he conceals.
23 12. That the debt is due for property obtained under false pre-
24 tenses.

25 The causes for the attachment shall not be stated in the alter-
26 native.

[C., '51, § 1848; R., '60, §§ 3174, 3242; C., '73, §§ 2951, 3021; C., '97, § 3878.]

SEC. 7954. Issued on Sunday.

1 Where the petition states, in addition to the other facts required,
2 that the plaintiff will lose his claim unless the attachment issues and
3 is served on Sunday, it may be issued and served on that day.

[C., '73, § 2952; C., '97, § 3879.]

SEC. 7955. On contract—amount due.

1 If the plaintiff's demand is founded on contract, the petition
2 must state that something is due, and, as nearly as practicable, the
3 amount, which must be more than five dollars in order to authorize
4 an attachment.

[C., '51, § 1849; R., '60, § 3175; C., '73, § 2953; C., '97, § 3880.]

SEC. 7956. Value of property to be attached.

1 The amount thus sworn to is intended as a guide to the sheriff, who
2 must, as nearly as the circumstances of the case will permit, levy upon
3 property fifty per cent greater in value than that amount.

[C., '51, § 1850; R., '60, § 3176; C., '73, § 2954; C., '97, § 3881.]

SEC. 7957. Allowance of value in other cases.

1 If the demand is not founded on contract, the original petition
2 must be presented to some judge of the supreme, district or superior
3 court, who shall make an allowance thereon of the amount in value of
4 the property that may be attached.

[C., '51, § 1851; R., '60, § 3177; C., '73, § 2955; C., '97, § 3882.]

SEC. 7958. For debts not due—grounds.

1 The property of a debtor may be attached on debts not due, when
2 nothing but time is wanting to fix an absolute indebtedness, and when
3 the petition, in addition to that fact, states one or more of the follow-
4 ing grounds:

5 1. That the defendant is about to dispose of his property with
6 intent to defraud his creditors.

7 2. That he is about to remove or has removed from the state, and
8 refuses to secure the payment of the debt when it falls due, and which
9 removal or contemplated removal was not known to the plaintiff at
10 the time the debt was contracted.

11 3. That the defendant has disposed of his property in whole or
12 in part with intent to defraud his creditors.

13 4. That the debt was incurred for property obtained under false
14 pretenses.

[C., '51, § 1852; R., '60, § 3178; C., '73, § 2956; C., '97, § 3883.]

SEC. 7959. Appearance in such cases—judgment.

1 If, at the time of the service of the attachment, the claim upon
 2 which suit is brought is not due, the defendant need not appear in
 3 the action until the maturity of the demand, unless he elects to plead,
 4 in which event the cause shall stand for trial when it is reached in its
 5 regular order, and no final judgment shall be rendered therein before
 6 the maturity of the debt unless such election is made, but if perishable
 7 property is levied upon, it may be sold as in other attachment cases.

[R., '60, §§ 3179, 3180; C., '73, §§ 2957, 2958; C., '97,
 § 3884.]

SEC. 7960. Bond.

1 In all cases before it can be issued, the plaintiff must file with
 2 the clerk a bond for the use of the defendant, with sureties to be ap-
 3 proved by such clerk, in a penalty at least double the value of the
 4 property sought to be attached, and in no case, except in a class B
 5 case in municipal court, less than two hundred fifty dollars in a court
 6 of record, or less than fifty dollars if in a justice court or a class B
 7 case in municipal court, conditioned that the plaintiff will pay all
 8 damages which the defendant may sustain by reason of the wrongful
 9 suing out of the attachment.

[C., '51, § 1853; R., '60, § 3181; C., '73, § 2959; C., '97,
 § 3885; 37 G. A., ch. 75, § 6.]

SEC. 7961. Additional security.

1 The defendant may, at any time before judgment, move the court
 2 or judge for additional security on the part of the plaintiff, and if, on
 3 such motion, the court or judge is satisfied that the surety on the
 4 plaintiff's bond has removed from the state, or is not sufficient, the
 5 attachment may be vacated and restitution directed of any property
 6 taken under it, unless, in a reasonable time, to be fixed by the court
 7 or judge, security is given by the plaintiff.

[R., '60, § 3182; C., '73, § 2960; C., '97, § 3886.]

SEC. 7962. Action on bond.

1 In an action on such bond, the plaintiff therein may recover, if
 2 he shows that the attachment was wrongfully sued out, and that there
 3 was no reasonable cause to believe the ground upon which the same
 4 was issued to be true, the actual damages sustained, and reasonable
 5 attorney's fees to be fixed by the court; and if it be shown such attach-
 6 ment was sued out maliciously, he may recover exemplary damages,
 7 nor need he wait until the principal suit is determined before suing
 8 on the bond.

[C., '51, § 1854; R., '60, § 3183; C., '73, § 2961; C., '97,
 § 3887.]

SEC. 7963. Remedy for falsely suing out.

1 The fact stated as a cause of attachment shall not be contested
 2 in the action by a mere defense. The defendant's remedy shall be on
 3 the bond, but he may in his discretion sue thereon by way of counter-
 4 claim, and in such case shall recover damages as in an original action
 5 on such bond.

[R., '60, § 3238; C., '73, § 3017; C., '97, § 3888.]

SEC. 7964. Writ to sheriff.

1 The clerk shall issue a writ of attachment, directing the sheriff
2 of the county therein named to attach the property of the defendant
3 to the requisite amount therein stated.

[C., '51, § 1856; R., '60, § 3185; C., '73, § 2962; C., '97,
§ 3889.]

SEC. 7965. Several writs to different counties.

1 Attachments may be issued from the district court to different
2 counties, and several may, at the option of the plaintiff, be issued at
3 the same time, or in succession and subsequently, until sufficient prop-
4 erty has been attached; but only those executed shall be taxed in the
5 costs, unless otherwise ordered by the court; and if more property is
6 attached in the aggregate than the plaintiff is entitled to, the surplus
7 must be abandoned, and the plaintiff pay all costs incurred in relation
8 to such surplus.

[C., '51, §§ 1855, 1858; R., '60, § 3184; C., '73, § 2963; C., '97,
§ 3890.]

SEC. 7966. Property attached.

1 The sheriff shall in all cases attach the amount of property
2 directed, if sufficient, not exempt from execution, is found in his
3 county, giving that in which the defendant has a legal and unques-
4 tionable title a preference over that in which his title is doubtful or
5 only equitable.

[C., '51, § 1857; R., '60, § 3186; C., '73, § 2964; C., '97,
§ 3891.]

SEC. 7967. Several attachments.

1 Where there are several attachments against the same defend-
2 ant, they shall be executed in the order in which they were received
3 by the sheriff.

[R., '60, § 3187; C., '73, § 2965; C., '97, § 3892.]

SEC. 7968. Following property.

1 If, after an attachment has been placed in the hands of the sheriff,
2 any property of the defendant is moved from the county, the sheriff
3 may pursue and attach the same in an adjoining county within twenty-
4 four hours after removal.

[R., '60, § 3188; C., '73, § 2966; C., '97, § 3893.]

SEC. 7969. Corporation stock.

1 Stock or interest owned by the defendant in any company is
2 attached by notifying the president or other head of the company, or
3 the secretary, cashier or other managing agent thereof, of the fact
4 that the stock has been so attached.

[C., '51, §§ 1859, 1860; R., '60, § 3194; C., '73, § 2967; C., '97,
§ 3894.]

SEC. 7970. Judgments—money—things in action.

1 Judgments, money, bank bills and other things in action may be
2 levied upon by the officer under an attachment in the same manner as
3 levies are made under execution, except that notice of such levy shall

4 be given as in levies by attachment, and after judgment such property
5 shall be sold, appropriated or transferred as provided for in the chap-
6 ter on executions.

[C., '51, §§ 1859, 1860; R., '60, § 3194; C., '73, § 2967; C., '97,
§ 3895.]

SEC. 7971. Property in possession of another.

1 Property of defendant in possession of another, and of which
2 defendant is entitled to the immediate possession, may be seized under
3 attachment by taking possession thereof, in the same manner as
4 though found in the defendant's possession.

[C., '51, §§ 1859, 1860; R., '60, § 3194; C., '73, § 2967; C., '97,
§ 3896.]

SEC. 7972. Garnishment.

1 Property of the defendant in the possession of another, or debts
2 due the defendant, may be attached by garnishment as hereinafter
3 provided.

[C., '51, § 1859, 1860; R., '60, § 3194; C., '73, § 2967; C., '97,
§ 3897.]

SEC. 7973. When property bound.

1 Property capable of manual delivery, and attached otherwise
2 than by garnishment, is bound thereby from the time manual custody
3 thereof is taken by the officer under the attachment.

[C., '51, §§ 1859, 1860, 1874; R., '60, §§ 3194, 3215; C., '73,
§§ 2967, 2969; C., '97, § 3898.]

SEC. 7974. Real property—lien—entry on incumbrance book.

1 Real estate or equitable interests therein may be attached, and
2 the levy shall be a lien thereon from the time of an entry made and
3 signed by the officer making the same upon the incumbrance book in
4 the office of the clerk of the county in which the land is situated,
5 showing the levy, the date thereof, name of the county from which the
6 attachment issued, title of the action, and a description of the land
7 levied on. In case of a levy upon any equitable interest in real estate,
8 such entry shall show, in addition to the foregoing matters, the name
9 of the person holding the legal title, and the owner of the alleged
10 equitable interest, where known. The grantor of real estate conveyed
11 in fraud of creditors shall, as to such creditors, be deemed the equi-
12 table owner thereof, and such interest may be attached as above pro-
13 vided, when the petition alleges such fraudulent conveyance and the
14 holder of the legal title is made a party to the action.

[R., '60, § 3243; C., '73, § 3022; C., '97, § 3899.]

SEC. 7975. Notice—return.

1 When any property is attached, the officer making the levy shall
2 at once give written notice thereof to the defendant, if found within
3 the county in which the levy is made, and the fact of the giving of
4 such notice, or that the defendant is not found within the county,
5 shall be shown by the officer's return. A like notice shall be given to

6 the party in possession of the property attached. If the party required
7 to be notified is not found at his usual place of business or residence,
8 such notice may be served upon a member of his family over fourteen
9 years of age at such place.

[C., '51, §§ 1859, 1860; R., '60, § 3194; C., '73, § 2967; C., '97,
§ 3900.]

SEC. 7976. Examination of defendant.

1 Whenever it appears by the affidavit of the plaintiff, or by the
2 return of the attachment, that no property is known to the plaintiff
3 or the officer on which the attachment can be executed, or not enough
4 to satisfy the plaintiff's claim, and it being shown to the judge of any
5 court by affidavit that the defendant has property within the state
6 not exempt, the defendant may be required by such judge to attend
7 before him, or before the court in which the action is pending, or a
8 commissioner appointed for that purpose, and give information on
9 oath respecting his property.

[R., '60, § 3189; C., '73, § 2968; C., '97, § 3901.]

SEC. 7977. Money paid clerk.

1 All money attached by the sheriff, or coming into his hands by
2 virtue of the attachment, shall forthwith be paid over to the clerk, to
3 be by him retained till the further action of the court.

[C., '51, §§ 1875, 1882; R., '60, § 3217; C., '73, § 2971; C., '97,
§ 3902.]

SEC. 7978. Other property.

1 The sheriff shall make such disposition of other attached prop-
2 erty as may be directed by the court or judge, and, where there is no
3 direction upon the subject, he shall safely keep the property subject
4 to the order of the court.

[R., '60, § 3218; C., '73, § 2972; C., '97, § 3903.]

SEC. 7979. Partnership property—receiver.

1 In executing an attachment against a person who owns property
2 jointly or in common with another, or who is a member of a partner-
3 ship, the officer may take possession of such property so owned jointly,
4 in common, or in partnership, sufficiently to enable him to inventory
5 and appraise the same, and for that purpose shall call to his assistance
6 three disinterested persons; which inventory and appraisal shall
7 be returned by the officer with the attachment, and such return shall
8 state who claims to own such property. The plaintiff shall, from the
9 time such property is taken possession of by the officer, have a lien on
10 the interest of the defendant therein, and may, either before or after
11 he obtains judgment in the action in which the attachment issued,
12 commence action by equitable proceedings to ascertain the nature and
13 extent of such interest and to enforce the lien; and, if deemed neces-
14 sary or proper, the court or judge may appoint a receiver under the
15 circumstances and conditions provided in chapter twenty-nine, title
16 thirty-one.

[R., '60, §§ 3190-3192; C., '73, §§ 2973, 2974; C., '97,
§ 3904.]

SEC. 7980. Mortgaged personal property.

1 Mortgaged personal property may be levied on under attachment
2 in the method provided for levying execution thereon.

[C., '97, § 3905.]

SEC. 7981. Indemnifying bond.

1 The provisions as to notice of ownership and indemnifying bond
2 to be given in cases of levies under execution shall in all respects be
3 applicable to levies made under writs of attachment.

[C., '97, § 3906.]

SEC. 7982. Bond to discharge.

1 If the defendant, at any time before judgment, causes a bond to
2 be executed to the plaintiff with sufficient sureties, to be approved by
3 the officer having the attachment, or after the return thereof by the
4 clerk, to the effect that he will perform the judgment of the court,
5 the attachment shall be discharged, and restitution made of property
6 taken or proceeds thereof. The execution of such bond shall be deemed
7 an appearance of such defendant to the action.

[R., '60, §§ 3191, 3192; C., '73, § 2994; C., '97, § 3907.]

SEC. 7983. Judgment on bond

1 Such bond shall be part of the record. If judgment go against the
2 defendant, the same shall be entered against him and sureties.

[R., '60, § 3193; C., '73, § 2995; C., '97, § 3908.]

SEC. 7984. Delivery bond.

1 The defendant, or any person in whose possession any attached
2 property is found, or any person making affidavit that he has an
3 interest in it, may, at any time before judgment, discharge the prop-
4 erty attached, or any part thereof, by giving bond with security, to be
5 approved by the sheriff, or after the return of the writ by the clerk,
6 in a penalty at least double the value of the property sought to be re-
7 leased, but if that sum would exceed double the amount of the claim
8 for which an attachment is sued out, then in such sum as equals double
9 the amount of such claim, conditioned that such property or its ap-
10 praised value shall be delivered to the sheriff, to satisfy any judgment
11 which may be obtained against the defendant in that suit, within
12 twenty days after the rendition thereof. This bond shall be filed with
13 the clerk of the court.

[C., '51, § 1876; R., '60, § 3219; C., '73, § 2996; C., '97,
§ 3909.]

SEC. 7985. Appraisement.

1 To determine the value of property in cases where a bond is to
2 be given, unless the parties agree otherwise, the sheriff shall summon
3 two disinterested persons having the qualification of jurors, who, after
4 having been sworn by him to make the appraisement faithfully and
5 impartially, shall proceed to the discharge of their duty. If such
6 persons disagree as to the value of the property, the sheriff shall de-
7 cide between them.

[C., '51, §§ 1877, 1878; R., '60, § 3220; C., '73, § 2997; C., '97,
§ 3910.]

SEC. 7986. Defense in action on delivery bond.

1 In an action brought upon such bond, it shall be a sufficient de-
2 fense that the property for the delivery of which the bond was given
3 did not, at the time of the levy, belong to the defendant against whom
4 the attachment was issued, or was exempt from seizure under such
5 attachment.

[C., '51, § 1879; R., '60, § 3221; C., '73, § 2998; C., '97,
§ 3911.]

SEC. 7987. Perishable property—when to be sold.

1 When the sheriff thinks the property attached in danger of
2 serious and immediate waste and decay, or when the keeping of the
3 same will necessarily be attended with such expense as greatly to
4 depreciate the amount of proceeds to be realized therefrom, or when
5 the plaintiff makes affidavit to that effect, the sheriff may summon
6 three persons having the qualifications of jurors to examine the same.
7 The sheriff shall give the defendant, if within the county, three days'
8 notice of such hearing, and he may appear before such jury and have
9 a personal hearing. If they are of the opinion that the property
10 requires soon to be disposed of, they shall specify in writing a day
11 beyond which they do not deem it prudent that it should be kept in
12 the hands of the sheriff. If such day occurs before the trial day, he
13 shall thereupon give the same notice as for sale of goods on execution,
14 and for the same length of time, unless the condition of the property
15 renders a more immediate sale necessary. The sale shall be made
16 accordingly. If the defendant gives his written consent, such sale
17 may be made without such finding.

[C., '51, § 1881; R., '60, § 3222; C., '73, § 2999; C., '97, § 3912;
S., '13, § 3912-a.]

SEC. 7988. Specific attachments.

1 In an action to enforce a mortgage of or lien upon personal prop-
2 erty, or for the recovery, sale or partition of such property, or by a
3 plaintiff having a future estate or interest therein for the security of
4 his rights, where it satisfactorily appears by the petition, verified on
5 oath, or by affidavits or the proofs in the cause, that the plaintiff has
6 a just claim, and that the property has been or is about to be sold,
7 concealed or removed from the state, or where plaintiff states on oath
8 that he has reasonable cause to believe, and does believe, that unless
9 prevented by the court the property will be sold, concealed or removed,
10 an attachment may be granted against the property.

[R., '60, § 3225; C., '73, § 3000; C., '97, § 3913.]

SEC. 7989. By vendor.

1 In an action by a vendor of property fraudulently purchased to
2 vacate the contract and have a restoration of the property or com-
3 pensation therefor, where the petition shows such fraudulent pur-
4 chase of property and the amount of the plaintiff's claim, and is veri-
5 fied, an attachment against the property may be granted.

[R., '60, § 3226; C., '73, § 3001; C., '97, § 3914.]

SEC. 7990. Granted by court or judge—terms.

1 The attachment in the cases mentioned in the last two sections
2 may be granted by the court in which the action is brought, or by the

3 judge of any court, upon such terms and conditions as to security by
4 the plaintiff for the damages which may be occasioned, and with such
5 directions as to the disposition to be made of the property attached
6 as may be just and proper under the circumstances of each case.

[R., '60, § 3227; C., '73, § 3002; C., '97, § 3915.]

SEC. 7991. Writ for attachment of specific property.

1 The attachment shall describe the specific property against which
2 it is issued, and have indorsed upon it the direction of the court or
3 judge as to the disposition to be made of the attached property, and
4 be directed, executed and returned as other attachments.

[R., '60, § 3230; C., '73, § 3003; C., '97, § 3916.]

SEC. 7992. Terms of bond to discharge.

1 The court may, in any of the cases mentioned under this head of
2 specific attachments, direct the terms and conditions of the bond to
3 be executed by the defendant, with security, in order to obtain a dis-
4 charge of the attachment or to release the attached property.

[R., '60, § 3231; C., '73, § 3004; C., '97, § 3917.]

SEC. 7993. Indebtedness due the state—security demanded.

1 In all cases in which any person is indebted to the state, or to any
2 officer or agent thereof for the use or benefit of the state, the proper
3 county attorney or attorney general shall demand payment or security
4 therefor, when, in the opinion of said county attorney or attorney
5 general, the debt is not sufficiently secured.

[C., '73, § 3005; C., '97, § 3918.]

SEC. 7994. Attachment.

1 In all actions for money due to the state, or to any agent or
2 officer for the use of the state, it shall be lawful for an attachment
3 to issue against the property or debts of the defendant not exempt
4 from execution, upon the filing of an affidavit by the county attorney
5 of the proper county, or of the attorney general, that he verily be-
6 lieves that a specific amount therein stated is justly due, and the
7 defendant therein has refused to pay or secure the same, and unless
8 an attachment is issued against the property of the defendant there
9 is danger that the amount due will be lost to the state.

[C., '73, § 3006; C., '97, § 3919.]

SEC. 7995. No bond required.

1 The attachment so issued shall be levied as in other cases of
2 attachment, and no bond shall be required of the plaintiff in such
3 cases, and the sheriff shall not be authorized to require any indem-
4 nifying bond in case of such levy.

[C., '73, § 3007; C., '97, § 3920.]

SEC. 7996. Bond to discharge or release.

1 An attachment levied under the provisions of the two preceding
2 sections may be discharged, or any property taken thereunder may
3 be released, by the execution of a bond with sufficient sureties, as
4 provided by law in other cases of attachment.

[C., '73, § 3008; C., '97, § 3921.]

SEC. 7997. Sheriff indemnified.

1 In case any sheriff shall be held liable to pay any damages by
 2 reason of the wrongful execution of any writ of attachment issued
 3 under the three preceding sections, and if a judgment is rendered
 4 therefor, the amount thereof, when paid by such sheriff, shall become
 5 a claim against the state in his favor, and a warrant therefor shall
 6 be drawn by the auditor upon proper proof.

[C., '73, § 3009; C., '97, § 3922.]

SEC. 7998. Sheriff's return.

1 The sheriff shall return upon every attachment what he has done
 2 under it, which must show the property attached, the time it was at-
 3 tached, and the disposition made of it, by a full and particular inven-
 4 tory; also the appraisement above contemplated when such has been
 5 made. When garnishees are summoned, their names and the time
 6 each was summoned must be stated, with a copy of each notice of
 7 garnishment served attached as a part of his return. Where real
 8 property is attached, the sheriff shall describe it with certainty to
 9 identify it, and, where he can do so, by a reference to the book and
 10 page where the deed under which the defendant holds is recorded.
 11 He shall return with the writ all bonds taken under it, any notice
 12 of claim to such property by another than the defendant, any indem-
 13 nifying bond given by the plaintiff in consequence of such notice, and
 14 all money and bank bills levied upon or paid to him thereunder. Such
 15 return must be made immediately after he has attached sufficient
 16 property, or all that he can find; or, at latest, on the first day of the
 17 first term on which the defendant is notified to appear.

[R., '60, § 3224; C., '73, § 3010; C., '97, § 3923.]

SEC. 7999. Judgment—satisfied from proceeds.

1 If judgment is rendered for the plaintiff in any case in which
 2 an attachment has been issued, the court shall apply, in satisfaction
 3 thereof, any money seized by or paid to the sheriff under such attach-
 4 ment and by him delivered to the clerk, and any money arising from
 5 the sales of perishable property, and if the same is not sufficient to
 6 satisfy the plaintiff's claim, the court shall order the issuance of a
 7 special execution for the sale of any other attached property which
 8 may be under his control.

[R., '60, § 3232; C., '73, § 3011; C., '97, § 3924.]

SEC. 8000. Court may control property.

1 The court may from time to time make and enforce proper orders
 2 respecting the property, sales and application of the money collected.

[R., '60, § 3233; C., '73, § 3012; C., '97, § 3925.]

SEC. 8001. Expenses for keeping.

1 The sheriff shall be allowed by the court the necessary expenses
 2 of keeping the attached property, to be paid by the plaintiff and taxed
 3 in the costs.

[R., '60, § 3234; C., '73, § 3013; C., '97, § 3926.]

SEC. 8002. Surplus.

1 Any surplus of the attached property and its proceeds shall be
2 returned to the defendant.

[R., '60, § 3235; C., '73, § 3014; C., '97, § 3927.]

SEC. 8003. Intervention.

1 Any person other than the defendant may, before the sale of any
2 attached property, or before the payment to the plaintiff of the pro-
3 ceeds thereof, or any attached debt, present his petition verified by
4 oath to the court, disputing the validity of the attachment, or stating
5 a claim to the property or money, or to an interest in or lien on it,
6 under any other attachment or otherwise, and setting forth the facts
7 upon which the claim is founded; and the petitioner's claim shall be
8 in a summary manner investigated. The court may hear the proof
9 or order a reference, or may impanel a jury to inquire into the facts.
10 If it is found that the petitioner has a title to, a lien on or any interest
11 in such property, the court shall make such order as may be necessary
12 to protect his rights. The costs of such proceedings shall be paid by
13 either party at the discretion of the court.

[R., '60, § 3237; C., '73, § 3016; C., '97, § 3928.]

SEC. 8004. Discharge on motion.

1 A motion may be made to discharge the attachment or any part
2 thereof, at any time before trial, for insufficiency of statement of
3 cause thereof, or for other cause making it apparent of record that
4 the attachment should not have issued, or should not have been levied
5 on all or on some part of the property held.

[R., '60, § 3239; C., '73, § 3018; C., '97, § 3929.]

SEC. 8005. Discharge—return of property.

1 If the judgment is rendered in the action for the defendant, or,
2 if the action is dismissed by the court, by the plaintiff, or, by agree-
3 ment of the parties, or, if judgment has been entered for the plaintiff
4 and has been satisfied of record, the attachment shall, subject to the
5 right of appeal, automatically be discharged and the property attached,
6 or its proceeds shall be returned to the defendant. And if the attach-
7 ment has been entered on the incumbrance book, it shall be the duty of
8 the clerk to cancel such attachment, and in his entry of cancellation,
9 he shall refer to the entry in the case showing his authority to cancel
10 said attachment.

[R., '60, § 3236; C., '73, § 3015; C., '97, § 3930; 38 G. A.,
ch. 338, § 1.]

SEC. 8006. Time for appeal from order of discharge.

1 When an attachment has been discharged, if the plaintiff then
2 announces his purpose to appeal from such order of discharge, he shall
3 have two days in which to perfect his appeal, and during that time
4 such discharge shall not operate to divest any lien or claim under the
5 attachment, nor shall the property be returned, and the appeal, if so
6 perfected, shall operate as a supersedeas thereof.

[R., '60, § 3240; C., '73, § 3019; C., '97, § 3931.]

SEC. 8007. From judgment against plaintiff.

1 If a judgment in the action be also given against the plaintiff,
 2 he must, within the same time, take his appeal thereon, or such dis-
 3 charge shall be final.

[R., '60, § 3241; C., '73, § 3020; C., '97, § 3932.]

SEC. 8008. Liberal construction—amendments.

1 This chapter shall be liberally construed, and the plaintiff, at any
 2 time when objection is made thereto, shall be permitted to amend any
 3 defect in the petition, affidavit, bond, writ or other proceeding; and
 4 no attachment shall be quashed or dismissed, or the property attached
 5 released, if the defect in any of the proceedings has or can be amended
 6 so as to show that a legal cause for the attachment existed at the time
 7 it was issued; and the court shall give the plaintiff a reasonable time
 8 to perfect such defective proceedings.

[R., '60, § 3242; C., '73, § 3021; C., '97, § 3933.]

SEC. 8009. Sheriff—constables.

1 The word "sheriff," or "officer," as used in this chapter, is meant
 2 to apply to constables when the proceedings are in a justice's court,
 3 or the like officer of any other court.

[C., '51, § 1883; R., '60, § 3244; C., '73, § 3023; C., '97,
 § 3934.]

SEC. 8010. Certificate of release.

1 When real estate or an equitable interest therein is attached in
 2 any county other than that in which the action is commenced, or is
 3 pending, and the action is dismissed, or the attachment is dissolved
 4 and discharged or satisfied, the clerk of the court of the county where-
 5 in such action is pending must issue a certificate directed to the clerk
 6 of the court in which the land is situated giving date of release and
 7 setting forth a true copy of the order or release and he shall be allowed
 8 as compensation for such service the sum of fifty cents, to be taxed
 9 as a part of the costs in the case.

[S., '13, § 3934-a.]

SEC. 8011. Filing and recording.

1 The clerk of the court receiving such certificate shall file and
 2 record the same upon the margin of the incumbrance book at place
 3 where the original entry of attachment is found.

[S., '13, § 3934-b.]

CHAPTER 2.**GARNISHMENT.****SECTION 8012. How effected—notice.**

1 The officer serving a writ of attachment shall garnish such per-
 2 sons as the plaintiff may direct as supposed debtors, or having in
 3 possession property of the principal defendant, which shall be effected
 4 by a notice served in the manner and as an original notice in civil

5 actions, forbidding his paying any debt owing such defendant, due or
 6 to become due, and requiring him to retain possession of all property
 7 of the defendant in his hands or under his control, to the end that the
 8 same may be dealt with according to law, and, unless answers are
 9 required to be taken as hereinafter provided, it shall cite the garnishee
 10 to appear on the first day of the next term, if the main cause is pending
 11 in a court of record, or not less than ten days thereafter, if such court
 12 is then in session, or on the day set for trial, if in a justice's court,
 13 and answer such interrogatories as may be propounded, or he will be
 14 liable to pay any judgment which the plaintiff may obtain against the
 15 defendant.

[C., '51, §§ 1861, 1863, 1866; R., '60, §§ 3195, 3199, 3202;
 C., '73, §§ 2975, 2979, 2981; C., '97, § 3935.]

SEC. 8013. Of officer, judgment debtor, executor, municipal corporation.

1 A sheriff or constable may be garnished for money of the de-
 2 fendant in his hands; a judgment debtor of the defendant, when the
 3 judgment has not been assigned on the record, or by writing filed in
 4 the office of the clerk and by him minuted as an assignment on the
 5 margin of the judgment docket; and an executor, for money due from
 6 decedent; but a municipal or political corporation shall not be gar-
 7 nished.

[C., '51, § 1862; R., '60, § 3196; C., '73, § 2976; C., '97,
 § 3936.]

SEC. 8014. Fund in court.

1 Where the property to be attached is a fund in court, the execu-
 2 tion of a writ of attachment shall be by leaving with the clerk of the
 3 court a copy thereof, with notice, specifying the fund.

[R., '60, § 3197; C., '73, § 2977; C., '97, § 3937.]

SEC. 8015. Death of garnishee.

1 If the garnishee dies after he has been summoned by garnishment
 2 and pending the litigation, the proceedings may be revived by or
 3 against his heirs or legal representatives.

[R., '60, § 3198; C., '73, § 2978; C., '97, § 3938.]

SEC. 8016. Sheriff may take answers.

1 When the plaintiff, in writing, directs the sheriff to take the
 2 answer of the garnishee, he shall put to him the following questions:

3 1. Are you in any manner indebted to the defendant in this suit,
 4 or do you owe him money or property which is not yet due? If so,
 5 state the particulars.

6 2. Have you in your possession or under your control any prop-
 7 erty, rights or credits of the said defendants? If so, what is the
 8 value of the same? and state all particulars.

9 3. Do you know of any debts owing the said defendant, whether
 10 due or not due, or any property, rights or credits belonging to him
 11 and now in the possession or under the control of others? If so, state
 12 the particulars.

13 The sheriff shall append the examination to his return.

[C., '51, §§ 1864, 1865; R., '60, §§ 3200, 3201; C., '73, § 2980;
 C., '97, § 3939.]

SEC. 8017. Garnishee required to appear.

1 If the garnishee refuses to answer fully and unequivocally all
2 the foregoing interrogatories, he shall be notified to appear and answer
3 as above provided, and he may be so required in any event, if the
4 plaintiff so notifies him.

[C., '51, § 1866; R., '60, § 3202; C., '73, § 2981; C., '97,
§ 3940.]

SEC. 8018. Examination.

1 The questions propounded to the garnishee in court may be such
2 as are above prescribed to be asked by the sheriff, and such others
3 as the court may think proper.

[C., '51, § 1867; R., '60, § 3203; C., '73, § 2982; C., '97,
§ 3941.]

SEC. 8019. Witness fees.

1 Where the garnishee is required to appear at court, unless he has
2 refused to answer as contemplated above, he is entitled to the pay and
3 mileage of a witness, and may, in like manner, require advance pay-
4 ment before any liability shall arise for nonattendance.

[C., '51, § 1868; R., '60, § 3204; C., '73, § 2983; C., '97,
§ 3942.]

SEC. 8020. Failure to appear or answer—cause shown.

1 If, duly summoned, and his fees tendered when demanded, he
2 fails to appear and answer the interrogatories propounded to him
3 without sufficient excuse, he shall be presumed to be indebted to the
4 defendant to the full amount of the plaintiff's demand for a mere fail-
5 ure to appear, but no judgment shall be rendered against him until
6 he has had an opportunity to show cause against the same.

[C., '51, §§ 1869, 1870; R., '60, §§ 3205, 3206; C., '73, §§ 2984,
2985; C., '97, § 3943.]

SEC. 8021. Paying or delivering.

1 A garnishee may, at any time after answer, exonerate himself
2 from further responsibility by paying over to the sheriff the amount
3 owing by him to the defendant, and placing at the sheriff's disposal
4 the property of the defendant, or so much of said debts and property
5 as is equal to the value of the property to be attached.

[C., '51, § 1871; R., '60, § 3207; C., '73, § 2986; C., '97,
§ 3944.]

SEC. 8022. Answer controverted.

1 When the garnishee has answered the interrogatories propounded
2 to him, the plaintiff may controvert them by pleading thereto, and an
3 issue may be joined, which shall be tried in the usual manner, upon
4 which trial such answer of the garnishee shall be competent testimony.

[C., '51, § 1872; R., '60, § 3208; C., '73, § 2987; C., '97,
§ 3945.]

SEC. 8023. Judgment.

1 If in any of the above methods it is made to appear that the gar-
2 nishee was indebted to the defendant, or had any of his property in

3 his hands, at the time of being served with the notice of garnishment,
 4 he will be liable to the plaintiff, in case judgment is finally recovered
 5 by him, to the full amount thereof, or to the amount of such indebted-
 6 ness or property held by the garnishee, and the plaintiff may have a
 7 judgment against the garnishee for the amount of money due from
 8 the garnishee to the defendant in the main action, or for the delivery
 9 to the sheriff of any money or property in the garnishee's hands be-
 10 longing to the defendant in the main action within a time to be fixed
 11 by the court, and for the value of the same, as fixed in said judgment,
 12 if not delivered within the time thus fixed, unless before such judg-
 13 ment is entered the garnishee has delivered to the sheriff such money
 14 or property. Property so delivered shall thereafter be treated as if
 15 levied upon under the writ of attachment in the usual manner.

[C., '51, §§ 1871, 1873; R., '60, §§ 3207, 3209; C., '73, §§ 2986,
 2988; C., '97, § 3946.]

SEC. 8024. Notice to defendant.

1 Judgment against the garnishee shall not be entered until the
 2 principal defendant shall have had ten days' notice of the garnishment
 3 proceedings, to be served in the same manner as original notices.

[C., '51, § 1861; R., '60, § 3195; C., '73, § 2975; C., '97, § 3947;
 S., '13, § 3947.]

SEC. 8025. Pleading by defendant—discharge of garnishee.

1 The defendant in the main action may, by a suitable pleading
 2 filed in the garnishment proceedings, set up facts showing that the
 3 debt or the property with which it is sought to charge the garnishee
 4 is exempt from execution, or for any other reason is not liable for
 5 plaintiff's claim, and if issue thereon be joined by the plaintiff, it shall
 6 be tried with the issues as to the garnishee's liability. If such debt
 7 or property, or any part thereof, is found to be thus exempt or not
 8 liable, the garnishee shall be discharged as to that part which is
 9 exempt or not liable.

[C., '97, § 3948; S., '13, § 3948.]

SEC. 8026. When debt not due.

1 If the debt of the garnishee to the defendant is not due, execution
 2 shall be suspended until its maturity.

[R., '60, § 3210; C., '73, § 2989; C., '97, § 3949.]

SEC. 8027. Negotiable paper.

1 The garnishee shall not be made liable on a debt due by negotiable
 2 paper, unless such paper is delivered, or the garnishee completely
 3 exonerated or indemnified from all liability thereon after he may have
 4 satisfied the judgment.

[R., '60, § 3211; C., '73, § 2990; C., '97, § 3950.]

SEC. 8028. Judgment conclusive.

1 The judgment in the garnishment action, condemning the prop-
 2 erty or debt in the hands of the garnishee to the satisfaction of the
 3 plaintiff's demand, is conclusive between the garnishee and defendant.

[R., '60, § 3212; C., '73, § 2991; C., '97, § 3951.]

SEC. 8029. Docket to show garnishments.

1 The docketing of the original case shall contain a statement of
 2 all the garnishments therein, and when judgment is rendered against
 3 a garnishee, the same shall distinctly refer to the original judgment.
 [R., '60, § 3213; C., '73, § 2992; C., '97, § 3952.]

SEC. 8030. Appeal.

1 An appeal lies in all garnishment cases at the instance of the
 2 plaintiff, the defendant, the garnishee, or an intervenor claiming the
 3 money or property.
 [R., '60, § 3214; C., '73, § 2993; C., '97, § 3953.]

CHAPTER 3.**REPLEVIN.****SECTION 8031. Where brought—petition.**

1 An action of replevin may be brought in any county in which
 2 the property or some part thereof is situated. The petition must be
 3 verified and must state:
 4 1. A particular description of the property claimed.
 5 2. Its actual value, and, where there are several articles, the
 6 actual value of each.
 7 3. The facts constituting the plaintiff's right to the present pos-
 8 session thereof, and the extent of his interest in the property, whether
 9 it be full or qualified ownership.
 10 4. That it was neither taken on the order or judgment of a court
 11 against him, nor under an execution or attachment against him or
 12 against the property; but if it was taken by either of these modes,
 13 then it must state the facts constituting an exemption from seizure
 14 by such process.
 15 5. The facts constituting the alleged cause of detention thereof,
 16 according to his best belief.
 17 6. The amount of damages which the affiant believes the plaintiff
 18 ought to recover for the detention thereof.
 [C., '51, §§ 1703, 1994, 1995; R., '60, § 3553; C., '73, § 3225;
 C., '97, § 4163.]

SEC. 8032. Ordinary proceedings—no joinder or counterclaim.

1 The action shall be by ordinary proceedings, but there shall be
 2 no joinder of any cause of action not of the same kind, nor shall there
 3 be allowed any counterclaim.
 [R., '60, § 4175; C., '73, § 3226; C., '97, § 4164.]

SEC. 8033. Process on Sunday.

1 If the plaintiff alleges in his petition that he will lose the prop-
 2 erty unless process issues on Sunday, the order may be issued and
 3 served on that day.
 [C., '73, § 3227; C., '97, § 4165.]

SEC. 8034. New parties.

1 If a third person claims the property or any part thereof, the
 2 plaintiff may amend and bring him in as a codefendant, or the de-
 3 fendant may obtain his substitution by the proper mode, or the claim-
 4 ant may himself intervene by the process of intervention.

[C., '51, §§ 1684, 1999; R., '60, § 3561; C., '73, § 3228; C., '97,
 § 4166.]

SEC. 8035. Bond.

1 When the plaintiff desires the immediate delivery of the property,
 2 he shall execute a bond to the defendant, with sureties to be approved
 3 by the clerk or justice, in a penalty at least equal to twice the value
 4 of the property sought to be taken, conditioned that he will appear
 5 at the next term of the court, if in a court of record, or on the day
 6 fixed in the original notice, if in a justice's court, and prosecute his
 7 action to judgment, and return the property, if a return is awarded,
 8 and pay all costs and damages that may be adjudged against him,
 9 which bond shall be filed with the clerk or justice, and be for the use
 10 of any person injured by the proceeding.

[C., '51, § 1996; R., '60, § 3554; C., '73, § 3229; C., '97,
 § 4167.]

SEC. 8036. Writ issued.

1 The clerk or justice shall thereupon issue a writ under his hand,
 2 and the seal of the court if a court of record, directed to the proper
 3 officer, requiring him to take the property therein described and de-
 4 liver it to the plaintiff. If the petition shows that the property has
 5 been wrongfully removed into another county from the one in which
 6 the action is commenced, the writ may issue from the county whence
 7 the property was wrongfully taken, and may be served in any county
 8 where it may be found.

[C., '51, § 1997; R., '60, § 3555; C., '73, § 3230; C., '97,
 § 4168.]

SEC. 8037. Following property.

1 When any of the property is removed to another county after
 2 the commencement of the action, the officer to whom the writ is issued
 3 may follow the same and execute the writ in any county of the state
 4 where the property is found. For the purpose of following the prop-
 5 erty, duplicate writs may be issued, if necessary, and served as the
 6 original.

[R., '60, § 3556; C., '73, § 3231; C., '97, § 4169.]

SEC. 8038. Execution of writ.

1 The officer must forthwith execute the writ by taking possession
 2 of the property therein described, if it is found in the possession of
 3 the defendant or his agent, or of any other person who obtained pos-
 4 session thereof from the defendant, directly or indirectly, after the
 5 writ was placed in the officer's hands, for which purpose he may break
 6 open any dwelling house or other inclosure, having first demanded
 7 entrance and exhibited his authority, if demanded.

[C., '51, § 1998; R., '60, § 3557; C., '73, § 3232; C., '97,
 § 4170.]

SEC. 8039. Defendant examined on oath.

1 When it appears by affidavit that the property claimed has been
2 disposed of or concealed so that the writ can not be executed, the
3 court or judge, upon verified petition therefor, may compel the at-
4 tendance of the defendant or other person claiming or concealing the
5 property, and examine him on oath as to the situation of the property,
6 and punish a wilful obstruction or hindrance or disobedience of the
7 order of the court in this respect as in case of contempt.

[R., '60, § 3558; C., '73, § 3233; C., '97, § 4171.]

SEC. 8040. Delivery bond.

1 The officer, having taken the property or any part thereof, shall
2 forthwith deliver the same to the plaintiff, unless, before the actual
3 delivery to him, the defendant executes a bond to the plaintiff, with
4 sureties to be approved by the clerk or officer, conditioned that he will
5 appear in and defend the action, and deliver the property to the plain-
6 tiff, if he recovers judgment therefor, in as good condition as it was
7 when the action was commenced, and that he will pay all costs and
8 damages that may be adjudged against him for the taking or detention
9 of the property; which bond shall be delivered to the officer, who shall
10 return the property to the defendant, append the bond to the writ,
11 return it therewith to the officer issuing it, and refer thereto in his
12 return on the writ.

[R., '60, §§ 3559, 3560; C., '73, §§ 3234, 3235, 3237; C., '97,
§ 4172.]

SEC. 8041. Inspection—appraisement.

1 When the property is so retained by the defendant, he shall per-
2 mit the officer and plaintiff to inspect the same, and, if the plaintiff
3 so request, the officer shall cause it to be examined and appraised by
4 two sworn appraisers chosen by the parties to the action, or, in their
5 default, by the officer himself, in the manner provided for other cases
6 of appraisement, and in case they can not agree he shall select a third,
7 and an appraisement agreed to by two of them shall be sufficient, and
8 he shall return their appraisement with the writ.

[C., '73, § 3236; C., '97, § 4173.]

SEC. 8042. Return of writ.

1 The officer must return the writ on or before the first day of the
2 trial term, or the return day if before a justice, and shall state fully
3 what he has done thereunder. If he has taken any property, he shall
4 describe the same particularly.

[R., '60, § 3559; C., '73, § 3237; C., '97, § 4174.]

**SEC. 8043. Assessment of value and damages—right of posses-
sion.**

1 The jury must assess the value of the property and the damages
2 for the taking or detention thereof, whenever by their verdict there
3 will be a judgment for the recovery or the return of the property,
4 and, when required so to do by either party, must find the value of
5 each article, and find which is entitled to the possession, designating
6 his right therein, and the value of such right.

[R., '60, § 3082; C., '73, § 3238; C., '97, § 4175.]

SEC. 8044. Judgment.

1 The judgment shall determine which party is entitled to the pos-
 2 session of the property, and shall designate his right therein, and if
 3 such party have not the possession thereof, shall also determine the
 4 value of the right of such party, which right shall be absolute as to
 5 an adverse party, and shall also award such damages to either party
 6 as he may be entitled to for the illegal detention thereof. If the judg-
 7 ment be against the plaintiff for the money value of the property, it
 8 shall also be against the sureties on his bond.

[C., '51, §§ 2000, 2001; R., '60, §§ 3554, 3562, 3567; C., '73,
 §§ 3229, 3239; C., '97, § 4176.]

SEC. 8045. Execution.

1 The execution shall require the officer to deliver the possession
 2 of the property, particularly describing it, to the party entitled there-
 3 to, and may at the same time require the officer to satisfy any costs,
 4 damages or rents and profits, with interest, recovered by the same
 5 judgment, out of the property of the party against whom it was ren-
 6 dered, subject to execution, and the value of the property for which
 7 judgment was recovered to be specified therein if a delivery thereof
 8 can not be had, and shall in that respect be deemed an execution against
 9 property.

[R., '60, § 3253; C., '73, § 3240; C., '97, § 4177.]

SEC. 8046. Plaintiff's option.

1 If the party found to be entitled to the property be not already
 2 in possession thereof by delivery under the provisions of this chapter
 3 or otherwise, he may at his option have an execution for the delivery
 4 of the specific property, or for the value thereof as determined by the
 5 jury, and if any article of the property can not be obtained on execu-
 6 tion, he may take the remainder, with the value of the missing articles.

[R., '60, §§ 3563, 3568; C., '73, § 3241; C., '97, § 4178.]

SEC. 8047. Judgment on bond.

1 When property is not forthcoming to answer the judgment, and
 2 for which a bond has been given as hereinbefore provided, and the
 3 party entitled thereto so elects, a judgment may be entered against
 4 the principal and sureties in the bond for its value.

[C., '73, § 3242; C., '97, § 4179.]

SEC. 8048. Examination as to concealment.

1 When it appears by the return of the officer or by the affidavit
 2 of the plaintiff that any specific property which has been adjudged to
 3 belong to one party has been concealed or removed by the other, the
 4 court or a judge may require him to attend and be examined on oath
 5 respecting such matter, and may enforce its order in this respect as
 6 in case of contempt.

[R., '60, § 3564; C., '73, § 3243; C., '97, § 4180.]

SEC. 8049. Exemption.

1 A money judgment rendered under the provisions of this chapter
 2 for property exempt from execution shall also be to the same extent
 3 exempt from execution, and from all set-off or diminution by any

4 person, which exemption may, at the election of the party in interest,
5 be stated in the judgment.

[R., '60, § 4176; C., '73, § 3244; C., '97, § 4181.]

CHAPTER 4.

PROPERTY STOLEN OR EMBEZZLED.

SECTION 8050. Held by officer.

1 When property alleged to have been stolen or embezzled comes
2 into the custody of a peace officer, he must hold the same subject to
3 the order of the proper magistrate directing the disposal thereof.

[C., '51, § 3253; R., '60, § 5049; C., '73, § 4654; C., '97,
§ 5569.]

SEC. 8051. Delivered to owner.

1 On satisfactory proof of title by the owner of the property, the
2 magistrate before whom the information is laid, or who shall examine
3 the charge against the person accused of stealing or embezzling the
4 same, may order it to be delivered to the owner, on his paying the
5 reasonable and necessary expenses incurred in the preservation and
6 keeping thereof, to be certified by the magistrate. The order shall
7 entitle the owner to demand and receive the property.

[C., '51, § 3254; R., '60, § 5050; C., '73, § 4655; C., '97,
§ 5570.]

SEC. 8052. Proof of title.

1 If the property stolen or embezzled come into the custody of a
2 magistrate, it must be delivered to the owner on satisfactory proof
3 of his title, and on his paying the necessary expenses incurred in its
4 preservation, to be certified as before provided.

[C., '51, § 3255; R., '60, § 5051; C., '73, § 4656; C., '97,
§ 5571.]

SEC. 8053. By order of court.

1 If the property stolen or embezzled has not been delivered to the
2 owner, the court before which a conviction is had may, on proof of
3 his title, order its restoration.

[C., '51, § 3256; R., '60, § 5052; C., '72, § 4657; C., '97,
§ 5572.]

SEC. 8054. When not claimed.

1 If the property stolen or embezzled be not claimed by the owner
2 before the expiration of six months from the conviction of the person
3 for stealing or embezzling it, the magistrate or other officer having
4 it in his custody must, on payment of the necessary expenses incurred
5 for its preservation, deliver it to the auditor of the county, to be ap-
6 plied under the direction of the board of supervisors thereof for the
7 benefit of the poor of the county.

[C., '51, § 3257; R., '60, § 5053; C., '73, § 4658; C., '97,
§ 5573.]

SEC. 8055. Receipt given.

1 When money or other property is taken from the defendant ar-
 2 rested upon a charge of a public offense, the officer taking it shall, at
 3 the time, give duplicate receipts therefor, specifying particularly the
 4 amount of money and the kind of property taken; one of which re-
 5 cepts he must deliver to the defendant, and the other he must forth-
 6 with file with the clerk of the district court of the county where the
 7 depositions and statements are to be sent by the magistrate.

[C., '51, § 3258; R., '60, § 5054; C., '73, § 4659; C., '97,
 § 5574.]

CHAPTER 5.**RECOVERY OF REAL PROPERTY.****SECTION 8056. By ordinary proceedings—joinder—counterclaim.**

1 Actions for the recovery of real property shall be by ordinary
 2 proceedings, and there shall be no joinder and no counterclaim there-
 3 in, except of like proceedings, and as provided in this chapter.

[R., '60, § 4177; C., '73, § 3245; C., '97, § 4182.]

SEC. 8057. Parties.

1 Any person having a valid subsisting interest in real property,
 2 and a right to the immediate possession thereof, may recover the same
 3 by action against any person acting as owner, landlord or tenant of
 4 the property claimed.

[C., '51, § 2002; R., '60, § 3569; C., '73, § 3246; C., '97,
 § 4183.]

SEC. 8058. Title.

1 The plaintiff must recover on the strength of his own title.

[C., '51, § 2020; R., '60, § 3591; C., '73, § 3247; C., '97,
 § 4184.]

SEC. 8059. Tenant in common.

1 In an action by a tenant in common or joint tenant of real prop-
 2 erty against his cotenant, the plaintiff must show, in addition to his
 3 evidence of right, that the defendant either denied the plaintiff's right,
 4 or did some act amounting to such denial.

[C., '51, § 2027; R., '60, § 3605; C., '73, § 3248; C., '97,
 § 4185.]

SEC. 8060. Service on agent.

1 When the defendant is a nonresident having an agent of record
 2 for the property in the state, service may be made upon such agent in
 3 the same manner and with the like effect as though made on the prin-
 4 cipal.

[C., '51, § 2004; R., '60, § 3572; C., '73, § 3249; C., '97,
 § 4186.]

SEC. 8061. Petition.

1 The petition may state generally that the plaintiff is entitled to
 2 the possession of the premises, particularly describing them, also the
 3 quantity of his estate and the extent of his interest therein, and that
 4 the defendant unlawfully keeps him out of possession, and the dam-
 5 ages, if any, which he claims for withholding the same; but if he
 6 claims other damages than the rents and profits, he shall state the facts
 7 constituting the cause thereof.

[R., '60, § 3570; C., '73, § 3250; C., '97, § 4187.]

SEC. 8062. Abstract of title.

1 The plaintiff shall attach to his petition, and the defendant to
 2 his answer, if he claims title, an abstract of the title relied on, showing
 3 from and through whom such title was obtained, together with a state-
 4 ment showing the page and book where the same appears of record.
 5 If such title, or any portion thereof, is not in writing, or does not
 6 appear of record, such fact shall be stated in the abstract, and either
 7 party shall furnish the adverse party with a copy of any unrecorded
 8 conveyance, or furnish a satisfactory reason for not so doing within
 9 a reasonable time after demand therefor. No written evidence of
 10 title shall be introduced on the trial unless it has been sufficiently re-
 11 ferred to in such abstract, which, on motion, may be made more spe-
 12 cific, or may be amended by the party setting it out.

[C., '73, § 3251; C., '97, § 4188.]

SEC. 8063. Answer.

1 The answer of the defendant, and each if more than one, must
 2 set forth what part of the land he claims and what interest he claims
 3 therein generally, and if as mere tenant, the name and residence of
 4 his landlord.

[C., '51, § 2005; R., '60, § 3573; C., '73, § 3252; C., '97,
 § 4189.]

SEC. 8064. Landlord substituted.

1 When it appears that the defendant is only a tenant, the land-
 2 lord may be substituted by the service upon him of original notice, or
 3 by his voluntary appearance, in which case the judgment shall be
 4 conclusive against him.

[C., '51, § 2003; R., '60, §§ 3571, 3589; C., '73, § 3253; C., '97,
 § 4190.]

SEC. 8065. Possession.

1 When the defendant makes defense it is not necessary to prove
 2 him in possession of the premises.

[C., '51, § 2007; R., '60, § 3575; C., '73, § 3254; C., '97,
 § 4191.]

SEC. 8066. Purchase pending suit.

1 Any person acquiring title to land or any interest therein, after
 2 commencement of an action under this chapter to recover the same,
 3 shall take subject to notice of and without prejudice to the rights of
 4 the parties to such action.

[R., '60, § 3578; C., '73, § 3255; C., '97, § 4192.]

SEC. 8067. Order to enter and survey.

1 The court on motion, and after notice to the opposite party, may
2 for cause shown grant an order allowing the party applying therefor
3 to enter upon the land in controversy and make survey thereof for
4 the purposes of the action.

[C., '51, § 2021; R., '60, § 3592; C., '73, § 3256; C., '97,
§ 4193.]

SEC. 8068. Service.

1 The order must describe the property, and a copy thereof must
2 be served upon the owner or person having the occupancy and control
3 of the land.

[C., '51, § 2022; R., '60, § 3593; C., '73, § 3257; C., '97,
§ 4194.]

SEC. 8069. Verdict—special.

1 The verdict may specify the extent and quantity of the plaintiff's
2 estate and the premises to which he is entitled, with reasonable cer-
3 tainty, by metes and bounds and other sufficient description, according
4 to the facts as proved.

[R., '60, § 3594; C., '73, § 3258; C., '97, § 4195.]

SEC. 8070. General verdict.

1 A general verdict in favor of the plaintiff, without such speci-
2 fications, entitles the plaintiff to the quantity of interest or estate in
3 the premises as set forth and described in the petition.

[R., '60, § 3595; C., '73, § 3259; C., '97, § 4196.]

SEC. 8071. Judgment for damages.

1 If the interest of the plaintiff expires before the time in which
2 he could be put in possession, he can obtain a judgment for damages
3 only.

[C., '51, § 2010; R., '60, § 3579; C., '73, § 3260; C., '97,
§ 4197.]

SEC. 8072. Use and occupation.

1 The plaintiff can not recover for the use and occupation of the
2 premises for more than five years prior to the commencement of the
3 action.

[C., '51, § 2008; R., '60, § 3576; C., '73, § 3261; C., '97,
§ 4198.]

SEC. 8073. Improvements set off.

1 When the plaintiff is entitled to damages for withholding or using
2 or injuring his property, the defendant may set off the value of any
3 permanent improvements made thereon to the extent of the damages,
4 unless he prefers to avail himself of the law for the benefit of occu-
5 pying claimants.

[C., '51, § 2023; R., '60, § 3596; C., '73, § 3262; C., '97,
§ 4199.]

SEC. 8074. Wanton aggression.

1 In case of wanton aggression on the part of the defendant, the
2 jury may award exemplary damages.

[C., '51, § 2024; R., '60, § 3597; C., '73, § 3263; C., '97,
§ 4200.]

SEC. 8075. Tenant—extent of liability.

1 A tenant in possession in good faith, under a lease or license from
2 another, is not liable beyond the rent in arrear at the time of suit
3 brought for the recovery of land, and that which may afterward ac-
4 crue during the continuance of his possession.

[R., '60, § 3598; C., '73, § 3264; C., '97, § 4201.]

SEC. 8076. Growing crops—bond.

1 If the defendant avers that he has a crop sowed, planted or grow-
2 ing on the premises, the jury, finding for the plaintiff, and also finding
3 that fact, shall further find the value of the premises from the date
4 of the trial until the first day of January next succeeding, and no
5 execution for possession shall be issued until that time, if the defend-
6 ant executes, with surety to be approved by the clerk, a bond in double
7 such sum to the plaintiff, conditioned to pay at said date the sum so
8 assessed, which shall be part of the record, and shall have the force
9 and effect of a judgment, and if not paid at maturity the clerk, on the
10 application of the plaintiff, shall issue execution thereon against all
11 the obligors.

[R., '60, § 3599; C., '73, § 3265; C., '97, § 4202.]

SEC. 8077. Writ of possession.

1 When the plaintiff shows himself entitled to the immediate pos-
2 session of the premises, judgment shall be entered and an execution
3 issued accordingly.

[C., '51, § 2009; R., '60, § 3577; C., '73, § 3266; C., '97,
§ 4203.]

SEC. 8078. Judgment for rent accruing.

1 The plaintiff may have judgment for the rent or rental value of
2 the premises which accrues after judgment and before delivery of
3 possession, by motion in the court in which the judgment was rendered,
4 ten days' notice thereof in writing being given, unless judgment is
5 stayed by appeal and bond given to suspend the judgment, in which
6 case the motion may be made after the affirmance thereof.

[R., '60, § 3600; C., '73, § 3267; C., '97, § 4204.]

SEC. 8079. New trial.

1 In the cases provided for by this chapter the court, in its discre-
2 tion, may grant a new trial on the application of any party thereto,
3 or those claiming under a party, made at any time within one year
4 after the former trial, although the grounds required for a new trial
5 in other cases are not shown.

[C., '51, § 2014; R., '60, § 3584; C., '73, § 3268; C., '97,
§ 4205.]

SEC. 8080. Notice.

1 If the application is made after the close of the term at which
 2 the judgment was rendered, the party obtaining a new trial shall give
 3 the opposite party ten days' notice thereof before the term at which
 4 the action stands for trial.

[R., '60, § 3585; C., '73, § 3269; C., '97, § 4206.]

SEC. 8081. Purchaser not affected—execution.

1 The result of a new trial, if granted at a term subsequent to the
 2 one at which the first trial was had, shall in no case affect the rights
 3 of third persons, acquired in good faith and for a valuable considera-
 4 tion after the former trial; but the party showing himself on the new
 5 trial entitled to lands which have thus passed to a good-faith pur-
 6 chaser, may recover his damages in the same or a subsequent action
 7 against the other party, and the successful party in such new trial
 8 shall have an execution for the property, if the case requires it.

[C., '51, §§ 2015-2017; R., '60, §§ 3586-3588; C., '73, §§ 3270-
 3272; C., '97, § 4207.]

CHAPTER 6.
RESTORATION OF LOST RECORDS.**SECTION 8082. Action in rem.**

1 Whenever the public records in the office of any county official in
 2 this state have been or shall hereafter be lost or destroyed in any
 3 material part, the said county on relation of said public officer or the
 4 owner of any real estate affected thereby, may bring an action in rem
 5 in equity in the district court of the state in and for the county in
 6 which said real estate is situated against all known and unknown per-
 7 sons, firms or corporations that might have any interest in said real
 8 estate affected by said record, to have said lost or destroyed records
 9 restored in whole or in part. Any number of parcels of land may be
 10 included in the same suit; and whenever said action is brought by the
 11 owner, the public official in whose office said lost or destroyed public
 12 records are required by law to be kept shall be made a defendant
 13 therein.

[S., '13, § 4227-a.]

SEC. 8083. Proceedings.

1 The petition, notice and decree in said action to restore any lost
 2 or destroyed records, and all proceedings in said suit, so far as the
 3 same relate to unknown defendants, shall conform to the statutes of
 4 this state applicable to actions against unknown defendants and un-
 5 known claimants; and all known defendants shall be served with
 6 notice in the time and manner now provided by law; and whenever
 7 said action is brought by the owner of said real estate, all clouds
 8 upon said title and defects therein and all adverse claims thereto
 9 may be adjudicated in the same suit and title quieted therein. The
 10 provisions of section seventy-five hundred ninety-two shall be appli-

11 cable to defendants served with original notice in such action by pub-
12 lication.

[S., '13, § 4227-b.]

SEC. 8084. Proof required.

1 No judgment or decree restoring any lost or destroyed record in
2 such action shall be entered by default, but the court must require
3 proof of the facts alleged in reference thereto and the court shall make
4 such finding of facts and decree as may be sustained by the evidence
5 and may order such lost or destroyed record to be prepared by said
6 public official as completely as the circumstances and proof will per-
7 mit, and said record when so prepared shall be approved by the court
8 and its approval indorsed thereon by the clerk.

[S., '13, § 4227-c.]

SEC. 8085. Filing of restored records—effect.

1 All public records restored as provided by this chapter shall be
2 filed, bound and indexed the same as original records are required to
3 be, and shall have the same force and effect as the original records
4 before their loss or destruction.

[S., '13, § 4227-d.]

SEC. 8086. Costs of restoration—how paid.

1 Whenever any public record is restored, as provided in this chap-
2 ter, all court costs and necessary expenses of restoring the same shall
3 be paid by the county to which said records belong, whether said
4 action is commenced or prosecuted by a county official or by the owner
5 of any real estate authorized to maintain such action.

[S. S., '15, § 4227-e.]

CHAPTER 7.

FORCIBLE ENTRY OR DETENTION OF REAL PROPERTY.

SECTION 8087. Grounds.

1 A summary remedy for forcible entry or detention of real prop-
2 erty is allowable:

3 1. Where the defendant has by force, intimidation, fraud or
4 stealth entered upon the prior actual possession of another in real
5 property, and detains the same.

6 2. Where a lessee holds over after the termination or contrary to
7 the terms of his lease.

8 3. Where the defendant continues in possession after a sale by
9 foreclosure of a mortgage, or on execution, unless he claims by a title
10 paramount to the lien by virtue of which the sale was made, or by title
11 derived from the purchaser at the sale; in either of which cases such
12 title shall be clearly and concisely set forth in the defendant's pleading.

13 4. For the nonpayment of rent, when due.

[C., '51, §§ 2362, 2363; R., '60, §§ 3952, 3953; C., '73, §§ 3611,
3612; C., '97, § 4208.]

SEC. 8088. By legal representatives.

1 The legal representative of a person who, if alive, might have
2 been plaintiff may bring this action after his death.

[C., '51, § 2364; R., '60, § 3954; C., '73, § 3613; C., '97,
§ 4209.]

SEC. 8089. Notice to quit.

1 Before action can be brought in any except the first of the above
2 classes, three days' notice to quit must be given to the defendant in
3 writing.

[C., '51, § 2365; R., '60, § 3955; C., '73, § 3614; C., '97,
§ 4210.]

SEC. 8090. Jurisdiction—transfer—appeal.

1 The district, municipal and superior courts within the county, and
2 justices of the peace within the township where the subject matter
3 of the action is situated, shall have concurrent jurisdiction of actions
4 for the forcible entry or detention of real property, and the court first
5 acquiring jurisdiction of an action therefor shall retain the same until
6 judgment, unless it is transferred as hereinafter provided. By agree-
7 ment of the parties, it may be transferred from a justice's court to a
8 municipal, superior or the district court, or from a superior or a mu-
9 nicipal to the district court, and all such actions in which judgment is
10 rendered in a justice's court may be appealed to the district or superior
11 court, as provided by law.

[C., '51, § 2367; R., '60, § 3957; C., '73, § 3616; C., '97, § 4211;
37 G. A., ch. 230, § 1.]

SEC. 8091. Petition—venue.

1 The action must be by petition, which must be sworn to, and
2 when brought before a justice of the peace, and there is none present
3 or qualified to act in the township where the subject thereof is situ-
4 ated, it may be brought in any adjoining township in the county. In
5 any such action a change of place of trial may be had as in other cases.
6 When brought in municipal court or before a justice of the peace the
7 petition must be on file at the time the defendant is required to appear
8 by the notice.

[C., '51, §§ 2366, 2367; R., '60, §§ 3956, 3957; C., '73, §§ 3615,
3616; C., '97, § 4212; 37 G. A., ch. 230, § 2.]

SEC. 8092. Substituted service.

1 Where it is made to appear by affidavit that personal service of
2 the original notice in such action can not be made upon the defendant
3 within the state, the same may be made by publication, if in a court of
4 record, or by posting, if in a justice's court, in the same manner and
5 for the same length of time as is required in other cases where such
6 substituted service may be made.

[C., '97, § 4213.]

SEC. 8093. Time for appearance.

1 The time for appearance and pleading if in justice's court or mu-
2 nicipal court, must be not less than two or more than six days from the

3 time of completed service of the notice. If in district or superior court,
4 the same time as is required in ordinary actions.

[C., '51, § 2368; R., '60, § 3958; C., '73, § 3617; C., '97,
§ 4214; 37 G. A., ch. 230, § 3.]

SEC. 8094. Adjournment.

1 No adjournment shall be made in justice's courts for more than
2 ten days, except by consent of parties.

[C., '51, § 2369; R., '60, § 3959; C., '73, § 3618; C., '97,
§ 4215.]

SEC. 8095. Title not investigated—transfer.

1 The question of title can only be investigated in the district court,
2 and can be pleaded in a municipal court or a justice's court only as pro-
3 vided in subsection three of section eighty hundred eighty-seven.
4 When so put in issue in a justice's court or municipal court, the justice
5 or the judge of the municipal court shall forthwith, without further
6 proceedings, certify the cause and the papers with a transcript of his
7 docket, showing the reason of such transfer to the district court,
8 where the same shall be tried on the merits. Such cause shall not be
9 dismissed because of error in transferring the same. When title is
10 put in issue, the cause shall be tried by equitable proceedings. The ap-
11 pearance term shall be the trial term, and no continuance shall be
12 granted for the purpose of taking the testimony in writing. Noth-
13 ing herein contained shall prevent a party from suing for trespass or
14 from testing the right of property in any other manner.

[C., '51, § 2371; R., '60, § 3961; C., '73, § 3620; C., '97, § 4216;
37 G. A., ch. 230, § 4.]

SEC. 8096. Possession—bar.

1 Thirty days' peaceable possession with the knowledge of the plain-
2 tiff after the cause of action accrues is a bar to this proceeding.

[C., '51, § 2372; R., '60, § 3962; C., '73, § 3621; C., '97,
§ 4217.]

SEC. 8097. No joinder or counterclaim.

1 An action of this kind can not be brought in connection with any
2 other, nor can it be made the subject of counterclaim.

[C., '51, § 2373; R., '60, § 3963; C., '73, § 3622; C., '97,
§ 4218.]

SEC. 8098. Order for removal.

1 The order for removal can be executed only in the daytime.

[C., '51, § 2374; R., '60, § 3964; C., '73, § 3623; C., '97,
§ 4219.]

SEC. 8099. Effect of appeal or writ of error.

1 An appeal or writ of error, taken from the action of a justice of
2 the peace in such action in the usual way, if the proper security is
3 given, will suspend the execution for costs, and may, with the consent
4 of the plaintiff, prevent a removal under execution, but not otherwise.

[C., '51, § 2375; R., '60, § 3965; C., '97, § 4220.]

SEC. 8100. Judgment.

1 If the defendant is found guilty, judgment shall be entered that
 2 he be removed from the premises, and that the plaintiff be put in pos-
 3 session thereof, and an execution for his removal shall issue accord-
 4 ingly, to which shall be added a clause commanding the officer to
 5 collect the costs as in ordinary cases.

[C., '51, § 2370; R., '60, § 3960; C., '73, § 3619; C., '97,
 § 4221.]

SEC. 8101. Restitution.

1 The court, on the trial of an appeal, may issue an execution for
 2 removal or restitution, as the case may require.

[C., '51, § 2376; R., '60, § 3966; C., '73, § 3624; C., '97,
 § 4222.]

CHAPTER 8.
QUIETING TITLE.**SECTION 8102. Who may bring action.**

1 An action to determine and quiet the title of real property may be
 2 brought by any one, whether in or out of possession, having or claim-
 3 ing an interest therein, against any person claiming title thereto,
 4 though not in possession.

[C., '51, § 2025; R., '60, § 3601; C., '73, § 3273; C., '97,
 § 4223.]

SEC. 8103. Petition—notice.

1 The petition therefor must be under oath, setting forth the nature
 2 and extent of his estate, and describing the premises as accurately as
 3 may be, and that he is credibly informed and believes the defendant
 4 makes some claims adverse to the petitioner, and praying for the
 5 establishment of the plaintiff's estate, and that the defendant be barred
 6 and forever estopped from having or claiming any right or title to the
 7 premises adverse to the plaintiff. The notice in such action shall
 8 accurately describe the property, and, in general terms, the nature and
 9 extent of the plaintiff's claim, and shall be served as in other cases.

[R., '60, § 3602; C., '73, § 3274; C., '97, § 4224.]

SEC. 8104. Disclaimer—costs.

1 If the defendant appears and disclaims all right and title adverse
 2 to the plaintiff, he shall recover his costs. In all other cases the costs
 3 shall be in the discretion of the court.

[R., '60, § 3603; C., '73, § 3275; C., '97, § 4225.]

SEC. 8105. Demand for quitclaim—attorneys' fees.

1 If a party, twenty days or more before bringing suit to quiet a
 2 title to real estate, shall request of the person holding an apparent
 3 adverse interest or right therein the execution of a quitclaim deed
 4 thereto, and shall also tender to him one dollar and twenty-five cents

5 to cover the expense of the execution and delivery of the deed, and if
 6 he shall refuse or neglect to comply therewith, the filing of a dis-
 7 claimer of interest or right shall not avoid the costs in an action after-
 8 wards brought, and the court may, in its discretion, if the plaintiff
 9 succeeds, tax, in addition to the ordinary costs of court, an attorney's
 10 fee for plaintiff's attorney, not exceeding twenty-five dollars if there
 11 is but a single tract not exceeding forty acres in extent, or a single lot
 12 in a city or town, involved, and forty dollars, if but a single tract ex-
 13 ceeding forty acres and not more than eighty acres; in cases in which
 14 two or more tracts are included that may not be embraced in one
 15 description, or single tracts covering more than eighty acres, or two
 16 or more city or town lots, a reasonable fee may be taxed, not exceed-
 17 ing, however, proportionately, those hereinbefore provided for.

[C., '97, § 4226.]

SEC. 8106. Equitable proceedings.

1 In all other respects, the action contemplated in this chapter
 2 shall be conducted as other actions by equitable proceedings, so far as
 3 the same may be applicable, with the modifications prescribed.

[C., '51, § 2026; R., '60, § 3604; C., '73, § 3276; C., '97,
 § 4227.]

**SEC. 8107. Deeds—recitals—rebuttable and conclusive presump-
 tions—limitation of actions.**

1 In the proof of title to real estate derived from deeds or other
 2 conveyances affecting real estate, executed prior to January first,
 3 nineteen hundred five, where it appears from recitals therein that
 4 such deeds or other conveyances have been executed in pursuance to a
 5 contract assigned by the original vendee or his assignee to the grantee
 6 in such deeds or other conveyances, the recitals thereof shall be pre-
 7 sumptive evidence of the truth of said recitals, and of the fact of said
 8 assignment, and that such assignment was made in good faith for a
 9 valuable consideration, and no action shall be maintained by such
 10 original vendee, assignee or any person or persons holding by, through
 11 or under such vendee or assignee, against the grantee in said deed or
 12 other conveyance, and his grantees in the record chain of title, and
 13 said recitals shall be conclusive evidence of the fact of such assignment
 14 and that it was made in good faith and for a valuable consideration.

[37 G. A., ch. 325, § 1.]

SEC. 8108. Construction of act.

1 The preceding section shall not be construed to remove the bar
 2 of any other statute of limitations, and shall not affect pending liti-
 3 gation.

[37 G. A., ch. 325, § 2.]

CHAPTER 9.

DISPUTED CORNERS AND BOUNDARIES.

SECTION 8109. When allowed.

1 When one or more owners of land, the corners and boundaries of
 2 which are lost, destroyed or in dispute, desire to have the same estab-

3 lished, they may bring an action in the district court of the county
4 where such lost, destroyed or disputed corners or boundaries, or part
5 thereof, are situated, against the owners of the other tracts which
6 will be affected by the determination or establishment thereof, to
7 have such corners or boundaries ascertained and permanently estab-
8 lished. If any public road is likely to be affected thereby, the proper
9 county shall be made defendant.

[C., '97, § 4228.]

SEC. 8110. Notice.

1 Notice of such action shall be given as in other cases, and if the
2 defendants or any of them are nonresidents of the state, or unknown,
3 they may be served by publication as is provided by law.

[C., '97, § 4229.]

SEC. 8111. Pleadings—trial of issue.

1 The action shall be a special one, and the only necessary pleading
2 therein shall be the petition of plaintiff describing the land involved,
3 and, so far as may be, the interest of the respective parties, and
4 asking that certain corners and boundaries therein described, as ac-
5 curately as may be, shall be established, and either the plaintiff or
6 defendant may, by proper plea, put in issue the fact that certain
7 alleged boundaries or corners are the true ones, or that such have
8 been recognized and acquiesced in by the parties or their grantors for
9 a period of ten consecutive years, which issue may be tried before
10 commission is appointed, in the discretion of the court.

[C., '97, § 4230.]

SEC. 8112. Commissioners.

1 The court in which said action is brought shall appoint a com-
2 mission of one or more disinterested surveyors, who shall, at a date
3 and place fixed by the court in the order of appointment, proceed to
4 locate the lost, destroyed or disputed corners and boundaries.

[C., '97, § 4231.]

SEC. 8113. Oath—assistants.

1 The commissioners so appointed shall subscribe and file with the
2 clerk, within ten days from the date of their appointment, an oath
3 for the faithful and impartial discharge of their duties, and shall have
4 the power to appoint necessary assistants.

[C., '97, § 4232.]

SEC. 8114. Hearing.

1 At the time and in the manner specified in the order of court, the
2 commission shall proceed to locate said boundaries and corners, and
3 for that purpose may take the testimony of witnesses as to where the
4 true boundaries and corners are located, and, if that issue is pre-
5 sented, shall also take testimony as to whether the boundaries and
6 corners alleged to have been recognized and acquiesced in for ten
7 years or more have in fact been recognized and acquiesced in, and, if
8 it finds affirmatively on such issue, shall incorporate the same into the
9 report to the court.

[C., '97, § 4233.]

SEC. 8115. Adjournments—report.

1 The proceedings may be adjourned by the commission from time
 2 to time as may be necessary, but the survey and location of the cor-
 3 ners and boundaries must be completed and the report thereof filed
 4 with the clerk of the court at least ten days before the first day of
 5 the term next following that of its appointment, unless there are good
 6 and sufficient reasons for delay.

[C., '97, § 4234.]

SEC. 8116. Exceptions—hearing in court.

1 At the term of court after such report is filed, any party inter-
 2 ested may file exceptions thereto before noon of the second day of the
 3 term, and the court shall hear and determine them, hearing evidence in
 4 addition to that reported by the commission, if necessary, and may
 5 approve or modify such report, or again refer the matter to the same
 6 or another commission for further report.

[C., '97, § 4235.]

SEC. 8117. Corners and boundaries established.

1 The corners and boundaries finally established by the court in
 2 such proceeding, or on appeal therefrom, shall be binding upon the
 3 parties as the corners or boundaries which had been lost, destroyed or
 4 in dispute, but if it is found that the boundaries and corners alleged
 5 to have been recognized and acquiesced in for ten years have been so
 6 recognized and acquiesced in, such recognized boundaries and corners
 7 shall be permanently established.

[C., '97, § 4236.]

SEC. 8118. Appeal.

1 There shall be no appeal in such proceeding, except from final
 2 judgment of the court, taken in the time and manner that other ap-
 3 peals are, and heard as in an action by ordinary proceedings.

[C., '97, § 4237.]

SEC. 8119. Costs.

1 The costs in the proceeding shall be taxed as the court shall think
 2 just, and shall be a lien on the land or interest therein owned by the
 3 party or parties against whom they are taxed, so far as such land is
 4 involved in the proceeding.

[C., '97, § 4238.]

SEC. 8120. Agreements.

1 Any lost or disputed corner or boundary may be determined by
 2 written agreement of all parties thereby affected, signed and acknowl-
 3 edged by each as required for conveyances of real estate, clearly
 4 designating the same, and accompanied by a plat thereof, which shall
 5 be recorded as an instrument affecting real estate, and shall be bind-
 6 ing upon their heirs, successors and assigns.

[C., '97, § 4239.]

CHAPTER 10.

PARTITION.

SECTION 8121. By equitable proceedings—no joinder or counterclaim.

1 The action for partition shall be by equitable proceedings, and no
 2 joinder or counterclaim of any other kind shall be allowed therein,
 3 except to perfect or quiet title, to declare and enforce liens between
 4 the parties to the action, and except as provided by this chapter.

[R., '60, § 4178; C., '73, § 3277; C., '97, § 4240.]

SEC. 8122. Petition.

1 The petition must describe the property and respective interests
 2 of the several owners thereof, if known. If any interests, or the
 3 owners of any interests, are unknown, contingent or doubtful, these
 4 facts must be set forth in the petition with reasonable certainty.

[C., '51, §§ 2028, 2029; R., '60, §§ 3606, 3607; C., '73, § 3278;
 C., '97, § 4241.]

SEC. 8123. Abstract of title.

1 The plaintiff shall attach to his petition, and the defendant to his
 2 answer, if he claims title, an abstract of the title relied on, showing
 3 from and through whom it was obtained, and the books and pages in
 4 which the same appears of record. If such title, or any portion
 5 thereof, is not in writing or does not appear of record, such fact shall
 6 be stated in the abstract, and either party shall furnish the adverse
 7 party with a copy of any unrecorded conveyance, or with a reasonable
 8 excuse for not so doing, within a reasonable time after demand there-
 9 for. No written evidence of title shall be introduced on the trial
 10 unless it has been sufficiently referred to in such abstract which, on
 11 motion, may be made more specific, and may be amended as other
 12 pleadings.

[C., '73, § 3279; C., '97, § 4242.]

SEC. 8124. Contingent interests.

1 Persons having apparent or contingent interests in such prop-
 2 erty may be made parties to the proceedings, and the proceeds of the
 3 property so situated, or the property itself in case of partition, shall be
 4 subject to the order of the court until the right becomes fully
 5 vested. The ascertained share of any absent owner shall be retained,
 6 or the proceeds invested for his benefit, under like order.

[C., '51, §§ 2069, 2070; R., '60, §§ 3647, 3648; C., '73, § 3280;
 C., '97, § 4243.]

SEC. 8125. Lien creditors.

1 Creditors having a specific or general lien upon the entire prop-
 2 erty may be made parties at the option of the plaintiff or defendant.

[C., '51, § 2030; R., '60, § 3608; C., '73, § 3281; C., '97,
 § 4244.]

SEC. 8126. Answer.

1 The answers of the defendants must state, among other things,
 2 the amount and nature of their respective interests. They may deny

3 the interest of any of the plaintiffs, and by supplemental pleading, if
 4 necessary, may deny the interest of any of the other defendants.
 [C., '51, § 2032; R., '60, § 3610; C., '73, § 3282; C., '97,
 § 4245.]

SEC. 8127. Issues—trial—costs.

1 Issues may thereupon be joined and tried between any of the
 2 contesting parties, the question of costs on such issues being regu-
 3 lated between the contestants agreeably to the principles applicable to
 4 other cases.
 [C., '51, § 2034; R., '60, § 3612; C., '73, § 3283; C., '97,
 § 4246.]

SEC. 8128. Reference to ascertain incumbrances.

1 Before making any order of sale or partition, the court may
 2 refer to the clerk or a referee to report the nature and amount of in-
 3 cumbrances by mortgage, judgment or otherwise upon any portion of
 4 the property.
 [C., '51, §§ 2045, 2046; R., '60, §§ 3623, 3624; C., '73, § 3284;
 C., '97, § 4247.]

SEC. 8129. Proof of incumbrances.

1 The referee shall give the parties interested at least five days'
 2 notice of the time and place when he will receive proof of the amounts
 3 of such incumbrances.
 [C., '51, § 2047; R., '60, § 3625; C., '73, § 3285; C., '97,
 § 4248.]

SEC. 8130. Issue as to incumbrances.

1 If any question arises as to the validity or amount of an incum-
 2 brance, or the payment of the same, the court may direct an issue to
 3 be made up between the incumbrancer and an owner, and an adjudica-
 4 tion thereon shall be decisive of their respective rights; and, upon a
 5 sale, it may order the money to be retained or invested to await final
 6 action in relation to its disposition, and notice thereof to be forthwith
 7 given to the incumbrancer unless he has already been made a party.
 [C., '51, §§ 2050, 2051; R., '60, §§ 3628, 3629; C., '73, § 3286;
 C., '97, § 4249.]

SEC. 8131. Undivided interests.

1 If the lien is upon one or more undivided interests, the holder
 2 thereof shall be made a party, and the lien shall, after partition or
 3 sale, remain a charge upon the particular interests or the proceeds
 4 thereof, but the amount of costs is a charge upon those interests, para-
 5 mount to all other liens.
 [C., '51, § 2031; R., '60, § 3609; C., '73, § 3287; C., '97,
 § 4250.]

SEC. 8132. Not to delay distribution.

1 The proceedings in relation to incumbrances shall not delay the
 2 distribution of the proceeds of other shares not affected thereby.
 [C., '51, § 2053; R., '60, § 3631; C., '73, § 3288; C., '97,
 § 4251.]

SEC. 8133. Confirmation.

1 After all the shares and interests of the parties have been settled
 2 in any of the methods aforesaid, decree shall be rendered establishing
 3 the rights of the parties, confirming the shares and interests of the
 4 owners of the lands, and directing partition to be made accordingly.
 [C., '51, § 2037; R., '60, § 3615; C., '73, § 3289; C., '97,
 § 4252.]

SEC. 8134. Partition—referees appointed—possession—lease.

1 Upon entering such decree, the court shall appoint referees to
 2 make partition, unless the parties agree to a sale of the property, or
 3 where it is shown that the property can not be equitably divided into
 4 the requisite number of shares, a sale shall be ordered. Three ref-
 5 erees shall be appointed to make partition, unless the parties to the
 6 suit agree to a less number, but where it is shown that partition can
 7 not be made and a sale is ordered, the court may fix the number.
 8 Where there is a delay in making sale and the owners of the property
 9 are not able to agree as to the possession or leasing of the same,
 10 the court may make such order as to the possession and leasing of said
 11 property by the referee as may be found to be for the best interests
 12 of the owners of said property.

[C., '51, §§ 2038, 2040, 2041; R., '60, §§ 3616, 3618, 3619; C.,
 '73, § 3290; C., '97, § 4253; S., '13, § 4253.]

SEC. 8135. Shares marked out.

1 When a partition is ordered, the referees must mark out the
 2 shares by visible monuments, and may employ a competent surveyor
 3 and assistants to aid them therein, if necessary.

[C., '51, § 2059; R., '60, § 3637; C., '73, § 3291; C., '97,
 § 4254.]

SEC. 8136. Report of referees.

1 The report of the referees must be in writing, signed by them, and
 2 must describe the respective shares with reasonable particularity, and
 3 be accompanied by a plat of the premises, and must allot the shares to
 4 their several owners.

[C., '51, §§ 2060, 2061; R., '60, §§ 3638, 3639; C., '73, § 3292;
 C., '97, § 4255.]

SEC. 8137. Special allotments.

1 For good and sufficient reasons appearing to the court, the ref-
 2 erees may be directed to allot particular portions of the land to par-
 3 ticular individuals. In other cases the shares must be made as nearly
 4 as possible of equal value.

[C., '51, § 2039; R., '60, § 3617; C., '73, § 3293; C., '97,
 § 4256.]

SEC. 8138. Partition of part.

1 When partition can be conveniently made of part of the premises,
 2 but not of all, one portion may be partitioned and the other sold, as
 3 provided in this chapter.

[C., '51, § 2062; R., '60, § 3640; C., '73, § 3294; C., '97,
 § 4257.]

SEC. 8139. Report set aside.

1 On good cause shown, the report may be set aside and the matter
2 again referred to the same or other referees.

[C., '51, § 2063; R., '60, § 3641; C., '73, § 3295; C., '97,
§ 4258.]

SEC. 8140. Judgment—decrees of partition to be recorded.

1 Upon the report of the referees being approved, a decree shall be
2 rendered confirming the partition and apportioning the costs as herein
3 provided, entering judgment therefor. Upon the rendition of such
4 decree the clerk shall file with the county recorder of the county a duly
5 certified transcript of such part of the entire decree, in the case in
6 which partition has been ordered, as may be necessary to show the
7 volume and page where such decree is recorded, and the confirmation
8 of the shares and interests of the parties in the property of which
9 partition is made, and the names of the parties who are found entitled
10 to such shares, and an accurate description of each of the shares
11 allotted to the several owners; and such transcript shall be presented
12 to the county auditor for transfer and recorded in the deed records of
13 the county where the action was brought and also in the other counties
14 in the state, if any, where any of the property so partitioned is situ-
15 ated; and in such case the clerk shall transmit to the county recorder
16 of each of such other counties a duplicate of such transcript, and the
17 same shall be there so recorded and transfer so made. Such transcript
18 shall be indexed in the recorder's office the same as conveyances of
19 real estate with the names of the parties so entitled to such shares as
20 grantors, and the name of the party to whom each share is allotted as
21 grantee. The costs of making and recording such transcript shall be
22 taxed as part of the costs in the case.

[C., '51, § 2064; R., '60, § 3642; C., '73, § 3296; C., '97, § 4259;
S., '13, § 4259.]

SEC. 8141. Costs.

1 All the costs of the proceedings in partition shall be paid, in the
2 first instance, by the plaintiffs, but eventually by all the parties in
3 proportion to their interests, except costs which are created by con-
4 tests.

[C., '51, § 2067; R., '60, § 3645; C., '73, § 3297; C., '97,
§ 4260.]

SEC. 8142. Attorneys' fees.

1 In actions for partition of real estate, when a decree ordering
2 partition or sale is rendered, there shall be taxed in favor of plaintiff's
3 attorney, as costs in the case, an attorney's fee; but in no case shall the
4 amount so taxed exceed the following, to wit: for the first two hundred
5 dollars or fraction thereof, ten per cent; for the next three hundred
6 dollars, five per cent; for the next five hundred dollars, three per cent;
7 and for all excess over above amounts, one per cent of the value of
8 the property partitioned. Such value to be determined by the court
9 or the appraisement, or by the sale when sale is ordered.

[C., '97, § 4261.]

SEC. 8143. Sale—referees to give bond.

1 Before selling, the referees shall give a bond in a penalty to be
 2 fixed by the court, payable to the parties who are entitled to the pro-
 3 ceeds, with sureties to be approved by the clerk, conditioned for the
 4 faithful discharge of their duties. At any time thereafter, the court
 5 may require further and additional security, and upon failure of the
 6 referees to comply with such order they may be removed by the
 7 court and others appointed, and the court may at any time, for satis-
 8 factory reasons, remove them and appoint others.

[C., '51, § 2042; R., '60, § 3620; C., '73, § 3298; C., '97,
 § 4262.]

SEC. 8144. Notice of sale.

1 The same notice of sale shall be given as when lands are sold on
 2 execution by the sheriff, and the sale shall be conducted in like manner.

[C., '51, § 2043; R., '60, § 3621; C., '73, § 3299; C., '97,
 § 4263.]

SEC. 8145. Private sale—appraisement.

1 Whenever in the discretion of the court such lands can be dis-
 2 posed of to better advantage and with less expense at private sale
 3 than in the manner above provided, they may be sold on such terms as
 4 are ordered by the court, but in such case they shall be appraised by
 5 three disinterested freeholders to be appointed by the court, and sold
 6 for not less than the appraised value.

[C., '51, § 2043; R., '60, § 3621; C., '73, § 3299; C., '97,
 § 4264.]

SEC. 8146. Report of sale.

1 After completing said sale, the referees must report their pro-
 2 ceedings to the court, with a description of the different parcels sold
 3 to each purchaser and the price bid therefor, which report shall be
 4 filed with the clerk.

[C., '51, § 2044; R., '60, § 3622; C., '73, § 3300; C., '97,
 § 4265.]

SEC. 8147. Conveyance.

1 If the sale is approved and confirmed by the court, an order shall
 2 be entered directing the referees, or any two of them, to execute con-
 3 veyances; but no conveyances can be made until all the money is paid,
 4 without receiving from the purchaser a mortgage on the land so sold,
 5 or other equivalent security.

[C., '51, § 2055; R., '60, § 3633; C., '73, § 3301; C., '97,
 § 4266.]

SEC. 8148. Validity.

1 Such conveyances, being recorded in the county where the prem-
 2 ises are situated, shall be valid against all subsequent purchasers, and
 3 also against all persons interested at the time, who were made parties
 4 to the proceedings in the mode pointed out by law.

[C., '51, § 2056; R., '60, § 3634; C., '73, § 3302; C., '97,
 § 4267.]

SEC. 8149. When parties are married.

1 If the owner of any share thus sold has a husband or wife living,
 2 and if such husband and wife do not agree as to the disposition that
 3 shall be made of the proceeds of such sale, the court must direct it to
 4 be invested in real estate, under the supervision of such person as it
 5 may appoint, taking the title in the name of the owner of the share
 6 sold as aforesaid. Provided that in case the amount of any share
 7 shall not exceed the sum of one thousand dollars the court may in its
 8 discretion direct the same to be paid to the owner or two-thirds to
 9 the owner and one-third to the spouse; and provided, further, that in
 10 all cases when it is shown to the satisfaction of the court that the
 11 owner has been abandoned by the husband or wife, the whole amount
 12 shall be paid to the owner and no agreement therefor shall be required.

[C., '51, § 2057; R., '60, § 3635; C., '73, § 3303; C., '97,
 § 4268; S., '13, § 4268.]

SEC. 8150. Sales disapproved.

1 If the sales are disapproved, the money paid and the securities
 2 given must be returned to the persons respectively entitled thereto.

[C., '51, § 2058; R., '60, § 3636; C., '73, § 3304; C., '97,
 § 4269.]

SEC. 8151. Security to refund money.

1 The court in its discretion may require all or any of the parties,
 2 before they receive the moneys arising from any sale authorized in
 3 this chapter, to give satisfactory security to refund the same, with
 4 interest, in case it afterward appears that such parties were not en-
 5 titled thereto.

[C., '51, § 2054; R., '60, § 3632; C., '73, § 3305; C., '97,
 § 4270.]

SEC. 8152. Life estates.

1 If a tenant for life or years is entitled as such to a part of the pro-
 2 ceeds of sale, and the parties can not agree upon a sum in gross which
 3 they will consider an equivalent for such estate, the court shall direct
 4 the avails of the incumbered property to be invested, and the proceeds
 5 to be paid to the incumbrancer during the term of the incumbrance.

[C., '51, § 2052; R., '60, § 3630; C., '73, § 3306; C., '97,
 § 4271.]

SEC. 8153. Compensation of appraisers and referees.

1 Appraisers and referees appointed under the provisions of this
 2 chapter shall receive such reasonable compensation for their services
 3 as the court allows, which shall be taxed as a part of the costs.

[C., '97, § 4272.]

CHAPTER 11.**FORECLOSURE OF MORTGAGES.****SECTION 8154. Of personal property—by notice and sale.**

1 A mortgage of personal property to secure the payment of money
 2 only, where the time of payment is therein fixed, may be foreclosed

3 by notice and sale, unless a stipulation to the contrary has been agreed
4 upon by the parties, or by action in the proper court.

[C., '51, § 2071; R., '60, § 3649; C., '73, § 3307; C., '97,
§ 4273.]

SEC. 8155. Notice.

1 The notice must contain a full description of the property mort-
2 gaged, together with the time, place and terms of sale.

[C., '51, § 2072; R., '60, § 3650; C., '73, § 3308; C., '97,
§ 4274.]

SEC. 8156. Service.

1 Such notice must be served on the mortgagor and all purchasers
2 from him subsequent to the execution of the mortgage, and all persons
3 having recorded liens upon the same property which are junior to
4 the mortgage, or they will not be bound by the proceedings.

[C., '51, § 2073; R., '60, § 3651; C., '73, § 3309; C., '97,
§ 4275.]

SEC. 8157. Return.

1 The service and return must be made in the same manner as in
2 the case of the original notice by which civil actions are commenced
3 in courts of record, except that no publication in the newspapers is
4 necessary, the general publication directed in the next section being
5 a sufficient service upon all the parties in cases where service is to be
6 made by publication.

[C., '51, § 2074; R., '60, § 3652; C., '73, § 3310; C., '97,
§ 4276.]

SEC. 8158. Notice of sale.

1 After notice has been served upon the parties, it must be pub-
2 lished in the same manner and for the same length of time as is
3 required in cases of the sale of like property on execution, and the
4 sale shall be conducted in the same manner.

[C., '51, § 2075; R., '60, § 3653; C., '73, § 3311; C., '97,
§ 4277.]

SEC. 8159. Title of purchaser.

1 The purchaser shall take all the title and interest on which the
2 mortgage operated.

[C., '51, § 2076; R., '60, § 3654; C., '73, § 3312; C., '97,
§ 4278.]

SEC. 8160. Attorney fees.

1 If the notes secured by such mortgage, or the mortgage itself,
2 provide for the payment of attorney's fees, the same fees shall be
3 collected as are provided by law in actions upon such contracts, if an
4 attorney is employed to look after and direct the proceedings, who
5 shall make an affidavit like that required in actions, and have it at-
6 tached by the officer or person making sale to his return of the pro-
7 ceedings thereunder.

[C., '97, § 4279.]

SEC. 8161. Bill of sale.

1 The officer or person conducting the sale shall execute to the
2 purchaser a bill of sale of the property, which shall be effectual to
3 carry the whole title and interest purchased.

[C., '51, § 2077; R., '60, § 3655; C., '73, § 3313; C., '97,
§ 4280.]

SEC. 8162. Evidence of service perpetuated.

1 Evidence of the service and publication of the notice aforesaid,
2 and of the sale made in accordance therewith, together with any post-
3 ponement or other material matter, shall be perpetuated by affidavits
4 reciting the facts attached to the bill of sale, and shall constitute the
5 return of the officer or person making the sale, and be receivable in
6 evidence to prove the facts they state.

[C., '51, §§ 2079, 2080; R., '60, §§ 3656, 3657; C., '73,
§§ 3314, 3315; C., '97, § 4281.]

SEC. 8163. Validity of sales.

1 Sales made in accordance with the above requirements are valid
2 as to property sold to a purchaser in good faith, whatever may be the
3 equities between the mortgagor and mortgagee.

[C., '51, § 2081; R., '60, § 3658; C., '73, § 3316; C., '97,
§ 4282.]

SEC. 8164. How contested.

1 The right of the mortgagee to foreclose, as well as the amount
2 claimed to be due, may be contested by any one interested in so doing,
3 and the proceeding may be transferred to the district court, for which
4 purpose an injunction may issue, if necessary.

[C., '51, § 2082; R., '60, § 3659; C., '73, § 3317; C., '97,
§ 4283.]

SEC. 8165. Deeds of trust.

1 Deeds of trust of real or personal property may be executed as
2 securities for the performance of contracts, and shall be considered
3 as, and foreclosed like, mortgages.

[C., '51, § 2096; R., '60, § 3673; C., '73, § 3318; C., '97,
§ 4284.]

SEC. 8166. Sale under pledge.

1 Where chattel property is pledged as security for an indebted-
2 ness, unless provision is made by an agreement in writing therefor,
3 the same may be sold for the nonpayment of the indebtedness by
4 giving the pledgor, or any purchaser or assignee under him of the
5 property or any part of it of which he has notice in writing, ten days'
6 written notice of his intention to sell the same and make an applica-
7 tion of the proceeds to the satisfaction of the debt, and posting for
8 the same time in three public places in the township of such pledgor's
9 residence a notice containing a full and accurate description of the
10 property to be sold, the time and hour when, and the place at which,
11 the sale will take place. If redemption is not made before the date
12 thus fixed, the pledgee may sell at public auction, to the highest bidder,
13 the pledged property, or so much of the same as may be necessary to

14 pay the debt, interest and all costs of making such sale, and may be a
15 bidder at such sale. He shall apply the proceeds, first, in the payment
16 of such costs, and second, to the payment of the debt. Any surplus
17 arising from the sale and any property remaining unsold shall be paid
18 or returned to the pledgor or his assigns.

[C., '97, § 4285.]

SEC. 8167. Foreclosure by action.

1 Such pledgee may commence an action in equity for the fore-
2 closure of such collaterals or pledges, and the court shall determine all
3 issues presented as in other equity cases, and render judgment for
4 the amount due from the pledgor, and award special execution for the
5 sale of the collaterals or pledges, and general execution for any bal-
6 ance, or shall render such judgment as may be necessary to carry out
7 any written agreement of the parties concerning the subject matter;
8 but in all cases a sale may be ordered unless there is a written stipula-
9 tion to the contrary.

[C., '97, § 4286.]

SEC. 8168. Personal property—lien—release of bond.

1 Whenever a controversy arises between any person, firm, part-
2 nership, or corporation, claiming a common law or statutory lien upon
3 any personal property within the state, and the owner of said prop-
4 erty as to the existence of a lien or the amount thereof, the owner of
5 the property upon which the lien is claimed may file in the office of the
6 clerk of the district court for the county in which the property is
7 located a bond in double the amount of the lien claimed, conditioned
8 on the payment to the person, firm, partnership or corporation claim-
9 ing a lien, any sum that may be found to be due and to have been a
10 lien on the personal property at the time the bond was filed by the
11 judgment of any court having jurisdiction; said bond to be signed by
12 one or more sureties and to be approved by the clerk of the said
13 district court. When such a bond is filed and written notice of such
14 filing given the person, firm, partnership, or corporation claiming a
15 lien, as aforesaid, the lien, if any, shall be discharged from the per-
16 sonal property and shall be merged in the bond upon which there
17 shall be a right of action to the extent of the lien on the personal
18 property at the time the bond was filed; and if the person, firm, part-
19 nership or corporation claiming a lien has the possession of said per-
20 sonal property, such possession shall be surrendered to the owner of
21 the property. If the person, firm, partnership, or corporation claiming
22 the lien fails, neglects, or refuses to surrender said personal property
23 after the bond has been filed and notice served as aforesaid, the owner
24 of said personal property may bring an action for the possession of
25 the specific personal property or pursue any other remedy provided
26 by law to enforce that right. An action upon such bond shall be
27 brought in the county where the principal on the bond resides; but
28 where the aforesaid principal is a nonresident of the state, the action
29 shall be brought in the county where the bond is filed.

[38 G. A., ch. 231, § 1.]

SEC. 8169. Of real property—foreclosure by equitable proceedings.

- 1 No deed of trust or mortgage of real estate shall be foreclosed in
2 any other manner than by action in court by equitable proceedings.
[C., '51, §§ 2083, 2096; R., '60, §§ 3660, 3673, 4179; C., '73,
§ 3319; C., '97, § 4287.]

SEC. 8170. To foreclose mortgage.

- 1 An action for the foreclosure of a mortgage of real property, or
2 for the sale thereof under an incumbrance or charge thereon, shall be
3 brought in the county in which the property to be affected, or some
4 part thereof, is situated.
[C., '73, § 2578; C., '97, § 3493.]

SEC. 8171. Separate suits on note and mortgage.

- 1 If separate actions are brought in the same county on the bond
2 or note, and on the mortgage given to secure it, the plaintiff must
3 elect which to prosecute. The other will be discontinued at his cost.
[C., '51, § 2086; R., '60, § 3663; C., '73, § 3320; C., '97,
§ 4288.]

SEC. 8172. Judgment—sale and redemption.

- 1 When a mortgage or deed of trust is foreclosed, the court shall
2 render judgment for the entire amount found to be due, and must
3 direct the mortgaged property, or so much thereof as is necessary, to
4 be sold to satisfy the same, with interest and costs. A special execu-
5 tion shall issue accordingly, and the sale thereunder shall be subject to
6 redemption as in cases of sale under general execution.
[C., '51, § 2084; R., '60, § 3661; C., '73, § 3321; C., '97,
§ 4289.]

SEC. 8173. General execution for balance.

- 1 If the mortgaged property does not sell for sufficient to satisfy
2 the execution, a general execution may be issued against the mort-
3 gator, unless the parties have stipulated otherwise.
[C., '51, § 2085; R., '60, § 3662; C., '73, § 3322; C., '97,
§ 4290.]

SEC. 8174. Overplus.

- 1 If there is an overplus remaining after satisfying the mortgage
2 and costs, and if there is no other lien upon the property, such over-
3 plus shall be paid to the mortgagor.
[C., '51, § 2089; R., '60, § 3666; C., '73, § 3324; C., '97,
§ 4291.]

SEC. 8175. Junior incumbrancer entitled to assignment.

- 1 At any time prior to the sale, a person having a lien on the prop-
2 erty which is junior to the mortgage will be entitled to an assign-
3 ment of all the interest of the holder of the mortgage, by paying him
4 the amount secured, with interest and costs, together with the amount
5 of any other liens of the same holder which are paramount to his. He
6 may then proceed with the foreclosure, or discontinue it, at his option.
[C., '51, § 2088; R., '60, § 3665; C., '73, § 3323; C., '97,
§ 4292.]

SEC. 8176. Other liens.

1 If there are any other liens on the property sold, or other pay-
 2 ments secured by the same mortgage, they shall be paid off in their
 3 order. And if the money secured by any such lien is not yet due, a
 4 rebate of interest, to be fixed by the court or judge thereof, must be
 5 made by the holder, or his lien on such property will be postponed to
 6 those of a junior date, and if there are none such, the balance shall be
 7 paid to the mortgagor.

[C., '51, § 2090; R., '60, § 3667; C., '73, § 3325; C., '97,
 § 4293.]

SEC. 8177. How much sold.

1 As far as practicable, the property sold must be only sufficient to
 2 satisfy the mortgage foreclosed.

[C., '51, § 2091; R., '60, § 3668; C., '73, § 3326; C., '97,
 § 4294.]

SEC. 8178. Satisfaction acknowledged.

1 When the amount due on a mortgage is paid off, the mortgagee,
 2 or those legally acting for him, and in case of payment of a school fund
 3 mortgage the county auditor, must acknowledge satisfaction thereof
 4 in the margin of the record of the mortgage, or by execution of an
 5 instrument in writing, referring to the mortgage, and duly acknowl-
 6 edged and recorded. If he fails to do so within thirty days after being
 7 requested in writing, he shall forfeit to the mortgagor the sum of
 8 twenty-five dollars. When any mortgage is satisfied on the margin
 9 of the record of the mortgage, as herein provided, the person satisfy-
 10 ing the same shall be identified to and his signature shall be witnessed
 11 by the county recorder or his deputy.

[C., '51, § 2093; R., '60, § 3670; C., '73, § 3327; C., '97,
 § 4295.]

SEC. 8179. Entry on records.

1 When a judgment of foreclosure is entered in any court, the clerk
 2 shall make upon the margin of the record of the mortgage foreclosed
 3 a minute showing that fact, in what court foreclosed, and giving the
 4 date of the decree; and when the judgment is fully paid off and satis-
 5 fied upon the judgment docket of such court, the clerk shall enter
 6 satisfaction upon the margin of such mortgage, and he shall be allowed
 7 as compensation for such service the sum of twenty-five cents, to be
 8 taxed as a part of the costs in the case.

[C., '73, § 3328; C., '97, § 4296.]

SEC. 8180. Foreclosure of title bond.

1 In cases where the vendor of real estate has given a bond or other
 2 writing to convey the same on payment of the purchase money, and
 3 such money or any part thereof remains unpaid after the day fixed for
 4 payment, whether time is or is not of the essence of the contract, the
 5 vendor may file his petition asking the court to require the purchaser
 6 to perform his contract, or to foreclose and sell his interest in the
 7 property.

[C., '51, § 2094; R., '60, § 3671; C., '73, § 3329; C., '97,
 § 4297.]

SEC. 8181. Vendee deemed mortgagor.

1 The vendee shall in such cases, for the purpose of the foreclosure,
2 be treated as a mortgagor of the property purchased, and his rights
3 may be foreclosed in a similar manner.

[C., '51, § 2095; R., '60, § 3672; C., '73, § 3330; C., '97,
§ 4298.]

SEC. 8182. Forfeiture—notice.

1 Any contract made for the sale of real estate in the state of Iowa,
2 and which provides for the forfeiture of vendee's rights therein upon
3 the happening of certain conditions, shall not be forfeited or canceled
4 unless, thirty days before a declaration of forfeiture is made, a written
5 notice be served on the vendee or assignee, notice of whose rights as
6 assignee has been conveyed to vendor, and on the party in possession
7 of said real estate, which notice shall contain a declaration of an in-
8 tention to forfeit said contract and the reason therefor and may be
9 served personally or by publication, on the same conditions, and in
10 the same manner as is provided for the service of original notices.
11 If such notice is served by publication no affidavit therefor shall be
12 required and the forfeiture shall not take place until thirty days after
13 the last publication day.

[C., '97, § 4299; S., '13, § 4299.]

SEC. 8183. Performance—notice of forfeiture filed.

1 For the period of thirty days after service of said notice the
2 vendee, or those claiming under him, may discharge any unpaid pay-
3 ment and costs of service of notice of forfeiture, or perform any con-
4 dition broken; and, if said payments are made or conditions broken
5 are performed within said period of thirty days, the right to forfeit
6 for default occurring before said notice is served is terminated. If
7 said payments are not made, or the conditions broken are not per-
8 formed within said period of thirty days the vendor may file for
9 record in the recorder's office the notice of forfeiture with the proof
10 of service thereto attached, and if service was by publication also file
11 his affidavit that personal service of the notice could not be had within
12 this state; and when so filed and recorded the record thereof shall be
13 constructive notice to all persons of the declaration of forfeiture and
14 service of notice thereof. The recorder shall receive the same fee
15 therefor as for recording other instruments.

[C., '97, § 4300; S., '13, § 4300.]

SEC. 8184. Terms of contract.

1 The requirements contained in the two preceding sections shall
2 be operative in all cases where the intention of the parties, as gathered
3 from the contract and surrounding circumstances, is to sell or to
4 agree to sell an interest in real estate, any contract or agreement of
5 the parties to the contrary notwithstanding.

[C., '97, § 4301.]

CHAPTER 12.

NUISANCES.

SECTION 8185. Nuisance—what constitutes—action to abate.

1 Whatever is injurious to health, indecent or offensive to the
 2 senses, or an obstruction to the free use of property, so as essentially
 3 to interfere with the comfortable enjoyment of life or property, is a
 4 nuisance, and a civil action by ordinary proceedings may be brought
 5 to enjoin and abate the same and to recover damages sustained on
 6 account thereof.

[C., '51, §§ 2131-2133; R., '60, §§ 3713-3715; C., '73, § 3331;
 C., '97, § 4302.]

SEC. 8186. What deemed nuisances.

1 The erecting, continuing, or using any building or other place for
 2 the exercise of any trade, employment or manufacture, which, by oc-
 3 casioning noxious exhalations, offensive smells or other annoyances,
 4 becomes injurious and dangerous to the health, comfort or property
 5 of individuals or the public; the causing or suffering any offal, filth
 6 or noisome substance to be collected or to remain in any place to the
 7 prejudice of others; the obstructing or impeding without legal au-
 8 thority the passage of any navigable river, harbor or collection of
 9 water; or the corrupting or rendering unwholesome or impure the
 10 water of any river, stream or pond, or unlawfully diverting the same
 11 from its natural course or state, to the injury or prejudice of others;
 12 and the obstructing or incumbering by fences, buildings or otherwise
 13 the public roads, private ways, streets, alleys, commons, landing places
 14 or burying grounds are nuisances.

[C., '51, § 2759; R., '60, § 4409; C., '73, § 4089; C., '97,
 § 5078.]

SEC. 8187. Disorderly houses.

1 Houses of ill fame, kept for the purpose of prostitution and lewd-
 2 ness, gambling houses, or houses resorted to for the use of opium or
 3 hasheesh, or houses where drunkenness, quarreling, fighting or
 4 breaches of the peace are carried on or permitted to the disturbance
 5 of others, are nuisances, and may be abated and punished as provided
 6 in this chapter.

[C., '51, § 2761; R., '60, § 4411; C., '73, § 4091; C., '97,
 § 5080.]

SEC. 8188. Penalty—abatement.

1 Whoever is convicted of erecting, causing or continuing a public
 2 or common nuisance as provided in this chapter, or at common law
 3 when the same has not been modified or repealed by statute, where no
 4 other punishment therefor is specially provided, shall be fined not
 5 exceeding one thousand dollars, or be imprisoned in the county jail
 6 not exceeding one year, and the court, with or without such fine, may
 7 order such nuisance abated, and issue a warrant as hereinafter
 8 provided.

[C., '51, § 2762; R., '60, § 4412; C., '73, § 4092; C., '97,
 § 5081; S., '13, § 5081.]

SEC. 8189. Process.

1 When upon indictment, complaint or civil action any person is
 2 found guilty of erecting, causing or continuing a nuisance, the court
 3 before whom such finding is had may, in addition to the fine imposed,
 4 if any, or to the judgment for damages or cost for which a separate
 5 execution may issue, order that such nuisance be abated or removed
 6 at the expense of the defendant, and, after inquiry into and estimating
 7 as nearly as may be the sum necessary to defray the expenses of such
 8 abatement, the court may issue a warrant therefor.

[C., '51, § 2763; R., '60, § 4413; C., '73, § 4093; C., '97,
 § 5082.]

SEC. 8190. Warrant.

1 When the conviction is had upon an action before a justice of
 2 the peace and no appeal is taken, the justice, after estimating as afore-
 3 said the sum necessary to defray the expenses of removing or abating
 4 the nuisance, may issue a like warrant.

[C., '51, § 2764; R., '60, § 4414; C., '73, § 4094; C., '97,
 § 5083.]

SEC. 8191. Stay of execution.

1 Instead of issuing such warrant, the court or justice may order
 2 the same to be stayed upon motion of the defendant, and upon his
 3 entering into an undertaking to the state, in such sum and with such
 4 surety as the court or justice may direct, conditioned either that the
 5 defendant will discontinue said nuisance, or that, within a time lim-
 6 ited by the court, and not exceeding six months, he will cause the
 7 same to be abated and removed, as either is directed by the court;
 8 and, upon his failure to perform the condition of his undertaking,
 9 the same shall be forfeited, and the court in term time or vacation,
 10 or justice of the peace, as the case may be, upon being satisfied of
 11 such default, may order such warrant forthwith to issue, and action
 12 may be brought on such undertaking.

[C., '51, § 2765; R., '60, § 4415; C., '73, § 4095; C., '97,
 § 5084.]

SEC. 8192. Expenses.

1 The expense of abating a nuisance by virtue of a warrant can
 2 be collected by the officer in the same manner as damages and costs
 3 are collected on execution, except that the materials of any buildings,
 4 fences or other things that may be removed as a nuisance may be first
 5 levied upon and sold by the officer, and if any of the proceeds remain
 6 after satisfying the expense of the removal, such balance must be paid
 7 by the officer to the defendant, or to the owner of the property levied
 8 upon; and if said proceeds are not sufficient to pay such expenses,
 9 the officer must collect the residue thereof.

[C., '51, § 2766; R., '60, § 4416; C., '73, § 4096; C., '97,
 § 5085.]

CHAPTER 13.

WASTE AND TRESPASS.

SECTION 8193. Waste by guardian or tenants—damages.

1 If a guardian, tenant for life or years, joint tenant or tenant in
 2 common of real property commit waste thereon, he is liable to pay
 3 three times the damages which have resulted from such waste, to the
 4 person who is entitled to sue therefor.

[C., '51, § 2134; R., '60, § 3716; C., '73, § 3332; C., '97,
 § 4303.]

SEC. 8194. Forfeiture and eviction.

1 Judgment of forfeiture and eviction may be rendered against the
 2 defendant whenever the amount of damages so recovered is more
 3 than two-thirds the value of the interest such defendant has in the
 4 property injured, when the action is brought by the person entitled to
 5 the reversion.

[C., '51, § 2135; R., '60, § 3717; C., '73, § 3333; C., '97,
 § 4304.]

SEC. 8195. Who deemed to have committed waste.

1 Any person whose duty it is to prevent waste, and who fails to
 2 use reasonable and ordinary care to avert the same, shall be held to
 3 have committed it.

[C., '51, § 2136; R., '60, § 3718; C., '73, § 3334; C., '97,
 § 4305.]

SEC. 8196. Treble damages for injury to trees.

1 For wilfully injuring any timber, tree or shrub on the land of
 2 another, or in the street or highway in front of another's cultivated
 3 ground, yard or town lot, or on the public grounds of any city or
 4 town, or any land held by the state for any purpose whatever, the
 5 perpetrator shall pay treble damages at the suit of any person entitled
 6 to protect or enjoy the property.

[C., '51, § 2137; R., '60, § 3719; C., '73, § 3335; C., '97,
 § 4306.]

SEC. 8197. Remainder or reversion.

1 The owner of an estate in remainder or reversion may maintain
 2 either of the aforesaid actions for injuries done to the inheritance,
 3 notwithstanding any intervening estate for life or years.

[C., '51, § 2139; R., '60, § 3721; C., '73, § 3337; C., '97,
 § 4307.]

SEC. 8198. Heir.

1 An heir, whether a minor or of full age, may maintain these
 2 actions for injuries done in the time of his ancestor as well as in his
 3 own time, unless barred by the statute of limitations.

[C., '51, § 2140; R., '60, § 3722; C., '73, § 3338; C., '97,
 § 4308.]

SEC. 8199. Purchaser at execution sale.

1 The purchaser of lands or tenements at execution sale may have
 2 and maintain an action against any person for either of the causes
 3 above mentioned, occurring or existing after such purchase; but this
 4 provision shall not be construed to forbid the person occupying the
 5 lands in the meantime from using them in the ordinary course of
 6 husbandry, or taking timber with which to make suitable repairs
 7 thereon, unless the timber so taken shall be of higher grade than re-
 8 quired, in which case he shall be held guilty of waste and liable
 9 accordingly.

[C., '51, §§ 2141-2143; R., '60, §§ 3723-3725; C., '73, §§ 3339-
 3341; C., '97, § 4309.]

SEC. 8200. Settlers on lands of state.

1 Any person settled upon and occupying any portion of the public
 2 lands held by the state is not liable as a trespasser for improving or
 3 cultivating it in the ordinary course of husbandry, nor for taking and
 4 using timber or other materials necessary and proper to enable him
 5 to do so, provided the timber and other materials are taken from land
 6 properly constituting a part of the "claim" or tract of land so settled
 7 upon and occupied by him.

[C., '51, § 2144; R., '60, § 3726; C., '73, § 3342; C., '97,
 § 4310.]

SEC. 8201. Holder of tax certificate.

1 The owner of a treasurer's certificate of purchase of land sold
 2 for taxes may recover treble damages of any person wilfully commit-
 3 ting waste or trespass thereon.

[C., '73, § 3343; C., '97, § 4311.]

SEC. 8202. Disposition of money.

1 All money recovered in an action brought under the preceding
 2 section shall be paid by the officer collecting it to the auditor of the
 3 county in which the lands are situated, which shall be held by him,
 4 and an entry thereof made in a book kept for that purpose, until the
 5 lands are redeemed, or a treasurer's deed therefor executed to the
 6 holder of said certificate. If redemption is made, the money shall be
 7 paid to the owner of the land, and if not, to the person to whom the
 8 deed is executed.

[C., '73, § 3344; C., '97, § 4312.]

CHAPTER 14.
LIBEL AND SLANDER.**SECTION 8203. Pleading in slander and libel.**

1 In an action for slander or libel, it shall not be necessary to state
 2 any extrinsic facts for the purpose of showing the application to the
 3 plaintiff of any defamatory matter out of which the cause of action
 4 arose, or that the matter was used in a defamatory sense; but it shall
 5 be sufficient to state the defamatory sense in which such matter was

6 used, and that the same was spoken or published concerning the
7 plaintiff.

[R., '60, § 2928; C., '73, § 2681; C., '97, § 3592.]

SEC. 8204. Libel—retraction—actual damages.

1 In any action for damages for the publication of a libel in a news-
2 paper, if the defendant can show that such libelous matter was pub-
3 lished through misinformation or mistake, the plaintiff shall recover
4 no more than actual damages, unless a retraction be demanded and
5 refused as hereinafter provided. Plaintiff shall serve upon the pub-
6 lisher at the principal place of publication a notice specifying the
7 statements claimed to be libelous, and requesting that the same be
8 withdrawn.

[S. S., '15, § 3592-a.]

SEC. 8205. Retraction—actual—special—exemplary damages.

1 If a retraction or correction thereof be not published in as con-
2 spicuous a place and type in said newspaper as were the statements
3 complained of, in a regular issue thereof published within two weeks
4 after such service, plaintiff may allege such notice, demand and fail-
5 ure to retract in his complaint and may recover both actual, special
6 and exemplary damages if his cause of action be maintained. And,
7 if such retraction be so published, he may still recover such actual,
8 special and exemplary damages, unless the defendant shall show that
9 the libelous publication was made in good faith, without malice and
10 under a mistake as to the facts.

[S. S., '15, § 3592-a.]

SEC. 8206. Candidate for office—retraction—time.

1 If the plaintiff was a candidate for office at the time of the libel-
2 ous publication, no retraction shall be available unless published in a
3 conspicuous place on the editorial page, nor if the libel was published
4 within two weeks next before the election; provided that this and the
5 two preceding sections shall not apply to any libel imputing unchastity
6 to a woman.

[S. S., '15, § 3592-a.]

SEC. 8207. Proof of malice.

1 In actions for slander or libel, an unproved allegation of the
2 truth of the matter charged shall not be deemed proof of malice, un-
3 less the jury on the whole case finds that such defense was made with
4 malicious intent.

[R., '60, § 2929; C., '73, § 2682; C., '97, § 3593.]

CHAPTER 15.

QUO WARRANTO.

SECTION 8208. For what causes.

1 A civil action by ordinary proceedings may be brought in the
2 name of the state in the following cases:

- 3 1. Against any person unlawfully holding or exercising any pub-
4 lic office or franchise within this state, or any office in any corpora-
5 tion created by this state.
6 2. Against any public officer who has done or suffered an act
7 which works a forfeiture of his office.
8 3. Against any person acting as a corporation within the state
9 without being authorized by law.
10 4. Against any corporation doing or omitting acts which amount
11 to a forfeiture of its rights and privileges as a corporation, or exer-
12 cising powers not conferred by law.
13 5. Against any person claiming under any patent, granted by the
14 proper authorities of the state, for the purpose of annulling or vacat-
15 ing the same as having been obtained by fraud, or through mistake
16 or ignorance of a material fact, or when the defendants have done or
17 omitted an act in violation of the terms or conditions on which the
18 letters were granted, or have by any other means forfeited the interest
19 acquired under the same.

[C., '51, §§ 2151; 2175; R., '60, §§ 3732, 3757; C., '73,
§ 3345; C., '97, § 4313.]

SEC. 8209. No joinder or counterclaim.

- 1 In such action there shall be no joinder of any other cause of
2 action, nor any counterclaim.

[R., '60, § 4180; C., '73, § 3346; C., '97, § 4314.]

SEC. 8210. By county attorney.

- 1 Such action may be commenced by the county attorney at his
2 discretion, and must be so commenced when directed by the governor,
3 the general assembly or a court of record.

[C., '51, §§ 2152, 2153; R., '60, §§ 3733, 3734; C., '73,
§ 3347; C., '97, § 4315.]

SEC. 8211. By private person.

- 1 If the county attorney, on demand, neglects or refuses to com-
2 mence the same, any citizen of the state having an interest in the
3 question may apply to the court in which the action is to be com-
4 menced, or to the judge thereof, for leave to do so, and, upon obtaining
5 such leave, may bring and prosecute the action to final judgment.

[R., '60, § 3735; C., '73, § 3348; C., '97, § 4316.]

SEC. 8212. Petition.

- 1 The petition shall contain a statement of the facts which con-
2 stitute the grounds of the proceeding, and, with the notice and all the
3 subsequent pleadings and proceedings, shall conform to the rules given
4 for procedure in civil actions, except so far as the same are modified
5 by this chapter.

[C., '51, §§ 2154-2156; R., '60, §§ 3736-3738; C., '73, § 3349;
C., '97, § 4317.]

SEC. 8213. Costs.

- 1 When such action is brought upon the relation of a private in-
2 dividual, that fact shall be stated in the petition, and the order allowing
3 him to prosecute may require that he shall be responsible for costs in
4 case they are not adjudged against the defendant. In other cases the

5 payment of costs shall be regulated by the same rule as in criminal
6 actions.

[C., '51, § 2164; R., '60, § 3746; C., '73, § 3350; C., '97,
§ 4318.]

SEC. 8214. Right to an office.

1 When the defendant is holding an office to which another is
2 claiming the right, the petition shall set forth the name of such
3 claimant, and the trial must, if practicable, determine the rights of
4 the contesting parties.

[C., '51, § 2157; R., '60, § 3739; C., '73, § 3351; C., '97,
§ 4319.]

SEC. 8215. Several claimants.

1 When several persons claim to be entitled to the same office or
2 franchise, a petition may be filed against all or any portion thereof,
3 in order to try their respective rights thereto.

[C., '51, § 2161; R., '60, § 3743; C., '73, § 3352; C., '97,
§ 4320.]

SEC. 8216. Judgment.

1 If judgment is rendered in favor of such claimant, he shall pro-
2 ceed to exercise the functions of the office, after he has qualified as
3 required by law.

[C., '51, § 2158; R., '60, § 3740; C., '73, § 3353; C., '97,
§ 4321.]

SEC. 8217. Books and papers.

1 The court, after such judgment, shall order the defendant to
2 deliver over all books and papers in his custody or under his control
3 belonging to said office.

[C., '51, § 2159; R., '60, § 3741; C., '73, § 3354; C., '97,
§ 4322.]

SEC. 8218. Action for damages.

1 When judgment has been rendered in favor of the claimant he
2 may, at any time within one year thereafter, bring an action against
3 the defendant, and recover the damages he has sustained by reason of
4 the act of the defendant.

[C., '51, § 2160; R., '60, § 3742; C., '73, § 3355; C., '97,
§ 4323.]

SEC. 8219. Judgment of ouster.

1 If the defendant is found guilty of unlawfully holding or exercis-
2 ing any office, franchise or privilege, or if a corporation is found to
3 have violated the law by which it holds its existence, or is acting con-
4 trary to law, or in any manner to have done acts which amount to a
5 surrender or forfeiture of its privileges, judgment shall be rendered
6 that such defendant be ousted and altogether excluded from such
7 office, franchise or privilege, and also that he pay the costs of the
8 proceeding.

[C., '51, § 2162; R., '60, § 3744; C., '73, § 3356; C., '97,
§ 4324.]

SEC. 8220. Judgment in other cases.

1 If the defendant is found to have exercised merely certain in-
 2 dividual powers and privileges to which he was not entitled, the
 3 judgment shall be the same as above directed, but only in relation to
 4 those particulars in which he is thus exceeding the lawful exercise of
 5 his rights and privileges.

[C., '51, § 2163; R., '60, § 3745; C., '73, § 3357; C., '97,
 § 4325.]

SEC. 8221. Pretended corporation—costs.

1 In case judgment is rendered against a pretended but not real
 2 corporation, the cost may be collected from any person who has been
 3 acting as an officer or proprietor thereof.

[C., '51, § 2165; R., '60, § 3747; C., '73, § 3358; C., '97,
 § 4326.]

SEC. 8222. Action against officers of corporation.

1 When judgment of ouster is rendered against a corporation on
 2 account of the misconduct of the directors or officers thereof, such
 3 officers shall be jointly and severally liable to an action by anyone
 4 injured thereby.

[C., '51, § 2173; R., '60, § 3755; C., '73, § 3359; C., '97,
 § 4327.]

SEC. 8223. Corporation dissolved.

1 If a corporation is ousted and dissolved by the proceedings herein
 2 authorized, the court shall appoint three disinterested persons as
 3 trustees of the creditors and stockholders.

[C., '51, § 2166; R., '60, § 3748; C., '73, § 3360; C., '97,
 § 4328.]

SEC. 8224. Bond.

1 Said trustees shall enter into a bond in such a penalty and with
 2 such security as the court approves, conditioned for the faithful dis-
 3 charge of their trust.

[C., '51, § 2167; R., '60, § 3749; C., '73, § 3361; C., '97,
 § 4329.]

SEC. 8225. Action on.

1 Action may be brought on such bond by any person injured by the
 2 negligence or wrongful act of the trustees in the discharge of their
 3 duties.

[C., '51, § 2168; R., '60, § 3750; C., '73, § 3362; C., '97,
 § 4330.]

SEC. 8226. Duty of trustees.

1 The trustees shall proceed immediately to collect the debts and
 2 pay the liabilities of the corporation, and to divide the surplus among
 3 those thereto entitled.

[C., '51, § 2169; R., '60, § 3751; C., '73, § 3363; C., '97,
 § 4331.]

SEC. 8227. Books delivered to.

1 The court shall, upon application for that purpose, order any
 2 officer of such corporation, or any other person having possession of
 3 any of the effects, books or papers thereof, in any wise necessary for
 4 the settlement of its affairs, to deliver the same to the trustees.

[C., '51, § 2170; R., '60, § 3752; C., '73, § 3364; C., '97,
 § 4332.]

SEC. 8228. Inventory.

1 As soon as practicable after their appointment, the trustees shall
 2 make and file in the office of the clerk of the court an inventory,
 3 sworn to by each of them, of all the effects, rights and credits which
 4 come to their possession or knowledge.

[C., '51, § 2171; R., '60, § 3753; C., '73, § 3365; C., '97,
 § 4333.]

SEC. 8229. Powers.

1 They shall sue for and recover the debts and property of the
 2 corporation, and shall be responsible to the creditors and stockhold-
 3 ers, respectively, to the extent of the effects which come into their
 4 hands.

[C., '51, § 2172; R., '60, § 3754; C., '73, § 3366; C., '97,
 § 4334.]

SEC. 8230. Penalty for refusing to obey order.

1 Any person who without good reason refuses to obey an order
 2 of the court, as herein provided, shall be guilty of contempt, and fined
 3 in any sum not exceeding five thousand dollars, and imprisoned in the
 4 county jail until he complies therewith, and shall be further liable for
 5 the damages resulting to any person on account of his disobedience.

[C., '51, § 2174; R., '60, § 3756; C., '73, § 3367; C., '97,
 § 4335.]

CHAPTER 16.**MANDAMUS.****SECTION 8231. Definition.**

1 The action of mandamus is one brought to obtain an order com-
 2 manding an inferior tribunal, board, corporation or person to do or
 3 not to do an act, the performance or omission of which the law enjoins
 4 as a duty resulting from an office, trust or station. Where discretion
 5 is left to the inferior tribunal or person, the mandamus can only
 6 compel it to act, but can not control such discretion. All such actions
 7 shall be tried as equitable actions.

[C., '51, § 2180; R., '60, §§ 3761, 3763; C., '73, § 3373; C., '97,
 § 4341; S., '13, § 4341.]

SEC. 8232. Order issued.

1 The order may be issued by the district or superior court to any
 2 inferior tribunal, or to any corporation, officer or person; and by the

3 supreme court to any district or superior court, if necessary, and in
4 any other case where it is found necessary for that court to exercise
5 its legitimate power.

[C., '51, §§ 2179, 2181; R., '60, §§ 3761, 3764; C., '73, § 3374;
C., '97, § 4342.]

SEC. 8233. Extent of remedy.

1 The plaintiff in any action, except those brought for the recovery
2 of specific real or personal property, may also, as an auxiliary relief,
3 have an order of mandamus to compel the performance of a duty
4 established in such action. But if such duty, the performance of
5 which is sought to be compelled, is not one resulting from an office,
6 trust or station, it must be one for the breach of which a legal right
7 to damages is already complete at the commencement of the action,
8 and must also be a duty of which a court of equity would enforce the
9 performance.

[R., '60, § 3767; C., '73, § 3375; C., '97, § 4343.]

SEC. 8234. Other remedy.

1 An order of mandamus shall not be issued in any case where
2 there is a plain, speedy and adequate remedy in the ordinary course
3 of the law, save as herein provided.

[C., '51, § 2182; R., '60, § 3765; C., '73, § 3376; C., '97,
§ 4344.]

SEC. 8235. Who may bring action.

1 The order of mandamus is granted on the petition of any private
2 party aggrieved, without the concurrence of the prosecutor for the
3 state, or on the petition of the state by the county attorney, when the
4 public interest is concerned, and is in the name of such private party
5 or of the state, as the case may be in fact brought.

[R., '60, § 3761; C., '73, § 3377; C., '97, § 4345.]

SEC. 8236. Petition.

1 The plaintiff in such action shall state his claim, and shall also
2 state facts sufficient to constitute a cause for such claim, and shall
3 also set forth that the plaintiff, if a private individual, is personally
4 interested therein, and that he sustains and may sustain damage by
5 the nonperformance of such duty, and that performance thereof has
6 been demanded by him, and refused or neglected, and shall pray an
7 order of mandamus commanding the defendant to fulfill such duty.

[R., '60, § 3762; C., '73, § 3378; C., '97, § 4346.]

SEC. 8237. Other pleadings.

1 The pleadings and other proceedings in any action in which a
2 mandamus is claimed shall be the same, as nearly as may be, and costs
3 shall be recoverable by either party, as in an ordinary action for the
4 recovery of damages.

[R., '60, § 3766; C., '73, § 3379; C., '97, § 4347.]

SEC. 8238. Injunction may issue—joinder.

1 When the action is brought by a private person, it may be joined
2 with a cause of action for such an injunction as may be obtained by

3 ordinary proceedings, or with the causes of action specified in this
4 chapter, but no other joinder and no counterclaim shall be allowed.
[R., '60, § 4181; C., '73, § 3380; C., '97, § 4348.]

SEC. 8239. Peremptory order.

1 When the plaintiff recovers judgment, the court may include
2 therein a peremptory order of mandamus directed to the defendant,
3 commanding him forthwith to perform the duty to be enforced, to-
4 gether with a money judgment for damages and costs, upon which
5 an ordinary execution may issue.

[R., '60, § 3768; C., '73, § 3381; C., '97, § 4349.]

SEC. 8240. Return.

1 The order shall simply command the performance of the duty,
2 shall be directed to the party, and may be issued in term or vacation,
3 returnable forthwith, and no return except that of compliance shall
4 be allowed; but time to return it may, upon sufficient grounds, be
5 allowed by the court or judge, either with or without terms.

[R., '60, § 3769; C., '73, § 3382; C., '97, § 4350.]

SEC. 8241. Performance by another—costs.

1 The court may, upon application of the plaintiff, besides or in-
2 stead of proceeding against the defendant by attachment, direct that
3 the act required to be done may be done by the plaintiff or some other
4 person appointed by the court, at the expense of the defendant, and,
5 upon the act being done, the amount of such expense may be ascer-
6 tained by the court, or by a referee appointed by the court or judge,
7 and the court may render judgment for the amount of the expense
8 and cost, and enforce payment thereof by execution.

[R., '60, § 3770; C., '73, § 3383; C., '97, § 4351.]

SEC. 8242. Temporary orders.

1 During the pendency of the action, the court, or judge in vaca-
2 tion, may make temporary orders for preventing damage or injury
3 to the plaintiff until the action is decided.

[R., '60, § 3771; C., '73, § 3384; C., '97, § 4352.]

SEC. 8243. Appeal by state.

1 When the state is a party, it may appeal without security.

[R., '60, § 3772; C., '73, § 3385; C., '97, § 4353.]

CHAPTER 17.

CERTIORARI.

SECTION 8244. When writ may issue.

1 The writ of certiorari may be granted when authorized by law,
2 and in all cases where an inferior tribunal, board or officer exercising
3 judicial functions is alleged to have exceeded his proper jurisdiction,

4 or is otherwise acting illegally, and there is no other plain, speedy and
5 adequate remedy.

[C., '51, § 1965; R., '60, § 3487; C., '73, § 3216; C., '97,
§ 4154.]

SEC. 8245. By whom granted.

1 The writ may be granted by the district court, or judge thereof,
2 but if to be directed to said court or judge, or to the superior court
3 or its judge, then by the supreme court, or one of its judges, and shall
4 command the defendant therein to certify to the court from which it
5 issues, at a specified time and place, a transcript of the records and
6 proceedings, as well as the facts in the case, describing or referring
7 to them, or any of them, with convenient certainty, and also to have
8 then and there the writ, and, when allowed by a court, it shall be
9 issued by the clerk thereof and under its seal.

[C., '51, § 1966; R., '60, § 3488; C., '73, § 3217; C., '97,
§ 4155.]

SEC. 8246. Stay of proceedings—bond.

1 If a stay of proceedings is sought, the writ can only issue upon
2 the petitioner giving bond, the penalty and conditions thereof to be
3 fixed by the court or judge allowing the writ, which bond with the
4 sureties thereon may be approved by such court or judge, or the clerk
5 issuing the writ, and in either case to be filed with the clerk.

[C., '51, § 1967; R., '60, § 3489; C., '73, § 3218; C., '97,
§ 4156.]

SEC. 8247. Petition.

1 The petition therefor must state facts constituting a case wherein
2 the writ may issue, and be verified, and the court or judge, before
3 issuing it, may require notice of the application to be given the adverse
4 party, or may grant it without. If a stay of proceedings is sought,
5 the writ can only be granted upon reasonable notice of the time, place
6 and court or judge before whom the application will be made, which
7 shall be fixed by the court or judge to whom the application is pre-
8 sented.

[C., '51, § 1968; R., '60, § 3490; C., '73, § 3219; C., '97,
§ 4157.]

SEC. 8248. Service and return.

1 The writ must be served and the proof of such service made in
2 the same manner as is prescribed for the original notice in the district
3 court, except the original shall be left with the defendant, and the
4 return of service made upon a copy thereof.

[C., '51, § 1969; R., '60, § 3491; C., '73, § 3220; C., '97,
§ 4158.]

SEC. 8249. Defective return.

1 If the return of the writ be defective, the court may order a fur-
2 ther return to be made, and compel obedience to the writ and to such
3 further order by attachment, if necessary.

[C., '51, § 1970; R., '60, § 3492; C., '73, § 3221; C., '97,
§ 4159.]

SEC. 8250. Trial—judgment.

1 When full return has been made, the court must proceed to hear
 2 the parties upon the record, proceedings and facts as certified, and
 3 such other testimony, oral or written, as either party may introduce,
 4 and give judgment affirming or annulling the proceedings in whole
 5 or in part, or, in its discretion, correcting the same and prescribing
 6 the manner in which the parties or either of them shall further pro-
 7 ceed.

[C., '51, § 1971; R., '60, § 3493; C., '73, § 3222; C., '97,
 § 4160.]

SEC. 8251. By ordinary proceedings—appeal.

1 The action shall be prosecuted by ordinary proceedings so far as
 2 applicable, and from the judgment of the court an appeal lies as in
 3 ordinary actions, and the record shall be prepared in the same manner.

[C., '51, § 1972; R., '60, § 3494; C., '73, § 3223; C., '97,
 § 4161.]

SEC. 8252. Limitation.

1 No writ shall be granted after twelve months from the time it is
 2 alleged the inferior court, tribunal, board or officer exceeded its or his
 3 jurisdiction, or otherwise acted illegally.

[C., '73, § 3224; C., '97, § 4162.]

CHAPTER 18.**HABEAS CORPUS.****SECTION 8253. Petition—grounds.**

1 The petition for the writ of habeas corpus must state:

2 1. That the person in whose behalf it is sought is restrained of
 3 his liberty, and the person by whom and the place where he is so
 4 restrained, mentioning the names of the parties, if known, and if un-
 5 known describing them with as much particularity as practicable.

6 2. The cause or pretense of such restraint, according to the best
 7 information of the applicant; and if by virtue of any legal process,
 8 a copy thereof must be annexed, or a satisfactory reason given for
 9 its absence.

10 3. That the restraint is illegal, and wherein.

11 4. That the legality of the imprisonment has not already been
 12 adjudged upon a prior proceeding of the same character, to the best
 13 knowledge and belief of the applicant.

14 5. Whether application for the writ has been before made to and
 15 refused by any court or judge, and if so, a copy of the petition in that
 16 case must be attached, with the reasons for the refusal, or satisfactory
 17 reasons given for the failure to do so.

[C., '51, § 2213; R., '60, § 3801; C., '73, § 3449; C., '97,
 § 4417.]

SEC. 8254. By whom presented.

1 The petition must be sworn to by the person confined, or by some-
 2 one in his behalf, and presented to some court or officer authorized
 3 to allow the writ.

[C., '51, § 2214; R., '60, § 3802; C., '73, § 3450; C., '97,
 § 4418.]

SEC. 8255. Writ allowed—service.

1 The writ may be allowed by the supreme, district or superior
 2 court, or by any judge of either of those courts, and may be served in
 3 any part of the state.

[C., '51, § 2215; R., '60, § 3803; C., '73, § 3451; C., '97,
 § 4419.]

SEC. 8256. Application—to whom made—inmates of state institutions.

1 Application for the writ must be made to the court or judge most
 2 convenient in point of distance to the applicant, and the more remote
 3 court or judge, if applied to therefor, may refuse the same unless a
 4 sufficient reason be stated in the petition for not making the appli-
 5 cation to the more convenient court or a judge thereof. When the
 6 applicant is an inmate of or confined in a state institution the pro-
 7 visions of this section relating to the court to which or the judge to
 8 whom applications must be made are mandatory, and the convenience
 9 or preference of an attorney or witness or other person interested
 10 in the release of the applicant shall not be a sufficient reason to au-
 11 thorize a more remote court or judge to assume jurisdiction.

[C., '51, § 2217; R., '60, § 3805; C., '73, § 3452; C., '97,
 § 4420; S., '13, § 4420.]

SEC. 8257. Writ refused.

1 If, from the showing of the petitioner, the plaintiff would not be
 2 entitled to any relief, the court or judge must refuse to allow the writ.

[C., '51, § 2218; R., '60, § 3806; C., '73, § 3453; C., '97,
 § 4421.]

SEC. 8258. Reasons indorsed.

1 If the writ is disallowed, the court or judge shall cause the rea-
 2 sons thereof to be appended to the petition and returned to the person
 3 applying for the writ.

[C., '51, § 2221; R., '60, § 3809; C., '73, § 3454; C., '97,
 § 4422.]

SEC. 8259. Form of writ.

1 If the petition is in accordance with the foregoing requirements,
 2 and states sufficient grounds for the allowance of the writ, it shall
 3 issue, and may be substantially as follows:

4 The State of Iowa,

5 To the sheriff of, etc. (or to A..... B....., as the case may be) :

6 You are hereby commanded to have the body of C..... D.....,

7 by you unlawfully detained, as is alleged, before the court (or before

8 me, or before E..... F....., judge, etc., as the case may be), at.....

9 on..... (or immediately after being served with this writ), to be

10 dealt with according to law, and have you then and there this writ,
11 with a return thereon of your doings in the premises.

[C., '51, § 2219; R., '60, § 3807; C., '73, § 3455; C., '97,
§ 4423.]

SEC. 8260. How issued.

1 When the writ is allowed by a court, it must be issued by the clerk,
2 but when by a judge, he must issue it himself, subscribing his name
3 thereto.

[C., '51, § 2220; R., '60, § 3808; C., '73, § 3456; C., '97,
§ 4424.]

SEC. 8261. Penalty for refusing.

1 Any judge, whether acting individually or as a member of the
2 court, who wrongfully and wilfully refuses the allowance of the writ
3 when properly applied for, shall forfeit to the party aggrieved the
4 sum of one thousand dollars.

[C., '51, § 2222; R., '60, § 3810; C., '73, § 3457; C., '97,
§ 4425.]

SEC. 8262. Issuance on judge's own motion.

1 When any court or judge authorized to grant the writ has evi-
2 dence, from a judicial proceeding before him, that any person within
3 the jurisdiction of such court or officer is illegally imprisoned or re-
4 strained of his liberty, such court or judge shall issue the writ or
5 cause it to be issued, on its or his own motion.

[C., '51, § 2223; R., '60, § 3811; C., '73, § 3458; C., '97,
§ 4426.]

SEC. 8263. County attorney notified.

1 The court or officer allowing the writ must cause the county at-
2 torney of the proper county to be informed thereof, and of the time
3 and place where and when it is made returnable.

[C., '51, § 2240; R., '60, § 3828; C., '73, § 3459; C., '97,
§ 4427.]

SEC. 8264. Service of writ.

1 The writ may be served by the sheriff, or by any other person
2 appointed in writing for that purpose by the court or judge by whom
3 it is issued or allowed. If served by any other than the sheriff, he
4 possesses the same power, and is liable to the same penalty for a non-
5 performance of his duty, as though he were the sheriff.

[C., '51, § 2224; R., '60, § 3812; C., '73, § 3460; C., '97,
§ 4428.]

SEC. 8265. Mode.

1 The service shall be made by leaving the original writ with the
2 defendant, and preserving a copy thereof on which to make the return
3 of service, but a failure in this respect shall not be held material.

[C., '51, § 2225; R., '60, § 3813; C., '73, § 3461; C., '97,
§ 4429.]

SEC. 8266. Defendant not found.

1 If the defendant can not be found, or if he has not the plaintiff
 2 in custody, the service may be made upon any person who has, in the
 3 same manner and with the same effect as though he had been made
 4 defendant therein.

[C., '51, § 2226; R., '60, § 3814; C., '73, § 3462; C., '97,
 § 4430.]

SEC. 8267. Power of officer.

1 If the defendant conceals himself, or refuses admittance to the
 2 person attempting to serve the writ, or if he attempts wrongfully to
 3 carry the plaintiff out of the county or the state after the service of
 4 the writ, the sheriff, or the person who is attempting to serve or who
 5 has served it, is authorized to arrest the defendant and bring him,
 6 together with the plaintiff, forthwith before the officer or court before
 7 whom the writ is made returnable.

[C., '51, § 2227; R., '60, § 3815; C., '73, § 3463; C., '97,
 § 4431.]

SEC. 8268. Arrest.

1 In order to make the arrest, the sheriff or other person having
 2 the writ possesses the same power as is given to a sheriff for the arrest
 3 of a person charged with a felony.

[C., '51, § 2228; R., '60, § 3816; C., '73, § 3464; C., '97,
 § 4432.]

SEC. 8269. Plaintiff taken.

1 If the plaintiff can be found, and if no one appears to have the
 2 charge or custody of him, the person having the writ may take him
 3 into custody and make return accordingly, and to get possession of
 4 the plaintiff's person in such cases he possesses the same power as is
 5 given by the last section for the arrest of the defendant.

[C., '51, § 2229; R., '60, § 3817; C., '73, § 3465; C., '97,
 § 4433.]

SEC. 8270. Defects of form.

1 The writ must not be disobeyed for any defects of form or mis-
 2 description of the plaintiff or defendant, provided enough is stated to
 3 show the meaning and intent thereof.

[C., '51, § 2234; R., '60, § 3822; C., '73, § 3466; C., '97,
 § 4434.]

SEC. 8271. Penalty for eluding writ.

1 If the defendant attempts to elude the service of the writ, or to
 2 avoid the effect thereof by transferring the plaintiff to another, or
 3 by concealing him, he shall, on conviction, be imprisoned in the peni-
 4 tentiary or county jail not more than one year, and fined not exceed-
 5 ing one thousand dollars, and any person knowingly aiding or abetting
 6 in any such act shall be subject to like punishment.

[C., '51, § 2253; R., '60, § 3841; C., '73, § 3467; C., '97,
 § 4435.]

SEC. 8272. Refusal to give copy of process.

1 An officer refusing to deliver a copy of any legal process by which
2 he detains the plaintiff in custody to any person who demands it and
3 tenders the fees therefor, shall forfeit two hundred dollars to the per-
4 son who demands it.

[C., '51, § 2254; R., '60, § 3842; C., '73, § 3468; C., '97,
§ 4436.]

SEC. 8273. Preliminary writ.

1 The court or judge to whom the application for the writ is made,
2 if satisfied that the plaintiff would suffer any irreparable injury be-
3 fore he could be relieved by the proceedings above authorized, may
4 issue an order to the sheriff, or any other person selected instead,
5 commanding him to bring the plaintiff forthwith before such court
6 or judge.

[C., '51, § 2230; R., '60, § 3818; C., '73, § 3469; C., '97,
§ 4437.]

SEC. 8274. Arrest of defendant.

1 If the evidence is sufficient to justify the arrest of the defendant
2 for a criminal offense committed in connection with the illegal deten-
3 tion of the plaintiff, the order must also direct the arrest of the
4 defendant.

[C., '51, § 2231; R., '60, § 3819; C., '73, § 3470; C., '97,
§ 4438.]

SEC. 8275. Execution of writ—return.

1 The officer or person to whom the order is directed must execute
2 the same by bringing the defendant, and also the plaintiff if required,
3 before the court or judge issuing it, and the defendant must make
4 return to the writ in the same manner as if the ordinary course had
5 been pursued.

[C., '51, § 2232; R., '60, § 3820; C., '73, § 3471; C., '97,
§ 4439.]

SEC. 8276. Examination.

1 The defendant may also be examined and committed, or bailed, or
2 discharged, according to the nature of the case.

[C., '51, § 2233; R., '60, § 3821; C., '73, § 3472; C., '97,
§ 4440.]

SEC. 8277. Defect in writ.

1 Any person served with the writ is to be presumed to be the
2 person to whom it is directed, although it may be directed to him by
3 a wrong name or description, or to another person.

[C., '51, § 2235; R., '60, § 3823; C., '73, § 3473; C., '97,
§ 4441.]

SEC. 8278. Appearance—answer.

1 Service being made in any of the modes herein provided, the
2 defendant must appear at the proper time and answer the petition,
3 but no verification shall be required to the answer.

[C., '51, § 2236; R., '60, §§ 3824, 4182; C., '73, § 3474;
C., '97, § 4442.]

SEC. 8279. Body to be produced.

1 He must also produce the body of the plaintiff, or show good
2 cause for not doing so.

[C., '51, § 2237; R., '60, § 3825; C., '73, § 3475; C., '97,
§ 4443.]

SEC. 8280. Penalty—contempt.

1 A wilful failure to comply with the above requirements will
2 render the defendant liable to be attached for contempt, and to be
3 imprisoned till he complies, and shall subject him to the forfeiture
4 of one thousand dollars to the party thereby aggrieved.

[C., '51, § 2238; R., '60, § 3826; C., '73, § 3476; C., '97,
§ 4444.]

SEC. 8281. Attachment.

1 Such attachment may be served by the sheriff or any other
2 person authorized by the court or judge, who shall also be empowered
3 to produce the body of the plaintiff forthwith, and has, for this pur-
4 pose, the same powers as are above conferred in similar cases.

[C., '51, § 2239; R., '60, § 3827; C., '73, § 3477; C., '97,
§ 4445.]

SEC. 8282. Answer.

1 The defendant in his answer must state whether he then has,
2 or at any time has had, the plaintiff under his control and restraint,
3 and if so the cause thereof.

[C., '51, § 2241; R., '60, § 3829; C., '73, § 3478; C., '97,
§ 4446.]

SEC. 8283. Transfer of plaintiff.

1 If he has transferred him to another person, he must state that
2 fact, and to whom, and the time thereof, as well as the reason or
3 authority therefor.

[C., '51, § 2242; R., '60, § 3830; C., '73, § 3479; C., '97,
§ 4447.]

SEC. 8284. Copy of process.

1 If he holds him by virtue of a legal process or written authority,
2 a copy thereof must be annexed.

[C., '51, § 2243; R., '60, § 3831; C., '73, § 3480; C., '97,
§ 4448.]

SEC. 8285. Demurrer or reply—trial.

1 The plaintiff may demur or reply to the defendant's answer, but
2 no verification shall be required to the reply, and all issues joined
3 therein shall be tried by the judge or court.

[C., '51, § 2244; R., '60, § 3832; C., '73, § 3481; C., '97,
§ 4449.]

SEC. 8286. Commitment questioned.

1 The reply may deny the sufficiency of the testimony to justify
2 the action of the committing magistrate, on the trial of which issue

3 all written testimony before such magistrate may be given in evidence
4 before the court or judge, in connection with any other testimony
5 which may then be produced.

[C., '51, § 2245; R., '60, § 3833; C., '73, § 3482; C., '97,
§ 4450.]

SEC. 8287. Action of grand jury—result of trial.

1 But it is not permissible to question the correctness of the action
2 of the grand jury in finding a bill of indictment, or of the trial jury
3 in the trial of a cause, nor of a court or judge when lawfully acting
4 within the scope of their authority.

[C., '51, § 2246; R., '60, § 3834; C., '73, § 3483; C., '97,
§ 4451.]

SEC. 8288. Discharge.

1 If no sufficient legal cause of detention is shown, the plaintiff
2 must be discharged.

[C., '51, § 2247; R., '60, § 3835; C., '73, § 3484; C., '97,
§ 4452.]

SEC. 8289. Plaintiff held.

1 Although the commitment of the plaintiff may have been irregu-
2 lar, if the court or judge is satisfied from the evidence that he ought
3 to be held to bail, or committed, either for the offense charged or any
4 other, the order may be made accordingly.

[C., '51, § 2248; R., '60, § 3836; C., '73, § 3485; C., '97,
§ 4453.]

SEC. 8290. Bail increased or diminished.

1 The plaintiff may also, in any case, be committed, admitted to
2 bail, or his bail be reduced or increased, as justice may require.

[C., '51, § 2249; R., '60, § 3837; C., '73, § 3486; C., '97,
§ 4454.]

SEC. 8291. Plaintiff retained in custody.

1 Until the sufficiency of the cause of restraint is determined, the
2 defendant may retain the plaintiff in his custody, and may use all
3 necessary and proper means for that purpose.

[C., '51, § 2250; R., '60, § 3838; C., '73, § 3487; C., '97,
§ 4455.]

SEC. 8292. Right to be present waived.

1 The plaintiff may, in writing, or by attorney, waive his right to
2 be present at the trial, in which case the proceedings may be had in
3 his absence. The writ will in such cases be modified accordingly.

[C., '51, § 2251; R., '60, § 3839; C., '73, § 3488; C., '97,
§ 4456.]

SEC. 8293. Disobedience of order.

1 Disobedience to any order of discharge will subject the defendant
2 to attachment for contempt, and also to the forfeiture of one thousand

3 dollars to the party aggrieved, besides all damages sustained by him
4 in consequence thereof.

[C., '51, § 2252; R., '60, § 3840; C., '73, § 3489; C., '97,
§ 4457.]

SEC. 8294. Papers filed with clerk.

1 When the proceedings are before a judge, except when the writ
2 is refused, all the papers in the case, including his final order, shall be
3 filed with the clerk of the district court of the county wherein the final
4 proceedings were had, and a memorandum thereof shall be entered by
5 the clerk upon his judgment docket.

[C., '51, § 2255; R., '60, § 3843; C., '73, § 3490; C., '97,
§ 4458.]

SEC. 8295. Costs.

1 If the plaintiff is discharged, the costs shall be taxed to the de-
2 fendant, unless he is an officer holding the plaintiff in custody under a
3 warrant of arrest or commitment, or under other legal process, in
4 which case the costs shall be taxed to the county. If the plaintiff's
5 application is refused, the costs shall be taxed against him, and, in the
6 discretion of the court, against the person who filed the petition in his
7 behalf.

[C., '97, § 4459.]

CHAPTER 19.

INJUNCTIONS.

SECTION 8296. When allowed.

1 An injunction may be obtained as an independent remedy in an
2 action by equitable proceedings, in all cases where such relief would
3 have been granted in equity previous to the adoption of the code; and
4 in all cases of breach of contract or other injury, where the party
5 injured is entitled to maintain and has brought an action by ordinary
6 proceedings, he may, in the same cause, pray and have a writ of
7 injunction against the repetition or continuance of such breach of con-
8 tract or other injury, or the commission of any breach of contract or
9 injury of a like kind arising out of the same contract or relating to
10 the same property or right, and he may also, in the same action,
11 include a claim for damages or other redress.

[C., '51, § 2189; R., '60, §§ 3773, 3778; C., '73, § 3386; C., '97,
§ 4354.]

SEC. 8297. Temporary or permanent.

1 In any of the cases mentioned in the preceding section, the injunc-
2 tion may either be a part of the judgment rendered in the action, or
3 it may, if proper grounds therefor are shown, be granted by order at
4 any stage of the case before judgment, and shall then be known as a
5 temporary injunction.

[C., '73, § 3387; C., '97, § 4355.]

SEC. 8298. Temporary—when allowed.

1 Where it appears by the petition therefor, which must be sup-
 2 ported by affidavit, that the plaintiff is entitled to the relief demanded,
 3 and such relief, or any part thereof, consists in restraining the com-
 4 mission or continuance of some act which would produce great or
 5 irreparable injury to the plaintiff; or where, during litigation, it ap-
 6 pears that the defendant is doing, or threatens, or is about to do, or is
 7 procuring or suffering to be done, some act in violation of the plaintiff's
 8 rights respecting the subject of the action, and tending to render
 9 the judgment ineffectual, a temporary injunction may be granted to
 10 restrain such act. It may also be granted in any case where it is
 11 specially authorized by statute.

[C., '51, § 2191; R., '60, § 3775; C., '73, § 3388; C., '97,
 § 4356.]

SEC. 8299. By whom granted.

1 A temporary injunction may be granted:

2 1. By the court or judge thereof in which the action is pending or
 3 is to be brought.

4 2. By any judge of the district court of such district, or a superior
 5 court in the proper county.

6 3. By any judge of the supreme, or a judge of any other district
 7 court.

8 But in cases where an action is pending, and it is applied for to
 9 affect the subject matter thereof, it can only be granted by the court
 10 or judge thereof in which such action is pending. Nor shall it be
 11 granted by any judge mentioned in the second subdivision hereof,
 12 unless it satisfactorily appears by affidavit that the court or judge
 13 thereof in which the action is brought can not, for want of time, sick-
 14 ness, or other disability, hear the same, or that the residence of the
 15 judge is inconvenient, or that it is for some sufficient reason imprac-
 16 ticable to make the application to him. Nor shall it be granted by any
 17 judge mentioned in the third subdivision hereof, unless it be made
 18 satisfactorily to appear to such judge, by affidavit, that the application
 19 therefor can not, for some sufficient reason, be made to either of the
 20 courts or judges mentioned in the first or second subdivision of this
 21 section.

[C., '51, § 2191; R., '60, § 3775; C., '73, § 3389; C., '97,
 § 4357.]

SEC. 8300. Notice to defendant who has answered.

1 An injunction shall not be granted against a defendant who has
 2 answered, unless he has had notice of the application.

[C., '73, § 3390; C., '97, § 4358.]

SEC. 8301. Notice in other cases.

1 An injunction to stop the general and ordinary business of a cor-
 2 poration, or the operations of a railway, or of a municipal corporation,
 3 or the erection of any building or other work, or the board of super-
 4 visors of any county, or to restrain a nuisance, can only be granted
 5 upon reasonable notice of the time and place of the application to the
 6 party to be enjoined; nor shall any temporary writ of injunction be
 7 allowed by any judge during term time, except the petition therefor
 8 shall be first filed with the clerk and entered upon the court calendar

9 of that term, and the order allowing the same, if granted, shall be
10 entered therein.

[C., '73, § 3391; C., '97, § 4359.]

SEC. 8302. Refusal by court conclusive.

1 No injunction shall be granted by a judge after the application
2 therefor has been overruled by the court; nor by a court or judge,
3 when it has been refused by the court or judge thereof in which the
4 action is brought. A judge refusing an injunction shall, if requested
5 by either party, give him a certificate thereof.

[C., '73, § 3392; C., '97, § 4360.]

SEC. 8303. Motion to dissolve.

1 The defendant may move to dissolve the injunction, either before
2 or after the filing of the answer.

[C., '51, § 2206; R., '60, § 3790; C., '73, § 3393; C., '97,
§ 4361.]

SEC. 8304. Order issued.

1 If the order is made by the court, the clerk shall make an entry
2 thereof in the court record, and issue the order accordingly. If made
3 by the judge, he must indorse the said order upon the petition.

[C., '51, § 2192; R., '60, § 3776; C., '73, § 3394; C., '97,
§ 4362.]

SEC. 8305. Bond.

1 The order of allowance must direct the injunction to issue only
2 after the filing of a bond in the office of the clerk of the proper court,
3 in a penalty fixed in the order, with sureties to be approved by the
4 clerk, and conditioned for the payment of all damages which may be
5 adjudged against petitioner by reason of such injunction.

[C., '51, § 2193; R., '60, § 3777; C., '73, § 3395; C., '97,
§ 4363.]

SEC. 8306. When to restrain proceedings or judgment.

1 When proceedings in a civil action, or on a judgment or final order,
2 are sought to be enjoined, the action must be brought in the county
3 and court in which such action is pending or the judgment or order
4 was obtained, unless such judgment or final order is obtained in the su-
5 preme court, in which case the action must be brought in the county
6 and court from which the case was taken to the supreme court.

[C., '51, § 2194; R., '60, § 3778; C., '73, § 3396; C., '97,
§ 4364.]

SEC. 8307. Bond in such case.

1 In an action to enjoin the proceedings in a civil action, or on a
2 judgment or final order, the bond must be further conditioned to pay
3 such judgment, or comply with such final order if the injunction is
4 not made perpetual, or to pay any judgment that may be ultimately
5 recovered against the party obtaining the injunction on the cause of
6 action enjoined.

[C., '51, § 2194; R., '60, § 3778; C., '73, § 3396; C., '97,
§ 4365.]

SEC. 8308. Penalty.

1 The penalty of the bond must be twice the probable amount of
2 liability to be thereby incurred.

[C., '51, § 2195; R., '60, § 3779; C., '73, § 3397; C., '97,
§ 4366.]

SEC. 8309. Defendant to show cause.

1 The court or judge, before granting the writ, may allow the de-
2 fendant an opportunity to show cause why such order should not be
3 granted.

[C., '51, § 2197; R., '60, § 3781; C., '73, § 3398; C., '97,
§ 4367.]

SEC. 8310. Application for dissolution.

1 If the order is granted without allowing the defendant to show
2 cause, he may, at any time before the next term of the court, apply
3 to the judge who made the order to vacate or modify the same, or the
4 application may be made to the judge of the court in which the action
5 is pending.

[C., '51, § 2198; R., '60, § 3782; C., '73, § 3399; C., '97,
§ 4368.]

SEC. 8311. Notice—showing.

1 The application must be with notice to the plaintiff, upon the
2 ground that the order was improperly granted, or it may be founded
3 on the answer of defendants and affidavits. In the latter case, the
4 plaintiff may fortify his application by counter affidavits, and have
5 reasonable time therefor.

[C., '51, § 2199; R., '60, § 3783; C., '73, § 3400; C., '97,
§ 4369.]

SEC. 8312. Dissolution.

1 The judge shall decide the matter at once, unless some good cause
2 for delay is shown, but the vacation of the order shall not prevent the
3 action from proceeding, if anything is left to proceed upon.

[C., '51, § 2200; R., '60, § 3784; C., '73, § 3401; C., '97,
§ 4370.]

SEC. 8313. Only one motion.

1 Only one motion to dissolve or modify an injunction upon the
2 whole case shall be allowed.

[R., '60, § 3793; C., '73, § 3402; C., '97, § 4371.]

SEC. 8314. Proceedings for violation.

1 Any judge of the supreme, district or superior court, being fur-
2 nished with an authenticated copy of the injunction and satisfactory
3 proof that it has been violated, shall issue his precept to the sheriff of
4 the county where the violation occurred, or to any other sheriff, nam-
5 ing him, more convenient to all parties concerned, directing him to at-
6 tach the defendant and bring him forthwith before the same or some
7 other judge, at a place to be stated in said precept.

[C., '51, § 2201; R., '60, § 3785; C., '73, § 3403; C., '97,
§ 4372.]

SEC. 8315. Contempt purged.

1 When produced, he may file his affidavit denying or excusing the
 2 contempt, and the court may hear other evidence oral or by affidavit,
 3 and if satisfied that the defendant is not guilty, or that the contempt
 4 is sufficiently excused, he shall be released, and all affidavits shall be
 5 filed with and preserved by the clerk.

[C., '51, § 2202; R., '60, § 3786; C., '73, § 3404; C., '97,
 § 4373.]

SEC. 8316. Bond required.

1 If not so released, the judge may require him to give bond, with
 2 surety, for his appearance at the next term of the court and for his
 3 future obedience to the injunction, which shall be filed with the clerk.

[C., '51, § 2203; R., '60, § 3787; C., '73, § 3405; C., '97,
 § 4374.]

SEC. 8317. Commitment.

1 If he fails to give such bond, he may be committed to the jail of
 2 the county where the proceedings are pending until the next term of
 3 court, unless he gives the bond in the meantime.

[C., '51, § 2204; R., '60, § 3788; C., '73, § 3406; C., '97,
 § 4375.]

SEC. 8318. Contempt punished.

1 The court at the next term shall act upon the case, and, if a con-
 2 tempt is found to have been committed, punish it in the usual mode.

[C., '51, § 2205; R., '60, § 3789; C., '73, § 3407; C., '97,
 § 4376.]

CHAPTER 20.**CONTEMPTS.****SECTION 8319. What punishable as.**

1 The following acts or omissions are contempts, and are punish-
 2 able as such by any of the courts of this state, or by any judicial officer,
 3 including justices of the peace, acting in the discharge of an official
 4 duty, as hereinafter provided:

5 1. Contemptuous or insolent behavior toward such court while en-
 6 gaged in the discharge of a judicial duty which may tend to impair
 7 the respect due to its authority.

8 2. Any wilful disturbance calculated to interrupt the due course
 9 of its official proceedings.

10 3. Illegal resistance to any order or process made or issued by it.

11 4. Disobedience to any subpoena issued by it and duly served, or
 12 refusing to be sworn or to answer as a witness.

13 5. Unlawfully detaining a witness or party to an action or pro-
 14 ceeding pending before such court, while going to or remaining at the
 15 place where the action or proceeding is thus pending, after being sum-

16 moned, or knowingly assisting, aiding or abetting any person in evad-
17 ing service of the process of such court.

18 6. Any other act or omission specially declared a contempt by law.
[C., '51, § 1598; R., '60, § 2688; C., '73, § 3491; C., '97,
§ 4460.]

SEC. 8320. In courts of record.

1 In addition to the above, any court of record may punish the fol-
2 lowing acts or omissions as contempts:

3 1. Failure to testify before a grand jury, when lawfully required
4 to do so.

5 2. Assuming to be an officer, attorney or counselor of the court,
6 and acting as such without authority.

7 3. Misbehavior as a juror, by improperly conversing with a party
8 or with any other person in relation to the merits of an action in which
9 he is acting or is to act as a juror, or receiving a communication from
10 any person in respect to it without immediately disclosing the same to
11 the court.

12 4. Bribing, attempting to bribe, or in any other manner improv-
13 erly influencing or attempting to influence a juror to render a verdict,
14 or suborning or attempting to suborn a witness.

15 5. Disobedience by an inferior tribunal, magistrate or officer to
16 any lawful judgment, order or process of a superior court, or proceed-
17 ing in any matter in a manner contrary to law, after it has been re-
18 moved from such tribunal, magistrate or officer.

[C., '51, § 1599; R., '60, § 2689; C., '73, § 3492; C., '97,
§ 4461.]

SEC. 8321. Punishment.

1 The punishment for contempts may be by fine or imprisonment, or
2 both, but where not otherwise specially provided, courts of record are
3 limited to a fine of fifty dollars, and an imprisonment not exceeding
4 one day, and all other courts are limited to a fine of ten dollars.

[C., '51, § 1600; R., '60, § 2690; C., '73, § 3493; C., '97,
§ 4462.]

SEC. 8322. Imprisonment.

1 If the contempt consists in an omission to perform an act which
2 is yet in the power of the person to perform, he may be imprisoned
3 until he performs it. In that case the act to be performed must be
4 specified in the warrant of the commitment.

[C., '51, § 1601; R., '60, § 2691; C., '73, § 3494; C., '97,
§ 4463.]

SEC. 8323. When affidavit necessary.

1 Unless the contempt is committed in the immediate view and
2 presence of the court, or comes officially to its knowledge, an affidavit
3 showing the nature of the transaction is necessary as a basis for
4 further action in the premises.

[C., '51, § 1602; R., '60, § 2692; C., '73, § 3495; C., '97,
§ 4464.]

SEC. 8324. Notice to show cause.

1 Before punishing for contempt, unless the offender is already in
2 the presence of the court, he must be served personally with a rule to

3 show cause against the punishment, and a reasonable time given him
 4 therefor; or he may be brought before the court forthwith, or on a
 5 given day, by warrant, if necessary. In either case he may, at his
 6 option, make a written explanation of his conduct under oath, which
 7 must be filed and preserved.

[C., '51, § 1603; R., '60, § 2693; C., '73, § 3496; C., '97,
 § 4465.]

SEC. 8325. Testimony reduced to writing.

1 Where the action of the court is founded upon evidence given by
 2 others, such evidence must be in writing, and be filed and preserved,
 3 and if the court or judge acts upon personal knowledge in the premises,
 4 a statement of the facts upon which the order is founded must be
 5 entered on the records of the court, or be filed and preserved when the
 6 court keeps no record, and shall be a part of the record.

[C., '51, § 1604; R., '60, § 2694; C., '73, § 3497; C., '97,
 § 4466.]

SEC 8326. Warrant of commitment.

1 When the offender is committed, the warrant must state the par-
 2 ticular facts and circumstances on which the court acted in the prem-
 3 ises, and whether the same was in the knowledge of the court or was
 4 proved by witnesses.

[C., '51, § 1605; R., '60, § 2695; C., '73, § 3498; C., '97,
 § 4467.]

SEC. 8327. Review by certiorari.

1 No appeal lies from an order to punish for a contempt, but the
 2 proceedings may, in proper cases, be taken to a higher court for revi-
 3 sion by certiorari.

[C., '51, § 1606; R., '60; § 2696; C., '73, § 3499; C., '97,
 § 4468.]

SEC. 8328. Indictment.

1 The punishment for a contempt constitutes no bar to an indict-
 2 ment, but if the offender is indicted and convicted for the same offense,
 3 the court, in passing sentence, must take into consideration the pun-
 4 ishment before inflicted.

[C., '51, § 1607; R., '60, § 2697; C., '73, § 3500; C., '97,
 § 4469.]

SEC. 8329. "Court" defined.

1 Any officer authorized to punish for contempt is a court within
 2 the meaning of this chapter.

[C., '51, § 1608; R., '60, § 2698; C., '73, § 3501; C., '97,
 § 4470.]

CHAPTER 21.

OFFICIAL BONDS, FINES, AND FORFEITURES.

SECTION 8330. Official bonds construed.

1 The official bond of a public officer is to be construed as a security
 2 to the body politic or civil corporation of which he is an officer, and to
 3 all the members thereof, severally, who are intended to be secured
 4 thereby.

[C., '51, § 2145; R., '60, § 3727; C., '73, § 3368; C., '97,
 § 4336.]

SEC. 8331. Prior judgment no bar.

1 A judgment in favor of a party for one delinquency does not pre-
 2 clude the same or another party from an action on the same security
 3 for another delinquency, except that sureties can be made liable in the
 4 aggregate only to the extent of their undertaking.

[C., '51, § 2147; R., '60, § 3728; C., '73, § 3369; C., '97,
 § 4337.]

SEC. 8332. Fines and forfeitures.

1 Fines and forfeitures not otherwise disposed of go into the treas-
 2 ury of the county where the same are collected, for the benefit of the
 3 school fund.

[C., '51, §§ 1158, 2148; R., '60, § 3729; C., '73, § 3370; C., '97,
 § 4338.]

SEC. 8333. By whom action prosecuted.

1 Actions for their recovery may be prosecuted by the officers or
 2 persons to whom they by law belong, in whole or in part, or by the
 3 public officer into whose hands they are to be paid when collected.

[C., '51, § 2149; R., '60, § 3730; C., '73, § 3371; C., '97,
 § 4339.]

SEC. 8334. Collusion.

1 A judgment for a penalty or forfeiture, rendered by collusion,
 2 does not prevent another action for the same subject matter.

[C., '51, § 2150; R., '60, § 3731; C., '73, § 3372; C., '97,
 § 4340.]

SEC. 8335. Report of forfeited bonds.

1 Clerks of district, superior and police courts, mayors of cities and
 2 towns, and justices of the peace shall, on the first Monday in January
 3 in each year, make report in writing to the board of supervisors for
 4 their respective counties of all forfeited recognizances in their offices;
 5 of all fines, penalties and forfeitures imposed in their respective courts,
 6 which by law go into the county treasury for the benefit of the school
 7 fund; in what cause or proceeding, when and for what purpose, against
 8 whom and for what amount, rendered; whether said fines, penalties,
 9 forfeitures and recognizances have been paid, remitted, canceled or
 10 otherwise satisfied; if so, when, how and in what manner, and if not
 11 paid, remitted, canceled or otherwise satisfied, what steps have been
 12 taken to enforce the collection thereof. Such report must be full, true
 13 and complete with reference to the matters therein contained, and of

14 all things required by this section to be reported, and be under oath,
 15 and any officer failing to make such report shall be guilty of a mis-
 16 demeanor.

[C., '73, § 3974; C., '97, § 1302.]

CHAPTER 22.

SEIZURE OF BOATS OR RAFTS.

SECTION 8336. Seizure.

1 In an action brought against the owners of any boat or raft to
 2 recover any debt contracted by such owner, or by the master, agent,
 3 clerk or consignee thereof, for supplies furnished, or for labor done in,
 4 about or on such boat or raft, or for materials furnished in building,
 5 repairing, fitting out, furnishing or equipping the same, or to recover
 6 for the nonperformance of any contract relative to the transportation
 7 of persons or property thereon, made by any of the persons aforemen-
 8 tioned, or to recover damages for injuries to persons or property done
 9 by such boat or raft or the officers or crew thereof in connection with
 10 its business, a warrant may issue for the seizure of the same as herein
 11 provided.

[C., '51, § 2116; R., '60, §§ 3693, 3698, 3700; C., '73, §§ 3432,
 3445, 3447; C., '97, § 4402.]

SEC. 8337. Petition and warrant.

1 The petition must be in writing, sworn to, and filed with the clerk
 2 or a justice of the peace, who shall thereupon issue a warrant to the
 3 proper officer, commanding him to seize the boat or raft, its apparel,
 4 tackle, furniture and appendages, and detain the same until released
 5 by due course of law.

[C., '51, § 2121; R., '60, § 3701; C., '73, § 3433; C., '97,
 § 4403.]

SEC. 8338. Warrant issued on Sunday.

1 The warrant may be issued on Sunday, if the plaintiff, his agent
 2 or attorney states in his petition that it would be unsafe to delay pro-
 3 ceedings.

[R., '60, § 3702; C., '73, § 3434; C., '97, § 4404.]

SEC. 8339. Service of notice.

1 It shall be sufficient service of the original notice in such an action
 2 to serve it on the defendant, or on the master, agent, clerk or con-
 3 signee of such boat or raft; if neither of them can be found, it may be
 4 served by posting a copy thereof on some conspicuous part of the same.

[C., '51, § 2122; R., '60, § 3703; C., '73, § 3435; C., '97,
 § 4405.]

SEC. 8340. Service of warrant.

1 Any constable or marshal of any city or town may execute the
 2 warrant, whether it issues from the office of the clerk of the district or
 3 superior court, or of a justice.

[R., '60, § 3704; C., '73, § 3436; C., '97, § 4406.]

SEC. 8341. Who may appear.

1 Any persons interested in the property seized may appear for the
 2 defendant by himself, agent or attorney, and defend the action, and no
 3 continuance shall be granted to the plaintiff while the property is held
 4 in custody.

[C., '51, § 2123; R., '60, § 3705; C., '73, § 3437; C., '97,
 § 4407.]

SEC. 8342. Discharge by giving bond.

1 The property seized may be discharged at any time before final
 2 judgment, by giving a bond with sureties, to be approved by the officer
 3 executing the warrant, or by the clerk or justice who issued it, in a
 4 penalty double the plaintiff's demand, conditioned that the obligors
 5 therein will pay the amount which may be found due to the plaintiff,
 6 together with the costs.

[C., '51, § 2124; R., '60, § 3706; C., '73, § 3438; C., '97,
 § 4408.]

SEC. 8343. Special execution.

1 If judgment is rendered for the plaintiff before the property is
 2 thus discharged, a special execution shall be issued against it. If it
 3 has been previously discharged, the execution shall issue against the
 4 principal and sureties in the bond without further proceedings.

[C., '51, § 2125; R., '60, § 3707; C., '73, § 3439; C., '97,
 § 4409.]

SEC. 8344. Sale.

1 The officer must first sell the furniture or appendages of the boat
 2 or raft, if by so doing he can satisfy the demand. If he sells the boat
 3 or raft, he must do so to the bidder who will advance the amount re-
 4 quired to satisfy the execution for the lowest fractional share thereof,
 5 unless the person defending desires a different and equally convenient
 6 mode of sale. The officer making the sale shall execute a bill of sale to
 7 the purchaser for the interest sold.

[C., '51, § 2126; R., '60, § 3708; C., '73, § 3440; C., '97,
 § 4410.]

SEC. 8345. Fractional share sold.

1 If a fractional share of the boat or raft is thus sold, the pur-
 2 chaser shall hold such share or interest jointly with the other owners.

[C., '51, § 2127; R., '60, § 3709; C., '73, § 3441; C., '97,
 § 4411.]

SEC. 8346. Appeal.

1 If an appeal is taken by the defendant before the property is dis-
 2 charged as above provided, the appeal bond, if one is filed, will have
 3 the same effect in discharging it as the bond above contemplated, and
 4 execution shall issue against the obligors therein after judgment in the
 5 same manner.

[C., '51, § 2128; R., '60, § 3710; C., '73, § 3442; C., '97,
 § 4412.]

SEC. 8347. Rights saved.

1 Nothing herein contained is intended to affect the rights of a
2 plaintiff to sue in the same manner as though the provisions of this
3 chapter had not been enacted.

[C., '51, § 2129; R., '60, § 3711; C., '73, § 3443; C., '97,
§ 4413.]

SEC. 8348. Contract alleged.

1 In actions commenced in accordance with the provisions of this
2 chapter, it is sufficient to allege the contract to have been made with
3 the boat or raft itself.

[C., '51, § 2130; R., '60, § 3712; C., '73, § 3444; C., '97,
§ 4414.]

SEC. 8349. Lien.

1 Claims growing out of either of the above causes shall be liens
2 upon the boat or raft, its tackle and appendages, for the term of twenty
3 days from the time the right of action therefor accrued.

[R., '60, § 3699; C., '73, § 3446; C., '97, § 4415.]

SEC. 8350. Appearance by executing bond.

1 The execution by or for the owner of such boat or raft of a bond,
2 whereby possession of the same is obtained or retained by him, shall
3 be an appearance of such owner as a defendant to the action.

[R., '60, § 4130; C., '73, § 3448; C., '97, § 4416.]

CHAPTER 23.**CHANGING NAMES.****SECTION 8351. Who authorized.**

1 Any person, under no civil disabilities, who has attained his or her
2 majority and is unmarried, if a female, desiring to change his or her
3 name, may do so as provided in this chapter.

[C., '51, §§ 2256-2260; R., '60, §§ 3844-3848; C., '73, §§ 3502-
3506; C., '97, §§ 4471-4475; S., '13, § 4471-b.]

SEC. 8352. Statement—what to contain.

1 Such person shall make and subscribe to a statement under oath
2 showing that he or she is a resident of the county where such applica-
3 tion is made and of the state of Iowa for a period of not less than one
4 year; his or her place of residence, giving lot and block if in a city,
5 town or village and street number and business address if any, and the
6 section, township, range and name of civil township if not in a city or
7 town; the different places of residence and times of such residence for
8 the past five years; place and date of birth, and, if of foreign birth,
9 the date of immigration to the United States; legal name and name or
10 names by which such person is usually known and new name as
11 changed or adopted; name of parents of such person, his or her height
12 and color of hair and eyes; the reason or cause for change of name
13 briefly and concisely stated, and there shall be incorporated in such

14 statement or attached thereto a concise description of all real estate
15 within this state the title to which is in the person making such
16 statement.

[S., '13, § 4471-c.]

SEC. 8353. Affidavit of freeholder.

1 An affidavit of a freeholder of the county shall be attached to such
2 statement to the effect that affiant has personally investigated the
3 facts set out in same and that the same are true; that the person filing
4 such statement is an actual resident of the county and the identical
5 person he or she is represented to be.

[S., '13, § 4471-d.]

SEC. 8354. Statement filed and recorded.

1 Such statement shall be presented to the clerk of the district court
2 who shall file same if it is found to be in substantial compliance with
3 all of the provisions of this chapter and not otherwise, and enter
4 same of record in a book kept for that purpose and index same both
5 under the former name and new name, and shall enter upon the back
6 the date of filing, the book and page where recorded and serial num-
7 ber thereof and file same in his office.

[S., '13, § 4471-e.]

SEC. 8355. Reindexing real estate.

1 When such statement shall have been filed and recorded as herein
2 provided, the clerk shall, if the description of any real estate of that
3 county be contained therein, deliver it to the county recorder who shall
4 index the same, both under the former name and under the new name
5 as changed or adopted, in the manner of indexing transfers of real
6 estate, and enter opposite thereto the description of real estate as found
7 in such statement; such indexing shall be in the index of transfers of
8 land or town property according to the description of said real estate,
9 or both as the case may be. The index shall also show the serial num-
10 ber of such statement and book and page where same is recorded in
11 the office of the clerk of the district court, and the words, "change of
12 name" shall be written on said index in red ink, at or opposite to the
13 name.

[S., '13, § 4471-f.]

SEC. 8356. Fees.

1 The clerk shall receive a fee of one dollar for his services, and
2 shall also collect ten cents for each separate description of real estate
3 in the statement, which sum shall be paid to the recorder for indexing
4 same. The clerk shall, upon demand of any party and the payment of
5 the fee of one dollar, furnish a certified copy of such statement showing
6 the serial number thereof, date of filing and the book and page of rec-
7 ord of same; and, upon the payment of twenty-five cents, shall com-
8 pare and certify to any correct copy of such statement furnished him
9 for that purpose.

[S., '13, § 4471-g.]

SEC. 8357. New name—when effective.

1 Upon the expiration of thirty days from the time of filing the
2 statement herein provided for, the new name as changed or adopted

3 therein shall become the legal name of the party filing such statement,
 4 and the surname of such new name shall become the legal surname of
 5 the wife and minor children of such person. No person shall change
 6 his or her name more than once under the provisions of this chapter.

[S., '13, § 4471-h.]

SEC. 8358. Certified copy—indexing real estate in other counties.

1 Within one year after the filing of such statement, the party
 2 changing his or her name shall cause a certified copy thereof to be
 3 presented to the recorder of each county in Iowa where there is real
 4 estate the legal title to which is in such party, and pay such recorder
 5 ten cents for each separate description in such county, and such re-
 6 corder shall index same in the manner prescribed in this chapter and
 7 return same.

[S., '13, § 4471-i.]

SEC. 8359. Failure to comply.

1 Any person failing or neglecting to comply with the provisions of
 2 the preceding section shall be guilty of a misdemeanor and punished
 3 accordingly.

[S., '13, § 4471-j.]

CHAPTER 24.

PATERNITY OF ILLEGITIMATE CHILDREN.

SECTION 8360. Complaint.

1 When any woman residing in any county of the state is delivered
 2 of an illegitimate child, or is pregnant with a child which, if born
 3 alive, will be illegitimate, complaint may be made in writing by any
 4 person to the district court of the county where she resides, stating
 5 that fact, and charging the proper person with being the father
 6 thereof. The proceedings shall be entitled in the name of the state
 7 against the accused as defendant.

[C., '51, § 848; R., '60, § 1416; C., '73, § 4715; C., '97,
 § 5629.]

SEC. 8361. Notice.

1 Upon the filing of the complaint, the clerk shall cause notice to
 2 be given to the person so charged as in an ordinary action.

[C., '51, § 849; R., '60, § 1417; C., '73, § 4716; C., '97, § 5630.]

SEC. 8362. Lien created.

1 From the time of the filing of such complaint, a lien shall be
 2 created upon the real property of the accused in the county where the
 3 action is pending for the payment of any money and the performance
 4 of any order adjudged by the proper court.

[C., '51, § 850; R., '60, § 1418; C., '73, § 4717; C., '97, § 5631.]

SEC. 8363. Attachment.

1 If the complaint is verified, the district judge may order an at-
 2 tachment to issue thereon without bond, which order shall specify the

3 amount of property to be seized thereunder, and may be revoked at
 4 any time by such judge or the district court, on a showing made to
 5 either for a revocation of the same, and on such terms as such court
 6 or judge may deem proper in the premises.

[C., '73, § 4718; C., '97, § 5632.]

SEC. 8364. County attorney to prosecute.

1 The county attorney, on being notified of the facts justifying a
 2 complaint as provided in this chapter, or of the filing of such com-
 3 plaint, shall prosecute the matter in behalf of the complainant.

[C., '73, § 4719; C., '97, § 5633.]

SEC. 8365. Issue—how tried.

1 The issue on the trial shall be “guilty” or “not guilty,” and shall
 2 be tried as an ordinary action.

[C., '51, §§ 851, 854; R., '60, §§ 1419, 1422; C., '73, § 4720;
 C., '97, § 5634.]

SEC. 8366. Judgment and execution.

1 If the accused be found guilty, he shall be charged with the main-
 2 tenance of the child in such sum or sums, and in such manner, as the
 3 court shall direct, and with the costs of the action; and the clerk may
 4 immediately issue execution for any sum ordered to be paid, and
 5 afterward, from time to time, as it shall be required to compel com-
 6 pliance with the order of the court.

[C., '51, §§ 855, 856; R., '60, §§ 1423, 1424; C., '73, § 4721;
 C., '97, § 5635.]

SEC. 8367. Change of order.

1 The court may at any time increase or diminish such sums, or
 2 vacate any order or judgment rendered in the proceeding herein con-
 3 templated, on such notice to the defendant as the court or judge may
 4 prescribe.

[C., '73, § 4722; C., '97, § 5636.]

CHAPTER 25.

OFFER TO COMPROMISE.

SECTION 8368. Offer of judgment.

1 The defendant in an action for the recovery of money only may,
 2 at any time after service of notice and before the trial, serve upon
 3 the plaintiff or his attorney an offer in writing to allow judgment to
 4 be taken against him for a specified sum with costs. If the plaintiff
 5 accepts the offer, and gives notice thereof to the defendant or his
 6 attorney within five days after the offer is made, the offer, and an
 7 affidavit that the notice of acceptance was delivered in the time lim-
 8 ited, may be filed by the plaintiff, or the defendant may file the ac-
 9 ceptance with a copy of the offer, verified by affidavit; and in either
 10 case a minute of the offer and acceptance shall be entered upon the
 11 judge's calendar, and judgment shall be rendered by the court ac-

12 cordingly. If the notice of acceptance is not given in the period lim-
 13 ited, the offer shall be treated as withdrawn, and shall not be given
 14 in evidence or mentioned on the trial. If the plaintiff fails to obtain
 15 judgment for more than was offered by the defendant, he can not
 16 recover costs, but shall pay the defendant's costs from the time of
 17 the offer.

[R., '60, § 3405; C., '73, § 2900; C., '97, § 3819.]

SEC. 8369. Conditional offer.

1 In an action for the recovery of money only, the defendant, hav-
 2 ing answered, may serve upon the plaintiff or his attorney an offer in
 3 writing that, if he fails in his defense, the amount of recovery shall
 4 be assessed at a specified sum. If the plaintiff accepts the offer, and
 5 gives notice thereof to the defendant or his attorney within five days
 6 after it was served, or within three days if served in term time, and
 7 the defendant fails in his defense, the judgment shall be for the amount
 8 so agreed upon. If the plaintiff does not accept the offer, he shall prove
 9 the amount to be recovered as if the offer had not been made, and the
 10 offer shall not be given in evidence or mentioned on the trial, and if
 11 the amount recovered by the plaintiff does not exceed the sum men-
 12 tioned in the offer, the defendant shall recover his costs incurred in
 13 the defense.

[R., '60, § 3406; C., '73, § 2901; C., '97, § 3820.]

SEC. 8370. No cause for continuance.

1 The making of any offer pursuant to the provisions of this chapter
 2 shall not be cause for a continuance of the action or a postponement
 3 of the trial.

[R., '60, § 3407; C., '73, § 2902; C., '97, § 3821.]

CHAPTER 26.

JUDGMENT BY CONFESSION.

SECTION 8371. Judgment by confession—how entered.

1 A judgment by confession, without action, may be entered by the
 2 clerk of the district court.

[C., '51, § 1837; R., '60, § 3397; C., '73, § 2894; C., '97,
 § 3813.]

SEC. 8372. Only for money.

1 The judgment can be only for money due or to become due, or to
 2 secure a person against contingent liabilities on behalf of the defend-
 3 ant, and must be for a specified sum.

[C., '51, § 1838; R., '60, § 3398; C., '73, § 2895; C., '97,
 § 3814.]

SEC. 8373. Statement.

1 A statement in writing must be made, signed and verified by the
 2 defendant, and filed with the clerk, to the following effect:

3 1. If for money due or to become due, it must state concisely the
4 facts out of which the indebtedness arose, and that the sum confessed
5 therefor is justly due, or to become due, as the case may be.

6 2. If for the purpose of securing the plaintiff against a contingent
7 liability, it must state concisely the facts constituting such liability,
8 and must show that the sum confessed therefor does not exceed the
9 same.

[C., '51, § 1839; R., '60, § 3399; C., '73, § 2896; C., '97,
§ 3815.]

SEC. 8374. Judgment—execution.

1 The clerk shall thereupon make an entry of judgment in his court
2 record for the amount confessed and costs, and shall issue execution
3 thereon as in other cases, when ordered by the party entitled thereto.

[C., '51, § 1840; R., '60, § 3400; C., '73, § 2897; C., '97,
§ 3816.]

SEC. 8375. Offer to confess before action.

1 Before an action for the recovery of money is brought against any
2 person, he may go before the clerk of the county of his residence, or of
3 that in which the person having the cause of action resides, and offer
4 to confess judgment in favor of such person for a specified sum on such
5 cause of action, as provided for in the foregoing sections. If such per-
6 son, having had the same notice as if he were defendant in an action
7 that the offer would be made, of its amount, and of the time and place
8 of making it, refuses to accept it, and afterwards commences an action
9 upon such cause, and does not recover more than the amount so offered
10 to be confessed, he shall pay all the costs of the action; and on the trial
11 thereof the offer shall not be treated as an admission of the cause of
12 action or amount to which the plaintiff was entitled, nor be given in
13 evidence.

[R., '60, § 3403; C., '73, § 2898; C., '97, § 3817.]

SEC. 8376. After action brought.

1 After an action for the recovery of money is brought, the de-
2 fendant may offer in court to confess judgment for part of the amount
3 claimed, or part of the causes involved in the action. If the plaintiff,
4 being present, refuses to accept judgment for such sum in full of his
5 demands in the action, or, having had three days' notice that the offer
6 would be made, of its amount, and of the time of making it, fails to
7 attend, and on the trial does not recover more than was offered to be
8 confessed, he shall pay the costs of the defendant incurred after the
9 offer. The offer shall not be treated as an admission of the cause of
10 action or amount to which the plaintiff was entitled nor be given in
11 evidence upon the trial.

[R., '60, § 3404; C., '73, § 2899; C., '97, § 3818.]

CHAPTER 27.

SUBMITTING CONTROVERSIES TO COURT WITHOUT TRIAL.

SECTION 8377. Agreed statement of facts.

- 1 Parties to a question in difference, which might be the subject of
- 2 a civil action, may, without action, present an agreed statement of the
- 3 facts to any court having jurisdiction of the subject matter.

[C., '51, § 1843; R., '60, § 3408; C., '73, § 3408; C., '97, § 4377.]

SEC. 8378. Affidavit.

- 1 It must be shown by affidavit that the controversy is real, and
- 2 that the proceeding is in good faith to determine the rights of the
- 3 parties thereto.

[C., '51, § 1844; R., '60, § 3409; C., '73, § 3409; C., '97, § 4378.]

SEC. 8379. Judgment.

- 1 The court shall hear and determine the case and render judgment
- 2 as if an action were pending.

[C., '51, § 1845; R., '60, § 3410; C., '73, § 3410; C., '97, § 4379.]

SEC. 8380. Record.

- 1 The statement, the submission and the judgment shall consti-
- 2 tute the record.

[R., '60, § 3411; C., '73, § 3411; C., '97, § 4380.]

SEC. 8381. Judgment enforced.

- 1 The judgment shall be with costs, and it may be enforced and
- 2 shall be subject to review in the same manner as if it had been ren-
- 3 dered in an action, unless otherwise provided for in the submission.

[R., '60, § 3412; C., '73, § 3412; C., '97, § 4381.]

SEC. 8382. Submission of cause pending.

- 1 The same may also be done at any time before trial in an action
- 2 pending, subject to the same requirements and attended by the same
- 3 results as in a case without action, and such submission of a stated
- 4 case shall be an abandonment by both parties of all pleadings filed in
- 5 such cause, and the cause shall stand on the agreed case alone, which
- 6 must provide for any lien created for attachment, and for any prop-
- 7 erty in the custody of the law, else such lien and custody will be held
- 8 to be waived.

[R., '60, § 3413; C., '73, § 3413; C., '97, § 4382.]

SEC. 8383. Judgment.

- 1 The parties may, if they think fit, enter into an agreement in
- 2 writing that, upon the judgment of the court being given on the ques-
- 3 tion of law raised, particular property therein described, or a sum of
- 4 money fixed by the parties or to be ascertained by the court or in such
- 5 manner as the court may direct, shall be delivered to and vested in one
- 6 of the parties by the other, or, in case of money, shall be paid by one

7 of such parties to the other of them, either with or without costs of
 8 the action; and the judgment of the court may be entered for the
 9 transfer and delivery of such property, or for such sum as shall be so
 10 agreed or ascertained, with or without costs, as the case may be.
 [R., '60, § 3414; C., '73, § 3414; C., '97, § 4383.]

SEC. 8384. Costs.

1 In case no agreement is entered into as to the costs, they shall
 2 follow the event of the action, and be recovered by the successful
 3 party.

[R., '60, § 3415; C., '73, § 3415; C., '97, § 4384.]

CHAPTER 28.

ARBITRATION.

SECTION 8385. What controversies.

1 All controversies which might be the subject of civil action may
 2 be submitted to the decision of one or more arbitrators, as hereafter
 3 provided.

[C., '51, § 2098; R., '60, § 3675; C., '73, § 3416; C., '97,
 § 4385.]

SEC. 8386. Written agreement.

1 The parties themselves, or those persons who might lawfully have
 2 controlled a civil action in their behalf for the same subject matter,
 3 must sign and acknowledge a written agreement, specifying particu-
 4 larly what demands are to be submitted, the names of the arbitrators,
 5 and court by which the judgment on their award is to be rendered.

[C., '51, §§ 2099, 2100; R., '60, §§ 3676, 3677; C., '73, § 3417;
 C., '97, § 4386.]

SEC. 8387. What submitted.

1 The submission may be of some particular matters or demands,
 2 or of all demands which the one party has against the other, or of all
 3 mutual demands on both sides.

[C., '51, § 2101; R., '60, § 3678; C., '73, § 3418; C., '97,
 § 4387.]

SEC. 8388. Action pending.

1 A submission to arbitration of the subject matter of an action
 2 may also be made by an order of court, upon agreement of parties,
 3 after action is commenced.

[C., '51, § 2102; R., '60, § 3679; C., '73, § 3419; C., '97,
 § 4388.]

SEC. 8389. Procedure.

1 All the rules prescribed by law in cases of referees are applicable
 2 to arbitrators, except as herein otherwise expressed, or except as
 3 otherwise agreed upon by the parties.

[C., '51, § 2103; R., '60, § 3680; C., '73, § 3420; C., '97,
 § 4389.]

SEC. 8390. Revocation.

1 Neither party shall have the power to revoke the submission
2 without the consent of the other.

[C., '51, § 2104; R., '60, § 3681; C., '73, § 3421; C., '97,
§ 4390.]

SEC. 8391. Neglect to appear.

1 If either party neglects to appear before the arbitrators after due
2 notice, except in case of sickness, they may nevertheless proceed to
3 hear and determine the controversy upon the evidence which is pro-
4 duced before them.

[C., '51, § 2105; R., '60, § 3682; C., '73, § 3422; C., '97,
§ 4391.]

SEC. 8392. Time for award.

1 If the time within which the award is to be made is fixed in the
2 submission, one made after that time shall not have any legal effect,
3 unless made upon a recommitment of the matter by the court to which
4 it is reported.

[C., '51, § 2106; R., '60, § 3683; C., '73, § 3423; C., '97,
§ 4392.]

SEC. 8393. When time not fixed.

1 If the time of filing the award is not fixed in the submission, it
2 must be filed within one year from the time the agreement is signed
3 and acknowledged, unless by mutual consent the time is prolonged.

[C., '51, § 2107; R., '60, § 3684; C., '73, § 3424; C., '97,
§ 4393.]

SEC. 8394. Award—how made.

1 The award must be in writing, and shall be delivered by one of the
2 arbitrators to the court designated in the agreement, or it may be in-
3 closed and sealed by them and transmitted to the court, and not
4 opened until the court so orders.

[C., '51, § 2108; R., '60, § 3685; C., '73, § 3425; C., '97,
§ 4394.]

SEC. 8395. Arbitration by agreement.

1 Awards by arbitrators who may have been chosen without com-
2 plying with the provisions of this chapter shall nevertheless be valid
3 and binding upon the parties thereto, as other contracts, and may be
4 impeached only for fraud or mistake, but such award can only be
5 enforced by an action.

[C., '97, § 4395.]

SEC. 8396. Hearing in court.

1 The award shall be entered on the docket of the court at the term
2 to which it is returned, as an action is entered, and shall be called up
3 and acted upon in its order, but the court may require actual notice to
4 be given to either party, when it appears necessary and proper, before
5 proceeding to act on the award.

[C., '51, § 2109; R., '60, § 3686; C., '73, § 3426; C., '97,
§ 4396.]

SEC. 8397. Rejection—rehearing.

1 The award may be rejected by the court for any legal and suffi-
2 cient reasons, or it may be recommitted for a rehearing to the same
3 arbitrators, or any others agreed upon by the parties, or appointed by
4 the court if they can not agree.

[C., '51, § 2110; R., '60, § 3687; C., '73, § 3427; C., '97,
§ 4397.]

SEC. 8398. Force and effect of award.

1 When the award has been adopted, it shall be filed and entered on
2 the records, and shall have the same force and effect as the verdict
3 of a jury. Judgment may be entered and execution issued accordingly.

[C., '51, § 2111; R., '60, § 3688; C., '73, § 3428; C., '97,
§ 4398.]

SEC. 8399. Appeal.

1 When an appeal is taken from such judgment, copies of the sub-
2 mission and award, together with all affidavits, shall be filed with the
3 clerk of the supreme court.

[C., '51, § 2112; R., '60, § 3689; C., '73, § 3429; C., '97,
§ 4399.]

SEC. 8400. Costs.

1 If there is no provision in the submission respecting costs, the
2 arbitrators may apportion the same.

[C., '51, § 2113; R., '60, § 3690; C., '73, § 3430; C., '97,
§ 4400.]

SEC. 8401. Rights saved.

1 Nothing herein contained shall be construed to affect in any man-
2 ner the control of the court over the parties, the arbitrators or their
3 award; nor to impair or affect any action upon an award, or upon any
4 bond or other engagement to abide an award.

[C., '51, § 2115; R., '60, § 3692; C., '73, § 3431; C., '97,
§ 4401.]

CHAPTER 29.**RECEIVERS.****SECTION 8402. When and how appointed.**

1 On the petition of either party to a civil action or proceeding,
2 wherein he shows that he has a probable right to, or interest in, any
3 property which is the subject of the controversy, and that such prop-
4 erty, or its rents or profits, are in danger of being lost or materially
5 injured or impaired, and on such notice to the adverse party as the
6 court or judge shall prescribe, the court, or, in vacation, the judge
7 thereof, if satisfied that the interests of one or both parties will be
8 thereby promoted, and the substantial rights of neither unduly in-
9 fringed, may appoint a receiver to take charge of and control such
10 property under its direction during the pendency of the action, and

11 may order and coerce the delivery of it to him. Upon the hearing of
 12 the application, affidavits, and such other proof as the court or judge
 13 permits, may be introduced, and upon the whole case such order made
 14 as will be for the best interest of all parties concerned.

[C., '51, § 1656; R., '60, §§ 3216, 3419; C., '73, §§ 2903, 2970;
 C., '97, § 3822.]

SEC. 8403. Oath and bond of.

1 Before entering upon the discharge of his duties, he must be sworn
 2 faithfully to discharge his trust to the best of his ability, and must
 3 also file with the clerk a bond with sureties, to be approved by him, in
 4 a penalty to be fixed by the court or judge, and conditioned for the
 5 faithful discharge of his duties, and that he will obey the orders of
 6 the court in respect thereto.

[C., '51, § 1657; R., '60, § 3420; C., '73, § 2904; C., '97,
 § 3823.]

SEC. 8404. Power of.

1 Subject to the control of the court or judge, a receiver has power
 2 to bring and defend actions, to take and keep possession of property,
 3 to collect debts, to receive the rents and profits of real property, and,
 4 generally, to do such acts in respect to the property committed to him
 5 as may be authorized by law or ordered by the court.

[C., '51, § 1658; R., '60, § 3421; C., '73, § 2905; C., '97,
 § 3824.]

SEC. 8405. Priority of liens—taxes.

1 Persons having liens upon the property placed in the hands of a
 2 receiver shall, if there is a contest as to their priority, submit them to
 3 the court for determination. Provided that when the assets of any
 4 corporation, partnership or person shall be placed in the hands of a
 5 receiver, all taxes against said corporation, partnership or person,
 6 whether levied under the laws of the state or ordinances of municipal
 7 corporations, shall be entitled to priority and be first paid in full by
 8 the receiver and claims therefor need not be filed with said receiver.

[C., '97, § 3825; S., '13, § 3825.]

SEC. 8406. Claims entitled to priority.

1 When the property of any person, partnership, company or cor-
 2 poration has been placed in the hands of a receiver for distribution,
 3 after the payment of all costs the following claims shall be entitled to
 4 priority of payment in the order named:

- 5 1. Taxes or other debts entitled to preference under the laws of
 6 the United States.
- 7 2. Debts due or taxes assessed and levied for the benefit of the
 8 state, county or other municipal corporation in this state.
- 9 3. Debts owing to employees for labor performed as defined by
 10 section seventy-six hundred ninety.

[S., '13, § 3825-a.]

CHAPTER 30.

ASSIGNMENT FOR BENEFIT OF CREDITORS.

SECTION 8407. Must be without preferences.

1 No general assignment of property by an insolvent person, firm
2 or corporation, or in contemplation of insolvency, for the benefit of
3 creditors, shall be valid unless it be made for the benefit of all the
4 creditors in proportion to the amount of their respective claims; and
5 in every such assignment the assent of the creditors shall be presumed.

[C., '51, §§ 977, 978; R., '60, §§ 1826, 1827; C., '73, §§ 2115,
2116; C., '97, § 3071.]

SEC. 8408. How made—inventory—effect—recording.

1 Every such assignment shall be by an instrument in writing,
2 setting forth the name of the assignor, his residence and business,
3 the name of the assignee and his residence and business, and, in a gen-
4 eral way, the property assigned and its location, and the purpose of the
5 assignment; it shall be signed and acknowledged in the manner pre-
6 scribed for the execution and acknowledgment of deeds, and recorded
7 in the office of the recorder of the county where the assignor resides,
8 and in any other county in the state in which he has real property to
9 be assigned thereby, in the records of deeds, and indexed in the proper
10 index books. The assignor shall annex to such instrument an inven-
11 tory, under oath, of his estate, real and personal, according to the best
12 of his knowledge, and a list of his creditors and the amount of their
13 respective demands, but such inventory shall not be conclusive as to
14 the amount of the debtor's estate; and such assignment shall vest in
15 the assignee the title to any other property belonging to the debtor at
16 the time of making the assignment, not exempt from execution. As
17 soon as such assignment is recorded, it shall be filed, with the inven-
18 tory and list of creditors, in the office of the clerk of the district court,
19 as shall all subsequent papers connected with such proceedings.

[R., '60, § 1828; C., '73, § 2117; C., '97, § 3072.]

SEC. 8409. Assignee—inventory and appraisement—removal.

1 The assignee shall forthwith file with the clerk of the district
2 court where such assignor resides a true and full inventory and valua-
3 tion of said estate under oath, so far as the same has come to his
4 knowledge, and shall then enter into bonds to said clerk, for the use
5 of the creditors, in double the amount of the inventory and valuation,
6 with one or more sureties to be approved by said clerk, for the faithful
7 performance of said trust, and the assignee may thereupon proceed
8 to perform any duty necessary to carry into effect the purpose of said
9 assignment.

[R., '60, § 1830; C., '73, § 2118; C., '97, § 3073.]

SEC. 8410. Notice.

1 The assignee shall forthwith give notice of such assignment by
2 publication in some newspaper in the county, which shall be contin-
3 ued, once each week, at least six weeks, and forthwith send a notice by
4 mail to each creditor of whom he shall be informed, directed to his

5 usual place of residence, requiring him to present to him within three
6 months thereafter his claims under oath.

[R., '60, § 1829; C., '73, § 2119; C., '97, § 3074; S., '13,
§ 3074.]

SEC. 8411. Claims filed.

1 The claims of all creditors, clearly and distinctly stated and
2 sworn to by the claimant, or by some person acquainted with the facts,
3 shall be filed with the assignee within three months from the date of
4 the first publication provided for in the preceding section, unless the
5 court extends such time for all or some of such claimants, which it may
6 do in its discretion where peculiar circumstances seem to justify such
7 extension, but in no case shall such time be extended beyond nine
8 months.

[C., '97, § 3075.]

SEC. 8412. List of creditors.

1 At the expiration of three months from the time of first publish-
2 ing notice, the assignee shall report and file with the clerk of the court
3 a true and full list, under oath, of all such creditors of the assignor as
4 shall have claimed to be such, with a statement of their claims, an affi-
5 davit of publication of notice, and a list of the creditors, with their
6 places of residence, to whom notice has been sent by mail, and the date
7 of mailing the same.

[R., '60, § 1831; C., '73, § 2120; C., '97, § 3076.]

SEC. 8413. Claims contested.

1 Any person interested may appear within three months after such
2 report is filed and contest the claim or demand of any creditor by
3 written exceptions thereto filed with the clerk, who shall forthwith
4 cause notice thereof to be given to the creditor, which shall be served
5 as in case of an original notice and returnable at the next term, at
6 which term the court shall proceed to hear the proofs and allegations
7 of the parties in the case, and render such judgment thereon as shall
8 be just, or it may allow a trial by jury.

[R., '60, § 1832; C., '73, § 2121; C., '97, § 3077.]

SEC. 8414. Priority of taxes.

1 In all assignments of property for the benefit of creditors, assess-
2 ments thereof or taxes levied thereon, whether under the laws of the
3 state or ordinances of municipal corporations, shall be entitled to prior-
4 ity, and paid in full by the assignee, and claims therefor need not be
5 filed with him.

[C., '97, § 3078.]

**SEC. 8415. Claims for services preferred—dividends—reports—
compensation.**

1 If the claim of any creditor is for personal services rendered the
2 assignor within ninety days next preceding the execution of the assign-
3 ment, it shall be paid in full. Subject to the provisions contained in
4 this and the preceding section, if no exception be made to the claim of
5 any creditor, or if the same has been adjudicated, the court shall order
6 the assignee to make, from time to time, fair and equal dividends

7 among the creditors of the assets in his hands in proportion to their
 8 claims, and as soon as may be to render a final account of said trust
 9 to said court, which may allow such compensation to said assignee in
 10 the final settlement as may be considered just and right. If, upon
 11 making the final dividend to the creditors, the assignee shall be unable,
 12 after reasonable efforts, to ascertain the place of residence of any cred-
 13 itor, or any person who is authorized to receive the dividend due him,
 14 he shall report the same to the court, with evidence showing diligent
 15 attempts to find such creditor or person authorized to receive the
 16 dividend, whereupon the court may, in its discretion, order the dis-
 17 tribution of the unclaimed dividend among the other creditors.

[R., '60, § 1833; C., '73, § 2122; C., '97, § 3079.]

SEC. 8416. Settlement.

1 The assignee shall be at all times subject to the order and super-
 2 vision of the court or judge, and from time to time may be compelled
 3 by citation or attachment to file reports of his proceedings and of the
 4 situation and condition of the trust, and to proceed in the execution
 5 of the duties required by this chapter; and he shall dispose of all per-
 6 sonal property and divide the proceeds of the same among creditors
 7 as they may be entitled thereto within six months from the date of the
 8 assignment, and shall dispose of real estate within one year from such
 9 date, and make full settlement by that time, unless the court or judge,
 10 for good reason shown, shall extend the time within which such dispo-
 11 sition or settlement shall be made.

[R., '60, §§ 1834, 1842; C., '73, § 2123; C., '97, § 3080.]

SEC. 8417. Assignment not void—citation to debtor.

1 No assignment shall be declared fraudulent or void for want of
 2 any list or inventory, as provided in this chapter. The court or judge
 3 may, upon application of the assignee or any creditor, compel the ap-
 4 pearance in person of the debtor before such court or judge forthwith,
 5 or at the next term, to answer under oath such matters as may be
 6 inquired of him, and such debtor may be fully examined under oath as
 7 to the amount and situation of his estate, and the names of the cred-
 8 itors and amounts due to each, with their places of residence, and may
 9 be compelled to deliver to the assignee any property or estate embraced
 10 in the assignment.

[R., '60, § 1835; C., '73, § 2124; C., '97, § 3081.]

SEC. 8418. Additional inventory.

1 The assignee shall, from time to time, file with the clerk of the
 2 court an inventory and valuation of any additional property which may
 3 come into his hands under said assignment after the filing of the first
 4 inventory, and the clerk may thereupon require him to give additional
 5 security.

[R., '60, § 1836; C., '73, § 2125; C., '97, § 3082.]

SEC. 8419. Claims not due—filed after three months.

1 Any creditor may claim debts to become due, as well as debts due,
 2 but on debts not due a reasonable rebate shall be made when the same
 3 are not drawing interest, and all creditors who shall not file their
 4 claims within three months from the publication of notice, as afore-

5 said, shall not participate in the dividends until after the payment in
 6 full of all claims presented within said term, and allowed by the court,
 7 unless the court has extended the time for filing such claims, except
 8 as provided by this chapter.

[R., '60, § 1837; C., '73, § 2126; C., '97, § 3083.]

SEC. 8420. Sale of property.

1 The assignee may dispose of and sell all the estate assigned, real
 2 and personal, which the debtor had at the time of the assignment, may
 3 sue for and recover in his name everything belonging or appertaining
 4 to said estate, and generally do whatever the debtor might have done
 5 in the premises; but no sale of real estate belonging to said trust shall
 6 be made without notice, published as in case of sales of real estate on
 7 execution, unless the court or judge shall otherwise order, and no
 8 such sales shall be valid until approved by such court or judge.

[R., '60, § 1838; C., '73, § 2127; C., '97, § 3084.]

SEC. 8421. Removal of assignee.

1 Upon a written application of two-thirds of the creditors in num-
 2 ber, and two-thirds in amount, the court shall remove the assignee and
 3 appoint in his stead a person approved by the creditors in the same
 4 number and amount, and the person so removed shall immediately
 5 turn over to the clerk of the district court, or any person appointed by
 6 the court, all moneys and property of the estate in his hands. If an
 7 assignee shall reside out of the state, or become insane or otherwise
 8 incapable of discharging the trust, the court may, upon ten days'
 9 notice to him or his attorney, remove him and appoint another in his
 10 stead.

[R., '60, § 1830; C., '73, § 2118; C., '97, § 3085.]

SEC. 8422. Death of assignee—failure to act—misconduct.

1 If an assignee dies before the closing of his trust, or in case any
 2 assignee shall fail or neglect for the period of twenty days after the
 3 making of any assignment to file an inventory and valuation, and give
 4 bond as required by this chapter, the district court, or any judge
 5 thereof, of the county where such assignment may be recorded, on the
 6 application of any person interested, shall appoint some person to
 7 execute the trust, who shall, on giving bond with sureties as required
 8 of an assignee, have all of the powers of the assignee first appointed,
 9 and be subject to all the duties hereby imposed. In case any bond or
 10 surety is found to be insufficient, or, on complaint before the court or
 11 judge, it shall be made to appear that any assignee is guilty of wast-
 12 ing or misapplying the trust estate, such court or judge may require
 13 additional security, may remove the assignee and appoint another in
 14 his place, and such person so appointed, on giving bond, shall execute
 15 such duties, and may demand and sue for all estate in the hands of
 16 the person removed, and recover the amount and value of all moneys
 17 and property or estate wasted and misapplied, from such person and
 18 his sureties.

[R., '60, § 1839; C., '73, § 2128; C., '97, § 3086.]

SEC. 8423. Power of judge in vacation.

1 Any judge of the district court in vacation shall have power in
 2 cases under this chapter to issue citations and attachments, order

3 the sale of personal or real property, and approve sales and deeds
4 thereof.

[C., '97, § 3087.]

CHAPTER 31.

SECURITIES AND INVESTMENTS OF TRUST FUNDS.

SECTION 8424. Security to be by bond.

1 Whenever security is required to be given by law or by order or
2 judgment of a court, and no particular mode is prescribed, it shall be
3 by bond.

[C., '51, § 2505; R., '60, § 4113; C., '73, § 246; C., '97, § 355.]

SEC. 8425. To whom payable.

1 Such security, when not otherwise directed, may, if for the benefit
2 of individuals, be given to the party intended to be secured thereby; if
3 in relation to the public matters concerning the inhabitants of one
4 county or part of a county, it may be made payable to the county; if
5 concerning the inhabitants of more than one county, it may be made
6 payable to the state, but a mere mistake in these respects will not
7 vitiate the security.

[C., '51, § 2506; R., '60, § 4114; C., '73, § 247; C., '97, § 356.]

SEC. 8426. Defects rectified.

1 No defective bond or other security or affidavit in any case shall
2 prejudice the party giving or making it, provided it be so rectified,
3 within a reasonable time after the defect is discovered, as not to cause
4 essential injury to the other party.

[C., '51, § 2511; R., '60, § 4119; C., '73, § 248; C., '97, § 357.]

SEC. 8427. Bonds to secure performance of public contracts in excess of one thousand dollars.

1 Whenever any public body, board, committee, officer or other
2 public representative now or hereafter empowered by law to enter into
3 a contract, for and on behalf of the public, for the purpose of con-
4 structing any public building, or for the purpose of making any public
5 improvement, or for the making of any additions thereto, or for the
6 finishing, furnishing or repairing of any such buildings or public work,
7 such body, board, committee, officer or other public representative,
8 whenever the contract price is in excess of one thousand dollars, shall
9 require as a condition precedent to the making of such contract that
10 the person, firm or corporation to whom the contract is awarded fur-
11 nish and file a bond, as hereinafter provided, in a sum of not less than
12 the contract price, the amount to be determined by those representing
13 the public, signed by the contractor and a responsible surety company
14 authorized to do business in Iowa, which bond shall run to said body,
15 board, committee, or other public representative, for its use and bene-
16 fit and for the use and benefit of all persons, firms and corporations
17 who shall perform any labor or furnish any material, including fuel, in
18 the carrying out of such public contract, and shall have as one of its
19 conditions, the following paragraph:

20 "Now, therefore, the condition of this obligation is such that if
 21 the principal shall faithfully perform the contract on his part, and
 22 satisfy all claims and demands, incurred for the same, and shall fully
 23 indemnify and save harmless the owner from all cost and damage
 24 which he may suffer by reason of failure so to do, and shall fully reim-
 25 burse and repay the owner all outlay and expense which the owner
 26 may incur in making good any such default, and shall pay all persons
 27 who have contracts directly with the principal for subcontractors for
 28 labor or materials, then this obligation shall be null and void; other-
 29 wise it shall remain in full force and effect."

30 The foregoing condition shall at all times be additional to those
 31 conditions and requirements now or hereafter required by statute to
 32 be a part of such bonds. The provisions and requirements of this sec-
 33 tion and the three following sections shall not be modified or annulled
 34 by contrary provisions in any such bond or contract.

[38 G. A., ch. 347, § 1.]

SEC. 8428. Executed in duplicate—copy filed in office of clerk of district court—suit thereon.

1 Such bond shall be executed in duplicate, one copy of which shall
 2 be filed in the office of the clerk of the district court of the county in
 3 which such public work is to be performed; and any person for whose
 4 benefit the bond is given, or his assigns, may bring an action on such
 5 bond for the recovery of such indebtedness; provided that no such
 6 action shall be brought on said bond after six months of the comple-
 7 tion of any public improvement or building, and provided that a veri-
 8 fied, itemized statement of the claim shall be filed with the city clerk,
 9 county auditor or secretary of the school board, as the case may be,
 10 within sixty days after the last item of material is furnished or labor
 11 performed.

[38 G. A., ch. 347, § 2.]

SEC. 8429. Contract of no validity unless bond filed and clerk's indorsement thereon.

1 No public contract coming within the provisions of this chapter
 2 shall be of any validity until the bond mentioned herein has been
 3 executed and filed in the form and bearing the conditions as provided
 4 by this chapter, and until there is indorsed on said contract the written
 5 indorsement of the clerk of the district court of the county in which
 6 such public work is to be performed that such a bond, properly exe-
 7 cuted, is now on file in his office.

[38 G. A., ch. 347, § 3.]

SEC. 8430. Three preceding sections construed as additional security.

1 The three preceding sections shall be construed as affording addi-
 2 tional security to that now provided such claimants under existing
 3 statutes and not so as to affect existing mechanic's lien laws or other
 4 statutes providing for the filing of similar claims, and so as not to
 5 apply to bonds furnished under the requirements of chapter two, title
 6 fifteen.

[38 G. A., ch. 347, § 4.]

SEC. 8431. Qualifications of sureties—attorneys not accepted.

1 The surety in every bond provided for or authorized by law must
 2 be a resident of this state, and worth double the sum to be secured
 3 beyond the amount of his debts, and have property liable to execution
 4 in this state equal to the sum to be secured, except as otherwise pro-
 5 vided by law. Where there are two or more sureties in the same bond,
 6 they must in the aggregate have the qualification prescribed in this
 7 section. Attorneys at law shall not be accepted as sureties upon any
 8 official bonds provided for in this section. Whenever the board of
 9 supervisors of any county shall have knowledge that any attorney at
 10 law is surety upon any official bond, above referred to, it shall require
 11 said officer to forthwith file a new bond. But nothing herein shall
 12 exempt such person from any liability upon the bond signed by him.

[R., '60, § 4126; C., '73, § 249; C., '97, § 358; S., '13, § 358.]

SEC. 8432. Affidavit of sureties—effect of—guarantee companies as sureties.

1 The officer whose duty it is to take a surety in any bond provided
 2 for or authorized by law shall require the person offered as surety to
 3 make affidavit of his qualification, which affidavit may be made before
 4 such officer, or other officer authorized to administer oaths. The tak-
 5 ing of such an affidavit shall not exempt the officer from any liability
 6 to which he might otherwise be subject for taking insufficient security.
 7 Any company engaged in the business of becoming surety upon bonds
 8 shall file, with the clerk of any county in which it shall do business, a
 9 certificate from the commissioner of insurance that it has complied
 10 with the law and is authorized to do business in this state; and, should
 11 said authority be withdrawn at any time, the commissioner of insur-
 12 ance shall at once notify the clerk of each district court to that effect.
 13 The clerk shall keep a book, properly indexed, in which shall be re-
 14 corded all such certificates and revocations.

[R., '60, § 4125; C., '73, § 250; C., '97, § 359.]

SEC. 8433. When guaranty company may be accepted as surety—premium—not applicable to criminal cases.

1 Whenever any person who now or hereafter may be required or
 2 permitted to give a bond applies for the approval thereof, any officer
 3 or body who is now or shall hereafter be required to approve the suf-
 4 ficiency of such bond shall accept and approve the same, whenever
 5 its conditions are guaranteed by a company or corporation duly organ-
 6 ized or incorporated under the laws of this state, or authorized to do
 7 business therein, and to guarantee the fidelity of persons holding posi-
 8 tions of public or private trust, or secure any bond above referred to,
 9 and which company shall have the certificate of the commissioner of
 10 insurance authorizing it to do business therein, as provided in chapter
 11 seven, title eighteen, and the premium for any such guaranty or surety
 12 company bond as defined in this section, may, by the approval of the
 13 court, be paid out of the trust funds in the hands of the party of whom
 14 the bond is required. The certificate of the commissioner of insurance,
 15 to the effect that such company has complied with the requirements
 16 of said chapter and title and is authorized to do business in this state,
 17 shall be sufficient evidence to authorize the officer or body having the
 18 approval of such bond to accept and approve the same, but no such
 19 security shall be accepted on any bond for an amount in excess of ten

20 per cent of the paid-up cash capital of such company or corporation
 21 unless the excess shall be reinsured in some other company or corpo-
 22 ration authorized to do business in the state and in no case to exceed
 23 ten per cent of the capital of the reinsuring company and provided
 24 that a certificate of such reinsurance shall be furnished to the insured,
 25 but nothing herein contained shall apply to bonds in criminal cases.

[C., '97, § 360; S. S., '15, § 360.]

SEC. 8434. Release from liability—same as private persons.

1 Such company or corporation may be released from its liability
 2 as such surety on any bond on the same terms and conditions, and in
 3 the same manner, as is by law prescribed for the release of natural
 4 persons as such sureties; it being the intent of this chapter to enable
 5 companies created, incorporated or chartered for such purposes to
 6 become surety on bonds required by law, subject to all the rights and
 7 liabilities of natural persons.

[C., '97, § 361.]

SEC. 8435. Suit on bond of guarantee company—notice.

1 Whenever suit is required to be brought on any bond given by
 2 such company, service shall be had upon any agent of such company
 3 in this state, and if there is no agent in the state, then service may be
 4 had by serving the commissioner of insurance fifteen days before the
 5 term of court in which the suit is sought to be brought, and it shall be
 6 the duty of the commissioner of insurance, upon service being made
 7 upon him, to immediately mail a copy of such notice to such company
 8 at their principal place of business, and any notice so served shall be
 9 deemed to be good and sufficient service on any such company.

[C., '97, § 362.]

SEC. 8436. Estoppel—stockholders liable.

1 Any company which shall execute any bond as surety under the
 2 provisions of this chapter shall be estopped, in any proceeding to en-
 3 force the liability which it shall have assumed to incur, to deny its
 4 corporate power to execute such instrument or assume such liability;
 5 and the private property of the stockholders shall be liable for the
 6 debts of the corporation to the full amount of the capital stock held
 7 by such stockholders.

[C., '97, § 363.]

SEC. 8437. Investments—in what to be made.

1 Where investments of funds are to be made, including those to
 2 be made by executors, administrators; trustees and guardians, and no
 3 mode of investment is pointed out by statute, they may be made in
 4 the stocks or bonds of this state, or of those of the United States, or
 5 in bond or mortgage upon real property of the clear, unincumbered
 6 value of twice the investment or under order of court in bonds issued
 7 by or under the direction of cities, towns, counties, school or drainage
 8 districts of this state.

[C., '51, § 2507; R., '60, § 4115; C., '73, § 251; C., '97, § 364;
 S., '13, § 364.]

SEC. 8438. Security not to be changed without order.

1 When such investment is made by order of any court, the security
 2 taken shall in no case be discharged, impaired or transferred without
 3 an order of the court to that effect, entered on the minutes thereof.

[C., '51, § 2508; R., '60, § 4116; C., '73, § 252; C., '97, § 365.]

SEC. 8439. Duty of investor under order.

1 The clerk or other person appointed in such cases to make the
 2 investment must receive all moneys as they become due thereon, and
 3 apply or reinvest the same under the direction of the court, unless
 4 the court appoints some other person to do such acts.

[C., '51, § 2509; R., '60, § 4117; C., '73, § 253; C., '97, § 366.]

SEC. 8440. Must account annually.

1 Once in each year, and oftener if required by the court, the person
 2 so appointed must, on oath, render to the court an account in writing
 3 of all moneys so received by him, and of the application thereof.

[C., '51, § 2510; R., '60, § 4118; C., '73, § 254; C., '97, § 367.]

SEC. 8441. When court may order money or property deposited.

1 When it is admitted by the pleadings, or shown by the examina-
 2 tion of a party, that he has in his possession, or under his control, any
 3 money or property capable of delivery, which is in any degree the
 4 subject of litigation, and which is held by him as trustee for another
 5 party, the court, or judge thereof, may order the same to be deposited
 6 in the office of the clerk, or delivered to such party, with or without
 7 security, subject to the further direction of the court; or may order
 8 such money to be deposited in a bank, with the consent of the parties
 9 in interest, to the credit of the court in which the action is pending,
 10 and the same shall be paid out by such bank only upon the check of
 11 the clerk, annexed to a certified copy of the order of the court directing
 12 such payment.

[R., '60, § 3416; C., '73, § 255; C., '97, § 368.]

SEC. 8442. When order disobeyed.

1 Whenever a court, or judge in the exercise of its or his authority,
 2 has ordered the deposit or delivery of money or other property, and
 3 the order is disobeyed, such court or judge, besides punishing the
 4 disobedience, may make an order requiring the sheriff to take the
 5 money or property, and deposit or deliver it in conformity with the
 6 directions of the court or judge, and in such cases he has the same
 7 power as when acting under an order for the delivery of personal
 8 property.

[R., '60, §§ 3417, 3418; C., '73, §§ 256, 257; C., '97, § 369.]

**SEC. 8443. Administrator or trustee may deposit with clerk—
effect—approval.**

1 Whenever any administrator, guardian, trustee or referee shall
 2 desire to make his final report, and shall then have in his possession or
 3 under his control any funds, moneys or securities due, or to become
 4 due, to any heir, legatee, devisee or other person, whose place of resi-
 5 dence is unknown to such administrator, guardian, trustee, or referee
 6 or to whom payment of the amount due can not be made as shown by

7 the report on file, such funds, moneys or securities may upon order of
8 the court and after such notice as the court may prescribe, be depos-
9 ited with the clerk of the district court of the county wherein such ap-
10 pointment was made, and if he shall otherwise discharge all the duties
11 imposed upon him by such appointment, he may take the receipt of
12 the clerk of the district court for such funds, moneys or securities so
13 deposited, which receipt shall specifically set forth from whom said
14 funds, moneys or securities were derived, the amount thereof, and the
15 name of the person to whom due or to become due, if known. There-
16 upon said administrator, guardian, trustee or referee may file such
17 receipt with his final report, and if it shall be made to appear to the
18 satisfaction of the court that he has in all other respects complied with
19 the law governing his appointment and duties, the court may approve
20 such final report and enter his discharge; but notice of such contem-
21 plated deposit, and of final report, shall be given for the same time
22 and in the same manner as is now required in cases of final report by
23 administrators.

[C., '97, § 370; S., '13, § 370.]

SEC. 8444. Duty and liability of clerk as to deposits.

1 The clerk of the district court with whom any deposit of funds,
2 moneys or securities shall be made, as provided by any law or an order
3 of court, shall enter in a book, to be provided and kept for that pur-
4 pose, the amount of such deposit, the character thereof, the date of
5 its deposit, from whom received, from what source derived, to whom
6 due or to become due, if known. He shall be liable upon his bond for
7 all such funds, moneys or securities which may be deposited with him,
8 and shall make complete verified statements thereof to the board of
9 supervisors at the January and June sessions each year. If the funds,
10 moneys or securities so deposited with the clerk shall not be paid to
11 the person or persons to whom the same is due, or to become due,
12 within six months from the date of its deposit, the clerk shall then,
13 unless otherwise ordered by the court or judge, deposit such funds,
14 moneys or securities with the county treasurer for the use of the
15 county wherein such appointment was made, taking the treasurer's
16 receipt therefor, countersigned by the county auditor, who shall there-
17 upon charge upon the books of his office and against the treasurer the
18 amount named in such receipts.

[C., '97, § 371; S., '13, § 371.]

SEC. 8445. Duty of treasurer.

1 Whenever any funds, moneys or securities shall be deposited with
2 the county treasurer, as provided in this chapter, he shall enter in a
3 book, provided and kept for that purpose, the date of such deposit, the
4 amount thereof, from whom received, the source from which derived,
5 and the name of the person to whom the same is due or to become due,
6 if known. Whenever the claimant therefor, upon proper application
7 made to the district court, shall satisfactorily show to such court that
8 he is the rightful owner of said funds, moneys or securities and en-
9 titled thereto, the court, by order entered of record, shall direct the
10 county auditor to issue a warrant on the county treasurer for said
11 money, funds or securities, and, upon such order, the said treasurer
12 shall pay to the person named in such order the funds, moneys or se-
13 curities to which the claimant shall have shown himself entitled.

[C., '97, § 372.]

CHAPTER 32.

PROCEDURE TO VACATE OR MODIFY JUDGMENTS.

SECTION 8446. Judgment vacated or modified—grounds.

- 1 Where a final judgment or order has been rendered or made, the
 2 district court, in addition to causes for a new trial hereinbefore
 3 authorized, may, after the term at which the same was rendered or
 4 made, vacate or modify the same or grant a new trial:
- 5 1. For mistake, neglect or omission of the clerk, or irregularity in
 6 obtaining the same.
 - 7 2. For fraud practiced in obtaining the same.
 - 8 3. For erroneous proceedings against a minor or person of un-
 9 sound mind, when such errors or condition of mind do not appear in the
 10 record.
 - 11 4. For the death of one of the parties before the rendition of the
 12 judgment or making of the order, if no substitute has been made of
 13 the proper representative before the rendition of the judgment or
 14 order.
 - 15 5. For unavoidable casualty or misfortune preventing the party
 16 from prosecuting or defending.
 - 17 6. For error in the judgment or order shown by a minor within
 18 twelve months after arriving at majority.

[R., '60, § 3499; C., '73, § 3154; C., '97, § 4091.]

SEC. 8447. New trial after term.

- 1 Where the grounds for a new trial could not with reasonable dili-
 2 gence have been discovered before, but are discovered after the term
 3 at which the verdict, report of referee or decision was rendered or
 4 made, the application may be made by petition filed, on which notice
 5 shall be served upon the successful party and returned, and he be held
 6 to appear, as in an original action. The facts stated in the petition
 7 shall be considered as denied without answer, and tried by the court
 8 as other actions by ordinary proceedings, but no such petition shall
 9 be filed after one year from the rendition of final judgment.

[R., '60, § 3116; C., '73, § 3155; C., '97, § 4092.]

SEC. 8448. Motion to correct mistake or irregularity.

- 1 Proceedings to correct mistakes or omissions of the clerk, or irreg-
 2 ularity in obtaining judgment or order, shall be by motion served on
 3 the adverse party or his attorney, and within one year; if made to
 4 vacate a judgment or order because of irregularity in obtaining it,
 5 such motion must be made on or before the second day of the succeed-
 6 ing term.

[R., '60, § 3500; C., '73, § 3156; C., '97, § 4093.]

SEC. 8449. Petition.

- 1 The application based upon the other grounds shall be by verified
 2 petition setting forth the judgment or order, the alleged facts or errors
 3 constituting a cause to vacate or modify it, and the matters constitut-
 4 ing a defense to the action, if the party applying was a defendant.
 5 Such proceedings must be commenced within one year after the judg-
 6 ment or order was made, unless the party entitled thereto is a minor

7 or person of unsound mind, and then within one year after the removal
8 of such disability.

[R., '60, § 3501; C., '73, § 3157; C., '97, § 4094.]

SEC. 8450. Proceedings.

1 In such proceedings the party shall be brought into court in the
2 same way, on the same notice as to time, mode of service and return,
3 and the pleadings, issues and form and manner of trial shall be gov-
4 erned by the same rules and conducted in the same manner, as nearly
5 as may be, and with the same right of appeal, as in ordinary actions.
6 No new cause of action or defense shall be introduced, and the matter
7 stated in the petition shall be taken as denied without answer, and the
8 issue shall be tried by the court.

[R., '60, § 3502; C., '73, § 3158; C., '97, § 4095.]

SEC 8451. Valid defense.

1 The judgment shall not be vacated on motion or petition until it
2 is adjudged there is a cause of action or defense to the action in which
3 the judgment is rendered; if a judgment is modified, all liens and
4 securities obtained under it shall be preserved to the modified judg-
5 ment.

[R., '60, § 3503; C., '73, § 3159; C., '97, § 4096.]

SEC. 8452. Grounds to vacate first tried.

1 The court may first try and decide upon the grounds to vacate or
2 modify a judgment or order, before trying or deciding upon the validity
3 of the cause of action or defense.

[R., '60, § 3504; C., '73, § 3160; C., '97, § 4097.]

SEC. 8453. Injunction.

1 The party seeking to vacate or modify a judgment or order may
2 have an injunction suspending proceedings on the whole or part
3 thereof, which shall be granted by the court or a judge thereof upon
4 its being rendered probable, by affidavit or verified petition, or by ex-
5 hibition of the record, that the party is entitled to the relief asked.

[R., '60, § 3505; C., '73, § 3161; C., '97, § 4098.]

SEC. 8454. Judgment affirmed.

1 If the judgment or order is affirmed and the proceedings have
2 been suspended, an additional judgment shall be rendered against the
3 plaintiff in error for the amount of the costs, together with damages
4 at the discretion of the court, not exceeding ten per cent on the amount
5 of the judgment affirmed.

[R., '60, § 3506; C., '73, § 3162; C., '97, § 4099.]

TITLE XXXII.

SUPREME COURT.

CHAPTER 1.

ORGANIZATION OF SUPREME COURT.

SECTION 8455. Judges—quorum.

1 The supreme court of Iowa shall consist of seven judges, four of
 2 whom shall constitute a quorum to hold court, but one alone thereof
 3 may adjourn from day to day or to a certain day or until the next term.
 [C., '51, § 1551; R., '60, § 2627; C., '73, § 139; C., '97, § 193;
 S., '13, § 193.]

SEC. 8456. Appointment additional judge—term.

1 The additional judgeship provided for in this chapter shall be
 2 filled by appointment by the governor. The governor shall communi-
 3 cate such appointment to the senate. No nomination shall be consid-
 4 ered by the senate until the same has been referred to a committee
 5 of five to be appointed by the president of the senate without the for-
 6 mality of a motion, which committee shall make its report to the sen-
 7 ate in executive session at any time when called for by the senate.
 8 The consideration of the nomination by the senate shall not be had
 9 on the same legislative day the nomination is referred. The appointee
 10 shall be voted on and it shall require the concurrence of two-thirds
 11 of all the members elected to the senate to confirm such appointment.
 12 The person so appointed and confirmed shall hold office until the first
 13 day of January following the general election in the year nineteen
 14 hundred fourteen and until his successor is elected and qualified, which
 15 successor shall, at the general election in the year nineteen hundred
 16 fourteen and each six years thereafter, be elected for the full term of
 17 six years.

[S., '13, § 193-1a.]

SEC. 8457. Organization—division into sections.

1 The court may be divided into two sections, the chief justice pre-
 2 siding in open court with each of said sections. The said sections
 3 may hold open court separately and cases may be submitted to each
 4 section separately in accordance with the rules that shall be provided
 5 for by the supreme court. The said supreme court shall also adopt
 6 rules for the submission of any case or petition for rehearing when-
 7 ever differences shall arise between members of either section or when-
 8 ever the chief justice shall order or direct the submission of said
 9 question or petition for rehearing to the whole court. The supreme
 10 court shall make all rules and regulations necessary to provide for the
 11 submission of cases to the entire bench, or to the separate sections.

[C., '97, § 194; S., '13, § 194.]

SEC. 8458. Chief justice.

1 Of the judges whose terms of office first expire, the senior in time
2 of service shall be chief justice for one year, and, if there be but two
3 of them, the junior for one year, and so on in rotation. If two or
4 more are equal in time of service, then the right to the position and
5 the order in which they serve shall be determined by seniority in age.
6 And at the last term in each year, the supreme court shall determine
7 and enter of record, who, under these rules, shall be chief justice for
8 the year next ensuing; and at the session of the supreme court next
9 preceding the commencement of the first of the said two years, the
10 supreme court shall cause a record to be made as to who shall be the
11 chief justice for the year next ensuing.

[R., '60, § 467; C., '73, § 582; C., '97, § 1066; S., '13, § 1066.]

SEC. 8459. Salaries.

1 Each judge of the supreme court hereafter elected shall receive
2 a salary of six thousand dollars per year.

[C., '73, § 3769; C., '97, § 203; S., '13, § 203-a.]

SEC. 8460. No other compensation.

1 No member of the supreme court shall be paid any compensation
2 for services other than the salary herein provided.

[S., '13, § 203-b.]

SEC. 8461. Terms of court.

1 The supreme court shall be held at the seat of government, and
2 shall convene and hold three regular terms each year. The first term
3 shall begin with the second Tuesday of January and end with the first
4 Monday of May; the second shall begin with the first Tuesday after
5 the first Monday of May and end with the third Monday of Septem-
6 ber; and the third shall begin with the first Tuesday after the third
7 Monday of September and end with the third Saturday of December.

[C., '97, § 192; S., '13, § 192-a.]

SEC. 8462. Business at each term—docket.

1 Each of said terms of court shall be for the submission and de-
2 termination of causes, and for the transaction of such other business
3 as shall properly come before the court. All causes on the docket
4 shall be heard at each term, unless continued or otherwise disposed
5 of by order of the court. The court shall remain in session, so far as
6 practicable, until it is determined what the opinion of the court shall
7 be in all causes submitted to it, except in causes where reargument
8 is ordered. Judgments of affirmance, rulings and orders in causes
9 submitted, and orders authorized by law, may be made and entered
10 by the court at any time, regardless of the terms of court.

[R., '60, § 2623; C., '73, § 133; C., '97, § 192.]

SEC. 8463. Recess or adjournment.

1 The court shall not be required to continue in actual public ses-
2 sion during an entire term, but may adjourn from time to time as
3 by order or rule it shall direct; provided, however, that no such recess
4 or adjournment shall be taken for more than thirty days at one time,

5 except during the period from the first Monday in July to the third
6 Monday in September in each year.

[S., '13, § 192-b.]

SEC. 8464. Causes assigned and submitted.

1 At each regular or adjourned session of a term of court, causes
2 pending therein may be assigned and submitted, but no more submis-
3 sions shall be taken or allowed at any one session than in the judg-
4 ment of the court can be properly considered and determined before
5 the next succeeding session.

[S., '13, § 193-a.]

SEC. 8465. Rules.

1 The court shall by appropriate rules provide for the assignment
2 of causes for hearing at the regular and adjourned sessions thereof,
3 and for reasonable notice to counsel of the time or times at which
4 their cases will be called.

[S., '13, § 193-b.]

SEC. 8466. Divided court.

1 When the court is equally divided in opinion, the judgment of the
2 court below shall stand affirmed, but the decision is of no further force
3 or authority, but in such cases opinions may be filed.

[C., '51, § 1552; R., '60, § 2628; C., '73, § 140; C., '97, § 195.]

SEC. 8467. Failure of judges to attend.

1 If none of the judges attend on the first day of the term, the clerk
2 must enter the fact on the record, and the court shall stand adjourned
3 until the next day, and so on until the fourth day; then, if none of the
4 judges appear, the court shall stand adjourned until the next term.

[C., '51, § 1553; R., '60, § 2629; C., '73, § 141; C., '97, § 196.]

SEC. 8468. Business continued.

1 No process or proceeding shall in any manner be affected by an
2 adjournment or failure to hold court, but all shall stand continued to
3 the next term, without any special order to that effect.

[C., '51, § 1554; R., '60, § 2630; C., '73, § 142; C., '97, § 197.]

SEC. 8469. Opinions to be filed.

1 The decisions of the court on all questions passed upon by it,
2 including motions and points of practice, shall be specifically stated,
3 and shall be accompanied with an opinion upon all such as are deemed
4 of sufficient importance, together with any dissent therefrom, which
5 dissent may be stated with or without an opinion, and all decisions
6 and opinions shall be in writing and filed with the clerk, except that
7 rulings upon motions may be entered upon the announcement book.

[C., '51, §§ 1560, 1561; R., '60, §§ 2636, 2637; C., '73, § 143;
C., '97, § 198.]

SEC. 8470. Dissenting opinions.

1 The records and reports must in all cases show whether a deci-
2 sion was made by a full bench, and whether either and, if so, which
3 of the judges dissented from the decision.

[C., '51, § 1562; R., '60, § 2638; C., '73, § 144; C., '97, § 199.]

SEC. 8471. What cases reported.

1 If the decision, in the judgment of the court, is not of sufficient
2 general importance to be published, it shall be so designated, in which
3 case it shall not be included in the reports, and no case shall be re-
4 ported except by order of the full bench.

[C., '73, § 145; C., '97, § 200.]

SEC. 8472. Bailiffs.

1 The court may appoint the necessary bailiffs to attend its sessions
2 and perform such other duties and execute such orders as may be
3 directed or ordered by it, who shall receive two dollars and fifty cents
4 per day each, to be paid out of the contingent fund on the order of the
5 chief justice. The court may also at any time require the attendance
6 and services of the sheriff of Polk county.

[C., '97, § 201.]

SEC. 8473. Contingent expenses.

1 All bills for contingent expenses shall contain the items thereof,
2 and shall be certified to as correct by the chief justice before being
3 audited.

[C., '51, § 1548; R., '60, § 2626; C., '73, § 138; C., '97, § 202.]

CHAPTER 2.
CLERK OF THE SUPREME COURT.**SECTION 8474. Office—duties.**

1 The clerk of the supreme court shall have an office at the seat of
2 government, keep a complete record of the proceedings of the court,
3 and allow no opinion filed therein to be removed except by the re-
4 porter, which opinions shall be open to examination and may be copied,
5 and, upon request, shall be certified by him. He shall also, when
6 required, make out and certify a copy thereof. He shall promptly
7 announce by mail to one of the attorneys on each side any ruling
8 made or decision rendered, record every opinion rendered as soon as
9 filed, and perform all other duties pertaining to his office.

[C., '51, §§ 1564, 1565; R., '60, §§ 2647-2651; C., '73, §§ 146-
149; C., '97, § 204.]

SEC. 8475. Salary of clerk and deputy—fees to be collected.

1 The salary of the clerk of the supreme court shall be twenty-
2 seven hundred dollars per annum, and the salary of the deputy clerk
3 of the supreme court shall be eighteen hundred dollars per annum.
4 The clerk shall collect the following fees and account for them as pro-
5 vided in section seven hundred sixteen, and shall also keep account
6 of and report in like manner all uncollected fees:

- 7 Upon filing each appeal, three dollars.
8 Upon entering judgment when the cause has been tried on its
9 merits, two dollars.
10 Upon each continuance, one dollar.
11 Upon issuing each execution, one dollar and twenty-five cents.
12 Upon entering satisfaction of each judgment, fifty cents.

13 Upon each writ, rule or order to be served upon any person not in
14 court, twenty-five cents.

15 For copying an opinion to be transmitted to an inferior court upon
16 reversal of a judgment or an order, to be paid by the party against
17 whom the costs are adjudged, or for a copy of such opinion or any
18 record made at the request of any person, for each hundred words,
19 ten cents.

[C., '51, §§ 2525; R., '60, §§ 2949, 4134; C., '73, § 3771;
C., '97, § 205; S., '13, § 205.]

SEC. 8476. Execution for fees.

1 If any of the foregoing fees of the clerk are not paid in advance,
2 execution may issue therefor, except where the fees are payable by
3 the county or the state.

[C., '97, § 206.]

SEC. 8477. Deputy—qualification—duties.

1 The clerk of the supreme court may appoint, in writing, any
2 person, except one holding a state office, as deputy, which appointment
3 must be approved by the officer having the approval of the principal's
4 bond, and such appointment may be revoked in the same manner,
5 both the appointment and the revocation to be filed and kept in the
6 office of the secretary of state. The deputy shall qualify by taking
7 the oath of the principal, to be indorsed upon and filed with the cer-
8 tificate of appointment, and, when so qualified, he shall, in the absence
9 or disability of the clerk, perform all of the duties of such clerk per-
10 taining to his office.

[C., '97, § 207; S. S., '15, § 207.]

SEC. 8478. Clerk and reporter appointed—terms—vacancies.

1 The present incumbents of the offices of clerk of the supreme court
2 and reporter of the supreme court shall hold office until the expiration
3 of the time for which they were respectively elected, and until their
4 successors have been appointed and have qualified. Within ninety
5 days prior to the expiration of the term of office of the present clerk
6 of the supreme court and of the present reporter of the supreme court,
7 and every four years thereafter, the members of the supreme court
8 shall appoint a clerk of the supreme court and a reporter of the su-
9 preme court who shall hold office for a period of four years and until
10 their successors have been appointed and have qualified. Vacancies
11 shall be filled in the same manner for the unexpired portion of the
12 term.

[C., '73, § 583; C., '97, § 1067; S., '13, § 207-a.]

SEC. 8479. Soldiers' preference law—not applicable.

1 Chapter twenty-four of title four shall not apply to any appoint-
2 ment under the preceding section.

[S., '13, § 207-b.]

CHAPTER 3.

PROCEDURE IN THE SUPREME COURT IN CIVIL ACTIONS.

SECTION 8480. Appellate jurisdiction over judgments.

1 The supreme court has appellate jurisdiction over all judgments
 2 and decisions of all courts of record, except as otherwise provided by
 3 law.

[C., '51, § 1555; R., '60, § 2631; C., '73, § 3163; C., '97,
 § 4100.]

SEC. 8481. Appeals from orders.

1 An appeal may also be taken to the supreme court from:
 2 1. An order made affecting a substantial right in an action, when
 3 such order, in effect, determines the action and prevents a judgment
 4 from which an appeal might be taken.

5 2. A final order made in special actions affecting a substantial
 6 right therein, or made on a summary application in an action after
 7 judgment.

8 3. An order which grants or refuses, continues or modifies, a
 9 provisional remedy; grants or refuses, dissolves or refuses to dissolve,
 10 an injunction or attachment, or grants or refuses a new trial, or sus-
 11 tains or overrules a demurrer.

12 4. An intermediate order involving the merits or materially af-
 13 fecting the final decision.

14 5. An order or judgment on habeas corpus.

[C., '51, § 1556; R., '60, § 2632; C., '73, § 3164; C., '97,
 § 4101.]

SEC. 8482. From order made by judge.

1 If any of the above orders or judgments are made or rendered
 2 by a judge, the same are reviewable the same as if made by a court.

[R., '60, § 2633; C., '73, § 3165; C., '97, § 4102.]

SEC. 8483. Other intermediate appeals.

1 Such court, in its discretion, may also prescribe rules for allow-
 2 ing appeals on such other intermediate orders or decisions as are
 3 expedient, and for permitting such appeals to be taken and tried dur-
 4 ing the pendency of the action in the court below; but such an inter-
 5 mediate appeal shall not retard proceedings in the court from which
 6 the appeal is taken.

[C., '51, § 1557; R., '60, § 2634; C., '73, § 3166; C., '97,
 § 4103.]

SEC. 8484. Mistake of clerk below.

1 A mistake of the clerk shall not be ground for an appeal until
 2 the same has been presented to and acted upon by the court below.

[R., '60, § 3498; C., '73, § 3167; C., '97, § 4104.]

SEC. 8485. Motion to correct error.

1 A judgment or order shall not be reversed for an error which can
 2 be corrected on motion in an inferior court, until such motion has
 3 been there made and overruled.

[R., '60, § 3545; C., '73, § 3168; C., '97, § 4105.]

SEC. 8486. Motion for new trial.

1 The supreme court on appeal may review and reverse any judg-
2 ment or order of the superior or district court, although no motion
3 for a new trial was made in such court.

[C., '73, § 3169; C., '97, § 4106.]

SEC. 8487. Finding of facts—evidence certified.

1 Where a cause is tried by the court, it shall not be necessary, in
2 order to secure a review of the same in the supreme court, that there
3 should have been any finding of facts or conclusions of law stated in
4 the record, but the supreme court shall hear and determine the same
5 when it appears from a certificate of the judge, agreement of parties
6 or their attorneys, or, if the record shows the evidence to consist
7 wholly of written testimony, then from the certificate of the short-
8 hand reporter or clerk that the record contains all the evidence intro-
9 duced by the parties in the trial in the court below.

[C., '73, § 3170; C., '97, § 4107.]

SEC. 8488. Title of cause.

1 The cause on appeal shall be docketed as it was in the court be-
2 low, and the party taking the appeal shall be called the appellant, and
3 the other party the appellee.

[R., '61, § 3508; C., '73, § 3171; C., '97, § 4108.]

SEC. 8489. Process.

1 The court may issue all writs and processes necessary for the
2 exercise and enforcement of its appellate jurisdiction.

[C., '51, § 1558; R., '60, § 2635; C., '73, § 3172; C., '97,
§ 4109.]

**SEC. 8490. Time for appealing—amount in controversy—certifi-
cate—limitation.**

1 Appeals from the superior and district courts may be taken to
2 the supreme court at any time within six months from the rendition
3 of the judgment or order appealed from, and not afterward. No ap-
4 peal shall be taken in any cause in which the amount in controversy
5 between the parties, as shown by the pleadings, does not exceed one
6 hundred dollars, unless the trial judge shall, during the term in which
7 judgment is entered, certify that the cause is one in which the appeal
8 should be allowed, and, upon such certificate being filed, the same shall
9 be appealable regardless of the amount in controversy; but this limi-
10 tation shall not affect the right of appeal in any action in which an
11 interest in real estate is involved, nor shall the right of appeal be
12 affected by the remission of any part of the verdict or judgment re-
13 turned or rendered.

[C., '51, § 1973; R., '60, § 3507; C., '73, § 3173; C., '97,
§ 4110.]

SEC. 8491. Appeal by coparties.

1 A part of several coparties may appeal; but in such case they
2 must serve notice of the appeal upon those not joining therein, and
3 file proof thereof with the clerk of the supreme court.

[C., '51, § 1979; R., '60, § 3517; C., '73, § 3174; C., '97,
§ 4111.]

SEC. 8492. Parties not joining.

1 Coparties, refusing to join in an appeal, can not afterwards ap-
 2 peal, or derive any benefit therefrom, unless from the necessity of
 3 the case, but they shall be held to have joined, and be liable for their
 4 proportion of the costs, unless they appear and object thereto.

[C., '51, §§ 1980, 1981; R., '60, §§ 3518, 3519; C., '73, §§ 3175,
 3176; C., '97, § 4112.]

SEC. 8493. Part of judgment or order.

1 An appeal from part of an order, or from one of the judgments
 2 of a final adjudication, or from part of a judgment, shall not disturb,
 3 delay or affect the rights of any party to any judgment or order, or
 4 part of a judgment or order, not appealed from.

[R., '60, § 3510; C., '73, § 3177; C., '97, § 4113.]

SEC. 8494. Notice.

1 An appeal is taken and perfected by the service of a notice in
 2 writing on the adverse party, his agent, or any attorney who appeared
 3 for him in the case in the court below, and also upon the clerk of the
 4 court wherein the proceedings were had, stating the appeal from the
 5 same, or from some specific part thereof, defining such part. When
 6 such service can not be made the trial court or judge on application
 7 shall direct what notice shall be sufficient. Notice of appeal shall not
 8 be held insufficient because served before the clerk of the trial court
 9 has spread the judgment entry upon the court record if it shall appear
 10 that such entry has been made in proper form before the appellant's
 11 abstract was filed in the office of the clerk of the supreme court.

[C., '51, § 1974; R., '60, § 3509; C., '73, § 3178; C., '97,
 § 4114; S., '13, § 4114.]

SEC. 8495. Service.

1 A notice of appeal shall be served and return made thereon in
 2 the same manner as an original notice in a civil action, and filed in
 3 the office of the clerk of the court in which the judgment or order
 4 appealed from was rendered or made. All other notices connected
 5 with or growing out of the appeal shall be served and the return made
 6 in like manner, and filed in the office of the clerk of the supreme court,
 7 and all notices provided for in this section become a part of the record
 8 in the case on being filed.

[R., '60, § 3523; C., '73, § 3214; C., '97, § 4115.]

SEC. 8496. Term for submission.

1 A notice of appeal must be served thirty, and the cause filed and
 2 docketed fifteen days before the first day of the next term of the su-
 3 preme court, or the same shall not be submitted at that term unless
 4 the parties consent thereto. If the appeal is taken less than thirty
 5 days before the term, it must be so filed and docketed for the next
 6 succeeding term.

[C., '51, § 1978; R., '60, § 3513; C., '73, § 3180; C., '97,
 § 4116.]

SEC. 8497. Docketing causes.

1 The clerk shall docket the causes as they are filed in his office, and
 2 shall arrange and set a proper number for trial for each day of the

3 term, placing together those from the same judicial district, and cause
4 notice thereof to be published and distributed as the court may direct.
[R., '60, § 3535; C., '73, § 3203; C., '97, § 4117.]

SEC. 8498. Abstracts.

1 Printed abstracts of the record shall be filed in accordance with
2 rules established by the supreme court, and shall be presumed to con-
3 tain the record, unless denied or corrected by subsequent abstract. If
4 any denial or abstract is filed without good and sufficient cause, the
5 costs of the same or any part thereof, and of any transcript thereby
6 made necessary, shall be taxed to the party causing the same.
[C., '97, § 4118.]

SEC. 8499. Trial term.

1 The clerk of the supreme court shall docket causes in which the
2 appellant's abstract has been filed fifteen days before the first day of
3 the next term of the supreme court; if the abstract is filed thereafter,
4 it shall be docketed for the next succeeding term. No cause shall be
5 tried which has not been docketed as above provided, nor unless the
6 notice of appeal has been served thirty days or more before the first
7 day of said term, except by consent of parties.
[C., '97, § 4119.]

SEC. 8500. Dismissal or affirmance.

1 If an abstract of the record is not filed by appellant thirty days
2 before the second term after the appeal was taken, unless further time
3 is given by the court or a judge thereof for cause shown, the appellee
4 may file an abstract of such matters of record as are necessary, or
5 may file a copy of the final judgment or order appealed from, or other
6 matters required, certified to by the clerk of the trial court, and cause
7 the case to be docketed, and the appeal upon motion shall be dismissed,
8 or the judgment or order affirmed. Denial of abstracts, additional
9 abstracts or transcripts may also be filed.
[R., '60, §§ 3514, 3515; C., '73, §§ 3181, 3182; C., '97, § 4120.]

SEC. 8501. Fees prepaid.

1 No case shall be docketed until the fees provided by law therefor
2 have been paid.
[C., '97, § 4121.]

SEC. 8502. Transcript—when required.

1 No certification of the record shall be required, unless ordered by
2 the supreme court or a judge thereof, which order must be made upon
3 an application in writing or by motion, designating the matters and
4 things of record desired to be included therein and showing the ne-
5 cessity therefor. The order, if granted, shall contain similar desig-
6 nations, and show the parts to be given by an abstract of the original
7 record, and the portions to be by transcript, and may require any or
8 all the matters to be presented by an amended abstract, and be trans-
9 mitted by the clerk of the supreme court to the clerk of the lower
10 court. The appellant, upon notice or copy of the order being received
11 by him, shall promptly pay or secure to the clerk's satisfaction his fees
12 and expenses for preparing and forwarding such record, and, upon
13 failure so to do, the appeal, upon motion, may be dismissed or the

14 judgment affirmed, as the appellee may elect. The translation of the
15 original notes of the shorthand reporter, certified by him to be true
16 and correct, shall constitute a part of the record, and shall be sent up
17 in its original form in lieu of a transcript thereof when a transcript
18 of the evidence is required, and shall be returned to the clerk of the
19 court of the proper county after the cause has been determined by the
20 supreme court.

[C., '51, §§ 1975, 1976; R., '60, § 3511; C., '73, § 3179; C., '97,
§ 4122.]

SEC. 8503. What sent up.

1 When certification of the record is required, the designated papers,
2 notices, shorthand reporter's translation of his report, depositions, ex-
3 hibits identified as evidence, notices of appeal with return or accept-
4 ance of service thereon, and any other paper filed in the case, or any
5 part thereof, may be transmitted to the supreme court in the original
6 form, or by a transcript of the same, but all entries of record must be
7 by transcript. The clerk of the trial court shall verify his return,
8 whether it be of the record or transcription thereof, by his certificate,
9 under seal, distinguishing between originals and transcripts, and such
10 certification so made shall constitute a part of the record in the su-
11 preme court.

[C., '51, § 1977; R., '60, § 3512; C., '73, § 3184; C., '97,
§ 4123.]

SEC. 8504. Original paper.

1 Where a view of an original paper or exhibit in the action may
2 be important to a correct decision of the appeal, the court may order
3 the clerk of the court below to transmit the same, which he shall do
4 in the manner provided for the transmission of certifications of the
5 record.

[R., '60, § 3525; C., '73, § 3209; C., '97, § 4124.]

SEC. 8505. Transmission.

1 The transcript of any paper or exhibit required for use in the
2 supreme court may be transmitted thereto by the clerk of the trial
3 court by express or other safe and speedy method, but not by a party
4 or any attorney of a party.

[C., '51, §§ 1975, 1976; R., '60, § 3511; C., '73, § 3179; C.,
'97, § 4125.]

SEC. 8506. Return of original papers.

1 If a new trial is granted by the supreme court, the clerk, as soon
2 as the cause is at an end therein, shall transmit to the clerk of the
3 court below all original papers or exhibits certified up from said court,
4 and may at any time return any such papers when no new trial is
5 awarded.

[C., '97, § 4126.]

SEC. 8507. Perfecting record.

1 The lower court, the supreme court, or a judge of either court,
2 may make any necessary orders to secure a perfect record or tran-
3 script thereof, upon a showing by affidavit or otherwise, and upon such
4 notice as it or he may prescribe.

[R., '60, § 3524; C., '73, § 3185; C., '97, § 4127.]

SEC. 8508. Stay of proceedings—supersedeas bond.

1 No proceedings under a judgment or order, nor any part thereof,
 2 shall be stayed by an appeal, unless the appellant executes a bond with
 3 one or more sureties, to be filed with and approved by the clerk of the
 4 court in which the judgment or order was rendered or made, to the
 5 effect that he will pay to the appellee all costs and damages that shall
 6 be adjudged against him on the appeal; and will satisfy and perform
 7 the judgment or order appealed from in case it shall be affirmed, and
 8 any judgment or order which the supreme court may render, or order
 9 to be rendered by the inferior court, not exceeding in amount or value
 10 the original judgment or order, and all rents of or damages to prop-
 11 erty during the pendency of the appeal out of the possession of which
 12 the appellee is kept by reason of the appeal. If the bond is intended
 13 to stay proceedings on only a part of the judgment or order, it shall
 14 be varied so as to secure the part stayed alone. When thus filed and
 15 approved, the clerk shall issue a written order requiring the appellee
 16 and all others to stay all proceedings under such judgment or order,
 17 or so much thereof as is superseded thereby, but no appeal or stay shall
 18 vacate or affect such judgment or order.

[C., '51, § 1983; R., '60, §§ 3527, 3528; C., '73, § 3186; C., '97,
 § 4128.]

SEC. 8509. Partial stay.

1 The taking of the appeal from part of a judgment or order, and
 2 the filing of a bond as above directed, does not stay execution as to that
 3 part of the judgment or order not appealed from.

[C., '51, § 1985; R., '60, § 3532; C., '73, § 3191; C., '97,
 § 4129.]

SEC. 8510. Execution recalled.

1 If execution has issued prior to the filing of the bond, the clerk
 2 shall countermand the same.

[C., '51, § 1987; R., '60, § 3533; C., '73, § 3192; C., '97,
 § 4130.]

SEC. 8511. Property surrendered.

1 Property levied upon and not sold at the time such countermand is
 2 received by the sheriff shall be at once delivered to the judgment
 3 debtor.

[C., '51, § 1988; R., '60, § 3534; C., '73, § 3193; C., '97,
 § 4131.]

SEC. 8512. Conditions of bond—how fixed.

1 If a party has perfected his appeal, and the clerk of the lower
 2 court refuses for any reason to approve the bond, or requires an exces-
 3 sive penalty, or unjust or improper conditions, he may apply to the
 4 district court or judge thereof, who shall fix the amount and conditions
 5 of the bond and approve the same. Pending the application, the judge
 6 may, by a written order, recall and stay all proceedings under the order
 7 or judgment appealed from until the decision of the application. The
 8 bond thus approved shall be filed with the clerk, who shall issue a
 9 written order to stay proceedings.

[C., '73, § 3187; C., '97, § 4132.]

SEC. 8513. Insufficient security—new bond.

1 The appellee may move the court rendering the judgment or
 2 making the order appealed from, or the supreme court, or a judge of
 3 either court, if in vacation, upon ten days' notice in writing to appel-
 4 lant, to discharge the bond on account of defect in substance or insuf-
 5 ficiency in security, which motion if well taken, shall be sustained,
 6 unless appellant shall, within a day to be fixed in the order made and
 7 filed therein, give a new and sufficient bond as required by said order.
 8 If the new bond is not given, proceedings shall be had in the lower
 9 court as though no bond had been given, but a new and sufficient bond
 10 may be given at any time with like effect and results as though given
 11 in the first instance.

[R., '60, §§ 3529, 3530; C., '73, §§ 3188, 3189; C., '97, § 4133.]

SEC. 8514. Penalty of bond.

1 If the judgment or order is for the payment of money, the
 2 penalty shall be in at least twice the amount of the judgment and
 3 costs. If not for the payment of money, the penalty shall be suffi-
 4 cient to save the appellee harmless from the consequences of taking
 5 the appeal, but in no case shall the penalty be less than one hundred
 6 dollars.

[C., '51, § 1984; R., '60, § 3531; C., '73, § 3190; C., '97, § 4134;
 S., '13, § 4134.]

SEC. 8515. Security for costs.

1 The appellant may be required to give security for costs under
 2 the same circumstances and upon the same showing as plaintiffs in
 3 civil actions in the inferior court may be.

[R., '60, § 3526; C., '73, § 3210; C., '97, § 4135.]

SEC. 8516. Assignment of errors.

1 No assignment of errors shall be required in any case at law or in
 2 equity docketed in the supreme court.

[C., '97, § 4136; S., '13, § 4136.]

SEC. 8517. Motion book.

1 All motions must be in writing and entered upon the motion book,
 2 and be heard upon such notice and argument, if any, as the court by
 3 rule may prescribe, but no motion shall be submitted without being
 4 publicly called by the court, unless the parties otherwise agree.

[R., '60, § 3547; C., '73, § 3208; C., '97, § 4138.]

SEC. 8518. Arguments—submission—decision—objections to jurisdiction.

1 The parties to an appeal may be heard orally and in writing,
 2 subject to such rules as the court may prescribe; and all causes dock-
 3 eted, not continued by consent or upon cause shown, shall be submitted
 4 in the order assigned, unless otherwise directed by the court or the
 5 judges thereof. The court may reverse, modify or affirm the judg-
 6 ment, decree or order appealed from, or render such as the inferior
 7 court should have done. No cause is decided until the written decision
 8 is filed with the clerk. All objections to the jurisdiction of the court to
 9 entertain an appeal must be made in printed form stating specifically

10 the ground thereof and served upon the appellant or his attorney of
11 record not less than ten days before the date assigned for the sub-
12 mission of the cause.

[C., '51, § 1989; R., '60, §§ 3536, 3548, 3550; C., '73, §§ 3194, 3204, 3205; C., '97, § 4139; S., '13, § 4139.]

SEC. 8519. Judgment against sureties on stay bond.

1 The supreme court, if it affirms the judgment, shall also, if the
2 appellee asks or moves therefor, render judgment against the appel-
3 lant and his sureties on the appeal bond for the amount of the judg-
4 ment, damages and costs referred to therein in case such damages can
5 be accurately known to the court without an issue and trial.

[C., '51, § 1986; R., '60, § 3537; C., '73, § 3195; C., '97, § 4140.]

SEC. 8520. Damages for delay.

1 Upon the affirmance of any judgment or order for the payment
2 of money, the collection of which in whole or part has been stayed by
3 an appeal bond, the court may award to the appellee damages upon the
4 amount so stayed; and, if satisfied by the record that the appeal was
5 taken for delay only, may award as damages a sum not exceeding
6 fifteen per cent thereon.

[C., '51, § 1990; R., '60, § 3538; C., '73, § 3196; C., '97, § 4141.]

SEC. 8521. Costs taxed.

1 The supreme court must provide by rule for taxing as costs all
2 printing authorized upon the trial of appeals. The court shall also
3 tax the costs of any translation of the shorthand notes filed as pro-
4 vided in this chapter, and also any translation of the shorthand notes
5 which has been made of record in the court below, upon the certificate
6 of the clerk of such court as to the amount of such costs.

[C., '97, § 4142; S., '13, § 4142.]

SEC. 8522. Remand—process.

1 If the supreme court affirms the judgment or order, it may send
2 the cause to the court below to have the same carried into effect, or
3 may issue the necessary process for this purpose, directed to the
4 sheriff of the proper county, as the party may require.

[C., '51, § 1991; R., '60, § 3539; C., '73, § 3197; C., '97, § 4143.]

SEC. 8523. Decision certified.

1 If remanded to the inferior court to be carried into effect, such
2 decision and the order of the court thereon, being certified thereto
3 and entered on the records thereof, shall have the same force and
4 effect as if made and entered during the session of that court.

[R., '60, § 3551; C., '73, § 3206; C., '97, § 4144.]

SEC. 8524. Restitution of property.

1 If, by the decision of the supreme court, the appellant becomes
2 entitled to a restoration of any part of the money or property that
3 was taken from him by means of such judgment or order, either the

4 supreme court or the court below may direct execution or writ of
5 restitution to issue for the purpose of restoring to him such property
6 or its value.

[C., '51, § 1992; R., '60, § 3540; C., '73, § 3198; C., '97,
§ 4145.]

SEC. 8525. Title not affected.

1 Property acquired by a purchaser in good faith under a judg-
2 ment subsequently reversed shall not be affected thereby.

[C., '51, § 1993; R., '60, § 3541; C., '73, § 3199; C., '97,
§ 4146.]

SEC. 8526. Mandates enforced.

1 The supreme court may enforce its mandates upon inferior courts
2 and officers by fine and imprisonment, which imprisonment may be
3 continued until obeyed.

[R., '60, § 3542; C., '73, § 3200; C., '97, § 4147.]

SEC. 8527. Petition for rehearing.

1 If a petition for rehearing is filed, it shall suspend the decision, if
2 the court or one of the judges upon its presentation so order, until
3 after the final decision on the rehearing.

[R., '60, § 3543; C., '73, § 3201; C., '97, § 4148.]

SEC. 8528. Notice—arguments.

1 Written notice of intention to petition for a rehearing shall be
2 served on the opposite party or his attorney and the clerk of the su-
3 preme court within thirty days after the filing of the opinion, or within
4 such time as the court may by rule prescribe. Such petition shall be
5 printed and, with proof of service thereof on the opposite party or his
6 attorney, shall be filed with said clerk within sixty days after the
7 opinion is filed, and may be made the argument or a brief of authori-
8 ties relied upon for a rehearing. The adverse party may file a printed
9 argument in response. If the party applying for a rehearing shall give
10 notice of oral argument in his petition, then both parties shall be
11 entitled to be heard orally, unless the party giving notice waives oral
12 argument.

[R., '60, § 3544; C., '73, § 3202; C., '97, § 4149.]

SEC. 8529. Death of party—continuance.

1 The death of one or all of the parties shall not cause the pro-
2 ceedings to abate, but the names of the proper persons shall be sub-
3 stituted, as is provided in such cases in the district court, and the case
4 may proceed. The court may also, in such case, grant a continuance
5 when such a course will be calculated to promote the ends of justice.

[R., '60, § 3520; C., '73, § 3211; C., '97, § 4150.]

SEC. 8530. Dismissal of appeal.

1 Where appellant has no right, or no further right, to prosecute
2 the appeal, the appellee may move to dismiss it, and if the grounds of
3 the motion do not appear in the record, or by a writing purporting to

4 have been signed by the appellant and filed, they must be verified by
5 affidavit.

[R., '60, § 3521; C., '73, § 3212; C., '97, § 4151.]

SEC. 8531. Proceedings on motion to dismiss.

1 The appellee may, by answer or abstract filed and verified by him-
2 self, agent or attorney, plead any facts which render the taking of the
3 appeal improper or destroy the appellant's right of further prosecut-
4 ing the same, to which the appellant may file a reply or abstract like-
5 wise verified by himself, his agent or attorney, and the question of law
6 or fact therein shall be determined by the court, upon such evidence
7 and in such form as it may prescribe.

[R., '60, § 3522; C., '73, § 3213; C., '97, § 4152.]

SEC. 8532. Executions.

1 Executions issued from the supreme court shall be like those from
2 the district court, attended with the same consequences, and return-
3 able in the same time.

[R., '60, § 3552; C., '73, § 3215; C., '97, § 4153.]

TITLE XXXIII.

CRIMINAL LAW.

CHAPTER 1.

PUBLIC OFFENSES.

SECTION 8533. Classification of offenses.

- 1 Public offenses are divided into:
 2 1. Felonies.
 3 2. Misdemeanors.
 [C., '51, § 2816; R., '60, § 4428; C., '73, § 4103; C., '97,
 § 5092.]

SEC. 8534. Felony defined.

- 1 A felony is a public offense which is, or in the discretion of the
 2 court may be, punished by imprisonment in the penitentiary.
 [C., '51, § 2817; R., '60, § 4429; C., '73, § 4104; C., '97,
 § 5093.]

SEC. 8535. Misdemeanor defined.

- 1 Every other public offense is a misdemeanor.
 [C., '51, § 2818; R., '60, § 4430; C., '73, § 4105; C., '97,
 § 5094.]

SEC. 8536. Manner of punishment for offenses.

- 1 No person can be punished for a public offense except upon legal
 2 conviction in a court having jurisdiction thereof.
 [C., '51, § 2819; R., '60, § 4431; C., '73, § 4106; C., '97,
 § 5095.]

SEC. 8537. Prohibited acts—misdemeanors.

- 1 When the performance of any act is prohibited by any statute,
 2 and no penalty for the violation of such statute is imposed, the doing
 3 of such act is a misdemeanor.
 [C., '51, § 2675; R., '60, § 4302; C., '73, § 3966; C., '97,
 § 4905.]

SEC. 8538. Punishment for misdemeanors.

- 1 Every person who is convicted of a misdemeanor, the punishment
 2 of which is not otherwise prescribed by any statute of this state, shall
 3 be punished by imprisonment in the county jail not more than one
 4 year, or by fine not exceeding five hundred dollars, or by both such fine
 5 and imprisonment.
 [C., '51, § 2676; R., '60, § 4303; C., '73, § 3967; C., '97,
 § 4906.]

CHAPTER 2.

PRINCIPALS AND ACCESSORIES.

SECTION 8539. Distinction between principal and accessory.

1 The distinction between an accessory before the fact and a princi-
 2 pal is abrogated, and all persons concerned in the commission of a
 3 public offense, whether they directly commit the act constituting the
 4 offense, or aid and abet its commission, though not present, must
 5 hereafter be indicted, tried and punished as principals.

[C., '51, § 2928; R., '60, § 4668; C., '73, § 4314; C., '97,
 § 5299.]

SEC. 8540. Accessory after the fact.

1 An accessory after the fact to the commission of a public offense
 2 may be indicted, tried and punished, though the principal be neither
 3 tried nor convicted.

[C., '51, § 2929; R., '60, § 4669; C., '73, § 4315; C., '97,
 § 5300.]

CHAPTER 3.

TREASON AND OFFENSES AGAINST THE GOVERNMENT.

SECTION 8541. Treason defined—punishment.

1 Whoever, within the jurisdiction of the state levies war against
 2 it, or adheres to its enemies, giving them aid and comfort, is guilty of
 3 treason, and shall be punished by imprisonment in the penitentiary
 4 at hard labor for life.

[C., '51, § 2565; R., '60, § 4188; C., '73, § 3845; C., '97,
 § 4724.]

SEC. 8542. Evidence necessary for conviction.

1 No person can be convicted of the crime of treason except upon
 2 the evidence of at least two witnesses to the same overt act, or on
 3 confession in open court.

[C., '51, § 2567; R., '60, § 4190; C., '73, § 3847; C., '97,
 § 4726.]

SEC. 8543. Misprision of treason defined—punishment.

1 If any person have knowledge of the commission of said crime
 2 of treason, and does not as soon as may be disclose such offense to
 3 the governor or some judge within the state, he is guilty of misprision
 4 of treason, and shall be fined not exceeding one thousand dollars, or
 5 be imprisoned in the penitentiary not exceeding three years, nor less
 6 than one year.

[C., '51, § 2566; R., '60, § 4189; C., '73, § 3846; C., '97,
 § 4725.]

SEC. 8544. Inciting insurrection—punishment.

1 If any person shall excite an insurrection or sedition amongst any
 2 portion or class of the population of this state, or shall attempt by

3 writing, speaking, or by any other means to excite such insurrection
 4 or sedition, the person or persons so offending shall be punished by
 5 imprisonment in the state penitentiary not exceeding twenty years
 6 and shall be fined not less than one thousand nor more than ten thou-
 7 sand dollars.

[37 G. A., ch. 372, § 1.]

SEC. 8545. Inciting treason—display of red flag—punishment.

1 Any person who displays, carries, or exhibits any red flag, or
 2 other flag, pennant, banner, ensign, or insignia, or who aids, encour-
 3 ages, or advises such display, carriage, or exhibition, with the intent
 4 thereby to himself, or to induce others, to advocate, encourage, or
 5 incite anarchy or treason or hostility to the government of the United
 6 States or of the state of Iowa, or to insult or disregard the flag of
 7 the United States, shall be guilty of a misdemeanor and upon convic-
 8 tion shall be fined not to exceed one thousand dollars or be imprisoned
 9 not to exceed six months or both.

[38 G. A., ch. 199, § 1.]

SEC. 8546. Presumptive evidence.

1 In all prosecutions for violation of the preceding section, the dis-
 2 play, carriage, or exhibition of such red flag, pennant, banner, ensign,
 3 or insignia in processions, parades, meetings or assemblages, shall be
 4 presumptive evidence that the same was so displayed, carried, or ex-
 5 hibited with the intent thereby to advocate, teach, encourage, or incite
 6 anarchy or treason or hostility to the government of the United States
 7 or the state of Iowa, or with intent to insult or disregard the flag of
 8 the United States.

[38 G. A., ch. 199, § 3.]

SEC. 8547. Aggravated offense—punishment.

1 If any person so violate the provisions of the second preceding
 2 section, and be then and there armed with a dangerous weapon, he
 3 shall be guilty of a felony and upon conviction shall be imprisoned
 4 not to exceed five years.

[38 G. A., ch. 199, § 2.]

SEC. 8548. Inciting hostilities—punishment.

1 Any person who shall in public or private, by speech, writing,
 2 printing or by any other mode or means advocate the subversion and
 3 destruction by force of the government of the state of Iowa or of the
 4 United States, or attempt by speech, writing, printing or in any other
 5 way whatsoever to incite or abet, promote or encourage hostility or
 6 opposition to the government of the state of Iowa or of the United
 7 States shall be guilty of a misdemeanor and upon conviction shall be
 8 punished by imprisonment in the county jail not less than six months
 9 nor more than one year and shall be fined not less than three hundred
 10 nor more than one thousand dollars.

[37 G. A., ch. 372, § 2.]

SEC. 8549. Organizations for inciting hostilities—punishment.

1 Any person who shall become a member of any organization, so-
 2 ciety or order organized or formed, or attend any meeting or council,
 3 or solicit others so to do, for the purpose of inciting, abetting, pro-

4 moting or encouraging hostility or opposition to the government of the
 5 state of Iowa or to the United States, or who shall in any manner aid,
 6 abet or encourage any such organization, society, order or meeting in
 7 the propagation or advocacy of such a purpose shall be guilty of a mis-
 8 demeanor and upon conviction shall be imprisoned in the county jail
 9 not less than six months nor more than one year and shall be fined not
 10 less than three hundred nor more than one thousand dollars.

[37 G. A., ch. 372, § 3.]

SEC. 8550. Criminal syndicalism defined.

1 Criminal syndicalism is the doctrine which advocates crime, sa-
 2 botage, violence or other unlawful methods of terrorism as a means
 3 of accomplishing industrial or political reform. The advocacy of such
 4 doctrine, whether by word of mouth or writing, is a felony punishable
 5 as provided in the three following sections:

[38 G. A., ch. 382, § 1.]

SEC. 8551. Advocating criminal syndicalism—punishment.

1 Any person who:

2 1. By word of mouth or writing, advocates or teaches the duty,
 3 necessity or propriety of crime, sabotage, violence or other unlawful
 4 methods of terrorism as a means of accomplishing industrial or po-
 5 litical reform; or

6 2. Prints, publishes, edits, issues or knowingly circulates, sells,
 7 distributes or publicly displays any book, paper, document or written
 8 matter in any form, containing or advocating, advising or teaching
 9 the doctrine that industrial or political reform should be brought
 10 about by crime, sabotage, violence or other unlawful methods of ter-
 11 rorism; or

12 3. Openly, wilfully and deliberately justifies, by word of mouth or
 13 writing, the commission or the attempt to commit crime, sabotage,
 14 violence or other unlawful methods of terrorism with intent to exem-
 15 plify, spread or advocate the propriety of the doctrines of criminal
 16 syndicalism; or

17 4. Organizes or helps to organize, or becomes a member of or
 18 voluntarily assembles with any society, group or assemblage of per-
 19 sons formed to teach or advocate the doctrines of criminal syndical-
 20 ism, is guilty of a felony and punishable by imprisonment in the state
 21 penitentiary or reformatory for not more than ten years or by a fine
 22 of not more than five thousand dollars or both.

[38 G. A., ch. 382, § 2.]

SEC. 8552. Assemblages for promoting—punishment.

1 Whenever two or more persons assemble for the purpose of advo-
 2 cating or teaching the doctrines of criminal syndicalism as defined in
 3 the two preceding sections, such an assemblage is unlawful and every
 4 person voluntarily participating therein by his aid or instigation is
 5 guilty of a felony and punishable by imprisonment in the state peni-
 6 tentiary or reformatory for not more than ten years or by a fine of
 7 not more than five thousand dollars or both.

[38 G. A., ch. 382, § 3.]

SEC. 8553. Use of buildings—punishment of owner or custodian.

1 The owner, agent, superintendent, janitor, caretaker or occupant
 2 of any place, building or room, who wilfully and knowingly permits

3 therein any assemblage of persons prohibited by the provisions of
 4 the preceding section, or who, after notification by the sheriff of the
 5 county or the police authorities that the premises are so used, permits
 6 such use to be continued, is guilty of a misdemeanor and punishable
 7 by imprisonment in the county jail for not more than one year or by
 8 a fine of not more than five hundred dollars or both.

[38 G. A., ch. 382, § 4.]

CHAPTER 4.

HOMICIDE.

SECTION 8554. Murder defined.

1 Whoever kills any human being with malice aforethought, either
 2 express or implied, is guilty of murder.

[C., '51, § 2568; R., '60, § 4191; C., '73, § 3848; C., '97,
 § 4727.]

SEC. 8555. First degree murder—punishment.

1 All murder which is perpetrated by means of poison, or lying in
 2 wait, or any other kind of wilful, deliberate and premeditated killing,
 3 or which is committed in the perpetration or attempt to perpetrate
 4 any arson, rape, robbery, mayhem or burglary, is murder in the first
 5 degree, and shall be punished with death, or imprisonment for life at
 6 hard labor in the penitentiary, as determined by the jury, or by the
 7 court if the defendant pleads guilty.

[C., '51, § 2569; R., '60, § 4192; C., '73, § 3849; C., '97,
 § 4728.]

SEC. 8556. Second degree murder—punishment.

1 Whoever commits murder otherwise than as set forth in the
 2 preceding section is guilty of murder of the second degree, and shall
 3 be punished by imprisonment in the penitentiary for life, or for a
 4 term of not less than ten years.

[C., '51, § 2570; R., '60, § 4193; C., '73, § 3850; C., '97,
 § 4729.]

SEC. 8557. Degree determined.

1 Upon the trial of an indictment for murder, the jury, if it finds
 2 the defendant guilty, must inquire, and by its verdict ascertain and
 3 determine the degree; but if the defendant is convicted upon a plea of
 4 guilty, the court must, by the examination of witnesses, determine the
 5 degree, and in either case must enter judgment and pass sentence
 6 accordingly.

[C., '51, § 2571; R., '60, § 4194; C., '73, § 3851; C., '97,
 § 4730.]

SEC. 8558. Fixing punishment in first degree murder.

1 Upon the trial of an indictment for murder, the jury, if it finds
 2 the defendant guilty of murder in the first degree, must direct in its
 3 verdict whether the punishment shall be death or imprisonment for
 4 life at hard labor in the penitentiary, but if the defendant pleads guilty

5 the court shall so direct, and in either case must enter judgment and
6 pass sentence accordingly.

[C., '97, § 4731.]

SEC. 8559. Assault with intent to murder—punishment.

1 If any person assault another with intent to commit murder, he
2 shall be imprisoned in the penitentiary not exceeding thirty years.

[C., '51, § 2591; R., '60, § 4214; C., '73, § 3872; C., '97,
§ 4768; S., '13, § 4768.]

SEC. 8560. Advising or inciting murder—punishment.

1 Whoever shall within this state advise, counsel, encourage, advoca-
2 cate or incite the unlawful killing within or without the state of any
3 human being where no such killing takes place shall be punished by
4 imprisonment in the state penitentiary for not more than twenty years.

[S., '13, § 4750-a.]

SEC. 8561. Poisoning food or drink with intent to kill.

1 If any person mingle any poison with any food, drink or medi-
2 cine, with intent to kill or injure any human being, or wilfully poison
3 any spring, well, cistern or reservoir of water, he shall be imprisoned
4 in the penitentiary not exceeding ten years, and be fined not exceeding
5 one thousand dollars.

[C., '51, § 2596; R., '60, § 4219; C., '73, § 3877; C., '97,
§ 4773.]

SEC. 8562. Manslaughter—punishment.

1 Any person guilty of the crime of manslaughter shall be impris-
2 oned in the penitentiary not exceeding eight years, and fined not ex-
3 ceeding one thousand dollars.

[C., '51, § 2576; R., '60, § 4199; C., '73, § 3856; C., '97,
§ 4751.]

CHAPTER 5.

SELF-DEFENSE.

SECTION 8563. Lawful resistance in self-defense.

1 Lawful resistance to the commission of a public offense may be
2 made by the party about to be injured, or by others.

[C., '51, § 2773; R., '60, § 4442; C., '73, § 4112; C., '97,
§ 5102.]

SEC. 8564. Cases in which permitted.

1 Resistance sufficient to prevent the offense may be made by the
2 party about to be injured:

- 3 1. To prevent an offense against his person.
- 4 2. To prevent an illegal attempt by force to take or injure prop-
5 erty in his lawful possession.

[C., '51, § 2774; R., '60, § 4443; C., '73, § 4113; C., '97,
§ 5103.]

SEC. 8565. Persons aiding another.

- 1 Any other person, in aid or defense of the person about to be
 2 injured, may make resistance sufficient to prevent the same.
 [C., '51, § 2775; R., '60, § 4444; C., '73, § 4114; C., '97,
 § 5104.]

CHAPTER 6.**DUELING.****SECTION 8566. Killing in duel—punishment.**

- 1 Whoever fights a duel with deadly weapons, and inflicts a mortal
 2 wound on his antagonist, is guilty of murder in the first degree, and
 3 shall be punished accordingly.
 [C., '51, § 2572; R., '60, § 4195; C., '73, § 3852; C., '97,
 § 4747.]

SEC. 8567. Dueling—seconds—challenges—punishment.

- 1 Any person who fights a duel with deadly weapons, or is present
 2 thereat as aid, second or surgeon, or advises, encourages or promotes
 3 the same, although no homicide ensue; and any person who challenges
 4 another to fight a duel, or sends or delivers any verbal or written mes-
 5 sage purporting or intended to be such challenge, although no duel
 6 ensue, shall be fined in a sum not exceeding one thousand nor less
 7 than four hundred dollars, and imprisoned in the penitentiary not
 8 more than three nor less than one year.
 [C., '51, § 2573; R., '60, § 4196; C., '73, § 3853; C., '97,
 § 4748.]

SEC. 8568. Accepting challenge—consenting to assist.

- 1 Any person who accepts such challenge, or who consents to act as
 2 a second, aid or surgeon on such acceptance, or who advises, encour-
 3 ages or promotes the same, although no duel ensue, shall be punished
 4 as prescribed in the preceding section.
 [C., '51, § 2574; R., '60, § 4197; C., '73, § 3854; C., '97,
 § 4749.]

SEC. 8569. Taunting for not accepting—punishment.

- 1 If any person post another, or in writing or print use any re-
 2 proachful or contemptuous language to or concerning another, for not
 3 fighting a duel, or for not sending or accepting a challenge, he shall be
 4 fined not exceeding three hundred nor less than one hundred dollars,
 5 and shall be imprisoned in the county jail not more than six nor less
 6 than two months.
 [C., '51, § 2575; R., '60, § 4198; C., '73, § 3855; C., '97,
 § 4750.]

CHAPTER 7.

MAYHEM.

SECTION 8570. Maiming or disfiguring—punishment.

1 If any person, with intent to maim or disfigure, cut or maim the
 2 tongue; cut out or destroy an eye; cut, slit or tear off an ear; cut, bite,
 3 slit or mutilate the nose or lip; cut off or disable a limb or any member
 4 of another person, he shall be imprisoned in the penitentiary not
 5 more than five years, and fined not exceeding one thousand nor less
 6 than one hundred dollars.

[C., '51, § 2577; R., '60, § 4200; C., '73, § 3857; C., '97,
 § 4752.]

CHAPTER 8.

ASSAULTS.

SECTION 8571. Assault—assault and battery—punishment.

1 Whoever is convicted of an assault, or an assault and battery,
 2 where no other punishment is prescribed, shall be imprisoned in the
 3 county jail not exceeding thirty days, or be fined not exceeding one
 4 hundred dollars.

[C., '51, § 2597; R., '60, § 4220; C., '73, § 3878; C., '97,
 § 4774.]

SEC. 8572. Assault with intent to commit a felony.

1 If any person assault another with intent to commit any felony
 2 or crime punishable by imprisonment in the penitentiary, where the
 3 punishment is not otherwise prescribed, he shall be imprisoned in the
 4 penitentiary not more than five years, or be fined not exceeding five
 5 hundred dollars and imprisoned in the county jail not more than
 6 one year.

[C., '51, § 2595; R., '60, § 4218; C., '73, § 3876; C., '97,
 § 4772.]

SEC. 8573. Assault with intent to inflict great bodily injury.

1 If any person assault another with intent to inflict a great bodily
 2 injury, he shall be imprisoned in the county jail not exceeding one
 3 year, or be fined not exceeding five hundred dollars, or by imprison-
 4 ment in the penitentiary or reformatory not exceeding one year.

[C., '51, § 2594; R., '60, § 4217; C., '73, § 3875; C., '97,
 § 4771; S., '13, § 4771.]

SEC. 8574. Assault with intent to commit certain crimes.

1 If any person assault another with intent to maim, rob, steal or
 2 commit arson or burglary, he shall be imprisoned in the penitentiary
 3 not exceeding five years, or be fined not exceeding one thousand dol-
 4 lars, or both so fined and imprisoned, at the discretion of the court.

[C., '51, § 2593; R., '60, § 4216; C., '73, § 3874; C., '97,
 § 4770.]

CHAPTER 9.

CONCEALED WEAPONS, FIREARMS AND TOY PISTOLS.

SECTION 8575. Carrying concealed weapons—aiming guns.

1 If any person carry upon his person any concealed weapon, or
 2 shall wilfully draw and point a pistol, revolver or gun at another, he
 3 shall be guilty of a misdemeanor, and be fined not more than one hun-
 4 dred dollars, or imprisoned in the county jail not more than thirty
 5 days; but this section shall not apply to police officers and other per-
 6 sons whose duty it is to execute process or warrants, or make arrests.

[C., '73, § 3879; C., '97, § 4775.]

SEC. 8576. Carrying dangerous and concealed weapons.

1 It shall be unlawful for any person, except as hereinafter pro-
 2 vided, to go armed with and have concealed upon his person a dirk,
 3 dagger, sword, pistol, revolver, stiletto, metallic knuckles, pocket billy,
 4 sandbag, skull cracker, slung shot, or other offensive and dangerous
 5 weapons or instruments concealed upon his person; provided that no
 6 person under fourteen years of age shall be allowed to carry firearms
 7 of any description.

[S., '13, § 4775-1a.]

SEC. 8577. Punishment.

1 Any person who shall violate any of the provisions of the preced-
 2 ing section shall be deemed guilty of a felony and upon conviction
 3 thereof shall be punished by a fine of not more than five hundred dol-
 4 lars or by imprisonment in the state prison not more than two years,
 5 or by both such fine and imprisonment in the discretion of the court,
 6 and in addition thereto may be required to enter into a recognizance
 7 with sufficient surety in such sum as the court may order, not exceed-
 8 ing one thousand dollars, to keep the peace and be of good behavior
 9 for a period not exceeding one year, provided that in case of the first
 10 offense the court may in its discretion reduce the punishment to im-
 11 prisonment in the county jail of a term not more than three months,
 12 or a fine of not more than one hundred dollars.

[S., '13, § 4775-11a.]

SEC. 8578. Permits to carry concealed weapons.

1 For the purpose of enforcing the laws, local, state or national, the
 2 mayor or chief of police in cities of the first class, special charter
 3 cities and cities under the commission form of government, where
 4 there is an organized police force, and in counties, cities of the second
 5 class, towns and villages, the sheriff of the county may on request
 6 of mayors or peace officers issue a permit, limited to the time therein
 7 to be designated, to carry concealed a revolver, pistol or pocket billy,
 8 provided that in the judgment of said officials such permit shall be
 9 granted for defense or service while on official duty, or to express,
 10 mail or bank agents or messengers or other officers requiring them
 11 for protecting property in their care.

[S., '13, § 4775-3a; 37 G. A., ch. 171, § 1.]

SEC. 8579. Duration of permit.

1 Each such permit shall, unless revoked by notice in writing sent
2 by registered mail to the permit holder by the officer issuing same,
3 expire on December thirty-first following the issuance.

[S., '13, § 4775-3a; 37 G. A., ch. 171, § 1.]

SEC. 8580. Record of permits.

1 The officer issuing the permit shall, except as to peace officers,
2 special police, plain-clothes officers and secret service men, keep a
3 record showing the name and address of the person to whom issued,
4 and for what period of time; which record shall not be open to public
5 inspection.

[S., '13, § 4775-3a; 37 G. A., ch. 171, § 1.]

SEC. 8581. Permits for peace officers.

1 It shall be the duty of said officials to issue a permit to go armed
2 with a revolver, pistol or pocket billy to all peace officers and such
3 other persons who, in the judgment of said officials, should be permitted
4 to go so armed.

[S., '13, § 4775-4a.]

SEC. 8582. Permits for employees of certain companies.

1 Mining companies, banks, trust companies, railroad and express
2 companies may obtain a general permit good for any of their employees,
3 only while on duty, actually engaged in guarding any property or
4 the transportation of moneys or other valuables.

[S., '13, § 4775-4a.]

SEC. 8583. Permit good only on duty.

1 Permits issued to peace officers or to employees of railroad or
2 express companies shall permit such persons to go armed anywhere
3 within the state while in the discharge of their duties.

[S., '13, § 4775-4a.]

SEC. 8584. Application for permit.

1 No permit shall be granted to any person to go armed as heretofore
2 stated, with a revolver, pistol or pocket billy, unless the applicant
3 shall make personal application before the officials heretofore mentioned,
4 and the applicant must state: first, the full name, residence and age
5 of the applicant; second, the place of business, place of employment,
6 or vocation of the applicant; third, the nature of the applicant's
7 business.

[S., '13, § 4775-7a.]

SEC. 8585. Permit good only during term of office.

1 Whenever any permit is issued under this chapter to any person
2 to carry any of the weapons mentioned herein, by virtue of said person
3 being a peace officer, the right of said person to carry any of said
4 weapons shall cease when said person ceases to be such official.

[S., '13, § 4775-6a.]

SEC. 8586. Revocation of permits.

1 Said officials shall have the power to at any time at their discre-
2 tion, revoke any permit under and by virtue of this chapter.

[S., '13, § 4775-6a.]

SEC. 8587. County recorder to keep record.

1 The county recorder shall keep a complete record, in a book pro-
2 vided for the purpose of all permits issued, and revocations made, and
3 sales of pistols, revolvers and pocket billies. Such record shall not
4 be open to inspection to any, except the sheriff, mayor, or chief of
5 police of the county or municipality.

[S., '13, § 4775-6a.]

SEC. 8588. Production of permit upon request.

1 It shall be the duty of any person armed with a revolver, pistol
2 or pocket billy concealed upon his person, to produce at all times and
3 upon the request of any peace officer or any other person in authority,
4 the permit provided for in this chapter. And failure to so produce
5 such permit upon request shall be deemed prima facie evidence of the
6 violation of the terms of this chapter.

[S., '13, § 4775-8a.]

SEC. 8589. Sale of dangerous weapons prohibited.

1 It shall be unlawful to sell, to keep for sale or offer for sale, loan
2 or give away, dirk, dagger, stiletto, metallic knuckles, sandbag or
3 skull cracker. The provisions of this section shall not prevent the
4 selling or keeping for sale of hunting and fishing knives.

[S., '13, § 4775-2a.]

SEC. 8590. Dealer's permit to sell.

1 It shall be unlawful for any person, firm, association or corpora-
2 tion to engage in the business of selling, keeping for sale, exchange or
3 to give away to any person within the state, any revolver, pistol or
4 pocket billy or other weapons of a like character which can be con-
5 cealed on the person, without first securing a permit from the proper
6 officials having authority to issue such permit.

[S., '13, § 4775-9a.]

SEC. 8591. Record of permits to sell.

1 The chief of police, sheriff or mayor shall have authority to issue
2 permits to sell and shall keep a correct list of all persons to whom
3 permits to sell are issued, together with the number of such permit
4 and the date each is revoked, and furnish the county recorder a copy
5 of all such permits issued and revocations made.

[S., '13, § 4775-5a.]

SEC. 8592. Report of sale to county recorder.

1 Every person selling revolvers, pistols, pocket billies and other
2 weapons of a like character which can be concealed on the person,
3 whether such person is a retail dealer, pawnbroker or otherwise, shall
4 report within twenty-four hours to the county recorder, the sale of
5 any revolver, pistol or pocket billy and in such report shall set forth

6 the time of sale, age, occupation, place of employment or business,
7 name and residence of such purchaser of said weapon or weapons, to-
8 gether with the number, make, and other marks of identification of
9 such weapon or weapons.

[S., '13, § 4775-10a.]

SEC. 8593. Failure to make report.

1 Every person who shall fail to make such report will be guilty of
2 a misdemeanor, and on being convicted of a second offense his permit
3 shall be revoked.

[S., '13, § 4775-10a.]

SEC. 8594. Purchasing under fictitious name.

1 Any person purchasing a revolver, pistol or a pocket billy accord-
2 ing to the provisions in sections eighty-five hundred eighty-four and
3 eighty-five hundred ninety-two, and giving a fictitious name will be
4 guilty of a misdemeanor.

[S., '13, § 4775-10a.]

SEC. 8595. Wholesale dealers and jobbers excepted.

1 The provisions of the nineteen preceding sections shall not affect
2 in any respect wholesale dealers or jobbers.

[S., '13, § 4775-12a.]

SEC. 8596. Display of weapons prohibited—punishment.

1 Any person, firm or corporation or the agent thereof who shall
2 display in any window facing a public street or alley any pistols,
3 revolvers, blackjacks, slugs, billies, knuckles, daggers, stiletos or
4 bowie-knives, except war relics, shall be guilty of a misdemeanor and
5 upon conviction shall be punished by a fine not less than ten dollars
6 nor more than one hundred dollars or be imprisoned in the county jail
7 not to exceed thirty days.

[37 G. A., ch. 87, § 1.]

SEC. 8597. Selling firearms to minors—punishment.

1 No person shall knowingly sell, present or give any pistol, re-
2 volver or toy pistol to any minor. Any violation of this section shall
3 be punished by a fine of not less than twenty-five nor more than one
4 hundred dollars, or by imprisonment in the county jail not less than
5 ten nor more than thirty days.

[C., '97, § 5004.]

SEC. 8598. Sale of toy pistols and giant firecrackers.

1 No person shall use, sell, offer for sale or keep for sale within
2 this state any toy pistols, toy revolvers, caps containing dynamite,
3 blank cartridges for toy revolvers or toy pistols, or firecrackers more
4 than five inches in length and more than three-fourths of an inch in
5 diameter; provided caps containing dynamite may be used, kept for
6 sale or sold when needed for mining purposes, or for danger signals,
7 or for other necessary uses.

[S., '13, § 5028-p.]

SEC. 8599. Punishment.

1 Any person violating the provisions of the preceding section
 2 shall be fined not exceeding one hundred dollars, or be imprisoned in
 3 the county jail not exceeding thirty days.

[S., '13, § 5028-q.]

CHAPTER 10.**INJURIES BY EXPLOSIVES.****SECTION 8600. Death caused by high explosives—punishment.**

1 If any person wilfully deposits or throws in, under or about any
 2 dwelling house, building, boat, vessel or raft or other inhabited place,
 3 where its explosion will or is likely to destroy or injure the same, any
 4 dynamite, nitroglycerin, giant powder or other material, and by
 5 reason of the explosion thereof any person is killed, he shall be
 6 guilty of murder.

[C., '97, § 4796.]

SEC. 8601. Injury to person—punishment.

1 If any person wilfully deposits or throws any dynamite, nitro-
 2 glycerin or giant powder or other explosive material as provided in
 3 the preceding section, and by means of the explosion thereof any
 4 person is injured, he shall be guilty of an assault with intent to
 5 commit murder.

[C., '97, § 4797.]

SEC. 8602. Injury to property—punishment.

1 If any person, with intent to destroy or injure any building, boat,
 2 vessel or raft, any bridge, viaduct or other structure not provided for
 3 in the preceding sections, deposits or throws in, under or about such
 4 building, boat, vessel, raft, bridge, viaduct or other structure any
 5 dynamite, nitroglycerin, giant powder or other explosive material,
 6 by the explosion of which any such structure will or will be likely to
 7 be destroyed or injured, he shall be imprisoned in the penitentiary
 8 not more than fifteen years.

[C., '97, § 4798.]

SEC. 8603. Injuring or terrorizing inhabitants of dwelling.

1 If any person, with intent to injure or terrorize the inhabitants
 2 of any dwelling house, or other building used as a dwelling, or any
 3 inhabited boat, vessel or raft, or with intent to injure, or deface any
 4 such structure, throws at, against or into the same any brick, stone,
 5 billet of wood or other missile, or shoots thereat, with such intent, any
 6 gun, pistol or revolver, he shall be imprisoned in the penitentiary not
 7 more than three years, or in the county jail not more than one year,
 8 or be fined not more than one thousand dollars.

[C., '97, § 4799.]

SEC. 8604. Putting out high explosives—punishment.

1 If any person, with intent to destroy or injure any inhabited
 2 dwelling house, building, boat, vessel or raft, deposits or throws

3 therein or thereunder, or elsewhere about the same, where its ex-
 4 plosion will or is likely to destroy or injure the same, any dynamite,
 5 nitroglycerin, giant powder, or other explosive material, he shall be
 6 imprisoned in the penitentiary not more than twenty-five years.

[C., '97, § 4795.]

SEC. 8605. Manufacture of gunpowder—public nuisance.

1 If any person carry on the business of manufacturing gunpowder,
 2 or of mixing or grinding the composition therefor, in any building
 3 within eighty rods of any valuable building erected at the time when
 4 such business may be commenced, the building in which such busi-
 5 ness is thus carried on is a public nuisance.

[C., '51, § 2760; R., '60, § 4410; C., '73, § 4090; C., '97,
 § 5079.]

CHAPTER 11.

RAPE.

SECTION 8606. Rape defined—punishment.

1 If any person ravish and carnally know any female of the age of
 2 fifteen years or more by force and against her will, or carnally know
 3 and abuse any female child under the age of fifteen years, he shall be
 4 imprisoned in the penitentiary for life or any term of years.

[C., '51, § 2581; R., '60, § 4204; C., '73, § 3861; C., '97,
 § 4756.]

SEC. 8607. Carnal knowledge of imbecile or insensible female.

1 If any person unlawfully have carnal knowledge of any female
 2 by administering to her any substance, or by any other means pro-
 3 ducing such stupor or such imbecility of mind or weakness of body
 4 as to prevent effectual resistance, or have such carnal knowledge of
 5 an idiot or female naturally of such imbecility of mind or weakness
 6 of body as to prevent effectual resistance, he shall be punished as
 7 provided in the preceding section.

[C., '51, § 2583; R., '60, § 4206; C., '73, § 3863; C., '97,
 § 4758.]

SEC. 8608. Assault with intent to commit rape—punishment.

1 If any person assault a female with intent to commit a rape, he
 2 shall be imprisoned in the penitentiary not exceeding twenty years.

[C., '51, § 2592; R., '60, § 4215; C., '73, § 3873; C., '97,
 § 4769.]

CHAPTER 12.

FORCIBLE MARRIAGE AND DEFILEMENT.

SECTION 8609. Compelling to marry or be defiled—punishment.

1 If any person take any woman unlawfully and against her will,
 2 and by force, menace or duress compels her to marry him or any other

3 person, or to be defiled, he shall be fined not exceeding one thousand
 4 dollars and imprisoned in the penitentiary not exceeding ten years.
 5 No person shall be convicted under the provisions of this section unless
 6 the evidence of the prosecuting witness be corroborated by other evi-
 7 dence tending to connect the defendant with the commission of
 8 the crime.

[C., '51, § 2582; R., '60, § 4205; C., '73, § 3862; C., '97,
 § 4757.]

CHAPTER 13.

SEDUCTION.

SECTION 8610. Seduction defined—punishment.

1 If any person seduce and debauch any unmarried woman of
 2 previously chaste character, he shall be punished by imprisonment in
 3 the penitentiary not more than five years, or by fine not exceeding one
 4 thousand dollars and imprisonment in the county jail not exceeding
 5 one year.

[C., '51, § 2586; R., '60, § 4209; C., '73, § 3867; C., '97,
 § 4762.]

SEC. 8611. Marriage a bar to prosecution.

1 If, before judgment upon an indictment, the defendant marry
 2 the woman thus seduced, it is a bar to any further prosecution for
 3 the offense.

[C., '51, § 2587; R., '60, § 4210; C., '73, § 3868; C., '97,
 § 4763.]

SEC. 8612. Desertion after seduction and marriage.

1 Every man who shall marry any woman for the purpose of
 2 escaping prosecution for seduction, and shall afterwards desert her
 3 without good cause, shall be deemed guilty of a misdemeanor and
 4 shall be punished accordingly.

[C., '97, § 4764.]

CHAPTER 14.

ATTEMPT TO PRODUCE ABORTION.

SECTION 8613. Administration of drugs—use of instruments.

1 If any person, with intent to produce the miscarriage of any
 2 woman, wilfully administer to her any drug or substance whatever,
 3 or, with such intent, use any instrument or other means whatever,
 4 unless such miscarriage shall be necessary to save her life, he shall be
 5 imprisoned in the penitentiary for a term not exceeding five years,
 6 and be fined in a sum not exceeding one thousand dollars.

[R., '60, § 4221; C., '73, § 3864; C., '97, § 4759; S. S., '15,
 § 4759.]

CHAPTER 15.

ADULTERY.

SECTION 8614. Adultery—punishment—limitation.

1 Every person who commits adultery shall be imprisoned in the
 2 penitentiary not more than three years, or be fined not exceeding
 3 three hundred dollars and imprisonment in the county jail not ex-
 4 ceeding one year; and when the crime is committed between parties
 5 only one of whom is married, both shall be punished. No prosecution
 6 therefor can be commenced except on the complaint of the husband
 7 or wife.

[C., '51, § 2705; R., '60, § 4347; C., '73, § 4008; C., '97,
 § 4932.]

CHAPTER 16.

BIGAMY.

SECTION 8615. Bigamy defined—punishment.

1 If any person who has a former husband or wife living marry
 2 another person, or continue to cohabit with such second husband or
 3 wife, he or she, except in the cases mentioned in the following sec-
 4 tion, is guilty of bigamy, and shall be imprisoned in the penitentiary
 5 not more than five years, or be fined not exceeding five hundred dol-
 6 lars and imprisoned in the county jail not more than one year.

[C., '51, § 2706; R., '60, § 4348; C., '73, § 4009; C., '97,
 § 4933.]

SEC. 8616. Exceptions—absence of spouse.

1 The provisions of the preceding section do not extend to any per-
 2 son whose husband or wife has continually remained beyond seas, or
 3 who has voluntarily withdrawn from the other and remained absent,
 4 for the space of three years together, the party marrying again
 5 not knowing the other to be living within that time; nor to any person
 6 who has good reason to believe such husband or wife to be dead; nor
 7 to any person who has been legally divorced from the bonds of
 8 matrimony.

[C., '51, § 2707; R., '60, § 4349; C., '73, § 4010; C., '97,
 § 4934.]

SEC. 8617. Knowingly marrying husband or wife of another.

1 Every unmarried person who knowingly marries the husband, or
 2 wife of another, when such husband or wife is guilty of bigamy
 3 thereby, shall be imprisoned in the penitentiary not exceeding three
 4 years, or be fined not more than three hundred dollars and imprisoned
 5 in the county jail not exceeding one year.

[C., '51, § 2708; R., '60, § 4350; C., '73, § 4011; C., '97,
 § 4935.]

CHAPTER 17.

INCEST.

SECTION 8618. Incest defined—prohibited degrees of marriage.

1 If any man marry his father's sister, mother's sister, father's
 2 widow, wife's mother, daughter, wife's daughter, son's widow, sister,
 3 son's daughter, daughter's daughter, son's son's widow, daughter's
 4 son's widow, brother's daughter or sister's daughter; or if any woman
 5 marry her father's brother, mother's brother, mother's husband, hus-
 6 band's father, son, husband's son, daughter's husband, brother, son's
 7 son, daughter's son, son's daughter's husband, daughter's daughter's
 8 husband, brother's son or sister's son, or if anyone marry his or her
 9 first cousin; or if any person, being within the degrees of consanguinity
 10 or affinity in which marriages are prohibited by this section, carnally
 11 know each other, they shall be guilty of incest, and imprisoned in the
 12 penitentiary not exceeding twenty-five years nor less than one year.
 [R., '60, §§ 4367-4369; C., '73, § 4030; C., '97, § 4936; S., '13,
 § 4936.]

CHAPTER 18.

SODOMY.

SECTION 8619. Sodomy defined.

1 Whoever shall have carnal copulation in any opening of the body
 2 except sexual parts, with another human being, or shall have carnal
 3 copulation with a beast, shall be deemed guilty of sodomy.
 [S., '13, § 4937-a.]

SEC. 8620. Punishment.

1 Any person who shall commit sodomy, shall be imprisoned in the
 2 penitentiary not more than ten years nor less than one year.
 [C., '97, § 4937.]

CHAPTER 19.

KIDNAPING.

SECTION 8621. Kidnaping for ransom—punishment.

1 Whoever kidnaps, takes or carries away any person, or decoys
 2 or entices such person away from any place in this state for the pur-
 3 pose of or with the intention of receiving or securing from anyone
 4 any money, property or thing of value as a ransom, reward or price
 5 for the return of the person so kidnaped, taken, carried, decoyed or
 6 enticed away, as aforesaid, or whoever shall imprison, detain or hold
 7 any person at any place in this state for the purpose or with the intent
 8 of receiving or securing from anyone money, property or thing of
 9 value as a ransom, reward or price for the return, liberation or sur-
 10 render of the person so imprisoned, detained or held, shall be deemed

11 to be guilty of the crime of kidnaping for the purpose of ransom, and
 12 upon conviction thereof shall be imprisoned in the penitentiary during
 13 life, or for any fixed term of years not less than ten years.

[S., '13, § 4750-b.]

SEC. 8622. Kidnaping defined—punishment.

1 If any person wilfully, and without lawful authority, forcibly or
 2 secretly confine or imprison any other person within the state against
 3 his will; or forcibly carry or send such person out of the state; or
 4 forcibly seize and confine or inveigle or kidnap any other person with
 5 the intent either to cause such person to be secretly confined or im-
 6 prisoned in the state against his will, or to cause such person to be
 7 sent out of the state against his will, he shall be imprisoned in the
 8 penitentiary not more than five years, or fined not exceeding one
 9 thousand dollars, or be both so fined and imprisoned, at the discre-
 10 tion of the court.

[C., '51, § 2588; R., '60, § 4211; C., '73, § 3869; C., '97,
 § 4765.]

SEC. 8623. Child stealing—punishment.

1 If any person maliciously, forcibly, or fraudulently take, decoy,
 2 or entice away any child under the age of sixteen years with intent
 3 to detain, or conceal such child from its parents, guardian, or other
 4 person or institution having the lawful custody thereof, he shall be
 5 imprisoned in the penitentiary not more than ten years, or be im-
 6 prisoned in the county jail not more than one year, or be fined not
 7 exceeding one thousand dollars.

[S., '13, § 254-a46.]

CHAPTER 20.

ARSON.

SECTION 8624. Burning inhabited dwelling in nighttime.

1 If any person wilfully or maliciously burn in the nighttime the in-
 2 habited building, boat or vessel of another, or wilfully and maliciously
 3 set fire to any other building, boat or vessel owned by himself or an-
 4 other, by the burning whereof such inhabited building, boat or vessel
 5 is burnt in the nighttime, he shall be imprisoned in the penitentiary
 6 for life or any term of years.

[C., '51, § 2598; R., '60, § 4222; C., '73, § 3880; C., '97,
 § 4776.]

SEC. 8625. Burning inhabited dwelling in daytime.

1 If any person wilfully or maliciously burn in the daytime the in-
 2 habited building, boat or vessel of another, or any building, boat or
 3 vessel adjoining thereto; or wilfully and maliciously set fire to any
 4 building, boat or vessel owned by himself or another, by the burning
 5 of which such inhabited building, boat or vessel is burnt in the day-
 6 time; or in the daytime wilfully and maliciously set fire to any build-
 7 ing, boat or vessel owned by himself or another, by the burning of
 8 which any such inhabited building, boat or vessel is burnt in the

9 nighttime, he shall be imprisoned in the penitentiary for a term not
10 exceeding thirty years.

[C., '51, § 2599; R., '60, § 4223; C., '73, § 3881; C., '97,
§ 4777.]

SEC. 8626. Burning uninhabited dwelling in nighttime.

1 If any person wilfully and maliciously burn in the nighttime any
2 uninhabited dwelling house, boat or vessel belonging to another, or
3 any courthouse, jail, college, church, or any building erected for public
4 use; or any other building, boat or vessel, by the burning whereof any
5 building, boat or vessel mentioned in this section is burnt in the night-
6 time, he shall be imprisoned in the penitentiary not exceeding twenty
7 years.

[C., '51, § 2600; R., '60, § 4224; C., '73, § 3882; C., '97,
§ 4778.]

SEC. 8627. Burning uninhabited dwelling in daytime.

1 If any person wilfully and maliciously burn in the daytime any
2 building, boat or vessel mentioned in the preceding section, he shall
3 be imprisoned in the penitentiary not exceeding fifteen years.

[C., '51, § 2601; R., '60, § 4225; C., '73, § 3883; C., '97,
§ 4779.]

SEC. 8628. Burning mills, locks, dams and depots.

1 If any person wilfully and maliciously burn, either in the night
2 or day time, any warehouse, store, manufactory, mill, railroad depot,
3 barn, stable, shop, office, outhouse or any building whatsoever of an-
4 other, other than is mentioned in the preceding sections of this chap-
5 ter, or any bridge, lock, dam or flume, he shall be imprisoned in the
6 penitentiary not exceeding ten years.

[C., '51, § 2602; R., '60, § 4226; C., '73, § 3884; C., '97,
§ 4780.]

SEC. 8629. Setting fire with intent to burn—punishment.

1 If any person set fire to any building, boat or vessel mentioned
2 in the preceding sections of this chapter, or to any material with
3 intent to cause any such building, boat or vessel to be burnt, he shall
4 be imprisoned in the penitentiary not exceeding five years, or be fined
5 not exceeding one thousand dollars and imprisoned in the county jail
6 not more than one year.

[C., '51, § 2603; R., '60, § 4227; C., '73, § 3885; C., '97,
§ 4781.]

SEC. 8630. Liability of married woman.

1 The preceding sections of this chapter and section eighty-seven
2 hundred eighteen extend to a married woman who commits either of
3 the offenses therein described, though the property burnt or set fire
4 to may belong partly or wholly to her husband.

[C., '51, § 2605; R., '60, § 4229; C., '73, § 3887; C., '97,
§ 4783.]

SEC. 8631. Burning to injure insurers—punishment.

1 If any person wilfully burn any building, goods, wares, merchan-
2 dise or other chattels which are insured against loss or damage by

3 fire, or wilfully cause or procure the same to be burned, with intent
4 to injure the insurer, whether such person be the owner thereof or
5 not, he shall be imprisoned in the penitentiary not exceeding ten years.

[C., '51, § 2606; R., '60, § 4230; C., '73, § 3888; C., '97,
§ 4784.]

SEC. 8632. Setting out fire—punishment.

1 If any person wilfully, or without using proper caution, set fire
2 to and burn, or cause to be burned, any prairie or timbered land, or
3 any inclosed or cultivated field, or any road, by which the property
4 of another is injured or destroyed, he shall be fined not exceeding five
5 hundred dollars, or imprisoned in the county jail not more than one
6 year, or be both so fined and imprisoned in the discretion of the court.

[C., '51, § 2607; R., '60, § 4231; C., '73, § 3889; C., '97,
§ 4785.]

SEC. 8633. Allowing fire to escape—punishment.

1 If any person, between the first day of September in any year
2 and the first day of May following, set fire to, burn or cause to be
3 burned any prairie or timber land, and allow such fire to escape from
4 his control, he shall be imprisoned in the county jail not more than
5 thirty days, or be fined not exceeding one hundred dollars.

[C., '73, § 3890; C., '97, § 4786.]

CHAPTER 21.

BURGLARY.

SECTION 8634. Burglary defined—punishment.

1 If any person break and enter any dwelling house in the night-
2 time, with intent to commit any public offense; or, after having en-
3 tered with such intent, break any such dwelling house in the nighttime,
4 he shall be guilty of burglary, and shall be punished according to the
5 aggravation of the offense, as is provided in the next two sections.

[C., '51, § 2608; R., '60, § 4232; C., '73, § 3891; C., '97,
§ 4787.]

SEC. 8635. Aggravated offense—punishment.

1 If such offender, at the time of committing such burglary, is
2 armed with a dangerous weapon, or so arm himself after having
3 entered such dwelling house, or actually assault any person being law-
4 fully therein, or has any confederate present aiding and abetting in
5 such burglary, he shall be imprisoned in the penitentiary for life or
6 any term of years.

[C., '51, § 2609; R., '60, § 4233; C., '73, § 3892; C., '97,
§ 4788.]

SEC. 8636. Burglary without aggravation—punishment.

1 If such offender commit such burglary otherwise than is men-
2 tioned in the preceding section, he shall be imprisoned in the peni-
3 tentiary not exceeding twenty years.

[C., '51, § 2610; R., '60, § 4234; C., '73, § 3893; C., '97,
§ 4789.]

SEC. 8637. Burglary by means of explosives.

1 Any person who, with intent to commit crime breaks and enters,
 2 either by day or by night, any building, whether inhabited or not, and
 3 opens or attempts to open any vault, safe or other secure place by use
 4 of nitroglycerin, dynamite, giant powder, gunpowder or any other
 5 explosive material, shall be deemed guilty of burglary with explosives.

[S., '13, § 4799-a; 37 G. A., ch. 169, § 1.]

SEC. 8638. Burglary by means of electricity.

1 Any person, who, with intent to commit crime, breaks and enters
 2 either by day or night any building, whether inhabited or not, and
 3 opens or attempts to open any vault, safe or other secure place by the
 4 use of electricity as a motive or burning or melting power or agency,
 5 or in any form, or by any electrical means whatsoever, or by the use
 6 of acetyline gas or by oxyacetyline gas, or by any gas in any form
 7 whatsoever, shall be deemed guilty of burglary with electricity or gas,
 8 as the case may be.

[S., '13, § 4799-a; 37 G. A., ch. 169, § 2.]

SEC. 8639. Punishment.

1 Any person duly convicted of burglary under the terms of the
 2 two preceding sections shall be imprisoned in the penitentiary not
 3 more than forty years.

[S., '13, § 4799-a; 37 G. A., ch. 169, § 3.]

SEC. 8640. Possession of burglar's tools—evidence.

1 If any person be found having in his possession at any time any
 2 burglar's tools or implements, with intent to commit the crime of
 3 burglary, he shall be imprisoned in the penitentiary not more than
 4 fifteen years, or be fined not exceeding one thousand dollars. The
 5 court before whom such conviction is had shall order the retention
 6 by the sheriff of such tools or implements, to be used in evidence in
 7 any court in which such person is tried for the offense herein defined,
 8 or that of burglary, and the possession of such tools or implements
 9 shall be presumptive evidence of his intent to commit burglary.

[C., '97, § 4790; S., '13, § 4790; 37 G. A., ch. 65, § 1.]

SEC. 8641. Other breakings and enterings—punishment.

1 If any person, with intent to commit any public offense, in the
 2 daytime break and enter, or in the nighttime enter without breaking,
 3 any dwelling house; or at any time break and enter any office, shop,
 4 store, warehouse, railroad car, boat or vessel or any building in
 5 which any goods, merchandise, or valuable things are kept for use,
 6 sale or deposit, he shall be imprisoned in the penitentiary not more
 7 than ten years, or be fined not exceeding one hundred dollars and im-
 8 prisoned in the county jail not more than one year.

[C., '51, § 2611; R., '60, § 4235; C., '73, § 3894; C., '97,
 § 4791.]

SEC. 8642. Entering bank with intent to rob—punishment.

1 If any person shall enter or attempt to enter the premises of a
 2 bank or trust company or banking association, with intent to hold up
 3 and rob any bank or trust company or any banking association or any

4 person or persons therein or thought to be therein, of any money or
 5 currency or silver or gold, or nickels or pennies or of anything of
 6 value belonging to said bank or trust company or banking association
 7 or from any person or persons therein; or shall intimidate, injure,
 8 wound or maim any person therein with intent to commit such holdup
 9 or "stick-up" or robbery, he shall, upon conviction thereof, be impris-
 10 oned in the penitentiary at hard labor for life, or for any term not
 11 less than ten years.

[37 G. A., ch. 247, § 1.]

SEC. 8643. Attempting to break and enter—punishment.

1 If any person, with intent to commit any public offense, shall at-
 2 tempt to break and enter any dwelling house, at any time, or to enter
 3 any dwelling house in the nighttime without breaking, or at any time
 4 to break and enter any office, shop, store, warehouse, railroad car,
 5 boat, vessel or any building in which any goods, merchandise or valu-
 6 able things are kept for use, sale or deposit, he shall be imprisoned in
 7 the penitentiary not more than five years, or fined not exceeding three
 8 hundred dollars and imprisoned in the county jail not more than
 9 one year.

[C., '97, § 4792.]

SEC. 8644. Breaking and entering car—punishment.

1 If any person unlawfully break and enter any freight or express
 2 car which is sealed or locked, in which any goods, merchandise or
 3 valuable things are kept for use, deposit or transportation, he shall
 4 be imprisoned in the penitentiary not more than five years, or be fined
 5 not exceeding one hundred dollars and imprisoned in the county jail
 6 not more than one year.

[C., '97, § 4794.]

CHAPTER 22.

LARCENY.

SECTION 8645. Larceny defined—punishment.

1 If any person steal, take and carry away of the property of
 2 another any money, goods or chattels, including all domesticated or
 3 restrained animals; any writ, process or public record; any bond, bank
 4 note, promissory note, bill of exchange or other bill, order or certifi-
 5 cate; or any book of accounts respecting money, goods or other things;
 6 or any deed or writing containing a conveyance of real estate; or any
 7 contract in force; or any receipt, release or defeasance; or any instru-
 8 ment or writing whereby any demand, right or obligation is created,
 9 increased, extinguished or diminished, he is guilty of larceny, and
 10 shall, when the value of the property stolen exceeds twenty dollars,
 11 be imprisoned in the penitentiary not more than five years; and when
 12 the value does not exceed twenty dollars, be fined not exceeding one
 13 hundred dollars, or imprisoned in the county jail not exceeding thirty
 14 days.

[C., '51, § 2612; R., '60, § 4237; C., '73, § 3902; C., '97,
 § 4831.]

SEC. 8646. Larceny in nighttime—punishment.

1 If any person in the nighttime commit larceny in any dwelling
2 house, store or any public or private building, or in any boat, vessel
3 or water-craft, when the value of the property stolen exceeds the sum
4 of twenty dollars, he shall be imprisoned in the penitentiary not ex-
5 ceeding ten years; and when the value of the property stolen does not
6 exceed twenty dollars, be fined not exceeding three hundred dollars
7 and imprisoned in the county jail not exceeding one year.

[C., '51, § 2613; R., '60, § 4238; C., '73, § 3903; C., '97,
§ 4832.]

SEC. 8647. Larceny in daytime—punishment.

1 If any person in the daytime commit larceny as defined in the
2 preceding section, and the value of the property stolen exceeds twenty
3 dollars, he shall be imprisoned in the penitentiary not more than five
4 years; and when the value of the property stolen does not exceed
5 twenty dollars, be fined not exceeding two hundred dollars and im-
6 prisoned in the county jail not exceeding one year.

[C., '51, § 2614; R., '60, § 4239; C., '73, § 3904; C., '97,
§ 4833.]

SEC. 8648. Measure of value of stolen goods.

1 If the property stolen consists of any bank note, bond, bill,
2 covenant, bill of exchange, draft, order or receipt, or any evidence of
3 debt whatever, or any public security, or any instrument whereby
4 any demand, right or obligation may be assigned, transferred, created,
5 increased, released, extinguished or diminished, the money due thereon
6 or secured thereby and remaining unsatisfied, or which in any event
7 or contingency might be collected thereon, or the value of the property
8 transferred or affected, as the case may be, shall be adjudged the
9 value of the thing stolen.

[C., '51, § 2625; R., '60, § 4250; C., '73, § 3914; C., '97,
§ 4849.]

SEC. 8649. Larceny from building on fire or from the person.

1 If any person commit the crime of larceny by stealing from any
2 building on fire, or by stealing any property removed in consequence
3 of an alarm caused by fire, or by stealing from the person of another,
4 he shall be imprisoned in the penitentiary not exceeding fifteen years.

[C., '51, § 2615; R., '60, § 4240; C., '73, § 3905; C., '97,
§ 4837.]

SEC. 8650. Larceny of electric current, water, steam or gas.

1 If any person wilfully and with intent to defraud, in any manner
2 take from the wires, pipes, meters or any other apparatus of any elec-
3 tric motor, electric light, water, steam heating or gas plant or works,
4 any electric current, water, steam, steam heat or gas, he shall be
5 guilty of larceny and shall be punished accordingly.

[S., '13, § 4852-c.]

SEC. 8651. Larceny of poultry—punishment.

1 Any person guilty of larceny of domestic fowl or poultry from
2 any building, shed, coop or inclosed premises shall, upon conviction

3 thereof, be punished by imprisonment in the penitentiary not exceed-
 4 ing two years, or by imprisonment in the county jail not exceeding
 5 one year, or by fine not exceeding five hundred dollars, or by both
 6 fine and imprisonment in the county jail, as above provided, at the
 7 discretion of the court.

[S., '13, § 4852-d.]

SEC. 8652. Taking goods from officer—punishment.

1 If any person, knowingly and without authority of law, take,
 2 carry away, secrete or destroy any goods or chattels while the same
 3 are lawfully in the custody of any sheriff, coroner, marshal, constable,
 4 or other officer, and held by such officer by virtue of execution, writ
 5 of attachment or other legal process, he shall be guilty of larceny, and,
 6 when the value of the property so taken, carried away, secreted or
 7 destroyed exceeds the sum of twenty dollars, be imprisoned in the
 8 penitentiary not more than one year; and when it does not exceed
 9 twenty dollars, be fined not exceeding one hundred dollars, or impris-
 10 oned in the county jail not more than thirty days.

[R., '60, § 4251; C., '73, § 3915; C., '97, § 4850; S., '13,
 § 4850.]

SEC. 8653. Custody of property levied on or deposited by officer.

1 The possession or custody of goods and chattels by any person
 2 with whom the same have been left or deposited for safe-keeping, to
 3 be returned for the purpose of being disposed of on legal process,
 4 shall be the possession and custody of the officer having or depositing
 5 the same and entitled to the custody thereof, and, in a prosecution
 6 under the preceding section, the property taken, carried away, se-
 7 creted or destroyed, as therein mentioned, may be laid in the officer
 8 entitled to the custody thereof at the time of the commission of
 9 the offense.

[R., '60, § 4252; C., '73, § 3916; C., '97, § 4851.]

SEC. 8654. Appropriating found property—punishment.

1 If any person come by finding to the possession of any personal
 2 property of which he knows the owner, and unlawfully appropriate
 3 the same or any part thereof to his own use, he is guilty of larceny,
 4 and shall be punished accordingly.

[C., '51, § 2617; R., '60, § 4242; C., '73, § 3907; C., '97,
 § 4839.]

SEC. 8655. Larceny of logs or lumber—punishment.

1 Whoever shall wilfully take, carry away or otherwise convert to
 2 his own use, or sell or dispose of, without the consent of the owner
 3 or owners, any pile, logs or cant suitable to be worked into plank,
 4 board, joist, shingles or other lumber, the property of another,
 5 whether the owner thereof be known or unknown, lying or being in
 6 any lake, bay or river in or bordering on this state, or in any tributary
 7 of such lake, bay or river or tributary, or in or on any slough, ravine,
 8 island, bottom or land adjoining any such lake, bay or river or tribu-
 9 tary, such property being so taken, carried away or otherwise con-
 10 verted or sold or disposed of within this state, or taken possession of
 11 with intent to sell or dispose of as aforesaid; or cuts out, mutilates,
 12 destroys or renders illegible the marks or mark thereon, destroying

13 the identification thereof; or in any manner wilfully injures any such
 14 logs, not his own; or places upon such logs or pieces of timber any
 15 mark or device other than the original mark or device, shall be deemed
 16 guilty of the crime of larceny, and on conviction thereof shall be fined
 17 not less than fifty dollars, and be imprisoned in the county jail not
 18 less than three months; and on a second conviction for a like crime
 19 shall be fined not less than one hundred dollars and be imprisoned in
 20 the penitentiary not more than two years.

[C., '97, § 4834.]

SEC. 8656. Double damages for conversion of logs.

1 Every person guilty of any of the offenses described in the pre-
 2 ceding section shall, whether convicted thereof in a criminal prosecu-
 3 tion or not, be liable to pay the owner or owners of such pile, log, cant
 4 or other lumber respecting which the offense is committed, double the
 5 amount of the value of the same, to be recovered in an action therefor.

[C., '97, § 4835.]

SEC. 8657. Possession as evidence—search for lost logs.

1 In any prosecution under the two preceding sections, if any such
 2 pile, log or cant shall be found in the possession of the defendant,
 3 either with or without the mark cut out or destroyed, or partly cut
 4 out or destroyed, or partly sawed or manufactured into lumber of any
 5 kind, fence posts, fence rails or stovewood, such possession shall be
 6 presumptive evidence of his guilt. The owner of any such pile, log,
 7 cant or other lumber may at any time lawfully, by himself or agent,
 8 enter in a peaceable manner into or upon any mill or mill boom or
 9 raft of logs, piles, cant or other lumber, in any river or its tributaries
 10 in or bordering on this state, or on or near the banks of such lakes,
 11 bays or rivers, or their tributaries, in search of any such pile, log,
 12 cant or other lumber which he may have lost, and any person who
 13 shall wilfully prevent or obstruct such search shall, upon conviction
 14 thereof, be liable to a penalty of not less than twenty dollars, nor
 15 more than fifty dollars, for every such offense.

[C., '97, § 4836.]

SEC. 8658. Taking property for boat or vessel—punishment.

1 If any owner, master, clerk or any other person having charge
 2 of or belonging to any boat, vessel or raft take any cordwood or any
 3 other species of property from the owner or his agent, without the
 4 knowledge of such owner or agent, or without paying the customary
 5 price for the same, he shall be fined not exceeding two hundred dol-
 6 lars, or imprisoned in the county jail not exceeding six months.

[C., '51, § 2689; R., '60, § 4329; C., '73, § 3988; C., '97,
 § 4830.]

SEC. 8659. Common thief defined—punishment.

1 If any person, having before been twice convicted within the
 2 state of larceny, is guilty of another crime of larceny, he shall be
 3 deemed a common thief, and imprisoned in the penitentiary not more
 4 than seven years, or fined not exceeding one thousand dollars and
 5 imprisoned in the county jail not more than one year.

[R., '60, § 4247; C., '97, § 4846.]

CHAPTER 23.

EMBEZZLEMENT.

SECTION 8660. Embezzlement by public officers—punishment.

1 If any state, county, township, school or municipal officer, or
 2 officer of any state institution, or other public officer within the state
 3 charged with the collection, safe-keeping, transfer or disbursement
 4 of public money or property, fails or refuses to keep the same in any
 5 place of custody or deposit that may be provided by law for keeping
 6 such money or property until the same is withdrawn therefrom as
 7 authorized by law, or keeps or deposits such money or property in
 8 any other place than in such place of custody or deposit, or unlawfully
 9 converts to his own use in any way whatever, or uses by way of
 10 investment in any kind of property, or loans without the authority of
 11 law, any portion of the public money intrusted to him for collection,
 12 safe-keeping, transfer or disbursement, or converts to his own use
 13 any money or property that may come into his hands by virtue of his
 14 office, he shall be guilty of embezzlement to the amount of so much of
 15 said money or the value of so much of said property as is thus taken,
 16 converted, invested, used, loaned or unaccounted for, and shall be im-
 17 prisoned in the penitentiary not exceeding ten years, and fined in a
 18 sum equal to the amount of money embezzled or the value of such
 19 property converted, and shall be forever after disqualified from hold-
 20 ing any office under the laws of the state.

[C., '51, § 2618; R., '60, §§ 806, 807, 4243; C., '73, § 3908;
 C., '97, § 4840.]

SEC. 8661. Funds received by virtue of office.

1 Any such officer who shall receive any money belonging to the
 2 state, county, township, school or municipality, or state institution of
 3 which he is an officer shall be deemed to have received the same by
 4 virtue of his office, and in case he fails or neglects to account therefor
 5 upon demand of the person entitled thereto, he shall be deemed guilty
 6 of embezzlement, and shall be punished as above provided.

[C., '51, § 2618; R., '60, §§ 806, 807, 4243; C., '73, § 3908;
 C., '97, § 4840.]

SEC. 8662. Embezzlement by bailee—punishment.

1 Whoever embezzles or fraudulently converts to his own use, or
 2 secretes with intent to embezzle or fraudulently convert to his own
 3 use, money, goods or property delivered to him, or any part thereof,
 4 which may be the subject of larceny, shall be guilty of larceny and
 5 punished accordingly.

[C., '97, § 4841.]

SEC. 8663. Embezzlement defined—larceny.

1 If any officer, agent, clerk or servant of any corporation or vol-
 2 untary association, or if any clerk, agent or servant of any private
 3 person or copartnership, except persons under the age of sixteen
 4 years, or if any attorney at law, collector or other person who in any
 5 manner receives or collects money or other property for the use of
 6 and belonging to another, embezzles or fraudulently converts to his
 7 own use, or takes and secretes with intent to embezzle or convert to

8 his own use, without the consent of his employer, master or the owner
 9 of the money or property collected or received, any money or property
 10 of another, or which is partly the property of another and partly the
 11 property of such officer, agent, clerk, servant, attorney at law, col-
 12 lector or other person, which has come to his possession or under his
 13 care in any manner whatsoever, he is guilty of larceny.

[C., '73, § 3909; C., '97, § 4842.]

SEC. 8664. Money converted by series of acts.

1 If money or property is so embezzled or converted by a series of
 2 acts during the same employment, the total amount of the money
 3 and the total value of the property so embezzled or converted shall be
 4 considered as embezzled or converted in one act, and he shall be pun-
 5 ished accordingly.

[C., '73, § 3909; C., '97, § 4842.]

SEC. 8665. Retaining money on account of commission.

1 In a prosecution under the two preceding sections, it shall be no
 2 defense that such officer, agent, clerk, servant, collector, attorney at
 3 law or other person was entitled to a commission or compensation
 4 out of such money or property as compensation or commission for col-
 5 lecting or receiving the same for or on behalf of the owner thereof.

[C., '73, § 3909; C., '97, § 4843.]

SEC. 8666. Retention of actual commission permitted.

1 It shall be lawful for such agent, clerk, servant, attorney at law,
 2 collector or other person to retain his reasonable compensation or col-
 3 lection fee for collecting or receiving the same, but no attorney at
 4 law may retain any money or property as compensation, or as money
 5 and property on which he has an attorney's lien, after the filing of a
 6 bond as provided in regard to such liens.

[C., '73, § 3909; C., '97, § 4843.]

SEC. 8667. Embezzlement by carrier or persons intrusted.

1 If any carrier or other person to whom any money, goods or
 2 other property which may be the subject of larceny has been delivered
 3 to be carried for hire, or if any other person intrusted with such
 4 property, embezzle or fraudulently convert to his own use any such
 5 money, goods or other property, either in the mass as the same were
 6 delivered or otherwise, and before the same were delivered at the
 7 place or to the person where and to whom they were to be delivered,
 8 he is guilty of larceny.

[C., '51, § 2620; R., '60, § 4245; C., '73, § 3910; C., '97,
 § 4844.]

SEC. 8668. Embezzlement by executor, administrator or guardian—punishable, when.

1 If any executor, administrator or guardian embezzles or fraudu-
 2 lently converts to his own use any money or property collected or
 3 received by him or coming into his possession or under his control by
 4 virtue of his said office he is guilty of larceny and the statute of limita-
 5 tions shall not begin to run as to such offense until the settlement of

6 the estate or the attainment of majority by the ward, as the case
7 may be.

[S., '13, § 4852-e.]

SEC. 8669. Embezzlement of mortgaged property—punishment.

1 If any mortgagor of personal property or purchaser under a con-
2 ditional bill of sale, while the mortgage or conditional bill of sale upon
3 it remains unsatisfied, wilfully and with intent to defraud, destroys,
4 conceals, sells, or in any manner disposes of the property covered by
5 such mortgage or conditional bill of sale without the written consent
6 of the then holder of such mortgage or conditional bill of sale, he shall
7 be guilty of larceny and punished accordingly.

[R., '60, § 4236; C., '73, § 3895; C., '97, § 4852; 38 G. A.,
ch. 313, § 1.]

CHAPTER 24.

ROBBERY.

SECTION 8670. Robbery defined—punishment.

1 If any person, with force or violence, or by putting in fear, steal
2 and take from the person of another any property that is the subject
3 of larceny, he is guilty of robbery, and shall be punished according to
4 the aggravation of the offense, as is provided in the following two
5 sections.

[C., '51, § 2578; R., '60, § 4201; C., '73, § 3858; C., '97,
§ 4753.]

SEC. 8671. Robbery with aggravation—punishment.

1 If such offender at the time of such robbery is armed with a dan-
2 gerous weapon, with intent, if resisted, to kill or maim the person
3 robbed; or if, being so armed, he wound or strike the person robbed;
4 or if he has any confederate aiding or abetting him in such robbery,
5 present and so armed, he shall be imprisoned in the penitentiary for
6 a term not exceeding twenty nor less than ten years.

[C., '51, § 2579; R., '60, § 4202; C., '73, 3859; C., '97,
§ 4754.]

SEC. 8672. Robbery without aggravation—punishment.

1 If such offender commits the robbery otherwise than is men-
2 tioned in the preceding section, he shall be imprisoned in the peniten-
3 tiary not exceeding ten nor less than two years.

[C., '51, § 2580; R., '60, § 4203; C., '73, § 3860; C., '97,
§ 4755.]

SEC. 8673. Train robbery—punishment.

1 If any person shall stop, or attempt to stop any railway passenger
2 train, with intent to rob any person thereon, or to rob any coach at-
3 tached thereto, or to rob any mail pouch, express safe, or box on such
4 train; or shall wreck or attempt to wreck, derail, or attempt to derail,
5 any such train, by any means whatever, with intent to commit such
6 robbery; or shall obstruct or detain such train, or any locomotive,

7 tender, coach, or car attached thereto, with such intent, or shall place
 8 upon any railway track, or under any engine, tender, coach, or car
 9 any explosive substance, with intent to obstruct, stop, detain, derail,
 10 or wreck such train, for the purpose of committing such robbery, or
 11 remove any spike, fishplate, frog, rail, switch, tie, stringer, or appli-
 12 ance used on such railway with intent to obstruct, stop, detain, derail,
 13 or wreck such train for the purpose of committing such robbery; or
 14 shall enter any locomotive, tender, coach, or car attached to such
 15 train, and take or attempt to take possession thereof, for the purpose
 16 of committing such robbery; or shall rifle any coach, car, safe, box, or
 17 mail pouch on such train; or shall with force and arms take and carry
 18 away any valuable thing whatever from such train, or from any per-
 19 son thereon; or shall intimidate, injure, wound, or maim any person
 20 thereon, with intent to commit such robbery, he shall, upon conviction
 21 thereof, be imprisoned in the penitentiary at hard labor, for life, or
 22 for any term not less than ten years.

[S., '13, § 4810-a.]

CHAPTER 25.

RECEIVING STOLEN GOODS.

SECTION 8674. Receiving stolen goods—punishment.

1 If any person buy, receive or aid in concealing any stolen money,
 2 goods or property the stealing of which is larceny, or property ob-
 3 tained by robbery or burglary, knowing the same to have been so ob-
 4 tained, he shall, when the value of the property so bought, received
 5 or concealed by him exceeds the sum of twenty dollars, be imprisoned
 6 in the penitentiary not more than five years, or be fined not exceeding
 7 five hundred dollars and imprisoned in the county jail not more than
 8 one year; and when the value of the property so bought, received, or
 9 concealed by him does not exceed the sum of twenty dollars, be fined
 10 not exceeding one hundred dollars, or imprisoned in the county jail
 11 not exceeding thirty days.

[C., '51, § 2621; R., '60, § 4246; C., '73, § 3911; C., '97,
 § 4845.]

SEC. 8675. Second conviction—punishment.

1 If any person, after having been convicted of the offense of buy-
 2 ing, receiving or aiding in the concealment of stolen money, goods or
 3 any property the stealing of which is larceny, or property obtained
 4 by robbery or burglary, be again convicted of the like offense, he shall
 5 be punished as provided in section eighty-six hundred fifty-nine.

[C., '51, § 2623; R., '60, § 4248; C., '73, § 3912; C., '97,
 § 4847.]

SEC. 8676. Receiver convicted without principal.

1 In any prosecution for the offense of buying, receiving or aiding
 2 in the concealment of stolen property, or property obtained by rob-
 3 bery or burglary, knowing the same was so obtained, it shall not be
 4 necessary to aver nor prove on the trial that the person who stole,
 5 robbed or took the property has been convicted.

[C., '51, § 2624; R., '60, § 4249; C., '73, § 3913; C., '97,
 § 4848.]

CHAPTER 26.

FALSE PRETENSES, FRAUDS AND OTHER CHEATS.

SECTION 8677. False pretenses—punishment.

1 If any person designedly and by false pretense, or by any privy
 2 or false token, and with intent to defraud, obtain from another any
 3 money, goods or other property, or so obtain the signature of any
 4 person to any written instrument, the false making of which would
 5 be punished as forgery, he shall be imprisoned in the penitentiary not
 6 more than seven years, or be fined not exceeding five hundred dollars,
 7 or imprisoned in the county jail not exceeding one year, or both such
 8 fine and imprisonment.

C., '51, § 2744; R., '60, § 4394; C., '73, § 4073; C., '97,
 § 5041.]

SEC. 8678. Receiving goods by false personation—larceny.

1 If any person falsely personate or represent another, and in such
 2 assumed character receive any money or property intended to be de-
 3 livered to the person so personated, with intent to convert the same
 4 to his own use, he is guilty of larceny, and shall be punished ac-
 5 cordingly.

[C., '51, § 2616; R., '60, § 4241; C., '73, § 3906; C., '97,
 § 4838.]

SEC. 8679. False drawing or uttering of checks—evidence.

1 Any person who shall make, draw, deliver, utter or give any
 2 check, draft or written order upon any bank, person or corporation
 3 and who secures money, credit or thing of value therefor and who
 4 knowingly shall not have an arrangement, understanding or funds
 5 with such bank, person or corporation sufficient to meet or pay the
 6 same, shall be guilty of a misdemeanor and upon conviction thereof
 7 shall be punished by a fine of not to exceed one hundred dollars, or by
 8 imprisonment in the county jail not to exceed thirty days, and the fact
 9 that payment of said check, draft or written order when presented in
 10 the usual course of business shall be refused by the bank, person or
 11 corporation upon which it is drawn or that it be protested for non-
 12 payment for lack of such arrangement, understanding or funds with
 13 which to meet the same shall be material and competent evidence of
 14 such lack of arrangement, understanding or lack of funds. Payment
 15 upon demand by the drawee or within three days by the drawer shall
 16 prevent further prosecution under this section.

[37 G. A., ch. 268, § 1.]

SEC. 8680. Suppression or destruction of will—punishment.

1 If any person, having in his possession or under his control any
 2 last will of any deceased person, wilfully suppress, secrete, deface or
 3 destroy the same, or any codicil thereto belonging, with intent to in-
 4 jure or defraud any devisee, legatee or other person, he shall be im-
 5 prisoned in the penitentiary not more than seven years, or be fined not
 6 exceeding one thousand dollars, and imprisoned in the county jail not
 7 more than one year.

[C., '51, § 2746; R., '60, § 4396; C., '73, § 4075; C., '97,
 § 5043.]

SEC. 8681. Fraudulent conveyances—punishment.

1 Any person who, knowingly being a party to any conveyance or
 2 assignment of any estate or interest in lands, goods or things in ac-
 3 tion, or of any rents or profits arising therefrom, or being a party to
 4 any charge on such estate, interest, rents or profits, made or created
 5 with intent to defraud prior or subsequent purchasers, or to hinder,
 6 delay or defraud creditors or other persons, and every person who,
 7 being privy to or knowing of such fraudulent conveyance, assignment
 8 or charge, puts the same in use as having been made in good faith,
 9 shall be imprisoned in the penitentiary not exceeding three years, or
 10 may be fined in the discretion of the court not exceeding one thousand
 11 dollars, or imprisoned in the county jail not more than one year.

[C., '51, § 2745; R., '60, § 4395; C., '73, § 4074; C., '97,
 § 5042.]

SEC. 8682. Frauds upon hotel keepers—punishment.

1 Any person who shall obtain food, lodging or other accommoda-
 2 tion at any hotel, inn or boarding or eating house, with intent to de-
 3 fraud the owner or keeper thereof, shall be fined not exceeding one
 4 hundred dollars, or imprisoned not exceeding thirty days.

[C., '97, § 5076.]

SEC. 8683. Presumptive evidence of fraud.

1 Proof that lodging, food or other accommodation was obtained
 2 by false pretense, or by false or fictitious show or pretense of baggage,
 3 or that the party refused or neglected to pay for such food, lodging
 4 or other accommodation on demand, or that he absconded or left the
 5 premises without paying or offering to pay for such food, lodging or
 6 other accommodation, or that he surreptitiously removed or attempted
 7 to remove his baggage, shall be presumptive evidence of the fraudulent
 8 intent mentioned in the preceding section, but this section shall not
 9 apply to regular boarders, nor when there has been an agreement for
 10 delay in payment.

[C., '97, § 5077.]

SEC. 8684. Fitting out boat to defraud owner or insurer.

1 If any person lade, equip or fit out, or assist in lading, equipping
 2 or fitting out, any raft, boat or vessel, with intent that the same be
 3 cast away, burnt, sunk or otherwise destroyed, to injure or defraud
 4 any owner or insurer thereof, or of any property laden on board the
 5 same, he shall be fined not exceeding one thousand dollars and impris-
 6 oned in the county jail not exceeding one year.

[C., '51, § 2754; R., '60, § 4404; C., '73, § 4083; C., '97,
 § 5055.]

SEC. 8685. Swindling in sale of grain or seed—punishment.

1 Whoever, either for his own benefit or as the agent of any cor-
 2 poration, company, association or person, obtains from any other per-
 3 son anything of value, or procures the signature of any such person
 4 as maker, indorser, guarantor or surety thereon to any bond, bill,
 5 receipt, promissory note, draft, check, or any other evidence of in-
 6 debtedness, as the whole or part consideration of any bond, contract
 7 or promise given the vendee of any grain, seed or cereal; binding the
 8 vendor or any other person, corporation, company, association, or the

9 agent thereof, to sell for such vendee any grain, seed or cereal at a
 10 fictitious price, or at a price equal to or more than four times the
 11 market price thereof; and whoever sells, barter or disposes of, or
 12 offers to sell, barter or dispose of, either for his own benefit or as the
 13 agent of any corporation, company, association or person, any bond,
 14 bill, receipt, promissory note, draft, check or other evidence of indebt-
 15 edness, knowing the same to have been obtained as the whole or part
 16 consideration for any bond, contract or promise given the vendee of
 17 any grain, seed or cereal, binding the vendor or any other person,
 18 corporation, company, association, or the agent thereof, to sell for
 19 such vendee any grain, seed or cereal at a fictitious price, or at a price
 20 equal to or more than four times the market price thereof, shall be
 21 imprisoned in the penitentiary not more than three years, or be fined
 22 not more than five hundred nor less than one hundred dollars, or both.

[C., '97, § 5069.]

SEC. 8686. False warehouse receipts—punishment.

1 If any person sell, transfer or dispose of any receipt or voucher,
 2 given or purporting to have been given by any person for property
 3 in store, knowing that such person has not in his possession such
 4 property, or any part thereof, he shall be fined not exceeding one
 5 thousand dollars and imprisoned in the penitentiary not exceeding five
 6 years.

[C., '73, § 4088; C., '97, § 5068.]

SEC. 8687. Making false bills of lading—punishment.

1 If any owner of any boat or vessel, or of any property laden or
 2 pretended to be laden on board the same, or if any other person con-
 3 cerned in the lading or fitting out such boat or vessel, make out and
 4 exhibit, or cause to be made out and exhibited, any false estimate of
 5 any goods or property laden or pretended to be laden on board such
 6 boat or vessel, with intent to injure or defraud any insurer of such
 7 boat or vessel or property, or of any part thereof, he shall be fined not
 8 exceeding one thousand dollars, or imprisoned in the penitentiary not
 9 more than three years.

[C., '51, § 2755; R., '60, § 4405; C., '73, § 4084; C., '97,
 § 5056.]

SEC. 8688. Making false affidavits or protests—punishments.

1 If any master or other officer of any boat or vessel make, or cause
 2 to be made, any false affidavit or manifest, or if any owner or other
 3 person concerned in such boat or vessel, or in the goods or property
 4 laden on board the same, procure any such false affidavit or manifest
 5 to be made, or exhibit the same, with intent to injure, deceive or de-
 6 fraud any insurer of such boat or vessel, or of the goods or property
 7 laden on board of the same, he shall be imprisoned in the penitentiary
 8 not exceeding five years, or be fined not exceeding three thousand
 9 dollars and imprisoned in the county jail not exceeding one year.

[C., '51, § 2756; R., '60, § 4406; C., '73, § 4085; C., '97,
 § 5057.]

SEC. 8689. Altering stamps or marks of public officer.

1 If any person falsely alter any stamp, brand or mark on any cask,
 2 package, box or bale containing merchandise or produce, made by a

3 public officer, appointed for that purpose, in order to denote the qual-
 4 ity, weight or quantity of the contents thereof, with intent to defraud,
 5 he shall be fined not more than five hundred dollars and imprisoned
 6 in the county jail not exceeding one year.

[C., '51, § 2749; R., '60, § 4399; C., '73, § 4078; C., '97,
 § 5046.]

SEC. 8690. Counterfeiting mark of another—punishment.

1 If any person counterfeit any mark, stamp or brand of another,
 2 or falsely mark any cask, package, box or bale as to quality or quan-
 3 tity, with intent to defraud, he shall be fined not exceeding two hun-
 4 dred dollars, or be imprisoned in the county jail not more than six
 5 months, or both.

[C., '51, § 2750; R., '60, § 4400; C., '73, § 4079; C., '97,
 § 5047.]

SEC. 8691. Registration of bottles, boxes and containers.

1 Persons engaged in the manufacture, bottling or selling of soda
 2 water, mineral or aerated waters, cider, milk, cream or other lawful
 3 beverages in bottles, boxes, casks, kegs or barrels, with their names
 4 or other marks of ownership stamped or marked thereon, may file in
 5 the office of the recorder of the county in which such articles are manu-
 6 factured, bottled or sold a description of the name or marks so used
 7 by them, and cause notice thereof to be given by three consecutive
 8 publications in a weekly newspaper printed in the English language
 9 in said county.

[C., '97, § 5052; S., '13, § 5052.]

SEC. 8692. Sale or use of registered containers.

1 It shall thereupon be unlawful for any person, without the writ-
 2 ten consent of the owner, to fill such bottles, boxes, casks, kegs or
 3 barrels so marked or stamped, for the purpose of sale, or to sell, dis-
 4 pose of, buy or traffic in or wantonly destroy the same, whether filled
 5 or not, and any violation of this section shall be a misdemeanor, and
 6 any person convicted thereof shall be fined not exceeding one hundred
 7 dollars, or imprisoned in the county jail not exceeding thirty days.

[C., '97, § 5052; S., '13, § 5052.]

SEC. 8693. Prima facie evidence of misuse—search warrants.

1 The using by any other person than the rightful owner, without
 2 written permission, of any such cask, barrel, keg, bottle or box, as
 3 prohibited in the preceding section, or the possession thereof by any
 4 junk dealer, or dealer in such casks, barrels, kegs, bottles or boxes,
 5 the same being marked or stamped and registered as herein required,
 6 shall be prima facie evidence that such use, and the sale or possession,
 7 is unlawful, and search warrants may be procured for the discovery
 8 and seizure of such bottles, boxes, casks, kegs or barrels, as in other
 9 criminal cases.

[C., '97, § 5052; S., '13, § 5052.]

SEC. 8694. Fraudulently using stamped cask, package or box.

1 If any person, with intent to defraud, use any cask, package, box
 2 or bale, marked, branded or stamped by another, for the sale of mer-
 3 chandise or produce of an inferior quality or less in quantity or weight

4 than is denoted by such mark, stamp or brand, he shall be imprisoned
5 in the county jail not more than one year, or fined not exceeding two
6 hundred dollars, or both.

[C., '51, § 2751; R., '60, § 4401; C., '73, § 4080; C., '97,
§ 5048.]

SEC. 8695. Binder twine—label required.

1 No binder twine shall be sold, exposed or offered for sale within
2 this state, except the same bears upon each ball a stamp or label truly
3 stating the name of the manufacturer or importer and the number of
4 feet to the pound in such ball; provided that a deficiency not exceed-
5 ing five per cent in length stated on the stamp or label shall not be a
6 violation hereof.

[S., '13, § 5077-a25.]

SEC. 8696. Punishment.

1 Any person, firm or corporation who violates the provisions of
2 the preceding section shall be guilty of a misdemeanor and shall be
3 punished by a fine not exceeding one hundred dollars.

[S., '13, § 5077-a26.]

SEC. 8697. Registration of organizations soliciting aid.

1 All organizations, institutions, or charitable associations which,
2 through agents or representatives, solicit public donations in this state,
3 shall be required to file with the secretary of state a statement setting
4 forth the name and location of such organization, institution or chari-
5 table association, the purposes for which such organization, institution
6 or charitable association exists, and the name of its principal officers
7 and soliciting agents.

[S., '13, § 5077-c.]

SEC. 8698. License by secretary of state.

1 If, in the judgment of the secretary of state, such statement shall
2 be deemed sufficient evidence that the moneys thus collected are to be
3 used in the interest of the purposes represented, the secretary of state
4 shall be authorized to issue to said organization, institution or chari-
5 table association, its agents and representatives, a state license, with-
6 out expense, authorizing said organization, institution or charitable
7 association to solicit public donations in any county, city or township
8 in this state.

[S., '13, § 5077-c.]

SEC. 8699. Soliciting by local organizations.

1 Nothing in the two preceding sections, however, shall be construed
2 to prohibit any person or local organization, church, school or any
3 recognized society or branch of any church or school from publicly
4 soliciting funds or donations within the county or adjoining counties
5 in which such person resides or such church, school, institution, or-
6 ganization or charitable association is located.

[S., '13, § 5077-c.]

SEC. 8700. Violations—punishment.

1 Any person who shall wilfully violate the provisions of the three
2 preceding sections or who shall solicit funds under any such license

3 and thereafter divert the same to purposes other than that for which
 4 they were contributed shall be deemed guilty of a misdemeanor and
 5 upon conviction shall be punished by a fine of not more than one hun-
 6 dred dollars or by imprisonment in the county jail not to exceed thirty
 7 days.

[S., '13, § 5077-d.]

SEC. 8701. Adoption and registration of labor union label.

1 Every person, or association or union of workmen or others,
 2 that has adopted or shall adopt for their protection any label, trade-
 3 mark or form of advertisement, may file the same for record in the
 4 office of the secretary of state by leaving two copies, counterparts or
 5 facsimiles thereof with the secretary of state. Said secretary shall
 6 thereupon deliver to such person, association or union so filing the
 7 same a duly attested certificate of the record of the same, for which
 8 he shall receive a fee of one dollar. Such certificate of record shall
 9 in all actions and prosecutions under the two following sections be
 10 sufficient proof of the adoption of such label, trademark or form of
 11 advertisement, and the right of said person, association or union to
 12 adopt the same.

[C., '97, § 5049.]

SEC. 8702. Injunction against use of registered label.

1 Every person, association or union adopting a label, trademark
 2 or form of advertisement, as specified in the preceding section, may
 3 proceed by action to enjoin the manufacture, use, display or sale of
 4 any counterfeits or imitations thereof; and all courts having jurisdic-
 5 tion of such actions shall grant injunctions to restrain such manu-
 6 facture, use, display or sale, and shall award the complainant therein
 7 such damages resulting from such wrongful manufacture, use, display
 8 or sale, and a reasonable attorney's fee to be fixed by the court, and
 9 shall require the defendant to pay to such person, association or union
 10 the profits derived from such wrongful manufacture, use, display or
 11 sale, and a reasonable attorney's fee to be fixed by the court, and said
 12 court shall also order that all such counterfeits or imitations in the
 13 possession or under the control of any defendant in such case be de-
 14 livered to an officer of the court to be destroyed. Such actions may
 15 be prosecuted for the benefit of any association or union by any officer
 16 or member thereof.

[C., '97, § 5050.]

SEC. 8703. Imitation of registered label—punishment.

1 It shall be unlawful for any person or corporation to imitate any
 2 label, trademark or form of advertisement adopted as provided in the
 3 second preceding section, or to knowingly use any counterfeit or imi-
 4 tation thereof, or to use or display such genuine label, trademark or
 5 form of advertisement, or the name or seal of such person, union or
 6 association, or of any officer thereof, unless authorized so to do, or in
 7 any manner not authorized by him or it. Any person violating any
 8 provision of this section shall be imprisoned in the county jail not
 9 more than thirty days, or be fined not less than twenty-five nor more
 10 than one hundred dollars.

[C., '97, § 5051.]

SEC. 8704. Fraudulent advertisements—punishment.

1 Any person, firm, corporation or association, who, with intent to
 2 sell, or in any wise dispose of merchandise, securities, service or any-
 3 thing offered by such person, firm, corporation or association, directly
 4 or indirectly, to the public for sale or distribution, or with intent to
 5 increase the consumption thereof, or to induce the public in any man-
 6 ner to enter into any obligation relating thereto, or to acquire title
 7 thereto, or any interest therein, makes, publishes, disseminates, cir-
 8 culates, or places before the public, or causes to be made, published,
 9 disseminated, circulated, or placed before the public in this state, either
 10 directly or indirectly, in a newspaper or other publication or in the
 11 form of a book, notice, handbill, poster, bill, circular, pamphlet, or
 12 letter, or in any other way, an advertisement of any sort regarding
 13 merchandise, securities, service or anything so offered to the public,
 14 which advertisement contains any assertion, representation or state-
 15 ment of fact, relating to said merchandise, securities or service offered
 16 for sale, or relating to the sale thereof, which is untrue, deceptive or
 17 misleading, shall be guilty of a misdemeanor, and upon conviction
 18 thereof, shall be punished by a fine of not less than ten dollars, or not
 19 more than one hundred dollars or thirty days in jail for each offense.

[S., '13, § 5051-a; 37 G. A., ch. 190, § 1.]

SEC. 8705. Publishers acting in good faith.

1 The provisions of the preceding section shall not apply to any
 2 owner, publisher, printer, agent or employee of a newspaper or other
 3 publication, periodical or circular who, in good faith and without
 4 knowledge of the falsity or deceptive character thereof, publishes,
 5 causes to be published, or takes part in the publication of such ad-
 6 vertisement.

[S., '13, § 5051-a; 37 G. A., ch. 190, § 1.]

SEC. 8706. False entries in corporation books—punishment.

1 Any officer, agent or employee of any corporation who shall know-
 2 ingly make or knowingly authorize to be made false entries upon the
 3 books of such corporation, and any employee of another who shall
 4 knowingly make or cause to be made false entries upon the books of
 5 his employer, shall be guilty of a felony, and upon conviction shall be
 6 punished by imprisonment not to exceed two years, or by a fine not
 7 to exceed five thousand dollars, or by both such fine and imprisonment.

[38 G. A., ch. 210, § 1.]

SEC. 8707. Transacting business without license—punishment.

1 If any person carry on or transact any business or occupation
 2 without license therefor, when such license is required by any law
 3 of the state, he shall be fined not exceeding one hundred dollars, or
 4 imprisoned in the county jail not exceeding thirty days.

[C., '51, § 2737; R., '60, § 4380; C., '73, § 4046; C., '97,
 § 5010.]

SEC. 8708. Unlawfully wearing military badges—punishment.

1 Any person who shall wilfully wear the badge or button of the
 2 grand army of the republic, or the insignia or rosette of the military
 3 order of the loyal legion of the United States, or use the same to obtain

4 aid or assistance, unless entitled to wear the same under the rules and
 5 regulations or constitution of such organizations, shall be imprisoned
 6 not to exceed thirty days, or fined not to exceed twenty dollars.

[C., '97, § 5071.]

SEC. 8709. Swindling by three-card monte—punishment.

1 Whoever by means of three-card monte, so called, or any other
 2 form or device, sleight-of-hand, or other means whatever, by use of
 3 cards or instruments of like character, obtains from another person
 4 any money or other property, shall be guilty of swindling, and be
 5 fined not less than two hundred nor more than two thousand dollars,
 6 or be imprisoned in the penitentiary not less than two nor more than
 7 five years, or both.

[C., '97, § 5072.]

SEC. 8710. Accessories in three-card monte—punishment.

1 All persons aiding, encouraging, advising or confederating with,
 2 or knowingly harboring or concealing, any such person or persons, or
 3 in any manner being accessory to the commission of the above de-
 4 scribed offense, or confederating together for the purpose of playing
 5 such games, shall be deemed principals therein, and punished accord-
 6 ingly.

[C., '97, § 5072.]

SEC. 8711. Authority and duty to make arrests.

1 Any person may, and every conductor and other employee on any
 2 railroad car or train, every captain, clerk and other employee on any
 3 boat, every station agent at any railway depot, the officers of any fair
 4 or fair grounds, and the proprietor of any place of public resort and
 5 his employees, shall, with or without warrant, arrest any person found
 6 in the act of committing any of the offenses mentioned in the two
 7 preceding sections, or any person whom he or they may have good
 8 reason to believe to be guilty of the commission of any such offense.

[C., '97, § 5073.]

SEC. 8712. Ejection from public conveyances and places.

1 Any conductor, captain, hotel or saloon keeper, proprietor or man-
 2 ager of any public conveyance or place of public resort, and the officers
 3 of any fair or fair grounds, shall eject from his car, train, boat, hotel,
 4 saloon, public conveyance, fair grounds or place of public resort any
 5 person known to him or whom he has good reason to believe to be a
 6 three-card monte man, or who offers to wager or bet money or other
 7 valuable thing upon what is commonly known as three-card monte, or
 8 bet on any trick or game with cards or other gaming device, and any
 9 failure, neglect or refusal to do so, or to suppress or prevent a viola-
 10 tion of the third preceding section, shall be a misdemeanor.

[C., '97, § 5074.]

SEC. 8713. Posting copy of law.

1 Any person or company operating any public conveyance by which
 2 passengers are carried shall keep posted up in such conveyance a copy
 3 of the four preceding sections.

[C., '97, § 5075.]

SEC. 8714. Gross fraud or cheat at common law—punishment.

1 Every person who is convicted of any gross fraud or cheat at
 2 common law shall be fined not more than two hundred dollars, or im-
 3 prisoned in the county jail not more than one year, or both.

[C., '51, § 2752; R., '60, § 4402; C., '73, § 4081; C., '97,
 § 5053.]

CHAPTER 27.
MALICIOUS MISCHIEF AND WILFUL TRESPASS.**SECTION 8715. Malicious injury to buildings and fixtures.**

1 If any person maliciously injure, deface or destroy any building
 2 or fixture attached thereto, or wilfully and maliciously destroy, injure
 3 or secrete any goods, chattels or valuable papers of another, he shall
 4 be imprisoned in the penitentiary not more than five years, or shall be
 5 imprisoned in the county jail not more than one year, or be fined not
 6 exceeding five hundred dollars, and be liable to the party injured in a
 7 sum equal to three times the value of the property so destroyed or
 8 injured.

[C., '51, § 2686; R., '60, § 4326; C., '73, § 3985; C., '97, § 4822;
 S., '13, § 4822.]

SEC. 8716. Defacing buildings—punishment.

1 If any person wilfully write, make marks or draw characters on
 2 the walls or any other part of any church, college, academy, school-
 3 house, courthouse or other public building, or on any furniture, appa-
 4 ratus or fixtures therein; or wilfully injure or deface the same, or any
 5 wall or fence inclosing the same, he shall be fined not exceeding one
 6 hundred dollars, or imprisoned in the county jail not more than thirty
 7 days.

[C., '51, § 2687; R., '60, § 4327; C., '73, § 3986; C., '97,
 § 4802.]

SEC. 8717. Injury to fence, produce or fixtures—punishment.

1 If any person maliciously or mischievously break down, mar, de-
 2 face or injure any fence, hedge or ditch inclosing lands belonging to
 3 another; or throw down or leave open any gate or bars not his own or
 4 under his charge, whereby an injury is done to another; or maliciously
 5 injure, destroy or sever from the land of another any produce thereof
 6 or anything attached thereto, he shall be imprisoned in the county jail
 7 not more than one year, or be fined not exceeding five hundred dollars,
 8 or both.

[C., '97, § 4825.]

SEC. 8718. Burning or destroying lumber, fences or grain.

1 If any person wilfully and maliciously burn, destroy or injure any
 2 pile or parcel of wood, boards, timber or lumber, or any fence, bars or
 3 gate, or any grain, hay or other vegetable product severed from the
 4 soil, or any standing tree, grain, grass or other standing product of the
 5 soil, the property of another, he shall be imprisoned in the penitentiary

6 not more than five years, or be fined not exceeding five hundred dol-
7 lars and imprisoned in the county jail not exceeding one year.

[C., '51, § 2604; R., '60, § 4228; C., '73, § 3886; C., '97,
§ 4782.]

SEC. 8719. Injury to sidewalks—punishments.

1 Any person guilty of wilfully and unlawfully injuring or destroy-
2 ing any sidewalk made of wood, brick, stone, cement, or any other
3 material, shall be fined not more than one hundred dollars or be impris-
4 oned in the county jail not exceeding thirty days.

[S., '13, § 4830-b.]

SEC. 8720. Trespass by digging, cutting or carrying away.

1 If any person wilfully commit any trespass by cutting down or
2 destroying any timber or wood standing or growing on the land of
3 another; or by carrying away timber or wood being on such land; or by
4 digging or carrying away any earth, stone, marble, slate, coal, copper,
5 lead, iron ore or any other ore or metal; or by taking and carrying
6 from such land any grass, hay, corn, grain, fruit or other vegetables;
7 or carrying away from any wharf, street or landing place, any goods
8 whatever in which he has no interest, he shall be fined not exceeding
9 five hundred dollars, or imprisoned in the county jail not more than
10 one year, or both at the discretion of the court. If in any case the
11 value of the property so cut down, carried away or otherwise taken
12 shall not exceed the sum of fifty dollars, then the person so offending
13 shall be fined not exceeding one hundred dollars, or imprisoned in the
14 county jail not exceeding thirty days.

[C., '51, § 2684; R., '60, § 4324; C., '73, § 3983; C., '97,
§ 4829.]

SEC. 8721. Injury to fruit or ornamental tree—punishment.

1 If any person maliciously or mischievously bruise, break, pull up,
2 carry away, cut down, injure, destroy or sever from the land any
3 fruit, ornamental or other tree, vine or shrub standing or growing
4 on the land of another for ornament or use, he shall upon conviction
5 thereof be punished by imprisonment in the county jail not more than
6 one year, or by fine of not more than five hundred dollars, or both.

[C., '51, § 2682; R., '60, § 4322; C., '73, §§ 3899, 3981; C., '97,
§ 4826.]

SEC. 8722. Stealing or knocking off fruit in daytime.

1 If any person maliciously or mischievously enter the inclosure of
2 another with intent to knock off, pick, destroy or carry away, or, hav-
3 ing lawfully entered, afterwards wrongfully knocks off, picks, destroys
4 or carries away, any fruit or flower of any tree, shrub, bush or vine,
5 he shall be fined for the first offense not less than five nor more than
6 one hundred dollars, with the costs of conviction, or be imprisoned in
7 the county jail not exceeding thirty days, and for a second violation he
8 shall be fined not less than ten dollars and costs of conviction, or be
9 imprisoned as above provided.

[C., '73, § 3897; C., '97, § 4827.]

SEC. 8723. Stealing or knocking off fruit in nighttime.

1 If any person maliciously or mischievously enter the inclosure of
 2 another in the nighttime, and knock off, pick, destroy or carry away
 3 any fruit or flower of any tree, shrub, bush or vine, or if, having so
 4 entered with intent to knock off, pick, destroy, or carry away any
 5 fruit or flower as aforesaid, he be actually found therein, he shall be
 6 fined not less than twenty-five nor more than one hundred dollars and
 7 costs of conviction, or imprisoned in the county jail not exceeding
 8 thirty days.

[C., '73, § 3898; C., '97, § 4828.]

SEC. 8724. Injury to vehicle or harness—operating automobile.

1 If any person maliciously, wilfully and feloniously cut, break,
 2 sever or unfasten any tug, strap, line or other part of any harness at-
 3 tached to any horse or team, or maliciously and feloniously remove,
 4 break, unfasten or injure any part of any vehicle, or if any chauffeur
 5 or other person shall without the consent of the owner take, or cause
 6 to be taken, any automobile or motor vehicle, and operate or drive or
 7 cause the same to be operated or driven, he shall be imprisoned in the
 8 penitentiary not to exceed one year, or be imprisoned in the county
 9 jail not to exceed six months, or be fined not to exceed five hundred
 10 dollars.

[C., '97, § 4823; S., '13, § 4823.]

SEC. 8725. Injury to rafts or boats—punishment.

1 If any person maliciously cut away, let loose, injure or destroy
 2 any boom or raft of wood, logs or other lumber, or any boat or vessel
 3 fastened to any place, of which he is not the owner or legal possessor,
 4 he shall be fined not exceeding five hundred dollars, and imprisoned
 5 in the county jail not more than one year, and forfeit to the person
 6 injured double the amount of damages sustained.

[C., '51, § 2681; R., '60, § 4321; C., '73, § 3980; C., '97,
 § 4824.]

SEC. 8726. Fraudulent destruction of boats—punishment.

1 If any person cast away, sink or otherwise destroy any raft, boat
 2 or vessel, within any county, with intent to defraud any owner or
 3 insurer thereof, or the owner or insurer of any property laden on
 4 board the same, or of any part thereof, he shall be imprisoned in the
 5 penitentiary not exceeding five years, or fined not exceeding two thou-
 6 sand dollars and imprisoned in the county jail not exceeding one year.

[C., '51, § 2753; R., '60, § 4403; C., '73, § 4082; C., '97,
 § 5054.]

SEC. 8727. Injury to public library books or property.

1 Any person who shall wilfully, maliciously or wantonly tear, de-
 2 face, mutilate, injure or destroy in whole or in part, any newspaper,
 3 periodical, book, map, pamphlet, chart, picture or other property be-
 4 longing to any public library or reading room, shall be deemed guilty
 5 of a misdemeanor and shall be fined not more than one hundred dollars,
 6 or imprisoned not more than thirty days.

[S., '13, § 4830-a.]

SEC. 8728. Injuries to monuments of state boundaries.

1 If any person wilfully dig up, pull down, break or destroy, or in
 2 any other manner injure or remove, any of the cast-iron pillars or
 3 other evidences planted and fixed in and along any part of the bound-
 4 aries of this state, he shall be fined not less than fifty nor more than
 5 two hundred dollars, or be imprisoned in the penitentiary for a term
 6 of not less than six months, or both.

[C., '51, § 2690; R., '60, § 4330; C., '73, § 3989; C., '97,
 § 4800.]

SEC. 8729. Injury to boundary marks, milestones and signboards.

1 If any person maliciously take down, injure or remove any monu-
 2 ment erected or any tree marked as a boundary of any tract of land
 3 or city or town lot; or destroy, deface or alter the marks of any such
 4 monument or tree made for the purpose of designating such boundary;
 5 or injure or deface any milestone, post or guideboard erected on any
 6 public way; or remove, deface or injure any signboard; or break or re-
 7 move any lamp or lamp-post or extinguish any lamp on any bridge,
 8 way, street or passage, he shall be fined not exceeding one hundred
 9 dollars, or be imprisoned in the county jail not exceeding one year, or
 10 both, at the discretion of the court.

[C., '51, § 2683; R., '60, § 4323; C., '73, § 3982; C., '97,
 § 4801.]

SEC. 8730. Removal of safeguards or danger signals.

1 Whoever shall, without the consent of the person in control
 2 thereof, wilfully remove, throw down, destroy or carry away from any
 3 highway, street, alley, avenue or bridge, any lamp, obstruction, guard
 4 or other article or things, or extinguish any lamp or other light,
 5 erected or placed thereon for the purpose of guarding or inclosing
 6 unsafe or dangerous places in said highway, street, alley, avenue, or
 7 bridge, shall be punished by a fine of not more than five hundred dol-
 8 lars, or by imprisonment in the county jail not exceeding one year.

[S., '13, § 4830-c.]

SEC. 8731. Defacing or destroying proclamations or notices.

1 If any person intentionally deface, obliterate, tear down or destroy
 2 in whole or in part any transcript or extract from or of any law of
 3 the United States or of this state, or any proclamation, advertisement
 4 or notification, set up at any place within this state by authority of
 5 law or by order of any court, during the time for which the same is to
 6 remain set up, he shall be fined in a sum not exceeding one hundred
 7 dollars, or imprisoned in the county jail not exceeding thirty days.

[C., '51, § 2688; R., '60, § 4328; C., '73, § 3987; C., '97,
 § 4803.]

SEC. 8732. Violating sepulcher and exposing dead bodies.

1 If any person, without lawful authority, wilfully dig up, disinter,
 2 remove or carry away any human body, or the remains thereof, from
 3 its place of interment; or aid, assist, encourage, incite or procure the
 4 same to be done or attempted; or wilfully receive, conceal or dispose of
 5 any such human body or the remains thereof; or if any person, with

6 the intent to commit any of the aforesaid acts, partially perform the
 7 same; or if any person wilfully and unnecessarily, and in an improper
 8 manner, indecently expose, throw away or abandon any human body,
 9 or the remains thereof, in any public place, or in any river, stream,
 10 pond or other place, he shall be imprisoned in the penitentiary not
 11 more than two years, or be fined not exceeding twenty-five hundred
 12 dollars, or both.

[C., '51, § 2714; R., '60, § 4356; C., '73, § 4017; C., '97,
 § 4945.]

SEC. 8733. Injury to gravestones or property in cemetery.

1 Any person who shall wilfully and maliciously destroy, mutilate,
 2 deface, injure or remove any tomb, vault, monument, gravestone, or
 3 other structure placed in any public or private cemetery in this state,
 4 or any fences, railing, or other work for the protection or ornamenta-
 5 tion of said cemetery, or of any tomb, vault, monument or gravestone,
 6 or other structure aforesaid, on any cemetery lot within such ceme-
 7 tery, or shall wilfully and maliciously destroy, cut, break or injure any
 8 tree, shrub, plant or lawn within the limits of said cemetery, or shall
 9 drive at an unusual and forbidden speed over the avenues or roads in
 10 said cemetery, or shall drive outside of said avenues and roads, and
 11 over the grass or graves of said cemetery, shall be guilty of a misde-
 12 meanor, and, upon conviction, punished accordingly, in the discretion
 13 of the court, and such offender shall also be liable, in an action in the
 14 name of the person or corporation having the custody and control of
 15 said cemetery grounds, to pay all such damages as have been occa-
 16 sioned by his unlawful act or acts; which money, when recovered, shall
 17 be applied by said person or corporation to the reparation and restora-
 18 tion of the property so injured or destroyed, if the same can be so re-
 19 paired or restored.

[C., '51, § 2715; R., '60, § 4357; C., '73, § 4021; C., '97,
 § 588.]

SEC. 8734. Hunting upon cultivated or inclosed land.

1 Any person who shall hunt with dog or gun upon the cultivated
 2 or inclosed lands of another without first obtaining permission from
 3 the owner or occupant thereof, or his agent, shall for each offense be
 4 fined not more than ten dollars and costs of prosecution, and shall
 5 stand committed until such fine and costs are paid; but no prosecution
 6 shall be commenced under this section except upon the information of
 7 the owner or occupant of such cultivated or inclosed lands, or his agent.
 8 All islands in navigable streams bordering on the state shall be deemed
 9 inclosed lands without fences where the owners or lessees thereof post
 10 in plain view notices warning others not to trespass thereon.

[C., '97, § 4821; S., '13, § 4821.]

CHAPTER 28.

INJURIES TO INTERNAL IMPROVEMENTS AND COMMON CARRIERS.

SECTION 8735. Injury to dams, locks, mills or machinery.

1 If any person maliciously injure or destroy any dam, lock, canal,
 2 trench or reservoir, or any of the appurtenances thereof, or any of

3 the gear or machinery of any mill or manufactory; or maliciously draw
 4 off the water from any mill pond, reservoir, canal or trench; or destroy,
 5 injure or render useless any engine or the apparatus thereto belonging,
 6 prepared or kept for the extinguishing of fires, he shall be imprisoned
 7 in the county jail not exceeding one year and be fined not exceeding
 8 five hundred dollars.

[C., '51, § 2679; R., '60, § 4319; C., '73, § 3978; C., '97,
 § 4806.]

SEC. 8736. Injury to levees—punishment.

1 If any person maliciously injure, break or cause to be broken
 2 any levee erected to prevent the overflow of land within the state, such
 3 person so offending shall be imprisoned in the penitentiary not more
 4 than five years, or be fined not exceeding one thousand dollars and
 5 imprisoned in the county jail not exceeding one year.

[R., '60, § 4332; C., '73, § 3991; C., '97, § 4804.]

SEC. 8737. Obstructing public ditches or drains—punishment.

1 If any person place any obstruction in any of the public ditches or
 2 drains made for the purpose of draining any of the swamp lands in
 3 this state, he shall be compelled to remove the same, and be fined not
 4 less than five nor more than one hundred dollars, or be imprisoned in
 5 the county jail not more than thirty days.

[C., '73, § 3992; C., '97, § 4805.]

SEC. 8738. Obstructing ditches and breaking levees.

1 Any person, firm or corporation diverting, obstructing, impeding
 2 or filling up, without legal authority, any ditch, drain or watercourse,
 3 or breaking down any levee established, constructed or maintained
 4 under any provision of law, shall be deemed guilty of a misdemeanor
 5 and punished accordingly.

[S., '13, § 1989-a15.]

SEC. 8739. Draining meandered lakes—punishment.

1 Every person who shall drain or cause to be drained, or shall at-
 2 tempt to drain in any manner, any lake, pond or body of water, which
 3 shall have been meandered and its metes and bounds established by
 4 the government of the United States in the survey of public lands,
 5 shall be guilty of a misdemeanor and be punished by a fine not exceed-
 6 ing one thousand dollars; provided this shall not apply where the
 7 drainage was or is authorized by law.

[S. S., '15, § 2900-e.]

SEC. 8740. Obstructing or defacing roads—punishment.

1 If any person, without authority or permission from the board of
 2 trustees, shall in any manner obstruct, deface or injure any public
 3 road by breaking up, plowing or digging within the boundary lines
 4 thereof, he shall be fined not less than five nor more than twenty-five
 5 dollars, or be imprisoned in the county jail not more than thirty days,
 6 at the discretion of the court.

[C., '97, § 4808; S., '13, § 4808.]

SEC. 8741. Placing glass in highways.

1 It shall be unlawful for any person or persons to place or leave
2 any broken glass, glass bottles, glassware, or glass of any kind in the
3 highways, or in the streets and alleys of any city or town in such a
4 manner as to interfere with safe travel, or in such manner as to
5 injure horses or vehicles while being used or driven on said streets,
6 alleys and highways.

[S., '13, § 4808-a.]

SEC. 8742. Punishment.

1 Any person violating any of the provisions of the preceding sec-
2 tion shall be deemed guilty of a misdemeanor, and shall on conviction
3 thereof, be fined not less than one dollar, nor more than ten dollars
4 for the first offense, and for each offense thereafter, shall be fined a
5 sum of not less than five dollars nor more than twenty dollars.

[S., '13, § 4808-b.]

SEC. 8743. Injury to roads, railways and other utilities.

1 If any person maliciously injure, remove or destroy any electric
2 railway or apparatus thereto belonging, or any bridge, rail or plank
3 road; or place, or cause to be placed, any obstruction on any electric
4 railway, or on any such bridge, rail or plank road; or wilfully obstruct
5 or injure any public road or highway; or maliciously cut, burn, or in
6 any way break down, injure or destroy any post or pole used in con-
7 nection with any system of electric lighting, electric railway or tele-
8 phone or telegraph system; or break down and destroy or injure and
9 deface any electric light, telegraph or telephone instrument; or in any
10 way cut, break or injure the wires of any apparatus thereto belonging;
11 or shall wilfully tap, cut, injure, break, disconnect, connect, make any
12 connection with or destroy any of the wires, mains, pipes, conduits,
13 meters or other apparatus belonging to, or attached to, the power
14 plant or distributing system of any electric light plant, electric motor,
15 gas plant or water plant; or shall aid or abet any other person in so
16 doing, he shall be imprisoned in the penitentiary not more than five
17 years, or be fined not exceeding five hundred dollars, or imprisoned in
18 the county jail not more than one year, or by both such fine and im-
19 prisonment, at the discretion of the court.

[C., '51, § 2680; R., '60, § 4320; C., '73, § 3979; C., '97, § 4807;
S., '13, § 4807.]

SEC. 8744. Tapping telegraph or telephone wires.

1 Any person who shall wrongfully or unlawfully tap or connect a
2 wire with the telephone or telegraph wires of any person, company or
3 association engaged in the transmission of messages on telephone or
4 telegraph lines between the states or in this state, shall be fined not
5 more than five hundred dollars, or imprisoned in the county jail not
6 exceeding six months.

[C., '97, § 4816.]

SEC. 8745. Placing obstructions on railways—punishment.

1 If any person shall wilfully and maliciously place any obstruction
2 on the track of any railroad in the state, or remove any rail therefrom,
3 or in any other way injure such railroad, or do any other thing thereto

4 whereby the life of any person is or may be endangered, he shall be
5 imprisoned in the penitentiary for life, or for any term not less than
6 two years.

[R., '60, § 4331; C., '73, § 3990; C., '97, § 4809.]

SEC. 8746. Shooting or throwing at train—misdemeanor.

1 If any person throw any stone or other substance whatever, or
2 present or discharge any gun, pistol, or other firearm at any railroad
3 train, car or locomotive engine, he shall be guilty of a misdemeanor.

[C., '97, § 4810.]

SEC. 8747. Uncoupling locomotive or cars—punishment.

1 If any person shall wilfully and maliciously uncouple or detach the
2 locomotive or tender or any of the cars of any railroad train, or in any
3 manner aid, abet or procure the doing of the same, such person shall
4 be imprisoned in the penitentiary not exceeding five years, or fined
5 not exceeding one thousand dollars, or both, at the discretion of the
6 court.

[C., '97, § 4812.]

SEC. 8748. Seizing and running locomotive—punishment.

1 If any person shall unlawfully seize upon any locomotive, with or
2 without any express, mail, baggage or other car attached thereto, and
3 run the same upon any railroad, or aid, abet or procure the doing of
4 the same, such person shall be imprisoned in the penitentiary not ex-
5 ceeding ten years, or fined not exceeding two thousand dollars, or
6 both fined and imprisoned.

[C., '97, § 4813.]

SEC. 8749. Conspiracy to seize locomotive—punishment.

1 If any two or more persons maliciously and wilfully confederate
2 together for the purpose of going upon or taking charge of any loco-
3 motive engine or car of any railroad company by force and without the
4 consent of the person or persons in charge thereof, or if one or more
5 persons shall go upon any locomotive engine or car of any railroad
6 company armed with a dangerous or deadly weapon for the purpose
7 of committing a public offense thereon, he shall be imprisoned in the
8 penitentiary for not exceeding five years or pay a fine of not exceeding
9 one thousand dollars.

[37 G. A., ch. 355, § 1.]

SEC. 8750. Wrongfully running hand car—punishment.

1 If any person shall, without permission from the proper author-
2 ity, wrongfully take or run any hand car upon any railroad in this
3 state, he shall be guilty of a misdemeanor; and if by such unlawful
4 use of any hand car any locomotive or car is thrown from the track,
5 or a collision produced, or any person injured, he shall be imprisoned
6 in the penitentiary for a term of not more than five years; and if
7 thereby any person is killed, such person so offending shall be guilty of
8 manslaughter.

[C., '97, § 4814.]

SEC. 8751. Interference with air brake or bell rope—arrest.

1 If any person not an employee upon the railroad shall wrongfully
 2 interfere with any automatic air brake or bell rope upon any railroad
 3 car, or use the same for the purpose of stopping or in any way con-
 4 trolling the movement of the train, he shall be subject to the penalty
 5 provided in the preceding section; and any conductor or brakeman on
 6 a railroad train shall have power to arrest a person so offending and
 7 deliver him to some peace officer on the line of the railroad.

[C., '97, § 4815.]

SEC. 8752. Jumping off cars in motion—misdemeanor.

1 If any person not employed thereon, or not an officer of the law
 2 in the discharge of his duty, without the consent of the person having
 3 the same in charge, get upon or off any locomotive engine or car of
 4 any railroad company while the same is in motion, or elsewhere than
 5 at the established depots of such company, or get upon, cling to or
 6 otherwise attach himself to any such engine or car for the purpose
 7 of riding upon the same, intending to jump therefrom when such
 8 engine or car is in motion, or, for the purpose of riding thereon without
 9 the payment of the usual fare, he shall be guilty of a misdemeanor.

[C., '97, § 4811; 37 G. A., ch. 125, § 1.]

CHAPTER 29.
INJURIES TO ANIMALS.**SECTION 8753. Injuries to beasts—punishment.**

1 If any person maliciously kill, maim or disfigure any horse, cattle
 2 or domestic beast of another, or maliciously administer poison to any
 3 such animal; or expose any poisonous substance with intent that the
 4 same should be taken by such animal, he shall be imprisoned in the
 5 penitentiary not exceeding five years, or imprisoned in the county jail
 6 not exceeding one year, or be fined not exceeding three hundred dollars.

[C., '51, § 2678; R., '60, § 4318; C., '73, § 3977; C., '97,
 § 4818.]

SEC. 8754. Impounding animals without food and water.

1 If any person impound or confine, or cause to be impounded or
 2 confined, in any pound or other place, any creature, and fail to supply
 3 the same during such confinement with a sufficient quantity of food
 4 and water, he shall be guilty of a misdemeanor.

[C., '73, § 4034; C., '97, § 4972.]

SEC. 8755. Cruelty to animals—punishment.

1 If any person torture, torment, deprive of necessary sustenance,
 2 mutilate, overdrive, overload, drive when overloaded, cruelly beat or
 3 cruelly kill any animal, or unnecessarily fail to provide the same with
 4 proper food, drink, shelter or protection from the weather, or drive or
 5 work the same when unfit for labor, or cruelly abandon the same, or

6 carry the same or cause the same to be cruelly carried on any vehicle
 7 or otherwise or shall commit any other act or omission by which un-
 8 justifiable pain, distress, suffering or death is caused or permitted to
 9 any animal or animals whether the acts or omissions herein contem-
 10 plated be committed either maliciously, wilfully or negligently and if
 11 any person shall knowingly permit such act or omission or shall cause
 12 or procure the same to be done he shall be imprisoned in the county
 13 jail not exceeding thirty days, or be fined not exceeding one hundred
 14 dollars.

[C., '51, § 2716; R., '60, § 4358; C., '73, § 4031; C., '97, § 4969;
 S., '13, § 4969.]

SEC. 8756. Docking horses prohibited—exceptions.

1 It shall be unlawful for any person or persons to dock the tail of
 2 any colt or horse of any age, other than horses and colts used for
 3 breeding and show purposes, or to procure the same to be done.

[S., '13, § 4975-a; 37 G. A., ch. 341, § 1.]

SEC. 8757. Punishment.

1 Any person or persons violating any of the provisions of the pre-
 2 ceding section shall be deemed guilty of a misdemeanor; and upon con-
 3 viction thereof, shall be punished by a fine not to exceed one hun-
 4 dred dollars, or by imprisonment in the county jail not to exceed
 5 thirty days.

[S., '13, § 4975-b.]

SEC. 8758. Disturbing stock with firearms or dogs.

1 Any person who knowingly discharges firearms of any description
 2 within, or in the immediate vicinity of, any inclosure where cattle,
 3 hogs or sheep are being fed for the purpose of fattening the same;
 4 or any person who enters such inclosure with firearms or dog, unless
 5 such person shall be the owner of said stock, or have the control of the
 6 same, or shall have permission from such owner or the person having
 7 control thereof to enter said premises, shall be guilty of a misde-
 8 meanor.

[C., '73, § 3900; C., '97, § 4820.]

SEC. 8759. Driving away stock—punishment.

1 If any person knowingly or wilfully drive off, or suffer or permit
 2 to be driven off, any stock of another to a distance exceeding one mile
 3 from the residence of the owner, or of his agent having charge of such
 4 stock, or the range in which such stock is usually in the habit of run-
 5 ning, without the consent of such owner or agent, he shall be fined not
 6 exceeding one hundred dollars, or be imprisoned in the county jail not
 7 exceeding thirty days; and any justice of the peace in any county
 8 through which the stock thus driven off should pass, or in which it
 9 may be found, shall have jurisdiction of the offense.

[C., '73, § 3896; C., '97, § 4819.]

CHAPTER 30.

FORGERY AND COUNTERFEITING.

SECTION 8760. Forgery defined—punishment.

1 If any person, with intent to defraud, falsely make, alter, forge
 2 or counterfeit any public record; or any process issued or purporting
 3 to be issued by any competent court, magistrate or officer, or any
 4 pleading or proceeding filed or entered in any court of law or equity;
 5 or any attestation or certificate of any public officer, or other person,
 6 in relation to any matter wherein such attestation or certificate is
 7 required by law, or may be received or be taken as legal proof; or any
 8 charter, deed, will, bond, writing obligatory, power of attorney, letter
 9 of credit, policy of insurance, bill of lading, bill of exchange, promissory
 10 note; or any order, acquittance, discharge, or accountable receipt
 11 for money or other valuable thing; or any acceptance of any bill of
 12 exchange or order; or any indorsement or assignment of any bill of
 13 exchange, promissory note or order, or of any debt or contract; or any
 14 instrument in writing, being, or purporting to be, the act of another,
 15 by which any pecuniary demand or obligation, or any right or interest
 16 in or to any property whatever, is or purports to be created, increased,
 17 transferred, conveyed, discharged or diminished, he shall be impris-
 18 oned in the penitentiary not more than ten years or imprisoned in the
 19 county jail not exceeding one year, or fined not exceeding one thou-
 20 sand dollars.

[C., '51, § 2626; R., '60, § 4253; C., '73, § 3917; C., '97, § 4853;
 S., '13 § 4853.]

SEC. 8761. Uttering forged instrument—punishment.

1 If any person utter and publish as true any record, process, cer-
 2 tificate, deed, will, or any other instrument of writing mentioned in
 3 the preceding section, knowing the same to be false, altered, forged
 4 or counterfeited, with intent to defraud, he shall be imprisoned in the
 5 penitentiary not more than fifteen years, and fined not exceeding one
 6 thousand dollars.

[C., '51, § 2627; R., '60, § 4254; C., '73, § 3918; C., '97,
 § 4854.]

SEC. 8762. Forgery or counterfeiting of public instruments.

1 If any person, with intent to defraud, falsely make, utter, forge
 2 or counterfeit any note, certificate, state bond, warrant or other instru-
 3 ment, being public security for money or other property, issued or
 4 purporting to be issued by authority of this state or any other of the
 5 United States; or any indorsement or other writing purporting to
 6 transfer the right or interest of any holder of such public security,
 7 he shall be imprisoned in the penitentiary not more than twenty nor
 8 less than five years.

[C., '51, § 2628; R., '60, § 4255; C., '73, § 3919; C., '97,
 § 4855.]

SEC. 8763. Counterfeiting bills, notes or drafts—punishment.

1 If any person make, alter, forge or counterfeit any bank bill,
 2 promissory note, draft or other evidence of debt issued or purporting
 3 to be issued by any corporation or company duly authorized for that

4 purpose by any state of the United States, or any other government
5 or country, with intent to injure or defraud, he shall be imprisoned
6 in the penitentiary not more than ten years, or be fined not exceed-
7 ing three hundred dollars, and imprisoned in the county jail not exceed-
8 ing one year.

[C., '51, § 2629; R., '60, § 4256; C., '73, § 3920; C., '97,
§ 4856.]

SEC. 8764. Possession of counterfeit papers—punishment.

1 If any person has in his possession any forged, counterfeited or
2 altered bank bill, promissory note, draft or other evidence of debt
3 issued or purporting to be issued as is mentioned in the preceding sec-
4 tion, with intent to defraud, knowing them to be forged, counterfeited
5 or altered, he shall be imprisoned in the penitentiary not more than
6 five years, or fined not exceeding two hundred dollars and imprisoned
7 in the county jail not exceeding one year.

[C., '51, § 2630; R., '60, § 4257; C., '73, § 3921; C., '97,
§ 4857.]

SEC. 8765. Uttering counterfeit securities—punishment.

1 If any person utter, pass or tender in payment as true any false,
2 altered, forged or counterfeited note, certificate, state bond, warrant
3 or other instrument of public security, or any bank bill, promissory
4 note, draft or other evidence of debt issued or purporting to be issued
5 by any corporation or company, knowing the same to be false, altered,
6 forged or counterfeited, with the intent to injure or defraud, he shall
7 be imprisoned in the penitentiary not more than ten years, or be fined
8 not exceeding five hundred dollars and imprisoned in the county jail
9 not exceeding one year.

[C., '51, § 2631; R., '60, § 4258; C., '73, § 3922; C., '97,
§ 4858.]

SEC. 8766. Second conviction—punishment.

1 If any person, having been convicted of any of the offenses de-
2 scribed in the preceding section, afterward be convicted of a like
3 offense, he shall be imprisoned in the penitentiary not less than two
4 nor more than ten years.

[C., '51, § 2632; R., '60, § 4259; C., '73, § 3923; C., '97,
§ 4859.]

SEC. 8767. Fraudulent alteration of instruments—forgery.

1 If any person fraudulently connect together different parts of
2 several genuine bank bills, notes or other instruments in writing, so
3 as to produce one instrument; or alter any note or instrument in
4 writing in a matter that is material, with intent to defraud, the same
5 shall be forgery in like manner as if such bill or note or other instru-
6 ment had been forged and counterfeited.

[C., '51, § 2636; R., '60, § 4263; C., '73, § 3927; C., '97,
§ 4863.]

SEC. 8768. Affixing fictitious signatures—punishment.

1 If any fictitious or pretended signature of an officer or agent of
2 any corporation be fraudulently affixed to any instrument of writing

3 purporting to be a note, draft or other evidence of debt issued by such
4 corporation, with intent to utter or pass the same as true, it is a
5 forgery, though no such person may ever have been an officer or agent
6 of such corporation, nor such corporation have ever existed; and the
7 person guilty thereof shall be imprisoned in the penitentiary not more
8 than five years, or be fined not exceeding three hundred dollars and
9 imprisoned in the county jail not more than one year.

[C., '51, § 2637; R., '60, § 4264; C., '73, § 3928; C., '97,
§ 4864.]

SEC. 8769. Obliteration of records or instruments.

1 The total or partial erasure or obliteration of any record, process,
2 certificate, deed, will, or any other instrument in writing mentioned in
3 this chapter, with the intent to defraud, shall be deemed forgery, and
4 the offender shall be imprisoned in the penitentiary not exceeding five
5 years, or fined not exceeding five hundred dollars and imprisoned in
6 the county jail not exceeding one year.

[C., '51, § 2638; R., '60, § 4265; C., '73, § 3929; C., '97,
§ 4865.]

SEC. 8770. Second and third convictions—punishment.

1 If any person, having been convicted of either of the offenses
2 mentioned in the preceding section, be afterward convicted of a like
3 offense, he shall be imprisoned in the penitentiary not more than ten
4 nor less than three years.

[C., '51, § 2639; R., '60, § 4266; C., '73, § 3930; C., '97,
§ 4866.]

SEC. 8771. Existence of corporation proved by reputation.

1 On the trial of any person for forging or counterfeiting any bill,
2 note or other evidence of debt purporting to be issued by any incor-
3 porated company; or for uttering, passing or attempting to pass, or
4 having in possession the same with intent to utter or pass, such bill,
5 note or evidence of debt, it is not necessary to prove the incorporation
6 by the charter or act thereof; but the same may be proved by general
7 reputation, and persons of skill are competent witnesses to prove that
8 such bill, note or evidence of debt is forged or counterfeit.

[C., '51, § 3643; R., '60, § 4270; C., '73, § 3934; C., '97,
§ 4870.]

SEC. 8772. Making tools for counterfeiting—punishment.

1 If any person engrave, make or mend, or begin to engrave, make
2 or mend, any plate, block, press or other tool, instrument or implement,
3 or make or provide any paper or other materials, adapted and de-
4 signed for the forging or making any false and counterfeit note, certi-
5 ficate, state bond, warrant or other instrument of public security for
6 money or other property of this state or any other of the United States,
7 or any bank bill, promissory note, draft or other evidence of debt
8 issued or purporting to be issued by any corporation or company; and
9 every person who has in his possession any such plate or block en-
10 graved in any part, or any press or other tool, instrument or imple-
11 ment, paper or other material, adapted and designed as aforesaid, with
12 intent to use the same, or to cause or permit the same to be used, in
13 forging or making any such false and forged certificates, notes, bonds,

14 warrants, public securities or evidences of debt, shall be imprisoned in
15 the penitentiary not more than five nor less than two years.

[C., '51, § 2633; R., '60, § 4260; C., '73, § 3924; C., '97,
§ 4860.]

SEC. 8773. Counterfeiting coin—punishment.

1 If any person forge or counterfeit any gold or silver coin, current
2 by law or usage within this state, or if any person have in his posses-
3 sion at the same time five or more pieces of false money or coin coun-
4 terfeited in the similitude of any gold or silver coin current as afore-
5 said, knowing the same to be false and counterfeit, and with intent to
6 utter or pass the same as true, he shall be imprisoned in the peniten-
7 tiary not more than ten nor less than one year.

[C., '51, § 2634; R., '60, § 4261; C., '73, § 3925; C., '97,
§ 4861.]

SEC. 8774. Uttering or having in possession counterfeit coin.

1 Any person who has in his possession any number of pieces less
2 than five of the counterfeit coin mentioned in the preceding section,
3 knowing the same to be false or counterfeit, with intent to utter or
4 pass the same as true; and any person who utters, passes or tenders
5 in payment any false and counterfeit coin, knowing the same to be
6 false and counterfeit, shall be imprisoned in the penitentiary not ex-
7 ceeding eight years, or fined not more than five hundred dollars and
8 imprisoned in the county jail not exceeding one year.

[C., '51, § 2635; R., '60, § 4262; C., '73, § 3926; C., '97,
§ 4862.]

SEC. 8775. Counterfeiting foreign coin—punishment.

1 If any person forge or counterfeit any gold or silver coin of any
2 foreign government or country, with intent to export the same to
3 injure or defraud any such government or the citizens thereof, he shall
4 be imprisoned in the penitentiary not exceeding ten years.

[C., '51, § 2641; R., '60, § 4268; C., '73, § 3932; C., '97,
§ 4868.]

SEC. 8776. Counterfeiting public seals—punishment.

1 Every person who is convicted of having forged, counterfeited, or
2 falsely altered the great seal of the state; or the seal of any public
3 office authorized by law; or the seal of any court, corporation, city or
4 county; or who falsely makes, forges or counterfeits any impression
5 purporting to be the impression of any such seal, with intent to de-
6 fraud, shall be imprisoned in the penitentiary not exceeding ten years.

[C., '51, § 2642; R., '60, § 4269; C., '73, § 3933; C., '97,
§ 4869.]

SEC. 8777. Counterfeiting brands or stamps—punishment.

1 If any person, with intent to defraud, falsely make, forge or coun-
2 terfeit any stamp or brand authorized by law to be affixed to any
3 substance or thing whatever; or, knowing such stamp or brand to be
4 counterfeit, use the same as genuine, with intent to defraud, he shall
5 be imprisoned in the penitentiary not exceeding ten years.

[C., '73, § 3935; C., '97, § 4871.]

SEC. 8778. Possession of instruments for counterfeiting.

1 If any person cast, stamp, engrave, make or mend, or have in his
 2 possession any mould, die, press or other instrument or tool adapted
 3 and designed for the forging and counterfeiting of any coin before
 4 mentioned, with intent to use the same, or permit the same to be used,
 5 for that purpose, he shall be imprisoned in the penitentiary not more
 6 than five years, or be fined not exceeding one thousand dollars and
 7 imprisoned in the county jail not more than one year.

[C., '51, § 2640; R., '60, § 4267; C., '73, § 3931; C., '97,
 § 4867.]

SEC. 8779. Circulation of foreign bank notes—punishment.

1 If any person pay out or offer to pay, or in any manner put in
 2 circulation or offer to put in circulation, any bank note, bill or other
 3 instrument intended to circulate as money, issued or purporting to be
 4 issued by any bank, individual or corporation elsewhere than in this
 5 state, excepting treasury notes, notes of any bank organized under
 6 the law of the United States, or any other description of currency
 7 issued by the authority of congress, he shall be fined the sum of five
 8 dollars for each note, bill or other instrument so paid out or offered
 9 to be paid out, put in circulation or offered to be put in circulation.

[C., '73, § 4047; C., '97, § 5011.]

SEC. 8780. Allegations of indictment—proof.

1 In prosecutions under the preceding section, it shall not be neces-
 2 sary to state in the indictment or information the name of the bank
 3 issuing the notes, nor to prove the existence of the bank or other per-
 4 son purporting to issue them; but it shall be sufficient to allege in gen-
 5 eral terms the fact of paying out, or attempting to pay out, as the
 6 case may be, of bank notes issued out of this state; and the proof may
 7 be made as if the particulars were alleged.

[C., '73, § 4047; C., '97, § 5011.]

SEC. 8781. Series of offenses—jurisdiction.

1 Any number of offenses may be included in the same prosecu-
 2 tion, and where the total fines shall not exceed one hundred dollars, the
 3 offense may be tried before a justice of the peace; but when they ex-
 4 ceed one hundred dollars, it shall be within the jurisdiction of the dis-
 5 trict court.

[C., '73, § 4047; C., '97, § 5011.]

CHAPTER 31.**CONSPIRACY.****SECTION 8782. Conspiracy defined—common law—punishment.**

1 If any two or more persons conspire or confederate together with
 2 the fraudulent or malicious intent wrongfully to injure the person,
 3 character, business, property or rights in property of another, or to
 4 do any illegal act injurious to the public trade, health, morals or police,
 5 or to the administration of public justice, or to commit any felony,

6 they are guilty of a conspiracy, and every such offender, and every
7 person who is convicted of a conspiracy at common law, shall be im-
8 prisoned in the penitentiary not more than three years.

[C., '51, § 2758; R., '60, § 4408; C., '73, § 4087; C., '97,
§ 5059.]

SEC. 8783. Conspiracy to prosecute—punishment.

1 If two or more persons conspire or confederate together with
2 intent, falsely and maliciously, to cause or procure another person to
3 be indicted or in any way impleaded or prosecuted for an offense of
4 which he is innocent, whether such person be so impleaded, indicted
5 or prosecuted or not, they shall be guilty of a conspiracy, and, upon
6 conviction thereof, shall be imprisoned in the penitentiary not more
7 than five years, or be fined not exceeding one thousand nor less than
8 one hundred dollars, and imprisoned in the county jail not exceeding
9 one year.

[C., '51, § 2757; R., '60, § 4407; C., '73, § 4086; C., '97,
§ 5058.]

CHAPTER 32.

EXTORTION.

SECTION 8784. Malicious threats to extort—punishment.

1 If any person, either verbally or by any written or printed com-
2 munication, maliciously threaten to accuse another of a crime or
3 offense, or to do any injury to the person or property of another, with
4 intent to extort any money or pecuniary advantage whatever, or to
5 compel the person so threatened to do any act against his will, he shall
6 be imprisoned in the penitentiary not more than five years or be fined
7 not exceeding one thousand dollars, or be imprisoned in the county jail
8 not exceeding one year, or both such fine and imprisonment.

[C., '51, § 2590; R., '60, § 4213; C., '73, § 3871; C., '97, § 4767;
S., '13, § 4767.]

CHAPTER 33.

PERJURY.

SECTION 8785. Perjury defined—punishment.

1 If any person, on oath or affirmation lawfully administered, wil-
2 fully and corruptly swear or affirm falsely to any material matter in
3 any proceeding in any court of justice, or before any officer thereof, or
4 before any tribunal or officer created by law, or in any proceeding in
5 regard to any matter or thing in or respecting which an oath or affir-
6 mation is or may be required or authorized by law, he is guilty of per-
7 jury, and shall, if the perjury was committed on the trial of a capital
8 crime, be imprisoned in the penitentiary for life or any term not less
9 than ten years; and if committed in any other case, not more than ten
10 years.

[C., '51, § 2644; R., '60, § 4271; C., '73, § 3936; C., '97,
§ 4872.]

SEC. 8786. Subornation of perjury—punishment.

1 If any person procure another to commit perjury, he is guilty of
 2 subornation of perjury, and shall be punished as provided in the pre-
 3 ceding section.

[C., '51, § 2645; R., '60, § 4272; C., '73, § 3937; C., '97,
 § 4873.]

SEC. 8787. Attempt to suborn—punishment.

1 If any person endeavor to incite or procure another to commit
 2 perjury, though no perjury be committed, he shall be imprisoned in the
 3 penitentiary not more than five years, or be fined not exceeding five
 4 hundred dollars and imprisoned in the county jail not more than one
 5 year.

[C., '51, § 2646; R., '60, § 4273; C., '73, § 3938; C., '97,
 § 4874.]

CHAPTER 34.**COMPOUNDING FELONIES.****SECTION 8788. Compounding felonies involving life imprisonment—punishment.**

1 If any person, having knowledge of the commission of any offense
 2 punishable with imprisonment in the penitentiary for life, take any
 3 money or valuable consideration or gratuity, or any promise therefor,
 4 upon an agreement or understanding, expressed or implied, to com-
 5 pound or conceal such offense, or not to prosecute the same, or not to
 6 give evidence thereof, he shall be imprisoned in the penitentiary not
 7 more than six years, or be fined not exceeding one thousand dollars.

[C., '51, § 2659; R., '60, § 4286; C., '73, § 3951; C., '97,
 § 4889.]

SEC. 8789. Compounding lesser felonies—punishment.

1 If any person, having knowledge of the commission of any offense
 2 punishable by imprisonment in the penitentiary for a limited term of
 3 years, is guilty of the offense described in the preceding section, he
 4 shall be imprisoned in the county jail not more than one year, and be
 5 fined not exceeding four hundred dollars.

[C., '51, § 2660; R., '60, § 4287; C., '73, § 3952; C., '97,
 § 4890.]

CHAPTER 35.**OBSTRUCTING JUSTICE.****SECTION 8790. Obstructing administration of justice.**

1 If any person attempt in any manner to improperly influence, in-
 2 timidate, impede or obstruct any petit juror, grand juror or other
 3 officer in any civil or criminal action or proceeding, or any one drawn,

4 summoned, appointed or sworn as such juror or officer, or any arbi-
 5 trator or referee, or any witness or any officer in, or of, any court
 6 or tribunal in relation to any cause or matter or proceeding pending
 7 in, or that may be brought before, such court or tribunal, for which
 8 such juror or other officer has been drawn, appointed or in which said
 9 witness has been, or may be, called to testify, or in regard to which
 10 such officer is, or may be, required to act in his official capacity, or, if
 11 any person shall intentionally, or by threat or force, or by any threat-
 12 ening letter or threatening communication, or by any public speech or
 13 in any other manner improperly influence, obstruct or impede, or en-
 14 deavor or attempt to improperly influence, obstruct or impede the due
 15 administration of justice or the actions or conduct of any such jurors,
 16 witnesses, arbitrator, referee or other officer, he shall be punished by
 17 a fine not exceeding one thousand dollars or by imprisonment in the
 18 penitentiary not more than one year, or by both such fine and impris-
 19 onment.

[C., '51, § 2654; R., '60, § 4281; C., '73, § 3946; C., '97, § 4882;
 37 G. A., ch. 383, § 1.]

SEC. 8791. Injunction to prevent obstruction of justice.

1 The commission, threat or attempt to commit any of the acts or
 2 things hereinbefore referred to shall be held to be an injury to the gen-
 3 eral welfare and any person doing or threatening or attempting to do
 4 any such acts may be enjoined and restrained at the suit of the state
 5 upon the relation of the attorney general.

[37 G. A., ch. 383, § 2.]

CHAPTER 36.

PROSTITUTION.

SECTION 8792. Soliciting for the purpose of prostitution.

1 Any person who shall ask, request, or solicit another to have car-
 2 nal knowledge with any male or female for a consideration or other-
 3 wise, shall be punished by imprisonment in the penitentiary not ex-
 4 ceeding five years, or imprisonment in the county jail not exceeding
 5 one year, or by a fine not exceeding one thousand dollars, or both such
 6 fine and jail imprisonment.

[S., '13, § 4975-c.]

SEC. 8793. Prostitution defined—punishment.

1 If any person, for the purpose of prostitution or lewdness, resorts
 2 to, uses, occupies or inhabits any house of ill fame or place kept for
 3 such purpose, or if any person be found at any hotel, boarding house,
 4 cigar store or other place, leading a life of prostitution or lewdness,
 5 such person shall be imprisoned in the penitentiary not more than five
 6 years.

[C., '97, § 4943.]

SEC. 8794. Keeping house of ill fame—punishment.

1 If any person keeps a house of ill fame, resorted to for the pur-
 2 pose of prostitution or lewdness, such person shall be imprisoned in
 3 the penitentiary not less than six months nor more than five years.

[C., '51, § 2710; R., '60, § 4352; C., '73, § 4013; C., '97,
 § 4939.]

SEC. 8795. Evidence—general reputation.

1 The state, upon the trial of any person indicted for keeping a
 2 house of ill fame, may, for the purpose of establishing the character of
 3 the house kept by defendant, introduce evidence of the general repu-
 4 tation of such house as so kept.

[C., '97, § 4944.]

SEC. 8796. Terminating lease after conviction.

1 When a tenant, or any one claiming under him, is convicted of
 2 keeping a house of ill fame, the landlord of the premises may termi-
 3 nate the lease therefor, and recover possession thereof in the manner
 4 provided in case of violation of the provisions of the chapter upon
 5 intoxicating liquors.

[C., '51, § 2711; R., '60, § 4353; C., '73, § 4014; C., '97,
 § 4940.]

SEC. 8797. Leasing house for such purpose—punishment.

1 If any person let any house, knowing that the lessee intends to
 2 use it as a place or resort for the purpose of prostitution and lewdness,
 3 or knowingly permit such lessee to use the same for such purpose, he
 4 shall be fined not exceeding three hundred dollars, or imprisoned in
 5 the county jail not exceeding six months.

[C., '51, § 2712; R., '60, § 4354; C., '73, § 4015; C., '97,
 § 4941.]

SEC. 8798. Permitting minor females to be inmates.

1 Whoever, being the keeper of a house of prostitution, or assigna-
 2 tion house, building, or premises in this state where prostitution, forni-
 3 cation, or concubinage is allowed, or practiced, shall suffer or permit
 4 any unmarried female under the age of eighteen years to live, board,
 5 stop or room in such house, building, or premises, shall, on conviction,
 6 be imprisoned in the penitentiary not less than one year nor more than
 7 five years.

[S., '13, § 4944-i.]

SEC. 8799. Detention of females for purposes of prostitution.

1 Whoever shall unlawfully detain or confine any female, by force,
 2 false pretense, or intimidation, in any room, house, building, or prem-
 3 ises in this state, against the will of such female, for purposes of pros-
 4 titution or with intent to cause such female to become a prostitute,
 5 and be guilty of fornication or concubinage therein, or shall by force,
 6 false pretense, confinement, or intimidation attempt to prevent any
 7 female so as aforesaid detained, from leaving such room, house, build-
 8 ing, or premises, and whoever aids, assists, or abets by force, false
 9 pretense, confinement, or intimidation, in keeping, confining, or unlaw-
 10 fully detaining any female in any room, house, building, or premises in

11 this state, against the will of such female, for the purpose of prosti-
 12 tution, fornication, or concubinage, shall on conviction, be imprisoned
 13 in the penitentiary not less than one nor more than ten years.

[S., '13, § 4944-j.]

SEC. 8800. Enticing to house of ill fame—punishment.

1 If any person inveigle or entice any female, before reputed vir-
 2 tuous, to a house of ill fame, or knowingly conceal or aid or abet in
 3 concealing such female so deluded or enticed, for the purpose of pros-
 4 titution or lewdness, or entice back into a life of prostitution any
 5 female who has theretofore been guilty of prostitution and has aban-
 6 doned it, he shall be imprisoned in the penitentiary not more than ten
 7 years nor less than three years.

[C., '51, § 2713; R., '60, § 4355; C., '73, § 4016; C., '97,
 § 4942.]

SEC. 8801. Enticing female child for prostitution.

1 If any person take or entice away any unmarried female under the
 2 age of eighteen years for the purpose of prostitution, he shall be im-
 3 prisoned in the penitentiary not more than five years, or be fined not
 4 more than one thousand dollars and imprisoned in the county jail not
 5 more than one year.

[C., '51, § 2584; R., '60, § 4207; C., '73, § 3865; C., '97,
 § 4760.]

CHAPTER 37.

OBSCENITY AND INDECENCY.

SECTION 8802. Lewdness—indecent exposure—punishment.

1 If any man and woman not being married to each other, lewdly
 2 and viciously associate and cohabit together, or if any man or woman,
 3 married or unmarried, is guilty of open and gross lewdness, and de-
 4 signedly makes an open and indecent or obscene exposure of his or her
 5 person, or of the person of another, every such person shall be impris-
 6 oned in the county jail not exceeding six months, or be fined not
 7 exceeding two hundred dollars.

[C., '51, § 2709; R., '60, § 4351; C., '73, § 4012; C., '97,
 § 4938.]

SEC. 8803. Lewd, immoral and lascivious acts with children.

1 Any person over eighteen years of age who shall wilfully commit
 2 any lewd, immoral or lascivious act upon or with the body or any
 3 part or member thereof, of a child of the age of thirteen years, or
 4 under, with the intent of arousing, appealing to, or gratifying the lust
 5 or passions or sexual desires of such person, or of such child, shall be
 6 punished by imprisonment in the penitentiary not more than three
 7 years, or by imprisonment in the county jail not more than six months,
 8 or by fine not exceeding five hundred dollars.

[S., '13, § 4938-a.]

SEC. 8804. Immoral plays, exhibitions and entertainments.

1 Any person who, as owner, manager, director, or agent, or in any
 2 other capacity, prepares, advertises, gives, presents, or participates
 3 in any obscene, indecent, immoral, or impure drama, play, exhibition,
 4 show, or entertainment, which would tend to the corruption of the
 5 morals of youth or others, and every person aiding or abetting such
 6 act and every owner or lessee or manager of any garden, building,
 7 room, place or structure, who leases or lets the same or permits the
 8 same to be used for the purposes of any such drama, play, exhibition,
 9 show, or entertainment, or who assents to the use of the same for
 10 any such purpose, if it be so used, shall be guilty of a misdemeanor,
 11 and upon conviction thereof shall be punished by a fine not exceed-
 12 ing one thousand dollars or imprisonment in the county jail not ex-
 13 ceeding one year or by both such fine and imprisonment.

[S., '13, § 4944-k.]

SEC. 8805. Exhibiting pictures of prize fights prohibited.

1 It shall be unlawful for any person, persons or corporation to ex-
 2 hibit in this state by means of the photograph, kinetograph, or any
 3 kindred device or machine, any picture of any prize fight, glove con-
 4 test, or other match between men or animals, that is prohibited by the
 5 laws of this state.

[C., '97, § 4973.]

SEC. 8806. Use of buildings—punishment of owner.

1 Any person, persons or corporation who shall grant, lease, let or
 2 hire any theater, hall, room, building, roof-garden or park for the ex-
 3 hibition of pictures such as are prohibited by the preceding section
 4 shall be deemed guilty of a misdemeanor, and shall be punished by a
 5 fine of not less than five hundred dollars nor more than one thousand
 6 dollars, or by imprisonment in the county jail not less than thirty
 7 days nor more than one year, or by both fine and imprisonment, in
 8 the discretion of the court.

[C., '97, § 4974.]

SEC. 8807. Aiding in making exhibits—punishment.

1 Whoever shall assist or aid in any manner any person, persons or
 2 corporation in making exhibits of any such pictures as are prohibited
 3 in the second preceding section shall be punishable by a fine of not less
 4 than fifty dollars nor more than one hundred dollars, or by imprison-
 5 ment in the county jail not more than thirty days, for each offense, in
 6 the discretion of the court.

[C., '97, § 4975.]

SEC. 8808. Printing or distributing obscene books or pictures.

1 If any person import, print, publish, sell or distribute any book,
 2 pamphlet, ballad or any printed or written paper containing obscene
 3 language or obscene prints, pictures or descriptions, manifestly tend-
 4 ing to corrupt the morals of youth; or introduce into any family,
 5 school or place of education, or buy, procure, receive or have in his
 6 possession any such book, pamphlet, ballad, printed or written paper,
 7 picture or description, either for the purpose of loan, sale, exhibition
 8 or circulation, or with intent to introduce the same into any family,

9 school or place of education, he shall be imprisoned in the penitentiary
 10 not more than one year, or be fined not exceeding one thousand dollars.
 [C., '51, § 2717; R., '60, § 4359; C., '73, § 4022; C., '97,
 § 4951.]

SEC. 8809. Obscene literature—articles of immoral use.

1 Whoever sells, or offers for sale, or gives away, or has in his pos-
 2 session with intent to sell, loan, or give away any obscene, lewd, inde-
 3 cent, lascivious, or filthy book, pamphlet, paper, drawing, lithograph,
 4 engraving, picture, photograph, writing, card, postal card, model, cast,
 5 or any instrument or article of indecent or immoral use, or any
 6 medicine, article or thing designed or intended for procuring abortion
 7 or preventing conception, or advertises the same for sale, or writes or
 8 prints any letter, circular, handbill, card, book, pamphlet, advertise-
 9 ment or notice of any kind, giving information, directly or indirectly,
 10 when, where, how or by what means any of the articles or things
 11 hereinbefore mentioned can be purchased, or otherwise obtained or
 12 made, shall be guilty of a misdemeanor and be fined not more than
 13 one thousand nor less than fifty dollars, or be imprisoned in the county
 14 jail not more than one year, or both.

[C., '97, § 4952; S., '13, § 4952.]

SEC. 8810. Circulating obscene matter—punishment.

1 Whosoever deposits in any postoffice within this state, or places
 2 in charge of any person to be carried or conveyed, any of the articles
 3 or things named in the preceding section, or any circular, handbill,
 4 card, advertisement, book, pamphlet or notice of any kind, giving infor-
 5 mation, directly or indirectly, when, how, where or by what means any
 6 of the articles or things mentioned in the preceding section can be
 7 purchased or obtained, or knowingly or wilfully receives the same to
 8 carry or convey, or knowingly carries or conveys the same in any man-
 9 ner, except in the United States mail, shall be fined not more than one
 10 thousand dollars, nor less than fifty dollars, or be imprisoned in the
 11 county jail not more than one year, or both.

[C., '97, § 4953.]

SEC. 8811. Advertising drugs for venereal disease.

1 Whoever prints or publishes, or causes to be printed or pub-
 2 lished, in any newspaper published or circulated in this state, any ad-
 3 vertisement of medicine, drug, nostrum or apparatus for the cure of
 4 private or venereal disease, or shall circulate or distribute any news-
 5 paper containing such an advertisement or notice, shall be guilty of a
 6 misdemeanor, and be fined not more than one thousand dollars nor less
 7 than fifty dollars, or be imprisoned in the county jail not more than
 8 one year, or both.

[C., '97, § 4954.]

SEC. 8812. Giving or showing obscene literature to minors.

1 Whoever sells, lends, gives away or shows, or has in his possession
 2 with intent to sell, give away or show, to any minor, any book, pam-
 3 phlet, magazine, newspaper, story paper or other paper devoted to the
 4 publication, or principally made up of, criminal news, police reports or
 5 accounts of criminal deeds, or pictures and stories of immoral deeds,
 6 lust or crime, or exhibits upon any street or highway, or any place

7 within the view, or which may be within the view, of any minor, any
 8 of the above described books, papers or pictures, or uses or employs
 9 any minor to give away, sell or distribute, or who, having the care, cus-
 10 tody or control of any minor, permits him to sell, give away or dis-
 11 tribute, any such books, papers or pictures, shall be fined not more
 12 than five hundred nor less than fifty dollars, or be imprisoned not more
 13 than six months in the county jail, or both.

[C., '97, § 4955.]

SEC. 8813. Warrants for search or seizure.

1 Any magistrate or police judge is authorized, on complaint sup-
 2 ported by oath or affirmation of one or more persons, to issue a war-
 3 rant, directed to the sheriff of the county within which such complaint
 4 is made, or to any constable or police officer within said county, direct-
 5 ing him or them, or any of them, to search for, seize and take posses-
 6 sion of such books, papers, pictures, circulars, articles and things
 7 named in this chapter; and said magistrate or police judge shall de-
 8 liver personally, or shall transmit, inclosed and under seal, specimens
 9 thereof to the county attorney of his county, and shall deposit within
 10 the county jail of his county, or other secure place, as to him shall
 11 seem meet, inclosed and under seal, the remainder thereof, and shall,
 12 upon the conviction of the person or persons offending under the pro-
 13 visions of this chapter, forthwith, in the presence of the person or
 14 persons upon whose complaint the seizure or arrest was made, if he or
 15 they shall elect to be present, destroy or cause to be destroyed the re-
 16 mainder thereof, and shall cause to be entered upon the record of his
 17 court the fact of such destruction.

[C., '97, § 4956.]

SEC. 8814. Exceptions—doctors—druggists—artists.

1 Nothing in the five preceding sections shall be construed to affect
 2 teaching in regularly chartered medical colleges, or the publication or
 3 use of standard medical books, or the practice of regular practitioners
 4 of medicine or druggists in their regular business, or the possession
 5 by artists of models in the necessary line of their art.

[C., '97, § 4957.]

SEC. 8815. Obscene productions by phonograph.

1 If any person exhibit through a phonograph, or any other instru-
 2 ment for receiving and reproducing the human voice, any story, song
 3 or any other matter containing any obscene, indecent or immoral lan-
 4 guage, he shall be imprisoned in the penitentiary not more than one
 5 year, or be fined not exceeding one thousand dollars.

[C., '97, § 4958.]

SEC. 8816. Exhibition of deformed or abnormal persons.

1 Any person, firm or corporation who shall exhibit, place on ex-
 2 hibition or cause to be exhibited in any public place in the state, or in
 3 any tent, shed, booth, building or in any theater, hall or within any
 4 inclosure in the state, any deformed, maimed, idiotic or abnormal per-
 5 son or human monstrosity, and receive any fee or compensation there-
 6 for, shall be deemed guilty of a misdemeanor and upon conviction shall
 7 pay a fine of not less than ten dollars nor more than one hundred dol-

8 lars or be imprisoned in the county jail for a term not less than ten
 9 days or more than thirty days, or by both such fine and imprisonment.
 [S., '13, § 4975-1a.]

CHAPTER 38.

GAMBLING.

SECTION 8817. Keeping gambling houses—keeper defined.

1 If any person keep a house, shop or place resorted to for the pur-
 2 pose of gambling, or permit or suffer any person in any house, shop
 3 or other place under his control or care to play at cards, dice, faro,
 4 roulette, equality or other game for money or other thing, such
 5 offender shall be fined in a sum not less than fifty nor more than
 6 three hundred dollars, or be imprisoned in the county jail not exceed-
 7 ing one year, or both. In a prosecution under this section, any person
 8 who has the charge of or attends to any such house, shop or place is
 9 the keeper thereof.

[C., '51, § 2721; R., '60, § 4363; C., '73, § 4026; C., '97,
 § 4962.]

SEC. 8818. Search warrant—destroying gambling devices.

1 If any person make oath before a magistrate that he has probable
 2 cause to suspect, and does suspect, that any house, building or place,
 3 naming the house or place and the occupant, is unlawfully used as a
 4 gaming house or place for the purpose of gaming for money or other
 5 property, and that persons resort thereto for that purpose, whether
 6 they be known to the complainant or not, such magistrate may issue
 7 his warrant for the purpose of searching such house or building for
 8 and seizing the implements or gambling devices mentioned in the pre-
 9 ceding section, and for the apprehension of the occupant or keeper
 10 thereof; and the said implements and keeper shall be carried before
 11 such magistrate to be dealt with as provided by law. Any gambling
 12 device brought before the magistrate may be destroyed by him, and
 13 an entry thereof shall be made upon his docket.

[C., '51, § 2722; R., '60, § 4364; C., '73, § 4027; C., '97,
 § 4963.]

SEC. 8819. Gaming and betting defined.

1 If any person play at any game for any sum of money or other
 2 property of any value, or make any bet or wager for money or other
 3 property of value, he shall be guilty of a misdemeanor.

[C., '51, § 2723; R., '60, § 4365; C., '73, § 4028; C., '97,
 § 4964.]

SEC. 8820. Possession of certain gambling devices prohibited.

1 No one shall, in any manner or for any purpose whatever, except
 2 under proceeding to destroy the same, have, keep or hold in possession
 3 or control any roulette wheel, klondyke table, poker table, faro or keno
 4 layouts.

[S., '13, § 4965-a.]

SEC. 8821. Issue of search warrant.

1 If any person make oath before a magistrate that he has prob-
 2 able cause to suspect and does suspect, that articles or things men-
 3 tioned in the preceding section are stored or kept or had in possession
 4 at any place within the county in any house, building or other place
 5 of any description whatever, describing the house or place as near as
 6 may be and naming the occupant thereof, if known, such magistrate
 7 shall issue his warrant for the purpose of searching such house or
 8 place for and seizing such articles or things.

[S., '13, § 4965-b.]

SEC. 8822. Serving warrant.

1 Such warrant may be served at any time of the day or night.
 2 The officer may break open any part of a building, or anything therein
 3 in order to execute the warrant, if after notice of his authority and
 4 purpose he is refused admittance. Said articles or things shall be
 5 carried before such magistrate to be dealt with as herein provided.
 6 The officer shall make return at once after the warrant is served.

[S., '13, § 4965-b.]

SEC. 8823. Notice of seizure.

1 Within three days after the return is made, notice shall be served
 2 upon the party from whose possession said articles or things were
 3 taken, if known, and if not known, said notice shall be posted on the
 4 premises from which the articles were taken, notifying the possessor
 5 of such seizure and that the matter of the destruction of said articles
 6 or things will come on for hearing at a certain time and place before
 7 the court or magistrate issuing the warrant, or in his absence or inabil-
 8 ity to serve, before the next nearest and accessible magistrate in the
 9 county, which time shall be within ten days after said notice is served
 10 or posted.

[S., '13, § 4965-b.]

SEC. 8824. Hearing—destruction of devices.

1 Any person may appear at said hearing and show that the arti-
 2 cles or things seized are not of the character specified in section
 3 eighty-eight hundred twenty and if such claim is established, they
 4 shall be returned to the place from which taken. If the court finds
 5 that the articles or things seized are of the character mentioned in
 6 said section, it shall enter judgment commanding the immediate de-
 7 struction of the same. Execution shall issue thereon accordingly. The
 8 officer shall forthwith carry out the orders of said execution and make
 9 immediate return thereon of his acts, which return shall be entered
 10 on the docket of said court.

[S., '13, § 4965-b.]

SEC. 8825. Pool selling—places used for—punishment.

1 Any person who records or registers bets or wagers or sells pools
 2 upon the result of any trial or contest of skill, speed or power of en-
 3 durance of man or beast, or upon the result of any political nomination
 4 or election, and any person who keeps a place for the purpose of doing
 5 any such thing, and any owner, lessee or occupant of any premises,
 6 who knowingly permits the same, or any part thereof, to be used for

7 any such purpose, and any one who, as custodian or depositary thereof,
8 for hire or reward, receives any money, property or thing of value
9 staked, wagered or bet upon any such result, shall be fined not exceed-
10 ing one thousand dollars, or imprisoned in the county jail not exceed-
11 ing one year, or both.

[C., '97, § 4966.]

SEC. 8826. Bull fights and other contests—places used for.

1 If any person keep or use, or in any way be connected with, or be
2 interested in the management of, or receive money for the admission
3 of any person to, any place kept or used for the purpose of fighting or
4 baiting any bull, bear, dog, cock or other creature, or engage in, aid,
5 abet, encourage, or assist in any bull, bear, dog or cock fight, or a fight
6 between any other creatures, he shall be guilty of a misdemeanor.

[C., '73, § 4033; C., '97, § 4971.]

SEC. 8827. Lotteries and lottery tickets—punishment.

1 If any person make or aid in making or establishing, or adver-
2 tise or make public any scheme for any lottery; or advertise, offer for
3 sale, sell, negotiate, dispose of, purchase or receive any ticket or part
4 of a ticket in any lottery or number thereof; or have in his possession
5 any ticket, part of a ticket, or paper purporting to be the number of
6 any ticket of any lottery, with intent to sell or dispose of the same on
7 his own account or as the agent of another, he shall be imprisoned in
8 the county jail not more than thirty days, or be fined not exceeding one
9 hundred dollars, or both.

[C., '51, § 2730; R., '60, § 4377; C., '73, § 4043; C., '97,
§ 5000.]

SEC. 8828. Minors in billiard rooms—duty of owner.

1 No person who keeps a billiard hall, beer saloon or nine or ten pin
2 alley, nor the agent, clerk or servant of any such person, nor any
3 person having charge or control of any such hall, saloon or alley, shall
4 permit any minor to remain in such hall, saloon or alley, or to take
5 part in any of the games known as billiards or nine or ten pins. A
6 violation of the provisions of this section shall be punished by a fine
7 not less than five nor exceeding one hundred dollars, or imprisonment
8 in the county jail not exceeding thirty days.

[C., '97, § 5002.]

CHAPTER 39.

AFFRAYS AND PRIZE FIGHTING.

SECTION 8829. Affray defined—punishment.

1 If two or more persons voluntarily or by agreement engage in any
2 fight, or use any blows or violence towards each other in an angry or
3 quarrelsome manner, in any public place, to the disturbance of others,
4 they are guilty of an affray, and shall be imprisoned in the county jail
5 not exceeding thirty days, or be fined not exceeding one hundred
6 dollars.

[C., '51, § 2738; R., '60, § 4386; C., '73, § 4065; C., '97,
§ 5029.]

SEC. 8830. Engaging in prize fight—punishment.

1 Whoever engages as principal in any prize fight shall be fined not
 2 less than one hundred nor more than one thousand dollars, or be im-
 3 prisoned in the penitentiary for a term of not more than one year, or
 4 both.

[C., '97, § 5036.]

SEC. 8831. Aiding or abetting—punishment.

1 Whoever aids or assists in any prize fight shall be fined not ex-
 2 ceeding five hundred dollars, or imprisoned in the county jail for not
 3 more than one hundred fifty days.

[C., '97, § 5037.]

SEC. 8832. Prevention of prize fights by peace officer.

1 Any peace officer who has reason to believe that any persons are
 2 about to engage in a prize fight within the state shall make complaint
 3 before some justice of the peace of the county, or other authorized
 4 magistrate, and thereupon such justice of the peace or authorized
 5 magistrate shall proceed, under the chapter relative to security to keep
 6 the peace, to make examination of the charges, and, if he shall find
 7 that there is just reason to fear the commission of such offense, he
 8 shall require security to keep the peace, to be given as therein pro-
 9 vided.

[C., '97, § 5038.]

SEC. 8833. Boxing contest—sparring exhibition.

1 Whoever engages in any boxing contest or sparring exhibition
 2 with or without gloves for a prize, reward, or anything of value, at
 3 which an admission fee is charged or received, either directly or indi-
 4 rectly, and whoever knowingly aids, abets, or assists in any such box-
 5 ing contest or sparring exhibition, and any owner or lessee of any
 6 ground, lot, building, hall, or structure of any kind knowingly per-
 7 mitting the same to be used for such boxing contest or sparring ex-
 8 hibition, shall be fined not exceeding three hundred dollars, or
 9 imprisoned in the county jail not exceeding ninety days.

[S., '13, § 5038-a.]

CHAPTER 40.**PROFANITY.****SECTION 8834. Using blasphemous or obscene language.**

1 If any person publicly use blasphemous or obscene language, to
 2 the disturbance of the public peace and quiet, he shall be imprisoned
 3 in the county jail not exceeding thirty days, or be fined not exceeding
 4 one hundred dollars.

[C., '97, § 5034; S., '13, § 5034.]

CHAPTER 41.

DESECRATION OF SABBATH.

SECTION 8835. Breach of Sabbath—exceptions—punishment.

1 If any person be found on the first day of the week, commonly
 2 called Sunday, engaged in carrying firearms, dancing, hunting, shoot-
 3 ing, horse racing, or in any manner disturbing a worshipping assem-
 4 bly or private family, or in buying or selling property of any kind, or
 5 in any labor except that of necessity or charity, he shall be fined not
 6 more than five nor less than one dollar, and be imprisoned in the
 7 county jail until the fine, with costs of prosecution, shall be paid; but
 8 nothing herein contained shall be construed to extend to those who
 9 conscientiously observe the seventh day of the week as the Sabbath, or
 10 to prevent persons traveling or families emigrating from pursuing
 11 their journey, or keepers of toll bridges, toll gates and ferrymen from
 12 attending the same.

[R., '60, §§ 4392, 4393; C., '73, § 4072; C., '97, § 5040.]

CHAPTER 42.

DESECRATION OF DECORATION DAY.

SECTION 8836. Ball games and other sports on decoration day.

1 It shall be unlawful to engage in ball games, horse racing, or
 2 sports or entertainments that will interfere with the proper observance
 3 of the day which is set apart as decoration day (May thirtieth), prior
 4 to the hour of three o'clock p. m. of said day. Any violation of this
 5 section shall be punishable by a fine of not less than five dollars or
 6 more than one hundred dollars, or by imprisonment in the county jail
 7 not to exceed thirty days in the discretion of the court.

[S., '13, § 5040-a.]

CHAPTER 43.

DESECRATION OF FLAG.

SECTION 8837. Desecration of flag defined—punishment.

1 Any person who in any manner, for exhibition or display, shall
 2 place or cause to be placed, any word, figure, mark, picture, design,
 3 drawing, or any advertisement of any nature, upon any flag, standard,
 4 color, ensign, shield or other insignia of the United States, or upon
 5 any flag, ensign, great seal or other insignia of this state, or shall
 6 expose or cause to be exposed to public view, any such flag, standard,
 7 color, ensign, shield or other insignia of the United States, or any such
 8 flag, ensign, great seal or other insignia of this state, upon which
 9 shall have been printed, painted or otherwise placed, or to which shall
 10 be attached, appended, affixed or annexed, any word, figure, mark,
 11 picture, design or drawing, or any advertisement of any nature, or
 12 who shall expose to public view, manufacture, sell, expose for sale,
 13 give away or have in possession for sale, or to give away, or for use

14 for any purpose any article or substance, being an article of mer-
 15 chandise or a receptacle of merchandise or article or thing for carry-
 16 ing or transporting merchandise, upon which shall have been printed,
 17 painted, attached or otherwise placed, a representation of any such
 18 flag, standard, color, ensign, shield or other insignia of the United
 19 States, or any such flag, ensign, great seal or other insignia of this
 20 state, to advertise, call attention to, decorate, mark or distinguish the
 21 article or substance, on which so placed, or who shall publicly mutilate,
 22 deface, defile or defy, trample upon, cast contempt upon, satirize, de-
 23 ride or burlesque, either by words or act, such flag, standard, color,
 24 ensign, shield or other insignia of the United States, or flag, ensign,
 25 great seal or other insignia of this state, or who shall, for any purpose,
 26 place such flag, standard, color, ensign, shield or other insignia of the
 27 United States, or flag, ensign, great seal or other insignia of this state,
 28 upon the ground or where the same may be tread upon, shall be deemed
 29 guilty of a misdemeanor and shall be punished by a fine not exceeding
 30 one hundred dollars or by imprisonment for not more than thirty days
 31 and shall also forfeit a penalty of fifty dollars for each such offense,
 32 to be recovered, with costs, in a civil action or suit in any court having
 33 jurisdiction.

[S., '13, § 5028-a; 37 G. A., ch. 411, § 1.]

SEC. 8838. Actions for penalty.

1 Such action or suit may be brought by and in the name of the
 2 state, on the relation of any citizen thereof, and such penalty, when col-
 3 lected, less the reasonable cost and expense of action or suit and re-
 4 covery, to be certified by the clerk of the district court of the county
 5 in which the offense is committed, shall be paid into the county treas-
 6 ury for the benefit of the school fund, and two or more penalties may
 7 be sued for and recovered in the same action or suit.

[S., '13, § 5028-a; 37 G. A., ch. 411, § 1.]

SEC. 8839. Flag and insignia of United States defined.

1 The words "flag, standard, color, ensign, shield or other insignia
 2 of the United States," as used in this chapter, shall include any flag,
 3 standard, color, ensign, shield or other insignia of the United States,
 4 or any picture or representation of either thereof, made of any sub-
 5 stance or represented on any substance, and of any size, evidently pur-
 6 porting to be either of said flag, standard, color, insignia, shield or
 7 other insignia of the United States of America or a picture or a rep-
 8 resentation of either thereof.

[S., '13, § 5028-a; 37 G. A., ch. 411, § 1.]

SEC. 8840. State flag and insignia defined.

1 The words "flag, ensign, great seal or other insignia of this state"
 2 as used in this chapter, shall include any flag, ensign, great seal or
 3 other insignia, or any picture or any representation of either thereof,
 4 made of any substance or represented on any substance, and of any
 5 size, evidently purporting to be either of said flag, ensign, great seal or
 6 other insignia of the state of Iowa, or a picture or a representation of
 7 either thereof.

[S., '13, § 5028-a; 37 G. A., ch. 411, § 1.]

SEC. 8841. Presumptive evidence of desecration.

1 The possession by any person other than a public officer, as such,
 2 of any flag, standard, color, ensign, shield or other insignia of the
 3 United States, or flag, ensign, great seal or other insignia of this state,
 4 on which shall be anything made unlawful by this chapter, or of any
 5 article or substance or thing on which shall be anything made unlawful
 6 by this chapter, shall be presumptive evidence that the same is in vio-
 7 lation of this chapter.

[S., '13, § 5028-a; 37 G. A., ch. 411, § 1.]

SEC. 8842. Duty of peace officers.

1 It shall be the duty of the sheriff of the various counties, chief of
 2 police and town marshal, to enforce the provisions of this chapter, and
 3 for failure so to do may be removed as by law provided.

[37 G. A., ch. 411, § 2.]

SEC. 8843. Exceptions.

1 This chapter shall not be construed to apply to a newspaper, pe-
 2 riodical, book, pamphlet, circular, certificate, diploma, warrant, or
 3 commission of appointment to office, ornamental picture, article of
 4 jewelry, or stationery for use in private correspondence, on any of
 5 which shall be printed, painted or placed, said flag, disconnected from
 6 any advertisement.

[37 G. A., ch. 411, § 4.]

SEC. 8844. Former trademarks or emblems.

1 Nothing in this chapter shall be construed as rendering unlawful
 2 the use of any trademark or trade emblem actually adopted by any
 3 person, firm, corporation or association prior to January first, eighteen
 4 hundred ninety-five.

[37 G. A., ch. 411, § 1.]

CHAPTER 44.
DESERTION AND ABANDONMENT OF WIFE AND CHILDREN.**SECTION 8845. Desertion defined—punishment.**

1 Every person who shall, without good cause, wilfully neglect or
 2 refuse to maintain or provide for his wife, she being in a destitute
 3 condition, or who shall, without good cause, abandon his or her legiti-
 4 mate or legally adopted child or children under the age of sixteen
 5 years, leaving such child or children in a destitute condition, or shall,
 6 without good cause, wilfully neglect or refuse to provide for such child
 7 or children they being in a destitute condition, shall be deemed guilty
 8 of desertion and, upon conviction, shall be punished by imprisonment
 9 in the penitentiary for not more than one year, or by imprisonment in
 10 the county jail for not more than six months.

[S., '13, § 4775-a.]

SEC. 8846. Husband or wife may be witness.

1 In all prosecutions under this chapter, the husband or wife shall
 2 be a competent witness for the state and may testify to any relevant

3 acts or communications between them, anything in previous statutes
4 to the contrary notwithstanding, provided, however, that no husband
5 or wife shall be called or compelled to testify against the other under
6 this chapter except upon consent of such witness.

[S., '13, § 4775-b.]

SEC. 8847. Release on bond conditioned on support.

1 If after arrest and before trial, or after conviction and before
2 sentence, the party so arrested or convicted shall appear before the
3 court in which the case is pending or the conviction had, and enter
4 into a bond to the state of Iowa in a sum to be fixed by the court,
5 which in no event shall exceed the sum of one thousand dollars, with
6 or without sureties as may be determined by the court, conditioned
7 that such husband will furnish said wife with a necessary and proper
8 home, food, care and clothing, or that such parent will furnish his or
9 her child or children with a necessary and proper home, food, care and
10 clothing, then said court may release the defendant.

[S., '13, § 4775-c.]

SEC. 8848. Annulment of bond.

1 Said bond shall remain in force so long as the court deems the
2 same necessary; and whenever it shall appear to said court by affidavit
3 or otherwise that such husband or parent is in good faith furnishing
4 his wife, child or children with the necessary and proper home, food,
5 care and clothing, the court may annul the said bond.

[S., '13, § 4775-c.]

SEC. 8849. Failure of undertaking—commitment—release.

1 Upon failure of said husband or parent to comply with his under-
2 taking he or she may be arrested by the sheriff or other officer upon a
3 warrant issued from the court in which the case is pending or the con-
4 viction was had and the court may thereupon order a forfeiture of the
5 undertaking and that the defendant be tried or committed in execu-
6 tion of the sentence, or for good cause shown may release the defend-
7 ant upon a new undertaking.

[S., '13, § 4775-d.]

SEC. 8850. Prima facie evidence of wilful desertion or neglect.

1 Proof of the desertion of wife, child or children in destitute or
2 necessitous circumstances or of neglect to furnish such wife, child or
3 children necessary and proper food, clothing or shelter, shall be prima
4 facie evidence that such desertion or neglect was wilful.

[S., '13, § 4775-e.]

SEC. 8851. Exposing and abandoning child—punishment.

1 If the father or mother of any child under the age of six years,
2 or any person to whom such child has been intrusted or confided, ex-
3 pose such child in any highway, street, field, house or outhouse, or in
4 any other place, with intent wholly to abandon it, he or she, upon con-
5 viction thereof, shall be imprisoned in the penitentiary not exceeding
6 five years.

[C., '51, § 2589; R., '60, § 4212; C., '73, § 3870; C., '97,
§ 4766.]

CHAPTER 45.

PUBLIC HEALTH AND SAFETY.

SECTION 8852. Sale of poison without label—misdemeanor.

1 If any apothecary, druggist or other person deliver to another
 2 any arsenic, corrosive sublimate, prussic acid or other poisonous liquid
 3 or substance without having the word "poison" and the true name
 4 thereof written or printed upon a label attached to or affixed upon the
 5 vial, box or parcel containing the same, he shall be guilty of a mis-
 6 demeanor.

[C., '51, § 2728; R., '60, § 4374; C., '73, § 4038; C., '97,
 § 4976.]

SEC. 8853. Spreading infectious disease—punishment.

1 If any person inoculate himself or any other person or suffer him-
 2 self to be inoculated with the smallpox within the state, or come within
 3 the state with the intent to cause the prevalence or spread of this
 4 infectious disease, he shall be imprisoned in the penitentiary not more
 5 than three years, or be fined not exceeding one thousand dollars and
 6 imprisoned in the county jail not exceeding one year.

[C., '51, § 2729; R., '60, § 4375; C., '73, § 4039; C., '97,
 § 4977.]

SEC. 8854. Putting infected person on public conveyance.

1 If any person shall place or put, or aid or abet in placing or put-
 2 ting, any person upon any railroad car, steamboat or other public con-
 3 veyance, knowing such person to be infected with diphtheria, small-
 4 pox or scarlet fever, he shall be fined not more than one hundred
 5 dollars, or be imprisoned in the county jail not more than thirty days.

[C., '51, § 2729; R., '60, § 4375; C., '73, § 4039; C., '97,
 § 4978.]

SEC. 8855. Throwing dead animals or refuse in stream.

1 If any person throw, or cause to be thrown, any dead animal,
 2 night soil or garbage into any river, well, spring, cistern, reservoir,
 3 stream or pond, or in or upon any land adjoining, which is subject to
 4 overflow, he shall be imprisoned in the county jail not less than ten
 5 nor more than thirty days, or be fined not less than five nor more than
 6 one hundred dollars.

[C., '73, § 4041; C., '97, § 4979; S., '13, § 4979.]

SEC. 8856. Selling drugged liquors—punishment.

1 If any person wilfully sell or keep for sale intoxicating, malt or
 2 vinous liquors, which have been adulterated or drugged by admixture
 3 with any deleterious or poisonous substance, he shall be fined not
 4 exceeding five hundred dollars, or be imprisoned in the penitentiary
 5 not exceeding two years.

[R., '60, § 4376; C., '73, § 4040; C., '97, § 4980.]

SEC. 8857. Disposing of liquors to Indians.

1 If any person give, sell or dispose of any spirituous or intoxicating
 2 drinks to any Indian within this state, he shall be fined not exceeding

3 two hundred dollars, or be imprisoned in the county jail not exceeding
4 one year, or both.

[C., '51, § 2735; R., '60, § 4378; C., '73, § 4044; C., '97,
§ 5001.]

SEC. 8858. Use of dangerous fluids forbidden.

1 It shall be unlawful for any person to establish or operate any dye
2 works, pantorium, or cleaning works, in which gasoline, benzine,
3 naphtha, or other explosive or dangerous fluids are used for the pur-
4 pose of cleaning or renovating wearing apparel or other fabrics, in any
5 building any part of which is used as a residence or lodging house.

[S., '13, § 4999-a13.]

SEC. 8859. Punishment.

1 Any person convicted of violating the provisions of the foregoing
2 section shall be fined in a sum not exceeding fifty nor less than ten
3 dollars.

[S., '13, § 4999-a14.]

SEC. 8860. Depositing samples on porches prohibited.

1 It shall be unlawful for any person, firm, company or corporation,
2 either in person or by agent, to deposit any sample of any drugs or
3 medicine upon any porch, lawn, in any vehicle or any other place
4 where such drugs or medicine might be picked up by children or other
5 persons.

[S., '13, § 4999-a42.]

SEC. 8861. Punishment.

1 Any person, firm, company, corporation, or agent thereof violat-
2 ing the provisions of the preceding section, shall be guilty of a mis-
3 demeanor.

[S., '13, § 4999-a43.]

SEC. 8862. Racing or fast driving on highways—punishment.

1 Any person who shall be guilty of racing or driving upon the
2 public highway, in a manner likely to endanger the persons or lives of
3 others, shall be guilty of a misdemeanor, and shall be fined not exceed-
4 ing one hundred dollars, or be imprisoned in the county jail not ex-
5 ceeding thirty days.

[C., '73, § 4071; C., '97, § 5039.]

SEC. 8863. Fast driving over bridge—punishment.

1 Any person riding, except on bicycles, or driving, faster than a
2 walk, across any bridge maintained at the public charge, shall be sub-
3 ject to pay the following penalties: When the bridge is twenty-five
4 feet in length and does not exceed one hundred, the sum of one dollar
5 for each offense; when over one hundred and not exceeding two hun-
6 dred feet, the sum of three dollars; when over two hundred and not
7 exceeding three hundred feet, the sum of five dollars; and the further
8 additional sum of one dollar for each offense for every hundred feet in
9 length in excess of three hundred, to be recovered by civil action in
10 the name of and for the county in which the bridge is situated. If

11 the bridge is situated in more than one county, the action is maintain-
12 able in or by either.

[R., '60, § 823; C., '73, § 1002; C., '97, § 1573.]

CHAPTER 46.

OPIUM.

SECTION 8864. Opium resorts—smoking—punishment.

1 Any person who shall keep and maintain any shop, house, room
2 or other place to be resorted to by other persons, in which opium or
3 any of its preparations or compounds is sold or given away to be
4 smoked or used in such place, or who allows opium or any of its prep-
5 arations to be smoked in such shop, house, room or other place, and
6 every person who resorts to such shop, house, room or other place for
7 the purpose of smoking opium or its preparations and compounds,
8 shall be deemed guilty of a misdemeanor and upon conviction thereof
9 shall be fined not exceeding five hundred dollars, or imprisoned in the
10 county jail not exceeding six months, or both.

[C., '97, § 5003.]

SEC. 8865. Evidence—general reputation.

1 The state, upon the trial of any person indicted for keeping a
2 place described in the preceding section, may, for the purpose of estab-
3 lishing the character of the place so kept by the defendant, introduce
4 evidence of the general reputation of such place so kept, and such evi-
5 dence shall be competent for such purpose.

[C., '97, § 5003.]

CHAPTER 47.

TOBACCO AND CIGARETTES.

SECTION 8866. Sale of tobacco to minors—punishment.

1 No person shall directly or indirectly, by himself or agent, sell,
2 barter or give to any minor under sixteen years of age any cigar or
3 tobacco in any form whatever, except upon the written order of his
4 parent or guardian. Any violation of this section shall be punished by
5 a fine of not less than five nor more than one hundred dollars, and
6 the offender shall stand committed until fine and costs of prosecution
7 are paid.

[C., '97, § 5005.]

SEC. 8867. Sale of cigarettes and cigarette papers.

1 No one, by himself, clerk, servant, employee or agent, shall, for
2 himself or any person else, directly or indirectly, or upon any pretense,
3 or by any device, manufacture, sell, exchange, barter, dispense, give in
4 the consideration of the purchase of any property, of any services, or
5 in evasion hereof, or keep for sale, any cigarettes or cigarette paper or
6 cigarette wrappers, or any paper made or prepared for the purpose of

7 making cigarettes, or for the purpose of being filled with tobacco for
 8 smoking; or own or keep, or be in any way concerned, engaged or em-
 9 ployed in owning or keeping, any such cigarettes or cigarette paper or
 10 wrappers, with intent to violate any provision of this section; or
 11 authorize or permit the same to be done.

[C., '97, § 5006.]

✓ **SEC. 8868. Punishment.**

1 Whoever is found guilty of violating any of the provisions of the
 2 preceding section, for the first offense shall pay a fine of not less than
 3 twenty-five dollars nor more than fifty dollars and costs of prosecution,
 4 and stand committed to the county jail until such fine and costs are
 5 paid; for the second and each subsequent offense, he shall pay, upon
 6 conviction thereof, a fine of not less than one hundred dollars nor more
 7 than five hundred dollars and the costs of prosecution, or be impris-
 8 oned in the county jail not to exceed six months.

[C., '97, § 5006.]

✓ **SEC. 8869. Interstate business excepted.**

1 The provisions of the two preceding sections shall not apply to
 2 the sales of jobbers doing an interstate business with customers out-
 3 side the state.

[C., '97, § 5006.]

✓ **SEC. 8870. Tax on sale.**

1 There shall be assessed a tax of three hundred dollars per annum
 2 against every person, partnership or corporation, and upon the real
 3 property, and the owner thereof, within or whereon any cigarettes,
 4 cigarette paper or cigarette wrapper, or any paper made or prepared
 5 for use in making cigarettes or for the purpose of being filled with
 6 tobacco for smoking, are sold or given away, or kept with intent to
 7 be sold, bartered or given away, under any pretext whatever.

[C., '97, § 5007.]

✓ **SEC. 8871. Method of assessment—lien.**

1 Such tax shall be in addition to all other taxes and penalties, shall
 2 be assessed, collected and distributed in the same manner as the mulct
 3 liquor tax, and shall be a perpetual lien upon all property both per-
 4 sonal and real used in connection with the business.

[C., '97, § 5007.]

✓ **SEC. 8872. Payment of tax no bar to prosecutions.**

1 The payment of such tax shall not be a bar to prosecution under
 2 any law prohibiting the manufacturing of cigarettes or cigarette
 3 paper, or selling, bartering or giving away the same.

[C., '97, § 5007.]

✓ **SEC. 8873. Interstate business excepted.**

1 The provisions of the three preceding sections shall not apply to
 2 the sales by jobbers and wholesalers in doing an interstate business
 3 with customers outside the state.

[C., '97, § 5007.]

SEC. 8874. Issue of search warrant.

1 If any reputable citizen of the county make oath before a magis-
2 trate, that he has probable cause to suspect, and does suspect, that
3 any house, place or building, naming the house, building or place, as
4 nearly as may be, and the occupant, is unlawfully used as a place in
5 which to receive, keep, store, sell or give away cigarettes, cigarette
6 papers or cigarette wrappers, or any paper made or prepared for the
7 purpose of making cigarettes, or for the purpose of being filled with
8 tobacco for smoking; or that the occupant is in any way concerned,
9 engaged or employed in owning or keeping any such cigarettes or
10 cigarette papers or wrappers, with intent to violate the law, or au-
11 thorize or permit the same to be done, such magistrate shall issue his
12 warrant particularly describing the place to be searched and the per-
13 son or persons to be apprehended or things to be seized directed to
14 any peace officer in the county, for the purpose of searching such
15 house, building or place and for the seizure of such cigarettes, cigar-
16 ette papers or cigarette wrappers, or any paper made for the purpose
17 of making cigarettes, and for the apprehension of the occupant or
18 keeper thereof.

[S., '13, § 5007-a.]

SEC. 8875. Seizure—destruction.

1 The said cigarettes or cigarette papers and the keeper shall be
2 brought before such magistrate to be dealt with as provided by law.
3 All such cigarettes or cigarette papers, so seized, and unlawfully kept,
4 shall be destroyed and an entry thereof shall be made upon his docket.

[S., '13, § 5007-a.]

SEC. 8876. Prima facie evidence of intent to sell.

1 The discovery of cigarettes or cigarette papers in any public place
2 shall be prima facie evidence of the keeper's intent to unlawfully sell
3 or give the same as prohibited in section eighty-eight hundred sixty-
4 seven.

[S., '13, § 5007-a.]

SEC. 8877. Tax assessed.

1 The magistrate who shall try said cause and then issue an order
2 condemning and destroying any cigarettes or cigarette papers as pro-
3 vided in the second preceding section, shall certify a copy of the record
4 of such proceedings to the treasurer of the county within ten days
5 after the order to destroy such cigarettes or cigarette papers is issued
6 and a tax assessment of three hundred dollars against the property
7 in or upon which the cigarettes or cigarette papers or cigarette wrap-
8 pers were unlawfully kept or sold, provided for in section eighty-eight
9 hundred seventy, and collect the same as therein provided.

[S., '13, § 5007-b.]

SEC. 8878. Notice of assessment.

1 Within thirty days after the receipt of the magistrate's certifi-
2 cate, the county treasurer shall notify the keeper of such house, build-
3 ing or place, and the owner thereof of such assessment.

[S., '13, § 5007-b.]

SEC. 8879. Use by minors prohibited.

1 It shall be unlawful for any person under the age of twenty-one
2 years to smoke or use a cigarette or cigarettes on the premises of
3 another, or on any public road, street, alley or park or other lands
4 used for public purposes or in any public place of business or amuse-
5 ment, except when in company of his parent or guardian.

[S., '13, § 5007-c.]

SEC. 8880. Punishment—suspension of sentence.

1 Any person found guilty of violating the provisions of the pre-
2 ceding section shall be punished by a fine of not to exceed ten dollars,
3 or imprisonment in the county jail not to exceed three days, for each
4 offense; provided, if said minor person shall give information which
5 may lead to the arrest of the person or persons violating any of the
6 provisions of sections eighty-eight hundred sixty-seven, eighty-eight
7 hundred sixty-eight and eighty-eight hundred sixty-nine, and shall
8 give evidence as a witness in the proceedings which may be instituted
9 against said party or parties, the court shall have power to suspend
10 sentence against said minor person.

[S., '13, § 5007-d.]

SEC. 8881. Objectionable advertisements near public schools.

1 No bills, posters, or other matter used to advertise the sales of
2 intoxicating liquors or tobacco shall be distributed, posted, painted or
3 maintained within four hundred feet of premises occupied by a public
4 school or used for school purposes; provided, however, that nothing
5 in this section contained shall apply to advertisements in newspapers
6 of regular publication, distributed to subscribers or purchasers thereof.

[S., '13, § 5028-s.]

SEC. 8882. Punishment.

1 Any person violating any of the provisions of the preceding sec-
2 tion shall be deemed guilty of a misdemeanor and upon conviction
3 thereof shall be punished by a fine not exceeding one hundred dollars
4 or imprisonment in the county jail not exceeding thirty days.

[S., '13, § 5028-t.]

CHAPTER 48.**DISEASED PLANTS.****SECTION 8883. Cultivating or selling diseased plants.**

1 If any person use, transplant, cultivate or sell, or bring into this
2 state for the purpose of using, planting, cultivating or selling, any
3 hop roots, plants or cuttings which may be diseased in any manner,
4 or infected with lice or vermin of any kind, or which may be brought
5 from any state or country in which the cultivation of hops has been
6 retarded or impaired by the presence of any disease, lice or vermin of
7 a contagious character, he shall be fined not less than ten, nor more
8 than one hundred dollars, and imprisoned not less than five nor more
9 than twenty days.

[C., '73, § 4060; C., '97, § 5022.]

SEC. 8884. Seizure of diseased plants.

1 If complaint is made before a justice of the peace by one or more
 2 responsible persons, that they have good reason to believe that hop
 3 roots have been introduced into or are being cultivated in the city or
 4 township where they reside in violation of the preceding section, the
 5 justice before whom such complaint is made shall issue a warrant
 6 authorizing any peace officer to seize such roots, and they shall be
 7 held in charge by such officer until action has been brought against
 8 the person so offending, and the cause determined.

[C., '73, § 4061; C., '97, § 5023.]

SEC. 8885. Destruction of diseased plants.

1 In case it is found that the said plants, roots or cuttings are dis-
 2 eased, or are infected by lice or vermin of a contagious character, the
 3 officer before whom it is brought shall order the said roots, plants or
 4 cuttings to be burned, charging the expense of doing the same as costs
 5 upon the party owning or cultivating the roots, plants or cuttings;
 6 and in no case shall he allow them to be planted or delivered to a third
 7 party until the fact is established that they are not infected with any
 8 vermin or disease of a contagious character.

[C., '73, § 4061; C., '97, § 5023.]

CHAPTER 49.
DESTRUCTION OF FOOD PRODUCTS.**SECTION 8886. Waste of food products to increase price.**

1 It shall be unlawful for any person, firm or corporation to wil-
 2 fully destroy, or negligently suffer to go to waste, with intent to in-
 3 crease the price thereof, any food products of any nature or descrip-
 4 tion, without the authority or consent of the local board of health or
 5 local health officer of the city, town or township in which the food
 6 products are located.

[38 G. A., ch. 179, § 1.]

SEC. 8887. Punishment.

1 Any person, firm or corporation violating any of the provisions
 2 of the preceding section shall be guilty of a misdemeanor and, upon
 3 conviction, shall pay a fine in a sum not more than one thousand dol-
 4 lars, or be imprisoned for any length of time not exceeding one year,
 5 or both such fine and imprisonment.

[38 G. A., ch. 179, § 2.]

CHAPTER 50.
INFRINGEMENT OF CIVIL RIGHTS.**SECTION 8888. Civil rights defined.**

1 All persons within this state shall be entitled to the full and equal
 2 enjoyment of the accommodations, advantages, facilities and privi-

3 leges of inns, restaurants, chophouses, eating houses, lunch counters
 4 and all other places where refreshments are served, public convey-
 5 ances, barber shops, bathhouses, theaters and all other places of
 6 amusement.

[C., '97, § 5008.]

SEC. 8889. Punishment for infringement.

1 Any person who shall violate the provisions of the preceding
 2 section by denying to any person, except for reasons by law applicable
 3 to all persons, the full enjoyment of any of the accommodations, ad-
 4 vantages, facilities or privileges enumerated therein, or by aiding or
 5 inciting such denial, shall be guilty of a misdemeanor.

[C., '97, § 5008.]

CHAPTER 51.

BLACKLISTING EMPLOYEES.

SECTION 8890. Blacklisting employees—punishment.

1 If any person, agent, company or corporation, after having dis-
 2 charged any employee from his or its service, shall prevent or attempt
 3 to prevent, by word or writing of any kind, such discharged employee
 4 from obtaining employment with any other person, company or cor-
 5 poration, except by furnishing in writing on request a truthful state-
 6 ment as to the cause of his discharge, such person, agent, company
 7 or corporation shall be punished by a fine not exceeding five hundred
 8 nor less than one hundred dollars, and shall be liable for all damages
 9 sustained by any such person.

[C., '97, § 5027.]

SEC. 8891. Blacklisting employees by agents—treble damages.

1 If any railway company or other company, partnership or cor-
 2 poration shall authorize or allow any of its or their agents to blacklist
 3 any discharged employee, or attempt by word or writing or any other
 4 means whatever to prevent such discharged employee, or any employee
 5 who may have voluntarily left said company's service, from obtaining
 6 employment with any other person or company, except as provided
 7 for in the preceding section, such company or copartnership shall be
 8 liable in treble damages to such employee so prevented from obtaining
 9 employment.

[C., '97, § 5028.]

SEC. 8892. False charges concerning honesty of employees.

1 Every person who shall by any letter, mark, sign or designation
 2 whatever, or by any verbal statement, falsely and without probable
 3 cause, report to any railroad or any other company or corporation,
 4 or to any person or firm, or to any of the officers, servants, agents or
 5 employees of any such corporation, person or firm, that any conductor,
 6 brakeman, engineer, fireman, station agent or any employee of such
 7 railroad company, corporation, person or firm has received any money
 8 or thing of value for the transportation of persons or property or for
 9 other service for which he has not accounted to such corporation, per-

10 son or firm, or shall falsely and without probable cause report that
 11 any conductor, brakeman, engineer, fireman, station agent or other
 12 employee of any railroad company, corporation, firm or person, neg-
 13 lected, failed or refused to collect any money or ticket for transporta-
 14 tion of persons or property or other service when it was their duty
 15 so to do, shall, on conviction, be adjudged guilty of a misdemeanor,
 16 and upon conviction thereof shall be fined in a sum not exceeding one
 17 hundred dollars or be imprisoned in the county jail for a period not
 18 exceeding thirty days.

[S. S., '15, § 5028-w1.]

CHAPTER 52.

LIBEL.

SECTION 8893. Libel defined.

1 A libel is the malicious defamation of a person, made public by
 2 any printing, writing, sign, picture, representation or effigy, tending
 3 to provoke him to wrath or expose him to public hatred, contempt or
 4 ridicule, or to deprive him of the benefits of public confidence and
 5 social intercourse; or any malicious defamation, made public as afore-
 6 said, designed to blacken and vilify the memory of one who is dead,
 7 and tending to scandalize or provoke his surviving relatives or friends.

[C., '51, § 2767; R., '60, § 4417; C., '73, § 4097; C., '97,
 § 5086.]

SEC. 8894. Punishment.

1 Every person who makes, composes, dictates or procures the same
 2 to be done, or who wilfully publishes or circulates such libel, or in
 3 any way knowingly or wilfully aids or assists in making, publishing
 4 or circulating the same, shall be imprisoned in the county jail not more
 5 than one year, or be fined not exceeding one thousand dollars.

[C., '51, § 2768; R., '60, § 4418; C., '73, § 4098; C., '97,
 § 5087.]

SEC. 8895. Indictment for libel.

1 An indictment for a libel need not set forth any extrinsic facts
 2 for the purpose of showing the application to the party libeled of the
 3 defamatory matter upon which the indictment is founded, but it is
 4 sufficient to state generally that the same was published concerning
 5 him, and the fact that it was so published must be established on the
 6 trial.

[C., '51, § 2924; R., '60, § 4664; C., '73, § 4310; C., '97,
 § 5294.]

SEC. 8896. Truth given in evidence.

1 In all prosecutions or indictments for libel, the truth thereof may
 2 be given in evidence to the jury, and if it appear to them that the
 3 matter charged as libelous was true, and was published with good
 4 motives and for justifiable ends, the defendant shall be acquitted.

[C., '51, § 2769; R., '60, § 4419; C., '73, § 4099; C., '97,
 § 5088.]

SEC. 8897. Publication.

1 No printing, writing or other thing is a libel unless there has
2 been a publication thereof.

[C., '51, § 2770; R., '60, § 4420; C., '73, § 4100; C., '97,
§ 5089.]

SEC. 8898. What constitutes publication.

1 The delivering, selling, reading or otherwise communicating a
2 libel, or causing the same to be delivered, sold, read or otherwise com-
3 municated, to one or more persons or to the party libeled, is a publi-
4 cation thereof.

[C., '51, § 2771; R., '60, § 4421; C., '73, § 4101; C., '97,
§ 5090.]

SEC. 8899. Jury determine law and fact.

1 In all prosecutions for libel, the jury, after having received the
2 direction of the court, shall have the right to determine at their dis-
3 cretion the law and the fact.

[C., '51, §§ 2772, 3015; R., '60, §§ 4422, 4811; C., '73, §§ 4102,
4438; C., '97, § 5091.]

CHAPTER 53.
BRIBERY AND CORRUPTION IN ELECTIONS.**SECTION 8900. Bribery of electors—punishment.**

1 Any person offering or giving a bribe to any elector for the pur-
2 pose of influencing his vote at any election authorized by law, or any
3 elector entitled to vote at such election receiving such bribe, shall be
4 fined not exceeding five hundred dollars, or imprisoned in the county
5 jail not exceeding one year, or both.

[C., '51, § 2691; R., '60, § 4333; C., '73, § 3993; C., '97,
§ 4914.]

SEC. 8901. Bribe to refrain from voting or work for candidate.

1 If any person shall make an agreement with another to pay him
2 any sum of money or other valuable thing in consideration that such
3 other person shall refrain from voting at any election, or shall induce
4 other qualified electors to refrain from voting, or that such other per-
5 son shall perform any service or labor on any election day in the inter-
6 est of any candidate for any office who is to be voted for at such
7 election, or in the interest of any measure or political party, he shall
8 be fined in any sum not less than fifty nor more than three hundred
9 dollars, or be imprisoned in the county jail not exceeding ninety days.

[C., '97, § 4915.]

SEC. 8902. Accepting bribe—punishment.

1 Any person who shall, in consideration of any sum of money or
2 other valuable thing, agree to refrain from voting at any general or
3 municipal election, or to induce or attempt to induce others to do so,
4 or agree to perform on election day any service in the interest of any

5 candidate, party or measure in consideration of any money or other
6 valuable thing, or who shall accept any money or other valuable thing
7 for such services performed in the interest of any candidate, political
8 party or measure, shall be punished as provided in the preceding
9 section.

[C., '97, § 4916.]

SEC. 8903. Exception—contracts to convey voters.

1 Nothing in the two preceding sections shall be so construed as
2 to punish individuals or committees of any political party for making
3 contracts in good faith for the conveyance of voters to and from poll-
4 ing places and the payment of any reasonable compensation for such
5 service.

[C., '97, § 4917.]

SEC. 8904. Services for hire—punishment.

1 Any person who shall agree to perform any services in the inter-
2 est of any candidate in consideration of any money or other valuable
3 thing, or who shall accept any money or other valuable thing for such
4 services performed in the interest of any candidate, or any person
5 paying or offering to pay or giving or offering to give money or other
6 valuable things for such services, shall be punished by a fine of not
7 more than three hundred dollars, or by imprisonment in the county
8 jail not exceeding ninety days.

[S., '13, § 1087-a32.]

SEC. 8905. Exceptions.

1 Nothing in the preceding section shall be construed to prohibit
2 any person from making contracts in good faith for the announce-
3 ment of his candidacy in the newspapers and for securing the names
4 of voters required to file preliminary nomination papers and the pay-
5 ment of any reasonable compensation for such services.

[S., '13, § 1087-a32.]

SEC. 8906. Voting more than once—punishment.

1 If any elector unlawfully vote more than once at any election
2 which may be held by virtue of any law of this state, he shall be fined
3 not exceeding two hundred dollars, or be imprisoned in the county
4 jail not exceeding one year.

[C., '51, § 2692; R., '60, § 4334; C., '73, § 3994; C., '97,
§ 4918.]

SEC. 8907. Voting when not qualified—punishment.

1 If any person, knowing himself not to be qualified, vote at any
2 election authorized by law, he shall be fined not exceeding two hun-
3 dred dollars, or be imprisoned in the county jail not exceeding six
4 months.

[C., '51, § 2693; R., '60, § 4335; C., '73, § 3995; C., '97,
§ 4919.]

SEC. 8908. Voting when not resident of county—punishment.

1 If any person go or come into any county of this state, and vote
2 in such county, not being a resident thereof, he shall be fined not ex-

3 ceeding two hundred dollars, or be imprisoned in the county jail not
4 exceeding one year.

[C., '51, § 2694; R., '60, § 4336; C., '73, § 3996; C., '97,
§ 4920.]

SEC. 8909. Voting when not resident of state—punishment.

1 If any person wilfully vote who has not been a resident of this
2 state for six months next preceding the election, or who, at the time
3 of the election, is not twenty-one years of age, or who is not a citizen
4 of the United States, or who is not qualified, by reason of other dis-
5 ability, to vote at the place where and time when the vote is to be
6 given, he shall be fined in a sum not exceeding three hundred dollars,
7 or imprisoned in the county jail not exceeding one year.

[C., '51, § 2695; R., '60, § 4337; C., '73, § 3997; C., '97,
§ 4921.]

SEC. 8910. Counseling to vote when not qualified.

1 If any person procure, aid, assist, counsel or advise another to
2 give his vote, knowing that such person is disqualified, he shall be
3 fined not exceeding five hundred nor less than fifty dollars, and be
4 imprisoned in the county jail not exceeding one year.

[C., '51, § 2696; R., '60, § 4338; C., '73, § 3998; C., '97,
§ 4922.]

SEC. 8911. Deceiving voter as to ballot—punishment.

1 If any judge or clerk of election furnish an elector with a ticket
2 or ballot, informing him that it contains a name or names different
3 from those which are written or printed therein, with an intent to
4 induce him to vote contrary to his inclination, or fraudulently or de-
5 ceitfully change a ballot of any elector, by which such elector is de-
6 prived of voting for such candidate or person as he intended, he shall
7 be imprisoned in the county jail not exceeding two years, and be fined
8 not exceeding one thousand dollars nor less than one hundred dollars.

[C., '51, § 2697; R., '60, § 4339; C., '73, § 3999; C., '97,
§ 4923.]

SEC. 8912. Preventing from voting by force or threats.

1 If any person unlawfully and by force, or threats of force, pre-
2 vent, or endeavor to prevent, an elector from giving his vote at any
3 public election, he shall be imprisoned in the county jail not exceeding
4 six months, and fined not more than two hundred dollars.

[C., '51, § 2698; R., '60, § 4340; C., '73, § 4000; C., '97,
§ 4924.]

SEC. 8913. Bribing election officials—punishment.

1 If any person give or offer a bribe to any judge, clerk or canvasser
2 of any election authorized by law, or any executive officer attending
3 the same, as a consideration for some act done or omitted to be done
4 contrary to his official duty in relation to such election, he shall be
5 fined not exceeding seven hundred dollars, and imprisoned in the coun-
6 ty jail not exceeding one year.

[C., '51, § 2699; R., '60, § 4341; C., '73, § 4001; C., '97,
§ 4925.]

SEC. 8914. Procuring vote by influence or threats.

1 If any person procure, or endeavor to procure, the vote of any
 2 elector, or the influence of any person over other electors, at any
 3 election, for himself, or for or against any candidate, by means of vio-
 4 lence, threats of violence, or threats of withdrawing custom or deal-
 5 ing in business or trade, or enforcing the payment of debts, or bring-
 6 ing any civil or criminal action, or any other threat of injury to be
 7 inflicted by him or by his means, he shall be fined not exceeding five
 8 hundred dollars, or imprisoned in the county jail not more than one
 9 year.

[C., '51, § 2700; R., '60, § 4342; C., '73, § 4002; C., '97,
 § 4926.]

SEC. 8915. Judges or clerks doing unlawful acts.

1 If any judge or clerk of any election authorized by law knowingly
 2 make or consent to any false entry on the list of voters or poll books;
 3 or put into the ballot box, or permit to be so put in, any ballot not
 4 given by a voter; or take out of such box, or permit to be so taken
 5 out, any ballot deposited therein, except in the manner prescribed by
 6 law; or by any other act or omission designedly destroy or change the
 7 ballots given by the electors, he shall be fined not exceeding one thou-
 8 sand dollars, and imprisoned in the penitentiary not exceeding five
 9 years.

[C., '51, § 2701; R., '60, § 4343; C., '73, § 4003; C., '97,
 § 4927.]

SEC. 8916. Illegally receiving or rejecting votes.

1 When anyone who offers to vote at any election is objected to
 2 by an elector as a person not possessing the requisite qualifications, if
 3 any judge of such election unlawfully permit him to vote without pro-
 4 ducing proof of such qualification in the manner directed by law, or
 5 if any such judge wilfully refuse the vote of any person who complies
 6 with the requisites prescribed by law to prove his qualifications, he
 7 shall be fined not more than two hundred nor less than twenty dollars,
 8 or be imprisoned in the county jail not exceeding six months.

[C., '51, § 2702; R., '60, § 4344; C., '73, § 4004; C., '97,
 § 4928.]

SEC. 8917. Misconduct to avoid election—punishment.

1 If any judge, clerk or executive officer designedly omit to do any
 2 official act required by law, or designedly do any illegal act, in relation
 3 to any public election, by which act or omission the votes taken at any
 4 such election in any city, town, precinct, township or district be lost,
 5 or the electors thereof be deprived of their suffrage at such election,
 6 or designedly do any act which renders such election void, he shall be
 7 fined not less than one hundred nor more than one thousand dollars, or
 8 imprisoned in the county jail not more than one year, or both.

[C., '51, § 2703; R., '60, § 4345; C., '73, § 4005; C., '97,
 § 4929.]

SEC. 8918. Not returning poll books—punishment.

1 If any judge, clerk or messenger, after having been deputed by
 2 the judges of the election to carry the poll books of such election to
 3 the place where by law they are to be canvassed, wilfully or negligently

4 fail to deliver them within the time prescribed by law, save, with the
5 seal unbroken, he shall, for every such offense, be fined not more than
6 five hundred nor less than fifty dollars.

[C., '51, § 2704; R., '60, § 4346; C., '73, § 4006; C., '97,
§ 4930.]

SEC. 8919. Improper registry and false personation.

1 Any person who causes his name to be registered, knowing that
2 he is not or will not become a qualified voter in the precinct where
3 his name is registered previous to the next election, or who shall
4 wrongfully personate any registered voter, and any person causing,
5 or aiding or abetting any person in either of said acts, shall be, for
6 each offense, imprisoned in the penitentiary not less than one year.

[C., '73, § 4007; C., '97, § 4931.]

SEC. 8920. Forgery of papers or ballots—punishment.

1 Any person who shall falsely make, or wilfully destroy, any cer-
2 tificate of nomination or nomination papers, or any part thereof, or
3 any letter of withdrawal, or file any certificate of nomination, or nom-
4 ination papers, knowing the same or any part thereof to be falsely
5 made, or suppress any certificate of nomination, or nomination papers,
6 or any part thereof, which have been duly filed, or forge or falsely
7 make the official indorsement on any ballot, or substitute therefor any
8 spurious or counterfeit ballot, or make, use, circulate, or cause to be
9 made or circulated as an official ballot, any paper printed in imitation
10 or resemblance thereof, or wilfully destroy or deface any ballot, or
11 wilfully delay the delivery of any ballots, shall be punished by a fine
12 of not less than one hundred nor more than one thousand dollars, or
13 by imprisonment in the penitentiary not less than one nor more than
14 five years, or by both fine and imprisonment.

[C., '97, § 1136.]

SEC. 8921. Political advertisements must be signed.

1 Whoever writes, prints, posts or distributes, or causes to be writ-
2 ten, printed, posted or distributed, a circular, poster or advertisement
3 which is designed to promote the nomination or election of a candidate
4 for public office or to injure and defeat the nomination or election of
5 any candidate for public office, or to influence the voters on any con-
6 stitutional amendment, or to influence the vote of any member of the
7 legislature, unless there appears upon such circular or poster or ad-
8 vertisement, in a conspicuous place, either the name of the chairman
9 or secretary or of two officers of the organization issuing the same, or
10 of the person who is responsible therefor, with his name and address,
11 shall be guilty of a misdemeanor and upon conviction thereof shall be
12 fined not exceeding one hundred dollars, or imprisoned in the county
13 jail not to exceed thirty days, or by both such fine and imprisonment.

[S. S., '15, § 4931-a.]

SEC. 8922. Exceptions.

1 Nothing in the preceding section shall apply to the editorial or
2 news advertisements of any magazine or newspaper where the same
3 is not a political advertisement, nor to cards, posters, lithographs or
4 circulars, issued by a candidate advertising his own candidacy.

[S. S., '15, § 4931-a.]

SEC. 8923. Illegal voting at primary election.

1 Whenever any political party shall hold a primary election for
 2 the purpose of nominating a candidate for any public office or for the
 3 purpose of selecting delegates to any convention of such party, it shall
 4 be unlawful for any person not a qualified elector, or any qualified
 5 elector not at the time a member in good faith of such political party,
 6 to vote at such primary election.

[S., '13, § 4919-a.]

SEC. 8924. Punishment.

1 Any person violating the provisions of the preceding section, and
 2 any person knowingly procuring, aiding or abetting such violation,
 3 shall be deemed guilty of a misdemeanor, and upon conviction shall
 4 be fined not to exceed one hundred dollars or be imprisoned in the
 5 county jail not to exceed thirty days.

[S., '13, § 4919-a.]

SEC. 8925. Prima facie evidence of illegal voting.

1 It shall be prima facie evidence of the violation of the second
 2 preceding section for any person who has participated in any primary
 3 election of one political party, to vote at a primary election held by
 4 another political party, to select candidates to be voted for at the
 5 same election; or to select delegates to any convention of the party
 6 holding such primary election.

[S., '13, § 4919-b.]

SEC. 8926. Judges to examine voters—administer oaths.

1 Any judge of such primary election shall have power to administer
 2 oaths to, and to examine under oath, any person offering to vote at
 3 such election, touching his qualifications to participate in such primary
 4 election, and it shall be the duty of such judge of election to so examine
 5 or cause to be examined any person challenged as to his right to vote.

[S., '13, § 4919-c.]

SEC. 8927. Perjury in examination.

1 Any person testifying falsely as to any material matter, touching
 2 his qualifications to participate in such primary election, shall be
 3 deemed guilty of perjury and punished accordingly.

[S., '13, § 4919-c.]

SEC. 8928. Exception—conventions under caucus system.

1 Nothing in the five preceding sections shall be construed to apply
 2 to conventions held under the caucus system.

[S., '13, § 4919-d.]

CHAPTER 54.
BRIBERY AND CORRUPTION OF PUBLIC OFFICIALS.**SECTION 8929. Bribery of public officers—punishment.**

1 If any person give, offer or promise to any executive or judicial
 2 officer or member of the general assembly, after his election or appoint-

3 ment, and either before or after he has been qualified or has taken his
4 seat, any valuable consideration, gratuity, service or benefit whatever,
5 with intent to influence his act, vote, opinion or judgment in any mat-
6 ter, question, cause or proceeding which may be pending, or which
7 may legally come or be brought before him in his official capacity, he
8 shall be imprisoned in the penitentiary not more than five years, or be
9 fined not more than one thousand dollars and imprisoned in the
10 county jail not more than one year.

[C., '51, § 2647; R., '60, § 4274; C., '73, § 3939; C., '97,
§ 4875.]

SEC. 8930. Acceptance of bribes by officers—punishment.

1 If any executive or judicial officer or member of the general
2 assembly accept any valuable consideration, gratuity, service or benefit
3 whatever, or any promise to make the same or to do any act beneficial
4 to such officer or member, under the agreement or with the under-
5 standing that his vote, opinion, decision or judgment shall be given in
6 any particular manner or upon any particular side of any question,
7 cause or other proceeding which is or may by law be brought before
8 him in his official capacity, or that in such capacity he will make any
9 particular nomination or appointment, he shall be imprisoned in the
10 penitentiary not more than ten years, or be fined not more than two
11 thousand dollars and imprisoned in the county jail not more than
12 one year.

[C., '51, § 2648; R., '60, § 4275; C., '73, § 3940; C., '97,
§ 4876.]

SEC. 8931. Disqualification for holding office.

1 Every person who is convicted under either of the two preceding
2 sections shall forever afterwards be disqualified from holding any
3 office under the laws of the state.

[C., '51, § 2649; R., '60, § 4276; C., '73, § 3941; C., '97,
§ 4877.]

SEC. 8932. Corrupt solicitation of places of trust.

1 If any person, directly or indirectly, give, offer or promise any
2 valuable consideration or gratuity to any other person not being such
3 officer as is mentioned in the preceding section, with intent to induce
4 such person to procure for him by his interest, influence or any other
5 means whatever any place of trust within this state, he shall be fined
6 not exceeding three hundred dollars and imprisoned in the county jail
7 not exceeding one year.

[C., '51, § 2650; R., '60, § 4277; C., '73, § 3942; C., '97,
§ 4878.]

SEC. 8933. Acceptance of reward for securing.

1 If any person, not being such officer as is referred to in the pre-
2 ceding sections of this chapter, accept and receive of another any
3 valuable consideration or gratuity whatever as a reward for procur-
4 ing, or attempting to procure, any office or place of trust within the
5 state for any person, he shall be fined not exceeding three hundred
6 dollars and imprisoned in the county jail not exceeding one year.

[C., '51, § 2651; R., '60, § 4278; C., '73, § 3943; C., '97,
§ 4879.]

SEC. 8934. Bribery of jurors or referees—punishment.

1 If any person give, offer or promise any valuable consideration
 2 or gratuity whatever to anyone summoned, appointed or sworn as a
 3 juror, or appointed or chosen arbitrator, umpire or referee, or to any
 4 master in chancery, or appraiser of real or personal estate, or auditor,
 5 with intent to influence the opinion or decision of any such person in
 6 any matter, inquest or cause which may be pending or can legally
 7 come before him, or which he may be called on to decide in either of
 8 said capacities, he shall be imprisoned in the penitentiary not more
 9 than five years, or be fined not exceeding one thousand dollars and
 10 imprisoned in the county jail not more than one year.

[C., '51, § 2652; R., '60, § 4279; C., '73, § 3944; C., '97,
 § 4880.]

SEC. 8935. Acceptance of bribes by such persons.

1 If any person summoned, appointed or sworn as a juror, or ap-
 2 pointed arbitrator, umpire or referee, or master in chancery, or audi-
 3 tor, or appraiser, as aforesaid, take or receive any valuable considera-
 4 tion or gratuity whatever, to give his verdict, award or report in favor
 5 of any particular party, in a matter for the hearing or decision of
 6 which such person has been summoned, appointed or chosen as afore-
 7 said, he shall be imprisoned in the penitentiary not more than ten
 8 years, or be fined not exceeding one thousand dollars and imprisoned
 9 in the county jail not exceeding one year.

[C., '51, § 2653; R., '60, § 4280; C., '73, § 3945; C., '97,
 § 4881.]

SEC. 8936. Jurors acting corruptly—punishment.

1 If any person drawn, summoned or sworn as a juror make any
 2 promise or agreement to give a verdict for or against any person in
 3 any civil or criminal action, or corruptly receive any paper, evidence
 4 or information from any one in relation to any matter or cause for
 5 the trial of which he is sworn, without the authority of the court or
 6 officer before whom such cause or matter is then pending, he shall be
 7 fined not exceeding two hundred dollars, or imprisoned in the county
 8 jail not exceeding three months.

[C., '51, § 2655; R., '60, § 4282; C., '73, § 3947; C., '97,
 § 4883.]

SEC. 8937. Sheriff or other officers receiving bribes.

1 If any sheriff, deputy sheriff, coroner or constable, or any mar-
 2 shal, deputy marshal, policeman or police officer of any city or town,
 3 receive from a defendant, or other person, any money or other valuable
 4 thing as a consideration or inducement for omitting or delaying to
 5 arrest any defendant, or to carry him before a magistrate or to prison,
 6 or for postponing, delaying or neglecting the sale of property on execu-
 7 tion, or for omitting or delaying to perform any other duty pertaining
 8 to his office, he shall be fined not exceeding five hundred dollars, or
 9 imprisoned in the county jail not exceeding six months, or both fined
 10 and imprisoned, at the discretion of the court.

[C., '51, § 2656; R., '60, § 4283; C., '73, § 3948; C., '97,
 § 4884.]

SEC. 8938. Accepting reward for public duty—punishment.

1 If any state, county, township, city, school or other municipal
 2 officer, not mentioned in this chapter, directly or indirectly accept any
 3 valuable consideration, gratuity, service or benefit whatever, or the
 4 promise thereof, other than the compensation allowed him by law,
 5 conditioned upon said officer's doing or performing any official act,
 6 casting an official vote, making or procuring the appointment of any
 7 person to a place of trust or profit, or using his official influence or
 8 authority to give or procure for any person public employment, or
 9 conditioned upon said officer's refraining from doing or performing
 10 any of the foregoing acts or things, he shall be imprisoned in the
 11 penitentiary not exceeding two years, or in the county jail not exceed-
 12 ing one year, or fined in any sum not less than twenty nor more than
 13 three hundred dollars.

[C., '97, § 4885.]

SEC. 8939. Influencing officials by giving gratuities.

1 If any person, directly or indirectly, give, offer or promise, or
 2 conspire with others to give, offer or promise to any officer contem-
 3 plated in the foregoing section any valuable consideration, gratuity,
 4 service or benefit whatever, with a view or for the purpose of cor-
 5 ruptly influencing said officer's official acts or votes, such person shall
 6 be imprisoned in the penitentiary not exceeding two years, or in the
 7 county jail not exceeding one year, or be fined in any sum not exceed-
 8 ing three hundred nor less than twenty dollars.

[C., '97, § 4886.]

CHAPTER 55.
MISCONDUCT OR NEGLECT IN OFFICE.**SECTION 8940. Extortion—fees and compensation—punishment.**

1 If any person corruptly and wilfully demand and receive of an-
 2 other, for performing any service or official duty for which the fee or
 3 compensation is established by law, any greater fee or compensation
 4 than is allowed or provided for the same; or if any witness falsely and
 5 corruptly certify that as such he has traveled more miles or attended
 6 more days than he has actually traveled or attended, he shall be fined
 7 not exceeding one hundred dollars for each offense, or imprisoned in
 8 the county jail not exceeding six months.

[C., '51, § 2658; R., '60, § 4285; C., '73, § 3950; C., '97,
 § 4888.]

SEC. 8941. Oppression in official capacity—punishment.

1 If any judge or other officer, by color of his office, wilfully and
 2 maliciously oppress any person under pretense of acting in his official
 3 capacity, he shall be fined not exceeding one thousand dollars, and
 4 imprisoned in the county jail not more than one year, and be liable
 5 to the injured party for any damage sustained by him in conse-
 6 quence thereof.

[R., '60, §§ 4305, 4306; C., '73, § 3969; C., '97, § 4908.]

SEC. 8942. Exercising office without authority or under color.

1 If any person take upon himself to exercise or officiate in any
 2 office or place of authority in this state without being legally author-
 3 ized; or if any person, by color of his office, wilfully and corruptly
 4 oppress any person under pretense of acting in his official capacity,
 5 he shall be fined not exceeding one thousand dollars, or imprisoned in
 6 the county jail not more than one year, or be both fined and imprisoned.

[C., '51, § 2672; R., '60, § 4299; C., '73, § 3963; C., '97,
 § 4902.]

SEC. 8943. Falsely assuming to be officer—punishment.

1 If a person falsely assume to be a judge, justice of the peace,
 2 magistrate, sheriff, deputy sheriff, coroner or constable, and take upon
 3 himself to act as such, or require anyone to aid or assist him in any
 4 matter pertaining to the duty of any such officer, he shall be impris-
 5 oned in the county jail not more than one year, or be fined not exceed-
 6 ing three hundred dollars.

[C., '51, § 2671; R., '60, § 4298; C., '73, § 3962; C., '97,
 § 4901.]

SEC. 8944. Stirring up quarrels and suits—punishment.

1 If any judge, justice of the peace, clerk of any court, sheriff,
 2 coroner, constable, attorney or counselor at law, encourage, excite or
 3 stir up any action, quarrel or controversy between two or more per-
 4 sons, with intent to injure such persons, he shall be fined not exceeding
 5 five hundred dollars, and shall be answerable to the party injured in
 6 treble damages.

[C., '51, § 2673; R., '60, § 4300; C., '73, § 3964; C., '97,
 § 4903.]

SEC. 8945. Officers failing to pay over fees—civil action.

1 If any officer who by law is authorized to receive and required to
 2 pay over fees of office, or who is or may be authorized to impose or
 3 collect fines, shall fail, neglect or refuse to pay over, as prescribed by
 4 law, all such fees and fines, he shall be guilty of a misdemeanor,
 5 besides being liable in a civil action for the amount of fines and fees
 6 illegally withheld or appropriated.

[R., '60, § 4308; C., '73, § 3970; C., '97, § 4909.]

SEC. 8946. Officers misappropriating fees—removal.

1 Any officer who may be found guilty of the offense of appropri-
 2 ating to his own use fees of office or fines collected for violation of
 3 law, or of neglecting to pay over the same as prescribed by law, shall
 4 be removed from office by the court before or by whom the offense
 5 may be tried and judgment or conviction had; and every person so
 6 found guilty shall be fined not exceeding three hundred nor less than
 7 ten dollars, or imprisoned in the county jail not exceeding one year,
 8 or be both fined and imprisoned, in the discretion of the court.

[R., '60, § 4310; C., '73, § 3972; C., '97, § 4911.]

SEC. 8947. Making false entries in relation to fees.

1 If any officer who by law is authorized or required to keep a court
 2 docket, or who is required to keep an account of fees or fines, and pay

3 over or in any way account for the same, shall in any manner falsify
 4 such docket or account, or shall fail, neglect or refuse to make an
 5 entry upon such docket, or account for such fees and fines as are
 6 required to be paid over, he shall be guilty of a misdemeanor.

[R., '60, § 4309; C., '73, § 3971; C., '97, § 4910.]

SEC. 8948. Taking more than lawful fee—misdemeanor.

1 Any officer who wilfully takes higher or other fees than are
 2 allowed by law is guilty of a misdemeanor.

[C., '51, § 2560; R., '60, § 4167; C., '73, § 3840; C., '97,
 § 1297.]

SEC. 8949. Failure to take official oath—punishment.

1 If any officer or person wilfully fails to take the oath required
 2 by law before entering on the discharge of the duties of any office,
 3 trust or station, or makes any contract which contemplates an expendi-
 4 ture in excess of the law under which he was elected or appointed, or
 5 fails to report to the proper officer, showing the expenditure of all
 6 public moneys with proper vouchers therefor, by the time required by
 7 law, he shall be fined not exceeding five thousand dollars, or imprisoned
 8 in the penitentiary not exceeding five years, or both, at the discretion
 9 of the court.

[R., '60, §§ 216, 2184; C., '73, § 3976; C., '97, § 4913.]

SEC. 8950. False entries or returns by officer—punishment.

1 If any public officer fraudulently make or give false entries, false
 2 returns, false certificates or false receipts, in cases where entries,
 3 returns, certificates or receipts are authorized by law, he shall be fined
 4 not exceeding one thousand dollars, or imprisoned in the penitentiary
 5 not exceeding five years, or both.

[C., '51, § 2677; R., '60, § 4304; C., '73, § 3968; C., '97,
 § 4907.]

SEC. 8951. Solicitation of contributions for political purposes.

1 Any person who demands or solicits, from any member, employee,
 2 or officer of the board of control, or from any officer or employee of
 3 any institution subject to this board, a contribution of money or other
 4 thing of value, for election purposes, or for the payment of the
 5 expenses of any political committee or organization, shall be deemed
 6 guilty of a misdemeanor and punished accordingly.

[S., '13, § 2727-a36.]

SEC. 8952. Neglect of duty—no specified punishment.

1 When any duty is or shall be enjoined by law upon any public
 2 officer, or upon any person holding any public trust or employment,
 3 every wilful neglect to perform such duty, where no special provision
 4 has been made for the punishment of such delinquency, is a mis-
 5 demeanor.

[C., '51, § 2674; R., '60, § 4301; C., '73, § 3965; C., '97,
 § 4904.]

CHAPTER 56.

GRATUITIES AND TIPS.

SECTION 8953. Accepting or giving tips or gratuities.

1 It shall be unlawful for any agent, representative or employee,
2 officer or any agent of a private corporation, or a public officer, acting
3 in behalf of a principal in any business transaction, to receive, for his
4 own use, directly or indirectly, any gift, commission, discount, bonus
5 or gratuity connected with, relating to or growing out of such business
6 transaction; and it shall be likewise unlawful for any person, whether
7 acting in his own behalf or in behalf of any copartnership, association
8 or corporation, to offer, promise or give directly or indirectly any such
9 gift, commission, discount, bonus or gratuity.

[S., '13, § 5028-n.]

SEC. 8954. Punishment.

1 Any person violating the provisions of the preceding section or
2 any of them shall be guilty of a misdemeanor, and upon conviction
3 thereof shall be punished by a fine of not less than twenty-five dollars,
4 nor more than five hundred dollars, or by imprisonment in the county
5 jail for not more than one year, or by both such fine and imprisonment.

[S., '13, § 5028-n.]

SEC. 8955. Testimony tending to incriminate.

1 No person shall be excused from attending, testifying or produc-
2 ing books, papers, contracts, agreements and documents before any
3 court in obedience to the subpoena of any court having jurisdiction of
4 the misdemeanor on the ground or for the reason that the testimony
5 or evidence, documentary or otherwise, required of him, may tend to
6 incriminate him or subject him to a penalty or forfeiture.

[S., '13, § 5028-o.]

SEC. 8956. Immunity from prosecution.

1 No person shall be liable to any criminal prosecution, for or on
2 account of any transaction, matter or thing concerning which he may
3 testify or produce evidence, documentary or otherwise, before said
4 court or in obedience to its subpoena or in any such case or proceed-
5 ing, provided that no person so testifying or producing any such books,
6 papers, contracts, agreements or documents shall be exempted from
7 prosecution and punishment for perjury committed in so testifying.

[S., '13, § 5028-o.]

SEC. 8957. Exceptions.

1 The four preceding sections shall not apply to those cases in which
2 the principals, being the contracting parties, have knowledge of and
3 consent to the payment of a commission to an agent or representative.

[S., '13, § 5028-o.]

SEC. 8958. Institutional officers not to receive gratuities.

1 No member of the board of control, or officer, agent or employee
2 thereof, and no superintendent, officer, manager or employee of any
3 of the institutions under the charge and control of said board, shall,
4 directly or indirectly, for himself or any other person or for any

5 institution under the charge of said board, receive or accept any gift
6 or gratuity from any person or persons, firm or corporation who are
7 dealers in goods, merchandise or supplies which may be used in any
8 of said institutions, or from any employee, servant or agent of such
9 person or persons, firm or corporation.

[S., '13, § 2727-a33.]

SEC. 8959. Punishment.

1 Any person violating the provisions of the preceding section shall
2 be deemed guilty of a misdemeanor and upon conviction be punished
3 as provided in section eighty-nine hundred fifty-two, and such viola-
4 tion shall be cause for his removal from office.

[S., '13, § 2727-a33.]

SEC. 8960. State employees not to be interested in contracts.

1 It shall be unlawful for any trustee, warden, superintendent,
2 steward, or any other officer of any educational, penal, charitable or
3 reformatory institution, supported in whole or in part by the state,
4 to be interested directly or indirectly in any contract to furnish or in
5 furnishing provisions, material, or supplies of any kind, to or for the
6 institution of which he is an officer; and it shall be unlawful for any
7 such trustee, warden, superintendent, steward, or other officer of any
8 state institution, to be directly or indirectly interested in any contract
9 with the state to build, repair or furnish any institution of which he
10 may be an officer.

[C., '73, § 1388; C., '97, § 189.]

SEC. 8961. State employees not to receive gratuities.

1 It shall be unlawful for any such trustee, warden, superintendent,
2 steward or other officer, directly or indirectly, to receive in money or
3 any valuable thing any commission, percentage, discount or rebate on
4 any provision, material or supplies furnished for or to any institution
5 of which he is an officer.

[C., '73, § 1388; C., '97, § 189.]

SEC. 8962. Punishment.

1 Any person violating the provisions of the two preceding sections
2 shall be guilty of a misdemeanor, and on conviction thereof shall be
3 punished by a fine of not less than one hundred dollars, nor more
4 than one thousand dollars, in the discretion of the court, or by impris-
5 onment in the county jail not exceeding one year, or by both such fine
6 and imprisonment, in the discretion of the court.

[C., '97, § 190.]

SEC. 8963. Personal contracts by supervisors and trustees.

1 Members of boards of supervisors and township trustees shall
2 not buy from, sell to, or in any manner become parties, directly or
3 indirectly, to any contract to furnish supplies, material, or labor to
4 the county or township in which they are respectively members of
5 such board of supervisors or township trustees.

[S., '13, § 468-a.]

SEC. 8964. Accepting or soliciting gratuity or tip.

1 Every employee of any hotel, restaurant, barber shop, or other
 2 public place, and every employee of any person, firm, partnership, or
 3 corporation, or of any public service corporation engaged in the trans-
 4 portation of passengers in this state, who shall accept or solicit any
 5 gratuity, tip, or other thing of value or of valuable consideration,
 6 from any guest or patron, shall be guilty of a misdemeanor, and upon
 7 conviction thereof shall be fined not less than five dollars, or more
 8 than twenty-five dollars, or be imprisoned in the county jail for a
 9 period not exceeding thirty days.

[S. S., '15, § 5028-u.]

SEC. 8965. Giving or offering gratuity or tip.

1 Every person who shall give or offer any tip or gratuity to any
 2 person or employee prohibited from receiving or soliciting the same
 3 by the provisions of the preceding section shall be guilty of a mis-
 4 demeanor and be punished upon conviction as provided by the pre-
 5 ceding section.

[S. S., '15, § 5028-v.]

SEC. 8966. Permitting violation of antitipping law.

1 Any person who shall knowingly permit a violation of the two
 2 preceding sections in any place under his control or who shall fail to
 3 keep conspicuously posted in every said place under his control a
 4 notice bearing the word "No tipping allowed" shall be deemed guilty
 5 of a misdemeanor and be punished as provided in section eighty-nine
 6 hundred sixty-four.

[S. S., '15, § 5028-w.]

CHAPTER 57.**IMPEACHMENT.****SECTION 8967. Impeachment defined.**

1 An impeachment is a written accusation against the governor, or
 2 a judge of the supreme, district or superior court or other state officer,
 3 by the house of representatives before the senate, of a misdemeanor
 4 or malfeasance in office.

[R., '60, § 4937; C., '73, § 4546; C., '97, § 5469.]

SEC. 8968. Specification of charges—majority must concur.

1 An impeachment must specify the offenses charged as in an indict-
 2 ment. If more than one misdemeanor or malfeasance is charged, each
 3 shall be stated separately and distinctly. A majority of all the mem-
 4 bers of the house of representatives elected must concur in the im-
 5 peachment.

[C., '51, §§ 3157, 3158; R., '60, §§ 4938-4940; C., '73,
 §§ 4547-4549; C., '97, § 5470.]

SEC. 8969. Board of managers—articles.

1 When an impeachment is concurred in, the house of representa-
 2 tives shall elect from its own body seven members whose duty it shall

3 be to prosecute the same, and, as a board of managers, they shall be
4 authorized to exhibit and present articles of impeachment in accord-
5 ance with the resolutions of the house previously adopted.

[C., '97, § 5471.]

SEC. 8970. Notice to governor.

1 When an impeachment is concurred in, the clerk of the house of
2 representatives must forthwith in writing notify the governor thereof.

[C., '97, § 5472.]

SEC. 8971. Officer suspended—temporary appointment.

1 Every officer impeached shall be suspended by the governor from
2 the exercise of his official duties until his acquittal, and the governor
3 shall forthwith appoint some suitable person to temporarily fill the
4 office, and he, having qualified as required by law, shall perform all
5 the duties and enjoy all the rights pertaining to the office until the
6 removal of the suspension of his predecessor or the election of a
7 successor.

[C., '51, § 3165; R., '60, § 4948; C., '73, § 4554; C., '97,
§ 5473.]

SEC. 8972. President of senate—notice to senate.

1 If the president of the senate is impeached, notice thereof must be
2 immediately given to the senate; which shall thereupon choose another
3 president, to hold his office until the result of the trial is determined.

[C., '51, § 3167; R., '60, § 4949; C., '73, § 4555; C., '97,
§ 5474.]

SEC. 8973. Issuance and service of warrant.

1 When presented with an impeachment, the senate must forthwith
2 cause the person accused to be arrested and brought before it. The
3 warrant of arrest or other process shall be issued by the secretary of
4 the senate, signed by him, and may be served by any person authorized
5 by the senate or president.

[C., '51, §§ 3159, 3160; R., '60, §§ 4941, 4942; C., '73, §§ 4550,
4551; C., '97, § 5475.]

SEC. 8974. Appearance of accused—answer—counsel.

1 Upon the appearance of the person impeached, he is entitled to a
2 copy of the impeachment, and to a reasonable time in which to answer
3 the same, and shall be allowed counsel as in an ordinary criminal
4 prosecution.

[C., '51, § 3161; R., '60, § 4943; C., '73, § 4552; C., '97,
§ 5476.]

SEC. 8975. Organization of court of impeachment.

1 When an impeachment is presented, the senate shall, after the
2 hour of final adjournment of the legislature, be forthwith organized
3 as a court of impeachment for the trial thereof, at the capitol. An
4 oath or affirmation shall be administered by the secretary of the senate
5 to its president, and by him to each member of that body, to the effect
6 that he will truly and impartially try and determine the charges of
7 impeachment according to the law and evidence. No member shall

8 sit on the trial or give his evidence thereon until he has taken such
9 oath or affirmation. The organization of such court shall be perfected
10 when such presiding officer and the members present, but not less
11 than a majority of the whole number, have taken and subscribed the
12 oath or affirmation.

[C., '51, § 3162; R., '60, § 4944; C., '73, § 4553; C., '97,
§ 5477.]

SEC. 8976. Powers of court.

1 The court of impeachment shall sit in the senate chamber, and
2 have power:
3 1. To compel the attendance of its members as the senate may do
4 when engaged in the ordinary business of legislation.
5 2. To establish rules and regulations necessary for the trial of
6 the accused.
7 3. To appoint from time to time such subordinate officers, clerks
8 and reporters as are necessary for the convenient transaction of its
9 business, and at any time to remove any of them.
10 4. To issue subpoenas, process and orders, which shall run into
11 any part of the state, and may be served by any adult person author-
12 ized so to do by the president of the senate, or by the sheriff of any
13 county, or his deputy, in the name of the state, and with the same
14 force and effect as in an ordinary criminal prosecution, and to compel
15 obedience thereto.
16 5. To exercise the powers and privileges conferred upon the sen-
17 ate for punishment as for contempts in the chapter entitled "General
18 Assembly."
19 6. To adjourn from time to time, and to dissolve when its work
20 is completed.

[C., '97, § 5478.]

SEC. 8977. Record of proceedings—administering oaths.

1 The secretary of the senate, in all cases of impeachment, shall
2 keep a full and accurate record of the proceedings, which shall be a
3 public record; and shall have power to administer all requisite oaths
4 or affirmations, and issue subpoenas for witnesses.

[R., '60, § 4959; C., '73, § 4570; C., '97, § 5479.]

SEC. 8978. Process for witnesses.

1 The board of managers and counsel for the person impeached
2 shall each be entitled to process for compelling the attendance of per-
3 sons or the production of papers and records required in the trial of
4 the impeachment.

[C., '97, § 5480.]

SEC. 8979. Punishment—removal and disqualification.

1 When any person impeached is found guilty, judgment shall be
2 rendered for his removal from office and his disqualification to hold
3 any office of honor, trust or profit under the state.

[C., '97, § 5481.]

SEC. 8980. Compensation of members—fees—payment.

1 The presiding officer and members of the senate, while sitting as
2 a court of impeachment, and the managers elected by the house of

3 representatives, shall receive the sum of six dollars each per day, and
 4 mileage at the rate of five cents per mile in going from and returning
 5 to their places of residence by the ordinary traveled routes; the sec-
 6 retary, sergeant-at-arms, and all subordinate officers, clerks and
 7 reporters, shall receive such amount as shall be determined upon by a
 8 majority vote of the members of such court. The same fees shall be
 9 allowed to witnesses, to officers, and to other persons serving process
 10 or orders, as are allowed for like services in criminal cases, but no
 11 fees can be demanded in advance. The state treasurer shall, upon the
 12 presentation of certificates signed by the presiding officer and secre-
 13 tary of the senate, pay all of the foregoing compensations and the
 14 expenses of the senate incurred under the provisions of this chapter.
 [C., '97, § 5482.]

CHAPTER 58.

RESISTANCE TO EXECUTION OF PROCESS.

SECTION 8981. Resisting execution of process—punishment.

1 If any person knowingly and wilfully resist or oppose any officer
 2 of this state, or any person authorized by law, in serving or attempt-
 3 ing to execute any legal writ, rule, order or process whatsoever, or
 4 shall knowingly and wilfully resist any such officer in the discharge
 5 of his duties without such writ, rules, order or process, he shall be
 6 imprisoned in the county jail not exceeding one year, or be fined not
 7 exceeding one thousand nor less than fifty dollars, or be both fined
 8 and imprisoned, at the discretion of the court.

[C., '51, § 2669; R., '60, § 4296; C., '73, § 3960; C., '97,
 § 4899.]

SEC. 8982. Calling out power of county.

1 When the sheriff or other officer authorized to execute process
 2 has reason to apprehend that resistance will be made, or finds that
 3 resistance is made, to the execution thereof, he may command as
 4 many male inhabitants of his county as he may think proper, and any
 5 military companies in the county, armed and equipped, to assist him
 6 in overcoming the resistance, and, if necessary, in seizing, arresting
 7 and confining the resisters, their aiders and abettors, to be held for
 8 punishment by law.

[C., '51, § 2793; R., '60, § 4489; C., '73, § 4145; C., '97,
 § 5143.]

SEC. 8983. Refusing to assist officer—punishment.

1 If any person, being lawfully required by any sheriff, deputy
 2 sheriff, coroner, constable or other officer, wilfully neglect or refuse
 3 to assist him in the execution of his office in any criminal case, or in
 4 any case of escape or rescue, he shall be imprisoned in the county jail
 5 not more than six months, or be fined not more than one hundred
 6 dollars.

[C., '51, § 2670; R., '60, § 4297; C., '73, § 3961; C., '97,
 § 4900.]

SEC. 8984. Certifying to court names of resisters—punishment.

1 The officers shall certify to the court from which the process
2 issued the names of the resisters, their aiders and abettors, to the
3 end that they may be punished as for a contempt.

[C., '51, § 2794; R., '60, § 4490; C., '73, § 4146; C., '97,
§ 5144.]

SEC. 8985. Refusing to assist—punishment.

1 Every person commanded by a public officer to assist him in the
2 execution of process, as provided in this chapter, who, without lawful
3 cause, refuses or neglects to obey such command, is guilty of a mis-
4 demeanor.

[C., '51, § 2795; R., '60, § 4491; C., '73, § 4147; C., '97,
§ 5145.]

SEC. 8986. Calling out military force or posse.

1 If it appears to the governor that the power of any county is not
2 sufficient to enable the sheriff to execute process delivered to him, he
3 may, on the application of the sheriff, order such posse or military
4 force from any other county or counties as is necessary.

[C., '51, § 2796; R., '60, § 4492; C., '73, § 4148; C., '97,
§ 5146.]

SEC. 8987. Armed forces under command of sheriff.

1 When such armed force is called out, it shall obey the commands
2 of the sheriff or other person appointed by the governor for that pur-
3 pose, or by a judge of the supreme, district or superior court, or other
4 magistrate in the order named, but such officer or person shall at all
5 times be subject to the direction of the governor.

[C., '51, § 2802; R., '60, § 4498; C., '73, § 4154; C., '97,
§ 5152.]

SEC. 8988. Refusing to execute process—punishment.

1 If any officer authorized to serve process wilfully refuse to execute
2 any lawful process to him directed, requiring him to apprehend or
3 confine any person charged with or convicted of any public offense,
4 or wilfully delay or omit to execute such process, whereby such person
5 escape, he shall be imprisoned in the county jail not more than one
6 year, or be fined not exceeding one thousand dollars, or both fined and
7 imprisoned, at the discretion of the court.

[C., '51, § 2657; R., '60, § 4284; C., '73, § 3949; C., '97,
§ 4887.]

CHAPTER 59.**UNLAWFUL ASSEMBLY AND SUPPRESSION OF RIOTS.****SECTION 8989. Unlawful assembly—punishment.**

1 When three or more persons in a violent or tumultuous manner
2 assemble together to do an unlawful act, or, when together, attempt
3 to do an act, whether lawful or unlawful, in an unlawful, violent or

4 tumultuous manner, to the disturbance of others, they are guilty of an
5 unlawful assembly, and shall be imprisoned in the county jail not more
6 than thirty days, or be fined not exceeding one hundred dollars.

[C., '51, § 2739; R., '60, § 4387; C., '73, § 4066; C., '97,
§ 5030.]

SEC. 8990. Riot—defined—punishment.

1 When three or more persons together and in a violent or tumultu-
2 ous manner commit an unlawful act, or together do a lawful act in an
3 unlawful, violent or tumultuous manner, to the disturbance of others,
4 they are guilty of a riot, and shall be punished as is provided in the
5 preceding section.

[C., '51, § 2740; R., '60, § 4388; C., '73, § 4067; C., '97,
§ 5031.]

SEC. 8991. One person may be tried and convicted alone.

1 Any person guilty of unlawfully assembling, or of a riot, may
2 alone be tried and convicted thereof, but it must be alleged in the
3 information and proved on the trial that three or more persons were
4 engaged therein.

[C., '51, § 2741; R., '60, § 4389; C., '73, § 4068; C., '97,
§ 5032.]

SEC. 8992. Unlawful assemblages—dispersion.

1 When persons to the number of twelve or more, armed with dan-
2 gerous weapons, or persons to the number of thirty or more, whether
3 armed or not, are unlawfully or riotously assembled in any city or
4 town, any judge, sheriff, and his deputies if they be present, the
5 mayor, aldermen, marshal, constables and justices of the peace of
6 such city or town must go among the persons assembled, or as near
7 them as may be safe, and command them, in the name of the state,
8 immediately to disperse.

[C., '51, § 2797; R., '60, § 4493; C., '73, § 4149; C., '97,
§ 5147.]

SEC. 8993. Arrest—aid of other persons.

1 If the persons assembled do not immediately disperse, the magis-
2 trate and officers must arrest them, and for that purpose may com-
3 mand the aid of all persons present or within the county.

[C., '51, § 2798; R., '60, § 4494; C., '73, § 4150; C., '97,
§ 5148.]

SEC. 8994. Refusing to aid—misdemeanor.

1 If any person commanded to aid the magistrate or officer neglect
2 to do so without good cause, he is guilty of a misdemeanor.

[C., '51, § 2799; R., '60, § 4495; C., '73, § 4151; C., '97,
§ 5149.]

SEC. 8995. Failure of duty—misdemeanor.

1 If a magistrate or officer, having notice of an unlawful or riotous
2 assembly as defined in section eighty-nine hundred ninety-two, neglect
3 to proceed to the place of assembly, or as near thereto as may be with
4 safety, and exercise the authority with which he is invested for sup-

5 pressing the same and arresting the persons, he is guilty of a mis-
6 demeanor.

[C., '51, § 2800; R., '60, § 4496; C., '73, § 4152; C., '97,
§ 5150.]

SEC. 8996. Calling aid—arrest of offenders.

1 If the persons so assembled and commanded to disperse do not
2 immediately obey, any two of the magistrates or officers before men-
3 tioned may command the aid of a sufficient number of persons, and
4 proceed in such manner as in their judgment is necessary to disperse
5 the assembly and arrest the offenders.

[C., '51, § 2801; R., '60, § 4497; C., '73, § 4153; C., '97,
§ 5151.]

SEC. 8997. Riotous conduct—injury to person or property.

1 If any person or persons, unlawfully or riotously assembled,
2 pull down, injure or destroy, or begin to pull down, injure or destroy,
3 any dwelling house or other building; or destroy or attempt to injure
4 or destroy any boat or vessel; or perpetrate any premeditated injury
5 on the person of another, not being a felony, he shall be imprisoned
6 in the penitentiary not more than five years, or be fined not exceeding
7 five hundred dollars and imprisoned in the county jail not more than
8 one year, and shall also be answerable to any person injured to the
9 full amount of the damages by him sustained.

[C., '51, § 2743; R., '60, § 4391; C., '73, § 4070; C., '97,
§ 5035.]

CHAPTER 60.

DISTURBING PUBLIC ASSEMBLIES.

SECTION 8998. Disturbance of peace—punishment.

1 If any person make or excite any disturbance in a tavern, store
2 or grocery, or at any election or public meeting, or other place where
3 the citizens are peaceably and lawfully assembled, he shall be fined
4 not exceeding one hundred dollars, or be imprisoned in the county
5 jail not exceeding thirty days.

[C., '51, § 2742; R., '60, § 4390; C., '73, § 4069; C., '97,
§ 5033.]

SEC. 8999. Disturbing congregations or other assemblies.

1 If any person wilfully disturb any assembly of persons met for
2 religious worship by profane discourse or rude and indecent behavior,
3 or by making a noise, either within the place of worship or so near as
4 to disturb the order and solemnity of the assembly, or if any person
5 wilfully disturb or interrupt any school, school meeting, teachers'
6 institute, lyceum, literary society or other lawful assembly of persons,
7 he shall be punished by imprisonment in the county jail not more
8 than thirty days, or by fine not exceeding one hundred dollars.

[C., '51, § 2718; R., '60, § 4360; C., '73, § 4023; C., '97,
§ 4959.]

SEC. 9000. Evading admission fee to entertainments.

1 If any person wilfully enters any building or inclosure where
 2 any public entertainment or exhibition is being held at which an
 3 admission fee is charged, and without paying such fee or without
 4 leave to so enter, he shall be fined not exceeding one hundred dollars,
 5 or imprisoned in the county jail not more than thirty days.

[C., '97, § 4817.]

CHAPTER 61.**ESCAPES.****SECTION 9001. Prison breach—escape—punishment.**

1 If any person committed to the penitentiary or reformatory shall
 2 break such prison and escape therefrom or shall escape from or leave
 3 without due authority any building, camp, farm, garden, city, town,
 4 road, street, or any place whatsoever in which he is placed or to which
 5 he is directed to go or in which he is allowed to be by the warden or
 6 any officer or employee of the prison whether inside or outside of the
 7 prison walls, he shall be deemed guilty of an escape from said peni-
 8 tentiary or reformatory and shall be punished by imprisonment in
 9 said penitentiary or reformatory for a term not to exceed five years,
 10 to commence from and after the expiration of the term of his previous
 11 sentence.

[S., '13, § 4897-a.]

SEC. 9002. Actual breaking not necessary.

1 In order to constitute an escape under the provisions of the pre-
 2 ceding section, it is not necessary that the prisoner be within any
 3 walls or inclosure nor that there shall be any actual breaking nor
 4 that he be in the presence or actual custody of any officer or other
 5 person.

[S., '13, § 4897-a.]

SEC. 9003. Violation of parole.

1 If any person having been paroled from the state penitentiary or
 2 state reformatory as provided by law, shall thereafter depart without
 3 the written consent of the board of parole from the territory within
 4 which by the terms of said parole he is restricted, or if he shall violate
 5 any condition of his parole or any rule or regulation of said board of
 6 parole he shall be deemed to have escaped from the custody within
 7 the meaning of section ninety hundred one and shall be punished as
 8 therein provided.

[S., '13, § 4897-a.]

SEC. 9004. Jurisdiction.

1 The jurisdiction of an indictment for the crime of escape as
 2 defined in the three preceding sections is in the county in which is
 3 located the penitentiary or reformatory to which the person charged
 4 with such escape has been committed, or in the county in which is
 5 located the building, camp, farm, garden, city, town, road, street, or
 6 any place in which he is placed or to which he is directed to go or in

7 which he is allowed to be by the warden or any officer or employee of
8 the prison, wherefrom he is charged with escaping.

[S., '13, § 4897-a; 38 G. A., ch. 83, § 1.]

SEC. 9005. Costs and fees—to be paid from general fund.

1 All costs and fees hereafter incurred in prosecutions for viola-
2 tions of the four preceding sections, being for breaking and escaping
3 from the penitentiary, shall be paid out of the state treasury from
4 the general fund, in any case where the prosecution fails, or where
5 such fees and costs can not be made from the person liable to pay the
6 same, the facts being certified by the clerk of the district court and
7 verified by the county attorney of the county.

[S., '13, § 4897-b.]

SEC. 9006. Amount certified to auditor of state.

1 The clerk of the district court, in which the case is prosecuted or
2 tried, shall, under his seal of office, certify to the state auditor a state-
3 ment of the amount of fees or costs incurred in each case, and such
4 statement shall be approved by the presiding judge in writing
5 appended thereto or indorsed thereon. Should the cause be appealed
6 to the supreme court, the costs there incurred shall be certified to the
7 state auditor by the clerk of that court, but no fees, in such case, for
8 the clerk of either the district or supreme courts shall be included or
9 paid from the state treasury.

[S., '13, § 4897-c.]

SEC. 9007. Auditor to issue warrant.

1 On such certificate being filed in the office of the state auditor the
2 auditor shall issue his warrant on the state treasurer for the amount
3 thereof, payable to the clerk of the district or supreme court, as the
4 case may be, and the clerk shall pay the same to the persons entitled
5 thereto.

[S., '13, § 4897-d.]

SEC. 9008. Breaking jail—escape—punishment.

1 If any person confined in a county jail upon any criminal charge,
2 either before or after conviction for a criminal offense, break jail and
3 escape therefrom, or escape from the custody of the officer charged
4 with his keeping, he shall be imprisoned in such jail not exceeding one
5 year, and fined not exceeding three hundred dollars; but when such
6 jail breaking, or escape from custody, occurs during incarceration
7 after conviction, or before trial for a criminal offense whereof he is
8 afterwards convicted, in either of such cases the sentence to com-
9 mence from and after the expiration of the sentence upon the original
10 charge.

[C., '51, § 2668; R., '60, § 4295; C., '73, § 3959; C., '97, § 4898;
S., '13, § 4898.]

SEC. 9009. Suffering certain prisoners to escape—punishment.

1 If any jailer or other officer voluntarily suffer any prisoner in
2 custody upon a charge or conviction of a felony punishable by impris-
3 onment for life to escape, he shall be imprisoned in the penitentiary
4 not more than ten years, nor less than one year.

[C., '51, § 2661; R., '60, § 4288; C., '73, § 3953; C., '97,
§ 4891.]

SEC. 9010. Suffering certain prisoners to escape—punishment.

1 If any jailer or other officer voluntarily suffer any prisoner in
 2 his custody upon charge or conviction of any other felony to escape,
 3 he shall be imprisoned in the penitentiary not more than eight years,
 4 or be fined not more than one thousand dollars.

[C., '51, § 2662; R., '60, § 4289; C., '73, § 3954; C., '97,
 § 4892.]

SEC. 9011. Suffering certain prisoners to escape—punishment.

1 If any jailer or other officer suffer any prisoner in his custody
 2 upon charge or conviction of any public offense to escape, he shall be
 3 fined not exceeding one thousand dollars and be imprisoned in the
 4 penitentiary not exceeding five years.

[C., '51, § 2663; R., '60, § 4290; C., '73, § 3955; C., '97,
 § 4893.]

SEC. 9012. Assisting felon to escape—punishment.

1 If any person by any means whatever aid or assist any prisoner
 2 lawfully detained in the penitentiary, or in any jail or place of con-
 3 finement, for any felony, in an attempt to escape, whether such escape
 4 be effected or not, or forcibly rescue any person held in legal custody
 5 upon any criminal charge, he shall be imprisoned in the penitentiary
 6 not exceeding ten years, or be fined not exceeding five hundred dollars
 7 and imprisoned in the county jail not exceeding one year.

[C., '51, § 2664; R., '60, § 4291; C., '73, § 3956; C., '97,
 § 4894.]

SEC. 9013. Assisting other prisoners to escape—punishment.

1 Every person who by any means whatever aids or assists any
 2 prisoner lawfully committed to any jail or place of confinement,
 3 charged with or convicted of any criminal offense other than a felony,
 4 in an attempt to escape, whether such escape be effected or not; or
 5 who conveys into such jail or place of confinement any disguise, instru-
 6 ment, arms or other things proper or useful to facilitate the escape
 7 of any prisoner so committed, whether such escape be effected or
 8 attempted or not, shall be imprisoned in the county jail not exceeding
 9 one year, or be fined not exceeding five hundred dollars, or be both
 10 fined and imprisoned, at the discretion of the court.

[C., '51, § 2665; R., '60, § 4292; C., '73, § 3957; C., '97,
 § 4895.]

SEC. 9014. Assisting escape from officer—punishment.

1 Every person who aids or assists any prisoner in escaping, or
 2 attempting to escape, from the custody of any sheriff, deputy sheriff,
 3 marshal, constable or other officer or person who has the lawful
 4 charge, with or without a warrant, of such prisoner upon any criminal
 5 charge, shall be fined not exceeding one thousand dollars and impris-
 6 oned in the penitentiary not exceeding five years.

[C., '51, § 2666; R., '60, § 4293; C., '73, § 3958; C., '97,
 § 4896.]

SEC. 9015. Aiding escapes—bringing liquor or drugs to inmates.

1 Any person not authorized by law, who shall bring or pass or
 2 cause to be brought into any penitentiary, reformatory, workhouse,

3 training school, institution for feeble-minded children or hospital
4 of the state, or onto the grounds thereof, or into any inclosure,
5 building, camp, quarry, farm, garden or other place used in connec-
6 tion with any such institution in which prisoners, patients or other
7 inmates are required or permitted to be, any opium, morphine, cocaine
8 or other narcotic, or any intoxicating liquor, or any firearm, weapon or
9 explosive of any kind, or any rope, ladder or other instrument or device
10 for use in making or attempting an escape, or shall in any manner aid
11 in such an escape, shall be punished by imprisonment in the peniten-
12 tiary or reformatory for a term not exceeding five years.

[S., '13, § 4913-a; 38 G. A., ch. 217, § 1.]

SEC. 9016. Placing drugs and articles near institutions.

1 Any person not duly authorized by law who shall place or cause
2 to be placed or aid in placing any of the drugs, liquors, weapons, ex-
3 plosives or other articles hereinbefore enumerated in or near any road,
4 park, path, walk, grove, hedge or field where any prisoner, patient or
5 other inmate of the state institutions specified in the preceding section
6 is or is likely to be with intent that the drug, liquor, weapon, explosive
7 or other article so placed shall be found by or shall pass into the pos-
8 session of any such prisoner, patient or other inmate, shall be pun-
9 ished by imprisonment in the penitentiary or reformatory for a term
10 not exceeding five years, or by a fine of not more than one thousand
11 dollars nor less than one hundred dollars.

[S., '13, § 4913-a.]

SEC. 9017. Presumptive evidence.

1 The bringing or passing or causing to be brought into any of the
2 places designated in section ninety hundred fifteen, of any rope, ladder
3 or other instrument or device adapted for use in making an escape,
4 shall be presumptive evidence that it was so brought or passed for
5 such use, and the leaving of any drug, liquor, weapon, explosive or
6 other article enumerated in said section in or near any of the places
7 specified in said section with knowledge that any prisoner, patient or
8 other inmate is or is likely to be in such place, shall be presumptive
9 evidence that such article was so left to be found by or to pass into
10 the possession of such prisoner, patient or other person in violation
11 of the two preceding sections.

[S., '13, § 4913-a.]

SEC. 9018. Attempt to commit act.

1 An attempt to do any of the acts prohibited by sections ninety
2 hundred fifteen and ninety hundred sixteen shall be subject to the
3 same punishment as the completed act.

[S., '13, § 4913-a.]

CHAPTER 62.

VAGRANCY.

SECTION 9019. Vagrants defined.

1 The following persons are vagrants: all common prostitutes and
2 keepers of bawdy houses or houses for the resort of common prosti-

3 tutes; all habitual drunkards, gamblers or other disorderly persons;
 4 all persons wandering about and lodging in barns, outbuildings, tents,
 5 wagons or other vehicles, and having no visible calling or business to
 6 maintain themselves; all persons begging in public places, or from
 7 house to house, or inducing children or others to do so; all persons
 8 representing themselves as collectors of alms for charitable institu-
 9 tions under any false or fraudulent pretenses; all persons playing or
 10 betting in any street or public or open place at any game, or pre-
 11 tended game, of chance, or at or with any table or other instrument
 12 of gaming; all persons camping on any public highway for the purpose
 13 of trading horses.

[C., '51, § 3310; R., '60, § 4470; C., '73, § 4130; C., '97, § 5119;
 S., '13, § 5119.]

SEC. 9020. Tramp defined.

1 Any male person sixteen years of age or over, physically able to
 2 perform manual labor, who is wandering about, practicing common
 3 begging, or having no visible calling or business to maintain himself,
 4 and is unable to show reasonable efforts in good faith to secure em-
 5 ployment, is a tramp, and any person convicted of being a tramp shall
 6 be punished by imprisonment at hard labor in the county jail not ex-
 7 ceeding ten days, or by imprisonment in such jail in solitary confine-
 8 ment not exceeding five days.

[C., '97, § 5134.]

SEC. 9021. Intimidation or other misconduct.

1 Any tramp who shall wantonly or maliciously, by means of vio-
 2 lence, threats or otherwise, put in fear any inhabitant of this state,
 3 or shall enter any public building, or any house, barn or outbuilding
 4 belonging to another, with intent to commit an unlawful act, or shall
 5 carry any firearm or other dangerous weapon, or indecently expose
 6 his person, or be found drunk and disorderly, or shall commit any
 7 offense against the laws of the state for which no greater punishment
 8 is provided, shall be guilty of a misdemeanor.

[C., '97, § 5135.]

SEC. 9022. Entering unoccupied public building—nuisance.

1 If any tramp or vagrant, without permission, enter any school-
 2 house or other public building in the nighttime, when the same is not
 3 occupied by another or others having proper authority to be there, or,
 4 having entered the same in the daytime, remain in the same at night
 5 when not occupied as aforesaid, or at any time commit any nuisance,
 6 use, misuse, destroy or partially destroy any private or public prop-
 7 erty therein, he shall be imprisoned in the penitentiary not more than
 8 three years, or be fined not exceeding one hundred dollars and impris-
 9 oned in the county jail not more than one year.

[C., '97, § 4793.]

SEC. 9023. Complaint—warrant.

1 Upon complaint made on oath to any magistrate against any per-
 2 son as being such vagrant within his jurisdiction, he may issue a war-
 3 rant for the arrest of such person, and his examination, and the com-
 4 plaint, warrant and arrest, shall be governed by the provisions of

5 chapter ten, title thirty-four, as nearly as practicable, except as herein
6 provided.

[C., '51, § 3311; R., '60, § 4471; C., '73, § 4131; C., '97,
§ 5120.]

SEC. 9024. Arrest.

1 Peace officers shall arrest any vagrant whom they may find at
2 large, and not in the care of some discreet person, and take him before
3 some magistrate of the county, city or town in which the arrest is
4 made.

[R., '60, § 4472; C., '73, § 4132; C., '97, § 5121.]

SEC. 9025. Taking before magistrate.

1 If such arrest is made during the night, the officer may keep the
2 person arrested in confinement until the next morning, unless bail be
3 given, and if made within the jurisdiction of a police court, he must
4 be taken before such court, unless the judge is absent.

[R., '60, § 4473; C., '73, § 4133; C., '97, § 5122.]

SEC. 9026. Security for good behavior.

1 If it appear by the confession of such person, or by competent
2 testimony, that the person arrested is a vagrant, the magistrate may
3 require an undertaking, with sufficient surety, for good behavior for
4 the term of one year thereafter.

[R., '60, § 4474; C., '73, § 4134; C., '97, § 5123.]

SEC. 9027. Record of conviction—commitment.

1 The magistrate shall make up, sign, and file with the clerk of the
2 district court of the county, a record of conviction of such person as
3 a vagrant, specifying generally the nature and circumstances of the
4 charge, and shall, in default of such security being given, commit such
5 vagrant to the jail of the county, city or town, as the case may be, until
6 such security is given or such vagrant discharged according to law.

[C., '51, § 3312; R., '60, § 4475; C., '73, § 4135; C., '97,
§ 5124.]

SEC. 9028. Breach of undertaking.

1 The committing of any of the acts which constitute such person
2 so bound a vagrant shall be a breach of the condition of the under-
3 taking.

[C., '51, § 3313; R., '60, § 4476; C., '73, § 4136; C., '97,
§ 5125.]

SEC. 9029. New security.

1 On a recovery upon the undertaking, the court before which such
2 recovery is had may, in its discretion, require new sureties for good
3 behavior, or commit such vagrant to the county jail for any time not
4 exceeding six months.

[C., '51, § 3314; R., '60, § 4477; C., '73, § 4137; C., '97,
§ 5126.]

SEC. 9030. Discharge of bail.

- 1 Any person committed to jail on account of failing to furnish
 - 2 undertaking for good behavior may be discharged by any magistrate
 - 3 upon giving the same as was originally required.
- [C., '51, § 3315; R., '60, § 4478; C., '73, § 4138; C., '97,
§ 5127.]

SEC. 9031. Hearing.

- 1 The district court to which the papers are returned shall, on de-
 - 2 mand of the defendant, impanel a jury to inquire into and determine
 - 3 the truth of the charge made against him, and the rules of practice
 - 4 applicable to trials of misdemeanors shall govern such trial.
- [C., '51, § 3316; R., '60, § 4479; C., '73, § 4139; C., '97,
§ 5128.]

SEC. 9032. Judgment.

- 1 If no jury is demanded, the district court may revise such convic-
 - 2 tion and discharge such vagrant from the undertaking or confinement
 - 3 absolutely, or upon sureties for good behavior, in its discretion.
- [C., '51, § 3317; R., '60, § 4480; C., '73, § 4140; C., '97,
§ 5129.]

SEC. 9033. Imprisonment.

- 1 Such district court may, in its discretion, order any such vagrant
 - 2 to be kept in the common jail for any time, not exceeding six months,
 - 3 at hard labor.
- [C., '51, § 3318; R., '60, § 4481; C., '73, § 4141; C., '97,
§ 5130.]

SEC. 9034. Expenses.

- 1 The expenses incurred in pursuance of such order shall be audited
 - 2 by the board of supervisors of the county and paid out of the county
 - 3 treasury.
- [C., '51, § 3320; R., '60, § 4483; C., '73, § 4143; C., '97,
§ 5132.]

SEC. 9035. Employed while confined—supplies.

- 1 Such vagrants may be employed at hard labor as provided in the
 - 2 chapter upon jails, or the court may direct the keeper thereof to fur-
 - 3 nish them such employment as it shall specify, and for that purpose he
 - 4 may purchase any necessary raw materials and implements, not ex-
 - 5 ceeding such amount as the court shall prescribe, and compel such per-
 - 6 sons to perform such work as shall be allotted to them.
- [C., '51, § 3319; R., '60, § 4482; C., '73, § 4142; C., '97,
§ 5131.]

SEC. 9036. Employment when sentenced to hard labor.

- 1 The sheriff or keeper of any jail, under the direction of the board
- 2 of supervisors shall keep all persons sentenced to imprisonment at
- 3 hard labor in such jail, under the provisions of this chapter, at such
- 4 work as the board of supervisors may provide, and shall appoint or
- 5 detail any deputy or other police officer to guard them while at work,

6 or he may turn them over to the municipal authorities of any city or
7 town, to be worked on the streets, or at such labor as may be provided.

[C., '97, § 5140.]

SEC. 9037. Solitary confinement for refusing to work.

1 Any tramp sentenced to hard labor, who wantonly or wilfully re-
2 fuses to work, shall be punished by such jailer while so refusing by
3 imprisonment in solitary confinement in the county jail not exceed-
4 ing ten days, during which time he shall be fed on bread and water;
5 but such punishment shall not exceed the time for which he is sen-
6 tenced.

[C., '97, § 5141.]

SEC. 9038. Method of imprisonment.

1 No sheriff or keeper of any jail shall permit any person con-
2 victed of being a tramp to have any tobacco, intoxicating liquors,
3 sporting or illustrated newspaper, cards, or other article of amuse-
4 ment or pastime, or permit such person to be kept or fed otherwise
5 than stated in the commitment, and any person who knowingly violates
6 this section shall be fined not exceeding one hundred nor less than
7 twenty-five dollars.

[C., '97, § 5138.]

SEC. 9039. Proceeds of labor.

1 One-half of the net proceeds of such labor shall be paid to the
2 person earning the same, upon his discharge from imprisonment, and
3 the other half shall be paid into the county treasury for the use of the
4 county.

[C., '51, § 3321; R., '60, § 4484; C., '73, § 4144; C., '97,
§ 5133.]

SEC. 9040. Tried jointly.

1 If two or more tramps assemble or congregate together, they
2 shall be tried jointly by the court before whom they are brought, and
3 such court shall be entitled only to fees as for the arrest and trial
4 of one person.

[C., '97, § 5136.]

SEC. 9041. Fees of officers.

1 The board of supervisors shall, at any regular or special session,
2 fix the compensation to be allowed the officers in each case under this
3 chapter; to the trial magistrate, not exceeding one dollar; to the peace
4 officer, for all services, not more than one dollar, and mileage as now
5 allowed by law.

[C., '97, § 5137.]

SEC. 9042. Unlawful fees.

1 Any officer or magistrate who shall conspire with any person for
2 the purpose of increasing the emoluments of his office, or to evade
3 the provisions of this chapter, or who shall, with such intent, in any
4 manner or by any means, encourage a tramp to remain within his
5 jurisdiction or come within the same, shall be fined not exceeding one

6 hundred dollars, and stand committed until the fine and costs are paid,
7 not to exceed thirty days.

[C., '97, § 5139.]

SEC. 9043. Compensation for keeping.

1 No sheriff or jailer shall receive, and no board of supervisors
2 allow, any compensation for keeping or boarding any tramp in the jail
3 or other place in the county, unless such tramp has been duly arrested
4 or committed under the provisions of this chapter, except the board
5 of supervisors of each county may furnish one night's lodging for ap-
6 parently deserving persons, and those who are sick or disabled may
7 be cared for as the necessities of the case demand.

[C., '97, § 5142.]

CHAPTER 63.

HABITUAL CRIMINALS.

SECTION 9044. Third conviction of felony.

1 Whenever any person has been twice convicted of either of the
2 crimes of burglary, robbery, forgery, counterfeiting, larceny where
3 the value of the property stolen exceeded twenty dollars, or of breaking
4 and entering with intent to commit a public offense any dwelling
5 house, office, shop, store, warehouse, railroad car, boat, vessel, or build-
6 ing, in which goods, merchandise, or valuable things, were kept for
7 use, sale or deposit, or has been convicted of two or more of said
8 crimes, and shall thereafter be convicted of any one of such crimes,
9 committed after such conviction, he shall be imprisoned in the peni-
10 tentiary for any term not less than fifteen years, provided such former
11 judgments shall be referred to in the indictment, stating the court,
12 date and place of rendition.

[S., '13, § 4871-a.]

SEC. 9045. Fourth conviction of petty larceny.

1 Any person over the age of eighteen years who has been three
2 times convicted of larceny where the value of the property stolen did
3 not exceed twenty dollars, upon being convicted the fourth time of
4 said offense shall be imprisoned in the penitentiary not exceeding three
5 years, provided such former judgments shall be referred to in the
6 indictment, stating the court, date and place of rendition.

[S., '13, § 4871-b.]

SEC. 9046. Evidence admitted.

1 On the trial of any of said offenses named in the two preceding
2 sections, a duly authenticated copy of the record of the former judg-
3 ment in any court wherein said conviction was had, for either of said
4 crimes against the party indicted, shall be prima facie evidence of
5 such former conviction and may be used in evidence against said
6 party.

[S., '13, § 4871-c.]

SEC. 9047. Duties of jury and judge.

1 Upon any trial when the indictment refers to former convictions
2 of the defendant, the jury, if it finds the defendant guilty, and the
3 court, if the defendant is convicted on a plea of guilty, must also find
4 and determine specially whether the defendant had previously been
5 convicted of either of the crimes referred to in the indictment and the
6 number of times so convicted.

[S., '13, § 4871-d.]

SEC. 9048. Habitual criminal defined.

1 Whoever has been twice convicted of crime, sentenced and com-
2 mitted to prison, in this or any other state, or by the United States, or
3 once in this state and once at least in any other state, or by the United
4 States, for terms of not less than three years each shall, upon con-
5 viction of a felony committed in this state after the taking effect of
6 this section, be deemed to be an habitual criminal, and shall be pun-
7 ished by imprisonment in the penitentiary for a term of not less than
8 twenty-five years, provided that no greater punishment is otherwise
9 provided by statute, in which case the law creating the greater pun-
10 ishment shall govern.

[S., '13, § 5091-a.]

SEC. 9049. Pardon for former crime.

1 If the person so convicted shall show, to the satisfaction of the
2 court before whom such conviction was had, that he was released from
3 imprisonment, upon either of said sentences, upon a pardon granted
4 for the reason that he was innocent, such conviction and sentence
5 shall not be considered as such under the preceding section.

[S., '13, § 5091-a.]

SEC. 9050. Evidence.

1 On the trial of any cause, under the provisions of section ninety
2 hundred forty-eight, a duly authenticated copy of the former judg-
3 ment and commitment, from any court in which such judgment and
4 commitment was had, for either of the said crimes formerly com-
5 mitted by the party indicted under this and the two preceding sec-
6 tions, shall be competent and prima facie evidence of such former
7 judgment and commitment, and may be used in evidence upon the
8 trial of said cause.

[S., '13, § 5091-b.]

TITLE XXXIV.

CRIMINAL PROCEDURE.

CHAPTER 1.

MAGISTRATES, PEACE OFFICERS AND SPECIAL AGENTS.

SECTION 9051. Magistrates defined.

1 The term magistrate includes any judge of the supreme, district
2 or superior court, throughout the state, and justices of the peace,
3 mayors of cities and towns, judges of police or other city courts, and
4 police and other special justices in cities and towns, within their re-
5 spective counties.

[C., '51, §§ 2778, 2823; R., '60, §§ 4439, 4447; C., '73, § 4108;
C., '97, § 5097.]

SEC. 9052. Powers of magistrates.

1 Magistrates have power to hear complaints or preliminary infor-
2 mations, issue warrants, order arrests, require security to keep the
3 peace, make commitments and take bail as provided by law.

C., '51, §§ 2778, 2823; R., '60, §§ 4439, 4447; C., '73, § 4108;
C., '97, § 5098.]

SEC. 9053. Peace officers defined.

1 The following persons, respectively, are designated in this code
2 under the general term "peace officers":

- 3 1. Sheriffs and their deputies.
- 4 2. Constables.
- 5 3. Marshals and policemen of cities and towns.

[C., '51, § 2830; R., '60, § 4440; C., '73, § 4109; C., '97,
§ 5099.]

SEC. 9054. Officers of justice defined.

1 Magistrates and peace officers are sometimes designated by the
2 term "officers of justice."

[R., '60, § 4441; C., '73, § 4110; C., '97, § 5100.]

SEC. 9055. Governor to appoint special agents—number.

1 The governor is hereby authorized to appoint not more than four
2 special agents, whose duty it shall be, under the direction of the gov-
3 ernor, to aid in the capture, detention, arrest and prosecution of per-
4 sons committing crime or violating the laws of this state.

[S. S., '15, § 65-a.]

SEC. 9056. Power of special agent—assistance by officers.

1 Said special agent or agents shall have the same power in any
2 part of the state to make arrests and file information, and otherwise

3 enforce the law of the state, as any county attorney, sheriff, marshal,
4 constable, police officer or other peace officer in each county, and in the
5 performance of his duty he may call to his aid any county attorney,
6 sheriff, marshal, constable, or other police or peace officer.

[S. S., '15, § 65-b.]

SEC. 9057. Salary—expenses—tenure of office.

1 Such special agent or agents shall receive such salary as shall be
2 fixed by the governor by and with the approval of the executive
3 council, to be paid from any moneys in the general fund not otherwise
4 appropriated, and shall also receive his or their actual expenses
5 incurred in the discharge of his or their duties, the same to be audited
6 and paid by the state board of audit in the same manner as expenses
7 of state officers; provided, however, that not more than one special
8 agent may be employed for a period in excess of thirty days without
9 receiving the consent of the executive council.

[S. S., '15, § 65-c.]

SEC. 9058. Regular officers not relieved of duty.

1 Nothing in the three preceding sections shall be construed to
2 relieve any county attorney, sheriff, marshal, constable, police officer
3 or other peace officer from any duty now or hereafter enjoined upon
4 him by law.

[S. S., '15, § 65-d.]

SEC. 9059. Duty of peace officers—special officers.

1 Whenever, in the judgment of the governor or the attorney gen-
2 eral, the interests of the state require it, they or either of them may
3 call to their aid any peace officer in the state for the purpose of ren-
4 dering assistance in procuring evidence, ferreting out crime, prosecut-
5 ing law violators or otherwise enforcing the law and for such purposes
6 they or either of them may also employ the services of any person;
7 provided, however, that not to exceed the sum of thirty-seven thou-
8 sand five hundred dollars shall be expended for the compensation and
9 expenses of such officers or persons whose services are so required in
10 any one year, which compensation and expenses shall be paid by the
11 state from funds not otherwise appropriated.

[S., '13, § 208-a; 37 G. A., ch. 231, § 1; 38 G. A., ch. 327, § 1.]

SEC. 9060. Expenses certified.

1 All items of expense incurred by any person appointed or em-
2 ployed by the governor shall be certified to by him, and all items of
3 expense incurred by persons appointed or employed by the attorney
4 general shall be certified to by him, and in either event claims for
5 such expenses shall be passed upon by the board of audit.

[S., '13, § 208-a; 37 G. A., ch. 231, § 1.]

SEC. 9061. Duty of peace officers.

1 It is hereby made the duty of any peace officer of the state to
2 comply with the request of the governor or that of the attorney gen-
3 eral or either of them, and to render to either of them such assistance
4 as may be required in any part of the state. Such peace officers when
5 so called, or other persons when so appointed, shall have the same

6 powers in any part of the state as the sheriff of the county in which
7 such peace officer or person is acting.

[37 G. A., ch. 231, § 2.]

SEC. 9062. Bond of peace officers.

1 Any person or persons, other than peace officers already under
2 bond, so selected or appointed by the governor or attorney general,
3 shall be required to give bond to the state of Iowa in the sum of five
4 thousand dollars.

[38 G. A., ch. 327, § 2.]

CHAPTER 2.

SEARCH WARRANTS.

SECTION 9063. Search warrant defined.

1 A search warrant is an order in writing, in the name of the state,
2 signed by a magistrate, directed to a peace officer, commanding him to
3 search for personal property and bring it before the magistrate.

[C., '51, § 3291; R., '60, § 5024; C., '73, § 4629; C., '97,
§ 5545.]

SEC. 9064. Grounds for warrant.

1 It may be issued upon either of the following grounds:

2 1. When the property was stolen or embezzled, in which case it
3 may be taken on the warrant from any house or other place in which
4 it is concealed, or from the possession of any person in whose pos-
5 session it may be.

6 2. When it was used as the means of committing a felony; in
7 which case it may be taken on the warrant from any house or other
8 place in which it is concealed, or from the possession of any person in
9 whose possession it may be.

10 3. When it is in the possession of any person with the intent to
11 use it as the means of committing a public offense, or in the possession
12 of another to which he may have delivered it for the purpose of con-
13 cealing it or preventing its being discovered; in which case it may be
14 taken on the warrant from such person, from a house or other place
15 occupied by him or under his control.

[C., '51, § 3292; R., '60, § 5025; C., '73, § 4630; C., '97,
§ 5546.]

SEC. 9065. Issued only on probable cause—affidavit.

1 No search warrant can be issued but upon probable cause, sup-
2 ported by affidavit, naming or describing the person, and particularly
3 describing the property and the place to be searched.

[C., '51, § 3293; R., '60, § 5026; C., '73, § 4631; C., '97,
§ 5547.]

SEC. 9066. Applicant examined.

1 The magistrate must, before issuing a warrant, examine on oath
2 the applicant therefor and any witnesses he may produce, and take
3 their affidavits.

[C., '51, § 3294; R., '60, § 5027; C., '73, § 4632; C., '97,
§ 5548.]

SEC. 9067. Facts stated in affidavit.

1 The affidavit must set forth the facts tending to establish the
2 grounds of the application or probable cause for believing that they
3 exist.

[C., '51, § 3295; R., '60, § 5028; C., '73, § 4633; C., '97,
§ 5549.]

SEC. 9068. Issuance of warrant.

1 If the magistrate is satisfied of the existence of the grounds of
2 the application, or there is probable cause to believe their existence,
3 he shall issue a search warrant, signed by him with his name of office,
4 directed to any peace officer in the county, commanding him forthwith
5 to search the person or place named for the property specified, and
6 bring it before him.

[C., '51, § 3296; R., '60, § 5029; C., '73, § 4634; C., '97,
§ 5550.]

SEC. 9069. Form of warrant.

1 The warrant may be, substantially, in the following form:

2 County of..... }
3 The State of Iowa. }

4 To any peace officer of said county:

5 Proof, by affidavit, having been this day made before me by (nam-
6 ing every person whose affidavit has been taken) that (stating the par-
7 ticular grounds of the application as above provided; or, if the affidavit
8 be not positive, that there is probable cause for believing that—stat-
9 ing the ground of the application in the same manner), you are there-
10 fore commanded, in the daytime (or at any time of the day or night,
11 as provided in this chapter) to make immediate search on the person
12 of C..... D....., or in the house situated (describing it or
13 any other place to be searched, with reasonable particularity, as the
14 case may be), for the following property (describing it with reasonable
15 particularity), and if you find the same, or any part thereof, to bring
16 it forthwith before me at (stating the place).

17 Dated at....., this.....day of.....A. D.
18 E..... F..... (with official title).

[R., '60, § 5031; C., '73, § 4636; C., '97, § 5551.]

SEC. 9070. Service of warrant.

1 A search warrant may in all cases be served by any of the officers
2 mentioned in its direction, but by no other person, except in aid of
3 the officer on his requisition, he being present and acting in its execu-
4 tion.

[C., '51, § 3297; R., '60, § 5032; C., '73, § 4637; C., '97,
§ 5552.]

SEC. 9071. Breaking in to execute warrant.

1 The officer may break open any outer or inner door or window of a
2 house, or any part thereof, or anything therein, to execute the warrant,
3 if, after notice of his authority and purpose, he is refused admittance.
[C., '51, § 3298; R., '60, § 5033; C., '73, § 4638; C., '97,
§ 5553.]

SEC. 9072. Liberating person assisting in execution.

1 He may break open any outer or inner door or window of a house
2 for the purpose of liberating a person who, having entered to aid him
3 in the execution of the warrant, is detained therein, or, when neces-
4 sary, for his own liberation.
[R., '60, § 5034; C., '73, § 4639; C., '97, § 5554.]

SEC. 9073. Served in daytime.

1 The magistrate must insert a direction in the warrant that it be
2 served in the daytime, unless the affidavit be positive that the prop-
3 erty is on the person or in the place to be searched, in which case he
4 may insert a direction that it may be served at any time of the day or
5 night.
[R., '60, § 5035; C., '73, § 4640; C., '97, § 5555.]

SEC. 9074. Return of warrant.

1 A search warrant must be executed and returned to the magis-
2 trate who issued it within ten days after its date. After the expiration
3 of such time the warrant, unless executed, is void.
[C., '51, § 3299; R., '60, § 5036; C., '73, § 4641; C., '97,
§ 5556.]

SEC. 9075. Receipt for property.

1 When the officer takes any property under the warrant, he must
2 give to the person from whom it was taken, or in whose possession it
3 was found, or in the absence of the person, must leave in the place
4 where he found the property, an itemized receipt therefor.
[C., '51, § 3300; R., '60, § 5037; C., '73, § 4642; C., '97,
§ 5557.]

SEC. 9076. Return with inventory.

1 The officer must forthwith return the warrant to the magistrate,
2 with a complete inventory of the property taken, made publicly or in
3 the presence of the person from whose possession it was taken and of
4 the applicant for the warrant, if they be present, verified by the affi-
5 davit of the officer at the foot of the inventory and taken before the
6 magistrate, to the following effect: "I, the officer by whom the an-
7 nexed warrant was executed, do swear that the above inventory con-
8 tains a true and detailed account of all the property taken by me on
9 the warrant."
[C., '51, § 3301; R., '60, § 5038; C., '73, § 4643; C., '97,
§ 5558.]

SEC. 9077. Copy of inventory.

1 The magistrate, if required, must deliver a copy of the inventory
2 to the person from whose possession the property was taken, and to
3 the applicant for the warrant.

[C., '51, § 3302; R., '60, § 5039; C., '73, § 4644; C., '97,
§ 5559.]

SEC. 9078. Hearing.

1 If the grounds on which the warrant was issued be controverted,
2 the magistrate must proceed to take testimony in relation thereto.

[C., '51, § 3303; R., '60, § 5040; C., '73, § 4645; C., '97,
§ 5560.]

SEC. 9079. Evidence reduced to writing.

1 The testimony given by each witness must be reduced to writing
2 and authenticated by the magistrate.

[C., '51, § 3304; R., '60, § 5041; C., '73, § 4646; C., '97,
§ 5561.]

SEC. 9080. Property restored.

1 If it appears that the property taken is not the same as that de-
2 scribed in the warrant, or that there is no probable cause for believing
3 the existence of the grounds on which the warrant was issued, the
4 magistrate shall cause it to be restored to the person from whom it
5 was taken.

[C., '51, § 3305; R., '60, § 5042; C., '73, § 4647; C., '97,
§ 5562.]

SEC. 9081. Return to owner.

1 If the property taken by virtue of a search warrant was stolen
2 or embezzled, it must be restored to the owner, upon his making sat-
3 isfactory proof to the magistrate of his ownership thereof or of his
4 right of possession thereto, as provided in chapter four, title thirty-
5 one. If it was taken on a warrant issued on the grounds stated in the
6 second and third subdivisions of the section of this chapter, prescrib-
7 ing the grounds for issuing search warrants, the magistrate must
8 retain it in his possession, subject to the order of the court to which
9 he is required to return the proceedings before him, or of any other
10 court having jurisdiction to try the offense which the property taken
11 was used as a means of committing, or so intended to be.

[C., '51, § 3306; R., '69, § 5043; C., '73, § 4648; C., '97,
§ 5563.]

SEC. 9082. Disposition of papers.

1 When returned to a magistrate, he must annex together the affi-
2 davits taken before the issuing of the warrant, the warrant, the return
3 and the inventory, and return them to the next district court of the
4 county, at or before its opening on the first day of the next term
5 thereof.

[C., '51, § 3307; R., '60, § 5044; C., '73, § 4649; C., '97,
§ 5564.]

SEC. 9083. Maliciously suing out warrant.

1 Whoever maliciously and without probable cause procures a search
2 warrant to be issued and executed is guilty of a misdemeanor.

[C., '51, § 3308; R., '60, § 5045; C., '73, § 4650; C., '97,
§ 5565.]

SEC. 9084. Officer exceeding authority.

1 A peace officer who, in executing a search warrant, wilfully ex-
2 ceeds his authority, or exercises it with unnecessary severity, is guilty
3 of a misdemeanor.

[R., '60, § 5046; C., '73, § 4651; C., '97, § 5566.]

SEC. 9085. Searching person charged with felony.

1 When a person charged with a felony is supposed by the magis-
2 trate before whom he is brought to have upon his person a dangerous
3 weapon, or anything which may be used as evidence of the commis-
4 sion of the offense, the magistrate may direct him to be searched in
5 his presence, and the weapon or evidence to be retained, subject to his
6 order, or the order of the court in which the defendant may be tried.

[C., '51, § 3309; R., '60, § 5047; C., '73, § 4652; C., '97,
§ 5567.]

SEC. 9086. Property kept for evidence.

1 When any officer in the execution of a search warrant shall find
2 any stolen or embezzled property, or shall seize any other things for
3 which a search warrant is allowed by this chapter, all the property and
4 things so seized shall be safely kept, by the direction of the court or
5 magistrate, so long as shall be necessary for the purpose of being pro-
6 duced as evidence on any trial; and as soon as may be afterwards all
7 such stolen and embezzled property shall be restored to the owner
8 thereof, and all other things seized by virtue of such warrant may be
9 destroyed under the direction of the court or magistrate.

[R., '60, § 5048; C., '73, § 4653; C., '97, § 5568.]

CHAPTER 3.
LIMITATION OF CRIMINAL ACTIONS.**SECTION 9087. Actions for murder.**

1 A prosecution for murder may be commenced at any time after
2 the death of the person killed.

[C., '51, § 2811; R., '60, § 4513; C., '73, § 4165; C., '97,
§ 5163.]

SEC. 9088. Actions to be brought within eighteen months.

1 An indictment for a public offense must be found within eighteen
2 months after its commission, in the following cases, and not after:

- 3 1. Taking or enticing away an unmarried female under the age of
- 4 consent, for the purpose of marriage or prostitution.
- 5 2. Seducing or debauching an unmarried female of previously
- 6 chaste character.

- 7 3. For rape or adultery.
 8 4. For an assault with intent to commit a rape.
 [C., '51, § 2812; R., '60, § 4514; C., '73, § 4166; C., '97,
 § 5164.]

SEC. 9089. Actions to be brought within three years.

- 1 In all other cases an indictment for a public offense must be found
 2 within three years after the commission thereof, and not afterwards.
 [C., '51, § 2813; R., '60, § 4515; C., '73, § 4167; C., '97,
 § 5165.]

SEC. 9090. Misdemeanors triable before a justice.

- 1 A prosecution for a misdemeanor triable before a justice of the
 2 peace, or violation of an ordinance of a city or town, must be com-
 3 menced within one year after the commission thereof, and not after.
 [C., '73, § 4168; C., '97, § 5166.]

SEC. 9091. Time defendant out of state deducted.

- 1 If, when the offense is committed, the defendant is out of the
 2 state, the indictment or prosecution may be found or commenced
 3 within the time herein limited after his coming into the state, and no
 4 period during which the party charged was not publicly resident
 5 within the state is a part of the limitation.
 [C., '51, § 2814; R., '60, § 4516; C., '73, § 4169; C., '97,
 § 5167.]

SEC. 9092. Time of finding indictment.

- 1 An indictment is found, within the meaning of this chapter, when
 2 it is duly presented by the grand jury in open court and there filed.
 [C., '51, § 2815; R., '60, § 4517; C., '73, § 4170; C., '97,
 § 5168.]

CHAPTER 4.

JURISDICTION OF PUBLIC OFFENSES.

SECTION 9093. Persons subject to laws of state.

- 1 Every person, whether an inhabitant of this state or any other
 2 state or country or of a territory or district of the United States, is
 3 liable to punishment by the laws of this state for a public offense com-
 4 mitted by him therein, except where it is by law cognizable exclu-
 5 sively in the courts of the United States.
 [C., '51, § 2803; R., '60, § 4500; C., '73, § 4155; C., '97,
 § 5153.]

SEC. 9094. Jurisdiction of district court.

- 1 The local jurisdiction of the district court is of offenses com-
 2 mitted within the county in which it is held, and of such other cases as
 3 are or may be provided by law.
 [R., '60, § 4502; C., '73, § 4156; C., '97, § 5154.]

SEC. 9095. Offenses consummated within the state.

1 When the commission of a public offense, committed without the
 2 state, is consummated within its boundaries, the defendant is liable
 3 to punishment therefor, though he was without the state at the time
 4 of its consummation, if he committed the offense through the inter-
 5 vention of an agent within the state, or by any other means proceeding
 6 directly from himself. Jurisdiction thereof is in the county in which
 7 the offense is completed.

[C., '51, § 2804; R., '60, § 4505; C., '73, § 4157; C., '97,
 § 5155.]

SEC. 9096. Offenses partly in county.

1 When a public offense is committed partly in one county and
 2 partly in another, or when the acts or effects constituting or requisite
 3 to the consummation of the offense occur in two or more counties,
 4 jurisdiction is in either county, except as otherwise provided by law.

[C., '51, § 2806; R., '60, § 4507; C., '73, § 4159; C., '97,
 § 5157.]

SEC. 9097. Offenses near boundary of two counties.

1 When a public offense is committed on the boundary of two or
 2 more counties, or within five hundred yards thereof, the jurisdiction
 3 is in either county, except as otherwise provided by law.

[C., '51, § 2807; R., '60, § 4508; C., '73, § 4160; C., '97,
 § 5158.]

SEC. 9098. Offenses on trains or boats.

1 When an offense is committed within the jurisdiction of the state
 2 on any railroad car while passing over any railroad, or any boat, raft
 3 or vessel navigating a river, lake or canal, or lying therein in the prose-
 4 cution of her voyage, the jurisdiction is in any county through which
 5 it passes in the course of its trip or voyage, or in the county where the
 6 trip or voyage shall begin or terminate.

[C., '51, § 2808; R., '60, § 4509; C., '73, § 4161; C., '97,
 § 5159.]

SEC. 9099. Jurisdiction in any county in certain cases.

1 The jurisdiction of an indictment for the crime of forcibly and
 2 without lawful authority seizing and confining another, or kidnaping
 3 him with intent, against his will, to cause him to be confined or im-
 4 prisoned within the state, or to be sent out of the state, or of taking
 5 or enticing a child under the age of fifteen years away from the par-
 6 ents, guardian or other person having the legal charge of the person,
 7 with intent to detain or conceal such child, or of taking or enticing
 8 away an unmarried female of previously chaste character under the
 9 age of consent, for the purpose of prostitution, or of taking any woman
 10 unlawfully and against her will or by force, menace or duress, and
 11 compelling her to marry against her will, or of seducing and debauch-
 12 ing any unmarried woman of previously chaste character, is in any
 13 county in which the offense is committed, or into or out of which the
 14 person upon whom the offense was committed may, in the prosecution
 15 of the offense, have been brought, or in which an act is done by the
 16 offender in instigating, procuring, promoting, aiding in or being an

17 accessory to the commission thereof, or in abetting the parties con-
18- cerned therein.

[C., '51, § 2809; R., '60, § 4510; C., '73, § 4162; C., '97,
§ 5160.]

SEC. 9100. Jurisdiction of bigamy.

1 When the offense of bigamy is committed in one county and the
2 defendant is apprehended in another, the jurisdiction is in either
3 county.

[C., '51, § 2810; R., '60, § 4511; C., '73, § 4163; C., '97,
§ 5161.]

SEC. 9101. Fighting duel without the state—death within state.

1 When an inhabitant or resident of the state, by previous appoint-
2 ment or engagement, fights a duel, or is concerned as second therein,
3 without the jurisdiction of the state, and in such duel a wound is
4 inflicted upon any person whereof he dies within the state, the juris-
5 diction of the offense is in the county where the death occurs.

[C., '51, § 2805; R., '60, § 4506; C., '73, § 4158; C., '97,
§ 5156.]

SEC. 9102. Conviction or acquittal bars action.

1 When an offense is within the jurisdiction of two or more counties,
2 a conviction or acquittal thereof in one county is a bar to a prosecu-
3 tion or indictment therefor in another.

[R., '60, § 4512; C., '73, § 4164; C., '97, § 5162.]

CHAPTER 5.

PRELIMINARY INFORMATION AND WARRANTS OF ARREST.

SECTION 9103. Information defined.

1 A complaint or preliminary information is a statement in writing,
2 under oath or affirmation, made before a magistrate, of the commission
3 or threatened commission of a public offense, and accusing some one
4 thereof.

[C., '51, § 2822; R., '60, § 4530; C., '73, § 4111; C., '97,
§ 5101.]

SEC. 9104. Filing information—issuing warrant.

1 When a preliminary information is made before a magistrate,
2 charging the commission of some designated public offense triable on
3 indictment in the county in which such magistrate has local jurisdic-
4 tion, by some person named therein, he may issue a warrant for the
5 arrest of such person. The information may be substantially in the
6 form required in criminal actions triable before a justice of the peace.

[C., '73, § 4185; C., '97, § 5182.]

SEC. 9105. Form of warrant.

1 The warrant of arrest on a preliminary information must be sub-
 2 stantially in the following form:
 3 State of Iowa, }
 4 County of }
 5 To any peace officer of the state:
 6 Preliminary information upon oath having been this day filed
 7 with me, charging that the crime (naming it) has been committed and
 8 accusing A..... B..... thereof:
 9 You are commanded forthwith to arrest the said A.....
 10 B..... and bring him before me at (naming the place), or, in
 11 case of my absence or inability to act, before the nearest or most
 12 accessible magistrate in this county.
 13 Dated at.....this.....day of....., A. D.
 14 C..... D..... (with official title).
 [C., '51, § 2827; R., '60, § 4534; C., '73, § 4186; C., '97,
 § 5183.]

SEC. 9106. Directed to peace officer—contents.

1 The warrant must be directed to any peace officer in the state;
 2 give the name of the defendant, if known to the magistrate; if un-
 3 known, may designate him by any name, and must state by name or
 4 general description an offense which authorizes a warrant to issue, the
 5 time of issuing it, the county, city, town, village or township where
 6 issued, and be signed by the magistrate, with his name of office.
 [C., '51, §§ 2828, 2829; R., '60, §§ 4535, 4536; C., '73, §§ 4187,
 4188; C., '97, § 5184.]

SEC. 9107. Order for bail—indorsed on warrant.

1 If the offense stated in the warrant be a misdemeanor, the magis-
 2 trate issuing it must make an indorsement thereon as follows: "Let
 3 the defendant, when arrested, be admitted to bail in the sum of
 4 dollars," stating the amount in which bail may be taken.
 [R., '60, § 4537; C., '73, § 4189; C., '97, § 5185.]

SEC. 9108. Manner of executing warrant.

1 The warrant may be delivered to any peace officer for execution,
 2 and served in any county in the state.
 [R., '60, § 4538; C., '73, § 4190; C., '97, § 5186.]

CHAPTER 6.**ARREST: GENERAL PROVISIONS.****SECTION 9109. Arrest defined—time of making.**

1 Arrest is the taking of a person into custody when and in the
 2 manner authorized by law, and may be made at any time of any day or
 3 night.
 [C., '51, §§ 2837, 2850; R., '60, §§ 4545, 4551; C., '73, §§ 4197,
 4203; C., '97, § 5193.]

SEC. 9110. Acts necessary to constitute an arrest.

1 An arrest is made by an actual restraint of the person to be
 2 arrested, or by his submission to the custody of the person making the
 3 arrest. No unnecessary force or violence shall be used in making the
 4 same, and the person arrested shall not be subjected to any greater
 5 restraint than is necessary for his detention.

[C., '51, § 2838; R., '60, §§ 4557-4559; C., '73, §§ 4209-4211;
 C., '97, § 5194.]

SEC. 9111. Persons authorized to make arrests.

1 An arrest may be made by a peace officer or by a private person.

[R., '60, § 4546; C., '73, § 4198; C., '97, § 5195.]

SEC. 9112. Arrests by peace officers.

1 A peace officer may make an arrest in obedience to a warrant de-
 2 livered to him; and without a warrant:

- 3 1. For a public offense committed or attempted in his presence.
- 4 2. Where a public offense has in fact been committed, and he has
- 5 reasonable ground for believing that the person to be arrested has
- 6 committed it.

[C., '51, § 2840; R., '60, §§ 4547, 4548; C., '73, §§ 4199, 4200;
 C., '97, § 5196.]

SEC. 9113. Arrests by private persons.

1 A private person may make an arrest:

- 2 1. For a public offense committed or attempted in his presence.
- 3 2. When a felony has been committed, and he has reasonable
- 4 ground for believing that the person to be arrested has committed it.

[C., '51, § 2846; R., '60, § 4549; C., '73, § 4201; C., '97,
 § 5197.]

SEC. 9114. Arrests on oral order of magistrate.

1 A magistrate may orally order a peace officer or a private person
 2 to arrest anyone committing or attempting to commit a public offense
 3 in the presence of such magistrate, which order shall authorize the
 4 arrest.

[C., '51, § 2845; R., '60, § 4550; C., '73, § 4202; C., '97,
 § 5198.]

SEC. 9115. Manner of making.

1 The person making the arrest must inform the person to be ar-
 2 rested of the intention to arrest him, of the cause of arrest, of his
 3 authority to make it, and that he is a peace officer, if such be the case,
 4 and require him to submit to his custody, except when the person to
 5 be arrested is actually engaged in the commission of or attempt to
 6 commit an offense, or escapes, so that there is no time or opportunity
 7 to do so; if acting under the authority of a warrant, he must give
 8 information thereof and show the warrant, if required.

[C., '51, §§ 2839, 2841, 2847; R., '60, § 4552; C., '73, § 4204;
 C., '97, § 5199.]

SEC. 9116. Resistance to arrest—use of force.

1 When the arrest is being made by an officer under the authority
 2 of a warrant, if, after information of the intention to make the arrest,

3 the person to be arrested attempts to escape or forcibly resists, the
4 officer may use all necessary means to effect the arrest.

[C., '51, § 2844; R., '60, § 4553; C., '73, § 4205; C., '97,
§ 5200.]

SEC. 9117. Breaking and entering premises to make arrest.

1 To make an arrest for any public offense, a peace officer, acting
2 with or, when authorized, without a warrant, may break into a house
3 or other building in which the person to be arrested may be, or in
4 which the officer has reasonable grounds for believing he is, after hav-
5 ing demanded admittance and explained the purpose for which admit-
6 tance is desired. In case of a felony, a private person may use like
7 means to make an arrest.

[C., '51, §§ 2843, 2848; R., '60, § 4554; C., '73, § 4206; C., '97,
§ 5201.]

SEC. 9118. Breaking out after lawful entrance.

1 Any person who has lawfully entered a house for the purpose of
2 making an arrest, under the provisions of the preceding section, may
3 break open the door or window thereof if detained therein, when
4 necessary for the purpose of liberating himself; and an officer may do
5 the same when necessary for the purpose of liberating a person who,
6 acting in his aid and by his command, lawfully entered for the pur-
7 pose of making an arrest, and is detained therein.

[R., '60, § 4555; C., '73, § 4207; C., '97, § 5202.]

SEC. 9119. Summoning aid—refusing to assist.

1 Any person making an arrest may orally summon as many per-
2 sons as he finds necessary to aid him in making the arrest, and all per-
3 sons failing to obey such summons shall be guilty of a misdemeanor.

[R., '60, § 4556; C., '73, § 4208; C., '97, § 5203.]

SEC. 9120. Taking weapons—delivery to magistrate.

1 He who makes an arrest may take from the person arrested all
2 offensive weapons which he may have about his person, and must de-
3 liver them to the magistrate before whom he is taken, to be disposed
4 of according to law.

[R., '60, § 4560; C., '73, § 4212; C., '97, § 5204.]

SEC. 9121. Escape after arrest—recapture.

1 If a person after being arrested escapes or is rescued, the person
2 from whose custody he escaped or was rescued may immediately pur-
3 sue and retake him in any part of the state, and may use the same
4 means to retake as are authorized for an arrest; and this may be done
5 at any time under the original warrant or commitment, when there is
6 one.

[C., '51, § 2851; R., '60, § 4561; C., '73, § 4213; C., '97,
§ 5205.]

SEC. 9122. Arrests by private person—disposition of prisoner.

1 A private person who has arrested another for the commission
2 of an offense must, without unnecessary delay, take him before a mag-
3 istrate, or deliver him to a peace officer, who may take the arrested

4 person before a magistrate, but the person making the arrest must
5 also accompany the officer before the magistrate.

[C., '51, §§ 2842, 2849; R., '60, §§ 4562-4564; C., '73, §§ 4214-4216; C., '97, § 5206.]

SEC. 9123. Conveying prisoner to jail—fees and expenses.

1 Every officer or person who shall arrest anyone with a warrant
2 or order issued by any court or officer, or who shall be required to con-
3 vey a prisoner from a place distant from the county jail to such jail
4 on an order of commitment, shall be allowed the same fees and ex-
5 penses as provided for in case of such services by the sheriff.

[C., '73, § 3820; C., '97, § 1292.]

CHAPTER 7.

ARREST BY WARRANT.

SECTION 9124. Disposition of prisoner.

1 An officer making an arrest in obedience to a warrant shall pro-
2 ceed with the person arrested as commanded by the warrant or as pro-
3 vided by law.

[R., '60, § 4565; C., '73, § 4217; C., '97, § 5207.]

SEC. 9125. In case of arrest for felony.

1 If the offense stated in the warrant be a felony, the officer making
2 the arrest must take the defendant before the magistrate who issued
3 it at the place mentioned in the command thereof, or, in the event of
4 his absence or inability to act, before the nearest or most accessible
5 magistrate in the county in which it was issued.

[C., '51, § 2831; R., '60, § 4539; C., '73, § 4191; C., '97, § 5187.]

SEC. 9126. In case of arrest for misdemeanor.

1 If the offense stated in the warrant be a misdemeanor, and the de-
2 fendant be arrested in another county, the officer must, upon being
3 required by the defendant, take him before a magistrate or the clerk
4 of the district court of the same county in which he was arrested, for
5 the purpose of giving bail, and the magistrate or clerk before whom he
6 is taken in such county must take bail from him, in the sum indorsed
7 upon the warrant, for his appearance at the district court of the county
8 in which the warrant was issued, on the first day of the following term.

[C., '51, § 2832; R., '60, § 4540; C., '73, § 4192; C., '97, § 5188.]

SEC. 9127. Order for discharge.

1 On taking bail in the case provided for in the preceding section,
2 the magistrate or clerk taking the same must indorse on the warrant
3 his official order for the discharge of the defendant, substantially as
4 follows:

5 State of Iowa, }
 6 County of }
 7 To the officer (naming him and his official title, thus A.....
 8 B....., sheriff of.....county) having in custody
 9 C..... D....., (naming him):
 10 The defendant named in the within warrant of arrest, now in
 11 your custody under the authority thereof for the offense therein desig-
 12 nated, having given sufficient bail to answer the same by the under-
 13 taking herewith delivered to you, you are commanded forthwith to
 14 discharge him from custody, and, without unnecessary delay, deliver
 15 this order, together with the said undertaking of bail, to the clerk of
 16 the district court of.....county, on or before the first day of
 17 the next term thereof.
 18 Dated at....., this.....day of....., A. D.
 19 E..... F..... (with official title).
 [C., '51, § 2833; R., '60, § 4541; C., '73, § 4193; C., '97,
 § 5189.]

SEC. 9128. Discharge—delivery of warrant and papers.

1 He must deliver the warrant with the order thereon, together
 2 with the undertaking of bail, to the officer having the defendant in
 3 custody, who shall forthwith discharge him from arrest, and at once
 4 inform the magistrate issuing the warrant of his doings; and the
 5 magistrate or clerk, on or before the first day of the next term of the
 6 court at which the defendant is required to appear, must deliver or
 7 transmit by mail, or otherwise, the warrant with the order thereon,
 8 together with the undertaking of bail, to the clerk of the court at
 9 which the defendant is required to appear, who shall forthwith file
 10 the same in his office. The magistrate who issued the warrant shall
 11 return to the clerk, on or before the first day of the next term of the
 12 court, the affidavits of the informant and his witnesses upon which
 13 the warrant was issued, who shall file all of the same in his office.
 [C., '51, § 2833; R., '60, § 4541; C., '73, § 4193; C., '97,
 § 5189.]

SEC. 9129. Failure to give bail.

1 If bail be not forthwith given by the defendant as above pro-
 2 vided, the magistrate or clerk must redeliver to the officer the war-
 3 rant, and the officer must take the defendant before the magistrate
 4 who issued it at the place mentioned in the command thereof, or, if he
 5 be absent or unable to act, before the nearest or most accessible mag-
 6 istrate in the county in which the warrant was issued.
 [C., '51, § 2834; R., '60, § 4542; C., '73, § 4194; C., '97,
 § 5190.]

SEC. 9130. Proceedings after arrest.

1 In all cases the defendant, when arrested, must be taken before
 2 the magistrate or clerk without unnecessary delay, and the officer must
 3 at the same time deliver to the magistrate or clerk the warrant, with
 4 his return thereon indorsed and subscribed by him with his official
 5 title.
 [C., '51, § 2835; R., '60, § 4543; C., '73, § 4195; C., '97,
 § 5191.]

SEC. 9131. Hearing before another magistrate.

1 If the defendant be taken before a magistrate in the county in
 2 which the warrant was issued, other than the magistrate who issued
 3 it as hereinbefore provided, the affidavits on which the warrant was
 4 issued must be sent to such magistrate, or if they can not be procured,
 5 the informant and his witnesses must be subpoenaed to make new
 6 affidavits.

[C., '51, § 2836; R., '60, § 4544; C., '73, § 4196; C., '97,
 § 5192.]

CHAPTER 8.**ARREST WITHOUT WARRANT.****SECTION 9132. Disposition of prisoner.**

1 When an arrest is made without a warrant, the person arrested
 2 shall, without unnecessary delay, be taken before the nearest or most
 3 accessible magistrate in the county in which the arrest is made, and
 4 the grounds on which the arrest was made shall be stated to the mag-
 5 istrate by affidavit, subscribed and sworn to by the person making the
 6 statement, in the same manner as upon a preliminary information, as
 7 nearly as may be.

[R., '60, § 4566; C., '73, § 4218; C., '97, § 5208.]

SEC. 9133. Hearing before magistrate.

1 If the magistrate believes from the statements in the affidavit
 2 that the offense charged is triable in the county in which the arrest
 3 was made, and there is sufficient ground for a trial or preliminary ex-
 4 amination, as the case may require, and it will not be inconvenient for
 5 the witnesses on the part of the state that it should be had before him,
 6 he shall proceed as if the person arrested had been brought before
 7 him on arrest under a warrant, and, if the case be one within his
 8 jurisdiction to try and determine, shall order an information to be filed
 9 against him.

[R., '60, § 4567; C., '73, § 4219; C., '97, § 5209.]

SEC. 9134. Transfer for convenience.

1 If the magistrate finds that it will be more convenient for the
 2 witnesses on the part of the state that such trial or examination should
 3 be had before some other magistrate in the county, he shall, by a
 4 written order, commit the person arrested to a peace officer, to be by
 5 him taken before the other magistrate, together with the order of com-
 6 mitment and affidavits, unless the person arrested give bail, when
 7 authorized, for his appearance, as in case of arrest under a warrant.

[R., '60, § 4568; C., '73, § 4220; C., '97, § 5209.]

SEC. 9135. Proceedings—same as under warrant.

1 Unless bail is given, the peace officer shall take the arrested per-
 2 son before the designated magistrate, and in any case shall deliver to
 3 him the affidavits and order of commitment, and when the person
 4 arrested is brought or appears before him, he shall proceed as on an

5 arrest under a warrant, and, when necessary, shall order an informa-
6 tion to be filed against the person arrested.

[R., '60, § 4568; C., '73, § 4220; C., '97, § 5210.]

SEC. 9136. Offense triable in another county—transfer.

1 If the magistrate believes from the statements in the affidavit
2 that the offense charged is triable in a county different from that in
3 which the arrest is made, and there is sufficient ground for a trial or
4 preliminary examination, he shall, by a written order, commit the
5 person arrested to a peace officer, to be by him taken before a magis-
6 trate in the county in which the offense is triable, and if the offense
7 be a misdemeanor triable on indictment, shall fix in the order the
8 amount of bail which the person arrested may give for his appearance
9 at the district court of the county (naming it) in which the offense is
10 indictable, on the first day of the next term thereof, to answer to
11 an indictment. If the offense charged be a bailable crime, the arrested
12 person may give bail, conditioned as above provided, before a clerk of
13 the district court.

[R., '60, § 4569; C., '73, § 4221; C., '97, § 5211.]

SEC. 9137. Bail—commitment—discharge.

1 If bail be given before a magistrate, as provided in the preceding
2 section, it may be either before the magistrate making the order, or
3 the magistrate in the county in which the offense is triable before
4 whom he is taken under the order, or a magistrate of any county
5 through which he passes in going from the county in which the arrest
6 was made to that in which the offense is triable, or, in any bailable
7 case, before the clerk of the district court of either of said counties;
8 and, when given, the magistrate or clerk taking the same shall make,
9 on the order of commitment, an order for the discharge of the person
10 arrested from custody, who shall forthwith be discharged, and shall
11 transmit by mail, or otherwise, to the clerk of the district court of the
12 county at which the person arrested is bound to appear, on or before
13 the first day of the next term thereof and as soon as it can be con-
14 veniently done after taking the bail, the affidavits, the order of com-
15 mitment and discharge, together with the undertaking of bail, and he
16 shall file the same together in his office.

[R., '60, § 4570; C., '73, § 4222; C., '97, § 5212.]

SEC. 9138. Proceedings in case of transfer.

1 If bail be not given as above provided, or if the offense charged
2 is a felony not bailable, or a misdemeanor triable on information, the
3 magistrate must deliver the affidavits and order of commitment to a
4 peace officer, who shall proceed with the person arrested as directed by
5 the order or provided by law; and the magistrate in the county in
6 which the offense is triable, when the person arrested is brought
7 before him, shall proceed as on an arrest under a warrant, and if the
8 case be within his jurisdiction to try and determine, shall order an
9 information to be filed against the person arrested.

[R., '60, § 4571; C., '73, § 4223; C., '97, § 5213.]

SEC. 9139. Proper magistrate to conduct hearing—bail.

1 In the cases contemplated in the last three sections, the officer
2 having the person arrested in custody, under the order, shall take him

3 before the proper magistrate, in the county in which the offense is
 4 triable, which is most convenient for the witnesses on the part of the
 5 state, unless, in case of a misdemeanor triable on indictment as here-
 6 inbefore provided, the person arrested desires to give bail, in which
 7 case he shall take him before the most convenient magistrate in the
 8 county in which the offense with which he is charged is triable, or
 9 any county through which he passes in going from the county in
 10 which the arrest was made to the county in which the offense is tri-
 11 able, or before the clerk of the district court of either of said counties,
 12 for the purpose of giving bail.

[R., '60, § 4572; C., '73, § 4224; C., '97, § 5214.]

SEC. 9140. Officer's return.

1 In all cases, the peace officer, when he takes a person committed
 2 to him under an order as provided in this chapter before a magistrate
 3 or clerk of the district court, either for the purpose of giving bail, if
 4 bail be taken, or for trial or preliminary examination, must make his
 5 return on such order, and sign such return with his name of office, and
 6 deliver the same to the magistrate or clerk.

[R., '60, § 4573; C., '73, § 4225; C., '97, § 5215.]

CHAPTER 9.

FUGITIVES FROM JUSTICE.

SECTION 9141. Agents in extradition cases.

1 The governor, in any case authorized by the constitution and laws
 2 of the United States, may appoint agents to demand of the executive
 3 authority of another state or territory, or from the executive author-
 4 ity of a foreign government, any fugitive from justice charged with
 5 treason or felony.

[C., '51, § 3282; R., '60, § 4518; C., '73, § 4171; C., '97, § 5169;
 37 G. A., ch. 88, § 1; 38 G. A., ch. 131, § 1.]

SEC. 9142. Fees and expenses.

1 The expenses to be allowed such agent shall be: fees paid the
 2 officers of the state upon whose governor the requisition is made; all
 3 necessary and actual traveling expenses paid on account of the agent
 4 and fugitive, including the necessary and actual railroad fare of the
 5 agent and that paid for transportation of the fugitive.

[C., '51, § 3282; R., '60, § 4518; C., '73, § 4171; C., '97, § 5169;
 37 G. A., ch. 88, § 1; 38 G. A., ch. 131, § 1.]

SEC. 9143. Payment of claims.

1 Bills for such expenses shall be made out, itemized so as to show
 2 each day's expenses, sworn to and filed with the county auditor of the
 3 proper county, the county making application for the requisition, and
 4 shall be by said county auditor audited and paid out of the county
 5 treasury.

[C., '51, § 3282; R., '60, § 4518; C., '73, § 4171; C., '97, § 5169;
 37 G. A., ch. 88, § 1; 38 G. A., ch. 131, § 1.]

SEC. 9144. Additional compensation not to be received.

1 No compensation, fee or reward of any kind can be paid to or
 2 received by a public officer of the state for a service rendered or ex-
 3 pense incurred in procuring from the governor the demand mentioned
 4 in section ninety-one hundred forty-one, or the surrender of the fugi-
 5 tive, or for conveying him into the state, or detaining him therein,
 6 except as provided by law; a violation of this section is a misdemeanor.
 [R., '60, §§ 4519, 4520; C., '73, §§ 4172, 4173; C., '97, § 5170.]

SEC. 9145. Sworn evidence and copy of indictment necessary.

1 No executive warrant for the arrest and surrender of a person
 2 demanded by the executive authority of another state or territory, as
 3 a fugitive from the justice of such state or territory, and no requis-
 4 tion upon the executive authority of another state or territory for the
 5 surrender of any person as a fugitive from the justice of this state,
 6 shall be issued, unless the requisition from the executive authority of
 7 such other state or territory, or the application for such requisition
 8 upon the executive authority of such other state or territory, is ac-
 9 companied by sworn evidence that the party charged is a fugitive from
 10 justice, and by a duly attested copy of an indictment, preliminary
 11 information or complaint, made before the court or magistrate author-
 12 ized to receive the same.

[R., '60, § 4521; C., '73, § 4174; C., '97, § 5171.]

SEC. 9146. Requisition from another state—duty of governor.

1 Whenever a demand is made upon the governor by the executive
 2 of another state or territory, in any case authorized by the constitu-
 3 tion and laws of the United States, for the delivery of a person charged
 4 in such state or territory with a crime, if such person is not held in
 5 custody or under bail to answer for an offense against the laws of the
 6 United States or of this state, he shall issue his warrant, under the
 7 seal of the state, authorizing the agent who makes such demand,
 8 forthwith or at such time as may be designated in the warrant, to take
 9 and transport such person to the line of this state at the expense of
 10 such agent, and may also, by such warrant, require all peace officers
 11 to afford all needful assistance in the execution thereof.

[C., '51, § 3283; R., '60, § 4522; C., '73, § 4175; C., '97,
 § 5172.]

SEC. 9147. Filing complaint and issuance of warrant.

1 If any person is found in the state charged with a crime com-
 2 mitted in another state or territory, and liable by the constitution and
 3 laws of the United States to be delivered over upon the demand of the
 4 governor thereof, any magistrate may, upon complaint on oath setting
 5 forth the offense, and such other matters as are necessary to bring the
 6 case within the provisions of law, issue a warrant for the arrest of such
 7 person.

[C., '51, § 3284; R., '60, § 4523; C., '73, § 4176; C., '97,
 § 5173.]

SEC. 9148. Bail—except when charged with murder.

1 If, upon examination, it appears that there is reasonable cause to
 2 believe the complaint true, and that such person may be lawfully de-
 3 manded of the governor, he shall, if not charged with murder, be re-

4 quired to enter into an undertaking, with sufficient surety in a reason-
5 able sum, to appear before such magistrate at a future day, allowing
6 reasonable time to obtain the warrant from the governor, and abide
7 the order of such magistrate in the premises.

[C., '51, § 3285; R., '60, § 4524; C., '73, § 4177; C., '97,
§ 5174.]

SEC. 9149. Failure to give bail—commitment.

1 If such person does not give bail, he must be committed to prison
2 and there detained until such day in like manner as if the offense
3 charged had been committed within the state.

[C., '51, § 3286; R., '60, § 4525; C., '73, § 4178; C., '97,
§ 5175.]

SEC. 9150. Forfeiture of bail.

1 A failure of such person to attend before the magistrate at the
2 time and place mentioned in the undertaking is a forfeiture thereof.

[C., '51, § 3287; R., '60, § 4526; C., '73, § 4179; C., '97,
§ 5176.]

SEC. 9151. Discharge.

1 If such person appear before the magistrate upon the day
2 ordered, he must be discharged, unless he is demanded by some person
3 authorized by the warrant of the governor to receive him, or unless
4 the magistrate finds good cause to commit him, or to require him to
5 enter into a new undertaking for his appearance at some other day
6 to await a warrant from the governor.

[C., '51, § 3288; R., '60, § 4527; C., '73, § 4180; C., '97,
§ 5177.]

SEC. 9152. Arrest on governor's warrant.

1 Whether the person so charged be bound to appear, be committed
2 or discharged, any person authorized by the warrant of the governor
3 may at any time take him into custody, and the same is a discharge of
4 the undertaking, if there be one, unless a forfeiture thereof has been
5 previously entered of record.

[C., '51, § 3829; R., '60, § 4528; C., '73, § 4181; C., '97,
§ 5178.]

SEC. 9153. Liability of complainant—costs.

1 The complainant in any such case is answerable for all the costs
2 and charges, and for the support in prison of any person so com-
3 mitted, and the magistrate, before issuing his warrant or hearing the
4 cause, must require the complainant to give security for the payment
5 of all such costs, or may require them in advance.

[C., '51, § 3290; R., '60, § 4529; C., '73, § 4182; C., '97,
§ 5179.]

SEC. 9154. Arrest without expense to state.

1 Upon the application for the appointment of an agent for the
2 arrest of a fugitive from justice under the provisions of this chapter,

3 the governor may make the appointment and the issuance of the writ
4 conditional that the same be executed without expense to the state.

[C., '73, § 4183; C., '97, § 5180.]

SEC. 9155. Expenses paid by state.

1 When, in the opinion of the governor, expenses incurred in the
2 arrest of fugitives from justice should be paid by the state, the claim
3 therefor shall be itemized and sworn to, and approved by him and at
4 least two other members of the executive council, and, when so ap-
5 proved, be audited and paid out of the general revenue of the state.

[C., '73, § 4184; C., '97, § 5181.]

CHAPTER 10.

SECURITY TO KEEP THE PEACE.

SECTION 9156. Public offense threatened—complaint—arrest.

1 When complaint is made before a magistrate that any person has
2 threatened to commit any public offense punishable by law, and such
3 magistrate is satisfied that there is reason to fear the commission
4 thereof, he may issue a warrant for the arrest of the person com-
5 plained of; and the officer to whom the same shall be delivered for
6 service shall forthwith arrest and bring the accused before such mag-
7 istrate, or, in case of his absence or inability to act, before the nearest
8 and most accessible magistrate of the same county. When the name
9 of the person complained of is unknown, he may be designated in the
10 warrant by any name, and the warrant issued in pursuance hereof may
11 be executed by any peace officer in any county of the state.

[R., '60, § 4447-4454; C., '73, § 4115; C., '97, § 5105.]

SEC. 9157. Proceedings before magistrate.

1 When the person arrested is taken before a magistrate other than
2 the one who issued the warrant, the peace officer who executed the
3 same and who has charge of the person arrested must, at the same
4 time, deliver to the magistrate before whom the person arrested is
5 taken the warrant, with his return indorsed and subscribed by him.
6 The complaint and other affidavits, if any, on which the warrant was
7 issued must be sent to the magistrate before whom the person ar-
8 rested is taken, and, if they can not be procured, the complainant and
9 his witnesses, if any, must be subpoenaed, if necessary, by the magis-
10 trate before whom the person arrested is taken, to appear before him
11 and make a new complaint and affidavits.

[R., '60, § 4455; C., '73, § 4116; C., '97, § 5106.]

SEC. 9158. Change of venue—examination.

1 When the person complained of is brought before the magistrate,
2 if the charge be controverted, a change of venue may be had as in
3 preliminary examinations, and at the hearing the magistrate must
4 take the testimony in relation thereto, which must be reduced to writ-
5 ing and subscribed by the witnesses.

[R., '60, § 4456; C., '73, § 4117; C., '97, § 5107.]

SEC. 9159. Discharge ordered—costs.

1 If it appear that there is no just reason to fear the commission
 2 of the offense alleged to have been threatened, the person complained
 3 of must be discharged, and the complainant may be ordered to pay the
 4 costs of the proceeding if the magistrate regards the complaint as un-
 5 founded and frivolous, and, unless when the proceeding is before a
 6 judge of the supreme, district or superior court, may issue execution
 7 therefor; and when the proceeding is before a judge of the supreme,
 8 district or superior court, he shall transmit the complaint, affidavits,
 9 warrant and order to the clerk of the district court of the county, who
 10 shall file the same, make a memorandum thereof in the judgment
 11 docket, and issue execution therefor immediately.

[R., '60, § 4457; C., '73, § 4118; C., '97, § 5108.]

SEC. 9160. Defendant bound over—sureties.

1 If there be just reason to fear the commission of the offense, the
 2 person complained of shall be required to enter into an undertaking,
 3 in such sum as the magistrate may direct, with one or more suf-
 4 ficient sureties, to abide the order of the district court of the county
 5 at the next term thereof, and in the meantime to keep the peace to-
 6 wards the people of the state, and particularly towards the person
 7 against whom or whose property there is reason to fear the offense
 8 may be committed.

[R., '60, § 4458; C., '73, § 4119; C., '97, § 5109.]

SEC. 9161. Committed to jail.

1 If the undertaking required by the last section be given, the
 2 party complained of must be discharged; if not, the magistrate must
 3 commit him to prison, specifying in the warrant the requirements to
 4 give security, the amount thereof, and the omission to give the same;
 5 if committed for not giving such undertaking, he may be discharged
 6 by a magistrate upon giving the required bonds.

[R., '60, §§ 4459, 4460, 4464; C., '73, §§ 4120, 4121; C., '97,
 § 5110.]

SEC. 9162. Disposition of papers.

1 The undertaking, together with the complaints, affidavits, if any,
 2 and other papers in the proceeding, must be returned by the magis-
 3 trate to the district court of the county by the first day of the next
 4 term thereof.

[R., '60, § 4461; C., '73, § 4122; C., '97, § 5111.]

SEC. 9163. Assault in presence of court or magistrate.

1 Any person who, in the presence of a court or magistrate, shall
 2 assault or threaten to assault another, or to commit an offense against
 3 the person or property of another, or contends with another with
 4 angry words, may be ordered, without process, to enter into an under-
 5 taking to keep the peace for a period of time not extending beyond the
 6 next term of the district court of the county, as hereinbefore provided,
 7 and in case of his omission to comply with said order, he may be com-
 8 mitted accordingly.

[R., '60, § 4462; C., '73, § 4123; C., '97, § 5112.]

SEC. 9164. Bond required on conviction.

1 The district court, upon the conviction of any person for an offense
 2 against the person or property of another, when necessary for the pub-
 3 lic good, may require the defendant to enter into an undertaking to
 4 keep the peace, as hereinbefore provided, and, on his omission to do so,
 5 may commit him accordingly.

[R., '60, § 4463; C., '73, § 4124; C., '97, § 5113.]

SEC. 9165. Appearance—time of—forfeiture.

1 A person who has entered into an undertaking to keep the peace,
 2 when required by a magistrate as hereinbefore provided, must appear
 3 on the first day of the next term of the district court of the county, and
 4 if the complainant appear and the person bound by the undertaking
 5 does not appear, the court may forfeit his undertaking and order the
 6 same to be prosecuted, unless his default be excused.

[R., '60, § 4465; C., '73, § 4125; C., '97, § 5114.]

SEC. 9166. Hearing—judgment—costs.

1 If the principal in the undertaking appear, and the complainant
 2 does not appear, or if neither of the parties appear, the court shall
 3 enter an order discharging the undertaking; but if both parties appear,
 4 the court shall hear their proofs, and may require a new undertaking
 5 in such sum as it shall prescribe, for a period not exceeding one year,
 6 and may commit the defendant until the same be given. Judgment
 7 shall be entered against the party held to keep the peace for all the
 8 costs of the proceeding, but if it is made to appear to the court that
 9 the proceeding was instituted without probable cause, the court may
 10 render judgment against the complainant for such costs.

[R., '60, § 4466; C., '73, § 4126; C., '97, § 5115.]

SEC. 9167. Breaking of undertaking to keep peace.

1 An undertaking to keep the peace is broken by the forfeiture of
 2 the same by order of the court, as hereinbefore provided, or upon the
 3 conviction of the party bound for a breach of the peace.

[R., '60, § 4467; C., '73, § 4127; C., '97, § 5116.]

SEC. 9168. Suit brought by county attorney.

1 Upon the county attorney's producing evidence of such conviction
 2 to the district court to which the undertaking is returned, the court
 3 must order the enforcement of the undertaking, and the county attor-
 4 ney must thereupon commence an action upon it.

[R., '60, § 4468; C., '73, § 4128; C., '97, § 5117.]

SEC. 9169. Record of conviction must be alleged—evidence.

1 In such action, the record of forfeiture or conviction must be
 2 alleged as the breach of the undertaking, and is conclusive evidence
 3 thereof.

[R., '60, § 4469; C., '73, § 4129; C., '97, § 5118.]

CHAPTER 11.

PRELIMINARY EXAMINATIONS.

SECTION 9170. Procedure—waiver.

1 When the arrested person is brought before the magistrate, with
 2 or without a warrant, upon preliminary information, the magistrate
 3 must immediately inform him of the offense with which he is charged,
 4 and of his right to counsel in every stage of the proceedings, and must
 5 allow him a reasonable time to send for counsel, and, if necessary, ad-
 6 journ for that purpose. After waiting a reasonable time for or on the
 7 appearance of counsel for defendant, the magistrate shall immediately
 8 proceed with the preliminary examination, or may allow the defendant
 9 to waive the same.

[C., '51, §§ 2852-2854; R., '60, §§ 4575-4577; C., '73, §§ 4226-4228; C., '97, § 5216.]

SEC. 9171. Change of venue.

1 Before any evidence is heard, the defendant may have a change
 2 of venue, upon filing an affidavit that the magistrate is prejudiced
 3 against him, or is a material witness for either party, or that the de-
 4 fendant can not obtain justice before him, as affiant verily believes.
 5 On filing such an affidavit a change of venue must be allowed, and the
 6 magistrate must immediately transmit all original papers, and a tran-
 7 script of the entire record in the case, to the nearest magistrate in the
 8 township, if there be one; if not, to the nearest magistrate in the
 9 county, who shall proceed with said examination as hereinafter pro-
 10 vided; but one such change shall be allowed.

[C., '51, § 2854; R., '60, § 4577; C., '73, § 4228; C., '97, § 5217.]

SEC. 9172. Termination of examinations—adjournments.

1 The examination must be terminated at one session unless the
 2 magistrate, for good cause shown, adjourn it; but it shall not be ad-
 3 journed for a longer period than thirty days.

[C., '51, §§ 2855, 2856; R., '60, §§ 4578, 4579; C., '73, §§ 4229, 4230; C., '97, § 5218.]

SEC. 9173. Commitment or bail in case of adjournment.

1 If an adjournment be had for any cause, the magistrate shall
 2 commit the defendant for examination, or require him to give ample
 3 bail for his appearance at the time and place to which the examina-
 4 tion is adjourned.

[C., '51, § 2857; R., '60, § 4580; C., '73, § 4231; C., '97, § 5219.]

SEC. 9174. In case no jail in county.

1 If there is no jail in the county, the sheriff must retain the de-
 2 fendant in his custody until the examination.

[C., '51, § 2859; R., '60, § 4582; C., '73, § 4232; C., '97, § 5220.]

SEC. 9175. Witnesses.

1 The magistrate must issue subpoenas for any witnesses required
2 by the state or defendant, and those who appear must be examined
3 in the presence of the defendant.

[C., '51, § 2860; R., '60, § 4583; C., '73, § 4233; C., '97,
§ 5221.]

SEC. 9176. Depositions.

1 The deposition of a witness who resides out of the county in which
2 the examination is had may be taken on application of the defendant,
3 on the order of the magistrate, before any officer authorized to take
4 depositions in civil actions, which order shall not be made until three
5 days after the filing with the magistrate of the written interrogatories
6 to be propounded to the witness, nor until three days after the service
7 of notice on the state, or on the attorney who appears for the state, of
8 the filing of such interrogatories.

[C., '73, § 4234; C., '97, § 5222.]

SEC. 9177. Cross-interrogatories.

1 Before the order to take deposition is made, the state may file
2 cross-interrogatories to be propounded to the witness, which shall be
3 answered by him in the deposition.

[C., '73, § 4235; C., '97, § 5223.]

SEC. 9178. Method of taking depositions.

1 At the expiration of three days from the filing of the interroga-
2 tories and the service of the notice thereof on the state as above pro-
3 vided, the magistrate may order the testimony of the witness to be
4 taken in answer to the interrogatories and cross-interrogatories, if
5 any, on file, and the deposition thus taken may be read in evidence on
6 the examination; nor shall the same be excluded because of any irregu-
7 larity in the taking of it, if the magistrate is satisfied that the irregu-
8 larity complained of could work no substantial prejudice to the oppo-
9 site party.

[C., '73, § 4236; C., '97, § 5224.]

SEC. 9179. Witnesses separated.

1 While a witness is under examination before the magistrate, he
2 may exclude all others who have not been examined, and may cause
3 the witnesses to be kept separate, that they may not converse with
4 each other until the examination is closed.

[C., '51, § 2867; R., '60, § 4591; C., '73, § 4239; C., '97,
§ 5225.]

SEC. 9180. Private hearing upon request of defendant.

1 The magistrate must also, upon request of the defendant, exclude
2 from hearing the examination all persons except the magistrate, his
3 clerk, the peace officer who has the custody of the defendant, the attor-
4 ney or attorneys representing the state, the defendant and his counsel.

[R., '60, § 4592; C., '73, § 4240; C., '97, § 5226.]

SEC. 9181. Minutes of examination.

1 The magistrate shall, in the minutes of the examination, write
2 out or cause to be written out the substance of the testimony given

3 on the examination by each witness, the name, place of residence, busi-
 4 ness or profession of each witness, and the amount he is entitled to for
 5 mileage and attendance. By agreement of parties or their attorneys,
 6 the magistrate may order the examination taken down in shorthand
 7 and certified substantially in the manner provided for taking depositions
 8 by a stenographer, but the cost thereof shall not be taxed against
 9 the county.

[C., '51, § 2868; R., '60, § 4593; C., '73, § 4241; C., '97,
 § 5227.]

SEC. 9182. Certification of proceedings.

1 After the examination is closed, the magistrate must attach to-
 2 gether the complaint, the warrant or order of commitment, if any,
 3 under which the defendant was brought before him, the minutes of
 4 the examination, including all depositions used, and annex thereto his
 5 certificate, which must set forth, in substance, the time and place of
 6 examination, and that the minutes thereof are true, which certificate
 7 must be officially signed by the magistrate.

[C., '51, §§ 2869, 2870; R., '60, § 4594; C., '73, § 4242; C., '97,
 § 5228.]

SEC. 9183. Discharge—indorsement on minutes.

1 If after hearing the testimony it appears to the magistrate that a
 2 public offense has not been committed, or that there is no sufficient
 3 reason for believing the defendant guilty thereof, he must order him
 4 discharged, and such order must be indorsed on the minutes of the
 5 examination or annexed thereto and signed by the magistrate, to the
 6 following effect: "There being no sufficient cause for believing the
 7 defendant guilty of the offense herein mentioned, I order him to be
 8 discharged."

[C., '51, § 2871; R., '60, § 4595; C., '73, § 4243; C., '97,
 § 5229.]

SEC. 9184. Commitment—indorsement on minutes.

1 If it appears from the examination that a public offense, triable
 2 on indictment, has been committed, and there is sufficient reason for
 3 believing the defendant guilty thereof, the magistrate shall in like
 4 manner indorse on or annex to the minutes of the examination an
 5 order signed by him to the following effect: "It appearing to me by
 6 the within minutes that an offense, triable on indictment (stating
 7 generally the nature thereof), has been committed, and that there is
 8 sufficient cause for believing the defendant guilty thereof, I order
 9 that he be held to answer the same." The order shall either state,
 10 "and I have admitted him to bail to answer thereto by the bail bond
 11 hereto annexed"; or, if bail is not given, "and that he be committed to
 12 the county jail until he give bail in the sum ofdollars
 13 (naming it)"; but if the offense is not bailable, the order of commit-
 14 ment shall state, "without bail."

[C., '51, §§ 2872-2874; R., '60, §§ 4596, 4598, 4599; C., '73,
 §§ 4244-4246; C., '97, § 5230.]

SEC. 9185. Warrant of commitment.

1 If the magistrate order the defendant to be committed, he shall
 2 make out a warrant of commitment, officially signed, and deliver it,

3 with the defendant, to the officer to whom he is committed; or, if the
 4 officer be not present, to a peace officer, who shall deliver the defendant
 5 into the proper custody, together with the warrant of commitment,
 6 which may be in the following form:

7 The State of Iowa,
 8 To the Sheriff of.....County:

9 An order having been this day made by me that A..... B.....
 10 (the name of the defendant) be held to answer upon a charge of
 11 (state the offense), you are commanded to receive him into your cus-
 12 tody and detain him in the jail of the county until he be legally dis-
 13 charged.

14 Dated at.....this.....day of....., A. D.
 15 G..... H..... (with official title).

[C., '51, § 2875; R., '60, § 4600; C., '73, § 4247; C., '97,
 § 5231.]

SEC. 9186. Witnesses bound.

1 On holding the defendant to answer, the magistrate may take
 2 from each material witness examined by him on the part of the state
 3 a written undertaking, to the effect that he will appear and testify at
 4 the court to which the defendant is bound to answer, when required
 5 in the further progress of the cause, and that he will not evade or
 6 attempt to evade the service of a subpoena, or will forfeit the sum of
 7 one hundred dollars.

[C., '51, § 2876; R., '60, § 4601; C., '73, § 4248; C., '97,
 § 5232.]

SEC. 9187. Security for appearance of witnesses.

1 When the magistrate is satisfied by oath or otherwise that there
 2 is reason to believe any witness will not fulfill his undertaking and
 3 appear and testify unless surety be required, he may order the witness
 4 to enter into a written undertaking, with sureties, in such sum as he
 5 may deem proper for his appearance.

[C., '51, § 2877; R., '60, § 4602; C., '73, § 4249; C., '97,
 § 5233.]

SEC. 9188. Minors and married women may be bound.

1 Minors and married women who are material witnesses against
 2 the defendant may in like manner be required to procure sureties for
 3 their appearance as provided in the preceding section.

[C., '51, § 2878; R., '60, § 4603; C., '73, § 4250; C., '97,
 § 5234.]

SEC. 9189. Refusing to enter undertaking—witness committed.

1 If a witness required to enter into an undertaking to appear and
 2 testify, either with or without sureties, refuse compliance with the
 3 order for the purpose, the magistrate must commit him until he com-
 4 ply or be legally discharged.

[C., '51, § 2879; R., '60, § 4604; C., '73, § 4251; C., '97,
 § 5235.]

SEC. 9190. Return to district court after examination.

1 When a magistrate has discharged a defendant, or held him to
 2 answer an indictment, he must return to the district court of the

3 county, on or before its opening, on the first day of the next term
4 thereof, and as soon after the closing of the examination as prac-
5 ticable, all the papers filed in the proceeding, including therewith the
6 minutes of the evidence, together with the undertaking of bail for the
7 appearance of the defendant, and the undertakings of the witnesses
8 or for them, taken by him.

[C., '51, § 2880; R., '60, § 4605; C., '73, § 4252; C., '97,
§ 5236.]

SEC. 9191. In case not triable on indictment—information.

1 If it appear from the examination that a public offense has been
2 committed which is not triable on indictment, but on information only,
3 and there is sufficient reason for believing the defendant guilty thereof,
4 the magistrate shall retain all the papers, and forthwith order an
5 information to be filed against the defendant, before him.

[R., '60, § 4607; C., '73, § 4253; C., '97, § 5237.]

SEC. 9192. Lack of jurisdiction—trial transferred.

1 If he have not jurisdiction to try and determine the same, he
2 shall indorse on or annex to the minutes of the examination an order,
3 signed by him, to the following effect: "It appearing to me by the
4 within minutes that the offense of (here state its name or nature
5 generally) has been committed and that there is sufficient reason for
6 believing the defendant guilty thereof, I order that an information be
7 filed against him therefor before (here name some magistrate who is
8 the nearest and most accessible in the same county, giving the name
9 of office), and that the defendant be committed to any peace officer to
10 be taken before such magistrate."

[R., '60, § 4607; C., '73, § 4253; C., '97, § 5237.]

SEC. 9193. Witnesses bound—papers transferred.

1 The magistrate shall thereupon cause each material witness on
2 the part of the state to enter into a written undertaking, to the effect
3 that he will appear forthwith before the magistrate before whom the
4 defendant is to be taken, or he will forfeit the sum of fifty dollars,
5 and deliver the undertaking, with all the other papers, to a peace
6 officer, who shall forthwith take the defendant before such magistrate,
7 and deliver all the papers with the undertakings of the witnesses to
8 the magistrate directed in the order, and make his return thereto, and
9 sign the same with his name of office, and the magistrate before whom
10 he is taken shall thereupon proceed accordingly.

[R., '60, § 4607; C., '73, § 4253; C., '97, § 5237.]

SEC. 9194. Liability of informant—costs.

1 When the defendant is discharged, the justice shall, if he is sat-
2 isfied that the prosecution is malicious or without probable cause; or
3 if the person commencing the prosecution by filing the information
4 fail to appear by himself, agent or attorney to prosecute the same or
5 give evidence, and the accused is discharged by reason thereof, the
6 magistrate in his discretion may tax the costs and render a judgment
7 therefor against such person, subject to the right of appeal therefrom
8 in the manner provided for appeals by prosecuting witnesses in cases
9 of acquittal upon trial.

[C., '73, § 4254; C., '97, § 5238.]

SEC. 9195. Evidence may be taken in writing.

1 On the demand of the county attorney, the magistrate shall take
 2 the evidence in writing of the state's witnesses, notwithstanding he
 3 has permitted the defendant to waive the preliminary examination.
 [C., '97, § 5239.]

CHAPTER 12.
TRIAL OF NONINDICTABLE OFFENSES.**SECTION 9196. Jurisdiction of nonindictable offenses.**

1 Justices of the peace have jurisdiction of, and must hear, try and
 2 determine all public offenses, less than felony, committed within their
 3 respective counties, in which the punishment prescribed by law does
 4 not exceed a fine of one hundred dollars or imprisonment thirty days.
 [C., '51, § 3322; R., '60, § 5055; C., '73, § 4660; C., '97,
 § 5575.]

SEC. 9197. Manner of commencing—information.

1 Criminal actions for the commission of a public offense must be
 2 commenced before a justice of the peace by an information, subscribed
 3 and sworn to, and filed with the justice.
 [C., '51, § 3323; R., '60, § 5056; C., '73, § 4661; C., '97,
 § 5576.]

SEC. 9198. Contents of information.

1 Such information must contain:
 2 1. The name of the county and of the justice where the informa-
 3 tion is filed.
 4 2. The names of the parties, if the defendants be known, and if
 5 not, then such names as may be given them by the complainant.
 6 3. A statement of the acts constituting the offense, in ordinary
 7 and concise language, and the time and place of the commission of
 8 the offense, as near as may be.
 [C., '51, § 3324; R., '60, § 5057; C., '73, § 4662; C., '97,
 § 5577.]

SEC. 9199. Form of information.

1 The information may be substantially in the following form:
 2 -----County:
 3 The State of Iowa } Before justice ----- (here insert the name
 4 against } of the justice).
 5 A----- B-----, defendant.
 6 The defendant is accused of the crime (here name the offense).
 7 For that the defendant, on the ----- day of -----, A. D.
 8 -----, at the (here name the city, town or township), in the
 9 county aforesaid (here state the act or omission constituting the
 10 offense as in an indictment).
 [C., '51, § 3325; R., '60, § 5058; C., '73, § 4663; C., '97,
 § 5578.]

SEC. 9200. Filing of information.

1 The justice must file such information and mark thereon the
2 time of filing the same.

[C., '51, § 3326; R., '60, § 5059; C., '73, § 4664; C., '97,
§ 5579.]

SEC. 9201. Issuance of warrant of arrest.

1 Immediately upon the filing of such information, the justice may,
2 in his discretion, issue a warrant for the arrest of the defendant,
3 directed in the same manner as a warrant of arrest upon a preliminary
4 information, which may be served in like manner.

[C., '51, § 3327; R., '60, § 5060; C., '73, § 4665; C., '97,
§ 5580.]

SEC. 9202. Service of warrant—actions against corporations.

1 The officer who receives the warrant must serve the same by
2 arresting the defendant, if in his power, and bringing him without
3 unnecessary delay before the justice who issued the same. If defend-
4 ant is a corporation, it may be proceeded against upon notice as in
5 case of indictment.

[C., '51, § 3328; R., '60, § 5061; C., '73, § 4666; C., '97,
§ 5581.]

SEC. 9203. Appearance of defendant—wrong name.

1 When the defendant is brought before the justice, the charge
2 against him must be distinctly read to him, and he shall be asked
3 whether he is presented by his right name, and be required to plead.
4 If he objects that he is wrongly named in the information, he must
5 give his right name, and if he refuses to do so, or does not object that
6 he is wrongly named, the justice shall make an entry thereof in his
7 docket, and he is thereafter precluded from making any such objection.

[C., '51, § 3329; R., '60, § 5062; C., '73, § 4667; C., '97,
§ 5582.]

SEC. 9204. Pleadings of defendant.

1 The defendant may plead the same as upon an indictment, orally
2 or in writing, and such pleas shall be entered on the docket of the
3 justice.

[C., '51, § 3330; R., '60, § 5063; C., '73, § 4668; C., '97,
§ 5583.]

SEC. 9205. Trial.

1 Upon a plea other than that of guilty, if the defendant does not
2 demand a trial by jury, the justice must proceed to try the issue,
3 unless a change of venue be applied for by the defendant.

[C., '51, § 3331; R., '60, § 5064; C., '73, § 4669; C., '97,
§ 5584.]

SEC. 9206. Change of venue—affidavit.

1 Before any testimony is heard, a change of place of trial may be
2 applied for by an affidavit filed, stating that the justice is prejudiced
3 against the defendant, or is of near relation to the prosecutor upon
4 the charge or the party injured or interested, or is a material witness

5 for either party, or that the defendant can not obtain justice before
6 him, as the affiant verily believes.

[R., '60, § 5065; C., '73, § 4670; C., '97, § 5585.]

SEC. 9207. Change allowed—transmission of papers.

1 If such affidavit be filed, the change of place of trial must be
2 allowed, and the justice must immediately transmit all the original
3 papers, and a transcript of all his docket entries in the case, to the
4 next nearest justice in the township, unless said justice be a party to
5 the action, or is related to either party by consanguinity or affinity
6 within the fourth degree, or where he has been attorney for either
7 party in the action or proceeding, and in such case the justice before
8 whom such action or proceeding is commenced shall transmit all the
9 original papers, together with a transcript of all his docket entries,
10 to the next nearest justice in the county against whom none of the
11 above objections exist, who shall proceed with the case as provided in
12 this chapter, but no more than one change of place of trial in the
13 same case shall be allowed.

[R., '60, § 5066; C., '73, § 4671; C., '97, § 5586.]

SEC. 9208. Jury trial—defendant entitled to.

1 Before the justice has heard any testimony upon the trial, the
2 defendant may demand a jury.

[C., '51, § 3332; R., '60, § 5067; C., '73, § 4672; C., '97,
§ 5587.]

SEC. 9209. Jury—how obtained.

1 If a trial by jury is demanded, the justice shall direct any peace
2 officer of the county to make out a list of eighteen inhabitants of the
3 county having the qualifications of jurors in the district court, from
4 which list the prosecutor and defendant may each strike out three
5 names.

[C., '51, § 3333; R., '60, § 5068; C., '73, § 4673; C., '97,
§ 5588.]

SEC. 9210. Striking names by justice—issue of venire.

1 In case the prosecutor or the defendant neglect or refuse to strike
2 out such names, the justice shall direct some disinterested person to
3 strike them out for either of the parties so neglecting or refusing,
4 and, it being done, he must issue a venire, directed to any peace officer
5 of the county, requiring him to summon the twelve persons whose
6 names remain upon the list to appear before him at the time and
7 place named therein, to make a jury for the trial of the cause.

[C., '51, § 3334; R., '60, § 5069; C., '73, § 4674; C., '97,
§ 5589.]

SEC. 9211. Jurors summoned.

1 The officer to whom such venire is delivered must forthwith
2 summon such jurors, and return the venire to the justice within the
3 time therein specified, naming the persons summoned and the man-
4 ner of service.

[C., '51, § 3335; R., '60, § 5070; C., '73, § 4675; C., '97,
§ 5590.]

SEC. 9212. Failure to return—new venire.

1 If the officer by whom the venire is received does not return it
 2 as required, he may be punished by the justice as for contempt, and
 3 a new venire shall issue for the summoning of the same jurors, which
 4 shall be served as above provided.

[C., '51, § 3340; R., '60, § 5075; C., '73, § 4680; C., '97,
 § 5591.]

SEC. 9213. Names of jurors for drawings.

1 The names of the persons returned as jurors shall be written on
 2 separate ballots, folded each in the same manner as nearly as possible,
 3 and so that the name is not visible, and shall, under the direction of
 4 the justice, be deposited in a box or other convenient thing.

[C., '51, § 3336; R., '60, § 5071; C., '73, § 4676; C., '97,
 § 5592.]

SEC. 9214. Drawing jurors.

1 The justice must then draw out six of the ballots successively,
 2 and if any of the persons whose names are drawn do not appear, or
 3 are challenged, or are set aside, such further number must be drawn
 4 as will make a jury of six, after all challenges have been allowed.

[C., '51, § 3337; R., '60, § 5072; C., '73, § 4677; C., '97,
 § 5593.]

SEC. 9215. Challenges—to individual juror.

1 The same challenges may be taken by either party to any individ-
 2 ual juror as on the trial of an indictment for a misdemeanor, but no
 3 challenge to the panel is allowed.

[C., '51, § 3338; R., '60, § 5073; C., '73, § 4678; C., '97,
 § 5594.]

SEC. 9216. Talesmen—bystanders summoned.

1 If any of the jurors named in the venire can not be found, or do
 2 not attend, or are challenged by either party, so that a sufficient num-
 3 ber can not be obtained, the justice may direct the officer to summon
 4 any bystander or others who may be competent, and against whom no
 5 sufficient cause of challenge appears, to act as jurors.

[C., '51, § 3339; R., '60, § 5074; C., '73, § 4679; C., '97,
 § 5595.]

SEC. 9217. Jury of six.

1 When six jurors appear and are accepted, they shall constitute
 2 the jury.

[C., '51, § 3341; R., '60, § 5076; C., '73, § 4681; C., '97,
 § 5596.]

SEC. 9218. Oath of jurors.

1 The justice must thereupon administer to them the following
 2 oath or affirmation: "You do swear (or, do you solemnly affirm, as
 3 the case may be) that you will well and truly try the issue between
 4 the state of Iowa and the defendant, and a true verdict give according
 5 to the law and evidence."

[C., '51, § 3342; R., '60, § 5077; C., '73, § 4682; C., '97,
 § 5597.]

SEC. 9219. Proceedings before jury.

1 After the jurors are sworn, they must sit together and hear the
2 proofs and allegations of the parties, which must be delivered in pub-
3 lic. After which, they may either decide in court or retire for con-
4 sideration.

[C., '51, § 3343; R., '60, § 5078; C., '73, § 4683; C., '97,
§ 5598.]

SEC. 9220. Retirement for consideration—oath.

1 If they do not immediately agree, they must retire with the offi-
2 cer, who shall take the following oath: "You do swear that you will
3 keep the jury together in some private and convenient place, without
4 food or drink, water excepted, unless otherwise ordered by the court;
5 that you will not permit any person to speak to them, nor speak to
6 them yourself, unless it be to ask them if they have agreed upon a
7 verdict, and that you will return them into court when they have so
8 agreed."

[C., '51, § 3344; R., '60, § 5079; C., '73, § 4684; C., '97,
§ 5599.]

SEC. 9221. Verdict.

1 When the jury have agreed upon a verdict, they must deliver it
2 publicly to the justice, who shall enter it on his docket.

[C., '51, § 3345; R., '60, § 5080; C., '73, § 4685; C., '97,
§ 5600.]

SEC. 9222. Jury kept together after submission.

1 The jury must be kept together after the cause is submitted to
2 them until they have agreed upon and rendered a verdict, unless, for
3 good cause, the justice sooner discharge them.

[C., '51, § 3346; R., '60, § 5081; C., '73, § 4686; C., '97,
§ 5601.]

SEC. 9223. Jury discharged.

1 If the jury is discharged as provided in the last section, the jus-
2 tice may proceed again to the trial in the same manner as upon the
3 first, and so on till a verdict is rendered.

[C., '51, § 3347; R., '60, § 5082; C., '73, § 4687; C., '97,
§ 5602.]

SEC. 9224. Judgment.

1 When the defendant pleads guilty or is convicted, either by the
2 justice or by a jury, the justice shall render judgment thereon of fine
3 or imprisonment, as the case may require, being governed by the rules
4 prescribed for the district court, as far as the same are applicable, in
5 rendering such judgment.

[C., '51, § 3348; R., '60, § 5083; C., '73, § 4688; C., '97,
§ 5603.]

SEC. 9225. Imprisonment for nonpayment of fine.

1 A judgment that the defendant pay a fine may also direct that
2 he be imprisoned until the fine is satisfied.

[C., '51, § 3349; R., '60, § 5084; C., '73, § 4689; C., '97,
§ 5604.]

SEC. 9226. Defendant discharged.

1 When the defendant is acquitted, either by the justice or by a
 2 jury, he must be immediately discharged.
 [C., '51, § 3350; R., '60, § 5085; C., '73, § 4690; C., '97,
 § 5605.]

SEC. 9227. Costs taxed to prosecutor.

1 If the prosecuting witness fails to appear by himself, agent or
 2 attorney to prosecute or give evidence on the trial, and defendant is
 3 discharged on account of such nonappearance, the justice may, in his
 4 discretion, tax the costs of the proceeding against such prosecuting
 5 witness and render judgment therefor; and if defendant is acquitted,
 6 the justice shall, if satisfied that the prosecution is malicious or with-
 7 out probable cause, so tax the costs and render judgment therefor.
 [R., '60, § 5086; C., '73, § 4691; C., '97, § 5606.]

SEC. 9228. Appeal.

1 In either case the prosecuting witness may appeal from such judg-
 2 ment to the district court, by giving notice thereof as provided in this
 3 chapter with reference to appeals by defendant, and the fact of the
 4 giving of such notice shall be entered by the justice on his record.
 [C., '73, § 4691; C., '97, § 5606.]

SEC. 9229. Transcript of record.

1 If notice of an appeal is given, the justice shall, without delay,
 2 make out, sign and file in the office of the clerk of the district court a
 3 full and true statement of all the testimony admitted on the trial, and
 4 on which he bases his finding that the prosecution was malicious or
 5 without probable cause, and a transcript of his docket entries, and
 6 all other papers on file in the case, and such appeal shall stand for
 7 hearing in said court at the term thereof commencing next after said
 8 papers are filed.
 [C., '73, § 4691; C., '97, § 5606.]

SEC. 9230. Correction of record.

1 The court shall have full power to compel the correction by said
 2 justice of any error made apparent in his transcript, statement of
 3 testimony, or in any papers returned by him, or may make the neces-
 4 sary correction itself, and, on the papers, may affirm or reverse the
 5 judgment of the justice, or render such judgment as he should have
 6 done.
 [C., '73, § 4691; C., '97, § 5606.]

SEC. 9231. Certificate of conviction.

1 When a conviction is had upon a plea of guilty, or upon trial, the
 2 justice must make and officially sign a certificate thereof, in which it
 3 shall be sufficient briefly to state the offense charged, the conviction
 4 and judgment thereon, and, if any fine has been collected, the amount
 5 thereof.
 [C., '51, § 3351; R., '60, § 5087; C., '73, § 4692; C., '97,
 § 5607.]

SEC. 9232. Judgment—how executed.

1 The judgment shall be executed by a peace officer of the county
 2 where the conviction is had, by virtue of a warrant under the hand
 3 of the justice, specifying the particulars of such judgment.

[C., '51, § 3354; R., '60, § 5090; C., '73, § 4693; C., '97,
 § 5608.]

SEC. 9233. Fine—payment to justice.

1 If a fine is imposed, and paid before commitment, it shall be re-
 2 ceived by the justice and paid over to the county treasurer within
 3 thirty days after the receipt thereof.

[C., '51, § 3355; R., '60, § 5091; C., '73, § 4694; C., '97,
 § 5609.]

SEC. 9234. Payment to sheriff.

1 If the defendant be committed for not paying a fine, he may pay
 2 it to the sheriff of the county, but to no other person, who must in
 3 like manner, within thirty days after the receipt thereof, pay it into
 4 the county treasury.

[C., '51, § 3356; R., '60, § 5092; C., '73, § 4695; C., '97,
 § 5610.]

SEC. 9235. Receipt for fine.

1 If the fine, or any part thereof, is paid to the justice or sheriff,
 2 he must execute duplicate receipts therefor, one of which he must file
 3 without delay with the county auditor.

[C., '51, § 3357; R., '60, § 5093; C., '73, § 4696; C., '97,
 § 5611.]

SEC. 9236. Appeal—how taken.

1 The justice rendering a judgment against the defendant must
 2 inform him of his right to an appeal therefrom, and make an entry
 3 on the docket of the giving of such information, and the defendant
 4 may thereupon take an appeal, by giving notice orally to the justice
 5 that he appeals, or by delivering to the justice, not later than twenty
 6 days thereafter, a written notice of his appeal, and in either case the
 7 justice must make an entry on his docket of the giving of such notice.

[C., '51, § 3358; R., '60, § 5095; C., '73, § 4697; C., '97,
 § 5612.]

SEC. 9237. Bail on appeal—form of bond.

1 The justice must thereupon enter an order on his docket, fixing
 2 the amount in which bail may be given by the defendant, and the
 3 execution of the judgment against the defendant shall not be stayed
 4 unless bail in that amount be put in, by an undertaking substantially
 5 in the following form:

6 County of.....:
 7 A..... B..... having been convicted before C..... D.....,
 8 a justice of the peace of said county, of the crime of (here designate
 9 it generally as in the information), by a judgment rendered on the
 10day of....., A. D., and having appealed from said judg-
 11 ment to the district court of said county:

12 We, A..... B....., and E..... F....., hereby undertake
 13 that the said A..... B..... will appear in the district court of
 14 said county, at the term thereof to which the appeal is returnable,
 15 and submit to the judgment of said court, and not depart without
 16 leave of the same, or that we (or I, as the case may be) will pay to the
 17 state of Iowa the sum of.....dollars (the amount of bail fixed).

18 A..... B.....
 19 E..... F.....

20 Accepted by me, at....., in the township of.....,
 21 this.....day of....., A. D.

22 C..... D.....
 23 Justice of the peace.

[C., '51, § 3359; R., '60, § 5096; C., '73, § 4698; C., '97,
 § 5613.]

SEC. 9238. Qualification of surety.

1 The bail must possess the qualifications, justify and be taken in
 2 the manner prescribed in the chapter upon bail, and the same proceed-
 3 ings had in all respects, as far as applicable, except as in this chapter
 4 otherwise provided.

[R., '60, § 5097; C., '73, § 4699; C., '97, § 5614.]

SEC. 9239. Officers authorized to take bail.

1 Bail may be taken by the justice who rendered the judgment, or
 2 by any magistrate in the county who has authority to admit to bail,
 3 or by the district court or the clerk thereof.

[R., '60, § 5098; C., '73, § 4700; C., '97, § 5615.]

SEC. 9240. Witnesses bound over.

1 When an appeal is taken, the justice must cause all material wit-
 2 nesses to enter into an undertaking, as in a case where a defendant
 3 is held to answer on a preliminary examination, to appear and testify
 4 on the trial of the appeal in the district court, at the term at which it
 5 is returnable, and shall, as soon as practicable, and at least ten days
 6 before the first day of such term of the district court of the county,
 7 file in the office of the clerk thereof a certified copy of the entries on
 8 his docket, together with all the undertakings and papers in the case.

[C., '51, § 3360; R., '60, § 5099; C., '73, § 4701; C., '97,
 § 5616.]

SEC. 9241. Trial on appeal—procedure.

1 The cause shall stand for trial anew in the district court in the
 2 same manner that it should have been tried before the justice, and
 3 as nearly as practicable as an issue of fact upon an indictment, with-
 4 out regard to technical errors or defects which have not prejudiced
 5 the substantial rights of either party; and the court has full power
 6 over the case, the justice of the peace, his docket entries and his re-
 7 turn, to administer the justice of the case according to the law, and
 8 shall give judgment accordingly.

[C., '51, §§ 3661-3664; R., '60, § 5100; C., '73, § 4702; C., '97,
 § 5617.]

SEC. 9242. Dismissal of appeals prohibited.

1 No appeal from the judgment of a justice of the peace in a crim-
2 inal case shall be dismissed.

[R., '60, § 5101; C., '73, § 4703; C., '97, § 5618.]

SEC. 9243. Judgment—enforcement.

1 If any proceedings are necessary to carry the judgment upon
2 the appeal into effect, they shall be had in the district court.

[R., '60, § 5102; C., '73, § 4704; C., '97, § 5619.]

SEC. 9244. Appeal to supreme court—procedure.

1 Either party may appeal from the judgment of the district court
2 to the supreme court in the same manner as from a judgment in a
3 prosecution by indictment, and the defendant may be admitted to
4 bail in like manner, and similar proceedings shall be had on the ap-
5 peal in all respects, as far as applicable.

[C., '51, § 3366; R., '60, § 5103; C., '73, § 4705; C., '97,
§ 5620.]

SEC. 9245. Judgment upon appeal—execution.

1 The same proceedings shall be had to carry into effect the judg-
2 ment of the supreme court upon the appeal as if it had been taken
3 from a judgment prosecuted by indictment.

[C., '51, § 3367; R., '60, § 5104; C., '73, § 4706; C., '97,
§ 5621.]

CHAPTER 13.**BAIL.****SECTION 9246. Bailable offenses.**

1 All defendants are bailable both before and after conviction, by
2 sufficient surety, except for offenses punishable with death under the
3 laws of the state when the proof is evident or the presumption great.
4 No defendant convicted of murder in the first degree, or of the crime
5 of treason shall be admitted to bail.

[C., '51, § 2565; R., '60, § 4188; C., '73, §§ 3845, 4107; C., '97,
§ 5096; S., '13, § 5096.]

SEC. 9247. Bail on commitment.

1 When a defendant has been held to answer for any bailable of-
2 fense, sufficient bail must be taken by the magistrate who held him
3 to answer, by any judge of the supreme or district court, or by the
4 court to which the papers on the preliminary examination are to be
5 returned by the magistrate who held him to answer, or by the clerk
6 thereof, or by any magistrate of the county in which the offense is
7 triable.

[C., '51, §§ 3216-3218; R., '60, § 4967; C., '73, § 4573; C., '97,
§ 5500.]

SEC. 9248. Form of bail bond.

1 Bail is put in by a written undertaking, executed by one or more
 2 sufficient securities (with or without the defendant, in the discretion
 3 of the court, clerk or magistrate), accepted by the court, clerk or
 4 magistrate taking the same, and may be substantially in the following
 5 form:

6 County of _____
 7 An order having been made on the _____ day of _____, A. D.
 8 _____, by A. _____ B. _____, a justice of the peace (or other magis-
 9 trate), of the township of _____, (or as the case may be) that
 10 C. _____ D. _____ be held to answer upon a charge of (stating briefly
 11 the nature of the offense), upon which he has been duly admitted to
 12 bail, in the sum of _____ dollars.

13 We, E. _____ F. _____ and G. _____ H. _____, hereby undertake
 14 that the said C. _____ D. _____, shall appear at the district court of
 15 the county of _____, at the next term thereof, and answer said
 16 charge, and submit to the orders and judgment of said court, and not
 17 depart without leave of the same, or, if he fail to perform either of
 18 these conditions, that we will pay to the state of Iowa the sum of
 19 _____ dollars (inserting the sum in which the defendant is ad-
 20 mitted to bail).

21 _____ E. _____ F. _____
 22 _____ G. _____ H. _____
 23 Accepted by me as _____, in the township of _____, in the county
 24 of _____, this _____ day of _____, A. D. _____
 25 _____ I. _____ J. _____ (with official title).

[C., '51, § 3219; R., '60, § 4968; C., '73, § 4574; C., '97,
 § 5501.]

SEC. 9249. Bail on indictment for misdemeanor.

1 When the offense charged in an indictment is a misdemeanor, the
 2 officer serving the warrant, if bail is authorized, must take the de-
 3 fendant before a magistrate in the county in which it was issued, or in
 4 which he is arrested, or before the clerk of the district court of either
 5 of such counties, for the purpose of giving bail.

[C., '51, § 3227; R., '60, § 4976; C., '73, § 4582; C., '97,
 § 5502.]

SEC. 9250. Delivery of prisoner in case of felony.

1 If the offense charged in the indictment be a felony, the officer
 2 arresting the defendant must deliver him into custody according to
 3 the command of the warrant.

[C., '51, § 3228; R., '60, § 4977; C., '73, § 4583; C., '97,
 § 5503.]

SEC. 9251. Officers required to take bail.

1 When the defendant is so delivered into custody, if the felony
 2 charged be bailable, bail must be taken by that court, or its clerk, or
 3 by any magistrate in the same county.

[C., '51, § 3229; R., '60, § 4978; C., '73, § 4584; C., '97,
 § 5504.]

SEC. 9252. Form of bail bond.

1 The bail must be put in by a written undertaking, executed by
 2 one sufficient surety, with or without the defendant, in the discretion
 3 of the court, clerk or magistrate, acknowledged before and accepted
 4 by the court, clerk or magistrate taking the same, and may be sub-
 5 stantially in the following form:

6 County of.....

7 An indictment having been found in the district court of the
 8 county of, on the day of, A. D., charg-
 9 ing A..... B..... with the crime of (designating it as in the war-
 10 rant), and he having been duly admitted to bail in the sum of
 11 dollars:

12 We, A..... B..... and C..... D....., hereby undertake
 13 that the said A..... B..... shall appear and answer the said in-
 14 dictment, and submit to the orders and judgment of said court, and
 15 not depart without leave of the same, or, if he fail to perform either
 16 of these conditions, that he will pay to the state of Iowa the sum of
 17dollars (inserting the sum in which the defendant is admitted
 18 to bail).

19 A..... B.....
 20 C..... D.....
 21 E..... F.....

22 Acknowledged before and accepted by me, at, in the
 23 township of, in the county of, this day
 24 of, A. D.

25 G..... H..... (with official title).

[R., '60, § 4979; C., '73, § 4585; C., '97, § 5505.]

SEC. 9253. Bail on appeal.

1 After conviction, upon an appeal to the supreme court, the de-
 2 fendant must be admitted to bail, if it be from a judgment imposing
 3 a fine, upon the undertaking of bail that he will, in all respects, abide
 4 the orders and the judgment of the supreme court upon the appeal;
 5 if from a judgment of imprisonment, upon the undertaking of bail
 6 that the defendant will surrender himself in execution of the judg-
 7 ment and direction of the supreme court, and in all respects abide the
 8 orders and judgment of the supreme court upon the appeal. The bail
 9 may be taken, either by the court where the judgment was rendered,
 10 or the district court of the county in which he is imprisoned, or by
 11 the supreme court, or a judge or clerk of any of such courts.

[R., '60, §§ 4966, 4981; C., '73, § 4587; C., '97, § 5506.]

SEC. 9254. Qualifications of surety.

1 The surety must be a resident and householder or freeholder
 2 within the state, worth the amount specified in the undertaking, ex-
 3 clusive of property exempt from execution; but in taking bail each
 4 signer may justify severally in amounts less than that expressed in
 5 the undertaking, if the whole justification be equivalent to one suffi-
 6 cient bail.

[C., '51, § 3220; R., '60, § 4969; C., '73, § 4575; C., '97,
 § 5507.]

SEC. 9255. Justification by surety.

1 The surety must in all cases justify by affidavit taken before an
2 officer authorized to administer oaths, and the affidavit must state that
3 each possesses the qualifications prescribed in the last section.

[C., '51, § 3221; R., '60, § 4970; C., '73, § 4576; C., '97,
§ 5508.]

SEC. 9256. Examination as to sufficiency.

1 The court in which the action is pending, or the clerk thereof,
2 or the county attorney or magistrate may require the personal ap-
3 pearance of sureties offered, and may thereupon further examine them
4 upon oath concerning their sufficiency, and may also receive other
5 evidence for or against the sufficiency of the bail.

[C., '51, §§ 3222, 3223; R., '60, §§ 4971, 4972; C., '73, §§ 4577,
4578; C., '97, § 5509.]

SEC. 9257. Order of allowance.

1 When the examination is closed the court, clerk or magistrate
2 must make an order, either allowing or disallowing the bail, and forth-
3 with cause the same, with the affidavits of justification and the under-
4 taking of bail, to be filed with the clerk of the court to which the papers
5 on the preliminary examination are required to be sent.

[C., '51, § 3224; R., '60, § 4973; C., '73, § 4579; C., '97,
§ 5510.]

SEC. 9258. Discharge of defendant.

1 Upon the allowance of bail and the execution of the undertaking,
2 the court, clerk or magistrate must make an order, signed officially,
3 for the discharge of the defendant, to the following effect:

4 The State of Iowa,

5 To the sheriff of the county of _____:

6 C..... D....., who is detained by you on commitment (or
7 indictment or conviction, as the case may be) for the offense of (here
8 designate it generally), having given sufficient bail to answer the
9 same, you are commanded forthwith to discharge him from custody.

10 Dated at _____, in the township (town or city) of _____,
11 in the county of _____, this _____ day of _____, A. D. _____

12 K..... L..... (with official title).

[C., '51, § 3225; R., '60, § 4974; C., '73, § 4580; C., '97,
§ 5511.]

SEC. 9259. Disallowance.

1 If the bail be disallowed, the defendant must be detained in cus-
2 tody until other bail is put in and justified.

[C., '51, § 3226; R., '60, § 4975; C., '73, § 4581; C., '97,
§ 5512.]

CHAPTER 14.

UNDERTAKINGS OF BAIL AS LIENS.

SECTION 9260. Undertakings of bail lien on real estate.

1 Undertakings of bail, immediately after filing by the clerk of the
 2 district court, shall be docketed and entered upon the lien index as
 3 required for judgments in civil cases, and, from the time of such en-
 4 tries, shall be liens upon real estate of the persons executing the same,
 5 with like effect as judgments in civil actions.

[R., '60, §§ 5000, 5001; C., '73, §§ 4606, 4607; C., '97, § 5513.]

SEC. 9261. Attested copies filed in proper counties.

1 Attested copies of such undertakings may be filed in the office of
 2 the clerk of the district court of the county in which the real estate
 3 is situated, in the same manner and with like effect as attested copies
 4 of judgments, and shall be immediately docketed and indexed in the
 5 same manner.

[R., '60, § 5002; C., '73, § 4608; C., '97, § 5514.]

CHAPTER 15.

CASH BAIL.

SECTION 9262. Deposit of cash in lieu of bail.

1 The defendant, at any time after an order admitting him to bail,
 2 instead of giving bail, may deposit with the clerk of the district court
 3 to which the undertaking is required to be sent the sum mentioned
 4 in the order, and, upon delivering to the officer in whose custody he
 5 is, a certificate under seal from said clerk of the deposit, he must be
 6 discharged from custody.

[C., '51, § 3232; R., '60, § 4983; C., '73, § 4589; C., '97,
 § 5524.]

SEC. 9263. Cash substituted for bail.

1 If the defendant has given bail, he may, at any time before the
 2 forfeiture of the undertaking, in like manner deposit the sum men-
 3 tioned in the undertaking, and, upon the deposit being made, the bail
 4 shall be exonerated.

[C., '51, § 3233; R., '60, § 4984; C., '73, § 4590; C., '97,
 § 5525.]

SEC. 9264. Bail substituted for cash.

1 If money is deposited as provided in the last section, bail may
 2 be given in the same manner as if it had been originally given, upon
 3 the order for admission to bail at any time before the forfeiture of
 4 the deposit. The court or magistrate before whom the bail is taken
 5 shall thereupon direct, in the order of allowance, that the money de-
 6 posited be refunded by the clerk to the defendant, and it shall be done.

[C., '51, § 3234; R., '60, § 4985; C., '73, § 4591; C., '97,
 § 5526.]

SEC. 9265. Disposition of deposited money.

1 When money has been deposited by the defendant, if it remain
 2 on deposit at the time of a judgment against him, the clerk, under the
 3 direction of the court, shall apply the money in satisfaction of so much
 4 of the judgment as requires the payment of money, and shall refund
 5 the surplus, if any, to him, unless an appeal be taken to the supreme
 6 court, and bail put in, in which case the deposit shall be returned to
 7 the defendant.

[C., '51, § 3235; R., '60, § 4986; C., '73, § 4592; C., '97,
 § 5527.]

CHAPTER 16.**RELEASE OF POOR CONVICTS UPON PERSONAL SECURITY.****SECTION 9266. Release on promissory note—schedule of assets.**

1 Except when otherwise provided, when any person convicted of
 2 a criminal offense is sentenced to pay a fine and costs only, and stand
 3 committed until paid, if the sentence be not complied with within
 4 thirty days next following, the sheriff may liberate him from prison,
 5 if committed for no other cause, if he be unable to pay such fine and
 6 costs, upon his giving his promissory note to the treasurer of the
 7 county where he was committed for the amount, due on demand, with
 8 interest, accompanied with a written schedule containing a true ac-
 9 count of all his property of every kind, signed by him and sworn to;
 10 which note and schedule must be by such sheriff delivered without
 11 delay to the treasurer for the use of the county.

[C., '51, § 3268; R., '60, § 5005; C., '73, § 4611; C., '97,
 § 5533.]

SEC. 9267. Making false schedule—penalty.

1 If such convict knowingly and wilfully make any false schedule,
 2 on oath, relating to the amount or nature of his property, he is guilty
 3 of perjury.

[C., '51, § 3269; R., '60, § 5006; C., '73, § 4612; C., '97,
 § 5534.]

CHAPTER 17.**FORFEITURE OF BAIL.****SECTION 9268. Failure to appear—entry of forfeiture.**

1 If the defendant fails to appear for arraignment, trial or judg-
 2 ment, or at any other time when his personal appearance in court is
 3 lawfully required, or to surrender himself in execution of the judg-
 4 ment, the court must direct an entry of such failure to be made on
 5 the record, and the undertaking of his bail, or the money deposited
 6 instead of bail, is thereupon forfeited.

[R., '60, § 4990; C., '73, § 4596; C., '97, § 5515.]

SEC. 9269. Subsequent appearance—discharge of forfeiture.

1 If, before the final adjournment of the court for the term, the
 2 defendant appear and satisfactorily excuse his failure, the court may
 3 direct an entry to be made on the record that the forfeiture of the
 4 undertaking or deposit be discharged.

[R., '60, § 4991; C., '73, § 4597; C., '97, § 5516.]

SEC. 9270. Forfeiture—action by county attorney.

1 If the forfeiture is not discharged, the county attorney may, at
 2 any time after the adjournment of the court for the term, proceed
 3 by civil action upon the undertaking of the bail.

[R., '60, § 4992; C., '73, § 4598; C., '97, § 5517.]

SEC. 9271. Place of bringing action.

1 The action on the undertaking must be in the court in which the
 2 defendant was or would have been required to appear by the under-
 3 taking, and if suit is brought, any recovery thereon shall be paid to
 4 the county in which the defendant was indicted, less the costs of suit;
 5 save, when it requires the appearance of the defendant before a justice
 6 of the peace or a court of limited jurisdiction, or before an examining
 7 magistrate, such court or officer, upon the forfeiture of the undertak-
 8 ing, shall within thirty days file the same, together with a copy of all
 9 his official entries in relation thereto, in the office of the clerk of the
 10 district court of the county; and thereupon it shall be the duty of the
 11 county attorney to proceed to collect the same by a civil action in the
 12 district court of said county, or any other court of said county having
 13 jurisdiction.

[R., '60, § 4993; C., '73, § 4599; C., '97, § 5518; S., '13,
 § 5518.]

SEC. 9272. Surrender of defendant before judgment—entries.

1 The undertaking of bail will in all cases be exonerated, the sure-
 2 ties discharged and, if a judgment has been docketed and lien perfected
 3 as in this chapter provided, the same released and satisfied, if the
 4 defendant is produced in execution of a judgment of imprisonment,
 5 or commitment for a fine, or fine and costs, or if the judgment is for
 6 a fine or fine and costs only, without an order of commitment. When
 7 the bail is exonerated, sureties discharged and lien released, the
 8 clerk must at once enter a satisfaction of the judgment, making a
 9 memorandum of the facts, following the docket entry thereof, and if
 10 judgments have been entered up in other counties, he shall transmit
 11 to the several clerks of such counties a certified copy of such satis-
 12 faction and memorandum, who shall enter the same in the same man-
 13 ner, and from and thereafter such judgment shall be canceled and
 14 satisfied.

[R., '60, § 4994; C., '73, § 4600; C., '97, § 5519.]

CHAPTER 18.**RECOMMITMENT AFTER BAIL.****SECTION 9273. Grounds for recommitment.**

1 The district court in which a criminal action is pending, or during
 2 the pendency of an appeal from its judgment therein, or in which a

3 judgment is to be carried into effect, may, by an order entered on the
 4 record, direct the defendant to be arrested and committed to jail until
 5 legally discharged, after he has given bail, or deposited money instead
 6 thereof, in the following cases:
 7 1. When by reason of his failure to appear he has incurred a for-
 8 feiture of his bail, or money deposited instead thereof.
 9 2. When it satisfactorily appears to the court that his bail, either
 10 by reason of the death of one or more of them, or from any other
 11 cause, is insufficient, or have removed from the state.
 12 3. When, after the filing of an indictment, the court finds the
 13 bail taken by or money deposited with the committing magistrate
 14 insufficient.

[C., '51, § 3243; R., '60, § 4995; C., '73, § 4601; C., '97,
 § 5520.]

SEC. 9274. Contents of order of recommitment.

1 The order for recommitment must recite generally the facts upon
 2 which it is founded, and must direct that the defendant be arrested
 3 and committed to the custody of the sheriff of the county where the
 4 depositions and statement were returned, or the indictment was
 5 found, or the conviction was had, as the case may be, to be detained
 6 until legally discharged.

[C., '51, § 3244; R., '60, § 4996; C., '73, § 4602; C., '97,
 § 5521.]

SEC. 9275. Arrest of defendant.

1 The defendant may be arrested pursuant to the order, upon a
 2 certified copy thereof, in any county in the state.

[C., '51, § 3245; R., '60, § 4997; C., '73, § 4603; C., '97,
 § 5522.]

SEC. 9276. Commitment—in what cases.

1 If the order recite, as the ground on which it is made, the failure
 2 of the defendant to appear for judgment upon conviction, the defend-
 3 ant must be committed according to the requirements of the order; if
 4 made for any other cause and the offense is bailable, the court must
 5 cause a direction to be inserted in the order that the defendant be
 6 admitted to bail, in a sum to be stated in the order.

[C., '51, §§ 3246, 3247; R., '60, §§ 4998, 4999; C., '73,
 §§ 4604, 4605; C., '97, § 5523.]

CHAPTER 19.

SURRENDER OF DEFENDANT.

SECTION 9277. Manner of surrendering defendant.

1 At any time before the forfeiture of their undertaking, the bail
 2 may surrender the defendant in their exoneration, or he may sur-
 3 render himself, to the officer to whose custody he was committed at
 4 the time of giving bail, in the following manner:

5 1. A certified copy of the undertaking of bail must be delivered
6 to the officer, who shall detain the defendant in his custody thereon
7 as upon a commitment, and must, by a certificate in writing, acknowl-
8 edge the surrender.

9 2. Upon the undertaking and the certificate of the officer, the
10 court in which the indictment is pending, or was tried, at the next
11 term after the surrender, or, if during term time, at the same term,
12 and upon three clear days' notice thereof to the county attorney, with
13 a copy of the undertaking and certificate, may order the bail to be
14 exonerated.

[C., '51, § 3236; R., '60, § 4987; C., '73, § 4593; C., '97,
§ 5528.]

SEC. 9278. Arrest of defendants by bail.

1 For the purpose of surrendering the defendant, the bail, at any
2 time before they are finally charged, and at any place within the
3 state, may themselves arrest him, or, by a written authority indorsed
4 on a certified copy of the undertaking, may empower any person of
5 suitable age and discretion to do so.

[C., '51, § 3237; R., '60, § 4988; C., '73, § 4594; C., '97,
§ 5529.]

SEC. 9279. Return of money deposited.

1 If money has been deposited instead of bail, and the defendant,
2 at any time before the forfeiture thereof, shall surrender himself to
3 the officer to whom the commitment was made or directed in the
4 manner prescribed in this chapter, the court in which the indictment
5 is pending, or was tried, at the next term after the surrender, or, if
6 during the term, at the same term, must order a return of the deposit
7 to the defendant, upon producing the certificate of the officer showing
8 the surrender, and upon three clear days' notice to the county attorney,
9 with a copy of the certificate.

[C., '51, § 3238; R., '60, § 4989; C., '73, § 4595; C., '97,
§ 5530.]

CHAPTER 20.

INFORMATION BY COUNTY ATTORNEY.

SECTION 9280. Offenses prosecuted on information—jurisdiction.

1 Criminal offenses in which the punishment exceeds a fine of one
2 hundred dollars or exceeds imprisonment for thirty days may be
3 prosecuted to final judgment, either on indictment, as is now or may
4 be hereafter provided, or on information as herein provided, and the
5 district and supreme court shall possess and exercise the same power
6 and jurisdiction to hear, try and determine prosecutions on informa-
7 tion, as herein provided, for all such criminal offenses, to issue writs
8 and process and do all other acts therein, as they possess and may
9 exercise in cases of like prosecutions upon indictment.

[S., '13, § 5239-a.]

SEC. 9281. Filing by county attorney.

1 Whenever an accused shall have had a preliminary examination
 2 for a criminal offense, or shall have waived the right to such examina-
 3 tion, and in either case been held to the grand jury to answer therefor,
 4 the county attorney of the proper county may, prior to the impaneling
 5 of the next regular grand jury, file in the district court, either in
 6 term time or in vacation, an information under oath, charging said
 7 accused with the offense for which he has been held to the grand
 8 jury, or for any degree or grade thereof, or for any offense included
 9 therein.

[S., '13, § 5239-b.]

SEC. 9282. Indorsement.

1 Such information shall be indorsed, "a true information," which
 2 indorsement shall be signed by the county attorney.

[S., '13, § 5239-c.]

SEC. 9283. Names of witnesses—minutes of evidence.

1 The county attorney shall, at the time of filing such information,
 2 indorse or cause to be indorsed thereon the names of the witnesses
 3 whose evidence he expects to introduce and use on the trial of the
 4 same, and shall also file with such information a minute of the evi-
 5 dence relating to the guilt of the accused of the offense charged of
 6 each witness whose name is so indorsed upon the information. Should
 7 the county attorney desire to use on the trial witnesses in addition to
 8 those whose names are so indorsed, he shall proceed in the same man-
 9 ner as is provided in such cases in trials on indictment.

[S., '13, § 5239-d.]

SEC. 9284. Information to be sworn to—approval.

1 Such information shall be sworn to by the county attorney before
 2 some judge of the district court, or before the clerk or deputy clerk
 3 of said court. The information, before being filed, shall be presented
 4 to some judge of the district court of the county having jurisdiction
 5 of the offense, which judge shall indorse his approval or disapproval
 6 thereon. If the information receive the approval of the judge, the
 7 same shall be filed. If not approved, the charge shall be presented
 8 to the next grand jury for consideration. At any time after the
 9 approval of an information, and prior to the commencement of trial,
 10 the court, or any judge thereof, on its own motion may order said
 11 information set aside and said cause submitted to the grand jury.

[S., '13, § 5239-e.]

SEC. 9285. Copy to accused or attorney.

1 The clerk of the district court shall cause a copy of the informa-
 2 tion and minutes of evidence to be delivered to the accused, or to his
 3 attorney, at or prior to the time of arraignment.

[S., '13, § 5239-f.]

SEC. 9286. Filing by private prosecutor—indorsement—costs.

1 If the information is filed at the instance of a private prosecutor,
 2 the county attorney may indorse such fact upon the information and

3 sign such indorsement, and, in such case, the costs may be taxed in the
4 same manner and under the same limitations as in case of indictments.

[S., '13, § 5239-g.]

SEC. 9287. Amendments.

1 An information may be amended as provided for indictments in
2 section ninety-three hundred fifty-two, and may be filed at any time
3 prior to the commencement of the trial; but, should it appear to the
4 court that the accused should have additional time to prepare for trial
5 on account of amendments, a continuance shall be granted accordingly.
6 Amendments filed during the trial shall be limited to and governed
7 by the provisions for amending indictments during trial.

[S., '13, § 5239-h.]

SEC. 9288. Statutes applicable to information.

1 The information shall be drawn and construed, in matter of sub-
2 stance, as indictments are required to be drawn and construed. All
3 provisions of law applying to prosecutions on indictments and relat-
4 ing to the issuance of warrants, the correction of the name of the
5 accused, the issuing of process, the giving of bail, arraignments,
6 pleadings, trials, change of place of trials, return of verdicts, the
7 taking of exceptions, new trials, arrest of judgments, the entering of
8 judgments and the execution thereof, appeals, except as modified or
9 otherwise provided for in this chapter, and all other proceedings in
10 cases of indictments, whether in the court of original or appellate
11 jurisdiction shall in the same manner and to the same extent, as near
12 as may be, apply to information and all prosecutions and proceedings
13 thereon.

[S., '13, § 5239-i.]

SEC. 9289. Warrant for arrest—bail.

1 Upon the filing of such information the clerk shall issue a war-
2 rant for the arrest of the accused, and the court or any judge thereof
3 shall fix the bail, if bail is allowable, and in vacation or in the absence
4 of the judge in term time, the clerk of the court shall fix such bail, the
5 action of the clerk being reviewable by the court or judge thereof.

[S., '13, § 5239-j.]

SEC. 9290. Assistant county attorney may act.

1 Wherever the words county attorney appear in this chapter, the
2 same shall be construed to mean county attorney or the assistant
3 county attorney.

[S., '13, § 5239-k.]

SEC. 9291. Time of commencing prosecutions.

1 The time in which criminal prosecutions may be commenced by
2 information shall be the same as in cases of prosecutions by indict-
3 ment, which time shall be computed from the date of the filing of the
4 initial information.

[S., '13, § 5239-l.]

SEC. 9292. Motion to set aside—grounds.

1 A motion to set aside the information may be made on one or
2 more of the following grounds:

- 3 1. When it is not indorsed "a true information", and the indorse-
 4 ment signed by the county attorney.
 5 2. When the minutes of evidence have not been filed with the
 6 information.
 7 3. When the names of the witnesses named in such minutes of
 8 evidence are not indorsed on the information.
 9 4. When the information has not been verified or filed in the
 10 manner herein required.
 11 5. When the accused has not, prior to the filing of the informa-
 12 tion, been held to the grand jury for the offense charged, or the
 13 information has not been approved, as required.

[S., '13, § 5239-m.]

SEC. 9293. Time of making motion—rulings of court.

- 1 Such motion must be made before a plea is entered by the accused.
 2 If not so made, the objection shall be deemed waived. If either of
 3 the objections specified in the fifth paragraph above is shown to be
 4 true, the court shall sustain said motion. If either of the objections
 5 specified in the first four paragraphs above is shown to be true, the
 6 court shall sustain said motion, unless the defects are corrected within
 7 such time as the court may order. Affidavits and oral and docu-
 8 mentary evidence may be received upon the hearing of such motion.

[S., '13, § 5239-m.]

SEC. 9294. Arraignments—pleas.

- 1 An accused prosecuted on information may, in vacation, be
 2 arraigned by any judge of the district court, and, in vacation, be
 3 required to plead to the information before any such judge, but
 4 arraignments can be made and pleas required, in vacation, only before
 5 such judge sitting in chambers at the usual place of holding court in
 6 the county in which the information was filed, or in any other county
 7 of the judicial district, or in any county to which the cause may be
 8 sent on change of venue. The proceedings with reference to arraign-
 9 ments and the taking of pleas, in vacation, shall be signed by the judge
 10 and filed with the clerk of the court of the county where the informa-
 11 tion was filed and entered at length in the records of the court with
 12 the same force and effect as if made and entered in term time.

[S., '13, § 5239-n; 38 G. A., ch. 229, § 1.]

SEC. 9295. Judgments on written pleas of guilt.

- 1 Judgments may be rendered in vacation on written pleas of guilty
 2 of the offense charged, or of any degree or grade thereof, or of any
 3 offense included therein, with the same force and effect as though
 4 rendered in term time, which written plea of guilt, together with the
 5 judge's entry of judgment in reference thereto, shall be forthwith
 6 filed with the clerk of the court of the county wherein the informa-
 7 tion was filed and entered at length in the records of said court, and,
 8 after such entry, be executed as in case of judgments on indictment,
 9 but judgments in vacation can only be rendered by a judge of the
 10 district court sitting in chambers at the usual place of holding court
 11 in the county where the information was filed, or in any other county
 12 of the judicial district, or in any county to which the cause may be
 13 transferred on change of venue.

[S., '13, § 5239-o; 38 G. A., ch. 229, § 2.]

SEC. 9296. Transfer of record of proceedings.

1 A record of the proceedings and judgment in this and the two
2 preceding sections when signed by the judge shall be sent to the clerk
3 of the district court of the county in which the information was filed,
4 which shall be entered at length in the records of the court and shall
5 have the same force and effect as if made and entered by the court in
6 said county, and the commitment or subsequent proceedings shall be
7 had upon the judgment and record from that county.

[S., '13, § 5239-o; 38 G. A., ch. 229, § 2.]

SEC. 9297. Bail—construction.

1 Whenever an accused shall be held to answer to the grand jury
2 for an offense and shall give bail, such bail shall be construed as con-
3 ditioned to answer to any indictment for said offense returned by the
4 grand jury, to which the accused is legally held to answer, and to any
5 information charging said offense filed by the county attorney.

[S., '13, § 5239-p.]

SEC. 9298. Form of information.

1 Information shall be, substantially, in the following form:

2 IN THE DISTRICT COURT OF.....COUNTY.

3 THE STATE OF IOWA,
4 VS. } INFORMATION.
5 A..... B..... }

6 Comes now, as county attorney of
7 county, state of Iowa, and in the name and by the authority of the
8 state of Iowa accuses A..... B..... of the crime of (here insert
9 the name of the offense), committed as follows:

10 The said A..... B....., on or about the day of
11, A. D. (inserting the year) in the county
12 of, and state of Iowa, (here insert the acts or omis-
13 sions constituting the offense).

14
15 County Attorney.

16 STATE OF IOWA,
17COUNTY } ss.

18 I,, being first duly sworn, do depose and
19 say, that I have made full and careful investigation of the facts upon
20 which the above charge is based, and that the allegations contained in
21 the above and foregoing information are true, as I verily believe.

22
23 Subscribed and sworn to by before me,
24 the undersigned, this day of,
25 A. D.

26
27 (Here insert title of official before
28 whom verification is made.)

29 Upon the information shall be indorsed the following:

30 (a) A true information.

31
32 County Attorney.

33 (b) Names of witnesses:
 34 -----
 35 -----
 36 -----
 37 -----

38 (c) On this ----- day of -----, A. D. -----,
 39 being satisfied from the showing made herein that this cause should
 40 (or should not, as the case may be) be prosecuted by information,
 41 the same is approved (or disapproved and the charge is ordered sub-
 42 mitted to the next grand jury, as the case may be).
 43 -----

44 Judge of District Court.
 45 (d) This information duly filed in the district court, this -----
 46 day of -----, A. D. -----
 47 -----

48 (Clerk of the District Court of
 49 ----- County, State of Iowa.)
 50 By -----

51 Deputy Clerk.
 52 (e) Bail is hereby fixed on the within information in the sum of
 53 \$-----
 54 -----

55 (Here insert official title of judge or
 56 clerk, as case may be.)

[S., '13, § 5239-q.]

CHAPTER 21.

IMPANELING GRAND JURY.

SECTION 9299. Drawing grand jurors.

1 At the term of court at which grand jurors are required to appear,
 2 the names of the twelve persons constituting the panel of the grand
 3 jury shall, on the second day of each term of court, unless otherwise
 4 ordered by the court or judge, be placed by the clerk in a box, and
 5 after thoroughly mixing the same, he shall draw therefrom seven
 6 names, and the persons so drawn shall constitute the grand jury for
 7 that term. Should any of the persons so drawn be excused or fail to
 8 attend on said second day of the court, the clerk shall draw other
 9 names until the seven grand jurors are secured.

[C., '51, § 2881; R., '60, §§ 4608-4610; C., '73, §§ 4255-4257;
 C., '97, § 5240; S., '13, § 5240.]

SEC. 9300. Additional drawings.

1 If, for any reason, the number of grand jurors required is not
 2 secured from the twelve persons so constituting such panel, the clerk
 3 shall draw from the grand jury list, provided for by section seventy
 4 hundred two, such number of names as the court may direct, and from
 5 the persons whose names are so drawn the panel of the grand jury
 6 for the term shall be filled, and the court shall issue a venire to secure
 7 their attendance.

[C., '51, § 2881; R., '60, §§ 4608-4610; C., '73, §§ 4255-4257;
 C., '97, § 5240; S., '13, § 5240.]

SEC. 9301. Challenge to panel—motion.

1 A defendant held to answer for a public offense may, before the
 2 grand jury is sworn, challenge the panel, only for the reason that it
 3 was not selected, drawn or summoned as prescribed by law. A
 4 defendant indicted not having been held to answer, or having been
 5 so held after the impaneling of the grand jury, may for the same
 6 reasons object to the panel by motion, but the right to make such
 7 motion is waived by entering a plea to an indictment.

[C., '51, §§ 2882, 2883, 2890; R., '60, §§ 4611, 4612, 4619;
 C., '73, §§ 4258, 4260, 4266; C., '97, § 5241.]

SEC. 9302. Joinder in challenges.

1 When several persons are held to answer for one and the same
 2 offense, no challenge to the panel can be made unless they all join
 3 therein.

[C., '51, § 2890; R., '60, § 4619; C., '73, § 4266; C., '97,
 § 5242.]

SEC. 9303. Grounds of challenge.

1 A challenge to an individual grand juror may be made before
 2 the grand jury is sworn as follows:

3 By the state or the defendant, because the grand juror does not
 4 possess the qualifications required by law.

5 By the state only because:

6 1. He is related either by affinity or consanguinity nearer than in
 7 the fifth degree, or stands in the relation of agent, clerk, servant or
 8 employee, to any person held to answer for a public offense, whose
 9 case may come before the grand jury.

10 2. He is bail for anyone held to answer for a public offense, whose
 11 case may come before the grand jury.

12 3. He is defendant in a prosecution similar to any prosecution
 13 to be examined by the grand jury.

14 4. He is, or within one year preceding has been, engaged or
 15 interested in carrying on any business, calling or employment the
 16 carrying on of which is a violation of law, and for which the juror
 17 may be indicted by the grand jury.

18 By the defendant only because:

19 1. He is a prosecutor upon a charge against the defendant.

20 2. He has formed or expressed such an opinion as to the guilt or
 21 innocence of the prisoner as would prevent him from rendering a
 22 true verdict upon the evidence submitted on the trial.

[C., '51, §§ 2882, 2884, 2890; R., '60, §§ 4611, 4613, 4619;
 C., '73, §§ 4258, 4259, 4261, 4266; C., '97, § 5243.]

SEC. 9304. Decided by the court.

1 Challenges to the panel or to an individual grand juror must be
 2 decided by the court.

[C., '51, § 2886; R., '60, § 4615; C., '73, § 4262; C., '97,
 § 5244.]

SEC. 9305. Effect of allowing challenge to panel.

1 If a challenge to the panel be allowed, the grand jury is prohibited
 2 from inquiring into the charge against the defendant by whom it was

3 interposed, and, if it does so and finds an indictment, the court must
4 set it aside.

[C., '51, § 2887; R., '60, § 4616; C., '73, § 4263; C., '97,
§ 5245.]

SEC. 9306. Dismissal of jurors—new panels.

1 If a challenge to an individual grand juror be allowed, he shall
2 not be present at or take any part in the consideration of the charge
3 against the defendant. If a challenge to the panel is allowed, or if
4 by reason of challenges to individual grand jurors being allowed, or if
5 if for any cause at any time, the grand jury is reduced to a less number
6 than seven, a new grand jury shall be impaneled to inquire into the
7 charge against the defendant in whose behalf the challenge to the
8 panel has been allowed, or the panel of the jury so reduced below the
9 number required by law shall be filled as the case may be. If a chal-
10 lenge is allowed to the panel the names of jurors required to impanel
11 a new jury shall be drawn from the grand jury list.

[C., '51, § 2888; R., '60, § 4617; C., '73, § 4264; C., '97,
§ 5246; S., '13, § 5246.]

SEC. 9307. Summoning additional jurors.

1 If such grand jury has been reduced to a less number than seven
2 by reason of challenges to individual jurors being allowed, or from
3 any other cause, the additional jurors required to fill the panel shall
4 be summoned, first, from such of the twelve jurors originally sum-
5 moned which were not drawn on the grand jury as first impaneled,
6 or excused, and if they are exhausted, the additional number required
7 shall be drawn from the grand jury list and the court shall, when
8 necessary, issue a venire to secure the attendance of such additional
9 jurors. The persons so summoned shall serve only in the case, or
10 cases, in which, by reason of challenges, or other causes, the regular
11 panel is set aside or is insufficient in number to find an indictment.

[C., '97, § 5246; S., '13, § 5246.]

SEC. 9308. Effect of violation.

1 The grand jury must inform the court of any violation of the two
2 preceding sections, which offense shall be punished as a contempt.

[C., '51, § 2889; R., '60, § 4618; C., '73, § 4265; C., '97,
§ 5247.]

SEC. 9309. Foreman appointed.

1 From the persons impaneled as grand jurors the court must
2 appoint a foreman, or when the foreman already appointed is dis-
3 charged, excused, or from any cause becomes unable to act, before
4 the grand jury is finally discharged.

[C., '51, § 2891; R., '60, § 4620; C., '73, § 4267; C., '97,
§ 5248.]

SEC. 9310. Oath of foreman.

1 The following oath must be administered to the foreman of the
2 grand jury: "You, as foreman of the grand jury, shall diligently
3 inquire and true presentment make of all public offenses against the
4 people of this state, triable on indictment within this county, of which

5 you have or can obtain legal evidence; you shall present no person
6 through malice, hatred or ill will, nor leave any unrepresented through
7 fear, favor or affection, or for any reward, or the promise or hope
8 thereof, but in all your presentments you shall present the truth, the
9 whole truth and nothing but the truth, according to the best of your
10 skill and understanding."

[C., '51, § 2892; R., '60, § 4621; C., '73, § 4268; C., '97,
§ 5249.]

SEC. 9311. Oath of members.

1 The following oath must thereupon be administered to the other
2 grand jurors: "The same oath which your foreman has now taken
3 before you on his part, you and each of you shall well and truly observe
4 on your part."

[C., '51, § 2893; R., '60, § 4622; C., '73, § 4269; C., '97,
§ 5250.]

SEC. 9312. Charge of court.

1 The grand jury, being impaneled and sworn, may be charged by
2 the court, who shall give them such information as may be proper
3 as to the nature of their duties, and any charges for public offenses
4 returned to the court or likely to come before that body; and the court
5 shall specially give in his charge the provisions of the law regulating
6 the accounting by public officers for fines and fees collected by them,
7 and those providing for the suppression of intemperance.

[C., '51, § 2894; R., '60, § 4623; C., '73, § 4270; C., '97,
§ 5251.]

SEC. 9313. Clerk—oath—compensation.

1 The court may appoint as clerk of the grand jury, a competent
2 person who is not a member thereof. The following oath must be
3 administered to him: "You solemnly swear that you will faithfully
4 and impartially perform the duties of clerk of the grand jury, that
5 you will not reveal to anyone its proceedings or the testimony given
6 before it and will abstain from expressing any opinion upon any ques-
7 tion before it, to or in the presence or hearing of the grand jury or
8 any member thereof." Such clerk shall strictly abstain from express-
9 ing an opinion upon any question before the body, either to or in the
10 presence or hearing of it or any member thereof, and shall not be
11 present when any vote is being taken upon the finding of an indict-
12 ment, and shall receive compensation at the rate of two dollars per
13 day for time actually and necessarily employed in the performance
14 of the duties prescribed in this chapter.

[C., '51, § 2895; R., '60, §§ 4624, 4629; C., '73, § 4275; C., '97,
§ 5256; S., '13, § 5256.]

SEC. 9314. Clerk in certain counties a shorthand reporter.

1 In all counties having a population of more than fifty thousand
2 inhabitants, the court may, if it deems it necessary, appoint as clerk
3 of the grand jury a competent shorthand reporter and such clerk
4 shall receive such compensation as may be fixed by the court at the
5 time of the appointment, but said compensation, in counties having a
6 population of less than seventy-five thousand inhabitants, shall not
7 exceed four dollars per day for each day actually and necessarily

8 employed in the performance of the duties herein defined. In all
 9 counties having a population of more than seventy-five thousand inhab-
 10 itants and less than one hundred twenty thousand inhabitants, such
 11 clerk shall receive as compensation an annual salary of not to exceed
 12 fifteen hundred dollars. In counties having a population of one hun-
 13 dred twenty thousand and over, such clerks shall receive an annual
 14 salary of twenty-two hundred dollars. In addition thereto the court
 15 may, in counties having a population of one hundred twenty thou-
 16 sand inhabitants and over, if it deems it necessary, appoint an assist-
 17 ant clerk of the grand jury and fix his salary therefor.

[C., '97, § 5256; S., '13, § 5256; 38 G. A., ch. 254, § 1.]

SEC. 9315. Member appointed clerk.

1 If no such appointment is made by the court, the grand jury shall
 2 appoint as its clerk one of its own number who is not its foreman.

[R., '60, § 4629; C., '73, § 4275; C., '97, § 5257.]

SEC. 9316. Discharge of grand jury.

1 The grand jury, on the completion of its business, shall be dis-
 2 charged by the court, but, whether its business be completed or not,
 3 it is discharged by the final adjournment thereof.

[C., '51, § 2896; R., '60, § 4625; C., '73, § 4271; C., '97,
 § 5252.]

CHAPTER 22.

DUTIES OF GRAND JURY.

SECTION 9317. Examination of indictable offenses.

1 The grand jury shall inquire into all indictable offenses which
 2 may be tried within the county, and present them to the court by
 3 indictment.

[C., '51, § 2897; R., '60, § 4626; C., '73, § 4272; C., '97,
 § 5253.]

SEC. 9318. Special duties.

1 It is made the special duty of the grand jury to inquire into:
 2 1. The case of every person imprisoned in the jail of the county
 3 on a criminal charge and not indicted.
 4 2. The condition and management of the public prisons within
 5 the county.
 6 3. The wilful and corrupt misconduct in office of all county
 7 officers.
 8 4. The obstruction of highways.

[C., '51, § 2902; R., '60, § 4632; C., '73, § 4278; C., '97,
 § 5261.]

SEC. 9319. Access to county jails and public records.

1 The grand jury is entitled to free access at all reasonable times
 2 to the county jails, and to the examination without charge of all public
 3 records within the county.

[C., '51, § 2904; R., '60, § 4634; C., '73, § 4280; C., '97,
 § 5263.]

SEC. 9320. County attorney—to give advice—examine witnesses.

1 The grand jury may at all reasonable times ask the advice of the
 2 county attorney or the court; and the county attorney may attend
 3 before it for the purpose of examining witnesses, when necessary.
 [C., '51, § 2905; R., '60, § 4635; C., '73, § 4281; C., '97,
 § 5264.]

SEC. 9321. Right to appear—secrecy in finding indictment.

1 Such attorney shall be allowed at all times to appear before the
 2 grand jury on his own request for the purpose of giving information
 3 relative to any matter cognizable by it; but neither he nor any other
 4 officer or person except the grand jury must be present when the
 5 question is taken upon the finding of an indictment.
 [C., '51, § 2906; R., '60, § 4636; C., '73, § 4282; C., '97,
 § 5265.]

SEC. 9322. Issuance of subpoenas.

1 The clerk of the court must, when required by the foreman of
 2 the grand jury or county attorney, issue subpoenas for witnesses to
 3 appear before the grand jury.
 [C., '51, § 2903; R., '60, § 4633; C., '73, § 4279; C., '97,
 § 5262.]

SEC. 9323. Failure to obey subpoena.

1 If a witness fails to attend before the grand jury in obedience to
 2 a subpoena issued for that purpose and duly served, the court shall,
 3 upon the application of the county attorney or foreman of the grand
 4 jury, coerce the attendance of the witness by attachment, and may
 5 punish his disobedience as in the case of a witness failing to attend
 6 on the trial.
 [R., '60, § 4642; C., '73, § 4288; C., '97, § 5271.]

SEC. 9324. Administering oath to witnesses.

1 The foreman of the grand jury may administer the oath to all
 2 witnesses produced and examined before it.
 [R., '60, § 4628; C., '73, § 4274; C., '97, § 5255.]

SEC. 9325. Refusal of witness to testify—procedure.

1 When a witness under examination before the grand jury refuses
 2 to testify or to answer a question put to him, it shall proceed with the
 3 witness into open court, and the foreman shall then distinctly state
 4 to the court the question and the refusal of the witness, and if upon
 5 hearing the witness the court shall decide that he is bound to testify
 6 or answer the question propounded, he shall inquire of the witness if
 7 he persists in his refusal, and, if he does, shall proceed with him as in
 8 cases of similar refusal in open court.
 [R., '60, § 4641; C., '73, § 4287; C., '97, § 5270.]

SEC. 9326. Minutes to be kept.

1 The clerk of the grand jury shall take and preserve minutes of
 2 the proceedings and of the evidence given before it, except the votes
 3 of its individual members on finding an indictment. When the evi-

4 dence is taken, it shall be read over to and signed by the witness.
 5 When an indictment is found, all minutes and exhibits relating thereto
 6 shall be returned therewith and filed by the clerk of the court.

[R., '60, § 4629; C., '73, § 4275; C., '97, § 5258; S., '13,
 § 5258.]

SEC. 9327. Member as witness.

1 If a member of the grand jury knows or has reason to believe
 2 that a public offense has been committed, triable in the county, he
 3 must declare the same to his fellow jurors, and be sworn as a witness
 4 upon the investigation before them.

[C., '51, § 2901; R., '60, § 4631; C., '73, § 4277; C., '97,
 § 5260.]

SEC. 9328. Evidence for defendant need not be heard.

1 The grand jury is not bound to hear evidence for defendant, but
 2 may do so, and must weigh all the evidence submitted to it, and when
 3 it has reason to believe that other evidence within its reach will explain
 4 away the charge, it may order the same produced.

[C., '51, § 2900; R., '60, § 4630; C., '73, § 4276; C., '97,
 § 5259.]

SEC. 9329. Evidence sufficient for indictment.

1 An indictment should be found when all the evidence, taken to-
 2 gether, is such as in the judgment of the grand jury, if unexplained,
 3 would warrant a conviction by the trial jury; otherwise it should not.

[R., '60, § 4637; C., '73, § 4283; C., '97, § 5266.]

SEC. 9330. Kind of evidence required.

1 An indictment can be found only upon evidence given by witnesses
 2 produced, sworn and examined before the grand jury, or furnished
 3 by legal documentary evidence, or upon the minutes of evidence given
 4 by witnesses before a committing magistrate.

[C., '51, §§ 2898, 2899; R., '60, § 4627; C., '73, § 4273; C., '97,
 § 5254.]

SEC. 9331. Minutes of preliminary examination as evidence.

1 All papers and other matters of evidence relating to the arrest
 2 and preliminary examination of the charge against defendants who
 3 have been held to answer, returned to the court by magistrates, shall
 4 be laid before the grand jury, and shall be competent evidence upon
 5 which an indictment may be found, and the grand jury need not have
 6 before it for examination any witness who was examined before the
 7 committing magistrate, and whose evidence is returned by such mag-
 8 istrate in the minutes, unless requested by the county attorney. If an
 9 indictment was found in whole or in part upon the minutes of evidence
 10 taken before a committing magistrate, the clerk of the grand jury
 11 shall write out a brief minute of the substance of such evidence, and
 12 the same shall be returned to the court with the indictment.

[R., '60, § 4643; C., '73, § 4289; C., '97, § 5272.]

SEC. 9332. No indictment found—effect.

1 If, upon investigation, the grand jury refuses to find an indict-
 2 ment, it shall return all of said papers to the court, with an indorse-

3 ment thereon, signed by the foreman, to the effect that the charge is
 4 dismissed, and thereupon the court must order the discharge of the
 5 defendant from custody if in jail, and the exoneration of bail if bail
 6 be given, unless the court, upon good cause shown, direct that the
 7 charge should again be submitted to the grand jury, in which case
 8 the defendant may be continued in custody, or on bail, until the next
 9 term of court.

[R., '60, § 4643; C., '73, § 4289; C., '97, § 5272.]

SEC. 9333. Dismissal of charge.

1 Such dismissal of the charge does not prevent the same from
 2 being submitted to a grand jury as often as the court may direct; but
 3 without such direction it can not be again submitted.

[R., '60, § 4644; C., '73, § 4290; C., '97, § 5273.]

SEC. 9334. Proceedings secret—disclosure of action—penalty.

1 Every member of the grand jury must keep secret the proceedings
 2 of that body and the testimony given before it, except as provided in
 3 the next section; nor shall any grand juror or officer of the court
 4 disclose the fact that an indictment for a felony has been found against
 5 a person not in custody or under bail, otherwise than by presenting the
 6 same in court or issuing or executing process thereon, until such per-
 7 son has been arrested. A violation of this section is a misdemeanor.

[C., '51, § 2907; R., '60, § 4638; C., '73, § 4284; C., '97,
 § 5267.]

SEC. 9335. Testimony before court or legislature—excepted.

1 Any member of the grand jury and the clerk thereof, and any
 2 officer of the court, may be required by the court or any legislative
 3 committee duly authorized to inquire into the conduct or acts of any
 4 state officer which might be the basis for impeachment proceedings
 5 to disclose the testimony of a witness examined before the grand jury
 6 for the purpose of ascertaining whether it is consistent with that
 7 given by him before the court or legislative committee, or to disclose
 8 the same upon a charge of perjury against the witness or when in
 9 the opinion of the court or legislative committee such disclosure is
 10 necessary in the administration of justice.

[C., '51, § 2908; R., '60, § 4639; C., '73, § 4285; C., '97,
 § 5268; 38 G. A., ch. 68, § 1.]

SEC. 9336. Jurors not to be questioned.

1 No grand juror shall be questioned for anything he may say or
 2 any vote he may give in the grand jury relative to a matter legally
 3 pending before it, except for perjury of which he may have been
 4 guilty in making an accusation, or in giving testimony to his fellow
 5 jurors.

[C., '51, § 2909; R., '60, § 4640; C., '73, § 4286; C., '97,
 § 5269.]

CHAPTER 23.

FINDING AND PRESENTATION OF INDICTMENT.

SECTION 9337. Vote necessary—indorsement.

1 An indictment can not be found without the concurrence of five
2 grand jurors. Every indictment must be indorsed "a true bill" and
3 the indorsement signed by the foreman of the grand jury.

[C., '51, § 2910; R., '60, § 4645; C., '73, § 4291; C., '97,
§ 5274; S., '13, § 5274-a.]

SEC. 9338. Indictment at instance of private prosecutor.

1 When an indictment is found at the instance of a private prosecu-
2 tor, the following must be added to the indorsement required by the
3 preceding section, "found at the instance of" (here state the name
4 of the person) and, in such case, if the prosecution fails, the court
5 trying the cause may tax the costs against him, if satisfied from all
6 the circumstances that the prosecution was malicious or without
7 probable cause.

[R., '60, § 4646; C., '73, § 4292; C., '97, § 5275.]

SEC. 9339. Names of witnesses indorsed on indictment.

1 When an indictment is found, the names of all witnesses on
2 whose evidence it is found must be indorsed thereon before it is pre-
3 sented in the court, and must be, with the minutes of the evidence of
4 such witnesses, presented to the court by the foreman in the presence
5 of the grand jury, and all of the same marked "filed" by the clerk, as
6 provided in the chapter relating to the duties of the grand jury, and
7 shall remain in his office as a record.

[C., '51, §§ 2913, 2914; R., '60, §§ 4647, 4648; C., '73, §§ 4293,
4294; C., '97, § 5276.]

SEC. 9340. Minutes of evidence.

1 Such minutes of evidence shall not be open for the inspection of
2 any person except the judge of the court, the county attorney or his
3 assistant or clerk, the defendant and his counsel, or the assistant or
4 clerk of such counsel. The clerk of the court must, within two days
5 after demand made, furnish the defendant or his counsel a copy thereof
6 without charge, or permit the defendant's counsel, or the clerk of such
7 counsel, to take a copy.

[C., '51, § 2913; R., '60, § 4647; C., '73, § 4293; C., '97,
§ 5277.]

SEC. 9341. Minutes used on resubmission.

1 When an indictment is held insufficient, and an order is made to
2 resubmit the case to the same or another grand jury, or where the
3 grand jury has ignored a bill and the same has been ordered back to
4 the same or another grand jury for further investigation, it shall be
5 unnecessary to summon the witnesses again before such jury in such
6 cases, but the minutes of the testimony returned with the defective
7 indictment or ignored bill or information shall be detached and re-
8 turned to the grand jury, and thereupon, without more, such grand
9 jury may find a bill and attach said minutes of the evidence thereto,

10 and return said indictment therewith into court in the usual manner,
 11 and may in either case take additional testimony.
 [C., '97, § 5278.]

CHAPTER 24.

INDICTMENT.

SECTION 9342. Indictment defined.

1 An indictment is an accusation in writing, found and presented
 2 by a grand jury legally impaneled and sworn to the court in which
 3 it is impaneled, charging that a person therein named has done some
 4 act, or been guilty of some omission, which by law is a public offense,
 5 punishable on indictment.
 [C., '51, § 2915; R., '60, § 4649; C., '73, § 4295; C., '97,
 § 5279.]

SEC. 9343. Contents of indictment.

1 The indictment must contain:
 2 1. The title of the action, giving the name of the court to which
 3 it is presented, and the names of the parties.
 4 2. A statement of the facts constituting the offense in ordinary
 5 and concise language, without repetition, and in such manner as to
 6 enable a person of common understanding to know what is intended.
 [R., '60, § 4650; C., '73, § 4296; C., '97, § 5280.]

SEC. 9344. Form of indictment.

1 It shall be substantially in the following form:
 2 District court of the county of
 3 THE STATE OF IOWA, }
 4 vs. }
 5 A..... B..... }
 6 The grand jury of the county of, in the name
 7 of the state of Iowa, accuses A..... B..... of the crime of (here
 8 insert the name of the offense if it have one, such as treason, man-
 9 slaughter, robbery, larceny, or the like, or if it have no general name,
 10 then a brief general description of it as given by law, such as "min-
 11 gling poison with food, with intent to kill a human being,") committed
 12 as follows:
 13 The said A..... B....., on the day of
 14 A. D., in the county aforesaid (here insert the act or omis-
 15 sion constituting the offense).
 16
 17 County attorney of county.
 [R., '60, § 4651; C., '73, § 4297; C., '97, § 5281.]

SEC. 9345. Indictment must be direct and certain.

1 The indictment must be direct and certain as regards:
 2 1. The party charged.
 3 2. The offense charged.

4 3. The particular circumstances of the offense charged, when
5 they are necessary to constitute a complete offense.

[R., '60, § 4652; C., '73, § 4298; C., '97, § 5282.]

SEC. 9346. Indictment by fictitious name—correction.

1 When a defendant is indicted by a fictitious or erroneous name,
2 and in any subsequent stage of the proceedings, before execution, his
3 true name is discovered, an entry shall be made in the record of the
4 proceedings of his true name, referring to the fact of his being
5 indicted by the name mentioned in the indictment, and the subsequent
6 proceedings shall be in the true name substantially as follows:

7 THE STATE OF IOWA,

8 vs.

9 A..... B....., indicted by the name of C..... D..... }

[R., '60, § 4653; C., '73, § 4299; C., '97, § 5283.]

SEC. 9347. Indictment must charge but one offense.

1 The indictment must charge but one offense, but it may be charged
2 in different forms to meet the testimony, and if it may have been com-
3 mitted in different modes and by different means, may allege the
4 modes and means in the alternative. Except in case of compound
5 offenses, where in the same transaction more than one offense has
6 been committed, the indictment may charge the several offenses and
7 the defendant may be convicted of any offense included therein.

[C., '51, § 2917; R., '60, § 4654; C., '73, § 4300; C., '97,
§ 5284.]

SEC. 9348. Statement of exact time of offense not required.

1 The precise time at which the offense was committed need not be
2 stated in the indictment, but it is sufficient if it allege that it was
3 committed at any time prior to the time of the finding hereof, except
4 where the time is a material ingredient of the offense.

[R., '60, § 4655; C., '73, § 4301; C., '97, § 5285.]

SEC. 9349. Name of person injured.

1 When an offense involves the commission of or an attempt to
2 commit an injury to person or property, and is described in other
3 respects with sufficient certainty to identify the act, an erroneous
4 allegation as to the name of the person injured or attempted to be
5 injured is not material.

[R., '60, § 4656; C., '73, § 4302; C., '97, § 5286.]

SEC. 9350. Construction.

1 The words used in an indictment must be construed in their usual
2 acceptation in common language, except words and phrases defined
3 by law, which are to be construed according to their legal meaning.

[R., '60, § 4657; C., '73, § 4303; C., '97, § 5287.]

SEC. 9351. Words of statute.

1 Words used in a statute to define a public offense need not be
2 strictly pursued in an indictment, but other words conveying the same
3 meaning may be used.

[C., '51, § 2919; R., '60, § 4658; C., '73, § 4304; C., '97,
§ 5288.]

SEC. 9352. What indictment must show—amendments—objections.

1 The indictment is sufficient if it can be understood therefrom:

2 1. That it was found by a grand jury of the county impaneled in
3 the court having authority to receive it, though the name of the court
4 is not actually stated.

5 2. That the defendant is named, or if his true name is unknown
6 to the grand jury, such fact is stated, and that he is described by a
7 fictitious name.

8 3. That the offense is triable within the jurisdiction of the court.

9 4. That the offense was committed prior to the time of the find-
10 ing of the indictment.

11 5. That the act or omission charged as the offense is stated in
12 ordinary and concise language, with such certainty and in such man-
13 ner as to enable a person of common understanding to know what is
14 intended, and the court to pronounce judgment according to law upon
15 a conviction.

16 6. That, when material, the name of the person injured or at-
17 tempted to be injured be set forth when known to the grand jury, or,
18 if not known, that it be so stated in the indictment.

19 The county attorney may, at any time before or during the
20 trial of defendant upon indictment, amend the indictment so as to
21 correct errors or omissions therein as to matters of form, or to correct
22 errors in the name of any person or in the description of any person
23 or thing, or in the allegations concerning the ownership of property
24 that may be described in the indictment; but such amendment shall
25 not prejudice the substantial rights of the defendant, or charge him
26 with a different crime or different degree of crime from that charged
27 in the original indictment returned by the grand jury.

28 A notice of the time the state will ask permission to file such
29 amendment, together with a copy of such amendment, shall be served
30 upon the defendant or his attorney and an opportunity be given the
31 defendant to resist the filing of such amendment. No continuance or
32 delay in trial shall be granted because of such amendment, except
33 upon the defendant's application, it appearing to the court that de-
34 fendant should have additional time to prepare for trial because of
35 the new allegations contained in the indictment.

36 All objections to the indictment relating to matters of substance
37 and form which might be raised by a plea in abatement shall be
38 deemed waived if not raised by the defendant before the jury is sworn
39 on the trial of the case.

[C., '51, § 2916; R., '60, § 4659; C., '73, § 4305; C., '97,
§ 5289; S., '13, § 5289.]

SEC. 9353. Immaterial matters.

1 No indictment is insufficient, nor can the trial, judgment or other
2 proceedings thereon be affected, by reason of any of the following
3 matters:

4 1. For the want of an allegation of the time or place of any
5 material fact, when the time and place have been once stated.

6 2. For the omission of any of the following allegations, namely,
7 "with force and arms," "contrary to the form of the statute, or of
8 the statutes," or "against the peace and dignity of the state."

9 3. For the omission to allege that the grand jury was impaneled,
10 sworn or charged.

11 4. For any surplusage or repugnant allegation, or for any repeti-
12 tion, when there is sufficient matter alleged to indicate clearly the
13 offense and the person charged.

14 5. For any other matter which was formerly deemed a defect or
15 imperfection, but which does not tend to prejudice the substantial
16 rights of the defendant upon the merits.

[C., '51, § 2920; R., '60, § 4660; C., '73, § 4306; C., '97,
§ 5290.]

SEC. 9354. Presumptions—judicial notice.

1 Neither presumptions of law nor matters of which judicial notice
2 is taken need be stated in an indictment.

[C., '51, § 2921; R., '60, § 4661; C., '73, § 4307; C., '97,
§ 5291.]

SEC. 9355. Pleading judicial proceedings.

1 In pleading a judgment or other determination of or proceeding
2 before a court or officer of special jurisdiction, the facts conferring
3 jurisdiction need not be stated in the indictment. It is sufficient to
4 state that the judgment or determination was duly made, or the pro-
5 ceedings duly had, before such court or officer; but such jurisdictional
6 facts must be established on the trial.

[C., '51, § 2922; R., '60, § 4662; C., '73, § 4308; C., '97,
§ 5292.]

SEC. 9356. Pleading private statute.

1 In pleading a private statute or right derived therefrom, it is
2 sufficient to refer to the same by its title and the day of its approval,
3 and the court must thereupon take judicial notice thereof.

[C., '51, § 2923; R., '60, § 4663; C., '73, § 4309; C., '97,
§ 5293.]

SEC. 9357. Instrument destroyed or withheld.

1 When an instrument which is the subject of an indictment has
2 been destroyed or withheld by the act or procurement of the defend-
3 ant, and the fact of such destruction or withholding is alleged in the
4 indictment and established on the trial, the misdescription of the
5 instrument is immaterial.

[C., '51, § 2925; R., '60, § 4665; C., '73, § 4311; C., '97,
§ 5295.]

SEC. 9358. Indictment for perjury.

1 In an indictment for perjury or subornation of perjury, it is
2 sufficient to set forth the substance of the controversy or matter in
3 respect to which the offense was committed, and in what court or
4 before whom the oath alleged to be false was taken, and that the
5 court or person before whom it was taken had authority to admin-
6 ister the same, with proper allegations of the falsity of the matter on
7 which the perjury is assigned; but the indictment need not set forth
8 the pleadings, record or proceedings with which the oath is con-

9 nected, nor the commission or the authority of the court or person
10 before whom the perjury was committed.

[C., '51, § 2926; R., '60, § 4666; C., '73, § 4312; C., '97,
§ 5296.]

SEC. 9359. Indictment for conspiracy—overt act.

1 In an indictment for conspiracy, where an overt act is required
2 by law to constitute the offense, the defendant can not be convicted
3 unless one or more overt acts be expressly alleged therein.

[C., '51, § 2996; R., '60, § 4790; C., '73, § 4425; C., '97,
§ 5297.]

SEC. 9360. Proof of overt acts.

1 Upon a trial for conspiracy, a defendant can not be convicted un-
2 less one or more overt acts alleged in the indictment are proved, when
3 required by law to constitute the offense, but other overt acts not al-
4 leged in the indictment may be given in evidence.

[C., '51, § 2996; R., '60, § 4790; C., '73, § 4425; C., '97,
§ 5490.]

SEC. 9361. Indictment for intent to defraud.

1 In any case where an intent to defraud is required to constitute
2 the offense, it shall be sufficient to allege in the indictment an intent to
3 defraud, without naming the particular person or body corporate in-
4 tended to be defrauded, and on the trial of such indictment it is suffi-
5 cient if there appear to be an intent to defraud the United States or
6 any state, county, city, township, body corporate, officer in his official
7 capacity, copartnership or member thereof, or any particular person.

[C., '51, § 2927; R., '60, § 4667; C., '73, § 4313; C., '97,
§ 5298.]

SEC. 9362. Indictment for compounding offense.

1 A person may be indicted for having, with the knowledge of the
2 commission of a public offense, taken money or property of another,
3 or a gratuity or reward, or engagement or promise therefor, upon
4 agreement or understanding, express or implied, to compound or con-
5 ceal the offense, or to abstain from a prosecution therefor, or to with-
6 hold any evidence thereof, though the person guilty of the original
7 offense has not been indicted or tried.

[C., '51, § 2930; R., '60, § 4670; C., '73, § 4316; C., '97,
§ 5301.]

SEC. 9363. Indictment for embezzlement.

1 In an indictment for the embezzlement or fraudulent conversion
2 of money, it shall be sufficient to allege the embezzlement or fraudulent
3 conversion to have been of money generally, without designating its
4 particular species; and proof that the defendant embezzled or fraudu-
5 lently converted any money or bank note will be sufficient to support
6 the averment, although the particular species be not proved.

[R., '60, § 4671; C., '73, § 4317; C., '97, § 5302.]

CHAPTER 25.

PROCESS AFTER INDICTMENT.

SECTION 9364. Bench warrant.

1 The process upon an indictment for the arrest of an individual
2 shall be a warrant.

[R., '60, § 4672; C., '73, § 4318; C., '97, § 5303.]

SEC. 9365. Warrant ordered—bail fixed.

1 When an indictment is filed by the clerk of the court against a
2 defendant not in custody nor under bail, or who has not deposited
3 money instead of bail, the judge of the court shall make an order on
4 the indictment, which shall be signed by him with his name of office,
5 that a warrant issue for the arrest of the defendant, and, if the offense
6 charged be bailable, fix the amount in which bail may be taken.

[R., '60, § 4673; C., '73, § 4319; C., '97, § 5304.]

SEC. 9366. Issuance of warrant.

1 The clerk on the application of the county attorney shall at any
2 time after the making of the order of the judge, whether the court be
3 in session or not, issue a warrant into one or more counties.

[R., '60, § 4674; C., '73, § 4320; C., '97, § 5305.]

SEC. 9367. Form in case of felony.

1 A warrant, if the offense be a felony, shall be substantially in
2 the following form:

3 THE STATE OF IOWA, }
4 County of }
5 To any peace officer in the state:

6 An indictment having been found in the district court of said
7 county on the.....day of....., A. D., (the day on which
8 the indictment is marked filed by the clerk of the court) charging A.
9 B. with the crime of (here designate the offense by the name, if it have
10 one, or by a brief general description of it, substantially as in the in-
11 dictment).

12 You are hereby commanded to arrest the said A. B. and bring him
13 before said court to answer said indictment, if the said court be then
14 in session in said county, or if not then in session in said county, that
15 you deliver him into the custody of the sheriff of said county.

16 Given under my hand and the seal of said court at my office in
17 the county aforesaid, this.....day of....., A. D.

18 [Seal] Clerk.

19 By order of the judge of the court.

[R., '60, § 4675; C., '73, § 4321; C., '97, § 5306.]

SEC. 9368. Form in case of misdemeanor.

1 If the offense be a misdemeanor, the warrant may be in a similar
2 form, adding to the body thereof a direction substantially to the fol-
3 lowing effect: "Or, if the said A. B. require it, that you take him
4 before a magistrate or the clerk of the district court in said county, or
5 in the county in which you arrest him, that he may give bail to answer

6 the said indictment," and the clerk must make an indorsement thereon
 7 to the following effect: "The defendant is to be admitted to bail in
 8 the sum of.....dollars" (the amount fixed by the judge and
 9 indorsed on the indictment). The warrant may be served in any
 10 county in the state.

[C., '51, § 2935; R., '60, §§ 4676-4678; C., '73, §§ 4322-4324;
 C., '97, § 5307.]

SEC. 9369. Proceedings as to bail.

1 If the defendant, when arrested, is brought before a magistrate
 2 or the clerk of the district court of any county for the purpose of giving
 3 bail, the same proceedings must be had in all respects as if he had been
 4 arrested on a warrant of arrest issued by a magistrate on a prelim-
 5 inary information, as nearly as may be.

[R., '60, § 4679; C., '73, § 4325; C., '97, § 5308.]

SEC. 9370. Process against corporation.

1 The process on an indictment against a corporation shall be a
 2 notice under the seal of the court, which shall be issued by the clerk,
 3 at any time after the filing of the indictment in his office, on the appli-
 4 cation of the county attorney, and shall substantially notify the de-
 5 fendant of the finding of the indictment, of the nature of the offense
 6 charged, and that it must forthwith appear and answer the same; it
 7 may be served by any peace officer in any county in the state on any
 8 officer or agent of the defendant, by reading the same to him and leav-
 9 ing with him a copy thereof, and shall be returned to the clerk's office
 10 without delay, with proper return of its service, and from and after
 11 two days from the time of the making of such service the defendant
 12 shall be considered in court, and present to all proceedings had on the
 13 indictment.

[C., '73, § 4326; C., '97, § 5309.]

CHAPTER 26.

ARRAIGNMENT OF DEFENDANT.

SECTION 9371. Time of arraignment—waiver—corporation.

1 As soon as practicable after an indictment is found, the defendant
 2 must be arraigned thereon, unless he waive the same; but where a cor-
 3 poration is defendant, arraignment shall not be required.

[C., '51, § 2931; R., '60, § 4680; C., '73, § 4327; C., '97,
 § 5310.]

SEC. 9372. Personal presence—when necessary.

1 A person charged with a felony, or in custody without an attor-
 2 ney, must be personally present for arraignment, but in other cases
 3 he may appear therefor by counsel.

[C., '51, § 2932; R., '60, §§ 4681, 4682; C., '73, §§ 4328, 4329;
 C., '97, § 5311.]

SEC. 9373. Out on bail—failure to appear—arrest.

1 If the defendant is at large on bail or deposit of money, and fails
 2 to appear for arraignment, or when his personal presence is neces-
 3 sary, the court shall, in addition to the forfeiture of the undertaking
 4 of bail or money deposited, enter an order directing the clerk at any
 5 time, upon the application of the county attorney, to issue a warrant
 6 into one or more counties for his arrest.

[C., '51, §§ 2933, 2934; R., '60, §§ 4683, 4684; C., '73, §§ 4330,
 4331; C., '97, § 5312.]

SEC. 9374. Right to counsel.

1 If the defendant appears for arraignment without counsel, he
 2 must, before proceeding therewith, be informed by the court of his
 3 right thereto, and be asked if he desires counsel, and if he does, and is
 4 unable to employ any, the court must allow him to select or assign him
 5 counsel, not exceeding two, who shall have free access to him at all
 6 reasonable hours.

[C., '51, § 2936; R., '60, § 4685; C., '73, § 4332; C., '97,
 § 5313.]

SEC. 9375. Fee for attorney defending.

1 An attorney appointed by the court to defend a person indicted
 2 for homicide, or any offense the punishment of which may be life im-
 3 prisonment, shall receive from the county treasury a fee of twenty
 4 dollars per day for time actually occupied in court in the trial of de-
 5 fendant. If the prosecution be for any other felony, he shall receive
 6 the sum of ten dollars in full for services. Such attorney need not
 7 follow the case into another county or into the supreme court, but if
 8 he does so shall receive an enlarged compensation on a scale corre-
 9 sponding to that fixed by this section. To be entitled to such com-
 10 pensation, the attorney must file with the court his affidavit that he
 11 has not directly or indirectly received, or entered into a contract to
 12 receive, any compensation for such services from any source. Only
 13 one attorney in any one case shall receive such compensation.

[C., '51, §§ 2561-2563; R., '60, §§ 1578, 4168-4170; C., '73,
 §§ 3829-3831; C., '97, § 5314.]

SEC. 9376. Arraignment—by whom and how made—name.

1 The arraignment may be made by the court, or by the clerk or
 2 county attorney under its direction, and consists in reading the indict-
 3 ment to the defendant, and, unless previously done, delivering to him
 4 a copy thereof and the indorsements thereon, and informing him that,
 5 if the name by which he is indicted is not his true name, he must then
 6 declare what his true name is, or be proceeded against by the name in
 7 the indictment, and asking him what he answers to the indictment.

[C., '51, §§ 2937, 2938; R., '60, § 4686; C., '73, § 4333; C., '97,
 § 5315.]

SEC. 9377. Subsequent objection because of name.

1 If he gives no other name or gives his true name, he is thereafter
 2 precluded from objecting to the indictment upon the ground of being
 3 therein improperly named.

[C., '51, § 2939; R., '60, § 4687; C., '73, § 4334; C., '97,
 § 5316.]

SEC. 9378. Entry of true name.

1 If he alleges that another name is his true name, the court must
 2 direct an entry thereof in the minutes of the arraignment, and the sub-
 3 sequent proceedings on the indictment may be had against him by that
 4 name, referring also to the name by which he is indicted.

[C., '51, § 2940; R., '60, § 4688; C., '73, § 4335; C., '97,
 § 5317.]

SEC. 9379. Answer of defendant—time in which made.

1 In answer to the arraignment, the defendant may move to set
 2 aside the indictment, or demur or plead to it, and is entitled to one day
 3 after arraignment, if he demand it, in which to do so.

[C., '51, §§ 2941, 2942; R., '60, §§ 4689, 4690; C., '73, § 4336;
 C., '97, § 5318.]

CHAPTER 27.
SETTING ASIDE INDICTMENT.**SECTION 9380. Grounds for setting aside indictment.**

1 The motion to set aside the indictment can be made, before a plea
 2 is entered by the defendant, on one or more of the following grounds,
 3 and must be sustained:

4 1. When it is not indorsed "a true bill" and the indorsement
 5 signed by the foreman of the grand jury as prescribed by this code.

6 2. When the names of all witnesses examined before the grand
 7 jury are not indorsed thereon; when the minutes of the evidence of
 8 the witnesses examined before the grand jury are not returned there-
 9 with.

10 3. When it has not been presented and marked "filed" as pre-
 11 scribed by this code.

12 4. When any person other than the grand jurors was present
 13 before the grand jury when the question was taken upon the finding
 14 of the indictment, or when any person other than the grand jurors
 15 was present before the grand jury during the investigation of the
 16 charge, except as required or permitted by law.

17 5. That the grand jury were not selected, drawn, summoned, im-
 18 paneled or sworn as prescribed by law.

[C., '51, § 2943; R., '60, § 4691; C., '73, § 4337; C., '97,
 § 5319.]

SEC. 9381. Correction of indictment.

1 A motion to set aside the indictment on the ground that the names
 2 of all the witnesses examined before the grand jury are not indorsed
 3 thereon; or that the name of any other witness than those so exam-
 4 ined is indorsed thereon as prescribed in the second subdivision of the
 5 preceding section, shall not be sustained, if the indorsement is cor-
 6 rected by the insertion or striking out of such names or name by the
 7 county attorney or the clerk of the court, under the direction of the
 8 court, so as to correspond with the minutes required to be kept by the

9 clerk of the grand jury, and returned and preserved with the indict-
10 ment to the court.

[R., '60, § 4692; C., '73, § 4338; C., '97, § 5320.]

SEC. 9382. Objections to selection of grand jury.

1 The ground of the motion to set aside the indictment mentioned
2 in the fifth subdivision of section ninety-three hundred eighty is not
3 allowed to a defendant who has been held to answer before indictment.

[R., '60, § 4693; C., '73, § 4339; C., '97, § 5321.]

SEC. 9383. Hearing on motion.

1 The motion must be heard when it is made, unless for good cause
2 the court postpone the hearing to another time.

[C., '51, § 2945; R., '60, § 4695; C., '73, § 4340; C., '97,
§ 5322.]

SEC. 9384. Motion overruled—defendant must answer.

1 If the motion be denied, the defendant must immediately answer
2 the indictment, either by demurring or pleading thereto.

[C., '51, § 2946; R., '60, § 4696; C., '73, § 4341; C., '97,
§ 5323.]

SEC. 9385. Motion sustained—defendant discharged.

1 If the motion be granted, the court must order the defendant, if in
2 custody, to be discharged, or, if admitted to bail, that his bail be exon-
3 erated, or, if he has deposited money instead of bail, that the money
4 deposited be refunded to him, unless the court direct that the case be
5 resubmitted to the same or another grand jury.

[C., '51, § 2947; R., '60, § 4697; C., '73, § 4342; C., '97,
§ 5324.]

SEC. 9386. In case of resubmission—bail.

1 If the court direct that the case be resubmitted, the defendant, if
2 already in custody, must so remain unless he be admitted to bail; or,
3 if already admitted to bail, or money had been deposited instead
4 thereof, the bail or money is answerable for the appearance of the
5 defendant to answer a new indictment, if a resubmission has been
6 ordered.

[C., '51, § 2948; R., '60, § 4698; C., '73, § 4343; C., '97,
§ 5325.]

SEC. 9387. Order to set aside—no bar to subsequent actions.

1 An order to set aside the indictment, as provided in this chapter,
2 shall be no bar to a future prosecution for the same offense.

[C., '51, § 2949; R., '60, § 4699; C., '73, § 4344; C., '97,
§ 5326.]

CHAPTER 28.

PLEADINGS OF DEFENDANT.

SECTION 9388. Demurrer or plea.

1 The only pleading on the part of the defendant is a demurrer or
2 plea.

[C., '51, § 2950; R., '60, § 4700; C., '73, § 4345; C., '97,
§ 5327.]

SEC. 9389. Grounds of demurrer.

1 The defendant may demur to the indictment when it appears upon
2 its face, either:

3 1. That it does not substantially conform to the requirements of
4 this code.

5 2. That the indictment contains matter which, if true, would con-
6 stitute a legal defense or bar to the prosecution.

[C., '51, § 2952; R., '60, § 4707; C., '73, § 4352; C., '97,
§ 5328.]

SEC. 9390. Method of demurring.

1 A demurrer to the indictment may be filed with the clerk or made
2 in open court, and shall be entered of record substantially in the fol-
3 lowing form: "The defendant demurs to the indictment."

[C., '51, § 2951; R., '60, §§ 4701, 4708; C., '73, §§ 4346, 4353;
C., '97, § 5330.]

SEC. 9391. Issues—by whom tried.

1 An issue of law arises upon a demurrer to the indictment, which
2 must be tried by the court, but no joinder is necessary.

[R., '60, §§ 4702, 4703; C., '73, §§ 4347, 4348; C., '97, § 5329.]

SEC. 9392. Time of hearing demurrer—effect of sustaining.

1 When a demurrer is filed or entered of record, it must be heard
2 immediately, or at such time as the court may appoint; if sustained
3 on the ground that the offense charged was within the exclusive juris-
4 diction of another county in this state, the same proceedings shall be
5 had as provided in case of the discharge of a jury for want of juris-
6 diction of the offense charged; if sustained because the indictment
7 contains matter which is a legal defense or bar to the indictment, the
8 judgment shall be final and the defendant must be discharged; if sus-
9 tained on any other ground, the defendant must be discharged and his
10 bail exonerated, if bail has been given, unless the court is of opinion,
11 on good cause shown, that the objection can be remedied or avoided in
12 another indictment, in which case the court may order the cause to be
13 resubmitted to the same or another grand jury, and the defendant
14 may be held in custody, if not at large on bail, in which case the under-
15 taking given shall remain in force.

[C., '51, § 2954; R., '60, §§ 4709-4712; C., '73, §§ 4354-4357;
C., '97, § 5331.]

SEC. 9393. Pleading over—final judgment.

1 If the demurrer is overruled, the defendant has a right to plead
2 to the indictment; if he fails to do so, final judgment may be rendered

3 against him on the demurrer, and, if necessary, a jury may be impan-
4 eled to inquire and ascertain the degree of the offense.

[C., '51, § 2955; R., '60, § 4713; C., '73, § 4358; C., '97,
§ 5332.]

SEC. 9394. Pleas to the indictment.

1 There are but three pleas to the indictment—(1) guilty, (2) not
2 guilty, or (3) of a former judgment of conviction or acquittal of the
3 offense charged.

[C., '51, § 2957; R., '60, § 4714; C., '73, § 4359; C., '97,
§ 5333.]

SEC. 9395. Plea of guilty—form—entry.

1 The plea of guilty can only be made in open court and by the de-
2 fendant himself, in substantially the following form: "The defendant
3 pleads that he is guilty of the offense charged in the indictment," and
4 shall be entered of record.

[R., '60, §§ 4715, 4716; C., '73, §§ 4360, 4361; C., '97, § 5334.]

SEC. 9396. Other pleas—form—entry.

1 The other pleas may be in writing, filed with the clerk, or made in
2 open court, in substantially the following form: "The defendant
3 pleads that he is not guilty of the offense charged in the indictment,"
4 or, "The defendant pleads that he has formerly been convicted (or
5 acquitted, as the case may be) of the offense charged in the indictment
6 by the judgment of the.....court of.....(naming it), ren-
7 dered on the.....day of....., A. D." (naming the time),
8 which may be pleaded alone or with the plea of not guilty. The pleas
9 shall be entered of record.

[C., '51, § 2957; R., '60, §§ 4714, 4715; C., '73, §§ 4359, 4360;
C., '97, § 5335.]

SEC. 9397. Plea entered by court—not guilty.

1 If the defendant fails or refuses to plead to the indictment by
2 demurrer or plea, a plea of not guilty must be entered by the court.

[C., '51, § 2963; R., '60, § 4722; C., '73, § 4367; C., '97,
§ 5336.]

SEC. 9398. Withdrawal of plea of guilty.

1 At any time before judgment, the court may permit the plea of
2 guilty to be withdrawn and other plea or pleas substituted.

[C., '51, § 2961; R., '60, § 4717; C., '73, § 4362; C., '97,
§ 5337.]

SEC. 9399. Issues—trial—presence of defendant.

1 An issue of fact arises on a plea of not guilty or of former con-
2 viction or acquittal, and no further pleading is necessary. The plea of
3 not guilty is a denial of every material allegation in the indictment,
4 and all matters of fact may be given in evidence under it, except a
5 former conviction or acquittal. Issues of fact must be tried by a jury.
6 If a felony is charged, the defendant must be personally present at

7 the trial, but the trial of a misdemeanor may be had in his absence,
8 if he appears by counsel.

R., '60, §§ 4702, 4704-4706; C., '73, §§ 4347, 4349-4351; C., '97, § 5338.

SEC. 9400. Conviction or acquittal—when a bar.

1 A conviction or acquittal by a judgment upon a verdict shall bar
2 another prosecution for the same offense, notwithstanding a defect
3 in form or substance in the indictment on which the conviction or
4 acquittal took place.

[R., '60, § 4719; C., '73, § 4364; C., '97, § 5339.]

SEC. 9401. Bars actions for lower degree or included offense.

1 When a defendant has been convicted or acquitted upon an indict-
2 ment for an offense consisting of different degrees, the conviction or
3 acquittal shall be a bar to another indictment for the offense charged
4 in the former or for any lower degree of that offense, or for an offense
5 necessarily included therein.

[R., '60, § 4720; C., '73, § 4365; C., '97, § 5340.]

SEC. 9402. Judgment—when a bar.

1 Except where otherwise provided, the judgment for a defendant
2 on a demurrer, or on an objection to its form or substance taken on
3 the trial, or for variance between the indictment and the proof, shall
4 not bar another prosecution for the same offense, if a resubmission
5 has been ordered.

[R., '60, § 4721; C., '73, § 4366; C., '97, § 5341.]

CHAPTER 29.

CHANGE OF VENUE.

SECTION 9403. Application by defendant.

1 In all criminal cases which may be pending in any of the district
2 courts of this state, any defendant therein may petition the court for
3 a change of place of trial to another county.

[C., '51, § 3270; R., '60, § 4727; C., '73, § 4368; C., '97, § 5342.]

SEC. 9404. Contents of petition.

1 Such petition must set forth the nature of the prosecution, the
2 court where the same is pending, and that such defendant can not
3 receive a fair and impartial trial owing to the prejudice of the judge,
4 or to excitement or prejudice against him in such county, and must
5 verify the same by his affidavit stating the same to be true as he verily
6 believes.

[C., '51, § 3271; R., '60, § 4728; C., '73, § 4369; C., '97, § 5343.]

SEC. 9405. Verification in certain cases.

1 When the ground alleged in the petition is excitement or prejudice
2 against him in the county, it must be verified by three disinterested

3 persons, residents of the county from which the change is sought, in
4 addition to the petitioner himself.

[R., '60, § 4729; C., '73, § 4370; C., '97, § 5344.]

SEC. 9406. General terms sufficient.

1 The petition need not state the facts upon which the belief of the
2 petitioner or other person verifying the same is founded, but may
3 allege the belief of the particular ground thereof in general terms.

[R., '60, § 4730; C., '73, § 4371; C., '97, § 5345.]

SEC. 9407. Additional testimony.

1 When the alleged ground in the petition is excitement or prejudice
2 in the county against the petitioner, the court may receive additional
3 testimony by affidavits only, either on the part of the defendant or
4 the state.

[R., '60, § 4731; C., '73, § 4372; C., '97, § 5346.]

SEC. 9408. Filed with clerk.

1 The petition and affidavits must be filed with the clerk, and are
2 parts of the record.

[R., '60, § 4732; C., '73, § 4373; C., '97, § 5347.]

SEC. 9409. Application granted at discretion of court.

1 The court, in the exercise of a sound discretion, must, when fully
2 advised, decide the matter of the petition according to the very right
3 of it.

[C., '51, § 3272; R., '60, § 4733; C., '73, § 4374; C., '97,
§ 5348.]

SEC. 9410. Order of change of venue.

1 If sustained, the court must, if the ground alleged be the preju-
2 dice of the judge, order the change of venue to the most convenient
3 county in an adjoining district to which no objection exists. If sus-
4 tained on the ground of excitement and prejudice in the county, it
5 must be awarded to such county in the same district in which no such
6 objection exists.

[C., '51, § 3272; R., '60, §§ 4734, 4735; C., '73, §§ 4375, 4376;
C., '97, § 5349.]

SEC. 9411. Duty of clerk.

1 Upon the change of place of trial to another county, if there be but
2 one defendant in the case, or if all have joined in the petition, the
3 clerk must make out and certify a transcript of all papers on file in
4 the case, including the indictment, and file the same in his office, and
5 all the original papers on file, with a certified copy of all record entries
6 therein, must be without unnecessary delay transmitted to the clerk
7 of the court to which the change is ordered.

[C., '51, § 3273; R., '60, § 4736; C., '73, § 4377; C., '97,
§ 5350.]

SEC. 9412. In case more than one defendant—transcripts.

1 If there be more than one defendant in such case, and all the de-
2 fendants have not joined in the petition, the clerk must, without un-

3 necessary delay, make out and certify a transcript of all entries ap-
 4 pearing on the record, and of all the papers on file in the case, includ-
 5 ing the indictment, and transmit the same to the clerk of the court to
 6 which the change of place of trial is ordered, retaining the originals.
 [R., '60, § 4737; C., '73, § 4378; C., '97, § 5351.]

SEC. 9413. Duty of sheriff.

1 When a change of place of trial to another county has been
 2 ordered, if the defendant is in custody, the sheriff of the county from
 3 which the change is granted must, on the order of the court, deliver
 4 him to the sheriff of the county to which such change is allowed, and
 5 upon such delivery, with a certified copy of the order therefor, the
 6 sheriff last mentioned must receive and detain the defendant in his
 7 custody until legally discharged therefrom, and give a certificate of
 8 such delivery.

[C., '51, § 3274; R., '60, § 4738; C., '73, § 4379; C., '97,
 § 5352.]

SEC. 9414. Proceedings after change.

1 The court to which the change is granted must take cognizance
 2 of the cause, and proceed therein to trial, judgment and execution, in
 3 all respects as if the indictment had been found by the grand jury
 4 impaneled in such court.

[C., '51, § 3275; R., '60, § 4739; C., '73, § 4380; C., '97,
 § 5353.]

SEC. 9415. Cost of change.

1 When the place of trial is changed under the provisions of this
 2 chapter, the county from which the change was taken shall pay the
 3 expenses and charges of removing, delivering and keeping the de-
 4 fendant, and all other expenses and costs necessary and consequent
 5 upon such change and trial, which shall be audited and allowed by the
 6 court trying the case, and all such expenses and costs may be recov-
 7 ered by the county to which the trial is changed in an action against
 8 the county in which the prosecution was commenced.

[C., '51, § 3276; R., '60, §§ 4740, 4745; C., '73, §§ 3841, 4381,
 4386; C., '97, § 5354.]

SEC. 9416. Sheriff's fees.

1 For delivering prisoners under the provisions of this chapter,
 2 sheriffs are entitled to the same fees as are allowed for the conveyance
 3 of convicts to the penitentiary.

[C., '51, § 3277; R., '60, § 4741; C., '73, § 4382; C., '97,
 § 5355.]

CHAPTER 30.

TRIAL JURY.

SECTION 9417. Rules for drawing.

1 The rules for drawing the jury shall be the same as those pro-
 2 vided in civil procedure.

[R., '60, § 4751; C., '73, § 4389; C., '97, § 5356.]

SEC. 9418. Completion of panel.

- 1 If for any reason the regular panel is exhausted without a jury
 2 being selected, it shall be completed in the manner provided in the
 3 chapter upon selecting, drawing and summoning juries.
 [C., '51, § 2970; R., '60, § 4758; C., '73, § 4396; C., '97,
 § 5357.]

CHAPTER 31.**CHALLENGING JURY.****SECTION 9419. Challenges to the panel.**

- 1 All the provisions of law relating to challenges to the panel of
 2 trial jurors in civil procedure, the grounds therefor, the manner of
 3 exercising the same, and the effect thereof, shall apply to the panel of
 4 trial jurors in criminal cases.
 [C., '51, §§ 2972-2977; R., '60, §§ 4760-4765; C., '73, §§ 4398-
 4403; C., '97, § 5358.]

SEC. 9420. Challenges to individual juror.

- 1 A challenge to an individual juror is an objection which may be
 2 taken orally, and is either for cause or peremptory.
 [C., '51, § 2978; R., '60, § 4766; C., '73, § 4404; C., '97,
 § 5359.]

SEC. 9421. Challenges for cause.

- 1 A challenge for cause may be made by the state or defendant, and
 2 must distinctly specify the facts constituting the causes thereof. It
 3 may be made for any of the following causes:
 4 1. A previous conviction of the juror of a felony.
 5 2. A want of any of the qualifications prescribed by statute to
 6 render a person a competent juror.
 7 3. Unsoundness of mind, or such defects in the faculties of the
 8 mind or the organs of the body as render him incapable of performing
 9 the duties of a juror.
 10 4. Affinity or consanguinity, within the ninth degree, to the per-
 11 son alleged to be injured by the offense charged, or on whose prelim-
 12 inary information, or at whose instance, the prosecution was insti-
 13 tuted, or to the defendant, to be computed according to the rule of the
 14 civil law.
 15 5. Standing in the relation of guardian and ward, attorney and
 16 client, master and servant, or landlord and tenant, or being a member
 17 of the family of the defendant, or of the person alleged to be injured
 18 by the offense charged, or on whose preliminary information, or at
 19 whose instance, the prosecution was instituted, or in his employ on
 20 wages.
 21 6. Being a party adverse to the defendant in a civil action, or
 22 having been the prosecutor against or accused by him in a criminal
 23 prosecution.
 24 7. Having served on the grand jury which found the indictment,
 25 or on a coroner's jury which inquired into the death of a person whose
 26 death is the subject of the indictment.

27 8. Having served on a trial jury which has tried another de-
28 fendant for the offense charged in the indictment.

29 9. Having been on a jury formerly sworn to try the same indict-
30 ment and whose verdict was set aside, or which was discharged with-
31 out a verdict after the cause was submitted to it.

32 10. Having served as a juror, in a civil action brought against the
33 defendant, for the act charged as an offense.

34 11. Having formed or expressed such an opinion as to the guilt or
35 innocence of the prisoner as would prevent him from rendering a true
36 verdict upon the evidence submitted on the trial.

37 12. Because of his being bail for any defendant in the indictment.

38 13. Because he is defendant in a similar indictment, or complain-
39 ant or private prosecutor against the defendant or any other person
40 indicted for a similar offense.

41 14. Because he is, or within a year preceding has been, engaged or
42 interested in carrying on any business, calling or employment, the
43 carrying on of which is a violation of law, where the defendant is
44 indicted for a like offense.

45 15. Because he has been a witness, either for or against the de-
46 fendant, on the preliminary trial or before the grand jury.

[C., '51, §§ 2982-2986; R., '60, §§ 4767-4771; C., '73, § 4405;
C., '97, § 5360.]

SEC. 9422. Examination of jurors.

1 Upon the trial of a challenge to an individual juror, the juror chal-
2 lenged shall be sworn, if demanded by either party, and examined as
3 a witness to prove or disprove the challenge, and must answer every
4 question pertinent to the inquiry thereon, but his answer shall not
5 afterwards be testimony against him.

[C., '51, § 2988; R., '60, § 4773; C., '73, § 4407; C., '97,
§ 5361.]

SEC. 9423. Examination of other witnesses.

1 Other witnesses may also be examined on either side; and the
2 rules of evidence applicable to the trial of other issues shall govern
3 the admission or exclusion of testimony on the trial of the challenge,
4 and the court shall determine the law and the fact, and must allow or
5 disallow the challenge.

[C., '51, §§ 2989, 2990; R., '60, §§ 4774, 4775; C., '73, §§ 4408,
4409; C., '97, § 5362.]

SEC. 9424. Order of challenges for cause.

1 The state shall first complete its challenge for cause, and the de-
2 fendant afterwards, until sixteen jurors have been obtained against
3 whom no cause of challenge has been found to exist.

[R., '60, §§ 4776, 4777; C., '73, §§ 4410, 4411; C., '97, § 5363;
38 G. A., ch. 40, § 1.]

SEC. 9425. Order of challenges in general.

1 The challenges of either party need not be all taken at once, but
2 separately, in the following order, including in each challenge all the
3 causes of challenge belonging to the same class: to the panel; to an
4 individual juror for cause; to an individual juror, peremptorily.

[R., '60, § 4781; C., '73, § 4415; C., '97, § 5367.]

SEC. 9426. Peremptory challenges.

1 Peremptory challenges shall be exercised in the same manner as
2 is provided in the trial of civil actions.

[R., '60, § 4780; C., '73, § 4414; C., '97, § 5364.]

SEC. 9427. Number of challenges—striking jurors—waivers.

1 If the offense charged in the indictment or information is or may
2 be punishable with death or imprisonment for life, the state and de-
3 fendant shall each have the right to peremptorily challenge eight
4 jurors and shall strike two jurors; if the offense charged be any other
5 felony, the state and the defendant shall each have the right to
6 peremptorily challenge four jurors and shall strike two jurors; and if
7 the offense charged be a misdemeanor, the state and the defendant
8 shall each have the right to peremptorily challenge one juror and shall
9 strike two jurors. The clerk shall prepare a list of jurors called and
10 after all challenges for cause are exhausted or waived, the parties,
11 commencing with the state, shall alternately challenge peremptorily or
12 waive by indicating any such challenge upon the list opposite the name
13 of the juror challenged or by indicating the number of waiver else-
14 where on the list.

[R., '60, § 4779; C., '73, § 4413; C., '97, § 5365; 38 G. A., ch.
40, § 2.]

SEC. 9428. Vacancy filled—clerk to read names.

1 After each challenge, sustained for cause, or made peremptorily
2 as indicated on the list, another juror shall be called and examined for
3 challenge for cause before a further challenge is made and any new
4 juror thus called may be challenged for cause and shall be subject to
5 peremptory challenge or to being struck from the list as other jurors.
6 After all challenges have thus been exercised or waived and four
7 jurors have been struck from the list the clerk shall read the names
8 of the twelve jurors remaining who shall constitute the jury selected.

[R., '60, § 4782; C., '73, § 4416; C., '97, § 5366; 38 G. A., ch.
40, § 3.]

SEC. 9429. Effect of bias in favor of party—waiver.

1 Bias in a juror against either party is no cause of challenge by the
2 other, and may be waived by the party against whom it exists.

[R., '60, § 4784; C., '73, § 4418; C., '97, § 5368.]

SEC. 9430. Jurors sworn.

1 When twelve jurors are accepted they shall be sworn to try the
2 issues.

[R., '60, § 4783; C., '73, § 4417; C., '97, § 5369.]

CHAPTER 32.**TRIAL.****SECTION 9431. Joint indictment—separate trials.**

1 When two or more defendants are jointly indicted for felony, any
2 defendant requiring it may be tried separately; in other cases defend-

3 ants jointly indicted may be tried separately or jointly, in the discre-
4 tion of the court.

[C., '51, § 2992; R., '60, § 4789; C., '73, § 4424; C., '97,
§ 5375.]

SEC. 9432. Continuances—time to prepare for trial.

1 The provisions of the code of civil procedure relative to the con-
2 tinuances of the trial of civil causes shall apply to the continuance of
3 criminal actions, but no judgment for costs shall be rendered against
4 a defendant on account thereof, except as in this code otherwise pro-
5 vided. The defendant shall, if he demands it upon entering his plea,
6 be entitled to three days in which to prepare for trial.

[C., '73, § 4419; C., '97, § 5370.]

SEC. 9433. Mode and manner of trial.

1 All the provisions relating to mode and manner of the trial of
2 civil actions, report thereof, translation of the shorthand reporter's
3 notes, the making such report and translation a part of the record, and
4 in all other respects, apply to the trial of criminal actions.

[R., '60, § 4809; C., '73, § 4436; C., '97, § 5371.]

SEC. 9434. Order of trial.

1 The jury having been impaneled and sworn, the trial must pro-
2 ceed in the following order:

3 1. *Reading indictment and plea.* The clerk or county attorney
4 must read the indictment and state the defendant's plea to the jury.

5 2. *Statement of state's evidence.* The county attorney may
6 briefly state the evidence by which he expects to sustain the indict-
7 ment.

8 3. *Statement of defendant's evidence.* The attorney for the de-
9 fendant may then briefly state his defense, and the evidence by which
10 he expects to sustain it.

11 4. *Offer of state's evidence.* The state may then offer the evi-
12 dence in support of the indictment.

13 5. *Offer of defendant's evidence.* The defendant or his counsel
14 may then offer his evidence in support of his defense.

15 6. *Rebutting or additional evidence.* The parties may then, re-
16 spectively, offer rebutting evidence only, unless the court, for good
17 reasons, in furtherance of justice, permit them to offer evidence upon
18 their original case.

19 7. *Arguments.* When the evidence is concluded, unless the case
20 is submitted to the jury on both sides without argument, the county
21 attorney must commence, the defendant follow by one or two counsel,
22 at his option, unless the court permit him to be heard by a larger
23 number, and the county attorney conclude, confining himself to a re-
24 sponse to the arguments of the defendant's counsel. Where two or
25 more defendants are on trial for the same offense, they may be heard
26 by one counsel each; and when the affirmative of the issue is with the
27 defendant, the court may, in its discretion, award to the defendant
28 the last argument. The court shall not restrict counsel as to time in
29 arguments to the jury.

30 8. *Instructions.* Upon the conclusion of the arguments, the court
31 shall charge the jury in writing, without oral explanation or qualifi-
32 cation, stating the law of the case.

[C., '51, § 2991; R., '60, §§ 4785, 4788; C., '73, §§ 4420, 4423;
C., '97, § 5372.]

SEC. 9435. Evidence not presented with indictment—notice.

1 The county attorney, in offering the evidence in support of the
2 indictment in the order prescribed in the preceding section, shall not
3 be permitted to introduce any witness who was not examined before a
4 committing magistrate or the grand jury, and the minutes of whose
5 testimony were not presented with the indictment to the court, unless
6 he shall have given to the defendant or his attorney of record if the
7 defendant be not found within the county a notice in writing, stating
8 the name, place of residence and occupation of such witness, and the
9 substance of what he expects to prove by him on the trial, at least four
10 days before the commencement of such trial.

[R., '60, § 4786; C., '73, § 4421; C., '97, § 5373; S., '13,
§ 5373.]

SEC. 9436. Insufficient time for notice—procedure.

1 Whenever the county attorney desires to introduce evidence to
2 support the indictment, of which he shall not have given said four
3 days' notice because of insufficient time therefor since he learned said
4 evidence could be obtained, he may move the court for leave to intro-
5 duce such evidence, giving the same particulars as in the former case,
6 and showing diligence such as is required in a motion for a continu-
7 ance, supported by affidavit, whereupon, if the court sustains said
8 motion, the defendant shall elect whether said cause shall be continued
9 on his motion, or the witness shall then testify; and if said defendant
10 shall not elect to have said cause continued, the county attorney may
11 examine said witness in the same manner and with the same effect as
12 though four days' notice had been given defendant or his attorney as
13 hereinbefore provided, except the county attorney, in the examination
14 of witnesses, shall be strictly confined to the matters set out in his
15 motion.

[R., '60, § 4786; C., '73, § 4421; C., '97, § 5373; S., '13,
§ 5373.]

SEC. 9437. Former conviction or acquittal—order of trial.

1 When the defendant's only plea is a former conviction or acquittal,
2 the order prescribed in the third preceding section shall be reversed,
3 and the defendant shall first offer his evidence in support of his
4 defense.

[R., '60, § 4787; C., '73, § 4422; C., '97, § 5374.]

SEC. 9438. View of premises by jury.

1 When the court is of the opinion that it is proper the jury should
2 view the place in which the offense is charged to have been com-
3 mitted, or in which any other material fact occurred, it may order
4 the jury to be conducted in a body, in the custody of proper officers,
5 to the place, which shall be shown them by a person appointed by the
6 court for that purpose. The officers must be sworn to suffer no person
7 to speak to or communicate with the jury on any subject connected
8 with the trial, nor to do so themselves, except the person appointed by

9 the court for that purpose, and that only to show the place to be
10 viewed, and to return them into court without unnecessary delay at a
11 specified time.

[C., '51, § 3009; R., '60, § 4800; C., '73, § 4432; C., '97,
§ 5380.]

SEC. 9439. Juror as witness.

1 If a juror have personal knowledge respecting a fact in contro-
2 versy in a cause, he must declare the same in open court during the
3 trial, and if, during the retirement of the jury, a juror declares any
4 fact which could be evidence in the cause, as of his own knowledge,
5 the jury must return into court, and the juror must be sworn as a
6 witness and examined in the presence of the parties, if his evidence be
7 admissible; and in support of a motion to set aside a verdict, proof of
8 such declaration may be made by any juror.

[C., '51, § 3010; R., '60, § 4801; C., '73, § 4433; C., '97,
§ 5381.]

SEC. 9440. Procedure when juror becomes sick.

1 If before the conclusion of a trial a juror becomes sick so as to be
2 unable to perform his duty, the court may order him to be discharged,
3 and in such case a new juror may be sworn and the trial begin anew,
4 or the jury may be discharged and a new jury then or afterwards
5 impaneled.

[C., '51, § 3013; R., '60, § 4804; C., '73, § 4443; C., '97,
§ 5388.]

SEC. 9441. Separation of jury before final submission.

1 The jurors sworn to try an indictment, in the discretion of the
2 court, at any time before the final submission of the cause to them,
3 may be permitted to separate, except where one of the parties objects
4 thereto, or be kept together in charge of proper officers. The officers
5 must be sworn to keep the jury together during the adjournment of
6 the court, and to suffer no person to speak to or communicate with
7 them on any subject connected with the trial, nor do so themselves,
8 and to return them into court at the time to which it adjourns.

[C., '51, § 3011; R., '60, § 4802; C., '73, § 4434; C., '97,
§ 5382.]

SEC. 9442. Admonition as to communications.

1 The jury, whether permitted to separate or kept together in
2 charge of sworn officers, must be admonished by the court that it is
3 their duty not to permit any person to speak to or communicate with
4 them on any subject connected with the trial, and that any and all
5 attempts to do so should be immediately reported by them to the court,
6 and that they should not converse among themselves on any subject
7 connected with the trial, or form or express an opinion thereon, until
8 the cause is finally submitted to them; this admonition must be given
9 or referred to by the court at each adjournment during the progress
10 of the trial previous to the final submission of the cause to the jury.

[C., '51, § 3012; R., '60, § 4803; C., '73, § 4435; C., '97,
§ 5383.]

SEC. 9443. Questions of law and fact—court and jury.

1 On the trial of an indictment for any other offense than libel,
2 questions of law are to be decided by the court, saving the right of the
3 defendant and the state to except; questions of facts are to be tried
4 by jury; and although the jury have the power to find a general ver-
5 dict which includes questions of law as well as fact, they are bound,
6 nevertheless, to receive as law what is laid down as such by the court.

[C., '51, § 3016; R., '60, § 4812; C., '73, § 4439; C., '97,
§ 5385.]

SEC. 9444. Higher offense proved—new indictment.

1 If it appears by the testimony that the facts proved constitute
2 an offense of a higher nature than that charged in the indictment, the
3 court may direct the jury to be discharged and all proceedings on the
4 indictment to be suspended, and order the defendant to be committed
5 or continued on bail to answer any new indictment which may be
6 found against him for the higher offense.

[C., '51, § 3000; R., '60, § 4791; C., '73, § 4430; C., '97,
§ 5378.]

SEC. 9445. New indictment not found—procedure.

1 If the indictment for the higher offense be not found and pre-
2 sented at or before the next term, the court must proceed to try the
3 defendant on the original indictment.

[C., '51, § 3001; R., '60, § 4792; C., '73, § 4431; C., '97,
§ 5379.]

SEC. 9446. Lack of jurisdiction—no offense charged.

1 The court may also discharge the jury where it appears that it
2 has not jurisdiction of the offense, or that the facts as charged in the
3 indictment do not constitute an offense punishable by law.

[C., '51, § 3002; R., '60, § 4793; C., '73, § 4444; C., '97,
§ 5389.]

SEC. 9447. Crime committed in another state.

1 If the jury be discharged because the court has not jurisdiction
2 of the offense charged in the indictment, and it appear that it was
3 committed out of the jurisdiction of this state, the defendant must be
4 discharged, or ordered to be retained in custody a reasonable time
5 until the county attorney shall have a reasonable opportunity to
6 inform the chief executive of the state in which the offense was com-
7 mitted of the facts, and for said officer to require the delivery of the
8 offender.

[C., '51, § 3003; R., '60, § 4794; C., '73, § 4445; C., '97,
§ 5390.]

SEC. 9448. Crime committed in another county.

1 If the offense was committed within the exclusive jurisdiction of
2 another county of this state, the court must direct the defendant to
3 be committed for such time as shall be reasonable to await a warrant
4 from the proper county for his arrest, or, if the offense be bailable, he
5 may be admitted to bail in an undertaking with sufficient sureties that
6 he will, within such time as the court may appoint, render himself

7 amenable to a warrant for his arrest from the proper county, and, if
 8 not sooner arrested thereon, will attend at the office of the sheriff of
 9 the county where the trial was had, at a certain time particularly
 10 designated in the undertaking, to surrender himself upon the warrant,
 11 if issued, or that the bail will forfeit such sum as the court may fix, to
 12 be mentioned in the undertaking.

[C., '51, § 3004; R., '60, § 4795; C., '73, § 4446; C., '97,
 § 5391.]

SEC. 9449. Papers transmitted to proper county.

1 In such case, the clerk must transmit, forthwith, a certified copy
 2 of the indictment, and all the papers in the action filed with him, ex-
 3 cept the undertaking mentioned in the last section, to the county attor-
 4 ney of the proper county.

[C., '51, § 3005; R., '60, § 4796; C., '73, § 4447; C., '97,
 § 5392.]

SEC. 9450. Defendant discharged—procedure.

1 If the defendant be not arrested on a warrant from the proper
 2 county, he shall be discharged from custody, and his bail, if any,
 3 exonerated, or money deposited instead of bail refunded, as the case
 4 may be, and the sureties in the undertaking must be discharged.

[C., '51, § 3006; R., '60, § 4797; C., '73, § 4448; C., '97,
 § 5393.]

SEC. 9451. Defendant arrested—procedure.

1 If he be arrested, the same proceedings must be had thereon as
 2 upon the arrest of a defendant in another county on a warrant of
 3 arrest issued by a magistrate.

[C., '51, § 3007; R., '60, § 4798; C., '73, § 4449; C., '97,
 § 5394.]

SEC. 9452. No offense charged—new indictment.

1 If the jury be discharged because the facts set forth do not con-
 2 stitute an offense punishable by law, the court must order the defend-
 3 ant discharged and his bail, if any, exonerated, or, if he has deposited
 4 money instead of bail, that the money deposited be refunded, unless
 5 in its opinion a new indictment can be framed upon which the defend-
 6 ant can be legally convicted, in which case the court may direct that
 7 the case be submitted to the same or another grand jury.

[C., '51, § 3008; R., '60, § 4799; C., '73, § 4450; C., '97,
 § 5395.]

SEC. 9453. Defendant committed during trial.

1 When a defendant who has given bail appears for trial, the court
 2 may, in its discretion, at any time after such appearance, order him
 3 committed to the custody of the proper officer to abide the judgment
 4 or further order of the court; and he shall be committed and held in
 5 custody accordingly.

[C., '51, § 3020; R., '60, § 4816; C., '73, § 4451; C., '97,
 § 5396.]

SEC. 9454. Instructions.

1 The rules relating to the instruction of juries in civil cases shall
 2 be applicable to the trial of criminal prosecutions.
 [C., '51, §§ 3017, 3018; R., '60, §§ 4813, 4814; C., '73, §§ 4440,
 4441; C., '97, § 5396.]

SEC. 9455. Deliberation of jury in charge of officer.

1 After hearing the charge, the jury may either decide in court or
 2 retire for deliberation; if they do not agree without retiring, one or
 3 more officers must be sworn to keep them together in some private and
 4 convenient place without food or drink, water excepted, unless directed
 5 by the court, and not to suffer any person to speak to or communicate
 6 with them, nor speak to or communicate with them themselves except
 7 to ask them whether they have agreed upon their verdict, and not to
 8 communicate to anyone the state of their deliberation or the verdict
 9 agreed upon, until after the same shall have been declared in open
 10 court, and received by the court and to return them into court when
 11 they shall have so agreed upon their verdict, unless, by permission of
 12 the court, they be sooner discharged.
 [C., '51, § 3019; R., '60, § 4815; C., '73, § 4442; C., '97,
 § 5387.]

CHAPTER 33.**WITNESSES.****SECTION 9456. Witnesses for defendant—expense.**

1 A magistrate in a criminal action before him, and the clerk of
 2 court in any criminal action pending therein, shall issue blank sub-
 3 poenas for witnesses, signed by him, with the seal of the court if by
 4 the clerk, and deliver as many of them as requested to the defendant
 5 or his attorney or the attorney for the state. They may be served in
 6 any part of the state. But witnesses for the defense shall be sub-
 7 poenaed at the expense of the county only upon the order of the court
 8 or judge thereof before which the case is pending, made upon a satis-
 9 factory showing that the witnesses are material and necessary for the
 10 defense, which order may be made at the time of the trial or other
 11 disposition of the case, and the board of supervisors shall not allow
 12 any claims for fees of witnesses not thus authorized. Subpoenas for
 13 defendant's witnesses shall show whether they are summoned on the
 14 order of the court.

[C., '51, §§ 3168, 3170; R., '60, §§ 4950, 4951, 4958; C., '73,
 §§ 3818, 4561, 4562, 4569; C., '97, § 5492.]

SEC. 9457. Service of subpoena.

1 A peace officer must serve without delay within his county, city
 2 or town any subpoena issued in a criminal action, delivered to him for
 3 service, and make written return thereof, stating the time, place and
 4 manner of service, but a subpoena may be served by any other adult

5 person. Service thereof is made by delivering a copy and showing the
6 original to the witness.

[C., '51, §§ 3171, 3172; R., '60, §§ 4952, 4953; C., '73, §§ 4563, 4564; C., '97, § 5493.]

SEC. 9458. Breaking in to serve subpoena.

1 If a witness conceal himself to avoid the service of a subpoena, the
2 officer may break open doors or windows for the purpose of making
3 service.

[C., '51, § 3176; R., '60, § 4954; C., '73, § 4565; C., '97, § 5494.]

SEC. 9459. Disobedience of witness—contempt.

1 Disobedience to a subpoena, or refusal to be sworn or to answer
2 as a witness, may be punished by the court or magistrate as a con-
3 tempt, as provided in the civil procedure.

[C., '51, § 3174; R., '60, § 4955; C., '73, § 4566; C., '97, § 5495.]

SEC. 9460. Civil liability for disobedience.

1 A witness wilfully disobeying a subpoena in a criminal case with-
2 out good cause shall be liable to the party injured for the amount of
3 the damages sustained by such party.

[C., '51, § 3175; R., '60, § 4956; C., '73, § 4567; C., '97, § 5496.]

SEC. 9461. Forfeiture of bond.

1 The undertakings of witnesses in criminal cases may be forfeited
2 and enforced like the undertaking of bail.

[R., '60, § 4957; C., '73, § 4568; C., '97, § 5497.]

SEC. 9462. Depositions.

1 A defendant in a criminal case, either after preliminary informa-
2 tion, indictment or information, may examine witnesses conditionally
3 or on notice or commission, in the same manner and with like effect
4 as in civil actions.

[R., '60, § 4960; C., '73, § 4571; C., '97, § 5498.]

SEC. 9463. Perpetuating testimony.

1 A person apprehensive of a criminal prosecution may perpetuate
2 testimony in his favor in the same manner, and with like effect, as
3 may be done in apprehension of any civil action.

[R., '60, § 4961; C., '73, § 4572; C., '97, § 5499.]

SEC. 9464. Defendant as witness—effect of failure to testify.

1 Defendants in all criminal proceedings shall be competent wit-
2 nesses in their own behalf, but can not be called as witnesses by the
3 state, and should a defendant not elect to become a witness, that fact
4 shall not have any weight against him on the trial, nor shall the attor-
5 ney or attorneys for the state during the trial refer to the fact that
6 the defendant did not testify in his own behalf; and should they do

7 so, such attorney or attorneys will be guilty of a misdemeanor, and
8 defendant shall for that cause alone be entitled to a new trial.

[C., '51, § 2388; R., '60, § 3978; C., '73, § 3636; C., '97,
§ 5484.]

SEC. 9465. Cross-examination of defendant.

1 When the defendant testifies in his own behalf, he shall be subject
2 to cross-examination as an ordinary witness, but the state shall be
3 strictly confined therein to the matters testified to in the examination
4 in chief.

[C., '73, § 4238; C., '97, § 5485.]

SEC. 9466. Requiring attendance of witnesses outside state.

1 When a petition is filed in the office of a clerk of the district court
2 upon the relation and oath of a prosecuting attorney in another state,
3 which, by its laws, has heretofore or may hereafter make provision
4 for commanding persons within its borders to attend and testify in a
5 criminal action in this state, setting forth that there is a criminal
6 action pending in the courts of such state wherein a person residing
7 or being within the county wherein said court is held is a material
8 witness for the state in such action, to which there is attached a certi-
9 fied copy of the indictment therein, a judge of said court shall issue
10 an order fixing a time and place for a hearing on said petition, which
11 may be during a session of court or in vacation, and thereupon the
12 clerk shall prepare a notice requiring the said witness to appear before
13 the said judge at the time and place specified in said order to make
14 defense thereto and shall deliver the same to the sheriff of said county
15 for service upon said person.

[S., '13, § 5499-b.]

SEC. 9467. Costs—paid in advance.

1 All costs of said proceeding, which shall be estimated by the clerk,
2 shall be paid to the clerk at the time said petition is filed.

[S., '13, § 5499-c.]

SEC. 9468. Order to enforce attendance.

1 If it shall be shown upon said hearing that the said person is a
2 material and necessary witness for the prosecution in said case, the
3 court shall enter an order commanding said person to appear and
4 testify in said cause in the court in which such criminal action is pend-
5 ing at a certain named time and place, of which order the said person
6 shall take notice.

[S., '13, § 5499-d.]

SEC. 9469. Fees advanced—protection from service of process.

1 If any person on whom such order has been made, having been
2 tendered by the party asking for the order ten cents for each mile
3 traveled to and from such court, and the sum of five dollars for each
4 day that his attendance is required, including the time going to and
5 returning from the place of trial, the number of days to be specified
6 in such order, shall unreasonably neglect to attend and testify in such
7 court, he shall be punished in the manner provided for the punishment
8 of disobedience of any order issued from the office of the clerk of the

9 district court; provided, however, that the laws of the state in which
10 the trial is to be held give to persons coming into the state, under such
11 order, protection from the service of papers and arrest.

[S., '13, § 5499-e.]

CHAPTER 34.

EVIDENCE.

SECTION 9470. Rules of evidence.

1 The rules of evidence prescribed in civil procedure shall apply to
2 criminal proceedings as far as applicable and not inconsistent with
3 the provisions of this chapter.

[R., '60, § 4805; C., '73, §§ 4426, 4556; C., '97, § 5483.]

SEC. 9471. Obstructing highway by railroad.

1 In a prosecution against a railway company for obstructing a
2 highway or any private way, proof that any such way is in an unsafe
3 condition, or that it is inconvenient for travel at the place of its inter-
4 section with such railway, shall be presumptive evidence that such
5 company has obstructed such way.

[C., '73, § 4557; C., '97, § 5486.]

SEC. 9472. Rape—actual penetration.

1 Proof of actual penetration into the body is sufficient to sustain
2 an indictment for rape.

[C., '51, § 2997; R., '60, § 4101; C., '73, § 4558; C., '97,
§ 5487.]

SEC. 9473. Corroboration in rape, seduction and other crimes.

1 The defendant in a prosecution for rape, or assault with intent
2 to commit rape, or enticing or taking away an unmarried female of
3 previously chaste character for the purpose of prostitution, or aiding
4 or assisting therein, or seducing and debauching any unmarried wo-
5 man of previously chaste character, can not be convicted upon the
6 testimony of the person injured, unless she be corroborated by other
7 evidence tending to connect the defendant with the commission of the
8 offense.

[C., '51, § 2999; R., '60, § 4103; C., '73, § 4560; C., '97,
§ 5488.]

SEC. 9474. Corroboration of accomplice.

1 A conviction can not be had upon the testimony of an accomplice,
2 unless corroborated by other evidence which shall tend to connect the
3 defendant with the commission of the offense; and the corroboration
4 is not sufficient if it merely show the commission of the offense or the
5 circumstances thereof.

[C., '51, § 2998; R., '60, § 4102; C., '73, § 4559; C., '97,
§ 5489.]

SEC. 9475. Confession of defendant.

1 The confession of the defendant, unless made in open court, will
 2 not warrant a conviction, unless accompanied with other proof that
 3 the offense was committed.

[R., '60, § 4806; C., '73, § 4427; C., '97, § 5491.]

SEC. 9476. Photographs—measurements—Bertillion system.

1 It shall be lawful for the sheriff of any county or the chief of
 2 police in any city in this state, to take or procure the taking of the
 3 photograph of any person held to answer on a charge of any felony,
 4 such person being in the custody of such officer, or to make and record
 5 any measurements of such prisoner, by the Bertillion or other system,
 6 and to exchange such photographs, or measurements, or copies of the
 7 same, with other sheriffs and police officers, or to distribute the same
 8 by mail for the purpose of securing evidence for the identification of
 9 such person held to answer, if the identity and past record of the said
 10 person are unknown to him, and the cost of such photographs, and
 11 measurements, and of distributing the same, may be allowed by the
 12 court as a part of the costs in the case.

[S., '13, § 5499-a.]

CHAPTER 35.
INSANITY OF DEFENDANT DURING TRIAL.**SECTION 9477. Doubt as to sanity—proceedings suspended.**

1 If a defendant appears in any stage of the trial of a criminal
 2 prosecution, and a reasonable doubt arises as to his sanity, further
 3 proceedings must be suspended and a trial had upon that question.

[C., '51, §§ 3260, 3261; R., '60, §§ 5015, 5016; C., '73, §§ 4620,
 4621; C., '97, § 5540.]

SEC. 9478. Method of trial.

1 Such trial shall be conducted in all respects, so far as may be, as
 2 the prosecution itself would be, except the defendant shall hold the
 3 burden of proof, and first offer his evidence and have the opening and
 4 closing argument.

[R., '60, § 5017; C., '73, § 4622; C., '97, § 5541.]

SEC. 9479. Found insane—discharged or committed.

1 If the accused shall be found insane, no further proceedings shall
 2 be taken under the indictment until his reason is restored, and, if his
 3 discharge will endanger the public peace or safety, the court must
 4 order him committed to the department for the criminal insane at
 5 Anamosa until he becomes sane; but if found sane, the trial upon the
 6 indictment shall proceed, and the question of the then insanity of the
 7 accused can not be raised therein.

[C., '51, §§ 3262, 3263; R., '60, §§ 5018, 5019; C., '73, §§ 4623,
 4624; C., '97, § 5542.]

SEC. 9480. Restored to reason—returned to custody.

1 If the accused is committed to the department for the criminal
 2 insane, as soon as he becomes mentally restored, the person in charge
 3 shall at once give notice to the sheriff and county attorney of the
 4 proper county of such fact, and the sheriff, without delay, must receive
 5 and hold him in custody until he is brought to trial or judgment, as
 6 the case may be, or is legally discharged, the expense for conveying
 7 and returning him, or any other, to be paid in the first instance by the
 8 county from which he is sent, but such county may recover the same
 9 from his estate, or a relative, or another county or municipal body
 10 bound to provide for or maintain him elsewhere, and the sheriff shall
 11 be allowed for his services the same fees as are allowed for conveying
 12 convicts to the penitentiary.

[C., '51, §§ 3264-3267; R., '60, §§ 5020-5023; C., '73, §§ 4625-4628; C., '97, § 5543.]

SEC. 9481. Insanity after commitment to jail.

1 If, after conviction for a misdemeanor and judgment of imprison-
 2 ment in jail, the defendant is suspected of being insane, the same
 3 proceedings shall be taken as is provided in chapters nine, ten, eleven
 4 and twelve of title nine, and, if found insane, he shall be committed
 5 to the department for the criminal insane at Anamosa, and all subse-
 6 quent proceedings shall be as provided in the preceding section.

[C., '97, § 5544.]

CHAPTER 36.
JURY AFTER SUBMISSION.**SECTION 9482. Jury may take papers for deliberation.**

1 Upon retiring for deliberation, the jury may take with it all
 2 papers which have been received in evidence, except depositions, and
 3 copies of such parts of public records or private documents as ought
 4 not, in the opinion of the court, to be taken from the person having
 5 them in possession, also any notes of the testimony or other proceed-
 6 ings taken in the trial by themselves or any of them.

[C., '51, §§ 3021, 3022; R., '60, §§ 4817, 4818; C., '73, §§ 4452, 4453; C., '97, § 5397.]

SEC. 9483. Additional instructions.

1 After the jury has retired for deliberation, if there be any dis-
 2 agreement as to any part of the testimony, or if it desires to be in-
 3 formed on any point of law arising in the cause, it must require the
 4 officer to conduct it into court, and, upon its being brought in, the
 5 information required must be given as provided by law, in the pres-
 6 ence of or after oral notice to the county attorney and defendant's
 7 counsel.

[C., '51, § 3023; R., '60, § 4819; C., '73, § 4454; C., '97, § 5398.]

SEC. 9484. Discharge of jury—grounds.

1 If, after retirement, one of the jury is taken sick so as to prevent
 2 further deliberation, or any other accident or cause occurs to prevent
 3 its being kept together, the court may discharge it; otherwise the jury
 4 can not be discharged after the cause is submitted to it until it has
 5 agreed upon its verdict and rendered it in open court, unless, by the
 6 consent of both parties entered upon the record, or unless, at the ex-
 7 piration of such time as the court may deem proper, it satisfactorily
 8 appears that there is no reasonable probability that it can agree.

[C., '51, §§ 3024, 3025; R., '60, §§ 4820, 4821; C., '73, §§ 4455,
 4456; C., '97, § 5399.]

SEC. 9485. Retrial—when allowed.

1 In all cases where a jury is discharged or prevented from giving
 2 a verdict, except where the defendant is discharged during the prog-
 3 ress of the trial, or after submission to it, the cause may be again
 4 tried at the same or another term of the court.

[C., '51, § 3026; R., '60, § 4822; C., '73, § 4457; C., '97,
 § 5400.]

SEC. 9486. Adjournment during absence of jury—effect.

1 While the jury is absent, the court may adjourn from time to
 2 time as to other business, but it shall be nevertheless deemed open for
 3 every purpose connected with the cause submitted to the jury until a
 4 verdict is rendered or the jury is discharged, but a final adjournment
 5 of the court discharges the jury.

[C., '51, §§ 3027, 3028; R., '60, §§ 4823, 4824; C., '73, §§ 4458,
 4459; C., '97, § 5401.]

CHAPTER 37.**VERDICT.****SECTION 9487. General and special verdicts.**

1 The jury must render a general verdict of "guilty" or "not
 2 guilty," which imports a conviction or acquittal on every material alle-
 3 gation in the indictment, except upon a plea of former conviction or
 4 acquittal of the same offense, in which case it shall be "for the state"
 5 or "for the defendant," and except in cases submitted to determine
 6 the grade of the offense and, when authorized, fixing the punishment
 7 therefor. It must also return with the general verdict answers to
 8 special interrogatories submitted by the court upon its own motion,
 9 or at the request of the defendant in prosecutions where the defense
 10 is an affirmative one, or it is claimed any witness is an accomplice,
 11 or there has been a failure to corroborate where corroboration is
 12 required.

[C., '51, §§ 3032-3037; R., '60, §§ 4828-4833; C., '73, §§ 4463,
 4464, 4474-4477; C., '97, § 5405.]

SEC. 9488. Reasonable doubt of guilt—acquittal.

1 Where there is a reasonable doubt of the defendant being proven
2 to be guilty, he is entitled to an acquittal.

[R., '60, § 4807; C., '73, § 4428; C., '97, § 5376.]

SEC. 9489. Reasonable doubt as to degree.

1 Where there is a reasonable doubt of the degree of the offense of
2 which the defendant is proven to be guilty, he shall only be convicted
3 of the lower degree.

[R., '60, § 4808; C., '73, § 4429; C., '97, § 5377.]

SEC. 9490. Finding an offense of different degree.

1 Upon an indictment for an offense consisting of different degrees,
2 the jury may find the defendant not guilty of the degree charged in
3 the indictment, and guilty of any degree inferior thereto, or of an at-
4 tempt to commit the offense, if punishable by indictment.

[C., '51, § 2918; R., '60, § 4835; C., '73, § 4465; C., '97,
§ 5406.]

SEC. 9491. Finding an included offense.

1 In all other cases, the defendant may be found guilty of any
2 offense the commission of which is necessarily included in that with
3 which he is charged in the indictment.

[C., '51, § 3039; R., '60, § 4836; C., '73, § 4466; C., '97,
§ 5407.]

SEC. 9492. Verdict against one of several.

1 On an indictment against several, if the jury can not agree upon
2 a verdict as to all, it may render a verdict as to those in regard to
3 whom it does agree, on which a judgment shall be entered accordingly,
4 and the case as to the rest may be tried by another jury.

[C., '51, § 3040; R., '60, § 4837; C., '73, § 4467; C., '97,
§ 5408.]

SEC. 9493. Verdict as to several defendants.

1 Upon an indictment against several defendants, any one or more
2 may be convicted or acquitted.

[C., '51, § 3014; R., '60, § 4810; C., '73, § 4437; C., '97,
§ 5384:]

SEC. 9494. Return of jury—roll call.

1 When the jury has agreed upon its verdict, it must be conducted
2 into court by the officer having it in charge; the names of the jurors
3 must then be called, and if all do not appear the rest must be dis-
4 charged without giving a verdict; in such case, the cause may again
5 be tried at the same or another term.

[C., '51, § 3029; R., '60, § 4825; C., '73, § 4460; C., '97,
§ 5402.]

SEC. 9495. Presence of defendant—when necessary.

1 If the indictment be for a felony, the defendant must be present
2 at the rendition of the verdict; if it be for a misdemeanor, it may be
3 rendered in his absence.

[C., '51, § 3030; R., '60, § 4826; C., '73, § 4461; C., '97,
§ 5403.]

SEC. 9496. Verdict rendered.

1 When the members of the jury have answered to their names, the
2 court or the clerk shall ask them whether they have agreed upon the
3 verdict, and if the foreman answers in the affirmative they must de-
4clare the same.

[C., '51, § 3031; R., '60, § 4827; C., '73, § 4462; C., '97,
§ 5404.]

SEC. 9497. Verdict insufficient—reconsideration.

1 If the jury renders a verdict which is neither a general nor spe-
2 cial one, the court may direct it to reconsider it, and it shall not be
3 recorded until it is rendered in some form from which the intent of
4 the jury can be clearly understood, whether to render a general ver-
5 dict, or to find the facts specially and leave the judgment to the court.

[C., '51, §§ 3038, 3041; R., '60, §§ 4834, 4838; C., '73, §§ 4468,
4478; C., '97, § 5409.]

SEC. 9498. Informal verdict.

1 If the jury persists in finding an informal verdict, from which,
2 however, it can be understood that the intention is to find for the
3 defendant upon the issue, it shall be entered in the terms in which it
4 is found, and the court must give judgment of acquittal. But no
5 judgment of conviction can be given unless the jury expressly finds
6 against the defendant upon the issue, or judgment is given against
7 him upon a special verdict.

[C., '51, § 3042; R., '60, § 4839; C., '73, § 4469; C., '97,
§ 5410.]

SEC. 9499. Jury polled.

1 When a verdict is rendered, and before it is recorded, the jury
2 may be polled on the requirement of either party; in which case each
3 member thereof shall be asked whether it is his verdict, and if any
4 one answers in the negative the jury must be sent out for further de-
5 liberation.

[C., '51, § 3043; R., '60, § 4840; C., '73, § 4470; C., '97,
§ 5411.]

SEC. 9500. Disagreement of jurors—discharge.

1 When the verdict is given and is such as the court may receive,
2 the clerk may immediately enter it in full upon the record, and must
3 read it to the jury, and inquire of the members thereof whether it is
4 their verdict. If any juror disagrees, the fact must be entered upon
5 the record and the jury again sent out. But if no disagreement is ex-
6 pressed, the verdict is complete and the jury must be discharged from
7 the case.

[R., '60, § 4841; C., '73, § 4471; C., '97, § 5412.]

SEC. 9501. Defendant discharged on acquittal.

1 If judgment of acquittal is given on a general verdict, and the
2 defendant is not detained for any other legal cause, he must be dis-
3 charged as soon as the judgment is given.

[C., '51, § 3045; R., '60, § 4843; C., '73, § 4473; C., '97,
§ 5413.]

SEC. 9502. Acquittal on ground of insanity—commitment.

1 If the defense is insanity of the defendant, the jury must be in-
2 structed, if it acquits him on that ground, to state that fact in its
3 verdict. The court may thereupon, if the defendant is in custody, and
4 his discharge is found to be dangerous to the public peace and safety,
5 order him committed to the insane hospital, or retained in custody,
6 until he becomes sane.

[C., '51, § 3044; R., '60, § 4842; C., '73, § 4472; C., '97,
§ 5414.]

CHAPTER 38.**EXCEPTIONS.****SECTION 9503. Bill of exceptions.**

1 The office of a bill of exceptions is to make the proceedings or
2 evidence appear of record which would not otherwise so appear.

[R., '60, § 4846; C., '73, § 4481; C., '97, § 5416.]

SEC. 9504. Papers deemed part of record.

1 All papers pertaining to the cause and filed with the clerk, and
2 all entries made by him in the record book pertaining to them, and
3 showing the action or decision of the court upon them or any part of
4 them, and the judgment, are to be deemed parts of the record, and it
5 is not necessary to except to any action or decision of the court so
6 appearing of record.

[R., '60, § 4847; C., '73, § 4482; C., '97, § 5417.]

SEC. 9505. Grounds for exceptions.

1 On the trial of an indictment, exceptions may be taken by the
2 state or by the defendant to any decision of the court upon matters
3 of law, in any of the following cases:

- 4 1. In disallowing a challenge to an individual juror.
- 5 2. In admitting or rejecting witnesses or evidence on the trial of
- 6 any challenge.
- 7 3. In admitting or rejecting witnesses or evidence.
- 8 4. In deciding any matter of law, not purely discretionary on the
- 9 trial of the issue.

10 Exceptions may also be taken to any action or decision of the
11 court which affects any other material or substantial right of either
12 party, whether before or after the trial of the indictment, or on the
13 trial.

[C., '51, § 3046; R., '60, §§ 4844, 4845; C., '73, §§ 4479, 4480;
C., '97, § 5415.]

SEC. 9506. Taking exceptions not of record.

1 Either party may take an exception to any decision or action of
 2 the court, in any stage of the proceedings, not required to be and not
 3 entered in the record book, and reduce the same to writing, and tender
 4 the same to the judge, who shall sign it if true, and if signed it shall
 5 be filed with the clerk and become a part of the record of the cause;
 6 if the judge refuses to sign it, such refusal must be stated at the end
 7 thereof, and it may then be signed by two or more attorneys or officers
 8 of the court or disinterested bystanders, and sworn to by them, and
 9 filed with the clerk, and it shall thereupon become a part of the record
 10 of the cause.

[C., '51, § 3047; R., '60, § 4848; C., '73, § 4483; C., '97,
 § 5418.]

SEC. 9507. Time allowed to approve exceptions.

1 The judge shall be allowed one clear day to examine the bill of
 2 exceptions, and the party excepting shall be allowed three clear days
 3 thereafter to procure the signatures and file the same.

[R., '60, § 4849; C., '73, § 4484; C., '97, § 5419.]

SEC. 9508. Modification of exceptions.

1 If the judge and the party excepting can agree in modifying the
 2 bill of exceptions, it shall be modified accordingly.

[R., '60, § 4850; C., '73, § 4485; C., '97, § 5420.]

SEC. 9509. Time allowed to prepare exceptions.

1 Time must be given to prepare the bill of exceptions when it is
 2 necessary; if it can reasonably be done, it shall be settled at the time
 3 of taking the exception.

[R., '60, § 4851; C., '73, § 4486; C., '97, § 5421.]

CHAPTER 39.
NEW TRIAL.**SECTION 9510. New trial defined.**

1 A new trial is a reexamination of the issue in the same court
 2 before another jury, after a verdict has been given.

[C., '51, § 3050; R., '60, § 4852; C., '73, § 4487; C., '97,
 § 5422.]

SEC. 9511. Application—when made.

1 The application for a new trial can be made only by the defendant,
 2 and must be made before judgment.

[C., '51, § 3053; R., '60, § 4855; C., '73, § 4490; C., '97,
 § 5425.]

SEC. 9512. Grounds for new trial.

1 The court may grant a new trial for the following causes, or any
 2 of them:

- 3 1. When the trial has been had in the absence of the defendant,
4 if the indictment be for a felony.
- 5 2. When the jury has received any evidence, paper or document
6 out of court not authorized by the court.
- 7 3. When the jury have separated without leave of the court, after
8 retiring to deliberate upon their verdict, or have been guilty of any
9 misconduct tending to prevent a fair and due consideration of the case.
- 10 4. When the verdict has been decided by lot, or by means other
11 than a fair expression of opinion on the part of all the jurors.
- 12 5. When the court has misdirected the jury in a material matter
13 of law.
- 14 6. When the verdict is contrary to law or evidence; but no more
15 than two new trials shall be granted for this cause alone.
- 16 7. When the court has refused properly to instruct the jury.
- 17 8. When from any other cause the defendant has not received a
18 fair and impartial trial.

[C., '51, § 3052; R., '60, § 4854; C., '73, § 4489; C., '97,
§ 5424.]

SEC. 9513. Effect of a new trial.

- 1 The granting of a new trial places the parties in the same position
2 as if no trial had been had; all the testimony must be produced anew
3 and the former verdict can not be used or referred to either in the
4 evidence or in argument.

[C., '51, § 3051; R., '60, § 4853; C., '73, § 4488; C., '97,
§ 5423.]

CHAPTER 40.

ARREST OF JUDGMENT.

SECTION 9514. Motion in arrest defined—grounds for.

- 1 A motion in arrest of judgment is an application to the court in
2 which the trial was had, on the part of the defendant, that no judg-
3 ment be rendered upon a verdict against him, or on a plea of guilty,
4 and shall be granted:

- 5 1. Upon any ground which would have been ground of demurrer.
6 2. When upon the whole record no legal judgment can be pro-
7 nounced.

[C., '51, § 3054; R., '60, § 4856; C., '73, § 4491; C., '97,
§ 5426.]

SEC. 9515. Time of making motion.

- 1 The motion may be made at any time before or after judgment,
2 during the same term.

[R., '60, § 4859; C., '73, § 4494; C., '97, § 5429.]

SEC. 9516. Arrest of judgment on motion of court.

- 1 The court may also, upon its own observation of any of these
2 grounds, arrest the judgment on its own motion.

[C., '51, § 3055; R., '60, § 4857; C., '73, § 4492; C., '97,
§ 5427.]

SEC. 9517. Defendant held to answer.

1 If the court is of opinion from the evidence on the trial that the
 2 defendant is guilty of a public offense of which no legal conviction
 3 can be had on the indictment, he may be held to answer the offense in
 4 like manner as upon a preliminary examination.

[C., '51, § 3057; R., '60, § 4858; C., '73, § 4493; C., '97,
 § 5428.]

CHAPTER 41.**JUDGMENT.****SECTION 9518. Judgment of acquittal—time for.**

1 Upon a verdict of not guilty for the defendant, or special verdict
 2 upon which a judgment of acquittal must be given, the court must
 3 render judgment of acquittal immediately.

[R., '60, § 4860; C., '73, § 4495; C., '97, § 5430.]

SEC. 9519. Judgment of conviction—time for.

1 Upon a plea of guilty, verdict of guilty, or a special verdict upon
 2 which a judgment of conviction must be rendered, the court must fix
 3 a time for pronouncing judgment, which must be at least three days
 4 after the verdict is rendered, if the court remains in session so long,
 5 or, if not, as remote a time as can reasonably be allowed; but in no
 6 case can it be pronounced in less than six hours after the verdict is
 7 rendered, unless defendant consent thereto.

[C., '51, § 3058; R., '60, §§ 4861, 4862; C., '73, § 4496; C., '97,
 § 5431.]

SEC. 9520. Presence of defendant—when necessary.

1 When judgment is pronounced, if the conviction be for a felony,
 2 the defendant must be personally present; if for a misdemeanor, he
 3 need not.

[C., '51, § 3059; R., '60, § 4863; C., '73, § 4497; C., '97,
 § 5432.]

SEC. 9521. Forfeiture of bail—warrant of arrest.

1 If the defendant has been discharged on bail, or has deposited
 2 money instead thereof, and does not appear for judgment when his
 3 personal appearance is necessary, the court, in addition to the for-
 4 feiture of the undertaking of bail or money deposited, may make an
 5 order directing the clerk, on the application of the county attorney at
 6 any time thereafter, to issue a warrant into one or more counties for
 7 his arrest, which may be substantially in the following form:

8 County of _____, }

9 THE STATE OF IOWA. }

10 To any peace officer in the state:

11 A _____ B _____, having been duly convicted on the _____
 12 day of _____, A. D. _____, in the district court of _____
 13 county, of the crime of (here designate it generally, as in the indict-
 14 ment).

15 You are hereby commanded to arrest the said A..... B.....
 16 and bring him before said court for judgment, if it be then in session,
 17 or, if not, to deliver him into the custody of the sheriff of said county.
 18 Given under my hand and seal of said court, at my office in
 19, in said county, this.....day of....., A. D.

20 [Seal.]

21

Clerk.

22

The warrant may be served in any county in the state.

[C., '51, §§ 3061-3063; R., '60, §§ 4865-4868; C., '73, §§ 4498-4501; C., '97, § 5433.]

SEC. 9522. Defendant arrested.

1 The officer must arrest the defendant and bring him before the
 2 court, or commit him to the officer mentioned in the warrant.

[C., '51, § 3064; R., '60, § 4869; C., '73, § 4502; C., '97, § 5434.]

SEC. 9523. Appearance for judgment—showing of cause.

1 When the defendant appears for judgment, he must be informed
 2 by the court, or the clerk under its direction, of the nature of the
 3 indictment, his plea, and the verdict, if any, thereon, and be asked
 4 whether he has any legal cause to show why judgment should not be
 5 pronounced against him.

[C., '51, § 3065; R., '60, § 4870; C., '73, § 4503; C., '97, § 5435.]

SEC. 9524. What may be shown for cause.

1 He may show for cause against the judgment that he is insane, or
 2 any sufficient ground for a new trial, or in arrest of judgment.

[R., '60, § 4871; C., '73, § 4504; C., '97, § 5436.]

SEC. 9525. Insanity.

1 If the court is of opinion that there is reasonable ground for be-
 2 lieving him insane, the question of his insanity shall be determined as
 3 provided in this code, and if he is found to be insane, such proceedings
 4 shall be had as are herein directed.

[R., '60, § 4872; C., '73, § 4505; C., '97, § 5437.]

SEC. 9526. New trial—motion in arrest.

1 If he moves for a new trial, or in arrest of judgment, the court
 2 shall defer the judgment and proceed to hear and decide the motions.
 3 If no sufficient cause is shown why judgment should not be pronounced,
 4 and none appears to the court upon the record, judgment shall be
 5 rendered.

[C., '51, § 3066; R., '60, §§ 4873, 4874; C., '73, §§ 4506, 4507; C., '97, § 5438.]

SEC. 9527. Cumulative sentences.

1 If the defendant is convicted of two or more offenses, the punish-
 2 ment of each of which is or may be imprisonment, the judgment may
 3 be so rendered that the imprisonment upon any one shall commence at
 4 the expiration of the imprisonment upon any other of the offenses.

[C., '51, § 3070; R., '60, § 4880; C., '73, § 4508; C., '97, § 5439.]

SEC. 9528. Indeterminate sentences.

1 When any person over sixteen years of age is convicted of a fel-
 2 ony, except treason or murder, the court imposing a sentence of con-
 3 finement in the penitentiary shall not fix the limit or duration of the
 4 same, but the term of such imprisonment shall not exceed the maxi-
 5 mum term provided by law for the crime of which the prisoner was
 6 convicted.

[S., '13, § 5718-a13.]

SEC. 9529. Sentences for two or more offenses.

1 If a person be sentenced for two or more separate offenses and the
 2 second or further term is ordered to begin at the expiration of the
 3 first and such succeeding term of sentence is specified in the order of
 4 commitment, the several terms shall for the purpose of the preceding
 5 section be construed as one continuous term of imprisonment. Where
 6 one is convicted of a felony that is punishable by imprisonment in the
 7 penitentiary, or by fine, or by imprisonment in the county jail, or both,
 8 the court may impose the lighter sentence if it shall so elect.

[S., '13, § 5718-a13.]

SEC. 9530. Place of commitment.

1 Any male person who shall be committed to the penitentiary, ex-
 2 cept those convicted of murder, treason, sodomy or incest, and who at
 3 the time of commitment is between the ages of sixteen and thirty
 4 years, and who has never before been convicted of a felony, shall be
 5 confined in the men's reformatory; provided, however, that persons
 6 between the ages of sixteen and thirty years convicted of rape, rob-
 7 bery, or of breaking and entering a dwelling house in the nighttime
 8 with intent to commit a public offense therein, may, as the particular
 9 circumstances may warrant, in the discretion of the court, be com-
 10 mitted to either the men's reformatory at Anamosa, or the peniten-
 11 tiary at Fort Madison.

[S., '13, § 5718-a5.]

SEC. 9531. Imprisonment for fine.

1 A judgment that the defendant pay a fine may also direct that he
 2 be imprisoned until the fine is satisfied, specifying the extent of the
 3 imprisonment, which shall not exceed one day for every three and
 4 one-third dollars of the fine.

[C., '51, § 3071; R., '60, § 4881; C., '73, § 4509; C., '97,
 § 5440.]

SEC. 9532. Commitment to jail of another county.

1 When a person is to be committed to jail, if there is no jail or
 2 no sufficient one in the county where the party would be committed
 3 under the ordinary provisions of law, the court or magistrate com-
 4 mitting may order him to be committed to the jail of some other
 5 county, which shall be the one which is most convenient and safe, and
 6 the county to which the cause originally belonged shall be liable for
 7 all the expenses thereof.

[C., '51, § 3073; R., '60, § 4884; C., '73, § 4510; C., '97,
 § 5441.]

SEC. 9533. Allowance of bail upon appeal.

1 In all cases, except murder in the first degree and treason, the
 2 court rendering judgment must make an order fixing the amount in
 3 which bail must be taken, and there shall be no execution of the judg-
 4 ment until such order is made.

[R., '60, § 4885; C., '73, § 4511; C., '97, § 5442.]

CHAPTER 42.**LIEN OF JUDGMENTS AND STAY OF EXECUTIONS.****SECTION 9534. Judgments for fines lien on real estate.**

1 Judgments for fines, in all criminal actions rendered, are liens
 2 upon the real estate of the defendant, and shall be entered upon the
 3 lien index in the same manner and with like effect as judgments in civil
 4 actions.

[R., '60, § 5003; C., '73, § 4609; C., '97, § 5531.]

SEC. 9535. Stay of execution—time.

1 The defendant may have a stay of execution for the same length
 2 of time and in the same manner as provided by law in civil actions, and
 3 with like effect, and the same proceedings may be had therein.

[R., '60, § 5004; C., '73, § 4610; C., '97, § 5532.]

CHAPTER 43.**EXECUTION.****SECTION 9536. Copy of judgment—authority for execution.**

1 When a judgment of imprisonment, either in the penitentiary or
 2 county jail, is pronounced, an execution, consisting of a certified copy
 3 of the entry thereof in the record book, must be forthwith furnished
 4 to the officer whose duty it is to execute the same, who shall proceed
 5 and execute it accordingly, and no other warrant or authority is neces-
 6 sary to justify or require its execution.

[C., '51, § 3074; R., '60, § 4886; C., '73, § 4512; C., '97,
 § 5443.]

SEC. 9537. Executions within county of trial.

1 A judgment for imprisonment, or for imprisonment until a fine
 2 is paid, to be executed in the county where the trial is had, shall be
 3 executed by the sheriff thereof, and return made upon the execution,
 4 which shall be delivered to and filed by the clerk of said court.

[C., '51, §§ 3075-3077; R., '60, §§ 4897-4899; C., '73, §§ 4513-
 4515; C., '97, § 5444.]

SEC. 9538. Executions outside county of trial.

1 Under all other judgments for imprisonment, the sheriff shall
 2 deliver a certified copy of the execution with the body of the defendant

3 to the keeper of the jail or penitentiary in which the defendant is to
 4 be imprisoned in execution of the judgment, and take his receipt there-
 5 for on a duplicate copy thereof, which he must forthwith return to
 6 the clerk of the court in which the judgment was rendered, with his
 7 return thereon, and a minute of said return shall be entered by the
 8 clerk as a part of the record of the proceedings in the cause in which
 9 the execution issued.

[C., '51, § 3077; R., '60, §§ 4898, 4899, 4901; C., '73, §§ 4514,
 4515; C., '97, § 5444.]

SEC. 9539. Record of discharge.

1 When such defendant is discharged from custody, the jailer or
 2 warden of the penitentiary shall make return of such fact to the proper
 3 court, and an entry thereof shall be made by its clerk as is required in
 4 the first instance.

[C., '97, § 5444.]

SEC. 9540. Preventing escape—recapture.

1 The sheriff, or his deputy, while conveying the defendant to the
 2 proper prison, has the same authority to require the assistance of any
 3 citizen of the state in securing the defendant, and retaking him if he
 4 escapes, as if he was in his own county; and every person who neg-
 5 lects or refuses to assist him when so required shall be punishable
 6 accordingly.

[C., '51, § 3078; R., '60, § 4900; C., '73, § 4516; C., '97,
 § 5445.]

SEC. 9541. Execution for fine.

1 Upon a judgment for a fine, an execution may be issued as upon
 2 a judgment in a civil case, and return thereof shall be made in like
 3 manner.

[R., '60, § 4902; C., '73, § 4518; C., '97, § 5446.]

SEC. 9542. Execution for abatement of nuisance.

1 When the judgment is for the abatement or removal of a nuisance,
 2 or for anything other than the payment of money by the defendant, an
 3 execution consisting of a certified copy of the entry of such judgment,
 4 delivered to the sheriff of the proper county, shall authorize and re-
 5 quire him to execute such judgment, and he shall return the same,
 6 with his doings under the same thereon indorsed, to the clerk of the
 7 court in which the judgment was rendered, within seventy days after
 8 the date of the certificate of such certified copy, except as hereinbefore
 9 provided for.

[R., '60, § 4903; C., '73, § 4519; C., '97, § 5447.]

CHAPTER 44.

EXECUTION OF DEATH PENALTY.

SECTION 9543. Time of execution.

1 When the court or jury shall direct that a defendant be punished
 2 by death, the court pronouncing judgment shall fix the day of the

3 execution thereof, which shall not be less than one year after the day
4 on which the judgment is rendered, and not longer than fifteen months,
5 during which time the defendant shall be imprisoned in the peniten-
6 tiary.

[C., '97, § 4732.]

SEC. 9544. Papers sent governor.

1 Immediately after entry of judgment of death, the court render-
2 ing the same must transmit by mail to the governor a copy of the
3 indictment, plea, verdict, judgment and testimony in the case.

[C., '97, § 4733.]

SEC. 9545. Copy of judgment authority for execution.

1 When a judgment of death is pronounced, a certified copy of the
2 entry thereof in the record book must be furnished to the officer
3 whose duty it is to execute the same, who shall proceed accordingly,
4 and no other warrant or authority is necessary to require or justify
5 the execution.

[C., '97, § 4734.]

SEC. 9546. Reprieve or suspension of execution.

1 The only officers who shall have power to reprieve or suspend the
2 execution of a judgment of death are the governor and, as provided in
3 this chapter, the warden of the penitentiary, except in cases of appeal
4 to the supreme court.

[C., '97, § 4735.]

SEC. 9547. Insanity or pregnancy—duty of warden.

1 When the warden of the penitentiary is satisfied that there are
2 reasonable grounds for believing that a defendant in his charge under
3 sentence of death is insane or pregnant, he shall notify the commis-
4 sioners of insanity of the county wherein the penitentiary is located,
5 who shall be sworn by the warden well and truly to inquire into the
6 facts as to the insanity or pregnancy of the defendant, as the case
7 may be, and return a true report of their findings.

[C., '97, § 4736.]

SEC. 9548. Examination—finding of commissioners.

1 The commissioners, after being sworn, shall examine the de-
2 fendant and hear any evidence that may be presented, and may exam-
3 ine the medical attendants at the penitentiary, if necessary, to ascer-
4 tain the facts, and make report thereon in writing, signed by not less
5 than a majority of them, finding as to the fact of insanity or preg-
6 nancy.

[C., '97, § 4737.]

SEC. 9549. Execution suspended by warden.

1 If the report does not show the defendant to be insane or preg-
2 nant, the warden shall not suspend the execution; but if it does, he
3 shall suspend the execution, and immediately transmit the report to
4 the governor.

[C., '97, § 4738.]

SEC. 9550. Subsequent warrant—issued by governor.

1 When a judgment of death from any cause has not been executed
2 on the day appointed by the court therefor, the governor, by a war-
3 rant under the seal of the state, shall fix the day of execution, which
4 warrant shall be obeyed by the sheriff, and no one but the governor
5 can then suspend its execution.

[C., '97, § 4739.]

SEC. 9551. Time and manner of execution.

1 A judgment of death must be executed by the sheriff of the
2 county in which the judgment was rendered, or his deputy, within the
3 walls of the penitentiary where the defendant is confined, or within a
4 yard or inclosure adjoining thereto, on the day fixed in the judgment,
5 between sunrise and sunset, by hanging by the neck until dead.

[C., '97, § 4740.]

SEC. 9552. Witnesses to execution.

1 The sheriff or his deputy must, at least three clear days before
2 executing a judgment of death, notify the judge of the district court
3 who tried the case, or, if he be not in office, another judge of such
4 court, the county attorney and the clerk of the district court of the
5 county in which the judgment was rendered, the sheriff of the county
6 in which the offense was committed, if other than that in which judg-
7 ment was rendered, and two physicians and twelve respectable citizens
8 of the state to be selected by him, to be present as witnesses at such
9 execution. He must also, at the request of the defendant, permit one
10 or more ministers of the gospel, named by him, and any of his rela-
11 tives, to attend the execution, and also such magistrates, peace officers
12 and guards as the sheriff shall deem proper, but no minor, and no
13 person other than those herein authorized, shall be present.

[C., '97, § 4741.]

SEC. 9553. Certificate of execution.

1 The sheriff or his deputy executing the judgment of death must
2 prepare and sign with his name of office a certificate, setting forth the
3 time and place of the execution, and that judgment was executed upon
4 the defendant according to the foregoing provisions, and cause the cer-
5 tificate to be signed by the public officers, and at least twelve persons,
6 not relations of the defendant, who witnessed the same.

[C., '97, § 4742.]

SEC. 9554. Certificate filed and published.

1 The sheriff or his deputy executing such judgment must cause
2 the certificate to be filed in the office of the clerk of the district court
3 of the county in which the judgment was rendered, and cause a copy
4 thereof to be published in one newspaper printed at the capital of the
5 state, and in one in his county.

[C., '97, § 4743.]

SEC. 9555. Stay of execution by appeal.

1 An appeal from a judgment of death shall stay the infliction of
2 that punishment, but the defendant is to be retained in custody with-
3 out bail to abide the judgment thereon.

[C., '97, § 4744.]

SEC. 9556. Proceedings on appeal.

1 When an appeal is taken from a judgment of death, the clerk of
 2 the district court in which it was rendered shall at once give the de-
 3 fendant or his attorney a certificate, under the seal of the court, cer-
 4 tifying that fact, and the sheriff or other officer having the defendant
 5 in custody must, upon the delivery to him of the certificate, suspend
 6 further proceedings on the judgment until final judgment on the ap-
 7 peal is certified to him by the clerk of the supreme court.

[C., '97, § 4745.]

SEC. 9557. Proceedings on affirmance—issuance of warrant.

1 When such judgment is affirmed, the supreme court must cause
 2 a copy of its judgment to be delivered to the governor, and to the
 3 sheriff whose duty it is to execute such judgment, signed by the
 4 clerk thereof and under seal of the court, and the governor shall issue
 5 a warrant of execution under the seal of the state, and transmit it by
 6 messenger or mail to the sheriff whose duty it is to execute the judg-
 7 ment, directing him, on a day and at an hour therein named, not
 8 earlier than the day fixed by the district court, to execute such judg-
 9 ment in the manner required by law.

[C., '97, § 4746.]

SEC. 9558. Execution of warrant.

1 The sheriff shall execute such warrant in the manner provided in
 2 this chapter, and report his doings to the governor and the district
 3 court whose judgment was appealed from, and make the publication
 4 of his doings in the manner provided for in this chapter. If from any
 5 cause the judgment is not executed on the day named in the warrant,
 6 the governor may appoint another, and so on until it is done.

[C., '97, § 4746.]

CHAPTER 45.
APPEALS.**SECTION 9559. Appeal defined—time taken—parties.**

1 The mode of reviewing in the supreme court any judgment, action
 2 or decision of the district court in a criminal case is by appeal. An
 3 appeal can only be taken from the final judgment, and within six
 4 months thereafter. Either the defendant or state may appeal.

[R., '60, §§ 4904-4906; C., '73, §§ 4520-4522; C., '97, § 5448;
 S., '13, § 5448.]

SEC. 9560. Several defendants may join in appeal.

1 When several defendants are indicted and tried jointly, any one
 2 or more of them may join in taking the appeal, but those of their co-
 3 defendants who do not join shall take no benefit therefrom, yet they
 4 may appeal afterwards.

[R., '60, § 4917; C., '73, § 4526; C., '97, § 5451.]

SEC. 9561. Taking and perfecting appeal.

1 An appeal is taken and perfected by the party or his attorney
2 serving on the adverse party, or his attorney of record in the district
3 court at the time of the rendition of the judgment, and on the clerk
4 of such court, a notice in writing of the taking of the appeal, and
5 filing the same with such clerk, with evidence of service thereof
6 indorsed thereon or annexed thereto.

[R., '60, §§ 4907, 4908; C., '73, §§ 4523, 4524; C., '97, § 5449.]

SEC. 9562. Transcript—duty of clerk.

1 When an appeal is taken, it is the duty of the clerk of the court
2 in which the judgment was rendered to forthwith prepare and trans-
3 mit to the attorney general a certified copy of the notice of appeal in
4 the case, with the date of service thereof, and, without unnecessary
5 delay, to make out a full and perfect transcript of all papers in the
6 case on file in his office, except the papers returned by the examining
7 magistrate on the preliminary examination, where there has been one,
8 and of all entries made in the record book, certify the same under the
9 seal of the court, and transmit the same to the clerk of the supreme
10 court.

[R., '60, § 4909; C., '73, § 4525; C., '97, § 5450.]

SEC. 9563. Appeal by state—no stay.

1 An appeal taken by the state in no case stays the operation of a
2 judgment in favor of the defendant.

[R., '60, § 4911; C., '73, § 4527; C., '97, § 5452.]

SEC. 9564. Appeal by defendant—effect.

1 An appeal taken by the defendant does not stay the execution of
2 the judgment, unless bail is put in; but where the judgment is impris-
3 onment in the penitentiary, and an appeal is taken within ninety days
4 after judgment is rendered, and the defendant is unable to give bail,
5 and that fact is satisfactorily shown to the court, or judge thereof, it
6 may, in its discretion, order the sheriff or officer having the defendant
7 in custody to detain him in custody, without taking him to the peniten-
8 tiary, to abide the judgment on the appeal, if the defendant desires it.

[R., '60, §§ 4914, 4915; C., '73, §§ 4528, 4529; C., '97, § 5453.]

SEC. 9565. Bail—proceedings when given.

1 When an appeal is taken by the defendant, and bail is given, the
2 clerk must give to the defendant, or his attorney, a certificate, under
3 the seal of the court, that an appeal has been taken and bail given, and
4 the sheriff or other officer having the defendant in custody must, upon
5 receiving it, discharge the defendant from custody and cease all
6 further proceedings in execution thereof, and forthwith return to the
7 clerk of the court who issued it the execution under which he acted,
8 with his return thereon; and if it has not been issued it shall not be
9 until after final judgment on the appeal.

[R., '60, § 4916; C., '73, § 4530; C., '97, § 5454.]

SEC. 9566. Title of case—how docketed.

1 The party appealing is the appellant, the adverse party the
2 appellee, but the title of the action shall not be changed on the appeal,

3 and the cause shall be so docketed at the commencement of the period
 4 assigned for trying causes from the judicial district from which the
 5 appeal comes, which causes shall take precedence of all other business,
 6 be tried at the term at which the transcript is filed, unless continued
 7 for cause or by consent of the parties, and be decided, if practicable, at
 8 the same term.

[R., '60, §§ 4818, 4819; C., '73, §§ 4531, 4532; C., '97, § 5455.]

SEC. 9567. Appearance of defendant not necessary.

1 The personal appearance of the defendant in the supreme court on
 2 the trial of an appeal is in no case necessary.

[R., '60, § 4920; C., '73, § 4533; C., '97, § 5456.]

SEC. 9568. Informality or defect in appeal.

1 An appeal shall not be dismissed for any informality or defect in
 2 taking it, if corrected in a reasonable time; and the supreme court
 3 must direct how it shall be corrected.

[R., '60, § 4921; C., '73, § 4534; C., '97, § 5457.]

SEC. 9569. Assignment of error not necessary.

1 No assignment of error is necessary.

[R., '60, § 4922; C., '73, § 4535; C., '97, § 5458.]

SEC. 9570. Closing argument.

1 The defendant is entitled to close the argument.

[R., '60, § 4923; C., '73, § 4536; C., '97, § 5459.]

SEC. 9571. Rules of procedure in civil cases applicable.

1 The record and case may be presented in the supreme court by
 2 printed abstracts, arguments, motions and petitions for rehearing as
 3 provided by its rules; and the provisions of law in civil procedure
 4 relating to certification of the record and the filing of decisions and
 5 opinions of the supreme court shall apply in such cases.

[C., '97, § 5461.]

SEC. 9572. Decision of supreme court.

1 If the appeal is taken by the defendant, the supreme court must
 2 examine the record, without regard to technical errors or defects
 3 which do not affect the substantial rights of the parties, and render
 4 such judgment on the record as the law demands; it may affirm, re-
 5 verse or modify the judgment, or render such judgment as the district
 6 court should have done, or order a new trial, or reduce the punishment,
 7 but can not increase it.

[C., '51, §§ 3097, 3098; R., '60, § 4925; C., '73, § 4538; C., '97,
 § 5462.]

SEC. 9573. Costs on reversal.

1 In case the judgment of the trial court is reversed or modified in
 2 favor of the defendant, on the appeal of defendant, he shall be entitled
 3 to recover the cost of printing abstract and briefs, not exceeding one
 4 dollar for each page thereof, to be paid by the county from which the
 5 appeal was taken.

[C., '97, § 5462.]

SEC. 9574. Limitations on decisions in appeals by state.

1 If the state appeals, the supreme court can not reverse or modify
 2 the judgment so as to increase the punishment, but may affirm it, and
 3 shall point out any error in the proceedings or in the measure of pun-
 4 ishment, and its decision shall be obligatory as law.

[R., '60, § 4926; C., '73, § 4539; C., '97, § 5463.]

SEC. 9575. Release of defendant on reversal.

1 If a judgment against the defendant is reversed, such reversal
 2 shall be deemed an order for a new trial unless the supreme court shall
 3 direct that the defendant be discharged and his bail exonerated, or if
 4 money be deposited instead, that it be refunded to him.

[C., '51, § 3099; R., '60, § 4927; C., '73, § 4540; C., '97, § 5464;
 38 G. A., ch. 117, § 1.]

SEC. 9576. Effect of affirmance.

1 On a judgment of affirmance against the defendant, the original
 2 judgment shall be carried into execution as the supreme court shall
 3 direct, except as otherwise provided.

[C., '51, § 3100; R., '60, § 4928; C., '73, § 4541; C., '97,
 § 5465.]

SEC. 9577. Opinion of supreme court in writing.

1 The opinion of the supreme court must be in writing, filed with its
 2 clerk, and recorded.

[R., '60, § 4924; C., '73, § 4537; C., '97, § 5460.]

SEC. 9578. Decision recorded and transmitted.

1 The decision of the supreme court, with any opinion filed or judg-
 2 ment rendered, must be recorded by its clerk, and, after the expiration
 3 of the period allowed for a rehearing, or as ordered by the court or
 4 provided by its rules, a certified copy of the decision and opinion shall
 5 be transmitted to the clerk of the trial court, filed and entered of record
 6 by him, and thereafter the jurisdiction of the supreme court shall
 7 cease, and all proceedings necessary for executing the judgment shall
 8 be had in the trial court, or by its clerk.

[C., '51, §§ 3101, 3102; R., '60, §§ 4929, 4930; C., '73, §§ 4542,
 4543; C., '97, § 5466.]

SEC. 9579. Judgment enforced.

1 Unless some proceeding in the district court is directed, a copy of
 2 the judgment of the trial court and decision on appeal, or of the judg-
 3 ment and decision on appeal certified by the clerk of the trial court,
 4 shall be delivered to the sheriff, or other proper officer, as an execu-
 5 tion, and shall authorize him to execute the judgment of the court, or
 6 take any steps required to bring the action to a conclusion.

[R., '60, § 4931; C., '73, § 4544; C., '97, § 5467.]

SEC. 9580. Time of imprisonment deducted.

1 If a defendant imprisoned during the pendency of an appeal, upon
 2 a new trial ordered by the supreme court is again convicted, the period

3 of his former imprisonment shall be deducted from the period of
4 imprisonment to be fixed on the last verdict of conviction.

[R., '60, § 4933; C., '73, § 4545; C., '97, § 5468.]

CHAPTER 46.

COMPROMISING CERTAIN OFFENSES.

SECTION 9581. Compromisable offenses.

1 When a defendant is prosecuted in a criminal action for a misde-
2 meanor, for which the person injured by the act constituting the
3 offense has a remedy by a civil action, the offense may be compromised
4 as provided in the next section, except when it was committed:

- 5 1. By or upon an officer while in the execution of the duties of his
6 office;
- 7 2. Riotously; or,
- 8 3. With an intent to commit a felony.

[R., '60, § 5106; C., '73, § 4708; C., '97, § 5622.]

SEC. 9582. Stay of proceedings—discharge of defendant.

1 If the party injured in such a case appear before the court to
2 which the papers on a preliminary examination are returned, at any
3 time before trial on an indictment for the offense, or the trial of an
4 appeal in the district court, and acknowledge in writing that he has
5 received satisfaction for the injury, the court may, in its discretion, on
6 payment of the costs incurred, order all proceedings to be stayed upon
7 the prosecution, and the defendant to be discharged therefrom. But
8 in that case the reasons for the order must be set forth therein and
9 entered upon the minutes.

[R., '60, § 5107; C., '73, § 4709; C., '97, § 5623.]

SEC. 9583. Compromise bar to prosecution.

1 The order authorized by the last section is a bar to another prose-
2 cution for the same offense.

[R., '60, § 5108; C., '73, § 4710; C., '97, § 5624.]

SEC. 9584. Other compromises—not allowed.

1 No public offense can be compromised, nor can any proceedings
2 for the prosecution or punishment thereof, upon a compromise, be
3 stayed, except as provided in this chapter.

[R., '60, § 5109; C., '73, § 4711; C., '97, § 5625.]

CHAPTER 47.

DISMISSAL OF CRIMINAL ACTIONS.

SECTION 9585. Dismissal when indictment not found.

1 When a person is held to answer for a public offense, if an indict-
2 ment be not found against him at the next regular term of the court

3 at which he is held to answer, the court must order the prosecution to
4 be dismissed, unless good cause to the contrary be shown.

[C., '51, § 3248; R., '60, § 5007; C., '73, § 4613; C., '97,
§ 5535.]

SEC. 9586. Dismissal for delay in trial.

1 If a defendant indicted for a public offense, whose trial has not
2 been postponed upon his application, be not brought to trial at the next
3 regular term of the court in which the indictment is triable after the
4 same is found, the court must order it to be dismissed, unless good
5 cause to the contrary be shown.

[C., '51, § 3249; R., '60, § 5008; C., '73, § 4614; C., '97,
§ 5536.]

SEC. 9587. Discharge on undertaking.

1 If the defendant be not indicted or tried as above provided, and
2 sufficient reason therefor is shown, the court may order the prose-
3 cution continued from term to term, and discharge the defendant from
4 custody on his own undertaking, or on the undertaking of bail for
5 his appearance to answer the charge at the time to which the same is
6 continued, but no continuance under this section shall be extended
7 beyond the following three terms of the court.

[C., '51, § 3250; R., '60, § 5009; C., '73, § 4615; C., '97,
§ 5537.]

SEC. 9588. Discharge on dismissal.

1 If the court direct the prosecution to be dismissed, the defendant,
2 if in custody, must be discharged, or his bail, if any, exonerated, and
3 if money has been deposited instead of bail, it must be refunded
4 to him.

[R., '60, § 5010; C., '73, § 4616; C., '97, § 5538.]

SEC. 9589. Dismissal by court.

1 The court, upon its own motion or the application of the county
2 attorney, in the furtherance of justice, may order the dismissal of
3 any pending criminal prosecution, the reasons therefor being stated
4 in the order and entered of record, and no such prosecution shall be
5 discontinued or abandoned in any other manner. Such a dismissal is
6 a bar to another prosecution for the same offense if it is a misde-
7 meanor; but it is not a bar if the offense charged be a felony.

[C., '51, §§ 3251, 3252; R., '60, §§ 5011-5013; C., '73, §§ 4617-
4619; C., '97, § 5539.]

TABLE OF CORRESPONDING SECTIONS.

TABLE OF CORRESPONDING SECTIONS

Showing the sections of the Compiled Code which correspond in subject matter with the consecutive sections of the Code of 1897, Supplement 1913, Supplemental Supplement 1915, and the sections of subsequent Session Laws of a general and permanent nature.

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686		3580	S. S. 694-c48	R. 37-226-2	
687		3581	S. S. 694-c49		6890
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S. 777	A. 38-150-1	3845	824		3888
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778		3846	826		3890
S. 779		3836	827		3891
780		3847	828		3892
781		3848	829		3893
782		3826	830		3894
783		3827	831		3895
784		3828	832		3896
785		3829	833		3897
786		3830	834		3898
787		3831	S. 835		3899
788		3832	S. S. 836		3900
789		3833	837		3901
790		3834	838		3902
791		3835	839		3903
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804		3868	S. 849-b	R. 38-285-1	
805		3869	S. 849-c	R. 38-285-1	
806		3870	S. 849-d	R. 38-285-1	
807		3871	S. 849-e	R. 38-285-1	
808		3872	S. 849-f	R. 38-285-1	
809	A. 38-92-1	3873	S. 849-g	R. 38-285-1	
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S. 850-j	3680	4024
S. 850-k	3681	4383
S. 850-l	3682	882	4025
S. 850-m	883	4026
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S. S. 850-o	R. 32-42-1	3684	885	4028
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S. 861	R. 32-42-1	A. 37-375-1
S. 862	R. 32-42-1	A. 38-394-1
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S. 864	3688	895	4045
S. 865	3689	896	4046
S. 866	3690	897	4047
S. 867	3691	898	4048
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S. 870	3694	901	4051
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921		4078	956		4344
S. 922		4079	957		4331
S. 923		4080	S. 958		4343
S. 924		4081			4357
S. 924-a		6579			4358
S. 924-b		6568			4369
S. 924-c					4361
925		4082	959		4362
S. 926		4083	960		4363
927		4084	961		4364
928		4085	962		4366
929		6577	963		4367
930		4086	S. 963-a		4368
931		4087	964		4379
S. 932		4088	S. 965		4380
S. 932-a		4089	966		4381
		4467	967		4382
S. 932-b		4090	968		4384
S. 932-c		4091	969		4385
S. 932-d		4092	970		4386
S. 932-e	A. 38-19-1	4093	S. 971		4387
S. 932-f			S. S. 972		4388
S. 932-g		4094	973		4389
S. 932-h		4095	S. S. 974		4390
S. 932-i		4096	S. 975		4391
S. 932-j		4097	976		4392
		4468	977		4393
S. 932-k		4098	978		4394
S. 932-l		4099	S. 979		4396
S. 932-m		4100	980		4397
S. 932-n	R. 37-23-1		981		4398
S. 932-o			982		4399
S. 932-p		4102	983		4400
S. 932-q		4103	984		4401
S. 932-r		4105	985		4402
933		4299	986		4403
934		4300	987		4404
935		4301	988		4405
936		4302	989		4406
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939		4308	993	R. 34-46-1	
940		4309	994	R. 34-46-1	
941		4311	995	R. 34-46-1	
942		4312	996	R. 34-46-1	
943	A. 38-177-1	4313	997		4411
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948		4318	999		4418
949		4319	1000		4419
950		4320	1001		4420
951		4321	1002		4421
S. 952		4322	S. 1003		4422
		4323	S. 1004		4423
		4329	S. 1005		4425
		4335	1006		4426
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1011		4430	S. 1056-a15		678
1012		4431	S. 1056-a16		679
1013		4432	S. 1056-a17		4214
1014		4433			4470
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1421.....		4670	S. 1475-b.....		
1422.....		4671	S. 1476.....		
1423.....		4672	S. 1476-a.....		
1424.....		4673	S. 1476-b.....		
1425.....		4674	1477.....		4733
1426.....		4675	S. 1477-a.....		
1427.....		4676	S. 1477-b.....		
1428.....		4677	S. 1477-c.....		
1429.....		4678	S. 1477-d.....		
1430.....		4679	S. 1477-e.....		
1431.....		4680	1478.....		4709
S. 1432.....		4681	S. 1478-a.....		
S. 1433.....		4682	S. 1478-b.....		
1434.....		4683	S. 1478-c.....		
1435.....		4684	1479.....		4710
S. 1436.....		4688	S. 1479-a.....		
1437.....		4689	S. 1479-b.....		
1438.....		4690	1480.....		4734
1439.....		4691	1481.....		4737
1440.....		4692	S. 1481-a.....		4704
S. 1441.....		4693	S. 1481-a1.....		4705
1442.....		4694	S. 1481-a2.....		4703
1443.....		4695	S. 1481-a3.....		4712
1444.....		4696	S. 1481-a4.....		4714
1445.....		4697	S. 1481-a5.....		4715
1446.....		4698	S. 1481-a6.....		4716
1447.....		4699	S. 1481-a7.....		4717
1448.....		4700	S. 1481-a8.....		4718
1449.....		4701	S. 1481-a9.....		4719
1450.....		4685	S. 1481-a10.....		4720
1451.....		4686	S. 1481-a11.....		4722
1452.....		4687	S. 1481-a12.....		4724
S. 1452-a.....		4634	S. 1481-a13.....		4725
S. 1452-b.....		4635	S. 1481-a14.....		4726
1453.....		4763	S. 1481-a15.....		4727
1454.....		4764	S. 1481-a16.....		4728
1455.....		4765	S. 1481-a17.....		4729
1456.....		4766	S. 1481-a18.....		4730
S. 1457.....		4767	S. 1481-a19.....		4735
1458.....		4768	S. 1481-a20.....		4736
1459.....		4769	S. 1481-a21.....		4738
S. 1460.....			S. 1481-a22.....		4740
1461.....		4770	S. 1481-a23.....		4742
S. 1462.....		4771	S. 1481-a24.....		4744
S. 1462-a.....		4772	S. 1481-a25.....		4706
1463.....		4773	S. 1481-a26.....		4707
1464.....		4774	S. 1481-a27.....		4745
1465.....		4775	S. 1481-a28.....		4746
1466.....		4776	S. 1481-a29.....		4747
S. S. 1467.....			S. 1481-a30.....		4748
S. 1467-a.....			S. 1481-a31.....		4749
S. 1467-b.....			S. 1481-a32.....		4750
S. 1467-c.....			S. 1481-a33.....		4751
S. 1467-d.....			S. 1481-a34.....		4752
S. 1467-e.....			S. 1481-a35.....		4753
1468.....		4708	S. 1481-a36.....		4754
1469.....		4713	S. 1481-a37.....		4755
1470.....		4721	S. 1481-a38.....		4756
1471.....		4723	S. 1481-a39.....		4757
S. 1471-a.....			S. 1481-a40.....		4758
1472.....		4739	S. 1481-a41.....		4759
1473.....		4741	S. 1481-a42.....		4760
1474.....		4731	S. 1481-a43.....		4761

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S. 1481-a45		4702	S. 1527-q	R. 38-237-56
S. 1481-a46		4711	S. 1527-r	R. 38-237-56
S. 1481-a47		S. S. 1527-r1		2828
1482		2794	S. S. 1527-r2		2829
S. 1483	A. 37-30-1	2795	S. S. 1527-r3		2830
1484		2796	S. S. 1527-r4		2831
1485		2797	S. S. 1527-r5		2832
1486		2798	S. S. 1527-r6		2833
1487		2799	S. S. 1527-r7		2834
1488		2800	S. S. 1527-s		2858
1489		2801	S. S. 1527-s1	A. 38-361-1	2859
1490		2802	S. S. 1527-s2		2860
1491		2803	S. S. 1527-s3		2872
1492		2804	S. 1527-s4		2873
1493		2805	S. S. 1527-s5		2874
1494		2806	S. 1527-s6		2875
S. 1495		2807	S. 1527-s7	A. 38-405-1	2876
1496		2808	S. S. 1527-s8	A. 37-398-1	2877
1497		2809	S. S. 1527-s9		2878
1498		2810	S. S. 1527-s10		2881
1499		2811	S. S. 1527-s11		2882
1500		2812	S. S. 1527-s12		.....
1501		2813	S. S. 1527-s13		2979
1502		2814	S. S. 1527-s13a		2980
1503		2815	S. S. 1527-s14		2978
1504		2816	S. 1527-s15		2884
1505		2817	S. S. 1527-s16		2996
1506		2818	S. 1527-s17	A. 37-410-1	3015
1507		2985	S. 1527-s18		2885
1508		3812	S. 1527-s19		2880
S. 1509		2835	S. 1527-s20		2969
1510		2819	S. 1527-s21		.....
1511		2836	S. S. 1527-s21a		2883
1512		2820	S. S. 1527-s21b		2886
1513		2821	S. S. 1527-s21c		2887
1514		2822	S. 1527-s22		3025
1515		2823	S. 1527-s23		3026
1516		2824	S. 1527-s24		3027
1517		2825	S. 1527-s25		3028
1518		2837	S. 1527-s26		3029
1519		2838	S. 1527-s27		3030
1520		2839	S. 1527-s28		3031
1521		2840	S. 1527-s29		3032
1522		3033	S. 1528		2970
1523		3034			3440
1524		3035	S. 1528-a		.....
1525		3036	1529		2992
1526		.....	S. 1530		2865
1527		2841	S. 1530-a		2866
S. S. 1527-a		.....	S. 1530-b		2867
S. S. 1527-b		3037	S. 1530-c		2868
S. 1527-c	A. 38-267-1	3038	1531		2869
S. 1527-d	R. 38-399-1	.....	S. 1532	A. 37-421-1	2861
S. 1527-e		3040	S. 1533	A. 38-194-1	2973
S. 1527-f	R. 38-237-56	.....	1534		2991
S. 1527-g	R. 38-237-56	.....	1535		2986
S. 1527-h	R. 38-237-56	.....	1536		.....
S. 1527-i	R. 38-237-56	.....	1537		.....
S. 1527-j	R. 38-237-56	.....	S. 1538		2993
S. 1527-k	R. 38-237-56	.....	1539		2976
S. 1527-l	R. 38-237-56	.....	1540	R. 29-53-6	.....
S. 1527-m	R. 38-237-56	S. 1540-a		2971
S. 1527-n	R. 38-237-56	1541	R. 29-53-7
S. 1527-o	R. 38-237-56	S. 1541-a	

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S. 1542-a	S. 1571-a
1543	2972	S. 1571-b
1544	S. 1571-c
S. 1545	2974	S. 1571-d
1546	R. 29-52-10	S. 1571-e
S. 1546-a	.....	.....	S. 1571-f	.....	.....
1547	.....	.....	S. 1571-g	.....	.....
1548	.....	.....	S. 1571-h	.....	.....
1549	.....	.....	S. 1571-i	.....	.....
S. 1550	A. 37-335-1	2998	S. 1571-j	.....	.....
S. 1551	A. 37-335-2	2999	S. 1571-k	.....	.....
1552	A. 37-335-3	3000	S. 1571-l	.....	.....
1553	R. 29-53-12	.....	S. 1571-m	.....	.....
S. 1553-a	.....	.....	S. 1571-m1	R. 38-275-1	.....
S. 1554	A. 37-335-4	2994	S. 1571-m2	R. 38-275-1	.....
1555	A. 37-335-5	2995	S. 1571-m3	R. 37-205-1	.....
1556	.....	2987	S. 1571-m4	R. 38-275-1	.....
1557	.....	2988	S. S. 1571-m5	R. 38-275-1	.....
1558	.....	2989	S. 1571-m6	R. 38-275-1	.....
1559	.....	2990	S. S. 1571-m7	R. 38-275-1	.....
S. 1560	.....	3014	S. 1571-m8	R. 38-275-1	.....
S. 1560-a	.....	3016	S. 1571-m9	R. 38-275-1	.....
S. 1560-b	.....	3017	S. 1571-m10	R. 38-275-1	.....
S. 1560-c	.....	3018	S. 1571-m11	R. 38-275-1	.....
S. 1560-d	.....	3019	S. S. 1571-m12	R. 38-275-1	.....
S. 1560-e	.....	3020	S. S. 1571-m12a	R. 38-275-1	.....
S. 1561	.....	2975	S. 1571-m13	R. 38-275-1	.....
S. 1562	.....	.....	S. S. 1571-m14	R. 38-275-1	.....
S. 1562-a	.....	.....	S. S. 1571-m15	R. 38-275-1	.....
S. 1563	.....	.....	S. S. 1571-m15a	R. 38-275-1	.....
1564	R. 33-96-9	.....	S. 1571-m16	R. 38-275-1	.....
1565	R. 33-96-9	.....	S. 1571-m17	R. 38-275-1	.....
S. S. 1565-a	A. 38-223-1	3001	S. 1571-m18	R. 38-275-1	.....
S. 1565-b	.....	3002	S. 1571-m19	R. 38-275-1	.....
S. 1565-c	.....	3003	S. 1571-m20	R. 38-275-1	.....
S. 1565-d	.....	3004	S. 1571-m21	R. 38-275-1	.....
S. 1565-e	.....	3005	S. 1571-m22	R. 38-275-1	.....
S. 1565-f	.....	3006	S. 1571-m23	R. 38-275-1	.....
S. 1565-g	R. 37-16-1	.....	S. 1571-m24	R. 38-275-1	.....
S. 1565-h	.....	3007	S. 1571-m25	R. 38-275-1	.....
S. 1565-i	.....	3008	S. 1571-m26	R. 38-275-1	.....
S. 1565-j	.....	.....	S. 1571-m27	R. 38-275-1	.....
1566	.....	.....	S. 1571-m28	R. 38-275-1	.....
S. 1566-a	.....	2997	S. 1571-m29	R. 38-275-1	.....
S. 1566-b	.....	.....	S. 1571-m30	R. 38-275-1	.....
1567	R. 29-53-14	.....	S. 1571-m31	R. 38-275-1	.....
S. 1567-a	.....	.....	S. 1571-m32	R. 38-275-1	.....
S. 1567-b	.....	.....	S. S. 1571-m32	R. 38-275-1	.....
1568	.....	2977	S. 1571-m33	R. 38-275-1	.....
S. 1569	.....	3041	S. 1571-m34	R. 38-275-1	.....
S. 1570	R. 37-417-1	.....	1572	.....	2895
S. 1570-a	.....	2892	1573	.....	8863
S. 1570-b	.....	.....	1574	.....	3082
S. 1570-b1	.....	2981	1575	.....	3083
S. 1570-b2	A. 38-242-1	2982	1576	.....	3084
S. 1570-b3	.....	2983	1577	.....	3085
S. 1570-b4	.....	3811	1578	.....	3086
S. 1570-b5	.....	2984	1579	.....	3087
S. 1570-c	.....	.....	1580	.....	3088
S. 1570-d	R. 38-118-1	.....	1581	.....	3089
S. 1570-e	R. 38-118-1	1582	3090
S. 1571	3042	1583	3091
S. 1571-1a	3043	1584	3092
S. 1571-2a	3044	1585	3093
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1589.....		3097	1638.....		5368
1590.....		3098	1639.....		5369
1591.....		3099	1640.....		5370
1592.....		3100	S. 1641.....		5371
1593.....		3101	S. 1641-a.....		5358
1594.....		3102	S. 1641-b.....		5378 ✓
1595.....		3103	S. 1641-c.....		5379
1596.....		3104	S. 1641-d.....		5380
1597.....		3105	S. 1641-e.....		5381
1598.....		3106	S. 1641-f.....		5382
1599.....		3107	S. 1641-g.....		5372
1600.....		3108	S. 1641-h.....		5373
1601.....		3109	S. 1641-i.....		5374
1602.....		3110	S. 1641-j.....		5375
1603.....		3111	S. 1641-k.....		5376
1604.....		3112	S. 1641-l.....		5383
1605.....		3113	S. 1641-m.....		5384
1606.....		3114	S. 1641-n.....		5385
1607.....		5327	S. 1641-o.....		5386
1608.....		5328	S. 1641-p.....		5387
1609.....		5329	S. 1641-q.....		5388
S. 1610.....		5330	S. 1641-r.....		.....
S. S. 1611.....		5331	S. S. 1641-r1.....		5389
S. 1612.....		5332	S. S. 1641-r2.....		5390
S. 1613.....		5333	S. S. 1641-r3.....		5391
S. 1613-a.....		6570	S. S. 1641-r4.....		5392
1614.....		5334	S. S. 1641-r5.....		5393
S. 1614-a.....		6571	S. S. 1641-r6.....		5394
S. 1614-b.....		.....	S. S. 1641-r7.....		5395
S. 1614-c.....		5336	S. S. 1641-r8.....		5396
S. 1614-d.....		5337	S. S. 1641-r9.....		5397
S. 1614-e.....		5338	S. S. 1641-r10.....		5398
S. 1614-f.....	A. 38-205-1.....	5339	S. S. 1641-r11.....		5399
S. 1614-g.....	A. 38-205-2.....	5340	S. S. 1641-r12.....		5400
S. 1614-h.....	A. 38-205-3.....	5341	S. S. 1641-r13.....		5401
S. 1614-i.....	A. 38-205-4.....	5345	S. S. 1641-r14.....		5402
S. 1614-j.....		5344	S. S. 1641-r15.....		5403
S. 1614-k.....		5343	S. S. 1641-r16.....		5404
S. 1615.....	A. 38-206-1.....	5335	S. S. 1641-r17.....		5405
1616.....		5346	S. S. 1641-r18.....		5406
1617.....	A. 37-123-1.....	5347	S. S. 1641-r19.....		5407
S. 1618.....		5348	S. S. 1641-r20.....		5408
S. S. 1618-1a.....		6572	S. 1642.....	A. 37-143-1.....	5440
S. 1618-a.....		5349	S. 1642-a.....		5444
S. S. 1618-1b.....		.....	S. 1642-b.....		6575
S. 1618-b.....		.....	S. 1642-c.....		.....
1619.....		5350	S. 1643.....		5445
1620.....		5351	1644.....		5446
1621.....		5352	S. 1644-a.....		4971
1622.....		5353	S. 1644-b.....		4972
1623.....		5354	S. 1644-c.....		4973
1624.....		5355	S. 1644-d.....		4974
1625.....		5356	S. 1644-e.....		4975
1626.....		5357	S. 1645.....		5447
S. 1627.....		5377	1646.....		5448
1628.....	R. 38-374-1.....	.....	1647.....		5449
1629.....		5359	1648.....		5450
1630.....		5360	1649.....		5451
1631.....		5361	S. 1650.....		5452
1632.....		5362	1651.....		5453
1633.....		5363	1652.....		5454
1634.....		5364	S. 1652-a.....		5455
1635.....		5365	S. 1652-b.....		5456

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S. 1652-e		5459	S. 1683-j		1669
S. 1652-f			S. 1683-k	R. 37-90-2	
1653	R. 28-58-18		S. 1683-l	R. 37-90-2	
1654	R. 28-58-18		S. 1683-m		1661
1655	R. 28-58-18		S. 1683-n		1668
1656	R. 28-58-18		S. 1683-o		1663
1657	R. 28-58-18		S. 1683-p		1660
S. 1657-a			S. 1683-q	R. 37-90-5	
S. 1657-b		1613	S. 1683-r		5460
S. 1657-c		1614	S. 1683-r1		5461
S. 1657-d		1615	S. 1683-r2		5462
S. 1657-e		1616	S. 1683-r3		5463
S. 1657-f		1626	S. 1683-r4		5464
S. 1657-g		1617	S. 1683-r5		5467
S. 1657-h		1618	S. 1683-r6		
S. 1657-i		1619	1684		5598
S. 1657-j		1621	1685		5599
S. 1657-k		1627	1686		5600
S. 1657-l		1628	1687		5601
S. 1657-m			1688		5602
S. 1657-n	A. 38-365-1	1622	S. 1689	R. 37-429-1	
S. 1657-o	A. 38-365-2	1623	1690		5604
S. 1657-p	A. 38-365-3	1624	1691		5605
S. 1657-q		1630	1692	R. 37-429-2	
S. 1657-r	A. 38-365-4	1620	1693	R. 37-429-3	
S. 1657-s		1631	1694	R. 37-429-12	
S. 1657-t		1625	1695	R. 37-429-13	
S. 1658	R. 38-175-1		1696		5619
S. 1659	R. 38-175-1		1697		5620
S. S. 1660	R. 37-89-1		1698		5621
1661	R. 28-59-1		S. 1699		5622
S. S. 1661-a	R. 38-175-1		1700	R. 37-429-14	
S. 1661-a1		1647	1701		5624
S. 1661-a2		1648	1702		5625
1662		1638	1703		5626
1663		1639	1704	R. 37-429-15	
1664		1640	1705	R. 37-429-15	
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1666		1642	1707	R. 37-429-15	
1667		1643	1708	R. 37-429-15	
1668		1644	S. 1709	A. 37-428-1-4	
1669		1691		A. 37-429-16	
1670		1692		A. 38-348-1	
1671		1693		A. 38-372-1	5627
S. 1672		1694	S. 1710	R. 37-428-5	
S. 1673		1695	S. 1711		5629
1674	R. 28-58-18		1712		5630
S. 1675		1645	1713		5631
1676		1646	1714		5632
1677		1649	1715		5633
1678		1650	1716		5634
S. 1679		1651	1717	R. 37-429-17	
1680		1652	1718		5635
S. 1681	A. 38-363-1	1653	1719		5636
1682	R. 28-58-18		1720	R. 28-62-1	
1683	R. 28-58-18		S. 1720-a		5466
S. S. 1683-a		1654	S. S. 1721	R. 37-429-18	
S. 1683-b	A. 37-90-1	1655	1722		5638
S. S. 1683-c		1656	1723	R. 37-429-19	
S. 1683-d		1665	1724		5640
S. S. 1683-e		1664	1725		5736
S. 1683-f		1657	1726		5641
S. 1683-g		1666	1727		5642

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1729.....		5644	S. 1759-n.....		5695
1730.....		5645	S. 1759-o.....		5696
1731.....		5646	1760.....	R. 32-80-16.....	
1732.....		5647	1761.....	R. 32-80-16.....	
1733.....		5648	1762.....	R. 32-80-16.....	
1734.....		5649	1763.....	R. 32-80-16.....	
1735.....		5650	1764.....	R. 32-80-16.....	
1736.....		5651	1765.....	R. 32-80-16.....	
S. 1737.....		5652	1766.....	R. 32-80-16.....	
1738.....		5653	1767.....	R. 32-80-16.....	
1739.....		5654	S. 1768.....		5477
1740.....		5655	1769.....		5478
1741.....		5656	1770.....		5479
1742.....		5657	S. 1771.....		5480
S. 1742-a.....		5658	1772.....		5481
S. 1743.....		5659	1773.....		5482
S. 1744.....	A. 38-348-5.....	5660	1774.....		5483
S. 1745.....	A. 38-348-6.....	5661	1775.....		5484
S. 1746.....	A. 37-185-1.....	5662	1776.....		5485
1747.....		5663	1777.....		5486
1748.....		5664	1778.....		5487
1749.....		5665	1779.....		5488
1750.....		5735	1780.....		5489
1751.....		5666	1781.....		5465
S. 1752.....		5667	S. 1782.....		5490
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1819.....		5545		A. 38-227-1	5581
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S. 1889-i.....		5828	S. 1920-l.....		5410
S. 1889-j.....		5829	S. 1920-m.....		5411
S. 1889-k.....		5830	S. 1920-n.....	
S. 1889-l.....		5831	S. 1920-o.....		5412
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S. 1889-n.....		S. 1920-q.....		5414
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1892.....		5836	S. 1920-t1.....	R. 36-149-1.....
1893.....		5837	S. 1920-t2.....	R. 36-149-1.....
S. 1893-a.....		5838	S. 1920-t3.....	R. 36-149-1.....
1894.....		5839	S. 1920-t4.....	R. 36-149-1.....
S. 1894-a.....		5840	S. 1920-t5.....	R. 36-149-1.....
1895.....		5841	S. 1920-t6.....	R. 36-149-1.....
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1910.....		5867	S. S. 1920-u15.....		5432
1911.....		5868	S. S. 1920-u16.....		5433
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1925		4941	S. 1985		4827
1926		4942	S. 1985-a		4828
1927		4943	S. 1986		4829
1928		4944	1987		4830
1929		4945	1988		4831
1930		4946	S. 1989		4832
1931		4947	S. 1989-a1		4836
1932		4938	S. 1989-a2	A. 37-344-1	
1933		4948		A. 37-415-1	
1934		4949		A. 38-141-1	4837
1935		4950	S. 1989-a3	A. 38-138-1	4838
1936		4951	S. 1989-a4		4839
1937		4952	S. 1989-a5		4840
1938		4953	S. 1989-a6		4841
1939		4777	S. 1989-a7		4842
S. 1940		4778	S. S. 1989-a8		4843
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1942		4780		A. 38-162-1	4844
1943		4781	S. 1989-a10		4849
S. 1944		4782	S. 1989-a11		4850
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S. 1946		4784		A. 37-344-2	4851
S. 1946-a		4785	S. 1989-a13		4853
S. 1946-b		4786	S. 1989-a14	A. 37-344-3	4854
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S. 1946-d		4788			8738
S. 1946-e		4789	S. 1989-a16		4856
1947		4790	S. 1989-a17		4857
S. 1948			S. 1989-a18		4858
1949		4791	S. 1989-a19	A. 37-344-4	4859
1950		4792	S. 1989-a20		4860
S. 1951		4793	S. 1989-a21	A. 38-121-1	4861
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1954		4796	S. 1989-a24		4872
S. 1955		4797	S. 1989-a25		4873
S. 1956		4798	S. 1989-a26	A. 37-344-5	
1957		4799		A. 38-64-1	
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S. 1959		4801	S. 1989-a27	A. 37-344-6	
1960		4802		A. 38-64-2	
1961		4803		A. 38-271-2	4875
1962		4804	S. 1989-a28		4876
1963		4805	S. 1989-a29		4877
1964		4806	S. 1989-a30		4878
1965		4807	S. 1989-a31		4879
1966		4808	S. 1989-a32	A. 37-344-7	4880
1967		4809	S. 1989-a33		4881
S. 1968		4810	S. 1989-a34		4882
S. 1969		4811	S. 1989-a35		4883
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S. 1972		4814		A. 38-54-1	4885
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1975		4817	S. 1989-a39		4888
S. 1976		4818	S. 1989-a40		4889
S. 1977		4819	S. 1989-a41	A. 38-76-1	4890
1978		4820	S. 1989-a42		4891
S. 1979		4821	S. 1989-a43		2857
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S. 1981		4823	S. 1989-a45		4893
S. 1982		4824	S. 1989-a46		4894

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S. 1989-a49		4897	S. 2003		4988
S. 1989-a50		4902	2004		4989
S. 1989-a51		4903	2005		4990
S. 1989-a52		4904	2006		4991
S. S. 1989-a52a	R. 37-307-1		2007		4992
S. 1989-a52b	R. 37-307-2		2008		4993
S. 1989-a52c	R. 37-307-3		S. 2009	A. 38-189-1	4994
S. S. 1989-a52d		4908	2010		4995
S. 1989-a52e	R. 37-307-4		2011		4996
S. S. 1989-a52f	R. 37-307-5		2012		4997
S. 1989-a52g		4911	2013		4998
S. 1989-a53		4912	2014		4999
S. 1989-a54		4913	2015		5000
S. 1989-a55		4914	2016		5001
S. 1989-a56			S. S. 2017		5002
S. 1989-a57		4915	2018		5003
S. 1989-a58		4916	2019		5004
S. 1989-a59		4917	2020		5005
S. 1989-a60			2021		5006
S. S. 1989-a61		4918	S. 2022		5007
S. S. 1989-a62		4919	2023		5008
S. S. 1989-a63		4920	2024		4959
S. S. 1989-a64		4921	S. 2024-a		4960
S. S. 1989-a65		4922	S. 2024-b		4961
S. S. 1989-a66		4923	S. 2024-c		4962
S. S. 1989-a67		4924	S. 2024-d		4963
S. S. 1989-a68		4925	S. 2024-e		4964
S. S. 1989-a69		4926	S. 2024-f		4965
S. S. 1989-a70		4927	S. 2024-g		4967
S. S. 1989-a71		4928	S. 2024-h		4968
S. S. 1989-a72		4929	S. 2024-i		2888
S. S. 1989-a73		4930	S. 2024-i1		2889
S. S. 1989-a74		4931	S. 2024-i2		2890
S. S. 1989-a75		4932	S. 2024-i3		2891
S. S. 1989-a76			S. 2024-j		4969
S. S. 1989-a77		4933	S. 2024-k		4970
S. S. 1989-a78		4934	S. 2024-l		4976
S. S. 1989-a79		4935	2025		5009
S. S. 1989-b		2842	S. 2026		5239
S. S. 1989-b1		2843	2027		5010
S. S. 1989-b2		2844	S. 2028		4977
S. S. 1989-b3	A. 37-161-1	2845	2029		4978
S. S. 1989-b4		2846	2030		4979
S. S. 1989-b5		2847	2031		5011
S. S. 1989-b6		2848	2032		5012
S. S. 1989-b7	A. 38-30-1	2850	2033		5013
S. S. 1989-b8		2851	S. 2033-a		5236
S. S. 1989-b9		2852	S. 2033-b		5238
S. S. 1989-b10	A. 38-29-1	2853	S. 2033-c		5237
S. S. 1989-b11		2854	S. 2033-d		5240
S. S. 1989-b12		2855	S. 2033-e		5241
S. S. 1989-b13		2856	S. 2033-f		5250
1990		4954	S. S. 2033-g		5251
1991		4955	S. S. 2033-h		5252
1992		4956	S. S. 2033-i		5253
1993		4957	S. S. 2033-j		5254
1994		4958	S. S. 2033-k		5255
S. 1995		4980			5256
1996		4981	S. S. 2033-l		5246
1997		4982	S. S. 2033-m		5249
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1999		4984	2035		5052
2000		4985	2036		5053

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S. 2038-b		5057	S. 2083-l		
2039		5058	S. 2083-m		5120
2040		5059	S. 2084		5121
2041		5060	S. 2085		5122
2042		5061	S. 2086		5123
2043		5062	2087		5124
2044	R. 37-82-1		S. 2088		5125
2045		5067	2089		5126
2046		5068	2090		5127
2047		5069	2091		5128
2048		5070	S. 2091-a		5129
2049		5063	S. 2091-b		5130
2050		5064	S. 2091-c		5131
S. 2051		5071	S. 2091-d		5132
S. 2052		5072	S. 2091-e		5133
2053		5065	S. 2091-f		5134
2054		5073	2092		5139
2055		5075	S. 2093		5140
2056		5077	2094		5141
S. 2057		5074	2095		5142
2058		5076	2096		5143
2059		5078	2097		5144
2060		5079	2098		5145
2061		5080	2099		5146
2062		5081	2100		5147
2063	R. 37-353-1		2101		5148
2064		5084	2102		5149
2065		5085	2103		5150
2066		5086	2104		5151
2067		5087	2105		5158
2068		5051	2106		5159
2069		5088	2107		5160
2070		5089	2108		5161
S. 2071		5090	2109		5162
2072		5091	2110		5163
2073		5092	S. 2110-a		5164
2074		5093	S. 2110-b		5165
S. 2074-a		5094	S. 2110-b1		5166
S. 2074-b		5095	S. 2110-b2		5167
S. 2074-c	A. 37-399-1	5096	S. 2110-c		5242
S. 2074-d		5097	S. 2110-d		5243
S. 2074-e		5098	S. 2110-e		5244
S. S. 2074-f		5099	S. 2110-f		5245
2075	R. 37-403-1		S. 2110-g		
S. 2076		5101	S. 2110-h		
S. 2077	A. 37-327-1	5103	S. 2110-i		5168
S. 2077-a		5104	S. 2110-j		5169
S. 2077-a1		5105	S. 2110-k		5170
S. 2078		5102	S. 2110-l		5171
2079		5106	S. 2110-m		5172
S. 2080		5107	2111		5014
2081		5108	2112		5015
2082		5109	S. 2113		5016
2083		5110	2114		5017
S. 2083-a			2115		5018
S. 2083-b			S. 2116		5019
S. 2083-c		5111	2117		5020
S. 2083-d		5112	2118		5021
S. 2083-e		5113	S. 2119		5022
S. 2083-f		5114	2120		5023
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S. 2120-g		5030	S. 2157-f		5220
S. 2120-h		5031	S. 2157-g	A. 38-174-1	5221
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S. 2120-l		5035	S. 2157-k	
S. 2120-m		5036	S. 2157-l		5225
S. 2120-n		5037	S. 2157-m		5226
S. 2120-o		5038	S. 2157-n		5227
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S. 2120-r		5041	S. 2157-q		5230
S. 2120-s		5042	S. 2157-r		5231
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S. S. 2121	A. 37-315-2	5044	S. 2157-t		5233
S. 2121-h		5045	S. 2157-u		5234
S. 2121-i		5046	2158		5318
S. 2121-j		5047	2159		5319
S. 2121-k		5048	2160		5320
S. 2121-l		5049	2161		5321
2122		5173	2162		5322
2123		5174	2163		5323
2124		5175	2164		5324
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2126		5177	S. 2165-a		5257
2127		5178	S. 2165-b		5258
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2129		5184	2167	R. 33-131-1
2130		5185	2168	R. 29-88-1
2131		5186	S. 2168-a	
2132		5187	2169	R. 29-88-2
2133		5188	S. 2169-a	
2134		5189	2170	R. 33-131-1
2135		5190	2171	R. 33-131-1
2136		5191	2172	R. 33-131-1
2137		5192	2173	R. 29-88-2
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2139		5194	S. 2174	
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2142		5197	S. 2176-a	
2143		5198	2177	R. 33-131-1
2144		5199	S. 2178	
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2146		5201	S. 2179-a	
2147		5202	S. 2180	
2148		5203	2181	R. 29-88-7
2149		5204	S. 2181-a	
2150	A. 37-390-1	5205	2182	R. 33-131-1
2151		5206	2183	R. 30-77-8
2152		5207	2184	R. 30-77-9
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2154		5209	2186	R. 33-131-1
S. 2155		5210	2187	R. 33-131-1
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2195	R. 33-131-1	S. S. 2215-f36	R. 37-314-10
2196	R. 33-131-1	S. 2215-f37	R. 37-314-11
2197	R. 33-131-1	S. 2215-f38	R. 37-314-12
2198	R. 33-131-1	S. 2215-f39	R. 37-314-13
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S. 2201		S. S. 2215-f42	A. 37-314-15	336
2202	R. 33-131-1	S. S. 2215-f43		337
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S. 2204		2217		3276
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2205	R. 33-131-1	2219		3278
2206	R. 33-131-1	2220		3279
2207	R. 33-131-1	2221		3280
2208	R. 33-131-1	2222		3281
2209	R. 33-131-1	2223		3282
2210	R. 33-131-1	2224		3283
S. 2211	R. 33-131-1	2225		3284
S. 2212		2226		3285
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S. 2215-f1		299	2238	R. 33-225-1
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S. 2215-f22		319	2258		2020
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S. S. 2215-f27		324	2263		2056
S. 2215-f28		325	2264		2058
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2269		2064	S. 2310-a18		2001
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S. 2271		2066	S. 2310-a19a		2009
2272		2067	S. 2310-a20		2015
2273		2068	S. 2310-a21		2002
2274		2069	S. 2310-a22		1992
2275		2060	S. 2310-a23		
2276		2034	S. 2310-a24		2016
2277		2070	S. 2310-a25		
2278		2025	S. 2310-a26		
2279		2071	S. 2310-a27		
2280		2072	S. 2310-a28		2012
2281		2078	S. 2310-a29		2010
2282		2086	S. 2310-a30		2013
S. 2283		2081	S. 2310-a30a		2014
2284		2026	S. 2310-a31		2017
2285		2039	S. 2310-a32		2011
2286		2024	S. 2310-a33		2004
S. 2287		2031	S. 2310-a34		2005
2288		2033	S. 2310-a35		2006
2289		2035	S. 2310-a36		2007
2290		2036	S. 2310-a37		2003
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S. 2291-c			2313		1823
S. 2291-d			2314		1824
S. 2292		2087	2315		1825
2293		2022	2316		1826
2294		2021	2317		1827
2295		2065	2318		1828
2296			2319		1829
2297	A. 38-309-1	2084	2320		1830
S. 2297-a		2085	2321		1831
2298		2073	2322		1832
2299			2323		1833
2300		2028	2324		1834
2301		2029	2325		1835
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2303		2037	2327		1837
2304		2074	2328		1838
2305		2075	2329		1839
2306		2076	2330		1840
2307		2077	2331		1841
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S. 2308-a		2080	2333		1843
2309		2057	2334		1818
2310			2335		1819
S. 2310-a1			2336		1820
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S. 2310-a14		1997	S. 2341-h		1804
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S. S. 2341-o		1811	S. 2383-c		918
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S. 2341-s		1814	2385		920
S. 2341-t		1815	S. 2386		921
S. 2341-u		1816	2387		922
S. 2341-v		1817	S. 2388		923
2342	R. 31-98-1	2389		924
2343		1751	S. 2390		925
2344		1752	2391		926
2345		1753	S. 2392		927
2346		1754	S. 2393		928
2347		1755	S. 2394		929
S. 2348	R. 38-249-1	2395		930
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S. 2348-b		3359	2397		932
S. 2348-c		3360	2398		933
S. 2348-d		3361	2399		934
S. 2348-e		3362	S. 2400		935
S. 2348-f		3363	S. 2401		936
S. 2348-g		3364	S. 2401-a	A. 37-422-1	937
S. 2348-h		3365	S. 2401-b		938
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S. 2348-j		3367	S. 2401-d	R. 37-422-2
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S. 2348-l		3369	S. 2401-f		942
2349		1844	2402		962
2350		1765	S. 2403		963
2351		1766	S. 2403-a		964
2352		1767	2404		965
2353		1768	S. S. 2405		966
2354		1769	S. 2406		967
2355	A. 38-52-1	1187	S. S. 2407		968
2356		1188	2408		969
2357		1189	2409		970
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S. 2359		1191	2411		972
2360	A. 38-33-1	1192	2412		973
2361		1193	S. S. 2413	A. 37-322-1	974
2362	A. 38-33-2	1194	2414		975
2363	A. 38-33-3	1195	S. S. 2415	A. 37-322-2	976
2364		1196	2416	A. 38-266-1	977
2365		1197	2417		978
2366		1198	2418		979
S. 2367		1199	2419		980
2368		1200	2420		981
2369	A. 38-33-4	1201	2421		982
2370	A. 38-33-5	1202	S. S. 2421-a		983
2371		1203	S. S. 2421-b		984
S. 2372		1204	S. S. 2421-c		985
2373		1205	S. S. 2421-d		986
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2376		1208	2423		989
2377		1209	S. S. 2423-a		990
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2379		1211	2424		992
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2430		1001	S. 2468-i		1046
2431		1002	S. 2468-j		1047
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2434		1005	S. 2468-m		1050
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S. 2439		1010	S. S. 2470		874
2440		1011	S. 2471		875
2441		1012	S. 2472		876
2442		1013	S. S. 2473		877
2443		1014	S. 2474		878
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2452	R. 36-14-1		S. 2477-f		890
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2466		1058	S. 2477-m18		825
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S. 2485-b.....		738	S. 2496-g.....		802
S. 2486.....		739	S. 2496-h.....		803
S. 2486-a.....		740	S. 2496-i.....		804
S. 2486-b.....		741	S. 2496-j.....		805
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S. S. 2510-3a.....		910	S. 2515-a.....		1444
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S. S. 2510-a.....			S. 2515-c.....	R. 38-206-2.....	
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S. S. 2510-d.....		1551	S. S. 2515-f.....	A. 37-377-2.....	1448
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S. S. 2510-f.....			S. 2515-h.....		
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S. S. 2510-j.....		912	2518.....		1455
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S. S. 2510-v.....		1562	S. 2527-c.....	A. 38-202-2.....	1490
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S. S. 2510-v4.....		1566	S. 2527-g.....		1494
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S. S. 2513.....		1097	S. 2527-k.....		1498
S. S. 2514.....		1098	S. 2527-l.....		1499
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S. S. 2514-b.....		1100	S. 2527-n.....		1501
S. S. 2514-c.....		1101	S. 2527-o.....		
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S. S. 2514-o.....		1085	S. 2528-d7.....		1509
S. S. 2514-p.....		1086	S. 2528-d8.....		1510
S. S. 2514-q.....	R. 38-182-3.....		S. 2528-d9.....		1511
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S. 2528-e2		1609	S. S. 2538-w5	R. 38-379-2	
S. 2528-e3		1610	S. 2538-w6	R. 38-379-3	
S. 2528-e4		1611	S. 2538-w7	R. 38-379-4	
S. 2528-e5		1612	S. S. 2538-w8	R. 38-379-5	
S. 2528-f		1533	S. 2538-w9	R. 38-379-6	
S. 2528-f1		1534	S. 2538-w10	R. 38-379-6	
S. 2528-f2		1535	S. 2538-w11	R. 38-379-6	
S. 2528-f3		1536	S. S. 2538-w12	R. 38-379-6	
S. 2528-f4	R. 38-350-1		S. S. 2539		1106
S. S. 2528-f5	R. 38-350-1		S. 2539-a		
S. S. 2528-f6	R. 38-350-1		S. S. 2540		1107
S. S. 2528-f7	R. 38-350-1		S. S. 2540-a		1108
S. S. 2528-f8	R. 38-350-1		2541		1109
S. S. 2528-f9	R. 38-350-1		2542		1110
S. S. 2528-f10	R. 38-350-1		2543		1111
S. S. 2528-f11	R. 38-350-1		S. S. 2544		1112
S. S. 2528-f12	R. 38-350-1		2545		1113
S. S. 2528-f13	R. 38-350-1		S. 2546		1114
S. S. 2528-f14	R. 38-350-1		S. 2547		1115
S. 2529		1712	S. S. 2547-a		1116
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2532		1714	S. 2547-d		1119
S. 2533	R. 38-287-20		S. 2547-e		1120
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2535			2549		1122
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S. 2538	R. 38-287-20			A. 37-233-1	1124
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S. S. 2538-2a		1771	S. 2551-b		1126
S. S. 2538-3a		1772	S. S. 2552		1127
S. S. 2538-4a		1773	S. S. 2553	R. 37-396-1	
S. S. 2538-5a		1774	S. S. 2554		1129
S. S. 2538-6a		1775	S. S. 2555		1130
S. S. 2538-7a		1776	S. S. 2556		1131
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S. 2538-a		1715	2558		1133
S. 2538-b			S. S. 2559		1134
S. 2538-c			2560		
S. 2538-d	R. 38-287-20		S. 2561		1135
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S. 2538-f		1719	S. S. 2562-1a		
S. 2538-g			S. S. 2562-a		
S. 2538-h		1722	S. S. 2562-b		1137
S. 2538-i		1720	S. 2562-c		1138
S. 2538-il		1723	S. 2562-d		1139
S. 2538-j		1724	2563		
S. 2538-k		1717	S. 2563-a		
S. 2538-l		1728	S. S. 2563-a1		1140
S. 2538-m		1726	S. 2563-a2		1141
S. 2538-n		1727	S. 2563-a3		1142
S. 2538-o		1721	S. S. 2563-a4		1143
S. 2538-p		1725	S. 2563-a5		1144
S. 2538-q	R. 38-287-20		S. 2563-a6		1145
S. 2538-r	A. 38-238-1	1729	S. 2563-a7		1146
S. 2538-s		1731	S. 2563-a8		1147
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S. 2538-u		1730	S. 2563-a10		1149
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S. 2563-i		1164	S. 2575-a20		1356
S. 2563-j		1165	S. 2575-a21		1357
S. 2563-k		1166	S. 2575-a22		1358
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S. 2563-m		1168	S. 2575-a24		1360
S. 2563-n		1169	S. 2575-a25		1361
S. 2563-o		1170	S. 2575-a26		1362
S. 2563-p		1171	S. 2575-a27		1363
S. 2563-q		1172	S. 2575-a28		1328
S. 2563-r		1173	S. 2575-a29		1329
S. 2563-s		1174	S. 2575-a30		1331
S. 2563-t		S. 2575-a31		1327
S. 2563-u	A. 37-111-1	1175	S. 2575-a32		1334
S. 2563-v		1176	S. 2575-a33		1332
S. 2564		1262	S. 2575-a34		1330
S. 2564-a		1268	S. 2575-a35		1333
S. 2564-b		S. 2575-a36		1339
2565		1264	S. 2575-a37		1340
2566	R. 31-109-9	S. 2575-a38		1341
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2568	A. 38-87-1	1269	S. 2575-a40		1343
2569		1272	S. 2575-a41		1344
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S. 2571-2a		1277	S. 2575-a50		2428
S. 2571-3a		1278	S. 2575-a51		2429
S. 2571-a	A. 38-80-1	1274	S. 2575-a52		2430
S. 2571-b		1270	S. 2575-a53	R. 37-289-5
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S. 2572-a		1307	S. 2575-a55	R. 37-289-5
S. 2572-b		1309	S. 2575-a56	R. 37-289-5
S. 2572-c		1308	S. 2575-a57	R. 37-289-5
S. 2572-d		1310	S. 2575-a58	R. 37-289-5
2573		1285	S. 2575-a59	R. 37-289-5
S. 2574		1263	S. 2575-a60	R. 37-289-5
2575	R. 38-388-1	S. 2575-a61	R. 37-289-5
S. 2575-a1		1284	S. 2575-a62	R. 37-289-5
S. 2575-a2		1283	S. 2576		1313
S. 2575-a3		1279	2577		1315
S. 2575-a4		1280	S. 2578		1316
S. 2575-a5		1281	S. 2578-a		1317
S. 2575-a6		1282	S. 2578-b		1318
S. 2575-a6a		2579		1311
S. 2575-a6b		2580		1321
S. 2575-a6c		S. 2581		1319
S. 2575-a6d		S. 2582		1312
S. 2575-a6e		S. 2582-a		1320
S. 2575-a7		2352	S. 2583		1314
S. 2575-a8		2353	S. 2583-a		1322
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S. 2575-a10		S. 2583-c		1324
S. 2575-a11		S. 2583-d		1325
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S. 2583-k		1403	S. S. 2600-s4		2043
S. 2583-l		1404	S. S. 2600-s5		1916
S. 2583-m		1405	S. 2601		1917
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S. 2583-o		1407			1919
S. 2583-p		1410	S. 2602-a		1921
S. 2583-q		1408	2603		
S. 2583-r	A. 37-213-2	1409	S. S. 2604	A. 37-395-1	1922
S. 2583-s		1411		A. 38-307-1	1923
S. S. 2584		1413	2605	A. 38-196-1	1920
S. 2585	A. 38-183-1	1414	S. S. 2606		1924
2586		1421	S. 2606-a		1925
S. S. 2587		1415	S. 2606-b		1926
S. S. 2588		1412	S. 2606-c		
S. 2589			S. 2606-d		1927
S. S. 2589-a		1416	2607		
S. 2589-b	R. 37-430-1		S. 2608	R. 38-37-3	
S. 2589-c	R. 37-430-1		2609		
S. 2589-d	A. 38-95-1	1420	2610		
2590	R. 31-115-1		2611		
2591		1422	2612		
2592		1427	2613		
S. 2593		1428	2614		
S. 2593-a		1429	2615		
S. 2593-b			2616		
S. 2594		1424	2617	R. 33-170-20	
2595		1425	2618	R. 33-170-20	
2596		1426	2619	R. 33-170-20	
S. 2596-a		1430	2620	R. 33-170-20	
S. 2596-b		1431	S. S. 2620-a		1235
S. 2596-c		1432	S. S. 2620-b		1236
2597	R. 28-91-1		S. S. 2620-c		1237
2598	R. 28-91-1		S. S. 2620-d		1238
2599	R. 28-91-1		S. S. 2620-e		
2600	R. 28-91-1		S. S. 2620-f		1239
S. 2600-a			S. S. 2620-g		1240
S. 2600-b		1379	S. S. 2620-h		1241
S. 2600-c		1381	S. S. 2620-i		1242
S. 2600-d		1384	S. S. 2620-j		1243
S. 2600-e		1390	S. S. 2620-k		1244
S. 2600-f		1382	2621	R. 35-103-9	
S. 2600-g	R. 37-309-5		S. 2622		
S. 2600-h		1391	2623	R. 35-103-9	
S. 2600-i			2624	R. 35-103-9	
S. 2600-j			S. 2625		
S. 2600-k		1380	2626	R. 35-103-9	
S. 2600-l		1397	S. 2627		
S. 2600-m		1386	S. 2627-a	R. 37-318-2	
S. 2600-n		1387	S. 2627-b		2266
S. 2600-o		1378	S. 2627-c	A. 38-298-1	2267
S. 2600-o1		1392			2268
S. 2600-o2		1393	S. 2627-d		2265
S. 2600-o3		1388	S. 2627-e		2269
S. 2600-o4		1377	S. 2627-f		2275
S. 2600-o5	A. 37-309-4	1389	S. 2627-g		2276
S. 2600-o6		1398	S. 2627-h		2277
S. 2600-o7		1396	S. 2627-i		
S. 2600-o8			2628	A. 37-340-1	2295
S. 2600-p	R. 36-202-1		S. 2629	A. 38-280-1	2296
S. 2600-q	R. 36-202-1		2630	R. 28-96-1	
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2632.....	R. 31-122-1.....		2672.....		2414
2633.....		2307	2673.....		
2634.....	R. 27-73-1.....		2674.....		
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S. 2634-a1.....		2308	S. 2674-b.....		
S. 2634-b.....			S. 2674-c.....		
S. 2634-b1.....		2309	S. 2674-d.....		2415
S. 2634-b2.....		2310	S. 2674-e.....		2416
S. 2634-b3.....		2311	S. 2674-f.....		
S. 2634-b4.....		2312	S. 2675.....		2431
S. 2634-b5.....		2313	2676.....		2432
S. S. 2634-b6.....	A. 37-346-1.....	2314	2677.....		2433
S. 2634-b7.....		2315	2678.....		2434
S. 2634-b8.....	A. 38-230-1.....	2317	2679.....		2435
S. 2634-c.....	R. 34-131-1.....		S. 2680.....		2436
S. 2634-d.....	R. 34-131-1.....		2681.....	R. 33-170-20...	
S. 2634-e.....		2316	S. 2682.....		
S. 2634-f.....		2299	S. 2682-a.....		
S. 2634-f1.....		2300	S. 2682-b.....		2337
S. 2634-g.....		2301	S. 2682-c.....		2318
S. 2634-h.....		2303	S. 2682-d.....		2319
S. 2634-h1.....		2304	S. 2682-e.....		2320
S. 2634-h2.....		2305	S. 2682-f.....		2321
S. 2634-h3.....			S. 2682-g.....		2322
2635.....	R. 33-170-20.....		S. 2682-h.....		2323
2636.....	R. 33-170-20.....		S. 2682-i.....		2324
2637.....		2343	S. 2682-j.....		2325
2638.....		2344	S. 2682-k.....		2326
2639.....		2345	S. 2682-l.....		2327
2640.....		2346	S. 2682-m.....	A. 38-74-1.....	2328
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S. 2707.....		2153	S. 2722-e.....		
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2745		2509	2791		2512
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2749	A. 37-386-2	2537		A. 38-116-1	
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S. 2754		2542	S. 2794-e		2528
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2759		2554	2797		2520
2760		2594	2798		2522
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2781	A. 37-223-1	2562	2818		2590
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2822.....		2579	2859.....		2730
2823.....		2580	2860.....		2731
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S. 2823-j.....		2270	S. 2869-a.....		
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S. 2823-m.....			2872.....		2743
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S. 2823-p.....		2608	2875.....		2750
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2825.....	A. 37-386-10.....	2695	S. 2881-h.....		2768
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2829.....		2699	S. 2881-l.....	R. 36-163-1.....	
2830.....		2700	S. 2881-m.....	R. 36-163-1.....	
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S. 2832.....		2702	S. S. 2881-o.....		
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2834.....		2704	S. S. 2881-q.....		2757
2835.....		2705	S. S. 2881-r.....		2758
2836.....	A. 37-56-1.....	2706	S. S. 2881-s.....		2759
2837.....		2707	S. S. 2881-t.....		2760
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2839.....		2709	S. 2882-a.....		2777
2840.....		2710	S. 2882-b.....		
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2842.....		2712	S. 2882-d.....		
2843.....		2713	2883.....		2782
2844.....		2714	2884.....		2783
2845.....		2715	2885.....		2784
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S. 2888-d		2771	2909		6330
S. 2888-e		2772	2910		6331
S. 2888-f		2773	2911		6332
S. 2888-g		2774	S. S. 2911-a	R. 37-64-1	
S. S. 2888-h		2775	S. S. 2911-b	R. 37-64-2	
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S. 2889-a		6456	2912		6336
S. 2889-b		6457	2913		6337
S. 2889-c		6555	2914		6338
2890		6458	2915		6339
2891		6459	2916		6340
2892		6460	2917		6341
2893		6461	2918		6342
2894		6485	2919		6343
2895		6486	2920		6344
2896		6487	2921		6345
2897		6488	2922		6346
2898		6489	2923		6347
2899		6490	2924		6348
2900		6491	S. 2924-a		6349
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S. 2900-a2		6462	S. 2924-c		6351
S. 2900-a3		6463	S. 2924-d		6352
S. 2900-a4		6464	S. 2924-e		6353
S. 2900-a5		6465	S. 2924-f		6354
S. 2900-a6	R. 38-32-1		2925		6355
S. S. 2900-a7		6468	2926		6356
S. 2900-a8		6469	2927		6357
S. 2900-a9		6470	2928		6358
S. 2900-a10		6471	2929		6359
S. 2900-a11		6472	S. 2930		6360
S. 2900-a12		6473	2931		6361
S. 2900-a13		6474	2932		6362
S. 2900-a14		6475	2933		6363
S. 2900-a15		6476	2934		6364
S. 2900-a16		6477	S. 2935		6365
S. 2900-a17		6478	2936		6366
S. 2900-a18		6479	2937		6367
S. 2900-a19	R. 36-112-1		2938		6368
S. 2900-a20	R. 36-112-1		S. 2938-a		6369
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2949.....		6381	2987.....		6429
2950.....		6382	2988.....		6431
2951.....		6383	2989.....		6432
2952.....		6384	2990.....		6433
2953.....		6385	2991.....		6434
2954.....		6386	2992.....		6502
2955.....		6387	2993.....		6503
2956.....		6388	2994.....		6435
2957.....		6389	2995.....		6436
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3031		1603	S. 3060-a34		5948
3032		1604	S. 3060-a35		5949
3033		1605	S. 3060-a36		5950
3034	R. 35-266-20		S. 3060-a37		5951
3035	R. 35-266-20		S. 3060-a38		5952
3036		1606	S. 3060-a39		5953
3037		5888	S. 3060-a40		5954
3038		5889	S. 3060-a41		5955
3039		5890	S. 3060-a42		5956
3040		5891	S. 3060-a43		5957
3041		5892	S. 3060-a44		5958
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3044		5907	S. 3060-a48		5962
3045	R. 29-130-197		S. 3060-a49		5963
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S. 3047		5909	S. 3060-a51		5965
3048		5910	S. 3060-a52		5966
3049	R. 29-130-197		S. 3060-a53		5967
3050	R. 29-130-197		S. 3060-a54		5968
3051	R. 29-130-197		S. 3060-a55		5969
3052	R. 29-130-197		S. 3060-a56		5970
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3054	R. 29-130-197		S. 3060-a58		5972
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3056		5899	S. 3060-a60		5974
3057		5900	S. 3060-a61		5975
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3059		5902	S. 3060-a63		5977
3060		5903	S. 3060-a64		5978
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S. 3060-a4		5918	S. 3060-a69		5983
S. 3060-a5		5919	S. 3060-a70		5984
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S. 3060-a10		5924	S. 3060-a75		5989
S. 3060-a11		5925	S. 3060-a76		5990
S. 3060-a12		5926	S. 3060-a77		5991
S. 3060-a13		5927	S. 3060-a78		5992
S. 3060-a14		5928	S. 3060-a79		5993
S. 3060-a15		5929	S. 3060-a80		5994
S. 3060-a16		5930	S. 3060-a81		5995
S. 3060-a17		5931	S. 3060-a82		5996
S. 3060-a18		5932	S. 3060-a83		5997
S. 3060-a19		5933	S. 3060-a84		5998
S. 3060-a20		5934	S. 3060-a85		6000
S. 3060-a21		5935	S. 3060-a86		6001
S. 3060-a22		5936	S. 3060-a87		6002
S. 3060-a23		5937	S. 3060-a88		6003
S. 3060-a24		5938	S. 3060-a89		6004
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S. 3060-a94	6009	S. 3060-a159	6074
S. 3060-a95	6010	S. 3060-a160	6075
S. 3060-a96	6011	S. 3060-a161	6076
S. 3060-a97	6012	S. 3060-a162	6077
S. 3060-a98	6013	S. 3060-a163	6078
S. 3060-a99	6014	S. 3060-a164	6079
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S. 3060-a101	6016	S. 3060-a166	6081
S. 3060-a102	6017	S. 3060-a167	6082
S. 3060-a103	6018	S. 3060-a168	6083
S. 3060-a104	6019	S. 3060-a169	6084
S. 3060-a105	6020	S. 3060-a170	6085
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S. 3060-a108	6023	S. 3060-a173	6088
S. 3060-a109	6024	S. 3060-a174	6089
S. 3060-a110	6025	S. 3060-a175	6090
S. 3060-a111	6026	S. 3060-a176	6091
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S. 3060-a113	6028	S. 3060-a178	6093
S. 3060-a114	6029	S. 3060-a179	6094
S. 3060-a115	6030	S. 3060-a180	6095
S. 3060-a116	6031	S. 3060-a181	.....	6096
S. 3060-a117	6032	S. 3060-a182	.....	6097
S. 3060-a118	6033	S. 3060-a183	.....	6098
S. 3060-a119	6034	S. 3060-a184	6099
S. 3060-a120	6035	S. 3060-a185	6100
S. 3060-a121	6036	S. 3060-a186	6101
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S. 3060-a123	6038	S. 3060-a188	6103
S. 3060-a124	6039	S. 3060-a189	6104
S. 3060-a125	6040	S. 3060-a190	6105
S. 3060-a126	6041	S. 3060-a191	.....	6106
S. 3060-a127	6042	S. 3060-a192	.....	6107
S. 3060-a128	6043	S. 3060-a193	.....	6108
S. 3060-a129	6044	S. 3060-a194	.....	6109
S. 3060-a130	6045	S. 3060-a195	6110
S. 3060-a131	6046	S. 3060-a196	6111
S. 3060-a132	6047	S. 3060-a198	6112
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S. 3060-a134	6049	S. 3060-a200	6114
S. 3060-a135	6050	3061	5904
S. 3060-a136	6051	3062	5905
S. 3060-a137	6052	3063	.....	5906
S. 3060-a138	6053	3064	.....	5911
S. 3060-a139	6054	3065	.....	5912
S. 3060-a140	6055	3066	.....	5913
S. 3060-a141	6056	3067	.....	5914
S. 3060-a142	6057	S. 3068	.....	5895
S. 3060-a143	6058	S. 3068-a	.....	6391
S. 3060-a144	6059	S. 3069	.....	6554
S. 3060-a145	6060	3070	.....	5896
S. 3060-a146	6061	3071	.....	5897
S. 3060-a147	6062	3072	.....	8407
S. 3060-a148	6063	3073	.....	8408
S. 3060-a149	6064	3074	8409
S. 3060-a150	6065	S. 3075	8410
S. 3060-a151	6066	3076	8411
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3081		8417	S. 3138-a8		6129
3082		8418	S. 3138-a9		6130
3083		8419	S. 3138-a10		6131
3084		8420	S. 3138-a11		6132
3085		8421	S. 3138-a12		6133
3086		8422	S. 3138-a13		6134
3087		8423	S. 3138-a14		6135
3088		6510	S. 3138-a15		6136
3089		6509	S. 3138-a16		6137
3090		6511	S. 3138-a17		6138
3091		6512	S. 3138-a18		6139
3092	A. 38-380-1	6513	S. 3138-a19		6140
S. 3093	A. 38-380-1	6514	S. 3138-a20		6141
S. S. 3094	A. 38-380-1	6515	S. 3138-a21		6142
3095		6516	S. 3138-a22		6143
3096		6507	S. 3138-a23		6144
3097		6508	S. 3138-a24		6145
3098		6519	S. 3138-a25		6146
3099		6523	S. 3138-a26		6147
3100		6517	S. 3138-a27		6148
3101		6518	S. 3138-a28		6149
3102	A. 38-380-2	6532	S. 3138-a29		6150
3103		6533	S. 3138-a30		6151
3104	A. 38-53-1	6534	S. 3138-a31		6152
3105		6524	S. 3138-a32		6153
3106		6180	S. 3138-a33		6154
3107		6181	S. 3138-a34		6155
3108		6182	S. 3138-a35		6156
S. 3109		6183	S. 3138-a36		6157
3110		6184	S. 3138-a37		6158
3111		6185	S. 3138-a38		6159
3112		6186	S. 3138-a39		6160
3113		6187	S. 3138-a40		6161
3114		6188	S. 3138-a41		6162
3115		6189	S. 3138-a42		6163
3116		6190	S. 3138-a43		6164
3117		6191	S. 3138-a44		6165
3118		6192	S. 3138-a45		6166
3119		6193	S. 3138-a46		6167
3120		6194	S. 3138-a47		6168
3121		6195	S. 3138-a48		6169
3122		6115	S. 3138-a49		6170
3123		6116	S. 3138-a50		6171
3124		6117	S. 3138-a51		6172
3125		6118	S. 3138-a52		6173
3126		6119	S. 3138-a53		6174
3127		6120	S. 3138-a54		6175
3128		6121	S. 3138-a55		6176
S. 3129			S. 3138-a56		6177
3130		6527	S. 3138-a57		6178
S. 3131		6528	S. 3138-a58		6179
3132		6529	S. 3138-a59		
3133		6530	S. 3138-b		5263
3134		6531	S. 3138-b1		5264
3135		5325	S. 3138-b2		5265
3136		5326	S. 3138-b3		5266
3137		6526	S. 3138-b4		5267
S. 3138		6525	S. 3138-b5		5268
S. 3138-a1		6122	S. 3138-b6		5269
S. 3138-a2		6123	S. 3138-b7		5270
S. 3138-a3		6124	S. 3138-b8		5271
S. 3138-a4		6125	S. 3138-b9		5272
S. 3138-a5		6126	S. 3138-b10		5273
S. 3138-a6		6127	S. 3138-b11		5274

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S. 3138-b14		5277	3154		6602
S. 3138-b15		5278	3155		6603
S. 3138-b16		5279	3156		6618
S. 3138-b17		5280	3157		6604
S. 3138-b18		5281	3158		6610
S. 3138-b19		5282	3159		6611
S. 3138-b20		5283	3160		6612
S. 3138-b21		5284	3161		6605
S. 3138-b22		5285	3162		6615
S. 3138-b23		5286	3163		6616
S. 3138-b24		5287	3164		6617
S. 3138-b25		5288	S. 3165		6613
S. 3138-b26		5289	3166		6430
S. 3138-b27		5290			6614
S. 3138-b28		5291	S. 3167		6606
S. 3138-b29		5292	3168		6607
S. 3138-b30		5293	S. 3169		6608
S. 3138-b31		5294	3170		6609
S. 3138-b32		5295	3171		6619
S. 3138-b33		5296	3172		6621
S. 3138-b34		5297	3173		6622
S. 3138-b35		5298	3174		6623
S. 3138-b36		5299	3175		6624
S. 3138-b37		5300	3176		6625
S. 3138-b38		5301	3177		6626
S. 3138-b39		5302	3178		6627
S. 3138-b40		5303	3179		6628
S. 3138-b41		5304	3180		6629
S. 3138-b42		5305	S. 3181		6630
S. 3138-b43		5306	3182		6631
S. 3138-b44		5307	3183		6632
S. 3138-b45		5308	3184		6633
S. 3138-b46		5309	3185		6634
S. 3138-b47		5310	3186		6635
S. 3138-b48		5311	3187		6636
S. 3138-b49		5312	S. 3187-a		6549
S. 3138-b50		5313	3188		6637
S. 3138-b51		5314	3189		6638
S. 3138-b52		5315	3190		6639
S. 3138-b53		5316	3191		6640
S. 3138-b54			3192		6641
S. 3138-b55			3193		6642
S. 3138-b56		5317	3194		6643
S. 3138-c		6199	3195		6644
S. 3138-c1		6200	3196		6649
S. 3138-c2		6201	3197	A. 38-130-1	6645
S. 3138-c3		6202	3198		6662
S. 3138-c4		6203	3199		6646
S. 3138-c5		6204	3200		6647
3139		6587	3201		6661
3140		6588	3202		6663
S. 3141		6589	3203		6658
3142		6590	3204		6659
3143*		6591	3205		6660
3144		6592	3206		6651
3145	A. 37-36-1		3207		6652
	A. 37-313-1	6593	3208		6653
S. 3146		6596	3209		6654
S. 3147		6594	3210		6655
3148		6598	3211		6656
3149		6597	3212		6657
3150		6599	3213		6664
3151		6600	3214		6665

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3218		6669	3261	A. 38-357-2	7776
3219		6670	3262		7777
3220		6671	3263		7778
3221	R. 30-80-22		3264		7779
3222		6672	3265		7780
3223		6673	3266		7781
3224		6648	3267		7783
S. 3225		6674	S. 3268		7790
3226		6650	3269		7791
3227		6675	3270		7792
3228		6676	3271		7793
3228-a		6677	3272		7794
3228-b		6678	3273		7795
S. 3228-c		6679	3274		7796
S. 3228-d		6680	3275		7797
S. 3228-e		6681	S. 3276		7798
S. 3228-f		6682	3277		7799
S. 3228-g		6683	S. 3279		7800
S. 3228-h		6684	S. 3279-a		7801
3229		6690	S. 3279-b		7802
3230		6691	3280		7803
3231		6693	3281		7804
3232		6692	3282		7805
3233		6699	3283	A. 38-357-3	7806
3234		6694	S. 3284	A. 38-88-1	7807
3235		6700	3285		7808
3236		6701	3286		7809
3237		6702	S. 3287		7810
3238		6703	3288		7811
3239		6704	3289		7812
3240		6705	3290		7813
3241		6706	3291		7814
3242		6707	3292		7815
3243		6708	3293		7816
3244		6709	3294		7817
3245		6710	3295		6564
3246		6695	S. 3295-a		6565
3247		6696	S. 3295-b		7818
3248		6697	S. 3295-c		7819
3249		6698	3296		7820
3250		6685	3297		7821
3251		6686	3298		7822
3252		6687	3299		7823
S. 3253		6688	3300		7824
3254			3301		7825
3255	R. 29-133-1		3302		7826
3256	R. 29-133-1		3303		7827
3257	R. 29-133-1		3304		7828
3258	R. 29-133-1		S. 3305		7829
3259	R. 29-133-1		3306		7830
3260			S. 3307		7831
S. 3260-a		2130	S. 3307-a		7832
S. 3260-b		2131	S. 3307-b		6566
S. 3260-c		2132	S. 3308		7833
S. 3260-d		2133	S. 3308-a		7834
S. 3260-e		2134	3310		7835
S. 3260-f		2136	3311		7836
S. 3260-g		2137	3312		7837
S. 3260-h		2138	3313		7838
S. 3260-i			3314		
S. 3260-j					
S. 3260-k					

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3315		7839	3380		7908
3316		7840	3381		7909
3317		7841	S. 3381-a		7910
3318		7842	S. 3381-b		7911
3319		7843	S. 3381-c		7912
3320		7844	3382		7913
3321		7845	3383		7914
3322		7846	3384		7915
3323		7847	3385		7916
3324		7848	S. 3386		7917
3325		7849	3387		7918
3326		7850	3388		7919
3327		7851	3389		7920
3328		7852	3390		7921
3329		7853	3391		7922
3330		7854	3392		7923
3331		7855	3393		7924
3332		7857	3394		7925
3333		7858	3395		7926
3334		7859	3396		7927
3335		7860	3397		7928
3336		7861	3398		7929
3337		7862	3399		7930
3338		7863	3400		7931
3339		7864	3401		7932
S. 3340		7865	3402		7933
3341		7866	S. 3403		7934
3342		7867	3404		7935
3343		7868	3405		7936
3344		7869	3406		7937
3345		7870	3407		7938
3346		7871	3408		7939
3347		7872	3409		7940
S. 3348		7873	3410		7941
3349		7874	3411		7786
3350		7875	3412		7787
3351		7876	3413		7788
3352		7877	3414		7789
3353		7878	3415	R. 38-391-1	
3354		7879	3416		7943
3355		7880	3417		7944
3356		7881	3418		7945
3357		7882	3419		7946
3358		7883	3420		7947
3359		7884	3421		7948
3360		7885	3422		7949
3361		7886	3423		7950
3362		7887	3424		7057
3363		7888	3425		7058
3364		7889	3426		7059
3365		7890	3427		7060
3366		7891	3428		7061
3367		7892	3429		6521
3368		7893	3430		6620
3369		7894	3431		7062
3370		7895	3432		7063
3371		7896	3433		7064
3372		7897	3434		7065
3373		7898	3435		7066
3374		7899	3436		7067
3375		7900	3437		7068
S. 3376	R. 38-192-1		3438		7069
S. 3377		7902	S. 3439	A. 38-96-1	7123
3378		7903	S. 3439-a		
S. 3379	A. 37-250-2	7904	3440		7071

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3441.....		7072	S. 3497.....	A. 37-424-1.....	7147
3442.....		7073	3498.....		7148
3443.....		7074	3499.....		7149
3444.....		7075	S. 3499-a.....		7150
3445.....		7076	3500.....		7151
3446.....		7077	S. 3500-a.....		7152
S. 3447.....	A. 37-63-1.....	6522	3501.....		7153
		7116	3502.....		7155
S. 3447-a.....		7117	3503.....		7156
S. 3447-b.....	A. 37-351-1.....	7118	3504.....		7157
S. 3447-c.....		7124	S. 3504-a.....		7158
S. S. 3447-d.....		7125	S. 3505.....		7432
S. S. 3447-e.....		7126	3506.....		7434
S. S. 3447-f.....			S. 3507.....		7435
3448.....		7127	3508.....		7436
3449.....		7128	3509.....		7437
3450.....		7129	3510.....		7438
3451.....		7130	S. 3511.....		7439
3452.....		7131	3512.....		7440
3453.....		7132	3513.....		7441
3454.....		7133	3514.....		7159
3455.....		7134	3515.....		7160
3456.....		7135	3516.....		7161
3457.....		7136	3517.....		7162
3458.....		7137	3518.....		7163
3459.....		7084	3519.....		7164
3460.....		7085	3520.....		7165
3461.....		7086	3521.....	A. 37-31-1.....	7166
3462.....		7087	3522.....		7167
3463.....		7088	3523.....		7168
3464.....		7089	3524.....		7169
3465.....		7090	3525.....	A. 37-217-1.....	7170
3466.....		7091	3526.....		7171
3467.....		7092	3527.....		7172
3468.....		7093	3528.....		7173
3469.....		7094	S. 3529.....		7174
3470.....		7095	3530.....		7175
3471.....		7096	3531.....		7176
3472.....		7097	3532.....		7177
3473.....		7098	3533.....		7178
3474.....		7099	S. 3534.....		7179
3475.....		7100	S. 3534-a.....		6547
3476.....		7101	S. 3534-b.....		
3477.....		7102	3535.....		7180
S. S. 3477-a.....		7103	3536.....		7181
3478.....		7104	S. 3536-a.....	R. 38-89-1.....	
3479.....		7105	S. 3536-b.....		
3480.....		7106	3537.....		7182
3481.....		7107	S. S. 3538.....		7183
3482.....		7108	S. S. 3539.....		7184
3483.....		7109	S. 3540.....		7185
3484.....		7110	S. S. 3540-a.....		6544
3485.....		7111	S. S. 3540-b.....		
3486.....		7112	S. 3541.....		7186
3487.....		7113	3542.....		7187
3488.....		7114	S. 3543.....	A. 37-324-1.....	7188
3489.....		7115	3544.....		7189
3490.....		6504	3545.....		7078
3491.....		7142	3546.....		7079
3492.....		7143	3547.....		7080
3493.....		6520	3548.....		7081
		8170	3549.....		7082
S. 3494.....		7144	3550.....		7198
3495.....		7145	3551.....		7203
3496.....		7146	3552.....		7204

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3553		7199	3613		7256
3554		7200	3614		7257
3555		7205	3615		7258
3556		7206	3616		7196
3557		7190	3617		7197
S. S. 3558		7201	3618		7259
3559		7191	3619		7260
3560		7207	3620		7261
3561		7208	3621		7262
3562		7209	3622		7263
3563		7212	3623		7264
3564		7210	3624		7265
3565		7211	3625		7266
3566		7192	3626		7267
3567		7193	3627		7268
3568		7194	3628		7269
3569		7195	3629		7270
3570		7213	3630		7202
3571		7214	3631		7070
3572		7215	3632		7271
3573		7216	3633		7272
3574		7217	3634		7273
3575		7218	3635		7274
3576		7219	3636		7275
3577		7220	3637		7276
3578		7221	3638		7277
3579		7222	3639		7278
3580		7223	3640		7279
3581		7224	3641		7280
3582		7225	3642		7281
3583		7226	3643		7282
3584		7227	3644		7283
3585		7228	3645		7284
3586		7229	3646		6964
3587		7230	3647		7442
3588		7231	3648		7443
3589		7232	3649		7444
3590		7233	3650		7445
3591		7234	3651		7446
3592		8203	S. 3652		7447
S. S. 3592-a		8204	3653		7448
		8205	3654		7449
		8206	3655		7450
3593		7235	S. 3656		7451
		8207	3657		7452
S. S. 3593-a		7236	3658		7453
3594		7237	3659		7454
3595		7238	3660		7455
3596		7239	3661		7456
3597		7240	3662		7457
3598		7241	3663		7458
3599		7242	3664		7459
3600		7243	3665		7460
3601		7244	3666		7461
3602		7245	3667		7462
3603		7246	3668		7463
3604		7247	3669		7464
3605		7248	3670		7465
3606		7249	3671		7466
3607		7250	3672		7467
3608		7251	3673		7468
3609		7252	3674		7469
3610		7253	3675		7470
3611		7254	3676	R. 37-310-2	
3612		7255	3677		7472

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3678		7473	3740		7536
3679		7474	3741		7537
3680		7475	3742		7538
3681		7476	3743		7539
3682		7477	3744		7540
3683		7478	3745		7541
3684		7479	3746		7542
3685		7480	3747		7543
3686	R. 37-310-3		3748		7544
3687	R. 37 310-4		3749		7545
3688		7483	3750		7546
3689		7484	3751		7547
3690		7485	3752		7548
3691		7486	3753		7549
3692		7487	3754		7550
3693		7488	3755		7551
3694		7489	3756	A. 38-11-2	7552
3695		7490	3757		7553
3696		7491	3758		7554
3697		7492	3759		7555
3698		7493	3760		7556
3699		7494	3761		7557
3700		7495	3762		7558
3701		7496	3763		7559
3702		7497	3764		7560
3703		7498	3765		7561
3704		7499	3766		7562
S. 3705		7500	3767		7563
S. 3705-a	R. 37-24-1		3768		7564
S. 3705-b			3769		7565
S. 3705-c			3770		7566
3706		7502	3771		7567
3707		7503	3772		7568
3708		7504	3773		7569
3709	A. 38-11-1	7505	3774		7570
3710		7506	3775		7571
3711		7507	3776		7572
3712		7508	3777		7573
3713		7509	3778		7574
3714		7510	3779		7575
3715		7511	3780		7576
3716		7512	3781		7577
3717		7513	3782		7578
3718		7514	3783		7579
3719		7515	3784		7580
3720		7516	3785		7581
3721		7517	3786		7582
3722		7518	3787		7583
3723		7519	3788		7584
3724		7520	3789		7585
3725		7521	3790		7586
3726		7522	3791		7587
3727		7523	3792		7588
3728		7524	3793		7589
3729		7525	3794		7590
3730		7526	3795		7591
3731		7527	3796		7592
3732		7528	3797		7593
3733		7529	3798		7594
3734		7530	3799		7595
3735		7531	3800		7596
3736		7532	3801		7597
3737		7533	S. 3802		7598
3738		7534	3803		7599
3739		7535	3804		7600

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3805		7601	3868		7629
3806		7602	3869		7630
3807		7603	3870		7631
3808		7604	3871		7632
3809		7605	3872		7633
3810		7606	3873		7634
3811		7607	3874		7635
3812		7608	3875		7636
3813		8371	3876		7951
3814		8372	3877		7952
3815		8373	3878		7953
3816		8374	3879		7954
3817		8375	3880		7955
3818		8376	3881		7956
3819		8368	3882		7957
3820		8369	3883		7958
3821		8370	3884		7959
3822		8402	3885	R. 37-75-6	7961
3823		8403	3886		7962
3824		8404	3887		7963
S. 3825		8405	3888		7964
S. 3825-a		8406	3889		7965
3826		7609	3890		7966
3827		7610	3891		7967
3828		7611	3892		7967
3829		7612	3893		7968
3830		7613	3894		7969
3831		7285	3895		7970
3832		7286	3896		7971
3833		7287	3897		7972
3834		7288	3898		7973
3835		7289	3899		7974
3836		7290	3900		7975
3837		7291	3901		7976
3838		7292	3902		7977
3839		7293	3903		7978
3840		7294	3904		7979
3841		7295	3905		7980
3842		7296	3906		7981
3843		7297	3907		7982
3844		7298	3908		7983
3845		7299	3909		7984
3846		7300	3910		7985
S. 3847	R. 37-47-1	7302	3911		7986
3848		7303	3912	R. 27-101-1	7987
3849		7304	S. 3912-a		7988
3850		7305	3913		7989
3851		7306	3914		7990
3852		7307	3915		7991
S. 3852-a		7614	3916		7992
S. 3853		7615	3917		7993
3854		7616	3918		7994
3855		7617	3919		7995
3856		7618	3920		7996
3857		7619	3921		7997
3858		7620	3922		7997
3859		7621	3923		7998
3860		7622	3924		7999
3861		7623	3925		8000
3862		7624	3926		8001
3863		7625	3927		8002
3864		7626	3928		8003
3865		7627	3929		8004
3866		7628	3930	R. 38-338-1	8004
3867			3931		8006

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3932		8007	3995		7678
3933		8008	3996		7679
3934		8009	3997		7680
S. 3934-a		8010	3998		7681
S. 3934-b		8011	3999		7682
3935		8012	4000		7683
3936		8013	4001		7684
3937		8014	4002		7685
3938		8015	4003		7686
3939		8016	4004		7687
3940		8017	4005		7688
3941		8018	4006		7689
3942		8019	4007		7726
3943		8020	4008		7727
3944		8021	4009		7728
3945		8022	4010		7729
3946		8023	4011	A. 38-65-1	7730
S. 3947		8024	4012		7731
S. 3948		8025	4013		7732
3949		8026	4014		7733
3950		8027	4015		7734
3951		8028	4016		7735
3952		8029	4017		7736
3953		8030	4018		7737
3954		7637	S. 4019		7690
S. 3955		7638	S. 4020		7691
3956		7639	S. 4021		7692
3957		7640	4022		7693
S. 3958		7641	4023		7694
3959		7642	S. 4024		7695
3960		7643	S. 4025		7696
3961		7644	4026		7697
3962		7645	S. 4027		7698
3963		7646	4028		7699
3964		7647	4029		7700
3965		7648	4030		7701
3966		7649	4031		7702
3967		7650	4032		7703
3968		7651	4033		7704
3969		7652	4034		7705
3970		7653	4035		7706
3971		7654	4036		7707
3972		7655	4037		7708
3973		7656	4038		7709
3974		7657	4039		7710
3975		7658	4040		7711
3976		7659	4041		7712
3977		7660	4042		7713
3978		7661	4043		7738
3979		7662	4044		7714
3980		7663	4045		7739
3981		7664	4046		7740
3982		7665	4047		7741
3983		7666	4048		7742
3984		7667	4049		7743
3985		7668	4050		7744
3986		7669	S. 4051		7745
3987		7670	4052		7746
S. 3988		7671	4053		7747
3989		7672	4054		7748
3990		7673	4055		7749
3991		7674	4056		7750
3992		7675	4057		7751
3993		7676	4058		7752
3994		7677	4059		7753

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4060.....		7754	4124.....		8504
4061.....		7755	4125.....		8505
4062.....		7715	4126.....		8506
4063.....		7716	4127.....		8507
4064.....		7717	4128.....		8508
4065.....		7718	4129.....		8509
4066.....		7719	4130.....		8510
4067.....		7720	4131.....		8511
4068.....		7721	4132.....		8512
4069.....		7722	4133.....		8513
4070.....		7723	S. 4134.....		8514
4071.....		7724	4135.....		8515
S. 4071-a.....		7725	S. 4136.....		8516
4072.....		7756	4137.....	R. 30-126-1.....	
4073.....		7757	4138.....		8517
4074.....		7758	S. 4139.....		8518
4075.....		7759	4140.....		8519
4076.....		7760	4141.....		8520
4077.....		7761	S. 4142.....		8521
4078.....		7762	4143.....		8522
4079.....		7763	4144.....		8523
4080.....		7764	4145.....		8524
4081.....		7765	4146.....		8525
4082.....		7766	4147.....		8526
4083.....		7767	4148.....		8527
4084.....		7768	4149.....		8528
4085.....		7769	4150.....		8529
4086.....		7770	4151.....		8530
4087.....		7771	4152.....		8531
4088.....		7772	4153.....		8532
4089.....		7773	4154.....		8244
4090.....		7774	4155.....		8245
4091.....		8446	4156.....		8246
4092.....		8447	4157.....		8247
4093.....		8448	4158.....		8248
4094.....		8449	4159.....		8249
4095.....		8450	4160.....		8250
4096.....		8451	4161.....		8251
4097.....		8452	4162.....		8252
4098.....		8453	4163.....		8031
4099.....		8454	4164.....		8032
4100.....		8480	4165.....		8033
4101.....		8481	4166.....		8034
4102.....		8482	4167.....		8035
4103.....		8483	4168.....		8036
4104.....		8484	4169.....		8037
4105.....		8485	4170.....		8038
4106.....		8486	4171.....		8039
4107.....		8487	4172.....		8040
4108.....		8488	4173.....		8041
4109.....		8489	4174.....		8042
4110.....		8490	4175.....		8043
4111.....		8491	4176.....		8044
4112.....		8492	4177.....		8045
4113.....		8493	4178.....		8046
S. 4114.....		8494	4179.....		8047
4115.....		8495	4180.....		8048
4116.....		8496	4181.....		8049
4117.....		8497	4182.....		8056
4118.....		8498	4183.....		8057
4119.....		8499	4184.....		8058
4120.....		8500	4185.....		8059
4121.....		8501	4186.....		8060
4122.....		8502	4187.....		8061
4123.....		8503	4188.....		8062

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4190.....		8064	4250.....		8131
4191.....		8065	4251.....		8132
4192.....		8066	4252.....		8133
4193.....		8067	S. 4253.....		8134
4194.....		8068	4254.....		8135
4195.....		8069	4255.....		8136
4196.....		8070	4256.....		8137
4197.....		8071	4257.....		8138
4198.....		8072	4258.....		8139
4199.....		8073	S. 4259.....		8140
4200.....		8074	4260.....		8141
4201.....		8075	4261.....		8142
4202.....		8076	4262.....		8143
4203.....		8077	4263.....		8144
4204.....		8078	4264.....		8145
4205.....		8079	4265.....		8146
4206.....		8080	4266.....		8147
4207.....		8081	4267.....		8148
4208.....		8087	S. 4268.....		8149
4209.....		8088	4269.....		8150
4210.....		8089	4270.....		8151
4211.....	R. 37-230-1.....		4271.....		8152
4212.....	R. 37-230-2.....		4272.....		8153
4213.....		8092	4273.....		8154
4214.....	R. 37-230-3.....		4274.....		8155
4215.....		8094	4275.....		8156
4216.....	R. 37-230-4.....		4276.....		8157
4217.....		8096	4277.....		8158
4218.....		8097	4278.....		8159
4219.....		8098	4279.....		8160
4220.....		8099	4280.....		8161
4221.....		8100	4281.....		8162
4222.....		8101	4282.....		8163
4223.....		8102	4283.....		8164
4224.....		8103	4284.....		8165
4225.....		8104	4285.....		8166
4226.....		8105	4286.....		8167
4227.....		8106	4287.....		8169
S. 4227-a.....		8082	4288.....		8171
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S. 4227-c.....		8084	4290.....		8173
S. 4227-d.....		8085	4291.....		8174
S. S. 4227-e.....		8086	4292.....		8175
4228.....		8109	4293.....		8176
4229.....		8110	4294.....		8177
4230.....		8111	4295.....		8178
4231.....		8112	4296.....		8179
4232.....		8113	4297.....		8180
4233.....		8114	4298.....		8181
4234.....		8115	S. 4299.....		8182
4235.....		8116	S. 4300.....		8183
4236.....		8117	4301.....		8184
4237.....		8118	4302.....		8185
4238.....		8119	4303.....		8193
4239.....		8120	4304.....		8194
4240.....		8121	4305.....		8195
4241.....		8122	4306.....		8196
4242.....		8123	4307.....		8197
4243.....		8124	4308.....		8198
4244.....		8125	4309.....		8199
4245.....		8126	4310.....		8200
4246.....		8127	4311.....		8201
4247.....		8128	4312.....		8202
4248.....		8129	4313.....		8208

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4315.....		8210	4380.....		8380
4316.....		8211	4381.....		8381
4317.....		8212	4382.....		8382
4318.....		8213	4383.....		8383
4319.....		8214	4384.....		8384
4320.....		8215	4385.....		8385
4321.....		8216	4386.....		8386
4322.....		8217	4387.....		8387
4323.....		8218	4388.....		8388
4324.....		8219	4389.....		8389
4325.....		8220	4390.....		8390
4326.....		8221	4391.....		8391
4327.....		8222	4392.....		8392
4328.....		8223	4393.....		8393
4329.....		8224	4394.....		8394
4330.....		8225	4395.....		8395
4331.....		8226	4396.....		8396
4332.....		8227	4397.....		8397
4333.....		8228	4398.....		8398
4334.....		8229	4399.....		8399
4335.....		8230	4400.....		8400
4336.....		8230	4401.....		8401
4337.....		8331	4402.....		8336
4338.....		8332	4403.....		8337
4339.....		8333	4404.....		8338
4340.....		8334	4405.....		8339
S. 4341.....		8231	4406.....		8340
4342.....		8232	4407.....		8341
4343.....		8233	4408.....		8342
4344.....		8234	4409.....		8343
4345.....		8235	4410.....		8344
4346.....		8236	4411.....		8345
4347.....		8237	4412.....		8346
4348.....		8238	4413.....		8347
4349.....		8239	4414.....		8348
4350.....		8240	4415.....		8349
4351.....		8241	4416.....		8350
4352.....		8242	4417.....		8253
4353.....		8243	4418.....		8254
4354.....		8296	4419.....		8255
4355.....		8297	S. 4420.....		8256
4356.....		8298	4421.....		8257
4357.....		8299	4422.....		8258
4358.....		8300	4423.....		8259
4359.....		8301	4424.....		8260
4360.....		8302	4425.....		8261
4361.....		8303	4426.....		8262
4362.....		8304	4427.....		8263
4363.....		8305	4428.....		8264
4364.....		8306	4429.....		8265
4365.....		8307	4430.....		8266
4366.....		8308	4431.....		8267
4367.....		8309	4432.....		8268
4368.....		8310	4433.....		8269
4369.....		8311	4434.....		8270
4370.....		8312	4435.....		8271
4371.....		8313	4436.....		8272
4372.....		8314	4437.....		8273
4373.....		8315	4438.....		8274
4374.....		8316	4439.....		8275
4375.....		8317	4440.....		8276
4376.....		8318	4441.....		8277
4377.....		8377	4442.....		8278
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4446.....		8282	4500.....		6736
4447.....		8283	4501.....		6737
4448.....		8284	4502.....		6738
4449.....		8285	4503.....		6739
4450.....		8286	4504.....		6740
4451.....		8287	4505.....		6741
4452.....		8288	4506.....		6742
4453.....		8289	4507.....		6743
4454.....		8290	4508.....		6744
4455.....		8291	4509.....		6745
4456.....		8292	4510.....		6746
4457.....		8293	4511.....		6747
4458.....		8294	4512.....		6748
4459.....		8295	4513.....		6749
4460.....		8319	4514.....		6750
4461.....		8320	4515.....		6751
4462.....		8321	4516.....		6752
4463.....		8322	4517.....		6753
4464.....		8323	4518.....		6754
4465.....		8324	4519.....		6755
4466.....		8325	4520.....		6756
4467.....		8326	4521.....		6757
4468.....		8327	4522.....		6758
4469.....		8328	4523.....		6759
4470.....		8329	4524.....		6760
4471.....	R. 30-127-1.....	4525.....		6761
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S. 4471-b.....		8351	4527.....		6763
S. 4471-c.....		8352	4528.....		6764
S. 4471-d.....		8353	4529.....		6765
S. 4471-e.....		8354	4530.....		6766
S. 4471-f.....		8355	4531.....		6767
S. 4471-g.....		8356	4532.....		6768
S. 4471-h.....		8357	4533.....		6769
S. 4471-i.....		8358	4534.....		6770
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4472.....	R. 30-127-1.....	4536.....		6772
4473.....	R. 30-127-1.....	4537.....	R. 37-389-1.....
S. 4474.....		S. 4538.....		6775
4475.....	R. 30-127-1.....	4539.....		6776
4476.....		6711	4540.....		6777
4477.....		6712	4541.....		6778
4478.....		6713	4542.....		6779
4479.....		6714	4543.....		6780
4480.....		6715	S. 4544.....		6781
S. 4481.....		6716	4545.....		6782
4482.....		6717	4546.....		6783
4483.....		6718	4547.....		6784
4484.....		6719	4548.....		6785
4485.....		6720	4549.....		6786
4486.....		6721	4550.....		6787
4487.....		6722	4551.....		6788
4488.....		6723	4552.....		6789
4489.....		6724	4553.....		6790
4490.....		6725	4554.....		6791
4491.....		6726	4555.....		6792
4492.....		6727	4556.....		6793
4493.....		6728	4557.....		6794
S. 4493-a.....		6729	4558.....		6795
4494.....		6730	4559.....		6796
4495.....		6731	4560.....		6797
4496.....		6732	4561.....		6798
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4564.....		6801	4626.....		7333
4565.....		6802	4627.....		7334
4566.....		6803	4628.....		7335
4567.....		6804	4629.....		7336
4568.....		6805	4630.....		7337
4569.....		6806	4631.....		7338
4570.....		6807	4632.....		7339
4571.....		6808	S. 4633.....		7340
4572.....		6809	4634.....		7341
4573.....		6810	4635.....		7342
4574.....		6811	4636.....		7343
4575.....		6812	4637.....		7344
4576.....		6813	4638.....		7345
4577.....		6814	4639.....		7346
4578.....		6815	4640.....		7347
4579.....		6816	4641.....		7348
4580.....		6817	4642.....		7349
4581.....		6818	4643.....		7350
4582.....		6819	4644.....		7351
4583.....		6820	4645.....		7352
4584.....		6821	4646.....		7353
S. 4585.....		6822	4647.....		7354
4586.....		6823	4648.....		7355
4587.....		6824	4649.....		7356
4588.....		6825	4650.....		7357
4589.....		6826	4651.....		7358
4590.....		6827	4652.....		7359
4591.....		6828	4653.....		7360
4592.....		6829	4654.....		7361
4593.....		6830	4655.....		7362
4594.....		6831	4656.....		7363
4595.....		6832	4657.....		7364
4596.....		6833	4658.....		7365
4597.....		6834	4659.....		7366
4598.....	A. 38-48-1.....	6835	4660.....	A. 38-22-1.....	7367
4599.....		6836	4661.....	A. 37-356-1.....	
S. 4600.....				A. 38-61-1.....	7368
S. 4600-a.....	R. 38-216-1.....		4662.....		7369
S. 4600-b.....		6838	4663.....		7370
S. 4600-c.....		6839	4664.....		7371
4601.....		7308	4665.....		7372
4602.....		7309	4666.....		7373
4603.....		7310	4667.....		7374
4604.....		7311	4668.....		7375
4605.....		7312	4669.....		7376
S. 4606.....		7313	4670.....		7377
4607.....		7314	4671.....		7378
S. 4608.....		7315	4672.....		7379
4609.....		7316	4673.....		7380
4610.....		7317	4674.....		7381
4611.....		7318	4675.....		7382
S. 4612.....		7319	4676.....		7383
4613.....		7320	4677.....		7384
4614.....		7321	4678.....		7385
4615.....		7322	4679.....		7386
4616.....		7323	4680.....		7387
4617.....		7324	4681.....		7388
4618.....		7325	4682.....		7389
4619.....		7326	4683.....		7390
4620.....		7327	4684.....		7392
4621.....		7328	4685.....		7393
4622.....		7329	4686.....		7394
S. 4623.....	A. 38-393-1.....	7330	4687.....		7395
4624.....		7331	4688.....		7396

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4690.....		7398	4751.....		8570
4691.....		7399	4752.....		8670
4692.....		7400	4753.....		8671
4693.....		7401	4754.....		8672
4694.....		7402	4755.....		8606
4695.....		7403	4756.....		8609
4696.....		7404	4757.....		8607
4697.....		7405	4758.....		8613
4698.....		7406	S. S. 4759.....		8801
4699.....		7407	4760.....		8610
4700.....		7408	S. 4761.....		8611
4701.....		7409	4762.....		8612
4702.....		7410	4763.....		8622
4703.....		7411	4764.....		8851
4704.....		7412	4765.....		8784
4705.....		7413	4766.....		8559
4706.....		7414	S. 4767.....		8608
4707.....		7415	S. 4768.....		8574
4708.....		7416	4769.....		8573
4709.....		7417	4770.....		8572
4710.....		7418	S. 4771.....		8561
4711.....		7419	4772.....		8571
4712.....		7420	4773.....		8575
4713.....		7421	4774.....		8576
4714.....		7422	4775.....		8589
4715.....		7423	S. 4775-1a.....		8581
4716.....		7424	S. 4775-2a.....		8582
4717.....		7425	S. 4775-3a.....	R. 37-171-1.....	8583
4718.....		7426	S. 4775-4a.....		8591
4719.....		7427			8585
4720.....		7428			8586
4721.....		7429	S. 4775-5a.....		8587
4722.....		7430	S. 4775-6a.....		8584
4723.....		7431			8588
4724.....		8541			8590
4725.....		8543	S. 4775-7a.....		8592
4726.....		8542	S. 4775-8a.....		8593
4727.....		8554	S. 4775-9a.....		8594
4728.....		8555	S. 4775-10a.....		8577
4729.....		8556			8845
4730.....		8557			8846
4731.....		8558	S. 4775-11a.....		8847
4732.....		9543	S. 4775-12a.....		8848
4733.....		9544	S. 4775-13a.....		8849
4734.....		9545	S. 4775-a.....		8850
4735.....		9546	S. 4775-b.....		8624
4736.....		9547	S. 4775-c.....		8625
4737.....		9548			8626
4738.....		9549	S. 4775-d.....		8627
4739.....		9550	S. 4775-e.....		8628
4740.....		9551	S. 4775-f.....		8629
4741.....		9552	4776.....		8718
4742.....		9553	4777.....		8630
4743.....		9554	4778.....		8631
4744.....		9555	4779.....		8632
4745.....		9556	4780.....		8633
4746.....		9557	4781.....		8634
		9558	4782.....		8635
4747.....		8566	4783.....		
4748.....		8567	4784.....		
4749.....		8568	4785.....		
4750.....		8569	4786.....		
S. 4750-a.....		8560	4787.....		
S. 4750-b.....		8621	4788.....		

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S. 4790	R. 37-65-1		4845		8674
4791		8641	4846		8659
4792		8643	4847		8675
4793		9022	4848		8676
4794		8644	4849		8648
4795		8604	S. 4850		8652
4796		8600	4851		8653
4797		8601	4852	R. 38-313-1	
4798		8602	S. 4852-a		6505
4799		8603	S. 4852-b		6506
S. 4799-a	R. 37-169-1		S. 4852-c		8650
4800		8728	S. 4852-d		8651
4801		8729	S. 4852-e		8668
4802		8716	S. 4853		8760
4803		8731	4854		8761
4804		8736	4855		8762
4805		8737	4856		8763
4806		8735	4857		8764
S. 4807		8743	4858		8765
S. 4808		8740	4859		8766
S. 4808-a		8741	4860		8772
S. 4808-b		8742	4861		8773
4809		8745	4862		8774
4810		8746	4863		8767
S. 4810-a		8673	4864		8768
4811	A. 37-125-1	8752	4865		8769
4812		8747	4866		8770
4813		8748	4867		8778
4814		8750	4868		8775
4815		8751	4869		8776
4816		8744	4870		8771
4817		9000	4871		8777
4818		8753	S. 4871-a		9044
4819		8759	S. 4871-b		9045
4820		8758	S. 4871-c		9046
S. 4821		8734	S. 4871-d		9047
S. 4822		8715	4872		8785
S. 4823		8724	4873		8786
4824		8725	4874		8787
4825		8717	4875		8929
4826		8721	4876		8930
4827		8722	4877		8931
4828		8723	4878		8932
4829		8720	4879		8933
4830		8658	4880		8934
S. 4830-a		8727	4881		8935
S. 4830-b		8719	4882	R. 37-383-1	
S. 4830-c		8730	4883		8936
4831		8645	4884		8937
4832		8646	4885		8938
4833		8647	4886		8939
4834		8655	4887		8988
4835		8656	4888		8940
4836		8657	4889		8788
4837		8649	4890		8789
4838		8678	4891		9009
4839		8654	4892		9010
4840		8660	4893		9011
		8661	4894		9012
4841		8662	4895		9013
4842		8663	4896		9014
		8664	4897	R. 29-147-1	
4843		8665			
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		9002	4944.....		8795
		9003	S. 4944-a.....		
		9004	S. 4944-b.....		
S. 4897-b.....		9005	S. 4944-c.....		
S. 4897-c.....		9006	S. 4944-d.....		
S. 4897-d.....		9007	S. 4944-e.....		
S. 4898.....		9008	S. 4944-f.....		
4899.....		8981	S. 4944-g.....		
4900.....		8983	S. 4944-h.....		
4901.....		8943	S. S. 4944-h1.....		1028
4902.....		8942	S. S. 4944-h2.....		1029
4903.....		8944	S. S. 4944-h3.....		1030
4904.....		8952	S. S. 4944-h4.....		1031
4905.....		8537	S. S. 4944-h5.....		1032
4906.....		8538	S. S. 4944-h6.....		1033
4907.....		8950	S. S. 4944-h7.....		1034
4908.....		8941	S. S. 4944-h8.....		1035
4909.....		8945	S. S. 4944-h9.....		1036
4910.....		8947	S. S. 4944-h10.....		1037
4911.....		8946	S. S. 4944-h11.....		
4912.....		698	S. 4944-i.....		8798
4913.....		8949	S. 4944-j.....		8799
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		9016	4945.....		8732
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		9018	S. 4946-a.....		
4914.....		8900	S. 4946-b.....		1348
4915.....		8901	S. 4946-c.....		1349
4916.....		8902	S. 4946-d.....		1350
4917.....		8903	S. 4946-e.....		1351
4918.....		8906	4947.....		1352
4919.....		8907	4948.....		1353
S. 4919-a.....		8923	4949.....		1354
		8924	4950.....		1355
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S. 4919-c.....		8926	4952.....		8809
		8927	4953.....		8810
S. 4919-d.....		8928	4954.....		8811
4920.....		8908	4955.....		8812
4921.....		8909	4956.....		8813
4922.....		8910	4957.....		8814
4923.....		8911	4958.....		8815
4924.....		8912	4959.....		8999
4925.....		8913	4960.....	R. 38-212-1.....	
4926.....		8914	4961.....	R. 38-212-1.....	
4927.....		8915	4962.....		8817
4928.....		8916	4963.....		8818
4929.....		8917	4964.....		8819
4930.....		8918	4965.....		5898
4931.....		8919	S. 4965-a.....		8820
S. S. 4931-a.....		8921	S. 4965-b.....		8821
		8922			8822
4932.....		8614			8823
4933.....		8615			8824
4934.....		8616	4966.....		8825
4935.....		8617	4967.....		6213
S. 4936.....		8618	4968.....		6214
4937.....		8620	S. 4969.....		8755
S. 4937-a.....		8619	4970.....	A. 38-108-1.....	5235
4938.....		8802	4971.....		8826
S. 4938-a.....		8803	4972.....		8754
4939.....		8794	4973.....		8805
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S. 4975-c.....		8792	S. S. 4999-a31.....		1472
S. 4975-d.....		6215	S. 4999-a31a.....		1472
S. 4975-e.....		6216	S. 4999-a31b.....	A. 38-284-2.....	1477
S. 4975-f.....		6217	S. S. 4999-a31c.....	A. 38-284-3.....	1476
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S. 4975-h.....			S. S. 4999-a31e.....		1443
4976.....		8852	S. S. 4999-a31f.....	A. 38-284-4.....	1433
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4978.....		8854	S. S. 4999-a32.....		1435
S. 4979.....		8855	S. 4999-a33.....		1436
4980.....		8856	S. 4999-a34.....		1437
4981.....			S. 4999-a35.....		1438
4982.....	R. 31-166-17.....		S. 4999-a36.....		1439
4983.....	R. 32-176-10.....		S. 4999-a37.....		1440
4984.....	R. 31-166-17.....		S. 4999-a38.....		1441
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S. 4984-b.....			S. 4999-a40.....		
4985.....	R. 32-176-10.....		S. 4999-a41.....		
4986.....	R. 32-176-10.....		S. 4999-a42.....		8860
4987.....	R. 31-166-17.....		S. 4999-a43.....		8861
4988.....	R. 32-176-10.....		5000.....		8827
S. 4989.....			5001.....		8857
S. 4989-a.....		1465	5002.....		8828
S. 4989-b.....	A. 37-377-4.....	1466	5003.....		8864
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4992.....			5005.....		8866
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4995.....	R. 31-166-17.....				8869
4996.....	R. 31-166-17.....		5007.....		8870
4997.....	R. 31-166-17.....				8871
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4999.....		859			8873
S. 4999-a1.....		859	S. 5007-a.....		8874
S. 4999-a2.....		860			8875
S. 4999-a3.....		863			8876
S. 4999-a4.....		861	S. 5007-b.....		8877
S. 4999-a5.....		862			8878
S. S. 4999-a6.....		1061	S. 5007-c.....		8879
S. S. 4999-a7.....		1062	S. 5007-d.....		8880
S. S. 4999-a8.....		1063	5008.....		8888
S. S. 4999-a9.....		1064			8889
S. S. 4999-a9a.....		1065	5009.....		3284
S. S. 4999-a10.....		1066	5010.....		8707
S. S. 4999-a11.....		1067	5011.....		8779
S. 4999-a12.....					8780
S. 4999-a13.....		8858			8781
S. 4999-a14.....		8859	5012.....		1756
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S. 4999-a16.....			5014.....		1758
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S. 4999-a19.....		1474	S. 5016-a.....		1798
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S. 4999-a22.....			5019.....		1801
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S. 4999-a24.....		1475	5021.....		1760
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5027.....		8890	5058.....		8783
5028.....		8891	5059.....		8782
S. 5028-a.....	R. 37-411-1.....	5060.....		6219
S. 5028-a1.....	R. 37-411-1.....	5061.....		6220
S. 5028-b.....		6205	S. 5062.....		6221
S. 5028-c.....		6206	5063.....		6222
S. 5028-d.....		6207	5064.....		6223
S. 5028-e.....		6208	5065.....		6224
S. 5028-f.....		6209	5066.....		6225
S. 5028-g.....		6210	5067.....		6226
S. 5028-h.....		6211	S. 5067-a.....	A. 38-213-1.....	6227
S. 5028-i.....		6212	S. 5067-b.....		6228
S. 5028-j.....		1761	S. 5067-c.....		6229
S. 5028-k.....		1762	S. 5067-d.....		6230
S. 5028-l.....		1763	S. 5067-e.....		6231
S. 5028-m.....		1764	S. 5067-f.....		6232
S. 5028-n.....		8953	S. 5067-g.....		6233
		8954	5068.....		8686
S. 5028-o.....		8955	5069.....		8685
		8956	S. 5070.....		.....
		8957	S. 5070-a.....		1577
S. 5028-p.....		8598	5071.....		8708
S. 5028-q.....		8599	5072.....		8709
S. 5028-r.....		.....			8710
S. 5028-s.....		8881	5073.....		8711
S. 5028-t.....		8882	5074.....		8712
S. S. 5028-u.....		8964	5075.....		8713
S. S. 5028-v.....		8965	5076.....		8682
S. S. 5028-w.....		8966	5077.....		8683
S. S. 5028-w1.....		8892	S. 5077-a1.....		.....
5029.....		8829	S. 5077-a2.....		.....
5030.....		8989	S. 5077-a3.....		6234
5031.....		8990	S. 5077-a4.....		6235
5032.....		8991	S. 5077-a5.....		6236
5033.....		8998	S. 5077-a6.....		1514
S. 5034.....		8834	S. 5077-a7.....		1515
5035.....		8997	S. 5077-a8.....		1516
5036.....		8830	S. 5077-a9.....		1517
5037.....		8831	S. 5077-a10.....		1518
5038.....		8832	S. 5077-a11.....		1519
S. 5038-a.....		8833	S. 5077-a12.....		1520
5039.....		8862	S. 5077-a13.....		1521
5040.....		8835	S. 5077-a14.....		1522
S. 5040-a.....		8836	S. 5077-a15.....		1523
5041.....		8677	S. 5077-a16.....		1524
5042.....		8681	S. 5077-a17.....		1525
5043.....		8680	S. 5077-a18.....		1526
5044.....	R. 35-266-20.....	.....	S. 5077-a19.....		1527
5045.....		.....	S. 5077-a20.....		1528
5046.....		8689	S. 5077-a21.....		1529
5047.....		8690	S. 5077-a22.....		1530
5048.....		8694	S. 5077-a23.....		1531
5049.....		8701	S. 5077-a24.....		1532
5050.....		8702	S. 5077-a25.....		8695
5051.....		8703	S. 5077-a26.....		8696
S. 5051-a.....	R. 37-190-1.....	.....	S. 5077-a27.....		.....
S. 5052.....		8691	S. 5077-b.....		1245
		8692	S. 5077-b1.....		1246
		8693	S. 5077-b2.....		1247
5053.....		8714	S. 5077-b3.....		1248
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		8698	5138.....		9038
		8699	5139.....		9042
S. 5077-d.....		8700	5140.....		9036
5078.....		8186	5141.....		9037
5079.....		8605	5142.....		9043
5080.....		8187	5143.....		8982
S. 5081.....		8188	5144.....		8984
5082.....		8189	5145.....		8985
5083.....		8190	5146.....		8986
5084.....		8191	5147.....		8992
5085.....		8192	5148.....		8993
5086.....		8893	5149.....		8994
5087.....		8894	5150.....		8995
5088.....		8896	5151.....		8996
5089.....		8897	5152.....		8987
5090.....		8898	5153.....		9093
5091.....		8899	5154.....		9094
S. 5091-a.....		9048	5155.....		9095
		9049	5156.....		9101
S. 5091-b.....		9050	5157.....		9096
5092.....		8533	5158.....		9097
5093.....		8534	5159.....		9098
5094.....		8535	5160.....		9099
5095.....		8536	5161.....		9100
S. 5096.....		9246	5162.....		9102
5097.....		9051	5163.....		9087
5098.....		9052	5164.....		9088
5099.....		9053	5165.....		9089
5100.....		9054	5166.....		9090
5101.....		9103	5167.....		9091
5102.....		8563	5168.....		9092
5103.....		8564	5169.....	R. 37-88-1.....	
5104.....		8565	5170.....		9144
5105.....		9156	5171.....		9145
5106.....		9157	5172.....		9146
5107.....		9158	5173.....		9147
5108.....		9159	5174.....		9148
5109.....		9160	5175.....		9149
5110.....		9161	5176.....		9150
5111.....		9162	5177.....		9151
5112.....		9163	5178.....		9152
5113.....		9164	5179.....		9153
5114.....		9165	5180.....		9154
5115.....		9166	5181.....		9155
5116.....		9167	5182.....		9104
5117.....		9168	5183.....		9105
5118.....		9169	5184.....		9106
S. 5119.....		9019	5185.....		9107
5120.....		9023	5186.....		9108
5121.....		9024	5187.....		9125
5122.....		9025	5188.....		9126
5123.....		9026	5189.....		9127
5124.....		9027			9128
5125.....		9028	5190.....		9129
5126.....		9029	5191.....		9130
5127.....		9030	5192.....		9131
5128.....		9031	5193.....		9109
5129.....		9032	5194.....		9110
5130.....		9033	5195.....		9111
5131.....		9035	5196.....		9112
5132.....		9034	5197.....		9113
5133.....		9039	5198.....		9114
5134.....		9020	5199.....		9115
5135.....		9021	5200.....		9116
5136.....		9040	5201.....		9117

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5204.....		9120			9307
5205.....		9121	5247.....		9308
5206.....		9122	5248.....		9309
5207.....		9124	5249.....		9310
5208.....		9132	5250.....		9311
5209.....		9133	5251.....		9312
		9134	5252.....		9316
5210.....		9135	5253.....		9317
5211.....		9136	5254.....		9330
5212.....		9137	5255.....		9324
5213.....		9138	S. 5256.....	A. 38-254-1.....	9313
5214.....		9139			9314
5215.....		9140	5257.....		9315
5216.....		9170	S. 5258.....		9326
5217.....		9171	5259.....		9328
5218.....		9172	5260.....		9327
5219.....		9173	5261.....		9318
5220.....		9174	5262.....		9322
5221.....		9175	5263.....		9319
5222.....		9176	5264.....		9320
5223.....		9177	5265.....		9321
5224.....		9178	5266.....		9329
5225.....		9179	5267.....		9334
5226.....		9180	5268.....	R. 38-68-1.....	
5227.....		9181	5269.....		9336
5228.....		9182	5270.....		9325
5229.....		9183	5271.....		9323
5230.....		9184	5272.....		9331
5231.....		9185			9332
5232.....		9186	5273.....		9333
5233.....		9187	5274.....	R. 27-115-1.....	
5234.....		9188	S. 5274-a.....		9337
5235.....		9189	5275.....		9338
5236.....		9190	5276.....		9339
5237.....		9191	5277.....		9340
		9192	5278.....		9341
		9193	5279.....		9342
5238.....		9194	5280.....		9343
5239.....		9195	5281.....		9344
S. 5239-a.....		9280	5282.....		9345
S. 5239-b.....		9281	5283.....		9346
S. 5239-c.....		9282	5284.....		9347
S. 5239-d.....		9283	5285.....		9348
S. 5239-e.....		9284	5286.....		9349
S. 5239-f.....		9285	5287.....		9350
S. 5239-g.....		9286	5288.....		9351
S. 5239-h.....		9287	S. 5289.....		9352
S. 5239-i.....		9288	5290.....		9353
S. 5239-j.....		9289	5291.....		9354
S. 5239-k.....		9290	5292.....		9355
S. 5239-l.....		9291	5293.....		9356
S. 5239-m.....		9292	5294.....		8895
		9293	5295.....		9357
S. 5239-n.....	R. 38-229-1.....		5296.....		9358
S. 5239-o.....	R. 38-229-2.....		5297.....		9359
S. 5239-p.....		9297	5298.....		9361
S. 5239-q.....		9298	5299.....		8539
S. 5240.....		9299	5300.....		8540
		9300	5301.....		9362
5241.....		9301	5302.....		9363
5242.....		9302	5303.....		9364
5243.....		9303	5304.....		9365
5244.....		9304	5305.....		9366

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5307		9368	5372		9434
5308		9369	S. 5373		9435
5309		9370			9436
5310		9371	5374		9437
5311		9372	5375		9431
5312		9373	5376		9488
5313		9374	5377		9489
5314		9375	5378		9444
5315		9376	5379		9445
5316		9377	5380		9438
5317		9378	5381		9439
5318		9379	5382		9441
5319		9380	5383		9442
5320		9381	5384		9493
5321		9382	5385		9443
5322		9383	5386		9454
5323		9384	5387		9455
5324		9385	5388		9440
5325		9386	5389		9446
5326		9387	5390		9447
5327		9388	5391		9448
5328		9389	5392		9449
5329		9391	5393		9450
5330		9390	5394		9451
5331		9392	5395		9452
5332		9393	5396		9453
5333		9394	5397		9482
5334		9395	5398		9483
5335		9396	5399		9484
5336		9397	5400		9485
5337		9398	5401		9486
5338		9399	5402		9494
5339		9400	5403		9495
5340		9401	5404		9496
5341		9402	5405		9487
5342		9403	5406		9490
5343		9404	5407		9491
5344		9405	5408		9492
5345		9406	5409		9497
5346		9407	5410		9498
5347		9408	5411		9499
5348		9409	5412		9500
5349		9410	5413		9501
5350		9411	5414		9502
5351		9412	5415		9505
5352		9413	5416		9503
5353		9414	5417		9504
5354		9415	5418		9506
5355		9416	5419		9507
5356		9417	5420		9508
5357		9418	5421		9509
5358		9419	5422		9510
5359		9420	5423		9513
5360		9421	5424		9512
5361		9422	5425		9511
5362		9423	5426		9514
5363	A. 38-40-1	9424	5427		9516
5364		9426	5428		9517
5365	R. 38-40-2		5429		9515
5366	R. 38-40-3		5430		9518
5367		9425	5431		9519
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5369		9430	5433		9521
5370		9432	5434		9522

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5436.....		9524	5491.....		9475
5437.....		9525	5492.....		9456
5438.....		9526	5493.....		9457
5439.....		9527	5494.....		9458
5440.....		9531	5495.....		9459
5441.....		9532	5496.....		9460
5442.....		9533	5497.....		9461
S. 5442-a.....		2145	5498.....		9462
S. 5442-b.....		2146	5499.....		9463
S. 5442-c.....		2147	S. 5499-a.....		9476
S. 5442-d.....		2148	S. 5499-b.....		9466
5443.....		9536	S. 5499-c.....		9467
5444.....		9537	S. 5499-d.....		9468
		9538	S. 5499-e.....		9469
		9539	S. 5499-f.....		.....
5445.....		9540	5500.....		9247
5446.....		9541	5501.....		9248
5447.....		9542	5502.....		9249
S. 5447-a.....	A. 37-206-1.....	2254	5503.....		9250
S. 5447-b.....		2255	5504.....		9251
S. 5448.....		9559	5505.....		9252
S. 5448-a.....		.....	5506.....		9253
5449.....		9561	5507.....		9254
5450.....		9562	5508.....		9255
5451.....		9560	5509.....		9256
5452.....		9563	5510.....		9257
5453.....		9564	5511.....		9258
5454.....		9565	5512.....		9259
5455.....		9566	5513.....		9260
5456.....		9567	5514.....		9261
5457.....		9568	5515.....		9268
5458.....		9569	5516.....		9269
5459.....		9570	5517.....		9270
5460.....		9577	S. 5518.....		9271
5461.....		9571	5519.....		9272
5462.....		9572	5520.....		9273
		9573	5521.....		9274
5463.....		9574	5522.....		9275
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5467.....		9579	5526.....		9264
5468.....		9580	5527.....		9265
5469.....		8967	5528.....		9277
5470.....		8968	5529.....		9278
5471.....		8969	5530.....		9279
5472.....		8970	5531.....		9534
5473.....		8971	5532.....		9535
5474.....		8972	5533.....		9266
5475.....		8973	5534.....		9267
5476.....		8974	5535.....		9585
5477.....		8975	5536.....		9586
5478.....		8976	5537.....		9587
5479.....		8977	5538.....		9588
5480.....		8978	5539.....		9589
5481.....		8979	5540.....		9477
5482.....		8980	5541.....		9478
5483.....		9470	5542.....		9479
5484.....		9464	5543.....		9480
5485.....		9465	5544.....		9481
5486.....		9471	5545.....		9063
5487.....		9472	5546.....		9064
5488.....		9473	5547.....		9065
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5551.....		9069	5613.....		9237
5552.....		9070	5614.....		9238
5553.....		9071	5615.....		9239
5554.....		9072	5616.....		9240
5555.....		9073	5617.....		9241
5556.....		9074	5618.....		9242
5557.....		9075	5619.....		9243
5558.....		9076	5620.....		9244
5559.....		9077	5621.....		9245
5560.....		9078	5622.....		9581
5561.....		9079	5623.....		9582
5562.....		9080	5624.....		9583
5563.....		9081	5625.....		9584
5564.....		9082	S. 5626.....	A. 38-173-1.....	2258
5565.....		9083	5627.....		2259
5566.....		9084	5628.....		2260
5567.....		9085	5629.....		8360
5568.....		9086	5630.....		8361
5569.....		8050	5631.....		8362
5570.....		8051	5632.....		8363
5571.....		8052	5633.....		8364
5572.....		8053	5634.....		8365
5573.....		8054	5635.....		8366
5574.....		8055	5636.....		8367
5575.....		9196	5637.....		3400
5576.....		9197	5638.....		3402
5577.....		9198	5639.....		3403
5578.....		9199	5640.....		3404
5579.....		9200	5641.....		3405
5580.....		9201	5642.....		3406
5581.....		9202	5643.....		3407
5582.....		9203	5644.....		3408
5583.....		9204	5645.....		3409
5584.....		9205	5646.....		3410
5585.....		9206	5647.....		3411
5586.....		9207	5648.....		3412
5587.....		9208	5649.....		3413
5588.....		9209	5650.....		3414
5589.....		9210	5651.....		3415
5590.....		9211	S. 5652.....		3416
5591.....		9212	5653.....		3417
5592.....		9213	5654.....		3418
5593.....		9214	5655.....		3419
5594.....		9215	5656.....		3420
5595.....		9216	5657.....		3421
5596.....		9217	5658.....		3422
5597.....		9218	5659.....		3423
5598.....		9219	5660.....		3644
5599.....		9220	5661.....		2177
5600.....		9221	S. 5662.....		2178
5601.....		9222	S. 5663.....		2179
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5603.....		9224	5665.....		
5604.....		9225	5666.....		2191
5605.....		9226	S. 5667.....		2180
5606.....		9227	5668.....		
		9228	S. 5669.....		2181
		9229	S. 5669-a.....		
		9230	5670.....		2183
5607.....		9231	5671.....		2187
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5610.....		9234	5674.....		2185

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5678.....		S. 5718-a2.....		1901
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5681.....		2215	S. 5718-a5.....		9530
5682.....		2222	S. 5718-a6.....	
5683.....		2217	S. 5718-a7.....		2200
5684.....		2228	S. 5718-a8.....		2201
S. 5685.....		S. 5718-a9.....		2198
S. 5685-a.....		2229	S. 5718-a10.....		2199
5686.....		2230	S. S. 5718-a11.....		1876
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5688.....		2231	S. S. 5718-a11a.....		1877
5689.....		S. S. 5718-a11b.....		2226
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5691.....		2186	S. 5718-a12.....		2227
5692.....		2193	S. 5718-a13.....		9528
5693.....		2216			9529
5694.....		2194	S. 5718-a14.....		2242
5695.....		2213	S. 5718-a15.....		2245
5696.....		2214	S. 5718-a16.....		2243
5697.....		S. 5718-a17.....		2244
5698.....		S. 5718-a18.....		2247
5699.....		S. 5718-a19.....		2248
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5701.....		2195	S. 5718-a21.....		2253
5702.....		S. 5718-a22.....		2250
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S. 5702-b.....		S. 5718-a24.....		2262
5703.....		2223	S. 5718-a25.....		2246
5704.....		2224	S. 5718-a26.....		2249
5705.....		2225	S. 5718-a27.....		2164
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30 G. A.		Amendments and Repeals	Compiled Code	31 G. A.		Amendments and Repeals	Compiled Code
Chapter	Section			Chapter	Section		
178	1	338	9	1	721
	2	339				
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34 G. A.		Amendments and Repeals	Compiled Code	34 G. A.		Amendments and Repeals	Compiled Code
Chapter	Section			Chapter	Section		
228	1	.....	6582	229	1	.....	6535

35 G. A.		Amendments and Repeals	Compiled Code	35 G. A.		Amendments and Repeals	Compiled Code
Chapter	Section			Chapter	Section		
327	1	2778	327	2	2779

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5	1	56	40	7	5750
	2	57		8	5751
	3	58		9	5753
	4	59	47	2	7301
	5	R. 38-14-1.....	49	1	3206
	6	62	50	1	1848
	7	.....	63		2	.....	1849
	8	.....	64		3	.....	1850
	9	.....	61	51	1	A. 38-184-1.....	3720
7	1	.....	3639		2	.....	3721
		.....	4355		3	.....	3722
9	2	.....	187		4	.....	3723
17	1	.....	6894		5	.....	3724
	2	.....	6895		6	.....	3725
	3	.....	6896		7	.....	3726
	4	.....	6897		8	.....	3727
	5	.....	6898		9	.....	3728
	6	.....	6899		10	.....	3729
20	1	.....	174	57	1	.....	1576
23	1	A. 38-45-1.....	4101	64	1	.....	6333
24	1	.....	7501		2	.....	6334
26	1	A. 38-125-1.....	2640		3	.....	6335
	2	.....	2642	65	1	.....	8640
27	1	.....	6347	67	1	.....	828
37	1	.....	6545		2	.....	829
40	1	5741		3	830
	2	5742	73	1	1273
	3	5743	75	3	6863
	4	5744		6	7960
	5	R. 38-335-1.....		8	6892
	6	5749		9	6893

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79	1		6578		4		5711
81	1		1121		5		5712
82	2		5066		6		5713
87	1		8596		7		5714
88	1	R. 38-131-1		8		5715
89	1	A. 38-140-1	1637		9		5716
90	2	A. 38-36-1	1658		10		5717
	3		1670		11		5718
	4		1659		12		5719
96	1		6574		13		5720
97	1		2581		14		5721
	2		2582		15		5722
114	1		3350		16		5723
	2		3351	182	3	R. 38-247-1	.....
	3		3352		4		3640
	4		3353	183	1		188
131	1	A. 38-148-1			2		189
		A. 38-159-1	3630		3		190
133	1		943		4		191
	2		944		5		192
	3		945		6		193
	4		946		7		194
	5		947		8		195
	6		948		9		196
	7		949		10		197
	8		950		11		198
	9		951		12		199
136	1		1026		13		200
	2		1027		14		201
138	1		3617		15		202
			4351		16		203
	2		3618		17		204
	3		3619		18		205
140	1		3798		19		206
			4332		20		207
	2		3799		21		208
	3		3800		22		209
	4		3801		23		210
	5		3802		24		211
	6		3803		25		212
154	1	A. 38-352-12	6317	184	1		3594
156	1	A. 38-72-1		187	1		1676
		A. 38-160-2	2578		2		1677
160	1		2318		3	A. 38-350-2	1678
164	1		341		4		1679
168	1		1161		5		1680
	2		1162		6		1681
	3		1163		7	A. 38-350-3	1682
169	1		8637		8	R. 38-350-1	.....
	2		8638		9		1671
	3		8639		10		1672
171	1		8578		11		1673
			8579		12	A. 38-350-4	1674
			8580		13		1675
172	1		3923		14	R. 38-350-1	.....
			4395	190	1		8704
	2		3924				8705
	3		3925	194	1		4270
	4		3926		2		4271
	5		3927	204	1		358
	6		3928	211	1		5213
180	1		5708		2		5214
				218	1		5815

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222	2	3911		10	7025
224	1	4865		11	7026
	2	4866		12	7030
	3	4867		13	7027
	4	4868		14	7028
	5	.....	4869		15	A. 38-211-6.....	7029
225	1	.....	2543	268	1	.....	8679
226	1	A. 38-42-1.....	6868	270	17	.....	842
	2	.....	6889	282	1	.....	2349
227	1	.....	5520		2	.....	2350
229	1	.....	2644		3	.....	2351
230	1	.....	8090	289	1	.....	2418
	2	.....	8091		2	.....	2419
	3	.....	8093		3	.....	2420
	4	.....	8095		4	.....	2421
231	1	A. 38-327-1.....	9059	290	1	.....	2285
	2	.....	9060		2	.....	2280
	1	.....	9061		3	.....	2283
232	1	.....	3730		4	.....	2286
	2	.....	3731		5	R. 38-337-1.....	.....
	3	.....	3732		6	.....	2284
	4	.....	3733		7	.....	2282
236	1	A. 38-368-1.....	1177		8	.....	2289
	2	A. 38-368-1.....	1178		9	.....	2288
	3	A. 38-368-2.....	1179		10	A. 38-81-1	.....
	4	.....	1180			A. 38-337-2.....	2291
	5	.....	1181	293	1	.....	7154
	6	A. 38-368-1, 2	1182	300	1	.....	2278
	7	A. 38-368-2.....	1183		2	.....	2279
	8	.....	2879		3	.....	2281
	9	.....	1184		4	.....	2290
	10	A. 38-368-1.....	1185		5	.....	2293
	11	R. 38-368-3.....	.....		6	.....	2294
247	1	.....	8642	302	1	.....	4862
249	1	.....	2902		2	.....	4863
	2	.....	2903		3	.....	4864
	3	.....	2904	304	3	.....	6586
	4	.....	2905	307	1	.....	4905
	5	.....	2906		2	.....	4906
	6	.....	2907		3	.....	4907
	7	.....	2908		4	.....	4909
250	2	.....	7905		5	.....	4910
	3	.....	7906	308	1	.....	2629
	4	.....	7907		2	.....	2630
252	1	.....	2780		3	.....	2631
	2	.....	2781		4	.....	2632
262	1	.....	2659		5	.....	2633
	2	.....	6583	309	1	.....	1394
264	2	4848		2	1395
266	1	R. 38-37-1.....		3	1385
	2	R. 38-37-1.....		5	1383
	3	R. 38-37-1.....	310	1	A. 38-223-1.....	7009
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	6	R. 38-37-1.....		3	7481
	7	R. 38-37-1, 7.....		4	7482
267	2	A. 38-211-1.....	7017	312	1	7083
	3	A. 38-251-2.....	7018	314	2	302
	4		4	308
	5	A. 38-193-1	7019		5	309
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		7023		1	2964
			2	2965

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	4		2967	372	1		8544
	5		2968		2		8548
318	1		352		3		8549
320	1		5247	374	1		315
	2		5248	378	1		342
325	1		8107	380	1		7138
	2		8108		2		7139
326	1		1364		3		7140
	2		1365		4		7141
	3		1366	383	1		8790
	4		1367		2		8791
	5		1368	384	1	R. 38-46-1	
	6		1369	385	1		1537
	7		1370		2		1538
	8		1371		3		1539
	9		1375		4		1540
	10		1372		5		1541
	11		1373		6		1542
	12		1376		7		1543
	14		1374		8		1544
333	1		2761		9		1545
	2		2762		10		1546
338	1		3021		11		1547
	2		3022		12		1548
	3		3023	387	1		2625
	4		3024		2		2626
339	1		6557		3		2627
342	1		3595	389	1		6773
			4347		2		6774
343	1		4618	393	1		3607
	2		4619	396	1		1128
	3	A. 38-57-1	4620	397	1		6552
	4		4621	400			2641
	5		4622	401	2	A. 38-215-1	668
	6		4623	403	1		5100
345	1		6556	405	1		2092
349	2	R. 38-105-3			2		2094
350	1		165		3		2093
351	2		6563		4		2096
353	1		5082		5		2095
	2		5083		6		2097
354	1		5441	406	1		1250
	3		5442		2		1251
	4		5443		3		1252
355	1		8749		4		1253
356	3		3149		5		1254
	4		3150		6		1255
	5		3151		7		1256
	6		3152		8		1257
	7		3153		9		1258
	8		3154		10		1259
358	1		3136		11		1260
	2		3137		12		1261
362	1	A. 38-37-9	2176	411	1		8837
363	1		1683				8838
	2	A. 38-279-1	1684				8839
	3		1685				8840
	4		1686				8841
	5	A. 38-279-2	1687		2		8842
	7		1688		4		8843
	8		1689				8844
	9		1690	417	1		3010
367	1		3593		2		3011
			4346		3		3012

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425	1	3608		13	5618
		4348		14	5623
426	1	R. 38-293-5.....		18	A. 38-346-1.....	5637
	2	6984		19	5639
428	5	A. 38-348-3.....	5628		20	5616
429	1	5603	430	2	1417
	2	5606		3	1418
	3	5607		4	A. 38-176-1.....	1423
	4	5608		5	1419
	5	5609	431	1	5592
	6	5610		2	5593
	7	5611		3	5594
	8	5612		4	5595
	9	5613		5	5596
	10	5614		6	5597

38 G. A.		Amendments and Repeals	Compiled Code	38 G. A.		Amendments and Repeals	Compiled Code
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14	1	60		3	3976
28	1	3185		4	3977
32	1	6466		5	3978
	2	6467	86	6	535
34	1	R. 38-62-1.....		7	447
	2	R. 38-62-1.....		8	448
37	2	.....	2038		9	.....	365
	3	.....	1928	89	1	.....	6548
	4	.....	1951	91	1	.....	2556
	5	.....	2232	94	1	.....	2583
	6	.....	2457		2	.....	2584
	7	.....	2159		3	.....	2585
40	2	.....	9427		4	.....	2586
	3	.....	9428		5	.....	2587
47	1	.....	6196		6	.....	2588
	2	.....	6198		7	.....	2589
	3	.....	6197	98	1	.....	1150
62	1	.....	3183		2	.....	1151
	2	.....	3184		3	.....	1152
63	2	.....	403		4	.....	1153
	3	.....	404		5	.....	1154
	4	.....	405		6	.....	1155
	5	.....	406		7	.....	1156
	6	.....	408		8	.....	1157
	7	.....	407		9	.....	1158
66	1	.....	5819		10	.....	1159
		.....	5820	99	1	.....	1581
		.....	5821			.....	1582
67	1	.....	5795			.....	1583
68	1	.....	9335			.....	1593
78	1	.....	2386	101	1	.....	4241
	2	.....	2387	103	1	.....	3547
	3	.....	2388	109	2	.....	2348
	4	.....	2389		3	.....	2348
	5	.....	2390	111	1	.....	4253
	6	2391	112	1	4041
	7	2392		2	4042
	8	2393		3	4043
	9	2394	120	1	2675
82	2	3355		2	2676
85	1	3974		3	2677

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	7	2680		62	4167
122	2	3230	63	4168	
	3	3231	64	4169	
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		4469	66	4171	
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181	1	6541		6	2360
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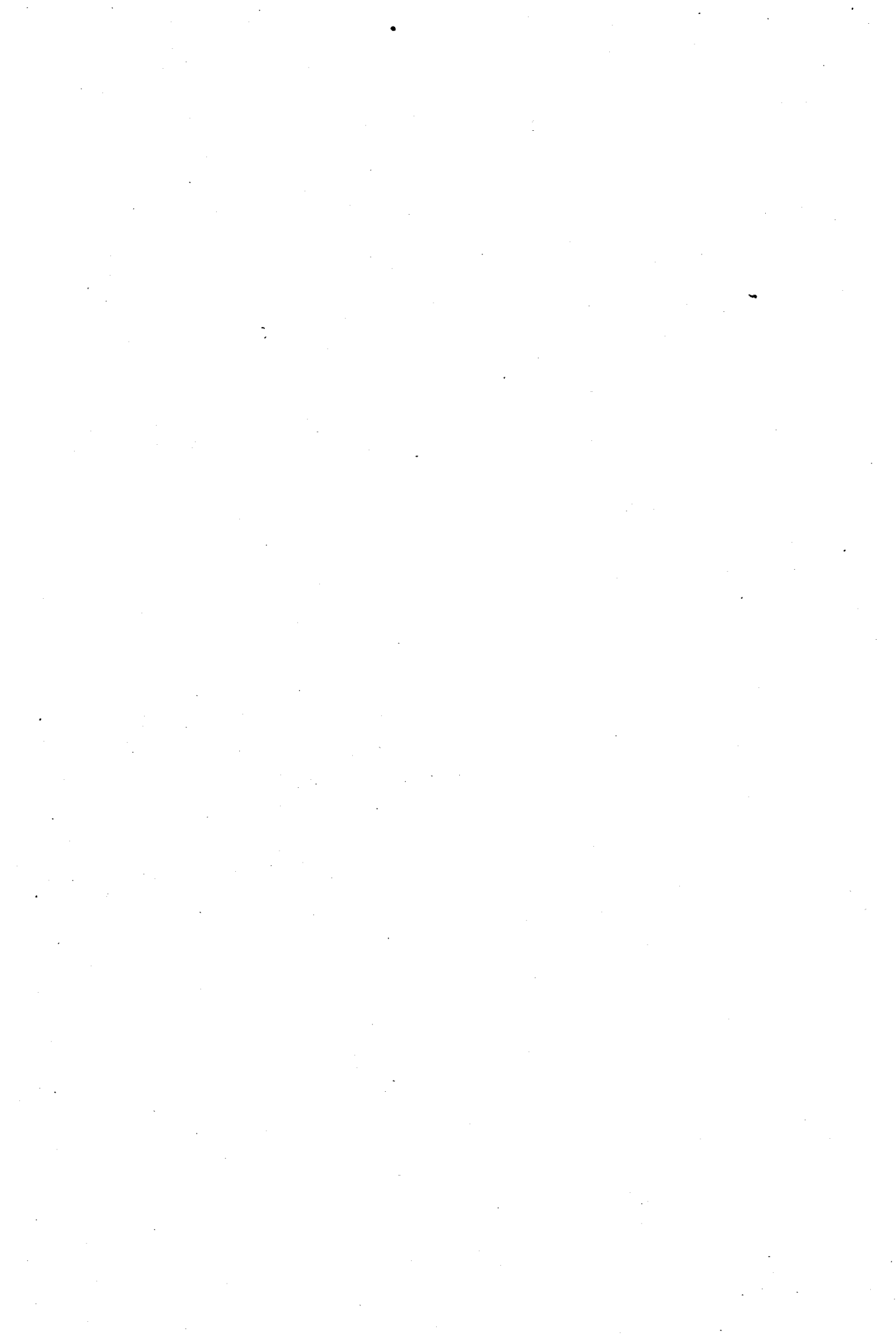
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	4	5138		24	1975
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334	1	4833		26	1977
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342	1	2649		3	2748
344	1	4104		4	2749
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